

ORDINANCE NO. _____ - 2017

AN ORDINANCE AMENDING ARTICLES 1, 3, 8, 11 AND 23A OF THE ZONING ORDINANCE TO DEFINE AND REGULATE MARKET GARDENS THROUGHOUT LEXINGTON-FAYETTE COUNTY. (PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission at a public hearing on January 26, 2017, has considered a text amendment to Articles 1, 3, 8, 11 and 23A of the Zoning Ordinance to define and regulate Market Gardens throughout Lexington-Fayette County. Planning Commission did recommend APPROVAL of the staff alternative text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

GENERAL PROVISIONS AND DEFINITIONS

1-1 DEFINITIONS - For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the word person includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the word structure includes building; the word occupied includes arranged, designed or intended to be occupied; the word used includes arranged, designed or intended to be used; the word shall is always mandatory and not merely directive; the word may is permissive; and the word lot includes plot or parcel. Other words and terms shall have the following respective meanings:

AGRICULTURAL USE, URBAN - The use of a lot or a portion of a lot within the Urban Services Area that is less than five (5) acres for a community garden as regulated further in the Code of Ordinances.

GARDEN, MARKET – An area of land less than five (5) contiguous acres in size for the cultivation of food and/or non-food crops by an individual or a group of individuals to be sold on site. Such a garden may be located on the ground, in raised beds, or on rooftops; and may utilize greenhouses, hoop houses, high tunnels, vertical gardens, hydroponic systems or aquaponics systems alone or in combination with other techniques for growing food or non-food crops.

Section 2 – That Article 3 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

APPLICATION OF ZONE REGULATIONS - The regulations set by this Zoning Ordinance within each zone shall be minimum or maximum limitations, as appropriate to the case, and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

- (a) No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the zone in which it is located unless otherwise specifically permitted in this Zoning Ordinance.
- (b) No building or other structure shall hereafter be erected or altered:
 - (1) to exceed the height, bulk or floor area ratio;
 - (2) to accommodate or house a greater number of families;
 - (3) to occupy a greater percentage of lot area;
 - (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces; or
 - (5) to have less perimeter and interior lot landscaping for vehicular use area and non-compatible land uses than herein required, or in any other manner be contrary to the provisions of this Zoning Ordinance.
- (c) No part of a yard, open space, off-street parking, loading space or other special use area required about or in connection with any building or land, for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, off-street parking, loading space or other special use area similarly required for any other building or land unless otherwise specifically permitted in this Zoning Ordinance.
- (d) No yard or lot existing at the time of adoption of this Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the adoption of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.
- (e) There shall be no more than one principal structure and its accessory structures on any lot or parcel of land in an agricultural zone or in any residential zone, unless otherwise specifically permitted as a Group Residential Project or a Planned Unit Development in this Zoning Ordinance. In all other zones, more than one principal building shall be permitted only if a development plan is approved by the Commission, as provided by Article 21.
- (f) Only those uses specifically named as principal, accessory, or conditional uses or substantially similar to principal, accessory or conditional uses are permitted in each zone. All uses not specifically permitted or substantially similar to permitted uses are prohibited. Prohibited uses shall include, but not be limited to, those specifically named as prohibited.

3-4 AGRICULTURAL LAND USE EXEMPTIONS - Notwithstanding any other provision of this Zoning Ordinance, land which is used solely for agricultural use, as defined herein, shall have no regulations imposed as to building permits, certificates of occupancy, height, yard, or location requirements for agricultural buildings, except that a setback line of thirty feet shall be required for agricultural buildings for the protection of existing and proposed streets and highways; and that all buildings or structures in a designated floodway or floodplain, or which tend to increase flood heights or obstruct the flow of flood waters, may be fully regulated. Any parcel of land used for an urban agricultural use within the Urban Services Area, as defined herein, shall also be exempt from use restrictions listed in each zone, but buildings proposed for such uses shall be subject to building permit, zoning setback, floodplain setback and certificate of occupancy requirements contained herein.

Section 3 – That Article 8 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

SCHEDULE OF ZONES

The following zones and their requirements appear in the Schedule of Zones included therein:

<u>Section</u>	<u>Zone</u>	<u>Zone Title</u>
8-1	A-R	Agricultural Rural
8-2	A-B	Agricultural Buffer
8-3	A-N	Agricultural Natural Areas
8-4	A-U	Agricultural Urban
8-5	R-1A	Single Family Residential

8-6	R-1B	Single Family Residential
8-7	R-1C	Single Family Residential
8-8	R-1D	Single Family Residential
8-9	R-1E	Single Family Residential
8-10	R-1T	Townhouse Residential
8-11	R-2	Two-Family Residential
8-12	R-3	Planned Neighborhood Residential
8-13	R-4	High Density Apartment
8-14	R-5	High Rise Apartment
8-15	P-1	Professional Office
8-16	B-1	Neighborhood Business
8-17	B-2	Downtown Business
8-18	B-2A	Downtown Frame Business
8-19	B-2B	Lexington Center Business
8-20	B-3	Highway Service Business
8-21	B-4	Wholesale and Warehouse Business
8-22	I-1	Light Industrial
8-23	I-2	Heavy Industrial
8-24	P-2	Office, Industry and Research Park

8-1 AGRICULTURAL RURAL (A-R) ZONE

8-1(e) Prohibited Uses (All uses other than those listed as principal, accessory, or conditional uses or substantially similar to principal, accessory, or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.)

10. Garden centers or market gardens, except those activities specifically allowed under the definition of commercial green-houses and plant nurseries.

8-2 AGRICULTURAL BUFFER (A-B) ZONE

8-2(e) Prohibited Uses

10. Garden centers, market gardens, commercial greenhouses and plant nurseries.

8-3 AGRICULTURAL NATURAL AREAS (A-N) ZONE

8-3(e) Prohibited Uses

10. Garden centers, market gardens, commercial greenhouses and plant nurseries.

8-4 AGRICULTURAL URBAN (A-U) ZONE

8-4(e) Prohibited Uses

1. The prohibited uses in the A-R zone, except as permitted herein.

8-5 SINGLE FAMILY RESIDENTIAL (R-1A) ZONE

8-5(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Single family detached residences.
2. Parks and playgrounds operated by government.

8-5(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds, and parking areas.
2. Living quarters, without cooking facilities and not rented, for guests and employees of the premises.
3. Swimming pools and tennis courts, including accessory structures and temporary structures associated with those uses.
4. Agricultural uses, excluding commercial stock raising.
5. Private, non-commercial parks and open space.
6. Home office.
7. A ground mounted satellite dish antenna, as regulated by Article 15-8.
8. Family child care for up to six (6) children, provided that the total number of

children living or being cared for on the premises shall not exceed six (6).

8-5(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

15. Market gardens.

8-5(e) Prohibited Uses

1. Those uses prohibited in the A-U zone, except as permitted herein.

8-15 PROFESSIONAL OFFICE (P-1) ZONE

8-15(e) Prohibited Uses

6. Greenhouses, plant nurseries, market gardens and garden centers.

8-16 NEIGHBORHOOD BUSINESS (B-1) ZONE

8-16(b) Principal Uses

43. Commercial farm markets and market gardens.

8-19 LEXINGTON CENTER BUSINESS (B-2B) ZONE

8-19(b) Principal Uses

14. Commercial farm markets and market gardens.

8-20 HIGHWAY SERVICE BUSINESS (B-3) ZONE

8-20(b) Principal Uses

30. Commercial farm markets and market gardens.

8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

8. Market gardens, except as provided as part of an adaptive reuse project.

8-21(o) Special Provisions:

4. Adaptive Reuse Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:

d. Principal uses in Adaptive Reuse Projects:

15. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.

5. Flex Space Projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:

b. Principal uses in Flex Space Projects shall include:

8. Market gardens.

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

19. Agricultural market, and market gardens.

8-23 HEAVY INDUSTRIAL (I-2) ZONE

8-23(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

39. Market gardens.

8-24 OFFICE, INDUSTRY AND RESEARCH PARK (P-2) ZONE

8-24(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

26. One designated retail sales area per P-2 project, limited to the following uses:

Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations.

Banks, credit agencies, security and commodity brokers and exchanges, credit

institutions, savings and loan companies, holding and investment companies.

Establishments for the retail sale of food products, as per Article 8-16(b)(2).

Medical and dental offices, clinics, and laboratories.
Ticket and travel agencies.

Restaurants, cocktail lounges and night clubs, with entertainment, dancing, and/or sale of alcoholic beverages.

Establishments for the retail sale of merchandise, as per Article 8-16(b)(4).

Beauty shops, barber shops, and shoe repair.

Automobile service stations.

Quick copy services utilizing xerographic or similar processes, but not including offset printing methods.

Laundry and laundry pick-up stations, but not including self-service laundry.

Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than 25 square feet per child.

Athletic club facilities.

Market gardens.

Section 4 – That Article 11 of the Zoning Ordinance of the Lexington-Fayette

Urban County Government is hereby amended as follows:

INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

11-4 CONDITIONAL USES - The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

d. Market gardens.

Section 5 – That APPENDIX 23A of the Zoning Ordinance of the Lexington-

Fayette Urban County Government is hereby amended as follows:

APPENDIX 23A - ZONING CATEGORIES AND RESTRICTIONS

23A-5 EXPANSION AREA RESIDENTIAL 1 (EAR-1) ZONE

23A-5(d) CONDITIONAL USES

7. Market gardens.

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(b) PRINCIPAL USES

30. Market gardens.

23A-10 ECONOMIC DEVELOPMENT (ED) ZONE

23A-10(d) CONDITIONAL USES

5. Market gardens.

Section 6 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

Clerk of Urban County Council

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