

**AN ORDINANCE TO AMEND CHAPTER 48 OF THE CITY CODE TO PERMIT INDOOR COMMERCIAL HORTICULTURAL OPERATIONS AS A MATTER OF RIGHT WITHIN M-1 (LIGHT MANUFACTURING), C-5 (HEAVY COMMERCIAL), W-1 (WATERFRONT MANUFACTURING), W-2 (WATERFRONT MANUFACTURING/COMMERCIAL), AND W-3 (WATERFRONT LOW INTENSITY MANUFACTURING/COMMERCIAL RECREATION) ZONING DISTRICTS**

#4671

Sponsor:

Council  
Member  
Oliver

**WHEREAS**, in light of the onset of innovative indoor agricultural production practices in nontraditional urban settings, including indoor vertical farming and hydroponic farming, the City would like to update Chapter 48 of the City Code (the “Zoning Code”) to encourage and promote these practices within the City; and

**WHEREAS**, the benefits of urban farming practices related to plant cultivation include (1) the creation of jobs and development of the local workforce, (2) increased local food production, year round, particularly in areas identified as urban food deserts, (3) support for the local food infrastructure by providing fresh produce for restaurants and grocers, (4) creation of new markets for agricultural producers, consumers, and businesses, (5) revitalization of abandoned and underused properties, and (6) community engagement; and

**WHEREAS**, the City would like to amend the Zoning Code to permit indoor commercial horticultural operations within the City, in which vegetables, herbs, fruits, flowers and other plants will be cultivated commercially for wholesale or retail sales and distribution; and

**WHEREAS**, such operations would be limited to completely enclosed buildings or greenhouses to (1) secure the space and provide a controlled environment, (2) minimize impacts from harmful pests and pathogens, (3) protect against harsh weather conditions and allow year-round operation, (4) reduce water usage, (5) eliminate site runoff, and (6) keep pollutants, such as fertilizers, from entering the groundwater and soil; and

**WHEREAS**, at its June 18, 2019 meeting, the City Planning Commission reviewed this Ordinance and, by its Resolution 08-19, recommended the proposed amendments to the Zoning Code contained in this Ordinance; and

**WHEREAS**, City Council deems it necessary and appropriate to amend the Zoning Code to (1) define indoor commercial horticultural operations and related terminology, (2) permit such operations as a matter of right within M-1 (Light Manufacturing), C-5 (Heavy Commercial), W-1 (Waterfront Manufacturing), W-2 (Waterfront Manufacturing/Commercial), and W-3 (Waterfront Low Intensity Manufacturing/Commercial Recreation) zoning districts, and (3) establish parking requirements for such operations.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON  
HEREBY ORDAINS:**

**SECTION 1.** Chapter 48 of the City Code is hereby amended by amending Section 48-2 thereof by adding the underlined language to read as follows:

**Sec. 48-2. - Definitions.**

....

*Indoor commercial horticultural operation* means a commercial operation that grows vegetables, herbs, fruits, flowers, or other plants, which are not deemed illegal to grow, possess, or distribute under federal or Delaware law, for wholesale or retail sales and distribution. The operation must take place wholly within completely enclosed buildings or greenhouses, in a manner that does not create, emit, or discharge noxious or offensive odors. These operations include plant nurseries, hydroponic farms, and vertical farms.

*Greenhouse* means a permanent structure made of glass, plastic, or fiberglass, in which plants may be cultivated year-round under controlled temperature and humidity settings.

*Hydroponic* means a method in which plants are propagated using a mechanical system designed to circulate a solution of nutrients in a water solvent.

*Hydroponic farm* means an operation that grows plants using hydroponic growing methods.

*Plant nursery* means an operation where plants are grown, propagated, and stored for wholesale or retail sales and distribution.

*Vertical farm* means an operation that grows plants in vertically stacked layers.

**SECTION 2.** Chapter 48 of the City Code is hereby amended by amending Section 48-197 thereof by adding the underlined language to read as follows:

**Sec. 48-197. - C-5 districts.**

....

(c) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

....

(10) Indoor commercial horticultural operation.

....

**SECTION 3.** Chapter 48 of the City Code is hereby amended by amending Section 48-246 thereof by adding the underlined language to read as follows:

**Sec. 48-246. - M-1 districts.**

....

(b) *Permitted uses.* In any M-1 district no building or premises shall be used and no building shall be erected or altered, except as provided elsewhere in this chapter, which is arranged, intended or designed to be used except for one or more of the uses listed below, and subject to off-street parking and loading requirements of article X of this chapter:

....

(19) Indoor commercial horticultural operation.

....

**SECTION 4.** Chapter 48 of the City Code is hereby amended by amending Section 48-336 thereof by adding the underlined language to read as follows:

**Sec. 48-336. - W-1 district.**

....

(b) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

....

(15) Indoor commercial horticultural operation.

....

**SECTION 5.** Chapter 48 of the City Code is hereby amended by amending Section 48-337 thereof by adding the underlined language to read as follows:

**Sec. 48-337. - W-2 district.**

....

(b) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

....

(20) Indoor commercial horticultural operation.

....

**SECTION 6.** Chapter 48 of the City Code is hereby amended by amending Section 48-338 thereof by deleting the stricken language and adding the underlined language to read as follows:

**Sec. 48-338. - W-3 district.**

(b) *Uses permitted as a matter of right.* The following uses are permitted as a matter of right:

....

(5) ~~Horticultural use.~~ Indoor commercial horticultural operation.

....

**SECTION 7.** Chapter 48 of the City Code is hereby amended by amending Section 48-445 thereof by adding the underlined language to read as follows:

**Sec. 48-445. - Parking spaces accessory to storage, manufacturing and industrial uses and indoor commercial horticultural operations.**

After March 8, 1962, no building shall be erected for the storage, manufacturing and industrial uses listed in the following table unless accessory parking space is provided and maintained on the premises in accordance with the requirements specified in such table:

| Use and District  |   | Minimum Amount of Parking Space Required  |
|---|---|---|
| <u>Warehouse or storage establishment or indoor commercial horticultural operation:</u> |   |   |
|   | C-1, C-2, C-3, C-4, C-5, C-6, M-1, M-2, W-1, W-2, W-3 | One for each 3,000 square feet of gross floor area  |
|   | C-2-A   | The greater of one for each employee or one for each 2,000 square feet of gross floor area  |
| <u>Manufacturing or industrial establishment:</u>                                       |   |   |
|   | C-2-A   | The greater of one for each employee or one for each 2,000 square feet of gross floor area  |
|   | M-1, M-2, W-1, W-2, W-3                               | One for each three employees, computed on the basis of the estimated maximum number of employees at any one time, in an establishment with four or more employees |

**SECTION 8.** This Ordinance shall be effective upon its passage by City Council and approval by the Mayor.

First Reading ..... June 20, 2019  
 Second Reading ..... June 20, 2019  
 Third Reading .....

Passed by City Council,

\_\_\_\_\_  
 President of City Council

ATTEST: \_\_\_\_\_  
 City Clerk

Approved this \_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
 Mayor

**SYNOPSIS:** This Ordinance amends Chapter 48 of the City Code to define indoor commercial horticultural operations and certain related terminology and to permit indoor commercial horticultural operations as a matter of right within M-1 (Light Manufacturing), C-5 (Heavy Commercial), W-1 (Waterfront Manufacturing), W-2 (Waterfront Manufacturing/Commercial), and W-3 (Waterfront Low Intensity Manufacturing/Commercial Recreation) zoning districts. This Ordinance also establishes parking requirements for indoor commercial horticultural operations.

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