Agenda – Council – March 25, 2021

Report – Executive Policy Committee – March 17, 2021

Item No. 20 Text Amendment – Winnipeg Zoning By-law No. 200/2006 and Downtown Zoning By-law No. 100/2004
File DAZ 210/2020

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That amendments to the Winnipeg Zoning By-law No. 200/2006 and the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending by-law is attached as Appendix A to this report) which will permit outdoor and indoor urban agriculture as permitted principal uses in certain zoning districts, and as conditional uses in other zoning districts, and would also permit accessory on-site sales in certain zoning districts, be enacted.

2. That in order to further fulfil the intent of the Winnipeg Food Council's report titled "Supporting Commercial Agriculture Uses in Winnipeg", the Public Service be directed to propose future additional policy changes related to the use of public lands to grow produce.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – March 17, 2021

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 17, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 15, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee.

PUBLIC HEARING SUMMARY

File: DAZ 210/2020

Before: Standing Policy Committee on Property and Development, Heritage and Downtown Development
Councillor Gilroy, Chairperson
Councillor Klein
Councillor Lukes
Councillor Santos

Public Hearing: March 15, 2021
Council Building, 510 Main Street

Applicant: The City of Winnipeg
(Director of Planning, Property and Development)

Subject:



APPLICANT: CITY OF WINNIPEG
FILE: DAZ 210/2020
PROPOSAL: Proposed amendments to Winnipeg Zoning By-Law No. 200/2006 and Downtown Zoning By-law 100/2004 to enhance urban agriculture ·opportunities throughout Winnipeg.
Key amendments include:
- Two new use definitions ("Urban Agriculture, Outdoor" and "Urban Agriculture, Indoor").
- Allowing Outdoor Urban Agriculture as a Permitted Principal use in most areas of Winnipeg, and as a Conditional Use in some Industrial zoning districts.
- Allowing Indoor Urban Agriculture in Industrial zoning districts, most Commercial districts, agricultural areas, and some parks as a Permitted or Conditional use.
- New regulations related to what can be grown on-site; where on-site sales may be permitted; dimensional requirements for structures; packaging and sorting; outdoor storage; and limiting potential nuisances. **For information, phone K. Kliewer, Planner at 204-986-8635.**

DEMANDEUR : VILLE DE WINNIPEG
N° DE DOSSIER : DAZ 210/2020
PROJET : Modifications proposées au Winnipeg Zoning By-law No. 200/2006 (règlement municipal sur le zonage de Winnipeg) et au Downtown Winnipeg Zoning By-law No. 100/2004 (règlement municipal sur le zonage du centre-ville de Winnipeg) visant à améliorer les possibilités d'agriculture urbaine dans tout Winnipeg.
Les modifications comprennent notamment ce qui suit :
- Deux nouvelles définitions en matière d'utilisation (« Agriculture urbaine, à l'extérieur » et « Agriculture urbaine, à l'intérieur »)
- Permettre l'agriculture urbaine extérieure à titre d'utilisation principale autorisée dans la plupart des secteurs de Winnipeg, et à titre d'utilisation conditionnelle dans certains secteurs de zonage industriels
- Permettre l'agriculture urbaine intérieure dans les secteurs de zonage industriels, la plupart des secteurs commerciaux, les secteurs agricoles et certains parcs à titre d'utilisation autorisée ou conditionnelle
- De nouvelles règles concernant ce qui peut être cultivé sur place, les endroits où les ventes sur place sont autorisées, les exigences dimensionnelles liées aux structures, l'emballage et le tri, l'entreposage à l'extérieur et la réduction des nuisances éventuelles

Pour plus de renseignements, veuillez communiquer avec K. Kliewer, urbaniste, au 204-986-8602.

RE:	Text Amendment – Winnipeg Zoning By-law No. 200/2006 and Downtown Zoning By-law No. 100/2004
For submission to:	Executive Policy Committee
Prepared by:	K. McMillan, Senior Committee Clerk Standing Policy Committee on Property and Development, Heritage and Downtown Development
Report date:	March 16, 2021

Standing Committee Recommendation:

On March 15, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and recommended to the Executive Policy Committee:

1. That amendments to the Winnipeg Zoning By-law No. 200/2006 and the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending by-law is attached as Appendix A to this report) which will permit outdoor and indoor urban agriculture as permitted principal uses in certain zoning districts, and as conditional uses in other zoning districts, and would also permit accessory on-site sales in certain zoning districts, be enacted.

2. That in order to further fulfil the intent of the Winnipeg Food Council's report titled "Supporting Commercial Agriculture Uses in Winnipeg", the Public Service be directed to propose future additional policy changes related to the use of public lands to grow produce.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

The Standing Policy Committee on Property and Development, Heritage and Downtown Development provided the following supporting reason for its recommendation:

1. I'm moving it along for a number of reasons, primarily food security, urban gardening, Paris accord targets, food deserts and all of the reasons that the presenters put forward I think that by developing additional policy changes that's where we'll see those little details ironed out. Commending Councillor Mayes for his work on the Food Council and Councillor Schreyer too.

Exhibits Filed:

1. Application dated December 23, 2020
2. Notification of Public Hearing dated February 25, 2021
3. Report from the Urban Planning Division dated February 8, 2021
4. Communication dated March 1, 2021, in support of the application submitted by Paul Bell, Community Planner, Red River Planning District
5. Communication dated March 12, 2021 in support of the application submitted by Ian Robson, on behalf of National Farmers Union in Manitoba (Region 5)

REPRESENTATIONS:

In Support:

Councillor Allard
Councillor Mayes
Paul Bell
Rod Kueneman
Louise May
Colin Rémillard
Ian Robson

In Opposition:

Nil

For Information:

Nil

For the City:

K. Kliewer, Planner, Planning, Property and Development Department
J. Kiernan, Director, Planning, Property and Development Department

Exhibit "3" referred to in File DAZ 210/2020

ADMINISTRATIVE REPORT

Title: Winnipeg Zoning By-law 200/2006 and the Downtown Zoning By-law No. 100/2004 to Enhance Urban Agriculture

Critical Path: Standing Policy Committee on Property & Development, Heritage and Downtown Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Jopling	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On May 21, 2020, the Standing Policy Committee on Property and Development, Heritage, and Downtown Development ("SPC") directed the Public Service to prepare amendments to both of the City's zoning by-laws to enhance urban agriculture opportunities in Winnipeg.

The zoning by-law changes are based on policy outcomes of a Winnipeg Food Council's report titled "Supporting Commercial Agriculture Uses in Winnipeg" (approved by Council on September 20, 2018). The proposed changes enable indoor and outdoor urban agriculture in more areas throughout the city, and address commercial sales of produce.

SPC further directed that the amendments be prepared in time for the 2021 gardening season. The proposed amendments to the Winnipeg Zoning By-law No. 200/2006 and the Downtown Zoning By-law No. 100/2004 (Appendix A of this report) will allow outdoor and indoor urban agriculture in additional zoning districts throughout the city.

This report is being submitted for the public hearing related to these proposed amendments. The public hearing was advertised on February 25 in the *Winnipeg Free Press* and *Winnipeg Sun*.

The proposed amendments also introduce use specific standards associated with establishing and operating outdoor and indoor urban agriculture.

RECOMMENDATIONS

1. That Council enact amendments to the Winnipeg Zoning By-law No. 200/2006 and the Downtown Winnipeg Zoning By-law No. 100/2004 (draft amending by-law is attached as Appendix A to this report) which will permit outdoor and indoor urban agriculture as

permitted principal uses in certain zoning districts, and as conditional uses in other zoning districts, and would also permit accessory on-site sales in certain zoning districts.

2. That in order to further fulfil the intent of the Winnipeg Food Council's report titled "Supporting Commercial Agriculture Uses in Winnipeg", the Public Service be directed to propose future additional policy changes related to the use of public lands to grow produce.

3. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

On May 21, 2020, The Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Winnipeg Public Service to:

1. Prepare the necessary text amendments to the Winnipeg Zoning By-Law No. 200/2006 and the Downtown Winnipeg Zoning By-Law No. 100/2004, in time for the 2021 gardening season, to fulfill the intent of the September 20, 2018 Council decision, namely:

    A. To address and implement the three policy outcomes (growing produce as a permitted principal use, commercial sale of produce, and use of public land to grow produce) noted in the Supporting Commercial Agriculture Uses in Winnipeg report.

Text amendments to a Zoning By-Law require a public hearing and Council approval.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations are concurred in, the attached text amendments will be incorporated into the Winnipeg Zoning By-law No. 200/2006 and the Downtown Zoning By-law No. 100/2004.

Amending the by-laws will permit outdoor and indoor urban agriculture (as described in Appendix A) as permitted principal uses in certain zoning districts, and as conditional uses in other zoning districts.

Amending the by-laws would also permit accessory on-site sales related to "Urban Agriculture, Outdoor" in certain zoning districts, with permission of the landowner.

Adding the "Community Gardens" use to the Downtown Winnipeg Zoning By-law will better align the Downtown Winnipeg Zoning By-law with the Winnipeg Zoning By-law.

HISTORY / DISCUSSION

Decision-Making History

On December 6, 2017, Executive Policy Committee directed the Winnipeg Food Council to research where in Winnipeg to allow commercial agriculture uses.

On September 20, 2018, City Council approved the resulting report, which contained three key considerations, also anticipated to be policy outcomes:

- Growing produce as a permitted principal use,
- Commercial sale of produce on site, and
- Use of public lands to grow produce.

In concurrence with these recommendations, Council also:

- Directed the Public Service to, in consultation with the Winnipeg Food Council, prepare amendments to Winnipeg Zoning By-law 200/2006 and Downtown Winnipeg Zoning By-law 100/2004; and
- Endorsed the Province of Manitoba's online fact sheet (Appendix B) about gardening and soil contaminants.

On May 21, 2020, the Standing Policy Committee on Property and Development, Heritage, and Downtown Development directed the Public Service to prepare the amendments in time for the 2021 gardening season.

The proposed amendments address two of the three policy outcomes outlined in the 2018 report (growing produce as a principal use, commercial sale of produce). The third policy outcome (use of public lands to grow produce) is not a zoning issue, but a policy issue. Therefore, a next step for the City is to develop an official strategy or policy (or update a relevant existing document, like the Community Gardens Policy) to address this growing policy gap.

Existing City Regulations

Urban Agriculture involves growing plants (and raising animals where appropriate) within and around cities. This term can encompass both small-scale and larger scale agricultural activities in urban areas.

Currently, the Winnipeg Zoning By-law No. 200/2006 contains two use categories related to growing food in the city as a principal use:

- *Agricultural cultivation* is "the raising for consumption or commercial sale of agricultural vegetation, including vegetables, grains, fruits, plants, sod, trees and other similar products".
- *Community gardens* are "a public use of land for the cultivation of fruits, flowers, vegetables, or ornamental plants by more than one person or family".

While these uses enable certain types of agriculture within the city, they do not fully address the types of growing informed by the Winnipeg Food Council's research and the resulting amendments being proposed:

- "Agricultural cultivation" is only permitted as a principal use within the 'A' Agricultural and 'RR5' Rural Residential zones, and large-scale includes uses like tree nurseries and sod production.
- "Community garden" is a permitted principal use in many districts (all residential, all parks and recreation, and the 'C1' and 'C2' commercial districts), but does not address sales, nor does it provide for gardens tended by a single grower.

The Winnipeg Zoning By-law also contains the category, *"Accessory uses, not listed"* – typical backyard gardens fall under this category, as accessory to a principal use (such as a house or other principal use).

Similar to the Winnipeg Zoning By-law, the Downtown Winnipeg Zoning By-law No. 100/2004 does not contain uses related to indoor or outdoor urban agriculture. Unlike the Winnipeg Zoning By-law, however, the Downtown Winnipeg Zoning By-law does not currently contain the "community gardens" use in its use tables, although community gardens are mentioned in the "park and park-related uses" use description.

Research and Consultation

While preparing the proposed amendments, the Public Service undertook further cross-jurisdictional research, as well as stakeholder consultation, to build on the research and consultation conducted for the Winnipeg Food Council's 2018 report.

Background research focused on other Canadian cities' approaches to urban agriculture, both outdoor and indoor (e.g. vertical gardening, hydroponic growing, and aquaculture).

Research found that other jurisdictions have zoning by-laws with uses specific to smaller-scale styles of urban agriculture. Jurisdictions also enable the sale of products within these uses; specifying where, and in some cases how, sales can be allowed.

Further, most cities examined had standards within their bylaw regulating the specifics of urban agricultural uses.

For stakeholder consultation, the Public Service engaged internally with relevant City departments, and externally with urban growers who have expertise in outdoor growing, indoor growing, and/or policy.

Consultations found that the proposed by-law changes address many barriers, but also exposed policy gaps that could not be addressed through this project. Two emerging themes include:

- The continuing need to establish policy related to use of public land to grow produce (highlighted in the September 2018 report); and
- The emerging need to align the Responsible Pet Ownership By-law, which currently allows raising of poultry only in Agriculturally Zoned areas, with the Zoning By-law, which currently allows aviaries (that include laying hens) as a conditional use in residential areas. These two conflicting by-laws should be aligned through further public consultation and potential recommended standards and guidelines related to the humane treatment of (and standards related to) laying hens, for example.

Proposed Zoning By-law Amendments

The proposed Zoning By-law amendments allow urban agriculture in more areas throughout Winnipeg, and are outlined in detail in Appendix A. At a high level, the most notable proposed changes include:

- Two new use definitions: "Urban Agriculture, Outdoor" and "Urban Agriculture, Indoor."

- Amendments to the use tables of the Zoning Bylaws specifying where these uses are allowed as permitted or conditional uses.
- New use-specific standards for the two new definitions, including standards for on-site sales and/or sales in general.

Appendix C provides an explanation of the proposed amendments to enhance urban agriculture and lists the rationale behind the use standards.

FINANCIAL IMPACT

Financial Impact Statement

Date: February 3, 2021

Project Name:

Winnipeg Zoning By-law 200/2006 and the Downtown Zoning By-law No. 100/2004 to Enhance Urban Agriculture

COMMENTS:

There are no direct financial implications associated with the recommendations contained in this report. Establishment of an urban agricultural use would require a development permit, the fee for which is currently $27. At an anticipated volume of no more than ten, total incremental revenue would, at most, be $270.

Mike McGinn Feb. 3, 2021
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with the departments listed below.

Legal Services (as to legal issues)
Public Works Department

OURWINNIPEG POLICY ALIGNMENT

This project aligns with Section 03-2: Quality of Life > Vitality, Direction 8, which directs the City to "respond to food needs as identified by communities: by:

- Collaborating on local food opportunities that are part of community development initiatives.
- Within the City's mandate, pursuing opportunities to support local food production.
- Developing planning tools to manage the sustainability of existing community gardens and to enable the creation of new permanent or temporary gardens.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

This project aligns with Strategic Opportunity #1: Corporate Leadership, Key Direction 1.7, which directs the City to "Increase Opportunities to Respond to Food Needs Throughout Winnipeg and Increase Access to Local and Sustainable Food."

SUBMITTED BY

Department: Planning, Property, & Development
Prepared by: Jonathan Hildebrand MCIP, RPP and Karin Kliewer, MCIP, RPP
Date: February 8, 2021

ATTACHMENTS:

Appendix A – Draft Amending By-law for Winnipeg Zoning By-law 200/2006 and Downtown Winnipeg Zoning By-law 100/2004

Appendix B – Provincial fact sheet related to gardening and soil contaminants

Appendix C – Explanation of the proposed Zoning By-law amendments to enhance urban agriculture

Appendix B

Provincial fact sheet related to gardening and soil contaminants

Fact sheet found at
https://www.gov.mb.ca/health/publichealth/environmentalhealth/home_gardens.html

Appendix C

Explanation of proposed Zoning By-law amendments to enhance urban agriculture

1.0 WINNIPEG ZONING BY-LAW 200/2006

Allowable areas

Urban Agriculture, Outdoor would be permitted in most zones because it is considered a non-intrusive use that is further regulated by use specific standards.
This use would be conditional in in heavier industrial zones because it may require non-contaminated soils, and any urban agriculture activities should not affect current or future heavy industrial uses in these areas.

Urban Agriculture, Indoor would be permitted in industrial and most commercial zones because operations would be entirely within an enclosed building, and operations would be at a scale determined by the district, which would likely not impact the surrounding neighbourhood.

This use would be conditional in C2, CMU, RR5, PR2, PR3, and Agricultural zones, to ensure compatibility with the surrounding neighbourhood. Compatibility would be determined by scale of operations, expected traffic generated, presence of on-site sales, and surrounding uses on neighbouring sites.

Use specific standards explanations

Use specific standards are in place to ensure that the urban agriculture use remains compatible with the neighbourhood in which it is situated. The following tables provide rationale for the use specific standards pertaining to Outdoor Urban Agriculture.

Urban Agriculture, Outdoor

#	Standard	Rationale
1	Only the following items may be cultivated, harvested, kept, sorted, cleaned and packaged as part of outdoor urban agriculture, for human consumption or use: fruits, vegetables, flowers, fibre, seeds, nuts, seedlings, herbs, honey, fungi, plant cuttings.	Outlines the activities that can take place on site, and the type of plants that may be grown. Ensures that growing activities remain on a small scale, and do not overlap with larger-scale agricultural uses like landscaping businesses (greenhouses), feedlots, and large-scale agricultural cultivation.
2	Items may be cultivated, harvested, kept, sorted, cleaned, and packaged on site according to all applicable health and governmental regulations.	Ensures that processing activities fit within the neighbourhood context, and all governmental regulations are adhered to.

3	Any person using pesticides must use them in accordance with the regulations set out in the Pest Control Products Act.	The City does not regulate contaminants in food, but can confirm that growers are aware of existing standards and guidelines.
4	All accessory structures, including greenhouses, must comply with all standards applicable to the zoning district in which the accessory structure is located.	Ensures compatibility with the neighbourhood and surrounding district, and that any buildings on site remain accessory.
5	The outside storage of mechanical equipment or any related equipment or materials, including fuel, is not permitted in residential or commercial zoning districts.	Ensures compatibility with the neighbourhood and surrounding district, and ensures the use remains non-intrusive. These requirements align with the Neighbourhood Liveability By-law.
6	Outdoor processing, other than washing and packaging, of goods produced on-site is not permitted in R1 and R2 zoning districts.	Ensures compatibility with the neighbourhood and surrounding district, and ensures the use remains non-intrusive. These requirements align with the Neighbourhood Liveability By-law. Outdoor processing of goods may be appropriate on larger residential lots, and other zoning districts
7	Accessory on-site sales related to the Urban Agriculture, Outdoor use, including “u-pick style operations, a) is a permitted use only within PR2, PR3, C1, C2, C3, C4, CMU, EI, MMU, M1, M2, and M3 zoning districts; and b) must comply with all applicable Provincial regulations	Accessory sales are appropriate in commercial, industrial, and institutional areas, and may also be appropriate in some parks. Parameters surrounding accessory sales in parks will be determined through discussions between growers and the landowner (the City). Outdoor sales may be appropriate in some residential areas, but should be evaluated on a case by case basis.

Urban Agriculture, Indoor

#	**Standard**	**Rationale**
1	In Commercial, PR, and Residential zoning districts, no offensive noise, light, smoke, or vibration or other objectionable effect may be produced.	Ensures compatibility with the neighbourhood and surrounding district, and ensures the use remains non-intrusive. These requirements align with the Neighbourhood Liveability By-law.

2	In Commercial and Institutional zoning districts, the floor area dedicated to the cultivation, harvesting, storage, processing, and packaging of plant and/or animal products must comply with the Maximum Floor Area Ratio of the applicable zoning district.	Ensures compatibility with the neighbourhood and scale of the surrounding commercial district

2.0 DOWNTOWN ZONING BY-LAW 100/2004

Summary of changes to Downtown Zoning by-law 100/2004

1. Community Gardens were added as a use and permitted throughout downtown to better align with the Winnipeg Zoning By-law 200/2006
2. Urban Agriculture, Outdoor is permitted throughout downtown to align with Winnipeg Zoning By-law 200/2006
3. Design review for Urban Agriculture, Outdoor is not intended to not involve detailed plant review but rather general characteristics like garden dimensions, materials for plant boxes, etc.
4. In the Multiple-Use Sector, Indoor Urban Agriculture is considered a Conditional Use if property is located at grade. This is in place is to ensure active and transparent uses at grade remain a priority.
5. In the Character Sector, Indoor Urban Agriculture is considered a Conditional Use if property is located at grade, or if floor area exceeds 5,000 square feet. This is in place is to ensure active and transparent uses at grade remain a priority, and to retain a smaller scale of uses within the district.