

COMMISSIONERS' ORDINANCE NO. 0-04-19

AN ORDINANCE APPROVING TEXT AMENDMENTS TO THE OFFICIAL ZONING ORDINANCE OF THE CITY OF COVINGTON, KENTUCKY, (O-37-06): (i) AMENDING § 6.33 TO ESTABLISH MARKET GARDENS AS A USE; (ii) AMENDING § 2.02.05 TO AUTHORIZE MARKET GARDEN AS A CONDITIONAL USE IN RESIDENTIAL ZONES; AND (iii) AMENDING § 4.07.07 TO AUTHORIZE MARKET GARDENS AS A CONDITIONAL USE IN THE LGD-LINDEN GATEWAY ZONE.

* * * *

WHEREAS, the City of Covington submitted an application requesting the Kenton County Planning Commission to review and make recommendations on text amendments to the official Zoning Ordinance of the City of Covington, Kentucky (O-37-06) regarding the creation of a Market Garden use in certain zones; and

WHEREAS, the Kenton County Commission held a public hearing on the application on January 10, 2019, wherein a favorable recommendation of the proposed text amendments was reached; and

WHEREAS, the Board of Commissioners, having reviewed the Statement of Recommendation, the evidence, presented, and the record made before the Kenton County Planning Commission, finds that the proposed changes are in compliance with the City's Comprehensive Plan, and agrees with the recommendation to amend the zoning text as indicated in the caption of this ordinance.

NOW THEREFORE,
BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

Section 16.02.08 of the Covington Code of Ordinances is hereby amended to read as follows:

16.02.08 Other Use Group

A. Marine-Related Use

Uses, facilities, and activities that can only be conducted in or abutting water. Examples include temporary passenger watercraft loading, boat-docking facilities and barge-docking and -loading facilities.

B. Parking, Non-accessory

Facilities that provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Non-accessory Parking use.

C. Signs, Advertising

A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered:

1. only elsewhere than on the premises where such sign is located or to which it is affixed; or
2. as a minor and incidental activity on the premises where the sign is located.

D. Agriculture

Pursuant to KRS 100.111 "agriculture" means:

1. The use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the agricultural use on the tract, but not including residential building development for sale or lease to the public.
2. Regardless of the size of the tract of land used, this use also includes small wineries licensed under KRS 243.155 and farm wineries licensed under the provisions of KRS 243.156.
3. A tract of at least five contiguous acres used for the following activities involving horses:
 - (a) riding lessons;
 - (b) rides;
 - (c) training;
 - (d) projects for educational purposes;
 - (e) boarding and related care; or
 - (f) shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or fewer participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants is subject to local zoning regulations.
4. Any tract of land used for the following activities involving horses, provided that this paragraph only applies to acreage that was being used for these activities before July 13, 2004:
 - (a) riding lessons;
 - (b) rides;
 - (c) training;

- (d) projects for educational purposes;
- (e) boarding and related care; or
- (f) shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving 70 or fewer participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than 70 participants is subject to applicable zoning regulations.

E. Community Gardens

A site operated and maintained by an individual or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for the following uses: personal use, consumption, donation or off-site sale of items grown on the site. Community gardens may include common areas maintained and used by group members.

F. Market Gardens

A site operated and maintained by an individual or group to cultivate trees, herbs, fruits, vegetables, flowers, or other ornamental foliage for the following uses: personal use, consumption, donation or sale of items grown on the site.

Section 2

Section 6.33 of the Covington Code of Ordinances is hereby amended to read as follows:

§ 6.33 COMMUNITY AND MARKET GARDENS.

6.33.01 Community gardens uses, where allowed, are subject to the following standards:

- A. No sale of items grown or any other items may take place on-site.
- B. In order to privatize or sell plots of the garden the property owner must obtain a valid occupational license permit.
- C. Two accessory structures, limited to tool sheds, shade pavilions, plant preparation houses, greenhouses, and other structures that relate to the principal use of a community garden with authorization from the Zoning Administrator, is permitted and is subject to regulations of § 6.02.
- D. Fences shall not exceed six feet in height, shall be at least 50% open if they are taller than four feet, and shall be constructed of wood or ornamental metal.

§ 6.33.02 Market garden uses, where allowed, are subject to the following standards:

- A. All structures associated with the market garden operation, including greenhouses, hoop houses and high tunnels, located on the site shall comply with the location requirements of the underlying zone regulations, but shall not take up more than 60 percent of the lot, and be no more than 15 feet in height. For purposes of open space, areas of the site devoted to garden use and not enclosed in a structure shall be included in the calculation of required yards. Trellises, raised beds, and frames used to assist in the growing of plants and shrubs shall not be considered as structures within the meaning of this section.
- B. Composting shall be limited to plant materials generated on the site, and plant-based food waste and non-vegetative materials such as wood chips, pre-composted materials or soil to enhance these plant materials. Compost piles shall be set back at least 10 feet from all property lines and shall be covered or enclosed to prevent migration of compost materials due to wind, slope or water-based erosion. Compost piles shall not exceed 5 feet in height, and compost piles within 3 feet of any building entry shall not exceed 3.5 feet in height. The amount of compost materials on site at any given time shall not exceed 20 cubic yards.
- C. Water for purposes of maintaining the garden and for dust suppression shall be available on the site, either in the form of a water collection system or an on-site or off-site connection to the local water service.
- D. Market gardens shall be operated so as not to create a nuisance condition for adjacent properties due to vibration or odor. Dust and noise shall be managed consistent with state law and local ordinance, and visible fugitive dust crossing property lines shall be corrected by sprinkling with water. The premises shall be kept free of debris at all times.
- E. Market gardens shall only be permitted to be open to the public during the hours of 8 am and 8 pm. Gardening activities conducted outside of the hours of 8 am to 8 pm shall be conducted in a manner that do not constitute a nuisance.
- F. Fences shall not exceed six feet in height, shall be at least 50% open if they are taller than four feet, and shall be constructed of wood, wood-wire combination, or ornamental metal.

Section 3

Section 2.02.05 "Use Table" of the Covington Code of Ordinances, Zoning Ordinance (O-37-06), is hereby amended to read as follows:

Use Category (Defined in Article 16)	RR	RS	RU	RU	RU	RU	RU	RU	RU	Use-Specific
	40	20	5	3.5	2	2A	2B	1	0.5	
Specific Use Type		12.5								Standards
		7.5								

2.02.05 Use Table

RESIDENTIAL

Household Living

Detached (single-family) Houses	P	P	P	P	P	P	P	P	P	
Lot Line (single-family) Houses	-	-	P	P	P	P	P	P	P	§2.03.02
Attached (single-family) Houses	-	-	P	P	P	P	P	P	P	§2.03.03
Two-unit (two-family) Buildings	-	-	-	C	-	P	P	P	P	
Multi-unit (multi-family) Buildings	-	-	-	-	-	C	P	P	P	§Section 6.32
Qualified Manufactured Housing Units	P	P	P	P	P	P	P	P	P	§Section 6.22

Group Living

Residential care facility	P	P	P	P	P	P	P	P	P	
Nursing home	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	
Youth shelter	C	C	C	C	C	C	C	C	C	§Section 6.13

PUBLIC AND CIVIC

Cultural Exhibits and Libraries	C	C	C	C	C	C	C	C	C	
Day Care										
Babysitting or Family Day Care Home	P	P	P	P	P	P	P	P	P	
Day Care, Type 1/Type 2	C	C	C	C	C	C	C	C	C	§Section 6.07
Hospital	-	-	C	-	C	C	-	-	-	§section 6.14
Lodge or Private Club	-	-	-	-	-	-	-	C	C	
Recreation and Open Space	C	C	C	C	C	C	C	C	C	
Low-Intensity	P	P	P	P	P	P	P	P	P	
High-Intensity	C	C	C	C	C	C	C	C	C	
Religious Assembly	C	C	C	C	C	C	C	C	C	
Safety Services	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	
Schools	C	C	C	C	C	C	C	C	C	
Utilities										
Essential services	P	P	P	P	P	P	P	P	P	
Major	C	C	C	C	C	C	C	C	C	

COMMERCIAL

Artist Studios						P	P	P	P	
Funeral and Internment Services										
Cemetery	P	C	C	C	C	C	C	C	C	
Funeral home (undertaking)	-	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	C[1]	
Lodging										
Bed and Breakfast	-	-	C	C	C	C	C	-	-	§Section 6.04

Neighborhood Retail Sales and Service	-	-	P	P	P	P	P	P	P	§Section 6.20
Office (no medical or dental offices/clinics)	-	-	C	C	C	C	C	C	C	
Reuse of Historic Commercial Structure	C	C	C	C	C	C	C	C	C	§14.05.06, E.
Use Category (Defined in Article 16)	RR	RS	RU	RU	RI	RU	RU	RU	RU	Use-Specific
Specific Use Type	40	20	5	3.5	2	2A	2B	1	0.5	Standards
		12.5	7.5							

OTHER										
Community Garden	P	P	P	P	P	P	P	P	P	§Section 6.33
<u>Market Garden</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>§Section 6.33</u>
Neighborhood parking lot	-	-	P	P	P	P	P	P	P	
Greenhouse or nursery	P	-	-	-	-	-	-	-	-	
Roadside stand	P	-	-	-	-	-	-	-	-	
Stable or riding academy	P	-	-	-	-	-	-	-	-	§Section 6.27

[1] Allowed only on lots adjacent to an arterial street.

Section 4

Section 4.07.07(C) "Use Table", of the Covington Code of Ordinances, Zoning Ordinance (O-37-06), is hereby amended to read as follows:

C. Permitted Uses and Building Forms Table:

USE GROUP Use Category Specific Use Type	Subdistricts					Use-Specific Standards	Permitted Building Forms				
	1	2	3	4	5		Subdistrl				
	P = permitted by right		C = conditional		-- = not permitted		1	2	3	4	5
RESIDENTIAL											
Household Living											
Detached single-family dwelling unit	--	--	--	--	P		--	--	--	--	DSF
Lot line single-family dwelling unit	--	--	--	--	P	§2.03.0	--	--	--	--	DSF
Attached single-family dwelling unit	--	--	P	P	P	§2.03.0	--	--	ASF	ASF	ASF
Two-family dwelling unit	--	--	P	P	P		--	--	2F	2F	2F
Multi-family dwelling unit	--	--	P	P	P		--	--	MF	MF	MF
Dwellings in mixed use buildings	P	P	P	P	P		MU	MU	MU	MU	MU
Group Living											
Residential care facility	P	P	P	P	P		MF, MU	MU	ASF, 2F, MF, MU	ASF, 2F, MF, MU	DSF, ASF, 2F, MF, MU
Nursing home	P	P	P	--	--		MF	MF	MF	--	--
PUBLIC AND CIVIC											
Colleges and universities	C	C	--	--	--		P&C	P&C	--	--	--
Cultural exhibits and Libraries	P	P	P	P	P		P&C, COM	P&C, COM	MU	MU	MU
Day care											
Babysitting or family day care home	--	--	P	P	P		--	--	ASF, 2F, MF, MU	ASF, 2F, MF, MU	DSF, ASF, 2F, MF, MU
Day care, Type 1/Type 2	P	P	--	--	--	§6.07	P&C, COM	P&C, COM	--	--	--
Hospital	P	P	--	--	--		P&C, COM	P&C, COM	--	--	--
Lodge or private club	--	--	C	C	C		--	--	MU	MU	MU
Postal Service	P	P	P	P	P		P&C, COM	P&C, COM	MU	MU	MU
Recreation and open space											
Low-intensity	P	P	P	P	P		REC	REC	REC	REC	REC
Religious assembly	P	P	P	P	P		P&C	P&C	P&C	P&C	P&C
Safety services	C	C	C	C	C		P&C	P&C	P&C	P&C	P&C
Schools	C	C	--	--	--		P&C	P&C	--	--	--
COMMERCIAL											
Animal services											
Sales and grooming	--	--	P	P	P	§6.03	--	--	MU	MU	MU
Veterinary hospitals	--	--	P	P	P		--	--	MU	MU	MU
Artist galleries and studios	P	P	P	P	P		P&C, COM	P&C, COM	MU	MU	MU
Building maintenance services											
Indoor	P	P	P	P	P		COM, MU	COM, MU	MU	MU	MU
Business equipment sales and service	P	P	P	P	P		COM, MU	COM, MU	MU	MU	MU
Business support services											
Day laborer employment	--	--	--	--	--		--	--	--	--	--
Other (not specifically listed above)	P	P	P	P	P		COM, MU	COM, MU	MU	MU	MU
Communication service establishment	P	P	P	P	P		COM, MU	COM, MU	MU	MU	MU
Repair or laundry service, consumer											
Laundromat	--	--	P	P	P		--	--	MU	MU	MU
Other (not specifically listed above)	--	--	P	P	P		--	--	MU	MU	MU
Eating/drinking establishments											
Microbrewery	P	P	P	P	P	§6.28	--	--	MU	MU	MU
Restaurant with or without beer, wine, or alcohol	P	P	P	P	P	§6.28	--	--	MU	MU	MU
Tavern	P	P	P	P	P	§6.28	--	--	MU	MU	MU
Entertainment											
Small	P	P	P	P	P		COM	COM	COM	COM	COM

USE GROUP Use Category	Subdistricts					Use-Specific Standards	Permitted Building Forms [1]				
	1	2	3	4	5		Subdistricts				
Specific Use Type	1	2	3	4	5		1	2	3	4	5
P = permitted by right C = conditional use -- = not permitted											
Financial services											
Currency exchange (check cashing)	-	-	-	-	-		-	-	-	-	-
Payday loan	-	-	-	-	-		-	-	-	-	-
Pawn shop	-	-	-	-	-		-	-	-	-	-
Tax preparation service	-	-	P	P	P	\$6.10	-	-	MU	MU	MU
Other (not specifically listed above)	P	P	P	P	P		COM	COM	MU	MU	MU
Food and beverage sales, retail											
Wine store	-	-	P	P	P	\$4.07.07, D.	-	-	MU	MU	MU
Other (not specifically listed above)	-	-	P	P	P	\$4.07.07, D	COM, MU, REC	COM, MU, REC	MU, REC	MU, REC	MU, REC
Funeral and interment services											
Funeral home (undertaking)	-	-	-	-	C		-	-	-	-	DSF
Lodging											
Bed and breakfast	-	-	P	P	P	\$6.04	-	-	DSF	DSF	DSF
Medical Service	P	P	P	P	P		P&C, COM, MU	P&C, COM, MU	MU	MU	DSF, ASF, 2F, MU
Neighborhood retail sales and service	P	P	P	P	P	\$6.20					
Office	P	P	P	P	P		P&C, COM, MU	P&C, COM, MU	MU	MU	DSF, ASF, 2F, MU
Personal improvement service	P	P	P	P	P		-	-	MU	MU	MU
Retail sales and service											
Antique shop	-	-	P	P	P		-	-	MU	MU	MU
Flea market	-	-	-	-	-		-	-	-	-	-
Furniture rental, consumer	-	-	-	-	-		-	-	-	-	-
Secondhand store	-	-	-	-	-		-	-	-	-	-
Vintage clothing store	-	-	P	P	P		-	-	MU	MU	MU
Other (not specifically listed above)	P	P	P	P	P		COM, MU	COM, MU	MU	MU	MU
Reuse of historic commercial structures	C	C	C	C	C	\$14.05.06, E.	COM, MU	COM, MU	COM, MU	COM, MU	COM, MU
OTHER											
Neighborhood parking lot	P	P	P	P	P	\$4.07.07, D.	PARKING	PARKING	PARKING	PARKING	PARKING
Parking, non-accessory	P	P	P	P	P	\$4.07.07, D.	PARKING	PARKING	PARKING	PARKING	PARKING
Community Garden	P	P	P	P	P	\$6.33	-	-	-	-	-
Market Garden	C	C	C	C	C	\$6.33	-	-	-	-	-

Meeting Date: 2-26-19					
ORD.: 1ST 2-12-19		2ND 2-26-19			
OR:					
	Bowman	2 Downing	Smith	1 Williams	Meyer
Yeas	✓	✓	✓	✓	✓
Nays					
Present, not Voting					