

ORDINANCE NO. _____

AN ORDINANCE TO AMEND APPENDIX A OF THE CITY OF CLARKSTON CODE OF ORDINANCES, BEING THE CLARKSTON ZONING ORDINANCE, TO PERMIT AND REGULATE URBAN AGRICULTURE BY DEFINING URBAN GARDENS AND MARKET GARDENS AS PERMITTED USES THROUGHOUT THE CITY; TO AMEND EXISTING PROVISIONS REGARDING THE KEEPING OF POULTRY AND LIVESTOCK; TO REGULATE THE KEEPING OF BEES; AND FOR OTHER PURPOSES.

WHEREAS, the City is committed to creating and supporting programs and policies that encourage greater local food security, increase community resilience, and improve access to fresh foods in under-served areas; and

WHEREAS, urban agriculture provides a secure and locally controlled source of food, contributing to the local economy by generating living-wage jobs, sales of food at farmer’s markets and on-site farm stands, and offering opportunity for resident entrepreneurship in creating food-related small businesses; and

WHEREAS, urban agriculture creates safe, healthy, and green environments in neighborhoods, schools, community centers, and vacant properties, thereby decreasing crime rates and encouraging civic engagement; and

WHEREAS, urban agriculture reduces the use of carbon-based fuels due to transportation of food over long distances, thereby reducing carbon emissions; and

WHEREAS, the City believes that adopting zoning regulations allowing for urban agriculture and other sustainable land use within the Clarkston Zoning Ordinance is a necessary first step in becoming a more resilient and sustainable city; and

WHEREAS, the City finds it to be in the best interest of public health, safety, and general welfare to adopt zoning regulations allowing for urban agriculture and other sustainable land use within the Clarkston Zoning Ordinance.

NOW THEREFORE, BE IT ORDAINED by the City of Clarkston, Georgia, that the City’s Zoning Ordinance is hereby amended as follows:

SECTION ONE

New subsection (n) of Sec. 102 of the Zoning Ordinance is hereby added, to read as follows:

“(n) To support the cultivation of horticulture and agriculture within the city.”

SECTION TWO

Paragraph (2) of Sec. 313 is hereby amended to strike the words “farmer’s markets,” from the text.

SECTION THREE

Paragraph (e) of Sec. 603 is hereby deleted in its entirety and replaced with the following language:

“(e) Except as otherwise provided in Article XVIII, accessory uses and structures such as garages, greenhouses, or workshops shall not be rented or occupied for gain.”

SECTION FOUR

Paragraph (k) of Sec. 603 is hereby deleted in its entirety and replaced with the following language:

“(k) In all zoning districts, no accessory use shall be permitted in public rights-of-way except mailboxes, sidewalks, driveways, light posts, decorative landscaping and Farm Stands. Other accessory uses are only permitted in a public right-of-way when approved in writing by the city manager”

SECTION FIVE

Sec. 606 of the Zoning Ordinance is hereby deleted in its entirety and replaced with the following language:

“**Sec. 606. – Keeping of poultry, livestock, or bees.**

- (a) The keeping of livestock, poultry, or bees within the city shall be prohibited on any lot with an area of less than three (3) acres, except as otherwise set forth in this Appendix A.
- (b) Every poultry or livestock kept within the city must be contained by fence, corral, coop, pen or similar means sufficient to prevent said poultry or livestock from leaving the lot upon which they are kept.
- (c) Any structure, pen, corral or other building appurtenant to the keeping and raising of livestock must be located a minimum of two hundred (200) feet from any property line.
- (d) The keeping of livestock, poultry, or bees within the City shall be in compliance with all applicable regulations promulgated by the DeKalb County Health Department.
- (e) The non-commercial keeping of poultry is permitted on lots with area less than three (3) acres pursuant to Article XIII or this Appendix A. **The non-commercial keeping of livestock is permitted pursuant to Article XVI. The non-commercial keeping of bees is permitted pursuant to Article XVII.**
- (f) The commercial keeping of poultry and livestock shall be expressly permitted.**
- (g) For the purposes of this zoning code, agriculture shall include the keeping of poultry, livestock, or bees.**

SECTION SIX

Paragraph (b) of Sec. 701 is hereby deleted in its entirety and replaced with the following language:

(b) Permitted uses:

- (1) Single-family detached residential dwellings.
- (2) Horticulture and agriculture, outside of front-and-side-yard setbacks.
- (3) Accessory structures and uses incidental to any legal permitted use, including home occupations.

SECTION EIGHT

Paragraph (e)(1) of Sec. 701 is hereby deleted in its entirety and replaced with the following language:

(e)(1) All outdoor storage must be stored in a side or rear yard.

SECTION NINE

Paragraph (b) of Sec. 702 is hereby deleted in its entirety and replaced with the following language:

“(b) *Permitted uses*:

- (1) Single-family detached residential dwellings.
- (2) Horticulture and agriculture, outside of front-and-side-yard setbacks.
- (3) Accessory structures and uses incidental to any legal permitted use, including home occupations.

SECTION TEN

Paragraph (e)(1) of Sec. 702 is hereby deleted in its entirety and replaced with the following language:

(e)(1) All outdoor storage must be stored in a side or rear yard.

SECTION ELEVEN

New paragraph (b)(5) of Sec. 703 is hereby adopted to read as follows:

“(5) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION TWELVE

Paragraph (e)(1) of Sec. 703 is hereby deleted in its entirety and replaced with the following language:

(e)(1) All outdoor storage must be stored in a side or rear yard.

SECTION THIRTEEN

New paragraph (b)(9) of Sec. 704 is hereby adopted to read as follows:

“(9) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION FOURTEEN

Paragraph (e)(1) of Sec. 705 is hereby amended to read as follows::

“(e)(1) All outdoor storage must be stored in a side or rear yard.”

SECTION FIFTEEN

New paragraph (b)(10) of Sec. 704 is hereby adopted to read as follows:

“(b)(10) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION SIXTEEN

Paragraph (e)(1) of Sec. 705 is hereby amended to read as follows::

“(e)(1) No outdoor storage is permitted, except in connection with horticulture or agriculture.”

SECTION SEVENTEEN

New paragraph (b)(11) of Sec. 706 is hereby adopted to read as follows:

“(b)(11) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION EIGHTEEN

Paragraph (e)(1) of Sec. 706 is hereby amended to read as follows::

“(e)(1) All outdoor storage must be located in the rear yard.”

SECTION NINETEEN

New paragraph (b)(13) of Sec. 707 is hereby adopted to read as follows:

“(b)(13) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION TWENTY

Paragraph (e)(1) of Sec. 707 is hereby amended to read as follows::

“(e)(1) All outdoor storage must be located in the rear yard.”

SECTION TWENTY ONE

Paragraph (a) of Sec. 708 is hereby amended to read as follows:

- (a) *Purpose and intent:* The TC zoning district is intended to serve as Clarkston's central business district by providing for a high-density mix of office, retail and other commercial uses, along with apartments and condominiums. Development of property within this district is intended to encourage a pedestrian-friendly urban form and aims to revitalize the city's commercial core, —serve as a destination for both city residents and visitors, and support the cultivation and sale of local horticultural and agricultural products.

SECTION TWENTY TWO

New paragraph (b)(15) of Sec. 708 is hereby adopted to read as follows:

“(b)(15) Horticulture and agriculture, outside of front and side yard setbacks.”

SECTION TWENTY THREE

Paragraph (e)(1) of Sec. 708 is hereby amended to read as follows:

“(e)(1) All outdoor storage must be located in the rear yard. Outdoor storage is limited to twenty-five (25) percent of total lot area.”

SECTION TWENTY FOUR

Paragraph (b)(10) of Sec. 709 is hereby amended to read as follows:

“(b)(10) Horticulture and agriculture.”

SECTION TWENTY FIVE

New paragraph (b)(24) of Sec. 709 is hereby adopted to read as follows:

“(b)(24) Composting operations.”

SECTION TWENTY SIX

Paragraph (e)(1) of Sec. 709 is hereby amended to read as follows:

“(e)(1) A maximum of fifty (50) percent of lot area may be utilized for outdoor storage.”

SECTION TWENTY SEVEN

Article XIII of Appendix A, regarding Non-Commercial Poultry, is hereby repealed and replaced with the following:

Article XIII. – NON-COMMERCIAL POULTRY

Sec. 1301. - Purpose and intent.

The purpose of this article is to authorize and provide standards for keeping of poultry in the side or rear yard of residential properties. The intent is to enable residents to keep poultry for non-commercial purposes, while limiting the potentially adverse impacts of such on surrounding neighbors.

Sec. 1302. -

Permitted in all zoning districts.

The keeping of non-commercial poultry pursuant to this article is permitted in all zoning districts.

Sec. 1303. - Number of poultry allowed.

For lots under 3 acres in size, the maximum number of poultry that may be kept on a single

property shall not exceed twenty-five (25).

Sec. 1304. - Roosters prohibited.

It shall be a violation of this article for any person to keep a rooster within the city.

Sec. 1305. - Commercial poultry prohibited.

The keeping of poultry pursuant to this article is permitted for non-commercial, personal use only. The sale within the city of any poultry, eggs, meat or other poultry-related products derived from the keeping of poultry pursuant to this article shall be a violation of this article.

Sec. 1306. - Enclosure of poultry required; location of poultry.

- (a) Any individual owning or keeping poultry in the city shall keep said poultry **fenced in with access to a coop, pen, or other building appurtenant to the keeping of poultry**, and not allow such poultry to leave the lot upon which they are kept.
- (b) Poultry shall be kept only in the rear or side yard of the lot.
- (c) Every coop, pen or other building appurtenant to the keeping of poultry must be located a distance of at least seventy-five (75) feet from the nearest residence.
- (d) ~~Every coop, pen or other building appurtenant to the keeping of poultry must be~~ located at least five (5) feet from the residential structure on the lot where poultry are kept.
- (e) Every coop, pen or other building appurtenant to the keeping of poultry must have a minimum floor area of four square feet per poultry kept in such structure. Poultry of less than one month of age shall not be counted for purposes of this subsection.
- (f) Every coop, pen or other building appurtenant to the keeping of poultry that is permanently affixed to the ground shall meet all requirements for accessory structures set out in Zoning Ordinance section 603, except for the provisions regarding **maximum square footage**, setback and location, which shall be controlled by this section.

Sec. 1307. - Nuisance prohibited.

The keeping of poultry shall be conducted in such a manner so as not to unreasonably disturb the use or enjoyment of adjacent properties. Odor generated by poultry shall not be perceptible on adjacent lots. Noise generated by poultry shall not disturb a person of common and reasonable sensitivity to sound at the boundary lines of the lot upon which said poultry are kept.

SECTION TWENTY EIGHT

New Article XV of Appendix A is hereby adopted to regulate Livestock, such Article to read as follows:

ARTICLE XV. - LIVESTOCK

Sec. 1501. – Purpose and intent.

The purpose of this article is to authorize and provide standards for keeping of livestock in the side or rear yard of residential properties. The intent is to enable residents to keep livestock for non-commercial purposes, while limiting the potentially adverse impacts of such on surrounding neighbors.

Sec. 1502. – Permitted in all zoning districts.

The keeping of non-commercial livestock pursuant to this article is permitted in all districts.

Sec. 1503. – Number of livestock allowed.

For lots under 3 acres in size, the maximum number of livestock that may be kept on a single property shall not exceed the following:

- (a) Horses, mules or cattle: five (5).
- (b) Sheep or goats: ten (10).
- (a) Hogs and pigs: one (1).

Sec. 1504. – Commercial livestock prohibited.

The keeping of livestock pursuant to this article is permitted for non-commercial, personal use only. The sale within the city of any dairy products, meat, leather or other livestock-related products derived from the keeping of livestock pursuant to this article shall be a violation of this article.

Sec. 1505. – Enclosure of livestock required; location of livestock.

- (a) Any individual owning or keeping livestock in the city shall keep said livestock fenced in with access to a pen, stable or other building appurtenant to the keeping of livestock, and not allow such livestock to leave the lot upon which they are kept.
- (b) Livestock shall be kept only in the rear or side yard of the lot.
- (c) Every pen, stable or other building appurtenant to the keeping of livestock must be located a distance of at least one hundred and twenty-five (125) feet from the nearest residence.
- (d) Every pen, stable or other building appurtenant to the keeping of livestock must be located at least twenty-five (25) feet from the residential structure on the lot where livestock are kept.
- (e) Every pen, stable or other building appurtenant to the keeping of livestock must have a following minimum floor areas:
 - (1) Horses, mules, or cattle: two hundred (200) square feet per animal.
 - (2) Sheep or goats: one hundred and fifty (150) square feet per animal.
 - (3) Hogs or pigs: one hundred (100) square feet per animal.

Livestock of less than four months of age shall not be counted for purposes of this subsection.

- (f) Every pen, stable or other building appurtenant to the keeping of livestock that is

permanently affixed to the ground shall meet all requirements for accessory

structures set out in Zoning Ordinance section 603, except for the provisions regarding maximum square footage, setback and location, which shall be controlled by this section.

Sec. 1507. – Pens and stables on ground level.

It shall be unlawful for any person to keep livestock in any building at a higher level than that of the first or ground floor thereof. This shall apply to all buildings, whether used specifically for the keeping of animals or for any other purpose.

Sec. 1508. – Nuisance prohibited.

The keeping of livestock shall be conducted in such a manner so as not to unreasonably disturb the use or enjoyment of adjacent properties. Odor generated by livestock shall not be perceptible on adjacent lots. Noise generated by livestock shall not disturb a person of common and reasonable sensitivity to sound at the boundary lines of the lot upon which said livestock are kept.

SECTION TWENTY NINE

New Article XVI of Appendix A is hereby adopted to regulate Apiaries, such Article to read as follows:

ARTICLE XVI. - APIARIES

Sec. 1601. – Purpose and intent.

The purpose of this chapter is to authorize and provide standards for the keeping of bees within the city of Clarkston. The intent is to enable residents to keep bees for personal use and commercial use, and support of the environment, while limiting potentially adverse effects on the community.

Sec. 1602. – Definitions.

In this article:

- (a) *Apiary* means a place where a bee colony is kept.
- (b) *Bee* means any stage of the common domestic honey bee, *Apis mellifera* species. This definition specifically excludes Africanized Honey Bees.
- (c) *Colony* means a hive and related equipment and appurtenances including bees, comb, honey, pollen, and brood.
- (d) *Hive* means a structure intended to house a colony.

Sec. 1603. – Apiary maintenance.

- (a) A colony shall be kept in a hive that is maintained in sound and usable condition.
- (b) A source of water shall be provided to a colony to prevent the bees from congregating at a water source used by a human, bird, or domestic pet.
- (c) Owners shall store or dispose of bee comb or other material removed from a hive in a sealed container, building, or other bee-proof enclosure.

Sec. 1604. – Colony density.

The maximum number of colonies allowed per lot shall be determined by the total area of the lot whereupon the colonies are kept, in accordance with the following:

- (a) Less than 0.5 acres: a maximum of two (2) colonies are allowed.
- (b) 0.5 acres to 1.0 acre: a maximum of four (4) colonies are allowed.
- (c) 1.1 acre to 2.0 acres: a maximum of six (6) colonies are allowed.
- (d) Greater than 2.1 acres: a maximum of eight (8) colonies are allowed.

Provided, however, that the keeping of bees in districts NR-1, NR-2, NR-3, NR-CD and RC is limited to parcels of land consisting of one (1) acre in size or greater.

Sec. 1605 – Specific rooftop beekeeping requirements.

- (a) The keeping of bees on rooftops is limited to the following zoning districts: NC-1, NC-2, TC and I.
- (b) Hives shall be set back six (6) feet from the edge of the roof.
- (c) For any roof level hive that is within twenty (20) feet of the doors or windows of an adjacent building, the hive opening must face away from doors and windows.

Sec. 1606. – Specific ground level beekeeping requirements.

- (a) A person may not locate a hive within seventy-five (75) feet of a property line, as measured from the nearest point of the hive to the property line.
- (b) Hives may not be located in a front or side yard that abuts a street.

Sec. 1607. – Hive identification and ownership.

- (a) Except as provided herein, a person shall:
 - (1) Brand, paint, or otherwise clearly mark the hive owner’s name, address, and telephone number on all hives placed in the apiary; or
 - (2) Post identification of the hive owner’s name, address, telephone number, and each hive owned by the hive owner, at the entrance to the apiary lot.
- (b) A person is not required to provide owner identification on or near a colony that is located on a lot where the owner resides.

Sec. 1608. - Inspection and enforcement by the city.

The city may investigate any complaint of improper beekeeping.

Sec. 1609. – Destruction of wild, dangerous, or abandoned bees.

Without notice or a hearing, the city may order destruction of:

- (a) a colony not residing in a hive;
- (b) a swarm of bees;
- (c) a colony residing in an abandoned standard or man-made hive; or
- (d) a hive not maintained pursuant to this section.

Sec. 1610. – Commercial sale of bee products permitted.

The keeping of bees pursuant to this article is permitted for noncommercial and commercial use. The sale of any honey, combs, pollen, or other products derived from the keeping of bees pursuant to this article is permitted.

Sec. 1611. – Nuisance prohibited.

The keeping of bees shall be conducted in such a manner, so as not to unreasonably disturb the use or enjoyment of adjacent properties. Any nuisance created by the keeping of bees shall be governed by Ch. 10, Art. I.

SECTION THIRTY

New Article XVII of Appendix A is hereby adopted to regulate Composting, such Article to read as follows:

ARTICLE XVII. - COMPOSTING

Sec. 1701. – Purpose and intent.

The purpose of this chapter is to authorize and provide standards and limitations for composting organic matter for personal or commercial use in agricultural and other growing practices. The intent is to encourage composting as an alternative to landfill use.

Sec. 1702. – Definition.

The practice of managing and utilizing decomposed organic matter, for use as a fertilizer and/or soil amendment in agricultural and other growing practices, usually consisting of lawn trimmings, treated manure and food wastes, but specifically excluding bones, meat, fat, oil, dairy, and raw manure. Any composting operation not in compliance with this article shall be considered refuse, and shall be governed by Ch. 19, Art. III.

Sec. 1703. – Composting regulations.

- (a) Composting shall be expressly permitted as an accessory use on any lot on which an Urban Garden or Market Garden is permitted. All compost on such lots must be enclosed by at least three (3) sides, and shall not be located in view of any public right of way.
- (b) Composting shall be expressly permitted as a primary use on any lot located in District-I, Light Industrial district, subject to Ga. EPD R. & Regs. 391-3-4-.16 and Dekalb County, Georgia, Municipal Code Sec. 13-99.

Sec. 1704. – Commercial composting permitted.

Composting operations pursuant to this article are permitted for personal and commercial use. Any person or group of people who sell compost shall be required to obtain an occupational license, pursuant to Ch. 11, Art. I.

Sec. 1705. – Nuisance prohibited.

All composting shall be conducted in such a way as to not unreasonably disturb the use or enjoyment of adjacent properties, generate offensive odors, attract vectors (rodents, insects, or other animals that carry diseases), or generate excessive runoff into waterways and onto adjacent properties. Any nuisance created by composting shall be governed by Ch. 10, Art. I.

SECTION THIRTY ONE

New Article XVIII of Appendix A is hereby adopted to regulate Urban Agriculture, such Article to read as follows:

ARTICLE XVIII. - URBAN AGRICULTURE

Sec. 1801. – Purpose and intent.

The purpose of this chapter is to promote, authorize, and provide standards and limitations for the cultivation and sale of horticultural and agricultural products. The intent is to enable residents to grow food for both personal use and for sale to the community.

Sec. 1802. – Definitions.

Urban Garden: A portion of a lot that is cultivated, managed and maintained by an individual or a group, for the purpose of growing and harvesting agricultural or horticultural products for personal use, off-site sale, or off-site donation. No on-site sales are permitted.

Market Garden: A lot, or a portion thereof, cultivated, managed and maintained by an individual or a group, for the purpose of growing and harvesting agricultural or horticultural products for personal use, sale, or donation. All products sold on-site must also be grown on-site.

Farmer’s Market: a pre-designated area where vendors and individuals sell horticultural or agricultural products.

Farm Stand: an accessory structure to a Market Garden, for the display and sale of horticultural and agricultural products grown on the lot where the Market Garden is located.

Sec. 1803. – Urban Gardens.

- (a) Urban Gardens are permitted as a primary or accessory use in all zoning districts.
- (b) Urban Garden structures.
 - (1) Unless expressly stated otherwise within Appendix A, any structure used in association with an Urban Garden is expressly allowed, including without limitation: hoop-houses, trellises, raised beds, and tool sheds.
 - (2) Building permits shall not be required for any such structure provided that it is smaller than one hundred and twenty (120) square feet in area and one (1) story in height.
- (c) Machinery and equipment
 - (1) Machinery and equipment designed for household agricultural use shall be permitted in all districts. Machinery and equipment designed for commercial agricultural use shall only be permitted on lots over one (1) acre in size. When not being actively used, all such machinery and equipment shall be stored so as not to be visible from any public street, sidewalk, or right-of-way.
 - (2) All machinery and equipment shall comply with the noise requirements of Ch. 10, Art. III.
- (d) Sales of agricultural products grown in Urban Gardens:
 - (1) No sales may occur on the property where the Urban Garden is located. Sales of horticultural and agricultural products grown on-site may only occur off-site.
 - (2) Occupational license required. Any person or group of people who sell agricultural products grown in an Urban Garden shall be required to obtain an occupational license, pursuant to Ch. 11, Art. I.

Sec. 1804. – Market Gardens.

- (a) Market Gardens are permitted as an accessory use in zoning districts, NR-1, NR-2, NR-3, NR-CD and RC, on lots that are used as schools, religious worship facilities, community centers, or apartment complexes. Market Gardens are permitted as a principal or accessory use in zoning districts NC-1, NC-2, TC and I.
- (b) Market Garden structures.
 - (1) Unless expressly stated otherwise within Appendix A, any structure used in association with a Market Garden is expressly allowed, including without limitation: hoop-houses, trellises, raised beds, and tool sheds.

- (2) Building permits shall not be required for any such structure provided that it is smaller than one hundred and twenty (120) square feet in area and one (1) story in height.
- (c) Machinery and equipment.
 - (1) Machinery and equipment designed for household agricultural use shall be permitted in all zoning districts. Machinery and equipment designed for commercial agricultural use shall only be permitted on lots over one (1) acre in size. When not being actively used, all such machinery and equipment shall be stored so as not to be visible from any public street, sidewalk, or right-of-way.
 - (2) All machinery and equipment shall comply with the noise requirements of Ch. 10, Art. III.
- (d) Sales of agricultural products grown in Market Gardens:
 - (1) Sale of agricultural products grown on site may occur off-site, or on-site at Farm- Stands located on the property of the Market Garden. All products sold on-site must also be grown on-site.
 - (2) Occupational license required. Any person or group of people who sell agricultural products grown in a Market Garden shall be required to obtain an occupational license, pursuant to Ch. 11, Art. I.
- (e) Hours of operation. Market Gardens may operate from 6 a.m. until 8 p.m.

Sec. 1805. – Farmer’s Markets.

- (a) Occupational license required. Each Farmer’s Market shall designate a Farmer’s Market manager, who shall be required to obtain an occupational license, pursuant to Ch. 11, Art.
 - I. Individual vendors shall not be required to obtain an occupational license in order to sell horticultural or agricultural products at a farmer’s market.
- (b) Farmer’s Markets are permitted as a primary or accessory use in zoning districts NC-1, NC-2, TC and I. Farmer’s Markets are permitted as an accessory use in zoning districts NR-1, NR-2, NR-3, NR-CD and RC, on lots that are used as schools, religious worship facilities, community centers, or apartment complexes.
- (c) Hours of operation. Farmer’s Markets may operate from 6 a.m. until 8 p.m.

SO ORDAINED, this _____ day of _____, 2019

CITY COUNCIL, CITY OF CLARKSTON, GEORGIA

EDWARD TERRY, Mayor

Attest:

Tracy Ashby, City Clerk

Approved as to Form:

Stephen Quinn, City Attorney