



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Agricultural Districts and Uses Zoning Ordinance Amendment

The 2017 Zoning Ordinance Amendment Work Program (ZOAWP), adopted by the Board of Supervisors on June 20, 2017, listed Agricultural Districts and Uses as the first Priority 1 item, divided into six separate categories and separated into two tiers.

The First Tier items consisted of:

- Community Gardens/Urban Agriculture
- Sales/distribution of Garden/Farm Products; and
- Agritourism Uses.

The Second Tier items consisted of:

- Industrial, Commercial and Container Agriculture
- Residential Gardening as an Accessory Use; and
- Industrial Composting.

These items were added to the ZOAWP in response to the growing trends in both Virginia and nationally for a greater connection to our food and, in turn, small scale, local food production. Since that time, Zoning Administration staff has researched the numerous topic areas involved in agriculture and is in the process of preparing amendments to the Zoning Ordinance to address these First Tier items. The purpose of this document is to summarize relevant background information on this overarching topic as well as put forth staff's recommended approach for the amendment pertaining to Community Gardens/Urban Agriculture and Sales/distribution of Garden/Farm Products. The topic of agritourism will be specifically addressed under a separate proposal that will be introduced to the Development Process Committee this summer.

Emerging Trends

Over the last few decades, people have shown more interest in the origin of their food and the demand for locally grown, sustainably produced food has grown rapidly. Schools have installed vegetable and fruit gardens on-site and have created curriculums for tending the garden and healthy eating. A Community Garden can be defined as *land that is cultivated by members of a common community to provide plant produce to the gardener, for charitable donation, and/or for on-site sales to the local community. This includes gardens composed of individual plots rented by different gardeners and for communal gardens tended by multiple gardeners.* Community gardens are being established in both urban and suburban areas and have extensive wait lists for a garden plot as demand grows. Balcony gardening can be seen in high density residential areas and more and more local residents have turned to in-home food production for sale at farmers' markets to supplement their incomes. Community Supported Agriculture (CSAs) are a model that many farms have adopted and are so popular that obtaining a share is, in some cases, a competitive process.

With the move towards environmental consciousness, many municipalities have adopted green building standards including green roofs, which have also evolved into rooftop vegetable and fruit gardens. Some of these rooftop gardens are commercial enterprises, providing produce to local restaurants and CSAs, however some serve traditional community garden purposes. Throughout the nation, gardening is being done on land that was never envisioned for gardens, including the space between the sidewalk and the street, front yards, empty lots, and on the walls of existing structures (vertical gardening). Workshops on how to plant an edible landscape are becoming more numerous in communities. People want to know what's in their food, where it was grown and how it was grown. Some small scale traditional farms today provide educational components, hosting school and scout group field trips and offering canning and other farm-related classes.

In addition, farmers' markets have evolved over time to sell many different types of food items beyond just produce, fiber and plants. Farmers' markets now serve as a community gathering place that offers locally grown produce, eggs, dairy, meats, baked goods and value added products, such as jams, jellies, salsas and pickles. Mobile markets that bring fresh, local food products to office, high density residential complexes and commercial areas have also become more prevalent and are a key mechanism for bringing fresh fruits, vegetables and other healthy foods to 'food deserts'. Fairfax County currently has three small census tracts that experience low food access, but don't meet the definition of a 'food desert' given the County's robust transportation network.

Urban Agriculture is sometimes used as a catchall phrase and can be defined as *the cultivation and distribution of plant produce in non-traditional settings, such as in or around cities, on rooftops, in specially designed growing containers, and/or indoors utilizing repurposed structures, warehouses, or other climate-controlled buildings. Urban agriculture is typically of a more commercial scale than community gardening. Sales are typically wholesale in nature and include a customer base of restaurants, hotels, grocery stores, Community Supported Agriculture (CSAs), and food aggregators.* The field of hydroponics has advanced such that layers of produce can be grown indoors, maximizing space and allowing for year-round production. Freight farms are an example of this type of hydroponics, which, with the proper lighting, can produce significantly greater volumes per acre in reduced space and with more harvests in comparison to traditional farming methods. In most cases, this type of food production operates for commercial purposes and sells their products to local restaurants and retail outlets.

As Fairfax County has developed, the trends have shown less emphasis on large farm production and more emphasis on smaller types of food production, such as community gardens, urban agriculture and small scale farms. Other jurisdictions in the area have also experienced the trends that Fairfax County is seeing and have enacted policies and ordinances in response. Arlington County has amended their Zoning Ordinance to permit open air markets in every zoning district, with certain limitations. Arlington has also included community gardens in their agriculture definition, permitting the use of agriculture in almost every zoning district by right. Loudoun County permits community gardens as principal uses in

areas designated for open space, however the rural nature of Loudoun County lends more to comparison for agritourism regulations than for urban agriculture.

No locality in the Commonwealth, Washington D.C. and Montgomery County, MD, regulates the time of year that farmers’ markets may operate. However, most jurisdictions require a special permit or special exception for location of a farmers’ market unless it is located on the farm property or on a property which permits retail sales. Many jurisdictions rely on farmers’ market managers to regulate the goods sold and the vendors permitted. Some jurisdictions around the nation, in recognition of the financial struggles local farmers face, have allowed farmers’ markets to locate by right if the operational characteristics fall under certain thresholds (e.g., under 15 vendors per market).

Many nonprofits throughout the Commonwealth are working to connect residents with local food providers, such as small farmers, community gardens, farmers’ markets, mobile markets and culinary entrepreneurs. Resilient foods systems are the underlying goal and apply to all areas of the state, as food insecurity is a reality in every County. Amending the Zoning Ordinance to better reflect the trends as described above is a necessary step in providing a resilient food system in Fairfax County.

Current Zoning Ordinance Provisions Related to Gardening/Agriculture

<i>Use</i>	<i>Permitted By Right</i>	<i>Conditionally Permitted*</i>	<i>Zoning Ordinance Section</i>	<i>Current Limitations</i>
<i>Agriculture</i>	R-A, R-P, R-E, R-C, R-1		Article 20 Article 3	<ul style="list-style-type: none"> • 5 acre minimum • Wholesale sale of plant and animal products • Agritourism permitted • Not to include: <ul style="list-style-type: none"> ○ Plant nurseries ○ Stockyard or feed yard ○ Retail sales except as an accessory use ○ Operation of landscape contracting services • Permitted as part of a public benefit association • Permitted as part of open space

<i>Use</i>	<i>Permitted By Right</i>	<i>Conditionally Permitted*</i>	<i>Zoning Ordinance Section</i>	<i>Current Limitations</i>
<i>Farmers' markets</i>	By Temporary Special Permit (TSP) only	All districts except R-A, R-P and I-I	Sect. 8-810	<ul style="list-style-type: none"> • April through November, daylight hours • Adequate off street parking and safe ingress and egress • Frontage on or safe and convenient access to a principal or minor arterial street • No storage of vehicles, canopies, display items or produce when market is not in operation • No structures allowed • Seasonal or perishable produce, including flowers and plants • (1) sign per Sect. 12-103
<i>Gardening as an accessory use</i>	All		Sect. 10-102	Not permitted in the minimum required front yard on any lot or in the front yard of any lot less than 36,000 sf
<i>Industrial type production</i>	I-4, I-5, I-6 and PTC		Article 5	None
<i>Open air produce stands</i>	C-5, C-6, C-7, C-8 All districts where retail sales are permitted	R-A, R-P, R-C, R-E, R-1, R-2, R-3, R-4, R-5, R-8, R-12, R-16, R-20, R-30, R-MHP, PDH, PRC, I-I, I-1, I-2, I-3, I-4, I-5, I-6	Sect. 8-909	<ul style="list-style-type: none"> • 2 acre minimum for lot area • Seasonal or perishable produce, including flowers and plants • Must be located in CBC • Adequate off street parking and safe ingress and egress • Comply with bulk regulations of zoning district • April through November, daylight hours • (1) sign per Sect. 12-103
<i>Wayside stands</i>	R-A, R-P, R-E, R-C, R-1, R-2, R-3, R-4		Sect. 10-102	<ul style="list-style-type: none"> • 400 sf GFA maximum • Crop-growing season only • For products grown on the property only • 25 feet from any lot line • Adequate off street parking and safe ingress and egress • (1) 10 sf building mounted sign

*conditionally permitted by Special Permit (SP), Special Exception (SE) or with other use limitations

Community gardens, which are not specifically defined in the Zoning Ordinance, have been treated as accessory uses in certain circumstances. Community gardens are specifically listed as an accessory use in the PRC District as “garden plots” which are further described as not connected with, incidental to, or on the same lot as a principal use. The United States Department of Agriculture (USDA) defines community gardens as *plots of land, usually in urban areas, that are rented by individuals for private gardens or are for the benefit of the people caring for the garden*. Through interpretation by the Zoning Administrator, community gardens have been considered accessory to uses such as places of worship, schools and parks. Community gardens have also been considered accessory uses within existing residential subdivisions when provided for use by the residents of the subdivision, similar to other community amenities such as swimming pools/ tennis courts or open space.

Staff’s Proposed Approach to Amendment

Farmers’ Markets

Staff proposes to modify the Temporary Special Permit provisions for farmers’ markets to:

- permit for a two-year period
- permit year-round operation
- amend items that can be sold
- permit in any zoning district, with limitations to address any land use impacts, particularly in residential districts.

Community Gardens/Urban Agriculture

For the purposes of this amendment, staff is proposing to use the term “community garden” to address outdoor production of plant products (fruits, herbs, flowers, vegetables) of a nature that does not qualify as a bona fide agricultural operation. Community gardens are considered an element of urban agriculture, but “urban agriculture” is a much broader use that can also encompass the indoor production of plant and/or animal products, which may be more intensive and more commercial in nature. As part of a future Zoning Ordinance Amendment related to small-scale production facilities, staff will, in part, evaluate how to address other urban agricultural operations, including vertical gardening, and other business models.

For community gardens, staff proposes to permit small-scale outdoor community gardens as a principal use in all zoning districts through the administrative approval of temporary special permit that would be valid for a two-year period. Larger-scale outdoor community gardens would be permitted as a special permit use in all zoning districts, with a modest fee similar to home child care applications. Staff is considering the most effective way to distinguish the appropriate scale of this use to determine whether it is permitted by right or as a special permit use, which would likely be through a maximum garden size or a maximum lot size. Staff notes that rooftop gardens would be considered an outdoor community garden, and such use could be negatively impacted by using a maximum lot size instead of a garden size.

The Fairfax County Park Authority currently administers over 700 community garden plots in nine parks, with eligibility requirements and operational standards. Using the Park Authority as a guide, staff proposes to incorporate operational standards for community gardens approved by either a temporary special permit or special permit to address such factors as garden maintenance, storage, and other factors. In addition, community gardens would be subject to use limitations addressing:

- locations of structures to comply with the accessory structure standards in Sect. 10-104, including fences and sheds
- location of compost
- one sign allowed per community garden as regulated by Article 12
- parking needs for the use
- the keeping of honeybees only and no other animals as per the existing regulations in Par. 4 of Sect. 2-512,
- fish in aquaculture operations, but not for sale
- appropriate method and structures for the sale of food produced on site, including any prohibitions, the types of structures allowed (canopies, tables, shelving, etc.), structure size limits, and limits on when sales structures can be present on the property.

At this time, other forms of urban agriculture that occur inside a structure, including aquaponics, hydroponics and food produced in a greenhouse, are deemed to be an establishment for production and processing. As noted, this topic will be addressed in the Zoning Ordinance amendment currently being researched regarding small scale production (SSP) in conjunction with the amendment for building repurposing. This may include an expansion of the zoning districts that permit these uses and the establishment of use limitations to address anticipated land use impacts.