



## 2019 Urban Agriculture Zoning revisions proposal - FAQs

### How did these proposed revisions get developed?

Current Zoning Code: The City's current zoning code includes a definition and regulations for community gardens, some minimal composting regulations, and a farming definition and minimal regulations. The Code does not currently address the following: animal keeping, aquaponics and beekeeping. To respond to the above Motion, City Planning Staff first reviewed best practices used around the country and convened meetings with other City Departments as well as local stakeholders whose work is related to urban agriculture.

To further this work, the Department of City Planning then convened a Steering Committee to study and make recommendations about issues of urban agriculture, both outdoor and indoor. The Urban Agriculture Steering Committee consisted of representatives from the departments of City Planning, Buildings & Inspections, Office of Environment and Sustainability, Health, Law, and the Greater Cincinnati Food Policy Council. The Committee met a minimum of twice a month throughout 2017 and into 2018. It became immediately clear to the Committee the need to cover all components of urban agriculture which include: horticulture, hydroponics, community gardens, composting, animal keeping, farming, aquaponics, and beekeeping.

In addition, City Planning staff held four focus group meetings with agricultural stakeholders (farmers, composters, beekeepers, etc.) in October and November 2017.

### What are these proposed changes intended to accomplish?

The Steering Committee proposed text amendments that are intended to make urban agriculture more accessible, yet also have regulations that protect all property owners and provide clarity for enforcement. These text amendments include the following:

1. Inclusion of new definitions and regulations for all categories above that were left out of the Code or insufficiently covered.
2. Relocation of any urban agriculture text in the current Code to the new chapter.
3. Layout of the permitted land uses for community gardens, farming, animal keeping, etc.
4. Minimization of the need for variances and conditional use hearings
5. Cross reference of Health Department regulations where applicable.
6. Removal of restrictions on composting off-site material, reducing greenhouse gases.
7. Regulation of accessory agricultural structures.
8. Help for small commercial farms and community gardens to provide more food to communities in the City.
9. Distinguishing between small-scale and large-scale farming and allow them in more zoning districts while protecting existing land owners and land uses.
10. Allowance for animals in more zoning districts with regulations that are clearly defined for enforcement purposes.

11. Allowance for hydroponics, aquaponics and aquaculture throughout the City.

### What are the proposed changes?

In short, the proposal is aimed at (1) making gardening an allowed primary use throughout the city and (2) making farming (over ½ acre in production) a conditional use in residential districts and permitted throughout the rest of the city, with some limitations on industrial/manufacturing districts regarding soil contamination. Making farming a conditional use means that anyone wanting to grow food on more than ½ acre of land will have to apply through the Department of Buildings and Inspections Zoning Administration to have their farm approved.

The developed framework distinguishes animal keeping from horticulture. Animals will also be allowed throughout the city – what animals and how many are based on a property’s size and there are standard set back requirements and existing nuisance ordinances regarding smell, noise, animal waste will continue to apply.

The proposal also:

- Clarifies allowances for hoop houses, low tunnels, and other garden/farm associated structures
- Allows limited hours of sales of product grown on site
- Removes restrictions on composting off-site materials (all composting still subject to Department of Health and Ohio EPA restrictions)

More specific details on the changes are as follows:

Current Zoning Ordinance	Proposal
<p>Community garden = personal garden, community garden, market garden</p> <ul style="list-style-type: none"> <li>• Allowed throughout residential neighborhoods</li> <li>• No on-site sales</li> <li>• Does not include animals</li> <li>• Considered an accessory use (requires a primary structure to allow any accessory structures to be built)</li> </ul> <p>Farm = over ½ acre production</p> <ul style="list-style-type: none"> <li>• Allows animals</li> <li>• Permitted in Manufacturing-Agriculture District; small animals are allowed in larger-lot single family districts with 100 ft set back</li> </ul> <p>Does not address bees</p>	<p>Definitions</p> <ul style="list-style-type: none"> <li>• Separate animal keeping and plant production.</li> <li>• Define all gardens as under 20k sq ft (1/2 acre) land in cultivation; over 20k is a farm.</li> </ul> <p>Permitted land uses</p> <ul style="list-style-type: none"> <li>• Allow gardening throughout city as a primary land use by right (garden is under 20k sq ft of contiguous land in production)</li> <li>• Allow farming throughout the city               <ul style="list-style-type: none"> <li>• as a conditional land use in residential neighborhoods</li> <li>• As a permitted land use in all other neighborhoods</li> <li>• Limit food production in heavy industrial/manufacturing districts to indoors or raised beds, or require evidence of soil safety</li> </ul> </li> <li>• Allow animals throughout city based on density standards               <ul style="list-style-type: none"> <li>• Includes allowing bees lots over a certain size, with fly-ways and set back to</li> </ul> </li> </ul>

<p>Prohibits composting of materials from off site</p>	<p>discourage flight onto neighboring properties</p> <p>Composting</p> <ul style="list-style-type: none"> <li>● Remove restrictions on composting off-site material</li> <li>● Cross reference Health Department rules for composting under 500 sq ft &amp; OH EPA rules for over 500 sq ft</li> </ul> <p>Accessory Buildings</p> <ul style="list-style-type: none"> <li>● Clarify building issues: <ul style="list-style-type: none"> <li>● Over 200 sq ft requires a building permit</li> <li>● Over 800 sq ft of accessory structures in residential require conditional use permit</li> <li>● Under 4 ft hoopouses/passive solar structures are not buildings</li> <li>● Over 4 ft: <ul style="list-style-type: none"> <li>● Temporary structures must comply with building code, limited to 400 sq ft</li> <li>● Greater than 400 sq ft OR up for more than 180 days, must obtain building permit</li> </ul> </li> </ul> </li> </ul> <p>On site sales allowed between 7 am and 10 pm, no more than 30 hours/year with Zoning Certificate of Compliance.</p> <p>The fencing, set-backs, nuisance, etc. standards for community gardens and farms are removed because they re-state the standard language for all land uses that would apply. This does not create a major substantive change, but it should be noted that gardens and farms will be held to the same standards as any other development in a district when it comes to fencing, setbacks, nuisance, etc.</p>
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### Where can I read the full proposal?

The proposed ordinance is available at <https://www.cincinnati-oh.gov/planning/planning-projects-studies/urban-agriculture/>. This shows all the changes to the zoning code that would occur if this ordinance is adopted – so all existing language that would be removed is struck through, and any new language that will be added is in a normal font.

### I thought chickens were already allowed?

Chickens and small animals are already allowed in some neighborhoods under some conditions. This rule change will create an objective standard across the city for how many chickens (and other animals) can be kept on a

property based on the size of the property. All animals will be required to be set back from neighboring properties, housed appropriately, and maintained in a manner that doesn't create a nuisance or health hazards – these standards are based on extensive research on effective practices used in other cities and proposed at the state level for keeping animals in an urban environment.

## I don't want to see a farm in my neighborhood.

This rule change would not automatically allow farming in residential neighborhoods. If anyone wants to establish a new farm in a residential neighborhood, they will be required to undergo a conditional use permitting process. This would require the operator to submit a conditional use permit application to the planning department, which must:

1. Show that the proposed project "is in the public interest." A list of factors considered by the Zoning Hearing Examiner to determine whether the proposed project "is in the public interest" is found in Cincinnati Municipal Code 1445-13.

AND

2. Show:
  - a. the conditional use is specifically listed in the applicable zoning district use regulations;
  - b. the project meets any limitations specifically listed in the applicable zoning district use regulations; and
  - c. the project's location, design, configuration and special impact on the area will prevent or limit potential adverse effects on the immediate neighborhood

Under this process, neighbors will be notified of the potential change and have an opportunity to tell the Planning Department why the project should not be approved because it is not in the public interest or because it would have adverse impacts on the immediate neighborhood.

## I already farm on my land in the city – does this mean I'll have to get a conditional use permit?

Not necessarily. Existing, legally compliant land use activities will be allowed to continue to operate. This is known as grandfathering them as non-conforming uses. It is best to get a certificate of compliance from the the Department of Buildings and Inspections Zoning Administration in advance of the zoning change as evidence that your use was a previously existing use. Once the zoning change is adopted by City Council, there will be a 90 day window before it goes into effect, which will allow you time to apply for a certificate of compliance.

Once the zoning change goes into effect, if you are operating as a grandfathered non-conforming use and you decide to make a substantial change to the operation, a conditional use permit will be required. A substantial change would be something like building a hoop house or adding a thousand feet of cultivated land to the operation.

If your current activities are not permitted under current zoning law, you will not be eligible to be grandfathered in. You may need to apply for a conditional use or your activities may become permitted by right, depending on the specifics of your activities and your property.

The Department of Buildings and Inspections Zoning Administration can advise you on the best course of action for your specific property. While it sometimes turns out a landowner cannot conduct all the activities they had envisioned – which can be very frustrating – it is usually preferable to reach out to the Department of Buildings and Inspections Zoning Administration. They will look favorably on a land owner who proactively tries to comply, and developing a positive working relationship and can help you avoid future fines.

## I'm concerned about equity and gentrification.

The GCRFPC supports urban agriculture because community gardens, market gardens and urban farms are a way for people to grow their own food and it's a small business opportunity for people who enjoy entrepreneurship and working with their hands. It is a relatively low-cost way that individuals and organizations can invest in using land that might otherwise sit vacant waiting for a developer to buy and build on it. Evidence has shown that urban agriculture can reduce crime, increase healthy food access, and offer enjoyable recreation.

We understand how urban agriculture could be seen as a form of gentrification. This zoning change does not substantially change the social power systems and economic structures that have historically created gentrification and displacement. However, urban agriculture has a lower startup cost than many other more traditional businesses. By making it a permissible land use, it may open up avenues for lower income communities to acquire and develop properties into community owned businesses that otherwise would have to wait for outside investors to develop. We are also actively working with partners across the City with expertise in housing, health, and jobs to find ways to support truly equitable neighborhoods and in order to address the broader systemic reasons gentrification occurs and harms people.

## How should I communicate my opinion?

The best way to engage is to attend one of the public hearings on the zoning code revisions:

- Public Staff Meeting – Wed, April 17<sup>th</sup>, 4:00-6:00 Conference Room
- Planning commission – Passed unanimously on Friday, May 17<sup>th</sup>.
- Economic Growth and Zoning Committee – Tuesday, June 25, 2019 at 10:00 a.m. in Council Chambers, Room 300, City Hall, 801 Plum St., Cincinnati, OH 45202 (tentative)
- Cincinnati City Council – Wednesday, June 26, 2019 at 2:00 p.m. in Council Chambers, Room 300, City Hall, 801 Plum St, Cincinnati, OH 45202 (tentative).

The city department with primary responsibility for reviewing and proposing changes to the zoning code is Zoning. Their website with information on the zoning proposal is <https://www.cincinnati-oh.gov/planning/planning-projects-studies/urban-agriculture/>

City council members will make the final decision on whether to amend the code and what to include in a revised ordinance. They can be reached at the following emails and phone numbers.

Person	Room No.	Phone	Email
All Council Members			<a href="mailto:CityCouncil@cincinnati-oh.gov">CityCouncil@cincinnati-oh.gov</a>
Christopher Smitherman	Suite 356	513-352-3464	<a href="mailto:christopher.smitherman@cincinnati-oh.gov">christopher.smitherman@cincinnati-oh.gov</a>
Tamaya Dennard	Suite 348	513-352-5206	<a href="mailto:tamaya.dennard@cincinnati-oh.gov">tamaya.dennard@cincinnati-oh.gov</a>
Greg Landsman	Suite 346B	513-352-5232	<a href="mailto:greg.landsman@cincinnati-oh.gov">greg.landsman@cincinnati-oh.gov</a>
David Mann	349	513-352-4611	<a href="mailto:david.mann@cincinnati-oh.gov">david.mann@cincinnati-oh.gov</a>
Amy Murray	Suite 351	513-352-3640	<a href="mailto:amy.murray@cincinnati-oh.gov">amy.murray@cincinnati-oh.gov</a>
Jeff Pastor	Suite 346A	513-352-5243	<a href="mailto:jeff.pastor@cincinnati-oh.gov">jeff.pastor@cincinnati-oh.gov</a>
Chris Seelbach	Suite 350	513-352-5210	<a href="mailto:chris.seelbach@cincinnati-oh.gov">chris.seelbach@cincinnati-oh.gov</a>
P.G. Sittenfeld	Suite 354	513-352-5280	<a href="mailto:pg.sittenfeld@cincinnati-oh.gov">pg.sittenfeld@cincinnati-oh.gov</a>
Wendell Young	Suite 352	513-352-3466	<a href="mailto:wendell.young@cincinnati-oh.gov">wendell.young@cincinnati-oh.gov</a>

Are there other resources to help me understand the rules and build my farm or garden?

The GCRFPC is hosting a series of sessions in late July, early August where we will go through the revised ordinance in detail and speak about other resources that are available in our region. We are also working closely with the City’s Office of Environmental Sustainability to make this information publicly available on the office’s website.