



ZONING BOARD OF APPEALS
Thursday, January 19, 2017
5:30 P.M. – City Council Chambers
Rockford City Hall, 425 East State Street

Minutes on Website: <http://rockfordil.gov/community-economic-development/construction-development-services/land-use-zoning/zoning-board-of-appeals.aspx>

Present:

ZBA Members: Alicia DiBenedetto-Neubauer
Dan Roszkowski
Scott Sanders
Craig Sockwell
Melissa Beckford
Kimberly Johnsen

Absent: Tom Fabiano

Staff: Scott Capovilla – Zoning and Land Use Administrator
Angela Hammer - Assistant City Attorney
Marcy Leach - Engineering Manager, Public Works
Sandra Hawthorne - Administrative Assistant
Lafakeria Vaughn - Assistant City Attorney
Tim Morris - Fire Department

Others: Alderman Linda McNeely
Kathy Berg - Court Stenographer
Applicants and Interested Parties

Sandra Hawthorne explained the format of the meeting will follow the Boards Rules of Procedure generally outlined as:

The Chairman will call the address of the application.

- The Applicant or representative will come forward and be sworn in.
- The Applicant or representative will present their request before the Board
- The Board will ask any questions they may have regarding this application.
- The Chairman will then ask if there are any Objectors or Interested Parties. Objectors or Interested Parties are to come forward at that time, be sworn in by the Chairman, and give their name to the Liquor & Tobacco Advisory Board secretary and the stenographer
- The Objector or Interested Party will present all their concerns, objections and questions to the Applicant regarding the application.

- The Board will ask any questions they may have of the Objector or Interested Party.
- The Applicant will have an opportunity to rebut the concerns/questions of the Objector or Interested Party
- No further discussion from the Objector or Interested Party will occur after the rebuttal of the Applicant.
- The Board will then discuss the application and a vote will be taken.

It was further explained to the public in attendance, applicants, objectors and interested parties that this meeting is not a final vote on any item. The date of the Codes & Regulations meeting was given as Monday, January 30, 2017, at 5:30 PM in City Council Chambers in this building as the second vote on these items. The public in attendance, applicants, objectors and interested parties were instructed that they could contact the Zoning Office for any further information and the phone number was listed on the top of the agenda which was made available to all those in attendance. The City's web site for minutes of this meeting are listed on the agenda as well. This information was also presented in written form attached to the agendas.

The meeting was called to order at 5:35 PM. A **MOTION** was made by Kim Johnsen to **APPROVE** the minutes from the December 20, 2016 meeting as written. The Motion was **SECONDED** by Alicia Neubauer and **CARRIED** by a vote of 5-0 with Melissa Beckford abstaining and Tom Fabiano absent.

Text Amendments

The following text amendments for Articles:

TABLE 20-1 USE CLASSIFICATION TABLE
TABLE 21-1 USE CLASSIFICATION TABLE
TABLE 22-1 USE CLASSIFICATION TABLE
TABLE 23-1 USE CLASSIFICATION TABLE
30-005 ELECTIVE PLANNED UNIT DEVELOPMENTS
50-013-A. SURFACING
51-002 SIGNS NOT PERMITTED
51-004-D. HEIGHT (COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS – C-2, C-3, C-4, I-1, I-2 AND I-3 DISTRICTS ONLY)
51-005 SIGNS IN RESIDENTIAL DISTRICTS
51-007-A-8. SANDWICH SIGNS
52-002-C SCHEDULE OF LANDSCAPE UNITS
55-001-B. GENERAL FENCING REGULATIONS
80-009 MISCELLANEOUS NONCONFORMING USES
91-175 CONCRETE BATCH PLANT

Scott Capovilla, Zoning and Land Use Administrator for the City of Rockford, presented the proposed Text Amendments.

The proposed text amendment additions, modifications, and clarifications include changes to the subsections of the Zoning Ordinance as follows:

TABLE 20-1 USE CLASSIFICATION TABLE

Add Section 30-004 under Use Standard for Detached House, Two-Unit House and Multifamily.

Review Comment: This addition reflects the text amendment changes made in March of 2016 that reduced the threshold for the number of units allowed before a mandatory planned unit development is required.

There was no discussion from the Board

TABLE 21-1 USE CLASSIFICATION TABLE

Add Section 30-004 under Use Standard for Dwelling Units located above the ground floor. Remove Tobacco Shop under the Use Category.

Review Comment: This addition of Section 30-004 reflects the text amendment changes made in March of 2016 that requires a mandatory planned unit development for any multifamily development of 15 units or more. Additionally, tobacco shops are now regulated via the Liquor and Tobacco Advisory Board so it no longer needs to be regulated via the Zoning Ordinance.

There was no discussion from the Board

TABLE 22-1 USE CLASSIFICATION TABLE

Remove Tobacco Shop under the Use Category.

Review Comment: Tobacco shops are now regulated via the Liquor and Tobacco Advisory Board so it no longer needs to be listed as regulated via the Zoning Ordinance.

There was no discussion by the Board.

TABLE 23-1 USE CLASSIFICATION TABLE

Add Concrete Batch Plant as a Special Use Permit in I-2 and prohibited in I-1 and I-3. Remove Tobacco Shop under the Use Category.

Review Comment: A concrete batch plant is not listed under the use table nor does it clearly fall under any of the categories listed within the Use Category. Adding this to the table will clarify its use and the permitted and prohibited districts in which it may locate. Tobacco shops are now regulated via the Liquor and Tobacco Advisory Board so it no longer needs to be listed as regulated via the Zoning Ordinance. It was previously prohibited.

There was no discussion by the Board.

ARTICLE 91 GENERAL TERMS
91-175 CONCRETE BATCH PLANT

A manufacturing plant where concrete is mixed that produces batches of concrete or aggregate-asphalt mixture before being transported to a construction site ready to be poured.

Review Comment: This provides a definition of a concrete batch plant as there is currently none in the ordinance.

Alicia Neubauer asked what the difference was between I-1, I-2 and I-3, and why the concrete batch plant is prohibited in I-1 and I-3 Districts. Mr. Capovilla stated examples of Artesian manufacturing, small machine shops, warehousing is I-1. I-2 is general district with more intensive uses such as for hazardous chemicals, waste related industries. I-3 is for airport zoning.

For the remaining presentation, those Items written in red indicate additional wording to the Ordinance. Items written in red with a ~~strikethrough~~, indicate that wording is being removed from the existing Ordinance.

30-005 ELECTIVE PLANNED UNIT DEVELOPMENTS

Developments that do not meet the minimum criteria for a mandatory planned unit development may nonetheless elect to follow the planned unit development review and approval procedures if the proposed development is at least one acre in area, ~~if the number of units exceeds 35 dwelling units~~, or if the proposed building or buildings exceed the height limitations within the applicable zoning district.

Review Comment: This area in red is being stricken to reflect the text amendment change made in March of 2016 that reduced the threshold for the number of units allowed before a mandatory planned unit development is required.

There was no discussion by the Board.

50-013-A. SURFACING

All off-street parking areas and *driveways* must be improved with asphalt or concrete consistent with the Engineering Design Criteria adopted by the Rockford Department of Public Works. Sand, gravel, ~~recycled asphalt product~~ or stone is not considered an acceptable material ~~and may not be added to existing parking areas or driveways~~. The Department of Public Works may authorize the use of low impact, permeable surfaces such as “grass Crete” or other pervious surface approved by the City Engineer and Zoning Officer.

Review Comment: Our neighborhood enforcement specialists were running into situations where people were using recycled asphalt and claiming it was acceptable paving material. Adding this product to the list of unapproved materials will provide clarity that it is not acceptable. Furthermore, a clarification is being provided that you cannot use that material or the other material listed in section 50-013-A to add to existing parking areas and driveways. Red description indicates added wording to the existing ordinance.

There was no discussion by the Board.

51-004-D. HEIGHT (COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS – C-2, C-3, C-4, I-1, I-2 AND I-3 DISTRICTS ONLY)

Maximum height for all freestanding business signs is 8 feet for five or fewer businesses on a single lot in Commercial and Industrial Districts and 20 feet for shopping center signage (see Section 91-0125, Sign Height). All

landmark style signs 8 feet in height or less must have a 2 foot high stone or brick base. All landmark style signs over 8 feet in height must have a minimum 3 foot high stone or brick base. *The Zoning Officer may allow alternative materials to brick and/or stone for the replacement of existing signs or the establishment of a new sign on an existing developed site, provided the sign design is consistent with a landmark style sign. Nothing in this provision allows illegally established nonconforming signs to remain.*

Review Comment: The adjustment to this section of the ordinance would allow some flexibility on the sign base with bringing existing signs into compliance with our height and square footage requirements. It would not change the brick/stone requirements for new signs.

There was no discussion by the Board.

51-005 SIGNS IN RESIDENTIAL DISTRICTS

4. Two (2) wall signs are permitted for a public educational institution, not exceeding 100 square feet per sign.

Review Comment: The proposed addition to this section of the ordinance was fueled by a recent Illinois Supreme Court ruling. Local municipalities now have the right to impose zoning regulations on school districts. Currently, wall signs are prohibited in all residential areas. Staff reached out to the local school district and worked with them on this amendment to allow wall signs which was deemed acceptable by both parties.

There was no discussion by the Board.

51-002 SIGNS NOT PERMITTED

51-002-K. Sandwich signs, that is, a folding mobile sign **except as otherwise permitted by Section 51-007-A-8.;**

Review Comment: Sandwich signs were previously prohibited entirely. This section is now adjusted to show that they are acceptable as permitted by the section as indicated in the paragraph below.

51-007-A-8. Sandwich Signs: No permit is required if the sandwich sign does not exceed the following limitations:

- (a) One sandwich sign is permitted per business and shall not exceed three (3) feet in height.
- (b) Each sandwich sign is limited to six (6) square feet per side.
- (c) Sandwich Signs may only be located on a public or private sidewalk and shall be located adjacent and within 5 feet of the building and business for which they are advertising.
- (d) Sandwich signs may only be displayed during the hours in which the business is open to the public.

Review Comment: With the resurgence of our downtown, sandwich signs have become very popular. They are also becoming popular in our larger shopping centers as well. This new section provides reasonable guidelines in which they are permitted. They will still remain prohibited if they do not meet these guidelines.

Scott Sanders asked Mr. Capovilla to define the way the square footage of a sandwich sign is measured. Mr. Capovilla clarified the limitation would be 6 sq. ft. per side. Kim Johnsen felt this measurement should be clarified so that it specifies per side measurement. Alicia Neubauer asked about allowing the sandwich signs further away from the business it is advertising. She stated there are some businesses that are not located on an arterial street and she has seen sandwich signs on the corner of the arterial and a side street. Mr. Capovilla explained if it were not located in front of the business it would be considered an off premise sign. Marcy Leach, Public Works, also had concerns that if the sign is away from the business itself, the business owner really has no control over the sign if it has collapsed or the condition the sign may be in if it is not visible from the business entrance. There are also concerns that if the sign is not placed 5 feet from the ROW, it could end up hindering the view at an intersection. Attorney Hammer stated that subsection (b) could be amended to state “Each sandwich sign is limited to six (6) square feet per side.”

52-002-C SCHEDULE OF LANDSCAPE UNITS

LU's	Plant	Minimum Size	Height
15	<i>Native/Ornamental Grasses</i>	1 qt. pot	2' - 3'
10	<i>Perennial Plants</i>		

Review Comments: Native and Ornamental grasses are salt and weather resistance. They provide good year round screening and are much heartier than many deciduous shrubs. Discussions with local landscape architects have shown that we should increase the point value from these grasses from 4 points to 15 points. Additionally, those discussions morphed into the diversification of the overall landscape plans and how we could provide more color to those settings. Therefore, we are also recommending an increase in the scoring of perennial plants from 4 points to 10 points.

Kim Johnsen asked for a description of a “point value” Mr. Capovilla explained for commercial development, when a site plan is submitted, depending on the street frontage, the number of parking spaces, and size of the parking lot, there has to be a certain amount of landscape units that have to be provided on that site.

55-001-B. GENERAL FENCING REGULATIONS

6. It shall be unlawful for any person to erect or maintain any electric fence within the City *in a residential or commercial zoning district.*

Review Comment: This section is being amended to reflect the change in the ordinance in February of 2016 which now provides a procedure to obtain an electric fence via a Special Use Permit in industrial zoned areas only. Electric fences shall remain prohibited in residential and commercial areas.

There was no discussion by the Board.

80-009 MISCELLANEOUS NONCONFORMING USES

80-009-D. All properties with gravel driveways and/or gravel parking lots legally established shall conform to the regulations contained in Section 50-013-A of this Ordinance by November 1, 2019. Nothing in this provision allows illegally established nonconforming parking lots and driveways to remain.

Review Comments: Since the adoption of the 1973 Zoning Ordinance, gravel driveways and gravel parking areas have been prohibited. This was reaffirmed in the adoption of the Zoning Ordinance of 1993 and the Zoning Ordinance in 2008 that we currently abide by today. There has been a growing concern that despite being prohibited over 40 years ago, we have made little progress in eliminating gravel parking areas and gravel driveways. They are unsightly, bring down property values, and often times cause erosion problems. These are especially prevalent in the older areas of town and we are desirous of trying to raise property values in these areas, not have them decrease. They also have erosion issues with many of the gravel areas as the granular product runs into our streets, then makes its way into our storm sewer system and, ultimately, pollutes our rivers and streams. This amendment would be similar to the amendment adopted in 2000 that eliminated the grandfather rights of dumpsters without the required enclosure. A time limit is being proposed to allow property owners the time to prepare for this proposed amendment.

Mr. Capovilla suggested a time frame of 3 years - or whatever City Council feels is adequate - to allow property owners to comply. Moving forward, there would be no gravel surfaces of any kind allowed. Craig Sockwell asked about those properties who have two strips of concrete with grass in between the strips being used as a driveway. Mr. Capovilla explained stated this would be acceptable as a paved surface for a driveway. This amendment has been pushed by many Alderman as gravel surfaces are a continuous problem. At this time the main focus is on two older sections of the City. Scott Sanders asked about some commercial plans that came forward with gravel surfaces. Mr. Capovilla stated this request would have gone through the Special Use Permit process which would make it a legal use.

End of presentation on these Text Amendments. At this point, the floor was open for Objectors or Interested Parties who wished to speak.

Objectors or Interested Parties were present.

Molly Fisher has a business on 110 N. 1st Street approximately 100 feet off of State Street and she has a sandwich sign she puts on the corner of North 1st Street and East State Street. She stated her block is full of businesses and they do not feel they are getting a lot of attention that would enable them to drive traffic through their area. She stated they have no street lights, no landscaping, there is nothing that drives traffic down 1st Street. There has never been a situation where signs have been tampered with, and they only have had one occasion of an issue where the sign was left out and the neighboring business brought it in for her. Scott Sanders asked for off-premise signs in general, where do we put a stop to how far away they can be. Mr. Roszkowski also expressed at what point do we draw the line on how far away a business sign can be from the actual site itself. Ms. Fisher stated if she puts her sign on State Street her sales go up 20%. She stated there is more to downtown than just the thoroughfare now. Ms. Fisher says they sometimes share a sandwich sign among the businesses, advertising more than one store at a time. Kim Johnsen suggested the off premise sign request could come before the Zoning Board of Appeals.

Aaron Tokarz owns White Shutter Photography at 305 St. Louis. He asked if the proposed sandwich ordinance was just for downtown businesses or City wide to which the response was City wide. Mr. Tokarz stated there are several business in the residential area of the 2nd Ward, and there are sandwich signs and signs all around the area advertising businesses. He asked if there could be a way to allow businesses in a residential area. Mr. Capovilla stated if there is a home business in a residential area they must follow the Home Occupation regulations which does not allow signage in the residential business.

Mr. Capovilla stated that one of the goals for the community is to reduce the clutter and blight of several signs in the area. Allowing off-premise businesses to put signs on the corner would create more clutter.

We probably could consider several businesses going in together for a single sign perhaps on a traffic pole.

Marcy Leach stated there is an issue with approving any off premise signs or ROW signs that are governed by a 4 foot clear zone. This is regulated by ADA requirements.

Emma Robbins spoke in favor of off premise or corner signs because in a lot of cases she would not be aware of businesses in the area. If customers are not aware a business is located in a particular area, they will not succeed.

Mayor Larry Morrissey came forward and stated he appreciated all the businesses coming downtown and across the community. He felt there are some interesting options for off premise signage that would create a viable way for businesses to advertise. He also wished to touch on Urban Farming, stating he supports that and he is in favor of beekeeping.

Based on past inquiries from the public and to avoid any confusion, the proposed text amendments should help clarify and change the Zoning Ordinance to compliment the needs of the community in a consistent manner. Therefore, Staff supports these proposed amendments.

RECOMMENDATION: Staff recommends **APPROVAL** of the following text amendments for Articles: TABLE 20-1 USE CLASSIFICATION TABLE, TABLE 21-1 USE CLASSIFICATION TABLE, TABLE 22-1 USE CLASSIFICATION TABLE, TABLE 23-1 USE CLASSIFICATION TABLE, 30-005 ELECTIVE PLANNED UNIT DEVELOPMENTS, 50-013-A. SURFACING, 51-002 SIGNS NOT PERMITTED, 51-004-D. HEIGHT (COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS – C-2, C-3, C-4, I-1, I-2 AND I-3 DISTRICTS ONLY), 51-005 SIGNS IN RESIDENTIAL DISTRICTS, 51-007-A-8. SANDWICH SIGNS, 52-002-C SCHEDULE OF LANDSCAPE UNITS, 55-001-B. GENERAL FENCING REGULATIONS, 80-009-D MISCELLANEOUS NONCONFORMING USES AND 91-175 CONCRETE BATCH PLANT

A **MOTION** was made by Scott Sanders to **APPROVE** the Text Amendments as presented with the Modification to amend 51-007-A-8, subsection (b) to read "Each sandwich sign is limited to six (6) square feet **per side.**"

The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 6-0.

Text Amendments

The following text amendments for Articles:

TABLE 20-1 USE CLASSIFICATION TABLE
30-004-L. MANDATORY PLANNED UNIT DEVELOPMENTS
65-003-L. COMMUNITY GARDENS
65-003-M. URBAN FARMING
91-002 ACCESSORY USE
53-003-L. HOME BUSINESS
40-002-N. BEEKEEPING
91-176 COMMUNITY GARDEN
91-177 URBAN FARM
91-178 BEEKEEPING

Scott Capovilla presented the following proposed amendments.

The proposed text amendments deal with urban agricultural issues. These proposed changes require adjustments to specific subsections of the Zoning Ordinance as well as new terminology. They are listed as follows:

ARTICLE 91 GENERAL TERMS **91-176 COMMUNITY GARDEN**

Any piece of land gardened by a group of people, utilizing either individual or shared plots on private or public land in an urban area.

Review Comment: This provides a definition of a community garden as there is currently none in the ordinance.

There was no discussion by the Board.

91-177 URBAN FARM

Any piece of land gardened by an individual person or business, utilizing private plots of land where the growing of food is done for profit.

Review Comment: This provides a definition of an urban farm as there is currently none in the ordinance.

This became an issue when a particular vacant piece of land was rented out to individuals for profit farming. Numerous complaints were received by neighboring residents and it did not comply with the Ordinance. The individuals were allowed to finish the season for their crops and as a result of this situation the City felt this was an area we could look into.

Kim Johnsen stated she did not see any wording that would address farm animals and Mr. Capovilla stated he would discuss further on in his presentation.

91-178 BEEKEEPING

The rearing, breeding and maintenance of honey bee colonies, commonly in hives, by humans.

Review Comment: This provides a definition of beekeeping as there is currently none in the ordinance.

TABLE 20-1 USE CLASSIFICATION TABLE

Add “A” for Administrative Adjustment and list two new uses under the Category of OTHER-Agricultural, Crop. The uses will be listed as Community Garden and Urban Farming.

OTHER	R E	R- 1	R-1U	R- 2	R- 3	R-4	Use Standard	Parking Standard
Agriculture, Crop	P	-	-	-	-	-		50-003-F
-Community Garden	P	A	A	A	A	A		50-003-F
-Urban Farming	P	A	A	A	A	A		50-003-F

Section: Review Comment: This would establish an additional category “A” under uses. Currently, the ordinance lists P=Permitted Use; S= Special Use; PR=Performance Review; PUD= Planned Unit Development; - = Prohibited Use. A would then equal Administrative Adjustment and would be listed as shown in the chart above. Furthermore, the two uses, “Community Garden” and “Urban Farming” would be added under Agriculture, Crop. Currently, these uses are permitted in the Rural Estate Zoning District but this would then allow them to be approved in the other residential zoning districts subject to Article 65 Administrative Adjustment. After reviewing this amended table, Staff would recommend an additional text amendment be added to the list of requested action not originally addressed in this report for the following

20-004-J. ADMINISTRATIVE ADJUSTMENT. Uses identified with an “A” in Table 20-1 may be allowed if reviewed and approved in accordance with the administrative adjustment procedures of Section 65-003.

Review Comment: This would then correspond with the other sections listed under Section 20-004 “Uses” by identifying uses of “A” for Administrative Adjustment on Table 20-1 and the procedures required to review and approve the use.

This request would not require an application that would come before the Zoning Board of Appeals. A request for an Administrative Adjustment requires an application, we would notify adjacent neighbors of the proposal by mail giving them an opportunity for input and a Staff Report would be written. The decision would be made internally and would not come before the Zoning Board of Appeals. If a good criteria is established up front, and the applicant can meet that criteria, than the request would be allowed.

30-004-L. MANDATORY PLANNED UNIT DEVELOPMENTS

Urban Farms with a net site area of one (1) acre or more except in the RE District.

Review Comment: The proposal for an urban farm allows for the farming of smaller lots within the city subject to the standards for the administrative adjustment. This proposed section would require any site of one (1) acre or more within the City of Rockford to apply for a Special Use Permit for a Planned Unit Development to obtain approval for an urban farm.

This request would come before the Zoning Board of Appeals as a Planned Unit Development. The normal regulations would be followed: publication of request, posting of the property, adjacent properties would be notified, and a report would be compiled by Staff.

ARTICLE 65 ADMINISTRATIVE ADJUSTMENTS

65-003-L. COMMUNITY GARDENS

1. The Zoning Officer is authorized to approve in cooperation with the Alderman of the Ward, an administrative adjustment to allow community gardening in any Zoning District where the growing of crops is not specifically permitted.
2. Such an administrative adjustment may be approved only when the Zoning Officer determines that:
 - (a) The crops are used by the members of the community garden or for the incidental sale of crops. Money from the sale of crops to be reinvested into the community garden or in an affiliated not-for-profit entity.
 - (b) An acceptable site plan is submitted showing all improvements and materials for the garden allowing for the use of containers only as an approved element of the submitted plan.
 - (c) There be an established provision of removal of all garden elements upon termination of gardening activity.

Mr. Capovilla clarified that raised beds would not be considered containers.

Review Comment: Existing Community gardens are located on sites that were approved via prayer of the petitioner or were deemed permitted based on the zoning district in which they were located and currently are allowed as legally nonconforming. This would provide an administrative process in which additional community gardens can all be approved in the future. It would also provide Staff with a list of the gardens in the city so they can be monitored for tidiness and abiding by their site plan. Community gardens have become teaching tools for our youth and provide locally grown food for all the neighbors that assist in cultivating the site. Some community gardens even provide food to our local restaurants and food establishments.

65-003-M. URBAN FARMING

1. The Zoning Officer is authorized to approve in cooperation with the Alderman of the Ward, an administrative adjustment to allow urban farming on a private plot of land under one (1) acre in size in any Zoning District where the growing of crops is not specifically permitted.
2. Such an administrative adjustment may only be approved after the Zoning Officer determines that:
 - (a) The business plan and maintenance plan for the property is acceptable for the site.
 - (b) An acceptable site plan is submitted showing all improvements and materials for the garden excluding the use of containers.
 - (c) The site must comply with all other applicable regulations of the zoning district in which it is located.

Review Comment: The issue of urban farms has arisen the past couple of years locally and nationwide. The difference between an urban farm and a community garden is the product produced on urban farm site is being sold for profit and the urban farm is a business. This would establish an administrative procedure for the urban farmer to follow to obtain approval. The process requires a business plan, maintenance plan and a site plan. All

other applicable regulations of the zoning district in which it is located will apply. This may be a good way to reduce the number of vacant lots that the City mows and would provide good locally (even organic) grown food for other businesses such as our local restaurants.

There was no discussion by the Board.

91-002 ACCESORY USE

Beekeeping as permitted under Article 53.

Review Comment: This permits beekeeping as an accessory use only as a home business in residential areas.

53-003-L. HOME BUSINESS

Beekeeping subject to the regulations contained in Section 40-002-N.

Review Comment: This would allow beekeeping as a home business and subject to the proposed regulations listed in Section 40-002-N as proposed below.

40-002-N. BEEKEEPING

1. General Standards

(a) As used in this Section, the following words, terms and phrases shall have the meanings ascribed to them in this section:

- (1) "Apiary" shall mean a place where bee colonies are kept.
- (2) "Bee" shall mean any stage of the common domestic honey bee, *Apis Mellifera Species*.
- (3) "Colony" shall mean a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.
- (4) "Hive" shall mean a structure intended for the housing of a bee colony.

(b) Location & Setbacks. Beekeeping shall occur only in rear yards in the RE, R-1 and R-2 Zoning Districts. All hives must be setback a minimum ten (10) feet from the property line.

(c) Hives. All bee colonies shall be kept in inspectable-type hives with removable combs, which shall be kept in sound and usable condition.

(d) Annual Licensing. Anyone wishing to maintain honeybees must register hives with the Illinois Agriculture Department. A home occupation permit will not be issued until proof of state licensing is provided.

(e) Fencing, Gates, and Signage. All hives shall be enclosed by a fence with a secure gate and prominent signage warning of the presence of a hive. The sign shall not exceed two (2) square feet.

(f) Water. Owners are required to maintain a convenient and adequate source of onsite fresh water to prevent the bees from straying from the property in search of water. The water shall be maintained so as not to become stagnant.

(g) Maintenance. Each beekeeper shall ensure that no bee comb or other materials that might encourage theft are left upon the grounds of the apiary site. Upon their removal from the hive, all such materials shall promptly be disposed of in a sealed container or placed within a building or other bee-proof enclosure.

(h) Queens. In any instance in which a colony exhibits unusually aggressive characteristics by stinging or attempting to sting without due provocation, or exhibits an unusual disposition towards swarming in the opinion of the Zoning Officer, it shall be the duty of the beekeeper to re-queen the colony. Queens shall be selected from stock bred for gentleness and non-swarming characteristics.

(i) Colony Densities. Property owners are permitted to maintain up to (5) hives or colonies of honeybees on premise.

(j) Noncommercial use. No commercial use or retail sales of bees, honey comb or other bee products shall be permitted from any residential property with the exception of the sale of honey via a home occupation permit.

(k) Prohibited. The keeping by any person of bee colonies in the city not in compliance with this section is prohibited. Any bee colony not residing in a hive structure intended for beekeeping, or any swarm of bees, or any colony residing in a standard or man-made hive which, by virtue of its condition, has obviously been abandoned by the beekeeper, is unlawful.

(l) Violation; Fine. Any person violating the provisions of Section 40-002-N, shall be subject to a fine per Article 71 of the Zoning Ordinance.

Review Comment: City staff has had numerous inquiries on the keeping of bees within the city. Other communities in the State of Illinois have adopted ordinances that allow beekeeping. Each community has varying degrees of regulations so this section was drafted to tailor to the needs of our City. One of the key elements of this section is the requirement that beekeepers must obtain a license from the Illinois Agriculture Department before they can apply for a home business to operate. There has been a vast reduction in the honey bee population throughout the country. If the decline continues, it may be on the endangered species list in the not too distant future. Permitting the keeping of bees as a home occupation may help assist in boosting the population of this vital insect.

Mr. Capovilla stated this applies to Bee Keeping only – not the keeping of chickens, rabbits, pot-belly pigs, or any other animal deemed to be a farm animal. The Illinois Agriculture Department enforces regulations that apply to Bee Keeping which assists the City in governing their operation. Looking at how people maintain some of the farm animals in code violation cases we have looked at, the conditions under which these animals are kept are not benefiting the animal.

Staff has received numerous questions regarding beekeeping.

Alicia Neubauer asked if it would be possible under certain circumstances for the business to have a beekeeping business or business for profit under this code. Mr. Capovilla responded that it would, if the property were over an acre in size. By coming before the ZBA for a PUD for this use, conditions of approval can be added that would be a very essential tool to allow Staff to regulate beekeeping. She also asked if the City could look at allowing chickens. Mr. Sanders stated that the keeping of chickens is not part of the subject text amendment and could be brought up at a separate time. Ms. Neubauer stated she would like to consider this in the future. Scott Capovilla stated he had numerous amounts of information from different communities and would be happy to share that with her.

At this point, the floor was open to Objectors and Interested Parties.

Libby Parker was present and asked if a beekeeper who did not live in Rockford could bring his hives on a flowering lot under this text amendment. Mr. Capovilla deferred to Attorney Hammer. Attorney Hammer stated under the definition of beekeeping there is no time restraint or restriction for a beekeeping business. Mr. Capovilla stated if this is a situation where the person is in the City and registered as a

beekeeper under the Home Occupation, it may be something to consider. Mr. Capovilla stated we could possibly look at this on a case by case basis.

Jamie Balke was present and stated she totally supports the text amendments for urban gardening and beekeeping. She asked if a 6' tall fence had to be around the bee hives themselves, or could she enclose her yard with a 6' tall privacy fence rather than a fence just around the hives themselves. Mr. Capovilla stated an enclosed yard would comply.

Cyndie Hall, with Rockford Neighborhood Network. The Community Action Agency Human Service Department has funded community gardens for over 6 years now. They also work with teaching gardening throughout the community. They are compassionate with bringing neighborhoods together, teaching them how to grow food and all the skills that go with working together. A lot of their gardens have become self-sufficient. They have had strong success to the point where some have become self-sufficient and have grown larger over time. She feels there were a few issues that she wished to address. They strongly recommend raised beds in order to control the content of that soil. They like to use a special compost as well. A lot of these gardens start on a shoe string budget and containers are a good way to expand. They can grow tomatoes, peppers, etc. There are a lot of crops that can be grown in a small space. Their program has had a lot of success. Many of their gardens supply food to those in need. She suggested looking at lasagna gardening or hay bale gardening or other types of raised beds that are not considered containers. Ms. Hall stated that in 2014 almost 5,000 pounds of produce went to area pantries.

Alderman Linda McNeely, 13th Ward, stated she was pleased to see so many people come out in favor of beekeeping. She wished to speak on the subject of community gardens. She feels they are very popular and are needed as well. In speaking on Community Gardens, she would like to have the Board consider some items before this amendment comes before City Council. She did not see anywhere in the text that required application for urban farming or community gardens. There have been circumstances in her Ward where gardens were abandon and she had no way of contacting the responsible person. She believes both urban farming and community gardens should require an application. She is concerned with farming being close to retail and especially food establishments. She feels it is hard enough to get businesses within her Ward without having to compete with a community garden. Also, she would like to see the Code Officer contact the Alderman of the Ward prior to going out on complaints or concerns of urban farming so that the Alderman could be involved to make assessments along with the code officer. Ald. McNeely clarified that often the constituents contact the Alderman before they contact the code violation office and with this in mind the Alderman could provide valuable information on a particular site that was not presented to the Code Official. Regarding the definition of public land, Ald. McNeely stated this needs to be made more clear. She is not certain how public land is defined, or gardening is defined and she would also like to give consideration to fruit trees as well.

Dominic Romano was present and had a question regarding a distinction between social and non-social bees. Non-social bees do not form a colony and therefore are used for honey production. Others are for pollination. Regarding the keeping of farm animals, he understands Staff concerns with waste and noise issues and stated this situation is similar to someone with 6 dogs who does not clean up after them.

James DeVoe stated he has been doing community gardening since 2005 through the weed and seed program. He stated they produced approx. 700-800 pounds of produce that was fed back into the community. He agreed that a permit and a plan should be required for community gardens. He stated one of the problems on the west side is that there are a lot of "nomads" who do not stay in a community very long as compared to some communities that have stable residents. He has had instances where they start out with several individuals and the next year people are gone and it becomes up to a few individuals to tend the garden. He works with the University of Illinois Master Gardens and they have a year round program. Mr. DeVoe works with a couple of other gardens as well. Mr. DeVoe spoke of one young man who would go around to senior citizens and take orders for garden produce. He explained they have a lot of children whom they educate in gardening as well as learning about birds from the bird feeders that are set up in some gardens. During the winter months there is a curriculum that pertains to everything about a plant, from the planting to growth. Mr. DeVoe stated that the children love it and it is a

source that would be very beneficial to the communities. He explained there are some items that need to be in a container, such as mint and certain herbs, because they actually will take over the box. He agrees with Ald. McNeely that a plan needs to be presented to insure that there will be adequate amount of people to maintain the garden year after year.

Byron Nielson stated he does not live in Rockford, but he is a beekeeper by hobby. He lives in a Rural area north of Rockton. Mr. Nielson explained that the State of Illinois heavily regulates beekeeping. They have inspectors and the hives can be inspected at any time. He did not understand the reasoning for a six foot high fence and says it is an added expense for the beekeeper. Mr. Nielson has six full hives in his yard in a subdivision and does not know of anyone who has been stung by his bees. He stated two colonies are very difficult to manage and keep alive. He feels the limitation of two hives are not practical for a bee hobbyist because they will not survive very long. He stated in general bees are very gentle. He felt signage is a good idea so that people are aware the hives are there so they will not be involved with them. Mr. Nielson asked if the zoning officer would have training in beekeeping or would they work with the State bee inspectors. Mr. Capovilla responded they would have State bee inspectors should there be any complaints or concerns. He stated swarming behavior is not something that we should be concerned with as this is the way they propagate and look for a new hive. Scott Saunders asked his recommendation of the number of hives allowed. Mr. Nielson stated 5 or 6 hives would be maximum. He stated bee populations will expand and contract. Mr. Nielson said his hives get inspected maybe once a year or less. They look for diseased colonies, the condition of hives, etc.

Roberta Mihai stated every day when she goes grocery shopping she sends money to California and Mexico. She has no negative feelings for those areas, but would like to see her money staying in Rockford. She has a small garden in her yard. She stated she and her husband calculated the following figures to indicate the affect farming can have on the community: 1 acre corn will provide \$7,280 to a community; 1 acre soy, \$9,386; 1 acre of tomatoes, \$60,000. Ms. Mihai stated she helps people stay healthy and asked if we wanted to keep people here and stay healthy.

Andrew Stewart stated that not being allowed to sell honey, would not be unprofitable. He discussed bee keeping on rooftops, stating wind is a factor that needs to be taken into consideration. He stated he sees an emergent trend, asking what are we going to allow our public to do? asking if we were going to take ownership over our community to create more individual sovereignty. Mr. Stewart feels we need to put infrastructure and planning and cooperation behind in taking ownership of our food security as a community.

Catherine Marsh stated she has been involved for the past four years in a community garden with her church - 100 raised beds. Last year they produced over 6,000 pounds of food. She stated the fabulous thing about community gardening is that it brings all ages together. She asked about structures on the lot. Mr. Capovilla stated accessory structures are not allowed as a use on a vacant lot. Asked if NiCor Gas would be accountable for gravel on their property as well to which Mr. Capovilla stated they would.

Alderman McNeely asked if she, Mr. Capovilla and the Board could have another discussion on adding her concerns to the suggested text amendment. Scott Saunders stated the board will discuss all suggestions presented and they could vote either way – to include those items or not. Mr. Capovilla stated in the Administrative Adjustment process, they do notify the Alderman of the Ward. Attorney Hammer stated if the Board wished to amend Article 65-003 L Community Gardens subsection C they do have that option. Mr. Capovilla stated they have a week to work with Alderman McNeely to prepare language before it is presented to the Codes & Regulations Committee.

Mr. Capovilla thank the audience on behalf of the City for their strong showing and participation and assured them that their input was welcome.

Mr. Roszkowski stated he would like to address the 6 foot fence requirement and the limitation of 2 hives. Mr. Capovilla stated that would be up to the Board; but that their recommendation was arrived at by comparing information from other communities. The Board felt a 4 foot fence was adequate.

RECOMMENDATION: Staff recommends **APPROVAL** of the following text amendments for Articles: TABLE 20-1 USE CLASSIFICATION TABLE, 30-004-L. MANDATORY PLANNED UNIT DEVELOPMENTS, 65-003-L. COMMUNITY GARDENS, 65-003-M. URBAN FARMING, 91-002 ACCESSORY USE, 53-003-L. HOME BUSINESS, 40-002-N. BEEKEEPING, 91-176 COMMUNITY GARDEN, 91-177 URBAN FARM and 91-178 BEEKEEPING. Furthermore, Staff recommends the addition of 20-004-J. ADMINISTRATIVE ADJUSTMENT.

A **MOTION** was made by Scott Sanders to **APPROVE** the Text Amendments with the following modifications: (modification in red)

65-003-L Section 1. The Zoning Officer is authorized to approve in cooperation with the Alderman of the ward an administrative adjustment to allow community gardening in a zoning district where the growing of crops is not specifically permitted.;

65-003-L Section 2 Subsection (a): Money from the sale of crops to be reinvested into the community garden or in an affiliated not for profit entity;

65-003- L Section 2 Subsection (b) an acceptable site plan is submitted showing all improvements and materials for the garden allowing for the use of containers only as an approved element of the submitted plan;

65-003-L Section 2 Add Subsection (c) There be an established provision of removal of all garden elements upon termination of gardening activity.

65-003-M Section 1 to add "The zoning officer is authorized to approve in cooperation with the Alderman of the Ward an administrative adjustment to allow urban farming on a private plot of land under one (1) acre in size in any Zoning District where the growing of crops is not specifically permitted".

40-002-N Section 1 Subsection (e): All hives shall be enclosed by a fence with a secure gate and prominent signage warning of the presence of a hive. The sign shall not exceed two (2) square feet.

40-002-N Subsection (i): Property owners are permitted to maintain up to five (5) hives or colonies of honeybees on premise..

The Motion was **SECONDED** by Kim Johnsen and **CARRIED** by a vote of 6-0.

With no further business to come before the Board, the meeting was adjourned at: 7:52 PM

Respectfully submitted,
Sandra A. Hawthorne, Administrative Assistant
Zoning Board of Appeals