

## **SUMMARY OF PROPOSED URBAN AGRICULTURE AMENDMENTS**

### 5.08.250 - Exemption from itinerant merchant requirements

An itinerant merchant is defined as "...any person or persons, firm, or corporation, either principal or agent, employer or employee who engages in a temporary business in the City by selling or offering for sale goods, wares, merchandise, or things or articles of value for a period of not more than 190 days in any calendar year, and who, for the purpose of carrying on such business hires, leases, or occupies any room, building, structure or stand on any real property, or on or adjoining any street or public place in the City." Urban agriculture activities such as community gardens and urban agriculture produce stands would qualify as itinerant merchant under this definition. To reduce barriers to entry and to encourage agriculture in an urban setting, proposed language has been added to exempt these two uses from this requirement.

### 6.04.430 - Added reference to Table 2.2 in SMC 16.20.020 regarding the keeping of animals

Current code prohibits owning or possessing fowl within the City. To allow the keeping of chickens and/or ducks for urban agriculture purposes, a reference to Table 2.2 in section 16.20.020 provides an exemption to this prohibition.

### 8.04.010 - Added definition of "Vacant lot"

Provides clarification that community gardens are not considered as vacant lots.

### 8.68.040 - Exemption from food protection requirement for open air uses

Chapter 8.68 pertaining to sanitary regulations for markets, etc. prohibits vegetables, fruit, figs, dates, and/or nuts among other foods to be sold in an open-air format. An exemption has been added to allow farmers markets, produce stands, urban agriculture, and uses deemed similar by the Chief of Police to sell vegetables, fruit, figs, dates, and/or nuts in an open-air format.

### 13.04.015 - Addition of Water Service requirements

Section 13.04.015 requires property owners/occupants to subscribe and pay for water services for their specific property. A sub section has been added to prohibit the connection of water service across property lines, known as a cross-connection, except in the case of community gardens (with service payer's permission).

Furthermore, should a community garden wish to cross connect, language has been added requiring a Backflow prevention device and water meter.

### 16.20.020 - Addition of urban agriculture land uses to Table 2-2

Table 2-2 (Allowable Land Uses and Permit Requirements) has been updated to permit Community Gardens, Market Gardens/Urban Farms, and Urban Agriculture land uses in most zoning districts, excluding the Commercial, Auto (CA) and Port (PT) zoning districts. These uses will either be by-right or require a discretionary permit, depending on the Zoning District in which it is located.

## 16.80.020 – Addition of chicken/duck enclosure height limits

The Detached Structures subsection has been updated to include a chicken/duck enclosure height limit of seven feet (7'), consistent with tool sheds.

16.80.060 - Added language pertaining to the keeping of chickens/ducks

Table 3-14 (Animal Keeping Standards) has been updated to clarify that fowl includes chickens and/or ducks; categorize different land uses; provide specific beekeeping standards; and provides standards for the keeping of said animals.

Proposed standards allow for the following:

**TABLE 3-14  
ANIMAL-KEEPING STANDARDS**

| Type of Animal  |                              | Maximum Number of Animals per Site      | Minimum Lot Size   | Setback from Property Lines | Zoning Districts      |
|---|------------------------------|---|--------------------|-----------------------------|-----------------------|
| Poultry, fowl, (e.g. chickens, ducks) (not including roosters or cockerels) | Commercial / Farm            | 150-animals per acre                    | 1/2 acre           | 50 feet                     | RE, IG, OS            |
|   | Residential (hobby)          | 4 per 5,000 square feet                 | 5,000 square feet  | 5 feet                      | RL, RM, RH            |
|   | Market Garden / Urban Farm   | 4 per 5,000 square feet                 | 5,000 square feet  | 5 feet                      | CO, N, CD, CL, CA, IL |
|   | Subject to District approval |   |                    |                             | PT                    |
| Horses, cows, bison, or similar sized animals                               | Commercial / Farm            | Subject to an administrative use permit | 1 acre             | 100 feet                    | RE, IG                |
|   | Residential (hobby)          | 1 per 10,000 square feet                | 12,000 square feet | 50 feet                     | RE, OS                |
|   | Market Garden / Urban Farm   | 1 per 10,000 square feet                | 12,000 square feet | 50 feet                     | RE, IG, OS            |
| Sheep, goats, and similar sized animals                                     | Commercial / Farm            | Subject to an administrative use permit | 1 acre             | 50 feet                     | RE, IG                |
|   | Residential (hobby)          | 5 per 10,000 square feet                | 12,000 square feet | 50 feet                     | RE                    |

| Type of Animal       |   | Maximum Number of Animals per Site      | Minimum Lot Size   | Setback from Property Lines | Zoning Districts        |
|----------------------|---|---|--------------------|-----------------------------|-------------------------|
| (not including pigs) | Market Garden / Urban Farm  | 5 per 10,000 square feet                | 12,000 square feet | 50 feet                     | RE, RL, IG, OS          |
| Bee keeping          | Commercial/Farm   | Subject to an administrative use permit | 1 acre             | 50 feet                     | RE, IG                  |
|                      | Residential (hobby)   | 2 hives                                 | 5,000 square feet  | 10 feet*                    | RE, RL                  |
|                      | Market Garden / Urban Farm  | 2 hives per 1/2 acre                    | 1/2 acre           | 50 feet                     | RE, RL, CL, CN, IG, IL, |
| Notes:               | * If a flyway barrier is established per Section 16.80.350, setback may be reduced to 5 feet. |   |                    |                             |                         |

Restrictions are proposed to ensure the keeping of animals remain compatible with surrounding land uses.

In addition to the above regulations, the following restrictions would apply:

- All hen chickens/ducks shall be confined in a pen, coop, cage, or other enclosure when not supervised. Supervision is being physically present, or within an immediate distance, and available to respond immediately. Enclosures within residential districts shall be subject to accessory structure requirements as referenced in Section 16.80.020 of this code.
  - “Other” enclosures shall be determined on a case by case basis by the Director.
- Pens, coops, cages, or other enclosures shall be maintained in an orderly manner and kept clean.
- In addition to property line setbacks identified in Table 3-14, all hen chickens/ducks shall be kept within an enclosure that is at least 20 feet distant from the nearest neighbors dwelling on an adjacent parcel. Enclosures shall be situated in either the side or rear yard behind a solid fence, structure, or wall. Enclosures shall not obstruct or partially obstruct any required exits from any dwelling unit, as determined by the Building Official.
- No hen chickens/ducks shall be kept in the front yard on any developed lot used for residential purposes.
- The keeping of hen chickens/ducks is subject to Section 8.20.040 (Animal Noise).
- No hen chickens/ducks shall be slaughtered on any residentially zoned lot.

- Roosters shall not be permitted within the corporate limits of the City.

#### 16.80.130 - Community Gardens

The Community gardens section (16.80.130) was last amended in 2011 and required additional updates. Those updates include the addition of:

- A reference to table 2-2 regarding allowable zoning districts.
- Garbage and compost standards that require receptacles be screened from view of public streets and adjacent properties by utilizing measures such as landscaping, fencing, or storage within or behind structures, that all garbage shall be removed from the site weekly, and Compost piles and containers must be set back at least 20 feet from the property line of a residentially zoned lot.
- A reference to 16.56.050 regarding the prohibition of water waste (i.e. water efficiency).
- Addition of fencing in development standards, reinforcing that fencing must comply with all Code regulations
- Clarification that separation must be from the property line
- Addition of a manager contact sign requirement, similar to vacant lots. The signage requirement includes
  - 24-hour contact phone number of the community garden manager.
  - Minimum size of four (4) by six (6) inches
  - Required language of: "THIS COMMUNITY GARDEN MANAGED BY \_\_\_\_\_" and "TO REPORT PROBLEMS OR CONCERNS CALL \_\_\_\_\_."
  - Placement on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals.
  - Constructed of and printed with weather-resistant materials.
- Property owner permission to operate a community garden on subject property must be granted in writing and available if requested by the City.
- Garden plot standards that include:
  - Meeting all ADA regulations
  - A minimum five feet (5') plot setback from all property lines.
- Storage standards limiting to items necessary to carry out on-site cultivation and maintenance activities.
- Sales standards that are limited to incidental sales of produce grown on-site by plot holders and as follows:
  - Community garden sales in residential districts shall only occur Friday through Monday from 7:00am to 7:00pm.
  - Community garden sales in non-residential districts shall not have day/hour limitations.
  - Community garden produce stands must be removed from the premises or stored inside an on-site structure or behind screening during non-operating hours.

16.80.135 – Creation of Section

A new section titled “Market Gardens / Urban farms” is being proposed to provide development and operational standards for Market Gardens / Urban Farms which are Commercial in nature and not considered an Urban Agriculture use.

Regulations are identical to Community Gardens except for the following:

- Lighting shall comply with SMC 16.32.070
- The keeping/raising of animals shall be consistent with SMC 16.80.060
- Operations and sales may occur daily between 7:00am and 7:00pm
- Sales are not limited to produce grown on-site and can include produce, flowers, fiber, seeds, herbs, honey, and/or eggs.
- Market gardens/urban farms are not exempt from business license requirements
- Pre-existing market gardens/urban farms that become nonconforming as a result of this ordinance will be allowed to continue current operations subject to SMC 16.228.

16.80.260 - Exemption from Temporary Outdoor Displays and Sales requirements

Temporary Outdoor Retail Sales is defined as “Temporary outdoor retail operations including...farmers’ markets, [and] produce stands in compliance with Section 16.80.280 (Produce stands) ...” Urban agriculture activities such as produce stands would qualify as Temporary Outdoor Retail Sales under this definition. To reduce barriers to entry and to encourage agriculture in an urban setting, proposed language has been added to exempt community gardens and urban agriculture produce stands from this requirement.

16.80.280 - Title Change

The section currently titled “Produce stands” would be retitled as “Produce Stands, commercial” in order to exclusively apply codified standards to commercial produce stands. Sign standards were also clarified to conform with Chapter 16.76 (Sign Standards)

16.80.285 - Creation of Section

A new section titled “Produce stands, urban agriculture” is being proposed to provide development and operational standards for produce stands when associated with an urban agricultural use in a form and scale that is appropriate for the urban context and to protect and maintain public health, safety, and welfare. The proposed section will allow urban agriculture produce stands as an accessory use to the primary use on the same site and require that the operator of the stand shall be the owner or lessee of the land where the urban agricultural production occurs (excluding community gardens).

Standards Include:

- Operating Hours to be between dawn and dusk.
- Only one (1) stand shall be allowed per parcel, except as otherwise permitted in Section 16.80.130 (Community gardens).
- Stands shall be set back a minimum five feet (5’) from all property lines.
- Signage shall be consistent with section 16.76.040.D.3.b. (Garage Sale Signs) and located outside of the public right-of-way.

- A building permit shall be required for all structures larger than 120 square feet.
- Permanent electrical wiring or hookups of any kind are prohibited.
- The parcel on which the stand is located shall always be kept clean of trash and debris.
- The parcel on which the stand is located shall be completely free of all evidence of the use during non-operating hours.
- If restrooms are provided, they shall conform to all applicable rules, regulations, and codes of the San Joaquin County Public Health Services, Environmental Health Department, and any other requirements governing the use of these facilities.
- Agricultural products may not be sold from a motorized vehicle.
- Exempt from Temporary Activity Permit requirements

Additionally, Urban agriculture produce stand operations would be subject to the laws and regulations administered by other City departments, external agencies such as San Joaquin County, as well as other requirements/agencies (e.g., California Building Code, California Fire Code (CFC), State of California, etc.).

#### 16.80.350 - Creation of Section

A new section titled "Urban Agriculture" is being proposed to provide standards for development of urban agriculture in residential and nonresidential zones. The proposed section provides cross references to Table 2.2 of Section 16.20.020 (Allowable land uses and permit requirements) and Chapters 16.24 (Zoning District Development Standards) and 16.28 (Overlay Zoning District Land Use and Development Standards) as well as the following standards:

- Urban agriculture uses shall be maintained in an orderly manner
- The use of mechanized farm equipment is prohibited in residential districts with the exception of:
  - Heavy equipment to initially prepare the land
  - Household Landscaping equipment
  - All Equipment shall be stored in an enclosure or otherwise screened from sight.
- Structures to support urban agriculture, such as storage sheds, and greenhouses, are considered accessory structures and subject Section 16.80.020 (Accessory uses and structures)
- Aquaculture operations are allowed in the Industrial, Limited (IL) and Industrial, General (IG) zoning districts.
- Unlawful to permanently keep, have or ranch more than two (2) beehives on a single parcel of residentially zoned property within the city, unless such parcel of property is zoned Residential, Estate (RE) and utilized as a market garden/urban farm
  1. Hives shall be located in a quiet area and at least 20 feet distant from any dwelling on an adjacent parcel.
    - If there is no fence/barrier, the hive entrance shall be oriented away from building entrances and walkways, and toward the most distant property line.

- A clear ten-foot (10') flight path shall be maintained from the hive entrance.
- When colony is situated less than 10 feet from a property line, the beekeeper must establish a flyway barrier. This should be at least 6 feet tall and extend 10 feet beyond the colony on either side. It can be solid, vegetative or any combination of the two, that forces the bees to cross the property line at a height of 6 feet.
- All colonies shall be located at least 20 feet from a public sidewalk, alley, street, or road.
- All bee equipment and hive(s) shall be maintained in good condition.
- A substantial barrier/fence shall be erected to prevent animals and children from coming into close contact with the hives. The barrier/fence should be at least 6 feet tall and extend 10 feet beyond the colony on either side.
- Bees shall have access to an adequate water source at all times.
- Urban Beekeeping Activities shall comply with the provisions in the Apiary Protection Act (Food and Agriculture Code 29000, et seq)
- Urban agriculture activities shall include best practices to prevent pollutants from entering the stormwater conveyance system and comply with all applicable laws, ordinances, or regulations.

#### 16.136.030 – Land Development Permit

Inclusion of Community Gardens and Market Gardens/Urban Farms in Land Development Permit regulations.

#### 16.152.040 - Exemption from Site Plan review requirements

A Site Plan Review is a Discretionary land use permit which provides a review procedure for proposed development projects that is Expedient, Certain, Consistent, Protected, Adequately Reviewed, Ensures Orderly Placement, Recognizes the interdependence of land values and appropriate development, and Discourages Adverse Impacts. Given that Community Gardens are unlikely to create a permanent land development, proposed language has been added to exempt Community gardens from this requirement. Said language will reduce barriers to entry and to encourage agriculture in an urban setting.

#### 16.164.030 - Exemption from Temporary Activity Permit requirements

Per SMC section 16.164.010, “A temporary activity permit allows short-term activities that might not meet the normal development or use standards of the applicable zoning district but may otherwise be acceptable because of their temporary nature.” To reduce barriers to entry and to encourage agriculture in an urban setting, proposed language has been added to exempt Community Gardens and Urban Agriculture Produce Stands from this requirement.

#### 16.240.020 - Updates/Additions to Definitions of specialized terms and phrases

The definition of “Outdoor Retail Sales, Temporary” has been amended to include community gardens, commercial and urban agriculture produce stand types:

- “Outdoor Retail Sales, Temporary” means Temporary outdoor retail operations including:
  - Christmas trees, pumpkins, or the sale of other seasonal items in compliance with Section 16.80.110 (Christmas tree/holiday/sales facilities)
  - farmers’ markets
  - produce stands in compliance with Section 16.80.280 (Produce stands, Commercial)
  - community gardens in compliance with 16.80.130
  - urban agriculture produce stands in compliance with Section 16.80.285
  - semi-annual sales of art/handcrafted items in conjunction with community festivals or art shows
  - sidewalk or parking lot sales longer than one (1) weekend
  - retail sales from individual vehicles in temporary locations outside the public right-of-way

Temporary outdoor retail sales are subject to a temporary activity permit in compliance with Chapter 16.164 (Temporary Activity Permits), unless otherwise identified or exempt. Does not include motorized food wagons (Section 16.80.020(B)(4)) or mobile vendors (Section 16.80.020(B)(3)).

Fourteen new urban agriculture-related definitions for inclusion in Title 16’s glossary are proposed, they are:

- “Aquaculture” means the cultivation of marine or freshwater fish, shellfish, or plants under controlled conditions. Aquaculture includes aquaponics which integrates aquaculture with hydroponics by recycling the waste products from fish to fertilize hydroponically growing plants.
- “Beehive” means an enclosed, man-made structure in which honeybee species live and raise their young.
- “Community garden” means an otherwise undeveloped lot divided into multiple plots for the growing and harvesting of the fruits, vegetables, flowers, fiber, nuts, seeds, and culinary herbs primarily for the personal use of the growers, and that is established, operated, and maintained by a group of persons, other than the city. A community garden does not include a private garden or edible landscaping on a lot developed with one or more residences and devoted to the personal use of the occupants of the residences.
- “Hydroponics” means a method of growing plants in a soil-less medium or an aquatic-based environment in which plant nutrients are distributed via water.
- “Livestock” are domesticated animals raised in an agricultural setting to produce commodities such as food, fiber, and labor. “Livestock” are defined as being useful animals; which implies a commercial purpose or being reared for financial gain. However, in recent years, livestock are also raised to promote the survival of rare breeds, leading to many charities being formed around this issue.
- “Market garden / Urban farm” means the primary use of a site for larger-scale urban agriculture uses including production (beyond that which is strictly for



home consumption), distribution and marketing of food within the cores of urban areas and at their edges. Market gardens / urban farms' purpose extends beyond home consumption and includes community supported agriculture (CSA), pick-your-own operations, family farms located in metropolitan greenbelts and related efforts such as activities offered to the public for the purpose of recreation, education or active involvement in urban agricultural operations. All activities must be related to agriculture or natural resources. Market gardens / Urban farms cultivate fruits, vegetables, flowers, fiber, nuts, seeds, culinary herbs, honey, and/or eggs for sale or donation to the public.

- "Private garden" means a private food-producing garden that is accessory to the primary use of the site, and which is located in the front yard, side yard, rear yard, rooftop, courtyard, balcony, fence, wall, windowsill or basement.
- "Produce" means any food in its raw or natural state which is in such form as to indicate that is intended for consumer use with or without any or further processing.
- "Produce stands, commercial" means a temporary produce stand that is used by commercial growers of produce that is grown on-site to market their goods directly to consumers via retail sale of fruits, vegetables, flowers, fiber, nuts, seeds, culinary herbs, etc. This use is not considered an Urban Agricultural Activity.
- "Produce stands, urban agriculture" means a temporary produce stand that is accessory to an urban agriculture use.
- "Urban Agriculture" means the production of food in a form and scale that is appropriate for the urban context and includes market garden; community garden; private garden; hydroponics; and urban beekeeping.
- "Urban agriculture produce stand"; see "Produce stands, urban agriculture".
- "Urban beekeeping" is the practice of keeping bee colonies in urban areas. Urban beekeeping is allowed in commercial, residential (hobby), and market garden/urban farm land uses.
- "Vacant lot" means any parcel of real property that is not improved with a community garden, or a completed permitted structure.