

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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