

## DRAFT STAFF REPORT

DOCKET # UDO-246

STAFF: [Glenn Simmons](#)

### REQUEST

This text amendment is proposed by City-County Planning and Development Services staff to amend Chapter A of the *Unified Development Ordinances* to correct existing definitions for the two UDO Use Classifications “Agricultural Production, Crop” and “Agricultural Production, Livestock.” Both uses are currently allowed within the City of Winston-Salem’s zoning jurisdiction.

### BACKGROUND

With the increased interest in local food production and availability, the Planning and Development Services staff has become aware of a technical contradiction in the UDO which needs to be corrected. Specifically, the two UDO Use Classifications of “Agricultural Production, Crop” and “Agricultural Production, Livestock,” are currently permitted within certain zoning districts within the City of Winston-Salem (with Zoning Board of Adjustment approval), but *only* if certified by the State as a “bona fide farm.” However, according to State enabling legislation and as defined in the UDO, the term “bona fide farm” and attendant State sanctioned zoning permit exemptions and other privileges applies only to County zoning jurisdictions and is not similarly authorized within an incorporated municipality having its own municipal zoning authority. Therefore, the purpose of this ordinance amendment is to substitute the term “bona fide farm,” which applies only to County zoning jurisdictions, with comparable language in order for these two agricultural uses to be properly permitted and enforced within the City’s jurisdiction. It’s important to note that this technical correction is not intended to change the current Zoning Board of Adjustment review authority or broaden the existing scope or intensity of the two use classifications.

### ANALYSIS

In recent years there has been much discussion about the economic and health benefits of local food production and the availability of locally fresh produce and animal products. It’s important to note that the simple growing of agricultural crops as a small-scale *accessory use* is currently permitted in *all* zoning districts regardless of whether such gardens are located within City or County zoning jurisdictions. In this regard it’s not uncommon to find vegetable gardens as an accessory use in a variety of residential and institutional settings. As an accessory use, the UDO also permits the sale of such produce grown *on site* irrespective whether it’s in the City or County. Similarly, recent changes to the City Code provide for the keeping of certain farm animals on a limited, small-scale basis. However, agricultural or livestock production rising to the scale of a commercial business, or as a principal land use is permitted *only* in certain larger-lot residential zoning districts and *only* with Zoning Board of Adjustment (ZBOA) approval.

Currently the City permits commercial farming operations under the UDO use classification “Agricultural Production, Crop” in YR, AG, RS-40, RS-30, and RS-15 zoning districts. The City also permits the use “Agricultural Production, Livestock,” but only in the AG zoning district. Both uses require ZBOA approval. The problem is that UDO definitions for both uses require

certification as a bona fide farm which is applicable *only* within the County zoning jurisdiction as prescribed under the State’s County enabling legislation (G.S. 153A). Therefore, some substitute but comparable ordinance language is needed in order for these two agricultural uses to be properly permitted and enforced within the City.

Although neither of these two agricultural uses have been approved or requested within the City since the UDO adoption in 1995, the potential exists for there to be an administrative conflict if either use were to be requested under the current ordinance language. Especially given the growing interest in urban agriculture, it is the opinion of staff that this contradiction needs to be rectified before a problem crops up in the future.

Specifically, this UDO definitions amendment recommends substituting the phrase as indicated in the underlined language below in lieu of the stricken term “bona fide farm:”

**AGRICULTURAL PRODUCTION, CROP (W).** The use of land for the primary purpose of raising and harvesting row, field, or tree crops on a commercial basis on a ~~bona fide farm~~ tract of land consisting of a minimum of three (3) acres. The growing and sale of agricultural crops on the premises shall not constitute agricultural crop production.

**AGRICULTURAL PRODUCTION, LIVESTOCK (W).** The use of land for the primary purpose of raising animals or producing animal products, such as eggs or dairy products, on a commercial basis on a ~~bona fide farm~~ tract of land consisting of a minimum of three (3) acres, including grazing ranching, and dairy farming.

For context, staff notes that there is no acreage minimum under the *State’s* current criteria for bona fide farm. However, the *UDO* defines bona fide farm with the additional requirement of a three acre minimum size requirement. Therefore for the purposes of maintaining consistency with the original intent of the subject uses, staff recommends keeping the minimum three acre requirement for the application in the City.

It should also be noted under the proceedings of the City Zoning Board of Adjustment, that the required findings of fact are the criteria by which the ZBOA approves or denies a request. Staff proposes no changes to the current ZBOA review authority. In summary, the purpose of this UDO amendment is to effect a technical correction in terminology and is not intended to change the intensity, allowable zoning districts, or review authority of these two uses currently permitted within the City.

## **RECOMMENDATION**

### **APPROVAL**

**DRAFT UDO-246**  
**AN ORDINANCE REVISING**  
**CHAPTER A OF THE *UNIFIED DEVELOPMENT ORDINANCES***  
**TO AMEND DEFINITIONS FOR THE USE CLASSIFICATIONS “AGRICULTURAL**  
**PRODUCTION, CROP” AND “AGRICULTURAL PRODUCTION, LIVESTOCK”**

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Chapter A, Article II of the *UDO* is amended as follows:

## **Chapter A - Definitions Ordinance**

### **Article II – Definitions**

**AGRICULTURAL PRODUCTION, CROP (W).** The use of land for the primary purpose of raising and harvesting row, field, or tree crops on a commercial basis on a ~~bona fide farm~~ tract of land consisting of a minimum of three (3) acres. The growing and sale of agricultural crops on the premises shall not constitute agricultural crop production.

**AGRICULTURAL PRODUCTION, LIVESTOCK (W).** The use of land for the primary purpose of raising animals or producing animal products, such as eggs or dairy products, on a commercial basis on a ~~bona fide farm~~ tract of land consisting of a minimum of three (3) acres, including grazing ranching, and dairy farming.

**AGRICULTURAL PRODUCTION, CROP (F).** The use of land for the primary purpose of raising and harvesting row, field, or tree crops on a commercial basis on a bona fide farm. The growing and sale of agricultural crops on the premises shall not constitute agricultural crop production.

**AGRICULTURAL PRODUCTION, LIVESTOCK (F).** The use of land for the primary purpose of raising animals or producing animal products, such as eggs or dairy products, on a commercial basis on a bona fide farm, including grazing ranching, and dairy farming.

**Section 2.** This ordinance shall be effective upon adoption.