

URBAN AGRICULTURE: ISSUES TO BE RESOLVED

The following is a distillation of the issues that have been raised about the proposed urban agriculture standards and will be used as a starting point for discussion at the Urban Agriculture Task Force meetings. This document has been updated to include the input received at the October 23, 2013 task force meeting.

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COMMUNITY GARDENS (REVISED FROM 10/23)

1. Should the sale of produce grown on-site be permitted from a community garden in a residential area?

Comments from the Task Force Meeting and Staff's Response

From the 10/9 meeting:

Number	Comment from the 10/9 Task Force Meeting	Response/Suggested Revision (summary)
1	The task force agrees that community gardens should be allowed in residential areas.	The draft will continue to identify community gardens as a permitted use in residential zones with the understanding that some of the specific standards and permitted activities are still under discussion.
2	Yard sale signs may only be posted on private property. Cannot be posted in the public right-of-way (e.g. sidewalk, street signs, and utility poles).	Standard added requiring compliance with the Sign Code. See draft changes to Sec. 6.6.5.G.5 below for details.
3	Allow online sales from urban farms only.	Revise the draft to stipulate that urban farms only may conduct online sales. See draft changes to Sec. 6.6.5.G.6 below for details.
4	Make a distinction that online sales are for shipping out, not for pickup by the customer.	See draft changes to Sec. 6.6.5.G.6 below for details.
5	Farmers' market should be the conduit through which surplus produce from a community garden.	Requires further discussion and consideration by the task force.
6	Create a farm stand use which is separate and distinct from and generally more restricted than a farmers' market. A farm stand is restricted to selling produce grown on-site only whereas goods from various locations would be permitted at a farmers' market. Operating a farm stand may be a more acceptable accessory use to a community garden and urban farm than sales being conducted similar to a yard sale event.	Requires further discussion and consideration by the task force. Clarification needed as to how the task force thinks any farm stand regulations would substantively differ from the draft standards provided in Sec. 6.6.5.G (see below). Additional changes to the definition of community garden may be required based on the results of this discussion.

From the 10/23 meeting:

Number	Comment from the 10/23 Task Force Meeting	Response/Suggested Revision (summary)
1	Require signs to include the address of the event to assist in identifying who is responsible for a sign if it is not removed in a timely fashion after the event is over.	Glenn Moyer (staff contact for the Sign Code Committee) was consulted. The following is a summary of his response: <ul style="list-style-type: none"> • The sign code generally does not allow off-site signs except for billboards, some real estate signs, and directional signs for hospitals. • There are also restrictions on off-site signs near residences. • All the little farmer's market signs you see around town are illegal. • What's referred to as a temporary sign in the sign code is limited to a banner attached to a building. A-frame signs, while portable, are considered permanent and again, must be onsite. • An amendment to allow farmer's markets to have off-site signs could run into constitutional issues (as could our real estate sign regs).
2	The farm stand use standards should mimic how a "lemonade stand" operates.	Under consideration.
3	Provide a comparison of the current and proposed regulations.	See the "Urban Agriculture: Comparison of the Current and Proposed Regulations" document

Suggested Revisions to the September Draft – Full Text (From the Accessory Use Section, Sec. 6.6.5.G):

Edits to the September 2013 draft are shown as underlines/~~strikethroughs~~.

- G. Sale of Products Grown On-Site. The accessory sale of products grown on-site is permitted subject to the following:
1. Sales are limited to products grown on-site, including produce and when permitted by Section 6.6.5.F, Keeping of Small Farm Animals, eggs from chickens raised on-site;
 2. On-site sales are limited to the hours of 7 a.m. to ~~5~~8 p.m.;
 3. On-site sale of goods is restricted to no more than four advertised events per year. An event shall not occur more than three consecutive days. For the purposes here, an "advertised event" is one in which the homeowner or

Comment [AU1]: Change made per the 10/23 task force meeting.

organizer advertises the ~~home garden sales~~ online, in the newspaper, or signs posted off-site in the neighborhood;

4. Accessory structures associated with the product sales, such as booths and awnings, are exempt from Sections 6.6.1.C and 6.6.3.B and may be located in front of the principal use or building. All accessory structures associated with the product sales, signs, and other evidence of the sale shall be removed at the end of each event;

5. Signs associated with the sale shall comply with Chapter 3 (Sign Code) of the Tucson Code; and,

56. The packaging and shipment of products grown on-site to customers off-site is permitted as an accessory use to an urban farm use only and is exempt. The online sale of products grown on-site are exempt from Sections 6.5.5.G.2 & 3.

Comment [AU2]: Changes made per 10/9 task force meeting.

2. Should the keeping of small farm animals be permitted from a community garden?

Proposal: The September draft allows the keeping of small farm animals as an accessory use in accordance with the proposed standards.

Issue: It is possible that any animals kept on a community garden will not be properly cared for since there is not constant supervision or someone readily available to respond should something happen.

Comments from the Task Force Meeting and Staff's Response

From the 10/9 meeting:

Number	Comment from the 10/9 Task Force Meeting	Response/Suggested Revision (summary)
1	Can the type of animals be limited? Restrict to chickens only.	Yes, it is possible through the proposed revisions to restrict the type of animals permitted at a community garden. Further discussion and consideration by the task force is required to determine whether this is a recommended approach to address the issues.
2	Consider restricting the number permitted in community gardens.	Yes, it is possible through the proposed revisions to restrict the number of animals permitted at a community garden. Further discussion and consideration by the task force is required to determine whether this is a recommended approach to address the issues.
3	Consider requiring an application and fee when proposing to keep small farm	Yes, it is possible through the proposed revisions to require an application and fee.

	animals.	Further discussion and consideration by the task force is required to determine whether this is a recommended approach to address the issues.
4	It is difficult to identify who and how to contact the person responsible of a community garden to report a complaint?	Add a standard requiring a sign indicating who and how to contact the manager of the community garden. The sign must be posted conspicuously so that is visible from outside the community garden.

From the 10/23 Meeting:

Number	Comment from the 10/23 Task Force Meeting	Response/Suggested Revision (summary)
1	Further research is needed regarding how community gardens police themselves and whether there are any community gardens in town that presently allow the keeping of small farm animals. One task force member stated that she knew of one community garden that kept chickens.	See the attached document titled "Community Gardens."
2	When located on City property, is a contract or agreement with the City required? Does the City require the managers of the community garden to have a one million dollar liability coverage like what is required of other outside groups using City-owned property.	<p>Yes, a memorandum of understanding (MOU) is required (see attached MOU). Re: liability coverage – The City’s Parks and Recreation Department does not require liability coverage when the community garden in on City parkland. Staff will contact the Real Estate Department to see if liability coverage is required on other types of City-owned property.</p> <p>Incidentally, Gina Chorover, Chair of the Community Gardens of Tucson (CGT), said that CGT has a \$1 million liability policy.</p>

Suggested Revisions to the September Draft: Staff has received contradictory opinions on whether the keeping of small farm animals should be permitted at a community garden. feedback ranging from animals should be permitted at community gardens to they should be prohibited. Further discussion and consideration by the task force is needed prior to making specific changes.

Some of the possible revisions include:

1. Allow the keeping of small farm animals per the conditions proposed in the September draft and let the community garden cooperative “police” the keeping

beyond that, including whether animals should be allowed at a particular community garden.

2. Allow the keeping of small farm animals, but on land that “is no longer part of the ‘community garden’ and it would be under the same regulations which are in force for backyard farm animals on individual lots. That property owner would be the responsible party for insuring the well-being of the animals. That would eliminate the perception that someone might think it appropriate to lease a garden plot to build a hen coop and keep chickens on that small area.”
3. Restrict the keeping of small farm animals to no more than 20% of the individual plots.
4. Require that the animals be tended to at least two times per day and that the person(s) responsible for taking care of the animals are identified and can be contacted to report any complaints.
5. Prohibit the keeping of small farm animals.

COMPOSTING (REVISED FROM 10/23)

1. Should a setback be required? If so, what should the setback be?

Proposal: The latest draft requires compost areas to be setback in compliance with the Unified Development Code's accessory use provisions (i.e. min. of 6' in residential zones)

Comments from the 10/23 Task Force Meeting: No objection was raised by the proposal as written. The proposal will remain as is.

Suggested Revisions to the September Draft: None. Keep the draft as is.

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FARMERS’ MARKETS (REVISED FROM 10/23)

1. Should Large Farmers’ Markets in residential areas be processed per the PSDS Director Special Exception Procedure or Zoning Examiner Special Exception Procedure?

Proposal: Current proposal requires processing via the PSDS Director Special Exception Procedure

Summary of Procedures:

	PSDS-SE Procedure	ZE-SE Procedure
Required?...		
Neighborhood Meeting	No	Yes
Notice	Yes. Property owners w/in 50’ and neighborhood association	Yes. Property owners w/in 300’ and neighborhood associations w/in 1 mile
Public Hearing	No	Yes
Decision Maker	PSDS Director	Zoning Examiner
Appeals	Board of Adjustment	Mayor and Council

Comments from the Task Force Meeting and Staff’s Response:

From the 10/9 Meeting:

Number	Comment from the 10/9 Task Force Meeting	Response/Suggested Revision (summary)
1	When considering the type of uses and activities that should be permitted as accessory uses, it’s important to keep in mind that the proposed uses – gardens, community gardens, and urban farms – are tailored from most- to least-restrictive.	<ol style="list-style-type: none"> 1. In residential zones, revise as follows: <ol style="list-style-type: none"> A) when access is taken from an arterial or collector street identified in the Major Streets and Routes Plan, the Planning and Development Services Department Director Special Exception Procedure is required; and, B) when access is taken from a local street, the Zoning Examiner Special Exception Procedure is required. 2. Remove the distinction between a small and large farmers’ market. 3. Require compliance with the Sign Code. <p><i>(See draft changes to Sec. 6.6.5.C below for details)</i></p>

From the 10/23 Meeting:

Number	Comment from the 10/23 Task Force Meeting	Response/Suggested Revision (summary)
1	Revise Sec. 6.6.5.C.2 to limit the hours to 7 a.m. to 5 p.m. (reduced from 8 p.m.) to be consistent with the hours of operation for sales at community gardens.	The draft will be revised as suggested.
2	Annual renewal of farmers' markets should be required, particularly when they are located in the middle of neighborhoods.	The draft will be revised as suggested.
3	Why are farmers' markets being regulated to the extent proposed? A comparison of the current and proposed regulations is needed for the task force to make informed decisions.	See the "Urban Agriculture: Comparison of the Current and Proposed Regulations" document

Suggested Revisions to the September Draft – Full Text

****Edits to the September 2013 draft are shown as underlines/~~strikethroughs~~.****

From Section 6.6.5.C:

C. Farmers' Markets

~~1.~~ Types. For regulatory purposes, a farmers' market is classified as one of the following:

~~a.~~ Farmers' Market, Small. A farmers' market that has 15 or fewer vendors and occupies less than 10,000 square feet, excluding parking area. Additional requirements apply as provided below.

~~b.~~ Farmers' Market, Large. A farmers' market that has more than 15 vendors and occupies more 10,000 or more square feet, excluding parking area. Additional requirements apply as provided below.

Comment [AU3]: Revised per 10/9 task force meeting

~~12.~~ Permitted Zones. Farmers' Markets are permitted as an accessory use as follows:

a. In the RH, SR, SH, RX-1, RX-2, R-1, R-2, R-3, MH-1, and MH-2 zones, Farmers' Markets, ~~Small~~ are permitted as follows:

(i) As an accessory to a permitted principal use in the Agricultural, Civic, Recreation Land Use Groups only; and,

(ii) Subject to Sections 6.6.5.B.2.a – i, .3, and .4; and,

Comment [AU4]: Revision related to changes discussed at the 10/9 task force meeting.

(iii) ~~When access is from a collector or arterial street identified in the Major Street and Routes Plan, the application will be processed in accordance with Section 3.4.2, PDSB Director Special Exception Procedure; or,~~

(iv) ~~When access is taken from a local street, the application will be processed in accordance with Section 3.4.3, the Zoning Examiner Special Exception Procedure;~~

(v) ~~A permit to operate a farmers' market is valid for one year. Renewal of a permit is considered in accordance with Section 3.3.3, PDSB Director Approval Procedure. The PDSB Director may add or modify previously approved conditions or deny the renewal based on complaints filed by surrounding property owners or the neighborhood association.~~

Comment [AU5]: Added per the 10/23 task force meeting.

~~b. In the RH, SR, SH, RX-1, RX-2, R-1, R-2, R-3, MH-1, and MH-2 zones, Farmers' Markets, Large are permitted through Section 3.4.2, PDSB Director Special Exception Procedure, when accessory to a permitted principal use in the Agricultural, Civic, Recreation Land Use Groups only in compliance with Section 6.6.5.B.3.a-h;~~

Comment [AU6]: Revised per the 10/9 task force meeting.

c. In the IR, O-1, O-2, O-3, P, RV, C-1, C-2, C-3, OCR-1, OCR-2, P-1, I-1, I-2, and MU, Farmers' Markets (~~Small or Large~~) are permitted in compliance with Section 6.6.5.B.23.c - ~~ji, .3, and .4~~; and,

d. Prohibited in the OS zone.

~~23.~~ Standards. The following standards are required of Farmers' Markets as specified in Section 6.6.5.B.1:

a. A Farmers' Market, Small cannot be operated more than two days each week.

b. A Farmers' Market, Small shall not be operated more than six hours per day between the hours of 7 a.m. and ~~5~~8 p.m.

Comment [AU7]: Revised per 10/23 task force meeting.

c. Craft- and non-agricultural related product sales must be clearly accessory to the sale of food products. Specifically, at least 20 percent of the farmers' market space does not occupy the same allotted area on an uninterrupted, continuous, daily basis for the purpose of display and sale, exchange, or barter of merchandise.

d. Outdoor lighting shall comply with Section 6-101, Outdoor Lighting Code.

- e. All litter, tents, stalls, food, merchandise, ~~signs (on-site and off-site),~~ and other evidence of the Farmers' Market shall be removed from the premises at the end of each market event.
- f. Outdoor activity, including the outdoor display of goods for sale, is permitted.
- g. Compliance with Section 16-31, Excessive Noise, of the Tucson Code is required. Additionally, loudspeakers and amplified music are prohibited outdoors when within 300 feet of a residential use or zone. Any high noise activity, such as amplified entertainment, shall occur within an enclosed building when within 300 feet of a residential use or zone.
- h. The retail area shall be dust proofed.
- ~~i. Signs associated with the sale shall comply with Chapter 3 (Sign Code) of the Tucson Code;~~
- ~~ii.~~ For Farmers' Markets within 300 feet of a residential use or zone, the applicant must address how the proposal will mitigate any potential nuisances on the nearby residential neighborhood. The applicant shall provide the following information:
 - i. Frequency that the Farmers' Market will occur and the hours of operation;
 - ii. Methods to avoid potential increases in noise and light intrusion;
 - iii. Methods to deter vehicular access into adjacent residential neighborhoods using signage or other means;
 - iv. Methods to prevent drive-through traffic or habitual parking within adjacent residential neighborhoods or commercial development;
 - v. When the applicant proposes to use a principal use's required parking, either partially or completely, identify where alternative parking for customers and vendors will be located.

Comment [AU8]: Revised per the 10/9 task force meeting.

Comment [AU9]: Revised per 10/9 task force meeting.

- ~~34.~~ When an accessory use, Farmers' Markets ~~(Small or Large)~~ are not required to provided additional motor vehicle or bicycle parking, off-street loading, or landscaping and screening beyond what is required for the principal use.

Comment [AU10]: Revision per the 10/9 task force meeting.

45. Additional Conditions Permitted. The Director or Zoning Examiner,
whichever is applicable, may require conditions of approval as necessary to
protect the health, safety, or welfare of any property impacted by the
farmers' market.

Comment [AU11]: Revision per the
10/9 task force meeting.

DRAFT

GARDENS

1. Should gardens in the front yard be required to provide fencing or other measures to deter javelina, rabbits, and other predators? (REVISED)

Proposal: Current code and the proposal do not require fencing or other measures.

Note: The suggested revision could have the unintended consequence of requiring fencing around prickly pear and other types of cacti routinely seen in front yards because they are eaten by javelina.

Comments from the 10/23 Task Force Meeting: Concern was expressed that steps should be taken from inadvertently attracting predators to residential lots.

Suggested Revisions to the September Draft: None. There didn't appear to be a majority opinion to require fencing of gardens in the front yard.

2. Should the leasing of yards for farming purposes be prohibited? (will be discussed at the 11/13 meeting)

Proposal: The proposal is silent on this issue. The Home Occupation standards would be triggered if this were to happen.

Issue: The proposal does not address the possibility of someone leasing homeowners' yards for farming purposes and the effects this could have on a neighborhood if numerous adjacent properties participate in this. This is of particular concern in neighborhoods where there are a lot of rental properties. Landlords may be willing to lease out their yards to generate additional income, particularly if they are not able to rent their dwellings.

KEEPING OF SMALL FARM ANIMALS (WILL BE DISCUSSED AT THE 11/13 MEETING)

1. Should the keeping of small farm animals be permitted on residential lots?

Proposal: The proposal conditionally allows the keeping of small farm animals, such as chickens, miniature goats, and rabbits, on residential lots.

Issue: Small farm animals will attract predators (e.g. coyotes, bobcats, javelina) to residential neighborhoods.

2. What can be done to ensure that the number and frequency of predators in a residential area will not increase with keeping of small farm animals?

Possible Revisions: Revise the proposed shelter standards to incorporate the Arizona Game and Fish Department's guidelines on discouraging predators, including, but not limited to, requiring shelters to have sturdy roofs and keeping food and water inaccessible to any animal outside the shelter.

3. What is the appropriate number of animals that should be permitted?

Proposal: Currently, the Tucson Code allows 24 heads of poultry. The Tucson Code or Unified Development Code does not specify limits on the other animals included in the draft proposal.

The proposal is based on an animal unit (AU) system whereby each permitted animal is assigned a point value, which is based on the "impact" of each animal (i.e. size, waste generation, etc.). The maximum permitted number of animal units is 0.2 AU/1,000 square feet of lot size. Additional caps on the number permitted are in effect on larger lots. Any mix of permitted animals is allowed provided the maximum permitted number is not exceeded.

Issue: The following is a sample of the issues and concerns that have been raised. See the "Proposed Urban Agriculture Amendments: Compilation of Issues, Comments, and Questions" document for a more complete listing.

- The formula used to calculate the number of animals permitted is overly complicated and difficult to enforce.
- Only including animals of laying or breeding age will be difficult to administer and enforce.
- The miniature goat standards are problematic and confusing considering dairy goats only give milk after giving birth, but the proposal prohibits bucks (males) of breeding age.
- But how does that turnover of generations of animals ever get accounted for in a static formula?

4. What are the appropriate setback requirements for small farm animal shelters? Should reductions in the setback requirement be permitted when written consent from a next door neighbor(s) is obtained?

Proposal: Shelters must be at 20 feet from the principal residence on the adjacent lot and setback from the property line in accordance with underlying zoning (e.g. a minimum of 6' is required in R-1, R-2, and R-3 zones), with the following exception. The setbacks can be reduced or waived if written consent from the adjacent property owner is obtained.

Exception: Shelters 6' or less in height and 16 square feet or less in area may have a zero side or rear setback from the property line, but must be at least 20' from the principal residence on the adjacent lot and be screened by a 6' opaque, nonvegetative screen.

Issue: The keeping of small farm animals, if not done responsibly, can create nuisances for surrounding property owners.

5. Should small farm animals be permitted in the front yard of residences?

Proposal: The proposal allows small farm animals to be kept in the front yard provided there is a nonvegetative, opaque screen.

Issue: Allowing small farm animals and their shelters in the front yard will detract from the character of the neighborhood.

SALES OF PRODUCTS GROWN ON-SITE (WILL BE DISCUSSED AT THE 11/13 MEETING)

1. Should the sale of products grown on-site be permitted from a residence?

Proposal: The proposal caps the sale of products grown on-site to a maximum of 4 advertised events per year, which is consistent with the proposed yard sale regulations. Yard sales are currently permitted. The sale of produce and eggs is not significantly different than yard sales from an activity perspective.

The unadvertised sale of products, such as “over the fence”, neighbor-to neighbor type sales, may occur without restriction.

Comments from the 10/23 Task Force Meeting and Staff’s Response:

See pages 2 & 3 for comments and staff’s response to the issue of allowing sales as an accessory use to community gardens, urban farms, and residences.

Suggested Revisions to the September Draft: See page 3 for preliminary revisions to the draft.

DRAFT

URBAN FARM (WILL BE DISCUSSED AT THE 11/13 MEETING)

- 1. Clarify what an “urban farm” is considering the wide spectrum of areas (from residential to industrial), size, and scale of operations that can be permitted under the proposal?**
- 2. Should urban farms be permitted in residential areas? Can potential nuisances be mitigated through standards, minimum lot size, and/or review and approval procedure?**
- 3. Should the keeping of small farm animals be permitted on an urban farm?**

Proposal: The September draft allows the keeping of small farm animals as an accessory use to an urban farm.

Issue: It is possible that any animals kept on an urban farm will not be properly cared for since there is not constant supervision or someone readily available to respond should something happen.

Possible Solutions:

1. Do not allow animals at an urban farm; or,
2. Require that animals be tended to at least two times per day; or,
3. Require a video monitoring system that can be accessed online; or,
4. Other?