

Pub. Imp. _____
Govt. Grnt. _____
Emer. _____
P. Hrngs. 1-25-10
Pgs. 11
Filed: 1-19-2010

Sponsored by: Chiles

First Reading: _____

Second Reading: _____

COUNCIL BILL NO. 2010- 034

GENERAL ORDINANCE NO. _____

AN ORDINANCE

1 AMENDING Article I, Springfield Land Development Code, Division V, Supplemental
2 Regulations and Division VI, Design and Development Standards, to
3 clarify the requirements for Community Gardens for operation of
4 mechanical equipment and parking and to exempt park land and
5 community gardens from the requirements for bufferyards. (Both Planning
6 and Zoning Commission and staff recommend approval.)
7
8
9

10 WHEREAS, an application for an amendment to the Zoning Ordinance was filed
11 by the applicant in conformance with the requirements of the Zoning Ordinance; and
12

13 WHEREAS, following proper notice, a public hearing was held before the
14 Planning and Zoning Commission on January 7, 2010, and said Commission has made
15 its recommendation with respect to such an amendment, which is contained within this
16 bill.
17

18 NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
19 SPRINGFIELD, MISSOURI, as follows, that:
20

21 Section 1 – The Land Development Code, Article I, Zoning Ordinance, Division
22 V, Supplemental Regulations, Section 5-3000 Community Gardens, is hereby amended
23 by repealing Subsection 5-3002, Community Gardens Performance Standards and
24 enacting in lieu thereof a new Subsection 5-3002, which new Subsection shall read as
25 follows:
26

27 **Section 5-3000. Community Gardens**

28
29 5-3002. **Community Garden Performance Standards.** Community gardens as
30 defined shall follow the regulations of this Article except as modified

31 herein.

- 32
- 33 A. The property owner shall file an application with Director of Building
34 Development Services to establish the community garden use. A
35 no -or minimal- cost permit is required to be issued. The property
36 owner has the responsibility to follow all performance standards.
37 Community Gardens shall adhere to all performance standards and
38 shall not create any adverse impact on adjoining properties. The
39 Director of Building Services is authorized to issue a cease and
40 desist order to any party violating the performance standards listed
41 heretofore along with any other enforcement measures available to
42 the Director or the City.
- 43
- 44 B. Structures utilized for community gardens shall be permitted subject
45 to the accessory structure requirements of *Section 5-1000*. If no
46 principal structure is located on the lot, the combined area of all
47 structures shall not exceed forty percent (40%) of the lot area.
- 48
- 49 C. No structures may be located in the required front and side yard
50 setbacks as defined in each zoning district of this Article. The rear
51 yard setback shall be a minimum of three (3) feet for structures.
- 52
- 53 D. Retail and wholesale sales to the general public shall be prohibited
54 on-site.
- 55
- 56 E. The hours of operation shall be limited to ½ hour before sunrise
57 until ½ hour after sunset daily. ~~The use of mechanical equipment
58 powered by gasoline is only allowed from ½ hour before sunrise
59 until ½ hour after sunset daily.~~
- 60
- 61 F. Signage shall conform to *Section 5-1400* of this Article.
- 62
- 63 G. The City's stormwater, sediment and erosion control standards
64 shall apply.
- 65
- 66 H. No use shall emit an odor that creates a nuisance in compliance
67 with *Springfield City Code*.
- 68
- 69 I. The community garden site shall be maintained free of high weeds
70 and grass in compliance with *Springfield City Code*.
- 71
- 72 J. Compost bins and other material storage areas shall be maintained
73 in such a manner as to not attract insects, vermin, reptiles and
74 other animals or create a nuisance.
- 75

- 76 K. All uses shall operate in accordance with the lighting standards
77 contained in *Section 6-1600* of this Article.
78
79 L. All uses shall operate in accordance with the noise standards
80 contained in *Section 6-1500* of this Article.
81
82 M. Community gardens shall be subject to the Vision Obstruction
83 Restrictions as defined in *Section 5-1306* of this Article.
84
85 N. No parking is required unless If the cultivated area exceeds one (1)
86 acre in size. Then a minimum of two (2) off-street parking spaces
87 shall be provided. An additional two (2) parking spaces shall be
88 provided for each additional acre of cultivated area.
89
90 O. No bufferyards shall be required.
91
92 P. All other City Codes shall apply.
93

94 NOTE: Language to be added is underscored. Language to be removed is ~~stricken~~.
95

96 Section 2 – The Land Development Code, Article I, Zoning Ordinance, Division
97 VI, Design and Development Standards, Section 6-1211. Bufferyards, is hereby
98 amended by repealing the Table of Bufferyard Requirements and enacting in lieu
99 thereof a new Table of Bufferyard Requirements , which new Table shall read the same
100 as “Exhibit 1” to this Ordinance which is incorporated herein by reference as though set
101 forth fully, and the remainder of Section 6-1211 shall remain as written.
102

103 NOTE: Language to be added to the Table of Bufferyard Requirements is underlined.
104

105 Section 3 – Savings Clause. Nothing in this Ordinance shall be construed to
106 affect any suit or proceeding now pending in any court or any rights acquired or liability
107 incurred nor any cause or causes of action occurred or existing, under any act or
108 ordinance repealed hereby. Nor shall any right or remedy of any character be lost,
109 impaired, or affected by this ordinance.
110

111 Section 4– Severability Clause. If any section, subsection, sentence, clause, or
112 phrase of this ordinance is for any reason held to be invalid, such decision shall not
113 affect the validity of the remaining portions of this ordinance. The Council hereby
114 declares that it would have adopted the ordinance and each section, subsection,
115 sentence, clause or phrase thereof, irrespective of the fact that any one or more
116 sections, subsections, sentences, clauses, or phrases be declared invalid.
117

118 Section 5– This ordinance shall be in full force and effect from and after
119 passage.
120
121

122 Passed at meeting: _____

123

124

125

126

Mayor

127

128

129 Attest: _____, City Clerk

130

131

132 Filed as Ordinance: _____

133

134

135

136 Approved as to form: Mary K Yendes Assistant City Attorney

137

138

139 Approved for Council Action: Greg Burt City Manager

140

141

142

143 N:\share\cbills\2010\1-25-10\textamendcommunitygardens_ord_nky-dw

Affected Agency Notified: Yes
Emergency Required: No
Budget Adjust. Required: No
Board Rec. Required: Yes
Public Hearing: January 25, 2010
Sponsor: O'Neal
Date: January 11, 2010

EXPLANATION TO COUNCIL BILL NO. 2010 -

ORIGINATING DEPARTMENT: Planning and Development

PURPOSE: To adopt an ordinance to amend the Zoning Ordinance of the City of Springfield, Missouri to modify the requirements of Subsection 5-3000, Community Gardens, and Subsection 6-1200, Landscaping and Bufferyards, to exempt community gardens and parks from the bufferyard requirements and clarify the parking standards and operation of mechanical equipment. (Planning and Zoning Commission and Staff recommend approval)

ZONING ORDINANCE TEXT AMENDMENT – COMMUNITY GARDENS & PARKS

BACKGROUND INFORMATION:

Planning Commission initiated discussion and recommended the proposed text amendments to the Community Gardens and Landscaping and Bufferyard requirements of the ordinance. The proposed amendment will exempt community gardens and parks from the bufferyard requirements and clarify the parking standards and operation of mechanical equipment.

While preparing the community garden application and further review of the performance standards, staff has discovered that the bufferyard requirements between a residential and non-residential use in the residential zoning districts would create an issue with the intent of the ordinance. A community garden would be considered a non-residential use and as such by the Zoning Ordinance, Landscaping & Bufferyard requirements would require a bufferyard between the two differentiating uses. This was not the intent of the original ordinance and staff has proposed changes to clarify it.

Recently, the City has experienced some situations where the park property was required to buffer between itself. Staff is proposing to exempt park property from the Zoning Ordinance to give the Park Board flexibility and save taxpayer dollars on any unnecessary expenses.

The proposed amendments also contain some clarification of the parking requirements and enforcement of mechanical equipment related to community gardens.

RECOMMENDATIONS:

The Planning and Zoning Commission held a public hearing on January 7, 2010, and recommended approval, by a vote of 9 to 0, of the proposed changes to the Zoning Ordinance described in Attachment A (see the attached Record of Proceedings).

The Planning and Development Staff recommends approval of the proposed amendments (see the attached Zoning and Subdivision Report).

Submitted by:

~~Michael K MacPherson~~
Planning and Development

Approved by:


City Manager

Zoning & Subdivision Report

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

ZONING ORDINANCE AMENDMENT: COMMUNITY GARDENS & BUFFERYARD REQUIREMENTS

DATE: December 28, 2009

PURPOSE: To amend the Zoning Ordinance to Subsection 5-3000, Community Gardens, and Subsection 6-1200, Landscaping and Bufferyards, to exempt community gardens and parks from the bufferyard requirements and clarify the parking standards and operation of mechanical equipment.

STAFF COMMENTS:

1. The Urban Garden Text Amendment was approved by City Council on November 9, 2009. While preparing the community garden application and further review of the performance standards, staff has discovered that the bufferyard requirements between a residential and non-residential use in the residential zoning districts would create an issue with the intent of the ordinance. A community garden would be considered a non-residential use and as such by the Zoning Ordinance, Landscaping & Bufferyard requirements would require a bufferyard between the two differentiating uses. This was not the intent of the original ordinance. The Urban Garden Task Force and staff had wanted little or no bufferyard between the two uses. Staff has promptly proposed this amendment to address the bufferyard issue and some other minor clarifications to the community garden section of the ordinance before the growing season begins this Spring.
2. Staff has also proposed an amendment that would exempt park property from the bufferyard requirements of the ordinance. Recently, the City has experienced some situations where the park property was required to buffer between itself. This situation has occurred when one property has multiple zoning districts and uses within it. Since the Springfield-Greene County Parks Board has a multitude of properties, it is difficult to keep the zoning consistent amongst large parcels of property. Staff is proposing to exempt park property from the Zoning Ordinance to give the Park Board flexibility and save taxpayer dollars on an unnecessary expense.
3. Staff has also elected to remove the section that explicitly prevented mechanical equipment powered by gasoline from ½ hour before sunrise until ½ hour after sunset daily which was

added by staff during the original text amendment. Staff believes the noise ordinance of the City Code will regulate any issues with noise and that the language may create other interpretation issues in the future. It really only addressed one form of fuel anyway.

4. After review of the parking requirements for community gardens, staff has decided to clarify the standards to require no parking until over an acre of area is cultivated and then each additional acre shall require an additional two (2) parking spaces. The original language left the parking requirements up to interpretation.
5. The Building Development Services and Public Works have no issues or comments regarding the proposed text amendment.

RECOMMENDATION: Staff recommends **approval** of this request (see Attachment A).

STAFF CONTACT PERSON:

Daniel Neal
Senior Planner

ATTACHMENT A
PROPOSED AMENDMENT

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

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. No parking is required unless If the cultivated area exceeds one (1) acre in size, then a minimum of two (2) off-street parking spaces shall be provided. An additional two (2) parking spaces shall be provided for each additional acre of cultivated area.
- O. No bufferyards shall be required.
- P. 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.

Table of Bufferyard Requirements

Zoning District	Adjacent Zoning District																			
	R-SF	R-TH	R-MHC	R-LD	R-MD	R-HD	O-1	O-2	GI	LB	GR	HC	CS	CC	RI	LI	GM	HM	IC	
of Proposed Development																				
R-SF	(D)	(C)	(C)	(C)	(B)	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
R-TH	A ₃ (D)	(C)	(C)	(C)	(B)	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
R-MHC ¹	B	(C)	(C)	(C)	(B)	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
R-LD	B	B	(C)	(C)	(B)	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
R-MD	C	B	B	B	(B)	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
R-HD	D	C	C	B	B	(B)	*	*	*	*	*	*	*	*	*	*	*	*	*	*
O-1	C	B	B	B	B	B	*	*	*	*	*	*	*	*	*	*	*	*	*	*
O-2	D	D	C	C	B	B	*	*	*	*	*	*	*	*	*	*	*	*	*	*
GI	D	D	C	C	B	B	*	*	*	*	*	*	*	*	*	*	*	*	*	*
LB	D	C	C	B	B	B	*	*	*	*	*	*	*	*	*	*	*	*	*	*
GR	F	E	E	C	C	C	B	B	B	B	*	*	*	*	*	*	*	*	*	*
HC	F	E	E	C	C	C	B	B	B	C	B ²	*	*	*	*	*	*	*	*	*
CS	G	F	F	D	D	D	C	C	C	D	B ²	B ²	*	*	*	*	*	*	*	*
CC	J	J	J	J	J	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*
RI	F	E	E	C	C	C	B	B	B	B	*	*	*	*	*	*	*	*	*	*
LI	G	F	F	D	D	D	C	C	C	D	B	B	*	*	*	*	*	*	*	*
GM	H	H	H	H	H	G	G	G	C	D	B	B	*	*	*	*	*	*	*	*
HM	I	I	I	I	I	H	G	G	C	D	B	B	B	*	*	*	*	*	*	*
IC	G	F	F	D	D	D	D	C	C	D	B	B	*	*	*	*	*	*	*	*

() Bufferyard required when permitted nonresidential use locates adjacent to residential use or vacant land except park property and community gardens.

* No bufferyard required.

¹ For mobilehome subdivisions, bufferyard requirements of the R-TH district shall apply.

² Bufferyard can be waived by Administrative Review Committee between uses in different districts where a joint access agreement is proposed. Required plantings must be provided on other areas of the affected property.