

FINAL CODE RECOMMENDATIONS

Draft 6/11/2013

Session 1 recommendations Session 2 recommendations Session 3 recommendations
Watershed Protection Department 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.
 - (3) **temporary uses, such as special events with more than 50 attendees, must be permitted by the Temporary Use Permit process administered by Planning and Development Review. Agricultural education activities, such as farm tours, cooking classes, or farming classes, with 50 or fewer attendees are permitted twice per month.**
- (X) **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**
 - (3) **Uses are limited to garden plots and paths, with no storage facilities, animal pens, or other structures**
 - (4) **Organic Sustainable practices must be utilized as established by an approved Integrated Pest Management Plan (see section H 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.~~

Comment [1]: Kate Vickery:
based on feedback from the public session, this needs to be revisited. key questions are: about whether it is necessary to regulate number of events, if the concern is actually about parking and whether an individual parking plan could be required for each farm rather than TUP.

(X) For an urban farm with livestock (goats, sheep, pigs), the use is conditional. On-site processing of livestock is prohibited.

(D) A site area of ~~not less than one acre~~ **25 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.~~

(E) ~~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. Animal raising in accordance with 25-2-863(G) 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.~~

(G) Raising **and processing and composting of** fowl, **rabbits, and aquatic foods** is permitted in accordance with [Chapter 3-2](#) of the City Code. **On farms at least 1 acre in size, 1 animal (either fowl or rabbit) may be processed per 1/10th of an acre per week. Composting or processing of animals must be 50 ft from the nearest residential structure other than the structure associated with the use. Processing animals must take place out of public view.**

(H) ~~The use of a fertilizer other than an organic fertilizer is prohibited. If manure is used as a fertilizer, it must be composted. An Integrated Pest Management Plan, as established by the Environmental Criteria Manual and approved by the Watershed Protection Department, must be followed.~~ **No synthetic inputs may be used.**

(I) 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 produced off-site cannot exceed 10% of the retail space by area.**

(J) ~~Employees are permitted. The maximum number of employees is one for each full acre, plus one for the remaining portion of an acre, if any.~~ **Any employees above 2 per acre would require the farm to provide 1 off-street parking space per additional employee.**

§ 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, 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, 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 feet from a residence or business, excluding the residence or business of the fowl's owner or handler.**

Comment [2]: Kate Vickery:
There is not consensus within the working group regarding this minimum size.

Comment [3]: Kate Vickery:
need clarification regarding what an employee is. "paid employee" seems like a simple solution. Also need to clarify how volunteers are categorized and seasonal employees.

§ 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.~~

§ 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 agriculturally cultivated primarily for the sustainable production of agricultural products to be sold for profit and provides agricultural education activities. Agricultural education activities include farm tours, cooking classes, and farming classes.**

§ 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

Comment [4]: Kate Vickery:
This needs to be clarified so that agricultural educational activities are clearly defined. Also need to clarify where volunteer events fall.

(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.

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

Comment [5]: Kate Vickery:
should this also include cottage foods?

<http://www.capitol.state.tx.us/tlodocs/83R/billtext/pdf/HB00970F.pdf#navpanes=0>

Also a comment regarding adding snails and earthworms to this list.

SUMMARY OF RECOMMENDATIONS

WHAT IS AN URBAN FARM?

Topic	Current Code	Working group recommendation
Definition	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>URBAN FARM use is the use of an urban site that can consist of multiple contiguous parcels that is agriculturally cultivated primarily for the sustainable production of agricultural products to be sold for profit and provides agricultural education activities.</p> <p>An urban farm is at least .25 acres in size (the equivalent of two average lot sizes).</p>
Dwellings	Exactly one dwelling is permitted and required for an urban farm.	<p>The maximum number of dwellings allowed depends on the base zoning of a lot. For SF-1 and SF-2, that means one dwelling. For SF-3, that means two dwellings.</p> <p>A farm doesn't need a dwelling, but you cannot raise animals if there is no dwelling on site.</p> <p>Auxiliary structures (such as greenhouses and sheds) are allowed regardless of whether there is a home on site.</p>
Employees	Urban farms can have one employee per acre and one employee for each partial acre. So, someone with 2.5 acres can have 3 employees.	If a farm has more than 2 employees per acre, the farm must provide 1 parking space per additional employee.
Environmental protection	<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 Drinking Water Protection Zone and in the 25-year floodplain. Otherwise, they are permitted. Organic agriculture must be practiced.</p>	<p>No synthetic inputs may be used. Sustainable practices are required, defined by the City's Integrated Pest Management Plan.</p> <p>Urban Farms are allowed within the Critical Water Quality Zone (a buffer around creeks/streams) if farm operations are located at least 25 feet from the centerline of a creek. In suburban watersheds, they must be at least 50 feet from the centerline of a <i>minor</i> waterway, 100 feet from the centerline of an <i>intermediate</i> waterway, and 150 feet from the centerline of a <i>major</i> waterway. Within the CWQZ, uses are limited to vegetable production and pathways (e.g. no animal raising or processing), and no structures (dwelling or otherwise) are</p>

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WHAT CAN A FARMER DO ON AN URBAN FARM?

Animal Raising	<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>An enclosure used to keep 2-10 fowl must be kept 20 feet from the nearest residential structure. An enclosure to keep more than 10 fowl must be 40 feet from nearest residential structure.</p> <p>If you have a farm that is 1 acre in size or larger, you can raise, process, and compost 1 animal (fowl, rabbits, or a combo) per week per 1/10th of an acre that you have. You can raise, process, and compost as many fish as you need. Any animal composting must be 50 feet from the nearest residential structure that isn't yours. Animal processing must take place out of view of the public.</p> <p>Animal processing and compost is not allowed on farms less than 1 acre in size. If a smell or other nuisance occurs, residents contact Code Compliance to address the problem.</p> <p>Urban farms that have livestock (sheep, pigs, and goats) must obtain a conditional use permit in every zone. On-site processing of sheep, pigs, or goats is prohibited.</p>
Events	[no restrictions]	<p>Temporary uses, such as special events with more than 50 attendees, must be permitted by the Temporary Use Permit (TUP) process administered by Planning and Development Review. Agricultural education activities (farm tours, cooking classes, farming classes) with 50 or fewer attendees are permitted twice per month.</p>
Third-party products	Third-party products (products produced somewhere other than the urban farm) are not allowed to be sold on site.	<p>Urban farmers are allowed to sell unlimited agricultural products produced on their farm or another farm that they own at their own farm stand. Products produced on someone else's farm may be sold as long as the products don't take up more than 10% of the farm stand's area and are produced in the state of Texas. Agricultural products are: produce, meat, fish, honey, dairy, seeds, live plants intended for food production and compost products produced by a farmer.</p>