



Planning & Public Safety Committee

February 9, 2016

Summary and Motions

Chair Mossotti called the meeting to order at 1:00 p.m. All Committee Members were in attendance: Mossotti, Scutchfield, Kay, Stinnett, Akers, Gibbs, Lamb, Farmer, Bledsoe and Henson. Council Member F. Brown was also in attendance as a non-voting member.

I. Approval of Committee Summary

A motion was made by Farmer to approve the December 8, 2015 Planning & Public Works Committee Summary, seconded by Henson. The motion passed without dissent.

II. Community Gardens

Jim Duncan, Director of Planning, presented the draft ordinance that would enable community gardens throughout the urban service area.

Farmer inquired if the sections referencing compost and compost bins would follow the existing parameters, which Duncan affirmed.

In response to Lamb, Duncan stated enforcement of nuisance issues would remain under the same enforcement mechanisms they are currently under: Code Enforcement; Animal Control; and Police. Lamb noted she would like to see each type of enforcement outlined for the public. In response to Lamb, Duncan stated that accessory structures on corner lots would be treated in the same way as building setbacks. Lamb stated she would like to have informational sheets for the public. In response to Lamb, Tracy Jones, from Law, stated there may not be a way to designate enforcement areas this within the ordinance.

In response to Stinnett, Duncan stated the proposed ordinance does not prohibit front yard gardens in residential zones, and that gardens would fall within the ordinary review of maintenance for other things such as height of grass, etc. There was further clarification of floodways and flood plains.

Gibbs inquired if Planning has reviewed the nuisance ordinances and if they could incorporate the review into the ordinance discussion. Commissioner Paulsen stated that Code Enforcement would be looking into this.

Scutchfield inquired if neighborhood association deed restrictions would supersede the ordinance and stated she has concerns about allowing gardens in front yards. Duncan stated neighborhood associations enforce their own restrictions, and the government would not enforce those.

Henson stated she would like to see section 5 amended to restrict front yard gardens to containers. Duncan noted instances when an individual may not have the available space on their lot other than the front yard and noted gardens for community outreach. Jones stated the regulations refer to community, rather than personal, gardens.

A motion was made by Lamb to amend subsections 13 of the draft ordinance to add "any resident, owner or organization shall also comply with the requirements of Chapter 4 – Animals and Fowl related to the keeping of fowl, seconded by Henson. The motion passed without dissent.

A motion was made by Kay to amend the ordinance to delete item 1 under section D and remove all references to private gardens, seconded by Akers. The motion passed by a 7 – 2 vote. (Yay: Mossotti, Kay, Stinnett, Akers, Gibbs, Farmer, Bledsoe, Henson Nay: Scutchfield, Lamb)

A motion was made by Kay to approve this item as amended and forward to the full Council, seconded by Gibbs. The motion passed by a 6 – 3 vote. (Yay: Kay, Akers, Gibbs, Farmer, Bledsoe, Henson Nay: Scutchfield, Stinnett, Lamb)

III. H-1 Notification Process

Farmer stated the intent of reviewing the H-1 process is to potentially provide transparency to the public and to lift the financial burden for sending out notices.

Mossotti inquired about the issue of boundaries and Farmer stated he would like to see this and other issues explored. He stated his desire to keep this issue in Committee to revisit.

IV. Code Enforcement Penalties & Fines

Ken Armstrong, Director of Code Enforcement, gave a presentation of the general operations of Code Enforcement.

Kay inquired about temporary signage and if there are penalties for signs in right-of-ways. Armstrong stated that habitual offenders are addressed by the county attorney. Kay inquired if those offenders have been prosecuted. Armstrong stated he does not know of an instance where prosecution has occurred. Kay stated he would like to see offenders tracked.

Scutchfield stated she would like for Code Enforcement to look into the issue of nuisances on public right-of-ways and noted these could be public safety issues.

In response to a question from Akers, Armstrong stated he is researching enforcement, but noted that since the issue is addressed separately in the ordinance he believes it is also handled separately. Mike Sanner, from Law, stated that signs in the rights-of-way are a criminal matter and the Council cannot decriminalize this issue to make it a civil manner. In response to Akers, Armstrong stated he does not believe there is a list of businesses that have been reported to the County Attorney. Akers stated her desire to explore the option to make this a civil matter.

Henson stated she would like to pursue addressing nuisance issues as civil matters.

Stinnett inquired why Code Enforcement has not pursued action against habitual offenders and asked Armstrong if he intends to pursue these, which Armstrong confirmed. Stinnett stated that, unless these issues are pursued, there will not be compliance with the ordinance.

Gibbs noted that the sidewalk snow clearing ordinance is in the process of seeking a civil penalty rather than criminal. Sanner stated he believes the sidewalk ordinance may be a local ordinance and that the sidewalks may have originally been local.

Kay stated he would like this item to remain in Committee.

A motion was made by Kay to place Code Enforcement Penalties & Fines back into Committee, seconded by Akers. The motion passed without dissent.

Bledsoe inquired what is done with offending signs after collection. Armstrong stated they are either thrown away or recycled.

In response to Akers, Armstrong stated that not all Nuisance Officers meet the KAR statute requirements to become Housing Officers.

In response to Henson, Armstrong stated the Department would like to have more Housing Officers but that Nuisance Officers are also very valuable in their office.

In response to Lamb, Armstrong stated the office receives more calls about naturalized yards than gardens and that they will be adding issues to the Code of Ordinances as they see issues arise.

Henson stated she would like to see persistent offenders addressed in the future.

Kay stated his appreciation for Armstrong's work and his interest in Code Enforcement issues.

In response to Bledsoe, Hollinger stated there is an option for a detailed summary as well as raw data. Bledsoe stated she feels this is important for citizen access and transparency. Hollinger stated that data will be generated utilizing iPads in the field prior to the implementation of the new database.

In response to Lamb, Hollinger stated they have software licenses for all code enforcement officers and employees, and that the public users will have access to new cases.

Kay stated he feels this is a move in the right direction and his desire to keep the Code Enforcement database in committee for updates.

In response to Lamb, Armstrong stated annual business licensing inspections are one of the items that may need to be phased in at a later time. Lamb inquired about fines in comparable cities, and Paul Schoninger, Council Research Analyst, stated he can provide more information.

Kay stated that he hopes that any recommendations for updated fines could come back to Council. Armstrong stated that they would.

V. Items Referred

A motion was made by Akers to remove the Safety Officers referral item from Committee, seconded by Bledsoe. The motion passed without dissent.

A motion was made by Bledsoe to adjourn, seconded by Scutchfield. The motion passed without dissent.

The meeting was adjourned at 2:55 p.m.

D.S. 2-11-2016

ORDINANCE NO. _____ - 2015

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES TO ADD A SECTION REGARDING GARDENS.

WHEREAS, the Lexington-Fayette Urban County Council has reviewed the need for a new ordinance section governing gardens; and

WHEREAS, the Planning and Public Safety Committee of the Urban County Council has reviewed and recommended specific amendments to Chapter 10 of the Code of Ordinances regarding gardens.

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

Section 1 – That Chapter 10 of the Code of Ordinances of the Lexington-Fayette Urban County Government is hereby amended by adding the following subsection:

Chapter 10: Food and Drugs

Article 1. In General

Sec. 10-14.1 Gardens

- (a) The primary purpose of community and market gardens is to promote sustainable and affordable local food production for local consumption.
- (b) Community gardens, as defined herein (d), shall be permitted on any parcel of land in Fayette County, but shall comply with any and all regulations included herein and those established by other Federal, state or local agencies, such as the Kentucky Department of Public Health, Lexington-Fayette County Board of Health, and/or the Kentucky Department of Agriculture.
- (c) Market gardens, which may include on-site and/or off-site sales, and/or distribution of food crops and horticultural (non-food crops) products, shall be regulated through the LFUCG Zoning Ordinance.
- (d) As used in this article, gardens shall be defined as follows:
 - 1) Community Garden – an area of land less than five (5) continuous acres in size used for the cultivation of food and/or non-food crops by a group of individuals for their personal or group use, consumption, donation or off-site sales. The land may be divided into individual plots available for cultivation, and may include common areas maintained and used by group members. The garden may be located on the ground, in raised beds or on rooftops. Community gardens may be a principal or an accessory use.
- (e) Community Gardens must comply with the following regulations:
 - 1) On-site retail sales are prohibited.
 - 2) Identification and contact information shall be posted on the site with a clearly visible, non-illuminated sign that includes the name and contact information of the garden manager. The sign may also include the garden's rules of use. The sign shall have a maximum size of ten (10) square feet, and a maximum height of six (6) feet. The sign shall be located within five (5) feet of the right-of-way, but not be located within sight-distance triangles.
 - 3) Hours of operation shall be limited to sunrise until ½ hour after sunset daily.

- 4) Accessory structures maintained and used by the group are permitted. The combined areas of all buildings or structures shall not exceed 15 percent (15%) of the site area. Such structures may include:
 - i. Storage shed, limited to one shed no more than 120 square feet in size
 - ii. Cold frames and hoop houses, each one limited to three feet in width and three feet in height
 - iii. Raised and/or accessible planting beds (no railroad ties are permitted)
 - iv. Compost or waste bins
 - v. Fences
 - vi. Shade pavilion and trellises
 - vii. Signs and kiosks
 - viii. Benches, picnic tables and bike racks
 - ix. Garden art
 - x. Rain barrel system, (including mosquito control measures).
- 5) The garden and accessory structures shall comply with applicable side and rear setbacks per the LFUCG Zoning Ordinance. The following accessory structures shall not extend into the front yard beyond the front yard setback:
 - i. Storage shed
 - ii. Cold frames and hoop houses
- 6) The site must be designed and maintained so that water, chemicals or waste will not drain onto adjacent property, and measures are taken to control soil erosion.
- 7) No garden shall be allowed in a FEMA floodway; however, a garden may be requested in the remainder of the 100 year floodplain. A special permit use shall be required from the Division of Engineering as regulated by Article 19-8 of the Zoning Ordinance, which will factor in slope, and/or existing vegetation. If the garden is approved, items that could be transported away by water shall not be left on-site.
- 8) The parcel shall be maintained in an orderly manner throughout the year. Storage tools and supplies shall be indoors or removed daily from the site when unattended. The site must be maintained free of high weeds, grass and litter in compliance with Chapter 12 – Housing, Section 12-1 through 12-6 relating to property maintenance in the Code of Ordinance. The parcel shall be winterized, such as cleaning the site, and cutting, composting or removing stalks after harvesting.
- 9) Compost must be stored in an enclosed container.
- 10) Compost and waste bins shall be screened from adjacent properties through landscaping, fencing or location within a structure. They shall be maintained so as they do not attract insects, vermin, animals or create a nuisance; and, they shall be in compliance with Chapter 16, Section 16-10 of the Code of Ordinance.
- 11) Any chemical and/or fuel shall be stored off-site or in an enclosed, locked structure when the site is unattended.
- 12) No use shall emit an odor that creates a nuisance.
- 13) Keeping of livestock is prohibited. Keeping of fowl shall only be permitted when a community garden is located on the same parcel of land as a dwelling unit or where the community garden is managed on a daily basis by a non-profit organization. Any resident, owner or organization shall also comply with the requirements of Chapter 4-Animals and Fowl related to the keeping of fowl.
- 14) Mechanized equipment shall be those designed for household use, and shall comply with Chapter 14 – Offenses and Miscellaneous, Section 14-70 through 14-80 in regard to noise.

- 15) Fencing shall be compatible in appearance and placement with the character of nearby properties, and shall follow Article 15-4 of the Zoning Ordinance.

Section 2 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

Clerk of Urban County Council

Published:

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