

Zoning & Subdivision Report

Planning & Development Department ~ 417/864-1611
840 Boonville Avenue ~ Springfield, Missouri 65801

ZONING ORDINANCE TEXT AMENDMENT: URBAN GARDENS

DATE: September 30, 2009

PURPOSE: To amend Section 2-1100, Definitions, Section 5-1000, Accessory Structures and Uses, and all zoning districts in Division IV of the Zoning Ordinance; to add Section 5-3000, Community Garden

RECOMMENDATION:

Staff recommends **approval** of this request.

STAFF COMMENTS:

1. Urban gardens are a growing trend across the country and have taken many forms in different communities. Staff has discussed and used information from many cities such as Portland, Denver, New York, Bloomington (IN), Chicago, and Cleveland. There is not one ordinance or definition from a particular city that was used rather a mixture because no Zoning Ordinance is written or implemented the same as the City of Springfield's.
2. The Urban Garden text amendment was initiated by the City on May 18, 2009 and staff believes that this is an important issue of sustainability and deserves consideration by staff, Planning Commission and City Council. The Urban Garden Text Amendment proposal was tabled indefinitely at the Planning Commission meeting on July 9, 2009, and an Urban Garden Task Force was recommended to be established at the Planning Commission meeting on July 23, 2009. The Urban Garden Task Force which consisted of fifteen (15) members met five times between August 11th and September 22nd (see attached member information sheet, schedule and task force charge). The task force members were originally selected by information submitted at the Planning Commission meeting. Additional members were added to the task force by request and unanimous approval. The task force unanimously approved (8-0) the proposed text amendment with some minor amendments (see Attachment A) as presented by staff at the final task force meeting on September 22nd.
3. Planning staff has initiated the text amendment at City Council, placed a press release on the City's website, published two (2) legal advertisements in the Daily Events and notified registered Neighborhood Organizations within the city limits and the Ozarks Green Building Coalition for the public hearing process at Planning Commission.

4. The proposed text amendment first and foremost as recommended by Planning Commission and the Urban Garden Task Force will explicitly define and allow personal gardens as a residential accessory use in all zoning districts with few limitations. This will not prohibit a personal garden from following the City Code in regards to nuisances such as odor, noise, high weeds & grass, etc.
5. The proposed text amendment defines a personal garden, community garden, commercial garden and Farmers Market. It will create a new subsection 5-3000 which defines the pertinent regulations and methods to establishing a community garden. It will also delete the references to truck gardens in the Zoning Ordinance.
6. The proposed text amendment also clearly defines a Farmers Market and permits them in GR, HC, CS, CC and all manufacturing districts. This would permit a Farmers Market in accordance with other applicable ordinances and codes in higher intensity commercial and manufacturing districts for distribution of garden produce
7. The Urban Garden Task Force and staff agreed to allow on-site retail and wholesale sales to the general public only in the higher intensity commercial and manufacturing zoning districts. The Farmers Markets would be allowed to locate in these districts as a permitted use. Staff would like Planning Commission and City Council to be mindful of the issues that may be created – if a retail or wholesale business is allowed as part of this amendment, because there are many small businesses that would like to be located in the residential districts including auto maintenance shop, a blacksmith/woodworking shop, a bakery, or a lawn mower repair shop, etc. It would also have the potential of being invasive to the neighborhood if more traffic is generated in a neighborhood and little or no off-street parking is provided and for that reason staff is not supportive of the retail or wholesale sales on-site in the residential districts. Staff has determined that with the existing Zoning Ordinance, Building Code, Storm water Design Standards, Traffic Standards, etc. has the potential to be an expensive proposition in conjunction with on-site sales in the residential districts. A commercial driveway is required for access from a non-residential use onto a street. Paved parking is required. Storm water detention requirements will be required for any increase in impervious surface which would include accessory buildings like greenhouses, hoop houses, cold-frames, etc. Gardening is exempt from the land disturbance and erosion control standards which require a permit for disturbance of property over one acre.
8. The following issues were discussed by the Urban Garden Task Force and accommodated by the proposed Urban Garden text amendment:
 - a. Processing fees and additional regulations were a concern of the task force and staff from the beginning. Alternative methods to a conditional use permit as originally proposed were investigated and used in the new proposed text amendment. Personal gardens would have no fees and have minimal regulations (established nuisance ordinances). Community gardens would need to submit a simple application that testifies that the property owner is responsible and must meet all performance standards and a no or minimal cost permit. Building

Development Services would file the applications and use them when questions would arise. Commercial gardens and Farmers Markets must abide by the same requirements of other commercial businesses.

- b. Accessory buildings were discussed at length and the proposed amendment would allow a lot without a principal structure to construct multiple accessory buildings that would not exceed forty (40) percent of the total lot area. All other situations involving accessory structure would require *Section 5-1000, Accessory Structures and Uses*, to be met. All applicable City Codes and Standards would apply.
 - c. Noise, lighting, hours of operation, insect/vermin control and odor concerns would be reviewed and enforced by Building Development Services and City Code which has nuisance provisions that address these issues.
 - d. Signage would not be permitted unless the site is located in a commercial or manufacturing zoning district.
 - e. Fences and bufferyards would be dictated by the existing Zoning Ordinance.
 - f. Education and training uses have been discussed and staff is not opposed to these if the primary use is the cultivation of crops.
 - g. Other agricultural uses were discussed including chickens, bees and other animals would which would require further discussions and involvement with the public and the Springfield-Greene County Health Department.
9. Public Works Traffic Division has no issues with the proposed text amendment changes and would discourage any changes to the ordinance that would create more traffic and parking in a residential neighborhood without additional review on a case by case basis.
 10. Public Works Stormwater has indicated that urban gardens in itself would have minimal impacts to stormwater runoff from the site. Regardless of the size of the garden, land used for farming is exempt from the City's Land Disturbance Permit. Any impervious surface added to the property will be subject to stormwater design requirements for detention and /or water quality.
 11. Staff has had discussions with some cities that have instituted urban gardens and not found any that permit a retail operation in a residential district. Most of the successful programs are linked with other public entities, such as the State Extension offices, some on local school property, some have an independent non-profit group that is funded with CDBG funds to administer the programs; some host it as part of their Parks and Recreation Departments. These groups also carry the liability insurance for those that are involved in the gardening. Denver started something and it has evolved to what it is now where non-profit receives \$285,000 per year from the CDBG program to operate; Cleveland uses a lot of city owned property in their Land Bank and is partnered with the Ohio Extension Office for some of the gardens, their Botanical Garden Club/organization

also sponsors a couple of gardens to teach kids how to grow things. Denver also has one of the Community Supported Agriculture activities – it is done on 2 to 3 acres of a 150 acre tract of land owned by the City of Aurora. One of the individuals that were spoken with said it normally takes 3 years for them to “develop a neighborhood/community garden” in that they rely totally on volunteers to maintain the site and if the neighborhood does not demonstrate ample interest and support -- they don’t receive a garden. The City of Bloomington, Indiana, has begun the process of implementing urban agriculture and gardens within the city limits which would include some methods of on-site retail sales, however, their City Council has not approved the draft ordinance and staff was not certain whether retail sales would be allowed after their process was finished. The Springfield-Greene County Park Board has announced the Adopt-an-Urban Garden program at Rutledge-Wilson Park and has discussed expanding it into the City.

12. Staff has attached additional comments from some members of the Urban Garden Task Force to this report.

STAFF CONTACT PERSON:

Daniel Neal
Senior Planner
864-1036

ATTACHMENTS:

Attachment A - Proposed Zoning Ordinance Text Amendment

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ATTACHMENT A
PROPOSED ZONING ORDINANCE TEXT AMENDMENT
FOR URBAN GARDENS

New text is underlined and deleted text is ~~overstruck~~.

Add to Permitted Accessory Structures and Uses, Section 5-1003 (B):

Personal Gardens when accessory to a residential use

Add a permitted use to all zoning districts in the Zoning Ordinance as follows:

Community Gardens without retail or wholesale sales on-site in accordance with the performance standards of Subsection 5-3000.

Add a permitted use to GR, HC, CS, CC and all manufacturing districts in the Zoning Ordinance as follows:

Commercial Gardens and Farmers Markets with retail or wholesale sales on-site.

Add the following definitions to Section 2-1100:

Personal Garden: The growing and cultivation of fruits, flowers, herbs, vegetables and/or ornamental plants by the owner or occupant primarily for personal use.

Community Garden: The growing and cultivation of fruits, flowers, herbs, vegetables and/or ornamental plants by an individual or group of individuals for personal or group use, consumption, donation, subscription or shares, but not for on-site distribution or sale to the general public. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be cultivated collectively by members of the group and may include common areas maintained and used by group members.

Commercial Garden: The growing and cultivation of fruits, flowers, herbs, vegetables and/or ornamental plants by an individual or group of individuals for personal or group use, consumption, donation, subscription, shares and for on-site distribution or sale to the general public. Commercial gardens may be divided into separate plots for cultivation by one or more individuals or may be cultivated collectively by members of the group and may include common areas maintained and used by group members.

Farmers Market: A market held in an open area or in a structure where groups of individual sellers offer for sale to the public such items as agricultural produce, seasonal fruits, fresh flowers and items customarily sold or dispensed at farmers markets from booths or vehicles located on-site. A farmers market may be conducted year-round in the same fixed location, or may be operated on an occasional or periodic basis as a seasonal, temporary use.

Add the following Subsection at the end of Section V of the Zoning Ordinance:

Section 5-3000. Community Gardens

- 5-3001. **Purpose.** The purpose of these requirements is to enable community gardens while minimizing any possible adverse effects of such uses on the surrounding neighborhood.
- 5-3002. **Community Garden Performance Standards.** Community gardens as defined shall follow the regulations of this Article except as modified herein.
- A. The property owner shall file an application with Director of Building Development Services to establish the community garden use. A no or minimal cost permit is required to be issued. The property owner has the responsibility to follow all performance standards. Community Gardens shall adhere to all performance standards and shall not create any adverse impact on adjoining properties. The Director of Building Services is authorized to issue a cease and desist order to any party violating the performance standards listed heretofore along with any other enforcement measures available to the Director or the City.
 - B. Structures utilized for community gardens shall be permitted subject to the accessory structure requirements of *Section 5-1000*. If no principal structure is located on the lot, the combined area of all structures shall not exceed forty percent (40%) of the lot area.
 - C. No structures may be located in the required front and side yard setbacks as defined in each zoning district of this Article. The rear yard setback shall be a minimum of three (3) feet for structures.
 - D. Retail and wholesale sales to the general public shall be prohibited on-site.
 - E. The hours of operation shall be limited to ½ hour before sunrise until ½ hour after sunset daily. The use of mechanical equipment powered by gasoline is only allowed from ½ hour before sunrise until ½ hour after sunset daily.
 - F. Signage shall conform to *Section 5-1400* of this Article.
 - G. The City's stormwater, sediment and erosion control standards shall apply.
 - H. No use shall emit an odor that creates a nuisance in compliance with *Springfield City Code*.
 - I. The community garden site shall be maintained free of high weeds and grass in compliance with *Springfield City Code*.
 - J. Compost bins and other material storage areas shall be maintained in such a manner as to not attract insects, vermin, reptiles and other animals or create a nuisance.
 - K. All uses shall operate in accordance with the lighting standards contained in *Section 6-1600* of this Article.

- L. All uses shall operate in accordance with the noise standards contained in *Section 6-1500* of this Article.
- M. Community gardens shall be subject to the Vision Obstruction Restrictions as defined in *Section 5-1306* of this Article.
- N. If the cultivated area exceeds one (1) acre in size, a minimum of two (2) off-street parking spaces shall be provided.
- O. All other City Codes shall apply.

5-3003. **Review Procedure for Community Gardens.** No approval for a community garden can be given by the Director of Building Development Services unless the following procedures are followed:

- A. **Application.** The Director of Building Services upon receipt of a complete application, and agreement by the applicant to follow and adhere to all Performance Standards contained herein shall permit a community garden.
- B. **Denial or Revocation.** The Director of Building Development Services may, in writing, suspend, deny or revoke a permit issued under provisions of this section whenever the permit is issued on the basis of a misstatement of fact, fraud, or noncompliance with this Article.

When a community garden permit is denied by the Director of Building Development Services, written notice shall be given of the denial to the owner, together with a brief written statement of the reason for the denial. Such denials shall have referenced the section of this Article or other pertinent code used as a standard for the basis of denial.

- C. **Appeal.** If the Director of Building Development Services denies, suspends or revokes the application, the owner may file an appeal request with the City's Board of Adjustment.

Delete truck gardens as a Conditional Use from Section 4-1003, Section 4-1103, Section 4-1203, and 4-1503 as follows:

Nurseries and ~~truck gardens~~ in relatively undeveloped sections of the City, limited to the propagation and cultivation of plants, provided no retail or wholesale business is conducted on the premises. (G.O. 4570)

URBAN GARDENS TASK FORCE
TENTATIVE SCHEDULE OF MEETINGS
ALL MEETINGS AT BUSCH MUNICIPAL BUILDING
4TH FLOOR CONFERENCE ROOM, 6:30 PM

TUESDAY, AUGUST 11, 2009-INTRODUCTION AND OVERVIEW

Speakers:

Jack Wheeler, Chair
Daniel Neal, Senior Planner, Structuring the Ordinance, Neighborhood Impacts, Fees
Melissa Millsap, Concept of Urban Gardens

TUESDAY, AUGUST 18 2009- USE ISSUES THAT NEED TO BE ADDRESSED

Speakers:

Nancy Yendes, Assistant City Attorney
a. State Statute ramifications and other legal issues
Nick Heatherly, Director of Building Development Services
a. Zoning, development & enforcement issues
Keith Francis, Public Works Engineering
Barbara Lucks, Public Works Solid Waste Management
Tiffany Frey, James River Basin Partnership
a. Storm water and water quality management (including pesticides) discussion

TUESDAY, AUGUST 25, 2009-USE OF PUBLIC LAND FOR URBAN GARDENS

Speakers:

Jodie Adams, Director of Springfield-Greene County Park Board
a. Springfield-Greene County Park Board Pilot Urban Garden Program at Rutledge-Wilson Farm Park

TUESDAY, SEPTEMBER 1, 2009

Meeting Postponed

TUESDAY, SEPTEMBER 8, 2009-DRAFT DEFINITIONS AND TASK FORCE RECOMMENDATIONS

Speaker:

Jack Wheeler, Chair
Daniel Neal, Senior Planner
a. Draft definitions for the Zoning Ordinance
b. Formulate Task Force Recommendations for Staff

TUESDAY, SEPTEMBER 22, 2009-DRAFT DEFINITIONS AND TASK FORCE RECOMMENDATIONS

Speaker:

Daniel Neal, Senior Planner

- a. Presentation of draft report and discussion
- b. Formulate Recommendation for Planning and Zoning Commission
- c. Set date for Planning and Zoning Commission Presentation

TASK FORCE CHARGE

To enable, facilitate, and encourage the development of Urban Gardens as a commercial enterprise to maximize local food resources and the use of non-productive or vacant lots in such a manner as to be non-invasive to the community or neighborhood.

URBAN GARDENS TASK FORCE
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Comments for submission to the Springfield Missouri City Council

by Galen Chadwick

Well-Fed Neighbor Alliance, regional coordinator

At the invitation of Chairman Jack Wheeler, and as a participant in the Planning and Zoning Urban Garden Task Force, I am submitting a "big picture" proposal for local food security. Needed is a comprehensive, coordinated and inclusive approach to the development of a strategic plan to boost local food production and distribution.

The food consumed by the citizens of the Springfield Economic Area, an amount in excess of 1,100 tons of food per day, is shipped and trucked to us along a fragile and globalized supply line. All depends upon the continued availability of cheap foreign oil. Should this delivery system be disrupted for any reason, supermarket shelves will empty within hours. The average household has roughly three days worth of food on hand. Given that less than 5% of our food is grown within the state, or within a thousand miles beyond our borders, the result of a significant disruption will be catastrophic.

Once, within living memory, Missouri fed its own people, and millions more besides. But now, outside of Amish and Mennonite populations, there is not a single county in the state that can feed its own people, much less supply our teeming urban centers. The need for the restoration of a sustainable urban and rural local agriculture base is paramount. But how to do this? Around the country citizens are holding their elected officials accountable for the restoration of a healthy, localized food supply through groups called "Food Policy Councils" (FPCs).

Councils come in various shapes and sizes. Some are organized by citizens, some through non-profits, some formally established by an ordinance, and still others through executive order. The City of Saint Louis is in the initial stages of developing a just and sustainable local food system through the collaboration of a local, non-profit host organization (Healthy Youth Partnership- HYP) under the executive direction of Maggie Menefree, and Dr. Mary Hendrickson (director of Community Food Systems, University of Missouri).

All key stakeholders in the community food system, including government agencies, NGO's, processors, farmers, nutritionists, educators, distributors and consumers take part in a "big tent" process that results in the creation, development and implementation of citywide food policy regulation. The unifying theme is the determination that the city's food system must serve a triple bottom line- one that is good for producers, the environment, and all consumers, including low-income households. The Well-Fed Neighbor Alliance, an active participant and independent non-profit member of the HYP in St Louis, proposes to host the same process for the City of Springfield, in collaboration with Dr. Hendrickson.

From its inception, the WFNA has been thinking beyond the creation of a few garden plots. Springfield plays the central role, and is the prime beneficiary, of our **Plan for Bioregional Food Security**. Restoring the viability, sustainability and resilience of our regions' agriculture, and by extension our local economy, is our singular goal. The urban and rural strategy to achieve food and energy sovereignty through an all-volunteer, grassroots movement, has moved well beyond the conceptual stage. Integral to the plan is a coordinated descent from oil dependency to local energy resiliency. No single organization or political institution can, or should, do this by itself; hence the creation of our broad citizens' alliance.

The successful launch of the 1,000 gardens project, and the current formation of the Well-Fed Neighbor Farmers' Co-op, in conjunction with area supermarkets, reflect the initial urban and rural components of the plan. In all, some 500 townships in 27 contiguous counties in SW Missouri will be the participants and beneficiaries of our restored and localized food supply. The WFNA is offering the Springfield City Council a golden opportunity to lead our state in championing food and urban agriculture *as the key issues in city planning, zoning, revenue generation and economic sustainability.*

Potential partners in the food council include:

faith based groups, concerned individuals, farmers, community gardens, food producers, cooks, local and state governments, schools and colleges, health and nutrition experts, food advocates, food distributors, farmers' markets, and food banks/food pantries.

The first goal is a cohesive group understanding of the Food System. To assist in this process here is a recommended definition:

“A community food system” is a food system in which food production, processing, distribution and consumption are integrated to enhance the environmental, economic, social and nutritional health of a particular place. A community food system can refer to a relatively small area, such as a neighborhood, or progressively larger areas; towns, cities, counties, regions or bioregion. The concept of community food systems is sometimes used interchangeably with “**local**” or “**regional**” food systems, but by including the word “**community**” there is an emphasis on strengthening existing (or developing) relationships between all components of the food system.

Should the City Council be interested in this proposal, the WFNA will arrange an informal exploratory session along with Dr Hendrickson, regional food experts, and other key academic and WFNA executive leaders. The process details, and timetable of the Food Policy Council will liaison with city governance to resonate with the unique character and history of Springfield. For further questions, please contact Galen Chadwick at (417) 353-7758 (galenchadwick@gmail.com), or co-founder Ruell Chappell at (417) 848-6543 (ruellchappell@gmail.com).

Sincerely,

Galen Chadwick, WFNA regional co-coordinator

The Friends of the Victory Garden At The Grand Oak Mission wish to support the concept of establishing the "Food Policy Council" as a part of the non-profit community. The Establishment of the "Well-Fed Neighbor Alliance" is a step toward providing a sustainable food, urban agriculture and energy policy within the metropolitan community limit of Springfield. We are asking City Council to adopt a resolution to support a policy of food, urban agricultural and energy sustainability.

The Undersigned organization and individuals support the adoption of this resolution.

Gary Schafer, Chairman of the Friends of the Victory Garden At Grand Oak Mission,
Springfield, Missouri

Melissa Millsap, Urban Roots Farm

Earl Slavens, Task Force Member

Curt Millsap, Millsap Farm CSA