

August 22, 2013

Dear Sustainable Food Policy Board,

The **Code Coordination and Metrics Working Group** of the Sustainable Food Policy Board (SFPB) appreciates the opportunity to brief you on the Urban Farm Code Update. Enclosed, please find:

1. The draft code language of our current recommendations to update sections of the Land Development Code dealing with urban agriculture.
2. A summary table highlighting the working groups recommendations, information gathered from a series of public meetings, feedback from community organizations and individuals, and staff review by Planning & Development Review, Watershed Protection Department, Office of Sustainability, Environmental Health, and Code Compliance Department.

In 2011, Ordinance 20110210-018 made urban farms and community gardens a permitted use in every zone. In January, the SFPB passed a resolution recommending that the Planning Commission initiate an amendment to the land development code to **clarify the definition of an urban farm**.¹ At its February 26 meeting, the PC charged the SFPB with “initiating an ordinance to amend Chapter 25-2 of the City of Austin Land Development code to clarify, update and revise regulations related to urban farms, livestock, size of farm, employees and dwelling.”² The SFPB resolved to “work with the Planning Commission and City staff to review zoning for additional opportunities to increase local food production.”³

The Code Coordination & Metrics Working Group⁴ has been meeting weekly since early March on this effort. The working group has not been charged with recommending changes to zoning, only uses.

The Working Group used a Context Sensitive Solutions strategy in order to engage all stakeholders affected by the code changes. The Working Group conducted a series of **four public engagement sessions**, aimed at gathering data on areas of concern about the current code. Session #1 covered the topics of Animal Raising & Aquaponics (April 22); Session #2 was about Site Requirements, Wholesaling & Labor (May 1); Session #3 covered Byproducts, Environmental Health & Sustainability (May 15). Each of the public sessions was attended by more than 70 people.⁵ Stakeholder attendee lists are available upon request.

The working group presented its first draft recommendations at a **Town Hall meeting** on June 11 and received feedback from stakeholders. Throughout the process, the draft recommendations have been housed on the Sustainable Urban Agriculture & Community Garden website. The group also maintained a stakeholder list that received periodic updates and announcements about the recommendation’s progress.

In addition to the public meetings, the Working Group attended various other meetings on request:

- **Govalle/Johnston Terrance Neighborhood Contact Team** (May 13) asked members of coordinating group to attend a team meeting to hear their recommendations.
- **ANC-East** (May 14) asked SUACG staff to give a brief update and answer questions.
- **Human Rights Commission** (June 24) was considering a resolution that urban farms not be allowed in single-family zones. The commission voted to table the resolution.
- **Community Development Commission** (July 10) asked SUACG staff for an update on the process.

¹ Resolution for Urban Farm Definition Update, January 28, 2013: <http://www.austintexas.gov/edims/document.cfm?id=185883>

² Planning Commission meeting minutes, February 26, 2013, pg. 8: <http://www.austintexas.gov/edims/document.cfm?id=185889>

³ Ibid.

⁴ **Volunteer members** of the working group include: Katherine Avalos Nicely (chair)- Sustainable Food Policy Board Member; Dorsey Barger - HausBar Farms; Mindy Cooper – dwg; Michael Hanan -Ten Acre Organics; Paige Hill - Urban Patchwork; Cliff Kaplan - UT Community & Regional Planning; Paula McDermott - Sustainable Food Policy Board Chair; Jack Waite - Urban Organics; Paola Aguilon-Brashear - Purple Bean Farmers Market; Sharon Crow – Guinea Hill Farms. **Staff support** and feedback was regularly provided by Heather Frambach (co-chair) - Sustainable Urban Agriculture & Community Garden Program; Kate Vickery (co-chair)- Sustainable Urban Agriculture & Community Garden Program; Jean Drew - Watershed Protection Department; Greg Dutton - Planning & Development Review Department; Matt Hollon - Watershed Protection Department; Jerry Rusthoven - Planning & Development Review Department

⁵ Notes from each of the public session and draft recommendations available of the SUACG website:

<http://austintexas.gov/departments/sustainable-urban-agriculture>

The recommendations have been created over the past several months, taking into consideration stakeholder and staff input, noting key areas of conflict and concern. Draft recommendations received **formal staff review** in July-August.

The main code changes that the working group recommends are:

- **Definition of use** - The working group recommends the four total urban agricultural uses. **Urban Farm** use maintains the 1-acre minimum, but removes the 5-acre maximum of the current definition of an Urban Farm. **Market Garden** is a new use for agricultural operations under 1-acre in size with restrictions on the commercial nature of these operations. The working group recommends a **Urban Farm with Livestock** conditional use for farms with sheep, goats, and/or pigs. Finally, **Urban Farm with Facilities for Gatherings** use is conditional in residential zones.
- **Dwellings** - The working group recommends that the number of dwellings allowed for all types of **Urban Farms** and **Market Gardens** follows base zoning.
- **Employees** - The working group recommends increasing the number of allowed employees on **Urban Farms**, from 1 to 2 employee per acre or partial acre. "Employees" are full-time and non-seasonal. **Market Gardens** are limited to 1 full-time employee who is not the owner/renter.
- **Animal Raising and Processing** - The working group recommends that on all types of **Urban Farms**, the processing and composting of rabbits, fowl and fish be allowed provided it is out of sight. One animal per week may be processed and/or composted per 1/10th of an acre, so long as the processing operation is licensed by the state. **Market Gardens** should be allowed to raise protein, but not process on site, while **Urban Farms with Livestock** is a recommended conditional use that would allow the raising (but not processing) of sheep, pigs, and goats.
- **Events**: The working group recommends that **Urban Farms** and **Market Gardens** be allowed to host agricultural education activities such as volunteer programs, farm tours, youth programs, and farming classes. The working group recommends that urban farms wishing to use their farm for special events such as weddings, dinners, fundraisers, and cooking classes obtain a conditional use permit to become an **Urban Farm with Facilities for Gatherings**.
- **Sale of Products**: the Working Group recommends that **Urban Farms** be able to sell agricultural products produced on their farm or another farm that they own at their own farm stand. Third party products should take up no more than 20% of the farm stand's sales area and be produced in the state of Texas. **Market Garden** sales should be regulated in accordance with the current restrictions placed on Home Occupation businesses; an on-site farm stands is not permitted and sales must be conducted out of sight of the general public on the property.

Preliminary schedule of next steps:

- SFPB action on final recommendations – August 26th
- Codes & Ordinances Subcommittee action – September 17th
- Planning Commission action – September 24th
- Working Group briefs City Council – October 3rd
- City Council action – October 17th

This effort has garnered a significant amount of public interest from current urban farmers, local food enthusiasts, neighborhood residents, and environmental justice advocates. We look forward to answering your questions about the current recommendations and welcome any feedback you have.

Sincerely,

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Co-chairs of the Code Coordination & Metrics Working Group of the Sustainable Food Policy Board

URBAN FARM CODE RECOMMENDATIONS: FINAL

Presented to the Sustainable Food Policy Board

August 26, 2013

This document includes all relevant sections of code that have changes recommended by the Codes & Metrics Working Group. **Added and deleted language has been noted accordingly.** Language in gray is included to provide context for the recommended changes within each chapter of the land development code.

The document is divided into the following sections:

- A. *Uses Defined*
- B. *Urban Farm*
- C. *Urban Farm with Livestock*
- D. *Urban Farm with Facility for Gatherings*
- E. *Market Garden*
- F. *Other code clarifications*

A. Uses Defined

§ 25-2-7 AGRICULTURAL USES DESCRIBED.

(A) Agricultural uses include the on-site production of plant and animal products by agricultural methods.

(B) Agricultural use classifications are described as follows:

(1) ANIMAL PRODUCTION use is the use of a site for the raising of animals or production of animal products including eggs and dairy products, on an agricultural or commercial basis. This use includes grazing, ranching, dairy farming, and poultry farming.

(2) COMMUNITY GARDEN use is the use of a site for growing or harvesting food crops or ornamental crops on an agricultural basis, by a group of individuals for personal or group use, consumption or donation.

(3) CROP PRODUCTION use is the use of a site for the raising and harvesting of tree crops, row crops, or field crops on an agricultural or commercial basis, including packing and processing.

(4) HORTICULTURE use is the use of a site for the growing of horticultural or flora cultural specialties, including flowers, shrubs, and trees intended for ornamental or landscaping purposes, but excluding retail sales. This use includes wholesale plant nurseries and greenhouses.

(5) SUPPORT HOUSING use is the use of a site for living accommodations by agricultural employees or their families.

(6) ~~URBAN FARM use is the use of an urban site that can consist of multiple contiguous parcels for the production and sale of organic agricultural products that is at least one acre in size cultivated primarily for the sustainable production of agricultural products to be sold for profit and may provide agricultural education activities. Agricultural education activities include volunteer programs, farm tours, youth programs and farming classes.~~

(7) MARKET GARDEN use is the use of a site that is less than one acre in size cultivated primarily for the sustainable production of agricultural products to be sold for profit and may provide agricultural education activities. Agricultural education activities include volunteer programs, farm tours, youth programs and farming classes.

(8) URBAN FARM WITH FACILITIES FOR GATHERINGS is an Urban Farm use per 25-2-7(6) and in addition allows special events including weddings, fundraisers, dinners and cooking classes. Agricultural education activities include volunteer programs, farm tours, youth programs and farming classes.

(9) URBAN FARM WITH LIVESTOCK is an Urban Farm use per 25-2-7(6) and in addition allows the raising of sheep, goats and/or pigs to be sold for profit. Agricultural education activities include volunteer programs, farm tours, youth programs and farming classes.

B. Urban Farms recommendations

§ 25-2-863 URBAN FARMS.

(A) This section applies to an urban farm use.

~~—(B) For a single family (SF) district:~~

~~—(1) the use is a permitted use on a site that is located:~~

~~—(a) in the desired development zone; and~~

~~—(b) outside the 25-year floodplain; or~~

~~—(2) the use is a conditional use on a site that is located:~~

~~—(a) in the drinking water protection zone; or~~

~~—(b) in a 25-year floodplain.~~

(B) Urban Farms are allowed within the Critical Water Quality Zone in accordance with 25-8-261 (Critical Water Quality Zone Development).

~~—(B) Urban Farms are allowed within the Critical Water Quality Zone (as defined by 25-8-92)~~

~~—(1) No less than 25 feet from the centerline of the creek as classified by 25-8-2 as an urban watershed,~~

~~—(2) In watersheds other than urban, as classified by 25-8-2, no less than 50 feet from the centerline of a minor waterway, 100 feet from the centerline of an intermediate waterway, and 150 feet from the centerline of a major waterway, as defined by 25-8-91~~

~~(a) Within the buffers for each type of watershed, uses are limited to farm plots, fruit trees, and paths, with no storage facilities, animal pens, compost piles or other structures.~~

~~(4) Organic Sustainable practices must be utilized as established by an approved Integrated Pest Management Plan (see section F below)~~

~~—(C) For a Public (P) district the use:~~

~~—(1) must be approved under an appropriate contracting method, as determined by the director; and~~

~~—(2) must be located:~~

~~—(a) outside the 25-year floodplain; and~~

~~—(b) no less than 100 feet from a creek centerline.~~

~~(C) A site area of not less than one acre 1 acres or greater and not more than five acres is required.~~

~~—(1) at least 50 feet from each adjacent lot and from each residential structure other than one associated with the use; and~~

~~—(2) at least 20 feet from utility easements, utility lines, and on-site sewage facilities.~~

~~(D) One dwelling is permitted. The maximum number of dwellings allowed will follow the base zoning of the lot(s). No minimum number of dwellings is required on an urban farm in a non-single-family zone. Animal raising in accordance with 25-2-863(E) is not allowed without a dwelling on site. Accessory structures are permitted without a dwelling.~~

~~(F) Raising livestock is prohibited notwithstanding Chapter 3-2 of the City Code.~~

~~(E) Raising and processing and composting of fowl, rabbits, and aquatic foods (using aquaponics systems, defined as the symbiotic cultivation of fish and plants in a recirculating system) is permitted in accordance with Chapter 3-2 of the City Code. One animal (either fowl or rabbit) may be processed per 1/10th of an acre per week. Composting or processing of animals must take place at least 50 ft from the nearest residential structure other than the structure associated with the use. Processing animals must take place out of public view.~~

~~(F) The use of synthetic inputs is prohibited. An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Watershed Protection Department, must be followed.~~

~~(G) Water conservation practices must be followed, at minimum in accordance with Chapter 6-4 of the City Code.~~

(H) Agricultural and value-added agricultural products raised ~~on the property~~ by the farmer or produced within the state of Texas may be sold from the site or distributed off-site to buyers. Agricultural products and value-added agricultural products produced off-site by someone other than the farmer cannot exceed 20% of the retail space by area.

(I) Employees are permitted. The maximum number of full-time, non-seasonal employees is ~~one~~ two for each full acre, plus ~~one~~ two for the remaining portion of an acre, if any. This does not include the property owner.

(J) The residential character of the lot and dwelling must be maintained.

(K) For an urban farm use, a sign is permitted in accordance with Chapter 25-10-155.

(L) Agricultural education activities as defined in Chapter 25-2-7 do not require a Temporary Use Permit.

C. Urban Farms with Livestock Recommendations

§ 25-2-XXX URBAN FARMS WITH LIVESTOCK.

(A) This section applies to an urban farm use with livestock. Livestock on urban farms means sheep, goats, and pigs.

(B) In all zones, the use is conditional.

(C) The use must be in accordance with 25-2-863. On-site processing of livestock is not permitted.

D. Urban Farms with Facilities for Gatherings

§ 25-2-XXX URBAN FARM WITH FACILITY FOR GATHERINGS

(A) All regulations from Chapter 25-2-863 apply to this use.

(B) The use of an urban farm as a rented site for a gathering, including a wedding, fundraiser, dinner or cooking class, is a permitted use if the urban farm is located in a GR or less restrictive base district.

(C) The use of an urban farm for rented site for a gathering, including a wedding, is a conditional use if the urban farm is located in a LR or more restrictive base district.

(1) The maximum number of attendees at a gathering held under this section equals three times the total of the number of off-street parking spaces available for the urban farm's use.

(2) A gathering must end at 9:00 p.m. on Sunday through Thursday and at 10:30 p.m. on Friday and Saturday.

E. Market Gardens code recommendations

§ 25-2-XXX MARKET GARDENS.

- (A) This section applies to a market garden use.
- (B) Market Gardens are allowed within the Critical Water Quality Zone in accordance with 25-8-261 (Critical Water Quality Zone Development)
- (C) A site area of less than one acre is required.
- (D) The maximum number of dwellings allowed will follow the base zoning of the lot(s). No minimum number of dwellings is required on a market garden. Animal raising in accordance with 25-2-863(G) is not allowed without a dwelling on site. Accessory structures are permitted without a dwelling.
- (E) Raising of fowl, rabbits, and aquatic foods (using aquaponics systems, defined as the symbiotic cultivation of fish and plants in a recirculating system) is permitted in accordance with Chapter 3-2 of the City Code. On-site processing or composting of animals is not permitted. A dwelling is required on site for the raising of animals.
- (F) The use of synthetic inputs is prohibited. An Integrated Pest Management Plan, developed in accordance with the Environmental Criteria Manual and approved by the Watershed Protection Department, must be followed.
- (G) Water conservation practices must be followed, at minimum in accordance with Chapter 6-4 of the City Code.
- (H) Agricultural products produced on-site may be sold from the site or distributed off-site to buyers. On-site farm stands are not permitted. Sales must be conducted out of sight of the general public on the property, and no more than three customer-related trips per day are permitted in alignment with the Home Occupation Ordinance.
- (I) Employees are permitted. The maximum number of full-time employees is one. This does not include the property owner.
- (J) The residential character of the lot and dwelling must be maintained.
- (K) For a market garden use, a sign is permitted in accordance with Chapter 25-10-155.
- (L) Agricultural education activities as defined in Chapter 25-2-7 do not require a Temporary Use Permit.

F. Other Code Clarifications

§ 14-7-41 ADMINISTRATION OF URBAN FARMS AND MARKET GARDENS.

An urban farm, urban farm with livestock, urban farm with facilities for gatherings, or market garden on city owned land will be managed by the city under an appropriate contracting method, as determined by the city manager.

§ 25-10-155 URBAN FARM AND MARKET GARDEN SIGNS.

For an urban farm, urban farm with livestock, or urban farm with facilities for gatherings use, a non-electrified sign is permitted that:

- (1) is not more than ~~four~~ eight square feet in size;
- ~~—(2)— has a sign face not more than four feet wide; and~~
- (3) is not more than four feet above grade.

For a market garden use, a non-electrified sign is permitted that:

- (1) is not more than four square feet in size;
- ~~—(2)— has a sign face not more than four feet wide; and~~
- (3) is not more than four feet above grade.

§ 3-2-12 ENCLOSURE FOR SMALL ANIMAL.

(A) An enclosure used to keep more than two but fewer than 10 small animals must be located at least 20 feet from an adjacent residence or business, excluding the residence or business of the owner or handler of the small animals.

(B) An enclosure used to keep ten or more small animals must be located at least ~~50~~ 40 feet from an adjacent residence or business structure, excluding the residence or business of the owner or handler of the small animals.

(C) This section does not apply to an animal shelter, veterinary clinic, pet store, or institutional or education research facility.

§ 3-2-16 ENCLOSURE FOR FOWL.

An enclosure used to keep ~~two or more~~ two to 10 fowl must be located at least ~~50~~ 20 feet from a residence or business structure, excluding the residence or business of the fowl's owner or handler. An enclosure used to keep more than 10 fowl must be located at least 50 40 feet from a residence or business structure, excluding the residence or business of the fowl's owner or handler.

§ 25-2-921 TEMPORARY USES DESCRIBED.

(A) The following may be permitted by the building official as temporary uses under this division:

- (1) model homes or apartments and related real estate services, if the use is located within the residential development to which the use pertains;
- (2) a circus, carnival, rodeo, fair, or similar activity, if the use is located at least 200 feet from a dwelling and located in a CS or less restrictive zoning district;
- (3) an outdoor art or craft show or exhibit, if the use is located in an LR or less restrictive zoning district;
- (4) Christmas tree sales;
- (5) an on-site construction field office, if the use is located in a portable structure and conducted for not more than 6 months;
- (6) seasonal retail sale of agricultural or horticultural products, if the use is located at least 200 feet from a dwelling and located in an LR or less restrictive zoning district;
- (7) seasonal day care, if the use is conducted for not more than eight hours a day and not more than 30 days a year; and
- (8) temporary day care, if the use is conducted for not more than eight hours a day and not more than 12 hours a week.

(B) A sales office for a new subdivision may be permitted as a temporary use under this division if the sales office is located within the subdivision and at least 200 feet from existing dwellings outside the subdivision.

- (1) A sales office for a new subdivision may not be operated after:
 - (a) the expiration of four years from the date the first construction permit issued in the subdivision; or
 - (b) the date by which 95 percent of the lots are sold.
- (2) The board of adjustment may grant an extension of the deadlines described in this subsection.

(C) An outdoor public, religious, patriotic, or historic assembly or exhibit, including a festival, benefit, fund raising event, or similar use that typically attracts a mass audience may be permitted as a temporary use under this division if:

- (1) for a gathering of not more than 50 persons, the use is located in an SF-4 or less restrictive zoning district or has an urban farm or market garden use;

(2) for a gathering of more than 50 persons, the use is located in an LO or less restrictive zoning district or has an urban farm or market garden use; or

(3) for an exhibit, the use is located in a GR or less restrictive zoning district.

§ 14-7-1 DEFINITIONS.

In this chapter:

(1) CITY-SUPPORTED COMMUNITY GARDEN means eligible city land controlled under a license agreement or non-city land controlled under a land control document which is issued a garden permit and located in the city corporate limits or extraterritorial jurisdiction by a non-profit organization that:

(a) is used by a group of four or more participating gardeners either on separate plots or farmed collectively by the group to grow, produce and harvest food crops for personal or group use, consumption or donation by the non-profit organization or cooperatively for the benefit of its members;

(b) is operated in a manner that includes water conservation, and in the case of eligible city land includes composting, non-polluting, and integrated pest management practices that promote a sustainable garden, and is cultivated solely for the production of organic produce;

(c) may include common areas maintained and used by the group for non-food, ornamental crops;

(d) is platted as a legal lot or exempted under Section 25-4-3 (*Temporary Exemption from Platting Requirements*); and

(e) has a community garden zoning use classification.

(2) CITY LAND DEPARTMENT DIRECTOR means the department director or administrative head of the city department responsible for managing the city-owned land used as a city-supported community garden.

(3) DEPARTMENT means the department or office designated by the city manager to administer this chapter.

(4) DIRECTOR means the department director or administrative head of the department or the director's authorized designee.

(5) ELIGIBLE CITY LAND means city-owned land identified by the director as public land that is eligible for use as a city-supported community garden and the city land department director approves its use as a city-supported community garden.

(6) GARDEN PERMIT means a permit issued by the director for a city-supported community garden.

(7) LAND CONTROL DOCUMENT means a deed, written agreement (or an amendment to a previously executed land control document) or other documentation acceptable to the director evidencing the non-profit organization's control of the non-city land that allows the non-city land to be used as a city-supported community garden under this chapter.

(8) LICENSE AGREEMENT means a written agreement (or an amendment to a previously executed license agreement) between the city and a non-profit organization approved by the director that allows eligible city land to be used as a city-supported community garden under this chapter and in a form acceptable to the city attorney.

(9) NON-CITY LAND means a parcel of land not owned by the city that is eligible for use as a city-supported community garden.

(10) NON-PROFIT ORGANIZATION means a non-profit entity under the Texas Business Organizations Code whose purpose allows it to operate a city-supported community garden, is legally responsible for filing an application and documentation under this chapter, and is authorized to enter into a license agreement or land control document under this chapter. The director will approve each organization that is eligible under this chapter.

(11) PARTICIPATING GARDENER means each family or unrelated individual that participates in a city-supported community garden.

~~(12) URBAN FARM means a parcel of land between 1 and 5 acres that is agriculturally cultivated by a person solely for the production of organic produce to be sold for profit.~~

§ 10-3-1 DEFINITIONS.

(A) Except as provided in Subsection (B), a term defined by Texas Administrative Code Title 25, Part 1, Chapter 229, Subchapter K (*Texas Food Establishments*) has the same meaning in this chapter.

(B) In this chapter:

(1) BAKED GOODS means cookies, cakes, breads, Danishes, donuts, pastries, pies, and other items that are prepared by baking in an oven. A baked good does not include a potentially hazardous food item.

(2) CERTIFIED FARMERS MARKET means a farmers market that has been certified by the Texas Department of Agriculture pursuant to Subchapter D of Title 4 of the Texas Administrative Code.

(3) FARM PRODUCE means herbs and spices in their natural or dried state, vegetables, fruits, nuts, berries, grains, honey, watermelons and other melons, and cantaloupes in their natural state.

(4) FOOD ENTERPRISE includes:

(a) a food establishment; and

- (b) a food processing plant.
- (5) **FOOD HANDLER** means a food enterprise employee who works at any time with unpackaged food, food equipment or utensils, or food contact surfaces.
- (6) **MARKET MANAGER** means a person who is designated as the person-in-charge of a certified farmers market.
- (7) **MOBILE FOOD ESTABLISHMENT** means one of two types of mobile food units:
- (a) A restricted unit that offers only prepackaged food in individual servings; beverages that are not potentially hazardous and are dispensed from covered urns or other protected vessels; and packaged frozen foods. Preparation, assembly or cooking of foods is not allowed;
- (i) A foot peddler permit is a restricted unit, and except as set forth in subsection (ii), is limited to one portable ice chest, cooler, case or unit per permit, capable of being carried by one person;
- (ii) A foot peddler at a Certified Farmers Market may use multiple portable ice chests, coolers, cases or units; or
- (b) An unrestricted unit that may serve food as allowed in (a), and may cook, prepare and assemble a full menu of food items;
- (i) Except as provided in subsection (ii) below, an unrestricted unit must be secured and completely enclosed; and
- (ii) Foods such as hot dogs, coffee, or shaved ice, or food with prior approval from the health authority, may be served from vehicles with three sides and a cover.
- (8) **PERSON IN CHARGE** means an employee who possesses a food manager certificate at a food enterprise, bed and breakfast limited or unrestricted mobile food establishment. If the person possessing a food manager certificate is not present, then if an employee appears to be a supervisor, that employee is the person in charge.
- (9) **SAMPLING** means the demonstration or promotion of a food via offering a small serving of the food which cannot be sold and which may not consist of a whole meal, an individual portion or a whole sandwich.
- (10) **TEMPORARY FOOD ESTABLISHMENT** shall mean a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single special event or celebration, and shall also include an establishment that is granted an exemption by the health authority.
- (a) A person or organization is allowed four temporary events in a calendar year unless granted an exemption by the health director.

(b) Properties overseen by the City and multi-use facilities that are used for trade shows and conventions are exempt from this restriction.

(c) A temporary food establishment at a certified farmer's market may operate one day a week for 14 consecutive weeks as a single special event if the temporary food establishment is permitted as a food establishment, or is preparing its food at a permitted food establishment, and is in compliance with its permit issued by the health authority. The permit shall be issued to the vendor. The vendor shall meet requirements of the Texas Food Establishment Rules (TFER) and all other applicable laws. A temporary food establishment at a certified farmer's market is not exempt from the food handler requirements of this chapter.

(11) UNSAFE FOOD means:

(a) food that contains any chemical, poisonous or injurious substance which may be harmful to the health of a consumer;

(b) food that is not packaged in conformity with this chapter;

(c) food that contains a contaminated or putrid substance; or

(d) food that has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated, or may have been rendered diseased, unwholesome, or harmful to health.

(12) VIOLATION means the failure to follow this Chapter 10-3 or an act prohibited by this Chapter. A violation may result in charges being filed in municipal court for:

(a) scoring below a 70 on a food enterprise inspection;

(b) using an unapproved source;

(c) home prepared foods; or

(d) food out of temperature compliance.

(13) AGRICULTURAL PRODUCT means produce, meat, fish, honey, dairy, seeds, live plants intended for food production and compost products produced by a farmer.

DEFINITION**Codes & Metrics Working Group Rationale**

After much consideration, taking into account the concerns and input expressed by diverse stakeholders, city staff and policymakers, as well as considering examples of other cities, the working group recommends an Urban Farm use, which maintains the 1-acre minimum, but removes the 5-acre maximum. The working group also proposes a new designation called Market Garden for operations on parcels under 1-acre, and places additional restrictions on the commercial nature of these smaller parcels. In addition, the working group recommends an Urban Farm with Livestock use that is conditional use in all zones, so that urban farmers wishing to raise sheep, goats, and/or pigs can do so on a case-by-case basis depending on their individual parcel of land and its location. Finally, a fourth use called Urban Farm with Facilities for Gatherings is also proposed, conditional in residential zones (discussed in the events section). These four uses capture the existing nature of urban agricultural operations in Austin, while creating guidelines for the future of urban food production.

Existing code	Stakeholder Input	Staff Review
URBAN FARM means a parcel of land between 1 and 5 acres that is agriculturally cultivated by a person solely for the production of organic produce to be sold for profit.	<p>Public sessions (70-100 attendees per session): No minimum or maximum acreage restrictions, though some concern about “hobby farmers” taking advantage of urban farm benefits that could harm career farmers. Allowing smaller parcels to be designated urban farms would allow more people to make a supplemental income from selling vegetables grown in their yard and help lower the cost to starting an urban farm. No zoning restrictions for where a farm can be located.</p> <p>Govalle/Johnston Terrace Neighborhood Contact Team + PODER: More than 1 acre minimum, perhaps 2 acres, and no farms in single family zones (grandfather Boggy Creek, Springdale, Rain Lily and HausBar). Applications for urban farms should go through the Neighborhood Plan amendment process.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Do not place maximum or minimum acreage for an urban farm.</p>	<p>Planning & Development Review Department (PDRD): Prefer to preserve 1 acre minimum and 5 acre maximum; willing to accept less than 1 acre use if parking and event impacts are tightly controlled. Agricultural education events are part of the every-day operations of a farm and should be allowed. Cooking classes are not education events and should not be allowed by right.</p> <p>Environmental Health: No minimum lot size for Market Gardens means even the smallest residential properties could be used for producing agricultural products and hosting advertised activities.</p> <p>Sustainability: Challenge is to balance protection of public health, safety and welfare, specifically on sites adjacent to urban farms while encouraging more urban food production, which encourages small businesses and promotes public health through increasing supply of fresh, healthy food.</p>

DWELLINGS**Codes & Metrics Working Group Rationale**

The working group proposes that the number of dwellings (a structure with a minimum of a bedroom, bathroom, and kitchen) allowed for all types of Urban Farms and Market Gardens follows the base zoning, and that no dwelling is required unless animals are being raised on site. Furthermore, the group proposes that auxiliary structures should be allowed regardless of whether a farm has a dwelling. The group makes no recommendation regarding bed and breakfasts or other such operations, and defers to current and future zoning ordinances for guidance on this subject. In accordance with existing code for “home occupation businesses,” the working group further recommends that the residential character of residential lots and dwellings must be maintained.

Existing code	Stakeholder Input	Staff Review
Exactly one dwelling is permitted and required for an urban farm.	<p>Public sessions: The number of dwellings allowed should follow the base zoning. For zones where only one dwelling is allowed (SF1, SF2), urban farms should be allowed to have 2 in order to support farm operations. Unique uses of land such as bed and breakfasts and live-work employee housing should be allowed. Homes should be required on sites where animals are being raised and those in residential zones. Auxiliary structures should be allowed, but no consensus on whether auxiliary structures should be allowed on sites without dwellings.</p> <p>PODER: Land zoned single-family should only be used for single family housing.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Allow more than one dwelling, as per current property zoning allows, for farm stays, B&Bs and intern lodging.</p>	PDRD: Dwelling requirements should follow base zoning.

EMPLOYEES

Codes & Metrics Working Group Rationale

This was a very challenging recommendation for the working group to make. Urban farmers expressed significant concerns over any limitations on farm employees given the seasonal nature of their work – they often need a lot of farm-workers during harvest seasons, but very few during other times of the year. Other stakeholders and city staff expressed concerns about parking needs of employees. The working group recommends a compromise by increasing the number of employees that farmers can have on site from 1 employee per acre (existing code) to 2 per acre or partial acre. An “employee” will be defined as a full-time, non-seasonal worker on site at a given time, which allows flexibility for volunteers and apprentices. On a market garden, only 1 full-time employee apart from the resident renter/owner is permitted, because of the smaller size and scale of market gardens.

Existing code	Stakeholder Input	Staff Review
Urban farms can have one employee per acre and one employee for each partial acre. E.g. someone with 2.5 acres can have 3 employees.	<p>Public sessions: Due to the flexible and seasonal nature of agricultural production, farms should be able to hire as many employees as necessary to function. If restrictions are introduced for employees, volunteers/members/apprentices should not be categorized as employees.</p> <p>PODER: Require on-site parking for business use.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Do not limit number of employees. Farm labor is seasonal and all done by hand; labor is needed at various times throughout the year, but there needs to be flexibility in farmers ability to hire labor.</p>	<p>PDRD: Number of employees should remain 1 per acre + 1 per partial acre. There should either be a strict limit on employees or a parking requirement based on the number of employees on site (regardless of full-time/part-time status).</p> <p>Code Compliance: One employee per acre is a better fit for residential zones.</p>

ENVIRONMENTAL PROTECTION

Codes & Metrics Working Group Rationale

Stakeholders widely agreed that the term “organic” has unwanted legal meaning that can be burdensome to farmers, and that it does not necessarily provide any added environmental protection. In response, the working group worked with the Watershed Protection Department to create a recommendation restricting the use of “synthetic inputs,” and requiring water conservation practices. The WPD is currently developing a new

<p>Watershed Protection Ordinance that will address development—including urban agriculture—around streams, creeks, and sinkholes (in a variably-sized creek buffer known as the Critical Water Quality Zone). Therefore, the Working Group’s recommendation is that the urban agriculture code simply point to the Watershed Protection Ordinance for specific regulations on the permitted or conditional locations of urban agricultural sites near streams, creeks, and sinkholes. With these recommendations, the need to make urban agricultural operations a conditional use in the Drinking Water Protection Zone is rendered unnecessary.</p>		
Existing code	Stakeholder Input	Staff Review
<p>No non-organic fertilizer may be used. If manure is used, it must be composted first.</p> <p>Urban farms are a conditional use in the DWPZ and in the 25-year floodplain.</p>	<p>Public sessions: Both vegetable and animal composting should be permitted as this is the most sustainable waste management system. Compost should be considered an agricultural product that can be sold by the farmer. Composting regulations are already regulated by TCEQ. Regulations of smell should be based on number of complaints, not smell itself. Well-managed compost piles should not smell. Incentives and guidelines, not regulations, should be developed for water and soil quality health. Special requirements within floodplains (particularly for aquaponics systems) should be researched. Urban farms should be kept to high standards regarding animal welfare. Sustainable water use should be incentivized, but not regulated. Desire to maintain expectation that new urban farmers practice sustainable methods as do the current urban farmers, but no clear conclusion regarding regulations needed. Best practices guidebook suggested. Concerns over the word “Organic” because of the cost of certification it implies.</p>	<p>Watershed Protection Department (WPD): No synthetic inputs can be used within certain distances to creeks/streams, and shouldn’t be allowed generally on urban farms. Farming needs to be kept a certain distance from creeks/streams as well, but may be closer if responsible, organic methods are required. The existing IMP covers most of what WPD is concerned about.</p> <p>Sustainability: Restricting synthetic inputs may be too broad; even Organic standards permit some synthetic inputs. Can this be tied to an existing third-party standard?</p>

ANIMAL RAISING & PROCESSING

Codes & Metrics Working Group Rationale

Current city code allows the raising of fowl on an urban farm, so long as the structure that houses the fowl is at least 50 feet from neighboring homes or businesses. Code compliance has interpreted “raising” to include processing. State law has strict standards for permitting facilities that process small animal (rabbits and fowl) to protect human and environmental health.

The working group recommends that on Urban Farms, processing of rabbits, fowl and fish be allowed provided it is out of sight of the public. This animal production is limited by the size of the farm; one animal per week may be processed per 1/10th of an acre. For example, a farm that is 1.8 acres could process no more than 18 animals per week, so long as the processing operation is properly licensed by the state and is not causing a nuisance to the neighbors. It is also recommended that Market Gardens should be allowed to raise protein, but not process on site because of the small size of their operations. The working group also recommends that larger livestock such as sheep, pigs, and goats be allowed on Urban Farms by conditional use permit only, but processing of these larger animals would be prohibited. These recommendations take into consideration the current practices of Austin's urban farms, most of which raise small animals, while placing appropriate restrictions on the size of processing operations on small farms, which tend to be located in residential zones.

The working group recommends that the setbacks for enclosures for fowl (chickens) be in alignment with the requirements for the setbacks for small animals (rabbits, etc), so that small numbers of chickens (2-10) be allowed closer to a residence or business than larger numbers of chickens (10+). This is also informed by stakeholder input from potential Market Gardeners, who find it difficult to comply with the current 50-foot setback requirement on small lots. The working group recommends the following: enclosure for small animals to be at least 40' from an adjacent, enclosure for fowl (2-10) at least 20' from an adjacent structure, enclosure for fowl (10+) at least 40' from an adjacent structure.

The working group recommends a compromise between the differing sets of opinions regarding animal composting. Generally, if animal processing is prohibited, carcass composting should be prohibited, and if animal processing is allowed, composting should be allowed with some restrictions on the location of the compost operation within the site. As such, the Working Group recommends that composting animal carcasses be allowed on Urban Farms, where allowing animal processing is recommended, and prohibited on Market Gardens, where prohibiting animal slaughter is recommended. Finally, the Working Group recognizes that there are important regulations already in place that are designed to protect neighbors from intrusive smells. It is recommended that composting best practices be included in a best practices guide, to help farmers avoid smells and other unpleasant potentialities of compost operations. Regulations regarding the composting of animal products are also addressed by existing TCEQ regulations. Additionally, the number of fowl or rabbits processed on an Urban Farm will be easy to track. The Texas Department of State Health Services requires that anyone who receives a Grant of Poultry/Rabbit Exemption, keep detailed records of the dates, number, and type of animals processed at that facility.

Finally, the working group also recommends a new use called Urban Farm with Livestock, which would be conditional in all zones. Making this a conditional use allows for a participatory process where neighbors can give input and it places the onus on the farmer to justify the appropriateness of the breed, numbers and sexes of the animals in keeping with the specific zoning situation, while ensuring the welfare of the animals. According to an April 2013 publication by the American Planning Association (APA) entitled Practice: Urban Livestock, ordinances that made livestock illegal were historically created to exclude the poor; the benefits of raising some livestock - even in residential areas - are many (e.g., by-products including food and manure, community building, and keeping species diverse), the nuisances are generally minimal, and can be regulated. The working group anticipates few applicants for an urban farm with livestock conditional use permit, but believes it is a critical step in supporting the local food sector.

Existing code	Stakeholder Input	Staff Review
<p>An enclosure used to keep 2 or more fowl must be kept 50 feet from the nearest residential structure.</p> <p>Raising [and processing] fowl is permitted.</p>	<p>Public sessions: Raising and slaughtering of fowl and rabbits should be permitted (out of public sight) with some cap on scale that respects neighborhood concerns and is in proportion with the size of the farm. Livestock (sheep, goats, pigs) should be permitted to be raised, but not slaughtered. Aquaponics systems should be permitted with no cap on processing fish, because aquaponics systems are self-regulating. Rules for structures associated with aquaponics should follow base zoning regarding accessory structures. Animal carcasses should be allowed to be composting in keeping with TCEQ regulations and being responsible regarding neighbors. Need notification process for neighborhoods to make complaints. Want to see pigs added to code; goats and sheep for milk production on farms <1 acre; meat production on >1 acre.</p> <p>Govalle/Johnston Terrace Contact Team: No slaughtering, commercial or otherwise, of animals within City limits. No animal composting should be allowed.</p> <p>PODER: Set limits on chickens/fowl and other animals allowed on urban farms.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Allow raising, processing and sales of animal protein: eggs, rabbits, fowl and fish (through aquaponics).</p>	<p>PDRD: Need to have some limitation on the number of animals processed on site and processing needs to occur out of public view. Need clarification between aquaponics systems and aquaculture, which is not appropriate from a water conservation standpoint. Enclosures for chickens and small animals should remain at existing distance (50 feet) from neighboring residences. Urban farms with livestock are not an appropriate use in residential zones.</p> <p>Environmental Health: Processing animals for retail requires Food Enterprise Operating Permit (HHSD); must take place in separate structure from residence. Plan review and CO inspection by HHSD required, following PDRD review and approval. There is no evidence that the existing setbacks for small-animal enclosures is a burden or that a reduction of the setback is needed. EH receives numerous complains every year from citizens regarding odors, sanitary conditions and noise from chickens and other fowl. Reducing setbacks from 50->20 feet will increase complains.</p> <p>Code Compliance: Reducing the setback for enclosures for fowl may increase the chances that adjacent residents will smell, see, and hear fowl.</p>

EVENTS

Codes & Metrics Working Group Rationale

The current Urban Farm Ordinance does not specifically address events. Event regulation is subject to the underlying zoning of each lot. By current code, a few land use categories in residentially zoned property could apply for a Temporary Use Permit that would allow the applicant to host private,

free events for up to 50 attendees (Chapter 25-2-291-C-1). Urban farms are currently not included in the list of uses that may apply for a TUP. Events larger than 50 attendees can only be permitted on commercially zoned properties.

This has been one of the most challenging sets of recommendations for the working group to make. Trying to balance the needs of various stakeholders concerned about the impact of large events on neighborhood character while appreciating that urban farmers often rely financially on hosting some special events. All stakeholders agreed that educational events – including volunteer programs, farm tours, youth programs, and farming classes - are part of a farm or market garden’s every-day operations and should be allowed by right. Special events like weddings, fundraisers, special dinners, and cooking classes, however, cause a larger burden on the neighborhood because of the number of attendees, frequency, and parking requirements.

To accommodate the needs of all stakeholders, and staff input, the working group recommends that urban farms wishing to host regular large, special events obtain a conditional use permit to become an Urban Farm with Facilities for Gatherings. This new use is modeled after Chapter 250-2-786 (Rental of a Bed and Breakfast Residential Use Facility for Gatherings). This use is only available for urban farms (over 1 acre in size) and will require an application and review process by the Planning Commission and corresponding public input. These would be granted on a case-by-case basis and will allow each urban farm to be evaluated based on its individual context and available parking. Temporary Use Permits would still be an option for Urban Farms or Market Gardens that wish to host the occasional special event.

Existing code	Stakeholder Input	Staff Review
<i>No clear restrictions within the Urban Farm Ordinance.</i> Generally, all large outdoor events of 50+ attendees are required to pull a Temporary Use Permit, though Urban Farms are not currently allowed to pull TUPs if they	<p>Public sessions: Restrictions on events should be minimal. Agricultural education events should be allowed by right. If a farm has adequate on-site or nearby parking, there should be limited or no restrictions on the number of events allowed. If the problem is really about parking, then solve it through parking strategies. An individualized parking plan for each farm should be submitted as part of application for CO - this would allow individual assessment of a farm’s capacity for events. Limiting the number of people who attend an event doesn’t take into consideration carpools, schools events in which kids arrive by bus, or people who bike/take alternative transportation. Volunteer events should not be regulated as these are often part of a farm’s mission. Farms should not have to turn productive land into parking lots.</p> <p>Guadalupe Association for an Improved Neighborhood: When urban farms become a frequent tour destination, or place for weddings, parties and concerts, they may no longer be an</p>	<p>PDRD: Must have some way to limit the number of events (especially those that charge a fee) in residential zones, as these are restricted for all other events in Austin. Parking regulations must be taken into consideration in order to minimize neighborhood impact. Urban farms should <u>not</u> be able to operate as an <u>outdoor entertainment facility</u> for weddings, parties, concerts, etc.</p> <p>Environmental Health: Cooking classes need to be a special type of event as they require a permitted commercial kitchen separate from the residence and an Operating Permit; EH does not have these for urban farms or market gardens.</p> <p>Code Compliance: If farms are allowed to use Temporary Use Permits, then they should have to get one for every event.</p>

are in residential zones.	<p>appropriate, acceptable use on land zoned single-family.</p> <p>Govalle/Johnston Terrace Neighborhood Contact Team: Farms must provide on-site parking for all activities.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Allow urban farms to host events, including nonprofit fundraisers, weddings, supper clubs, garden clubs and school groups. Allow classes such as composting, gardening, cooking/canning, harvesting/processing protein and animal husbandry. TUP's are a significant burden (cost and time).</p>	
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SALE OF PRODUCTS

Codes & Metrics Working Group Rationale

Many urban farms in Austin operate a farm stand, while several farms sell third-party agricultural products from other farms they own or other farms outside the city. There is currently no definition of an “agricultural product” within code, which makes it difficult for code enforcement staff to evaluate farm stands. The Working Group recommends a clear definition of agricultural products, the only types of products allowed to be sold from an urban agricultural business (urban farm or market garden). Agricultural products are defined as produce, meat, fish, honey, dairy, seeds, live plants intended for food production and compost products produced by a farmer.

In order to balance all interests, the Working Group recommends that urban farms be able to sell unlimited agricultural products produced on their farm or another farm that they own at their own farm stand. This is in keeping with the current practices of most urban farmers in Austin. In order to mitigate the potential for a farm stand to grow too large for the neighborhood context, the working group recommends a limit to the agricultural products produced on someone else's farm that are sold at a farm stand. Third party products should take up no more than 20% of the farm stand's sales area and be produced in the state of Texas. Finally, an urban farm should be permitted to have a non-electrified sign no larger than 8 square feet.

As the Working Group considered the needs of small-scale agricultural operations - Market Gardens under 1-acre in size - it became clear that additional restrictions should be placed on these small properties in order to control the impact on neighborhoods. Market Gardens are most likely to provide limited supplemental income for their owners, but should be able to sell agricultural products grown from the garden. The Working Group recommends that Market Garden sales be regulated in accordance with the current restrictions placed on Home Occupation businesses (City Code 25-2-900). As such, on-site farm stands should not be permitted; instead, sales must be conducted out of sight of the general public on the property, and generate no more than three customer-related trips per day on average. In keeping with neighborhood scale, a non-electrified sign no larger than 4

square-feet should be permitted.		
Existing code	Stakeholder Input	Staff Review
Only agricultural products raised on the property are allowed to be sold on site.	<p>Public Sessions: Desire to not regulate who farmers sell products to (individual or commercial buyer). Farm stand operations should be self-regulated by farmers (based on scale of production) rather than city. No concerns expressed regarding traffic impact of farm stands or appropriate scale given size of farm. 3rd party products should not be restricted, as these are important income generators for both the farm stand and the third-party producers and provides additional access to local food. Only agricultural products should be sold at farm stands. Products grown by same farmer (but no different site) shouldn't be considered 3rd party.</p> <p>Farmers (Boggy Creek, Rain Lily, Springdale, HausBar): Allow sale and delivery (retail and wholesale) of eggs, produce, and protein grown on the urban farms and/or other land owned and farmed by urban farmer without restrictive percentages. Allow sales of local third party agricultural products including coffee, produce, meat, dairy, eggs, bakery goods, etc. without restrictions on amounts of products sold. Allow independent craftspeople, artisans, artists and musicians on farm stands.</p>	<p>PDRD: 3rd party products need to be restricted to agricultural products raised on the farm (as it is in existing code). Changing this standard opens the property to operate like a farmers market, but without the requirements for parking, restrooms, etc.</p> <p>Environmental Health: 3rd party product sales may significantly increase size of these businesses in residential areas.</p>