Progressive Cities: Models for Using Public Land for Community Gardens

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ABSTRACT
Community gardens enhance the quality of life and well-being of people living in cities. Known benefits include decreased crime rates, decreased blight, decreased poverty levels, decreased rates of obesity, increased access to good food for poor residents, increased jobs and job-training, and increased educational opportunities. Cities across the nation with the common goal of sustainability have formed partnerships with various entities in various configurations in furtherrance of this progressive ideal: sustainable living through community gardening. This paper sets out the local laws, state laws, and funding mechanisms cities have created or used to create community gardens. Part I will provide some background and a brief overview of the community garden concept in general. Part II will explain: (1) the types of entities that create community gardens, citing examples of successful city partnerships; (2) the logistics involved in creating community gardens, with a focus on land acquisition and basic planning, again citing examples of various approaches taken by cities; and (3) city policies and ordinances that have created, funded, or otherwise supported community gardens, again providing examples of the process and achievements of select municipalities in this area. Part III will list current California Law on point for cities to draw upon in their community garden efforts, summarize the challenges and barriers facing city leaders in their sustainability efforts, and offer ten basic recommendations for cities interested in sustainability.
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I. INTRODUCTION AND BACKGROUND

Sustainable consumption is a progressive value.1 Sustainable living "meets the needs of the present without compromising the ability of future generations to meet their own needs."2 The human population takes a heavy toll upon natural resources and the environment, but if humans can exist in harmony with nature, it follows that the environment, the culture, and the economy thrive, and future generations benefit.3 Local governments are testing grounds for innovative ideas that can potentially become part of the national norm, and is at the local level that individual citizens can make the most difference.4 Community gardening in urban areas is at the very root of the progressive concept of sustainability.

Governmental support of growing food in an urban setting is a progressive principle, but by no means a modern concept. During the late 1800s, many city dwellers grew their own produce in vacant lots.5 In 1942 and 1943, victory gardens contributed up to 40 per cent of fresh vegetables consumed by U.S. citizens.6 "In the 1970s, gardening resurfaced as communities sought solutions to a wide array of social problems including, 'urban abandonment,' inflation, and social conflict."7 Community gardens today help establish "social capital" by reclaiming, using, and preserving vacant public space, and by fostering collaboration across economic, generational, and neighborhood lines.8

Economies and crime rates rise and fall, but sectors of interior urban areas will always need to address some level of poverty, inadequate services, crime, and the need for jobs.9 Known benefits of community gardening programs (sometimes called urban agriculture programs) include decreased crime rates, decreased blight, decreased poverty levels, decreased

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7 Filling the Void, supra note 5, at 275.
rates of obesity, increased access to good food for poor residents, increased jobs and job-training, and increased educational opportunities.\textsuperscript{10, 11} The practice enhances the well-being of people living in cities, and is an effective, inexpensive way for local governments to improve general quality of life. Progressive leaders throughout the country are rethinking the value and potential of vacant and abandoned properties, seeing them as assets, and finding ways to use them to implement new approaches to fighting blight.\textsuperscript{12}

In addition, city leaders are recognizing that community gardening is economically empowering. In 2007, one Wisconsin family was able to grow over 150 pounds of produce on a 400 square foot garden plot, for a savings equivalent to $389.\textsuperscript{13} One report estimates that each dollar spent on a community garden yields six dollars' worth of vegetables.\textsuperscript{14} Community gardens find funding in myriad ways: through private donations, nonprofit organizations, local businesses, grassroots groups, and government grants. More and more, cities are taking steps to encourage, create, and develop partnerships to fund community gardens.\textsuperscript{15}

"Community gardens are a function of specific municipality policies or initiatives."\textsuperscript{16} Through a variety of creative community gardening ordinances, policies, and partnerships, and with creativity and forward thinking, local leaders can and are designing healthier cities and raising the quality of life for all. By promoting the use of city space for community gardens, cities are improving citizens' access to healthy food and designing environments that encourage healthy, active living.

\textbf{II. BASICS OF CREATING A COMMUNITY GARDEN}

Many city dwellers may have the desire, but not the opportunity, to own land. For citizens of cities, community gardening fosters valuable pride of ownership.\textsuperscript{17} There are as many methods of creating a community garden as there are people, but at the root of every community garden are citizens seeking access to good, healthy, affordable food and a higher quality of life.

\textsuperscript{10} Emily M. Broad Leib, \textit{All (Food) Politics is Local: Increasing Food Access Though Local Government Action}, 7 Harv. L. \\& Pol'y Rev.321, 322 (Summer, 2013).
\textsuperscript{11} \textit{Filling the Void}, supra note 5, at 274
\textsuperscript{12} Frank Alexander, \textit{Land Banks and Land Banking}, Center for Community Progress Publication, June, 201, at 8 (hereinafter \textit{Land Banks and Land Banking}).
\textsuperscript{13} Community Action Coalition for South Central Wisconsin, \url{http://www.cacscw.org} (last visited May 12, 2014).
\textsuperscript{14} Supra note 6, at 1512.
\textsuperscript{15} Model Cities with laws on the books for supporting community gardens are: Milwaukee, Chicago, St. Petersburg, Seattle, Oakland, Tampa, Raleigh, Madison, Cleveland, Buffalo, Kansas City, Springfield, and Minneapolis.
\textsuperscript{16} \textit{Filling the Void}, supra note 5, at 287.
A. Models of City Partnerships

Whether organized in an ad hoc fashion or tightly regulated, where community gardens are concerned, partnerships seem to work best.\textsuperscript{18, 19} Cities usually collaborate with one or more entities to assist them with funding, land acquisition, development, and operation of community gardens. Many cities use their parks and recreation departments as springboards from which partnerships and eventually community gardens evolve.\textsuperscript{20}

City partnerships with a broad network of diverse partners boost longevity, vibrancy, productivity, and viability.\textsuperscript{21} Degrees of city government involvement range from cautiously experimental to all-in. Local leaders have collaborated with many types of partners in varying configurations including church groups, schools and universities, businesses, agencies, nonprofit organizations, and motivated citizen activists. Collaborating with nongovernment organizations conserves valuable governmental resources, and “can be an effective way of directing resources toward urban agriculture without having to devote significant resources to management or oversight.”\textsuperscript{22} Infinite varieties of partnerships exist, but one element appears to be essential: volunteerism. The most successful community gardens appear to spring from a hybrid of several entities.\textsuperscript{23}

Because of their tax-exempt status, 501(c)(3) nonprofit organizations are an almost essential source of personnel and funding for any government run community gardening program. It is rare to find a city sponsored community garden without some sort of nonprofit involvement, and traditional nonprofits typically rely in part on government support for their continued survival.\textsuperscript{24} Such a partnership “is enormously helpful for tax-exempt purchasing, providing a tax write-off for donations, umbrella liability coverage, and possibly even assuming ownership of the community garden land. . . . The process for starting a nonprofit takes at least

\textsuperscript{18} See generally, Heather Wooten, MCP and Amy Ackerman, JD, Seeding the City, Land Use Policies to Promote Urban Agriculture, National Policy & Legal Analysis Network to Prevent Childhood Obesity, ChangeLab Solutions, 2012 (hereinafter Seeding the City).


\textsuperscript{21} Anne Goodall, Community Gardening Success Factors, The 9 P’s of Growing Vibrant and Viable Community Gardens, Perth: Growing Communities WA, 2010, at 10 (hereinafter Goodall).


\textsuperscript{23} See generally Goodall, supra Note 21

\textsuperscript{24} Raleigh City Farm, http://raleighcityfarm.com/mission (last visited May 12, 2014).
one year, and lots of paper-work, so local officials or volunteers working to start a gardening program in their community would do best to link up with an existing nonprofit."25

1. Food Policy Council Model: Oakland

Local governments can benefit by implementing and then working in partnership with food policy councils. A food policy council consists of a diverse group of citizens such as activists, advocates, educators, volunteers, government officials, and farmers from various areas of food related interest who band together to form a forum for food issues. These individuals usually work in a formal relationship with local, city, or state officials, toward innovative ways to improve local food systems and to promote local food policy.26 The Oakland Food Policy Council advocates for broad urban agriculture zoning improvements to encourage and enable local citizens to grow food and increase access to land for urban agriculture. In 2010, the Council drafted its Strategic Food Plan, which it presented to the Oakland City Council. The Plan recommended policies and procedures, backed up by data, for acquiring access to vacant public land for urban agriculture. The City Council is taking action, and the promise for a future of urban agriculture in Oakland is strong.27

2. Department of Parks and Recreation Model: Boise

Recognizing the value of agriculture to the community in terms of recreation, community development, environmental education, and social interaction, the Boise, Idaho Department of Parks and Recreation developed an official community gardening policy. The Department collaborates with various nonprofit and community groups to create community gardens on City-owned property in undeveloped portions of park properties. As a policy consideration, the Department aims to develop garden space in areas of neighborhood disinvestment.28 Currently, a neighborhood association operates one of the sites, another site is in the planning phase and will be in partnership with the Boise Urban Garden School (BUGS) and a neighborhood nonprofit organization, and Global Gardens, a unit within the Idaho Office for Refugees, is developing another site.29

3. Local Government Leadership Model: Omaha

Some cities have collaborated with existing government entities in their community gardening efforts. The City of Omaha’s Health Department collaborates with multiple city and

26 Supra note 4, at 5-6.
28 Boise Department of Parks & Recreation, http://parks.cityofboise.org/media/4069/57560_CommunityGarden.pdf (last visited May 12, 2014)
29 E-mail from Maria Minnicucci, Property and Water Rights Analyst, City of Boise Department of Parks and Recreation (Mar. 26, 2014) (on file with author).
county offices (Planning, Parks and Recreation, City Attorney, and Public Works) and Omaha by Design. Omaha by Design is a civic planning organization that works to eliminate roadblocks that discourage community gardens. Together these entities developed the Environment Element section of the City’s Master Plan. The Plan expresses a vision for the health and sustainability of Omaha. It encourages funding for nonprofit gardening programs, as well as working with the Chamber of Commerce to seek corporate sponsorship for community gardens, and establishing a program that allows use of city-owned property for community gardens.

Another program in Omaha, The Big Garden, exists as a partnership with neighborhood-based church congregations, schools, and nonprofits, with funding from USDA’s Community Food Project. The Big Garden has over seventy community gardens, all of which are located on land owned by a community agency. The agency partners with the city to assist with initial start-up costs, ongoing program support, garden and nutrition classes for children, and brokers collaborative relationships in the community. The city of Omaha sets an example of the positive effects a proactive and interactive city government can have on the implementation of community gardens.

4. City and State Partnership Model: North Carolina

At the state and county level, Blue Cross Blue Shield of North Carolina and the North Carolina Recreation & Park Association (NCRPA) recognized that many citizens have limited access to fresh produce in their community, and that they may not have adequate transportation to get it somewhere else. The entities joined forces with a goal of either establishing or enhancing a community garden in all 100 counties by the end of 2013. At the city level, NCRPA is in the process of expanding an existing collaboration with city health departments, cooperative extension agencies and parks and recreation departments to initiate a comprehensive, statewide community gardening program. These partnerships aim to ensure that North Carolinians in every city have a means of sustaining a local source of healthy food.

5. University Partnership Model: Baltimore

Cities and universities make great partners. The Community Greening Resource Network (CGRN) in Baltimore is a membership organization started by Family Parks Foundation and University of Maryland Extension. The goal of the organization was to create a network to coordinate the efforts of different factions working separately on urban agriculture issues. Many of Baltimore’s community gardens exist in alleys and restored vacant lots. Community volunteers who manage the gardens often depend on unreliable donations and limited sources of funding. The Network helps citizens find support for various gardening

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33 Id.
34 City of Raleigh Recreation and Parks; http://www.ncrpa.net/ (last visited May 1, 2014).
efforts and helps to sustain the community’s valuable green spaces. Since its inception in 2008, CGRN has served as a model for other garden resource networks.35


In an effort to commit to sustainability, the Parks and Recreation Department for Arlington, Texas launched its community gardening program, Keep Arlington Beautiful. The program is affiliated with the statewide nonprofit, Keep Texas Beautiful, and partners with local nonprofits and businesses to educate and engage the Arlington community to take responsibility for improving its own environment. Truly a community effort, the Board is comprised of thirty-five businesses and community members. The organization works in partnership with UT Arlington to fund and maintain the Community Garden at UT Arlington where locals garden alongside students. Keep Arlington Beautiful supports Arlington’s initiative to nurture and grow an environmentally friendly and vibrant community.36

Sacramento Department of Parks and Recreation has formed partnerships with UC Davis, local businesses, and a host of nonprofit entities to support its community gardening efforts. The City has several permanent community garden spaces funded and managed by the Department and citizens who rent plots from the City. The Fremont Community Garden is an example of one of Sacramento’s many permanent community gardens. This garden has fifty-two plots it rents on a yearly basis to residents of the City, including four ADA raised plots.37 The city’s zoning code once prohibited gardening in non-agriculture zones. Backed by widespread community support, Sacramento passed a community gardening ordinance revising the zoning code to permit agriculture in residential zones.38, 39

B. Acquiring Land and Funding

Probably the most significant challenges facing city leaders and gardeners in their sustainability efforts are securing public land and funding for community gardening projects.

1. Acquiring Land

"Citizens interested in starting community gardens often face obstacles securing access to land and ensuring preservation of land for community gardens. Supportive land use policies, like zoning ordinances, can help to create community gardens and ensure their long-term ability to operate on a site. ... Communities can promote community gardens by encouraging interim or temporary use of underutilized land for gardens, assist in land acquisition for gardens, and help manage and program community gardens." 40

a. Vacant Land

Vacant and abandoned lots are a visible sign of neglect and the decline of a city.41 They generate virtually no revenue or property tax. But the impact of vacant land surpasses economic loss, and unravels quality of life. Restoring community pride and engagement is a tall order.42 It is within the power of cities, with relative ease, to provide an accessible inventory of available vacant public space. For example, New York encourages the utilization of open space through its Open Accessible Space Information System (OASIS). This collaboration between federal, state, city, nonprofit, and private organizations uses data provided by local and state departments to provide online maps of open city space and help enhance the stewardship of vacant land.43,44

Most U.S. cities do not meet legislative requirements for open space and parks per capita, and "community gardens are an inexpensive way for cities to mitigate this disparity and recapture unused land for the purpose of beautification." 45 If permitted, an abandoned lot, a vacant yard, or a neglected roadside piece of land can become a space for citizens to grow food together. For example, the community garden program in Des Moines, Iowa provides for the establishment of community gardens on city right-of-ways and real property.46,47

i. Models for Use of Vacant Land as Garden Space: Escondido, Cleveland, Hartford

41 Joyce Wade and Dr. Amanda Rees, Converting Vacant Lots into Assets: Comparing National Community Garden Programs to Community Garden Projects in Columbus, GA. Community Geography Center Columbus State University (March, 2012) at 5 available at http://history.columbusstate.edu/columbuscommunitygeography.php
44 See generally Cultivating Community, supra note 20.
Recognizing that a proliferation of vacant lots throughout the community created liabilities for owners, Escondido, California’s City Council adopted an innovative interim land use policy. It encourages city employees to collaborate with landowners and community gardeners to come up with an agreement for the conditions of use of the land as a garden. The policy directs city staff to prepare amendments to the zoning code to allow for interim use and to implement an administrative procedure to establish appropriate uses.\textsuperscript{48} This allows gardeners to use vacant properties through a mutual agreement between the landowner, community groups, and the city. “In essence, it provides a loophole by waiving traditional zoning requirements and expediting a no-fee permit process; the city absorbs the liability.”\textsuperscript{49}

Re-imagining a More Sustainable Cleveland is a partnership of local government, foundations, universities, and nonprofit organizations working in think-tank fashion to foster new uses for the city’s vacant land.\textsuperscript{50} The organization regarded the over 3,300 acres of vacant land throughout Cleveland as an opportunity to link existing systems and infrastructure within the city to improve quality of life and the environment.\textsuperscript{51} Neighborhood groups, churches, schools and individuals could apply for funding and technical assistance to transform a vacant lot from the Cuyahoga County Land Bank into a community garden, a pocket park, an urban farm, or various other green land uses.\textsuperscript{52}

Hartford Municipal Code empowers the Parks and Recreation Advisory Commission to develop and administer a municipal program to encourage the use of vacant city land for gardening by the public. The Code gives the Commission authority to maintain an inventory of vacant public land, establish and administer a procedure for selection of gardeners, and adopt regulations governing the gardens, and contains a “hold harmless” clause to protect the city from liability.\textsuperscript{53}

\textbf{b. Leasing}

Many community gardening organizations lease the land for their gardens from institutions (for example schools, churches, and colleges), from private parties, or from the cities themselves. These arrangements provide a great service to gardeners, but lack the security of

\textsuperscript{49} The Prevention Institute, http://preventioninstitute.org (last visited May 12, 2014).
\textsuperscript{51} Reimagining a More Sustainable Cleveland, City of Cleveland Neighborhood Progress Study (2008) at 2, available at http://www.clevelandfed.org/community_development/events/20100408/4_iireichtell.pdf?WT.os=s=community gardens&WT.os_s_r=76 (last visited May 12, 2014).
\textsuperscript{52} Marianne Eppig, Re-Imagining a More Sustainable Cleveland 2.0, renovatingtherustbelt.com, http://renovatingtherustbelt.wordpress.com/category/re-imagining-a-more-sustainable-cleveland/ (last visited May 12, 2014).
\textsuperscript{53} Hartford, CT Code § 26-15(a)(1)
other models. The most common form of leasing arrangement is a private organization leasing from the city government, usually for a one or two year period.\textsuperscript{54} Such an arrangement yields no tax revenue for the city, and therefore compromises garden longevity. Unless the city has expressed a great commitment to community gardening, it will likely regard gardens on leased property as interim uses and seek more lucrative uses for vacant property.\textsuperscript{55}

\textbf{i. Models for Leasing Land: Minneapolis and New Orleans}

The City of Minneapolis has vacant lots available for leasing to community gardening groups. The lots are not appropriate for development, which means they will likely remain available for years of gardening even as the economy changes and redevelopment takes over.\textsuperscript{56} Minneapolis also allows use of tax-forfeited properties as free garden sites.\textsuperscript{57} For years, residents of Minneapolis's culturally diverse urban core have been turning trash-strewn vacant lots into flourishing community gardens. Until 2002, the Minneapolis Community Development Agency leased the lots to gardeners, and when the agency announced plans to sell some of the lots for development, public outcry persuaded the Agency to sell the properties as gardens. Local nonprofits enlisted the help of the Trust for Public Land to raise funds and protect the gardens. The City of Minneapolis, along with some grassroots fundraising, financed the project. Now in 2014, Minneapolis is offering twenty-nine lots available for lease to community gardens in on a year-to-year basis.\textsuperscript{58}

The New Orleans Food and Farm Network put a call out for landowners to consider leasing their vacant property to a farmer to improve neighborhoods and increase the amount of food grown locally. Incentives cited include free or low cost upkeep of land, improved soil quality, rental income, a share of produce from the land, and benefits to the surrounding community.\textsuperscript{59}

\begin{footnotesize}
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  \item \textsuperscript{55} \textit{Filling the Void}, supra note 5, at 253.
  \item \textsuperscript{56} City of Minneapolis, \url{http://www.ci.minneapolis.mn.us/sustainability/homegrown/chfs_gardeners} (last visited May 1, 2014).
  \item \textsuperscript{57} \textit{Establishing Land Use}, supra note 46, at 5 (citing Hennepin County Resolution 85-5-374)
  \item \textsuperscript{58} The Trust for Public Land, \url{http://www.tpl.org} (last visited May 10, 2014).
  \item \textsuperscript{59} The New Orleans Food and Farm Network, \textit{Landowners, Would you Consider Leasing Your Vacant Lot to a Farmer?}, available at \url{http://www.bing.com/search?q=New+Orleans+Leasing+2.3.3-Landowner+Enrollment+in+Living+Lots&form=DLCDF8&pc=MDDR&src=IE-SearchBox} (last visited May 14, 2014).
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c. Conservation Easements and Land Trusts

"Conservation easements and land trusts represent the most ideal forms of property ownership of community gardens."\(^{60}\) A land trust is a private or a nonprofit company actively involved in conserving land to aid in conservation or land easement acquisition.\(^{61}\) Putting land into trust takes it off the land market, and a conservation easement protects it. The conservation easement represents a permanent legal agreement between the parties (here, the land trust and the government) and future parties, and restricts the use of the land to the agreed-upon purpose.\(^{62}\)

"There are several advantages to owning community gardens through land trusts. First, land trusts work intimately with local communities as is particularly necessary for cultivating and fostering community gardens. Second, as nonprofit organizations, land trusts are able to take advantage of numerous tax exemptions making them more economically feasible to maintain in the long-term. Lastly, because land trusts are independent organizations, they can make independent decisions without the restraints that often limit and delay public agencies."\(^{63}\) Land trusts can manage the gardens themselves, lease space to garden organizations, or sell the land to the government. Because conservation easements run with the land, putting land in trust secures land tenure in places where garden sites may be in danger of conversion to other uses. The land trust concept applied to community gardening is an excellent way to protect community gardens for all time.

i. Land Trust Models: San Rafael and Providence

The Canal Community Garden in San Rafael, California is an example of a project spearheaded by the Trust for Public Land, a leader in conservation financing. The Trust for Public Land is a nonprofit organization that helps local governments acquire and protect land, create legislation to fund gardens, and provides technical and maintenance assistance for community garden projects.\(^{64}\) The Canal neighborhood provides low-income housing in a culturally diverse neighborhood in one of the most affluent counties in the United States. The common tie that binds the various nationalities represented in the Canal neighborhood is a strong food culture. The Trust for Public Land arranged for an easily accessible community garden space situated on an inner-city vacant corner lot. In workshops, community members participated in all phases of the garden design. The final plan includes raised beds for ninety-two gardens, a greenhouse, and an outdoor classroom.\(^{65}\)

The city of Providence, Rhode Island has long used land trusts to acquire and preserve community gardens. In the 1980s the city’s Southside neighborhoods were full of foreclosed and boarded up homes and abandoned industrial sites. The founders of the Southside Community Land Trust, a nationally recognized urban agriculture leader, purchased a large vacant lot and

\(^{60}\) Filling the Void, supra note 5, at 9
\(^{62}\) Filling the Void, supra note 5, at 10
\(^{63}\) Filling the Void, supra note 5, at 10
\(^{65}\) Id.
forged partnerships with neighbors. The community worked together to clean up the trash-strewn lot, and within a year, families were proudly growing food together on their new garden plots.66

d. Land Banks

The principle behind land banks is for municipalities to repurpose an inventory of underused, abandoned, tax-delinquent, or foreclosed property. This land bank model has gained broad support and has is used by a number of cities, in a number of different ways.67 One example of successful land banking is the Center for Community Progress, which focuses on the reuse of vacant or tax-foreclosed property. The three-step land banking process is relatively simple: (1) acquire title; (2) eliminate liabilities; (3) transfer property to new owner in a manner supporting local needs.68

Local leaders can recover the expenses of land banking by leasing the purchased property back to the community. Cities and counties may also recover at least part of their costs by reselling the acquired land with deed restrictions that guarantee the property’s continued use as a community garden space. Land banks often have powers that allow them to accomplish these goals in ways that existing government agencies cannot.69 Land banking is a progressive concept, not yet widely practiced, but several city governments have adopted it, including Cleveland, Louisville, and Atlanta.70

i. Land Bank Model: Cleveland

The City of Cleveland’s Land Reutilization (Land Bank) Program is designed to acquire vacant land and market it to individuals, developers, and nonprofit organizations for redevelopment. The Department of Community Development acquires derelict properties, and earmarks them for community garden use with a goal of contributing to the economic, social, and environmental betterment of the City through redevelopment of underutilized city-owned land.71 The City partners with the Ohio State University Extension to provide gardening resources, fertilizer, seeds, soil preparation, and education. The City’s Board of Control governs the cost of the Land Bank, and licenses or leases the land for use as community gardens under negotiated terms and conditions. The Land Bank application process ensures the transfer of

67 Land Banks and Land Banking, supra note 12, at 8.
69 See generally Land Banks and Land Banking, supra note 12.
vacant property to responsible parties committed to restoring property to productive use. Local and State legislation requires the City to sell the banked property. 72

2. Funding the Garden

It is important for city leaders to realize that costs for gardens are minimal in comparison to larger community improvement projects and government services. Expenses for the designation or purchase of land, and necessary infrastructure are one-time capital expenses. Thereafter, partners and community residents, rather than employees of the city, are largely responsible for gardens. 73 One 1985 Sacramento study compared the cost to develop and maintain a park with the same cost in a similarly sized community garden. Development of the park space cost $46,000 and $15,000 annually to maintain. The garden cost $2,200 to develop and $550 per year for maintenance. The study (though dated) illustrates cost ratios that are likely comparable today. 74 In addition to any available city funds, gardens receive funding from federal grants, 75 private donations, plot rental fees, and various partners.

a. City Funding Model: Baltimore

Baltimore is a national model for cities on implementing and funding food policy initiatives. The City Council progressively advances a sustainability agenda as an investment in the health of its citizens and the success of its economy. Community gardens are plentiful, largely due to the city’s willingness to sell vacant properties to community gardening groups. 76 In 2008, the Mayor launched a Food Policy Task Force, which met over the course of a year to develop recommendations to increase access to healthy, affordable food in the City. In 2009, the city adopted its Baltimore Sustainability Plan as a City Council Ordinance. The Office integrates sustainability into City government operations, develops partnerships with entities performing related work, and advocates for programs and policies by government, citizens, businesses, and institutions that improve the long-term environmental, social, and economic viability of Baltimore City. 77, 78

Baltimore Sustainability enhances the city’s food system infrastructure by establishing and supporting urban gardens and building on creative initiatives that improve citizens' access to locally grown food. The increased demand for locally grown food supports the community gardens. The Baltimore Office of Sustainability encourages urban agriculture on vacant land. To that end, it invited farmers to participate in the development of city owned vacant and underutilized properties for urban agriculture.

In 2010, the Mayor announced the formation of the Baltimore Food Policy Initiative (BFPI) to establish Baltimore as a leader in sustainable local food systems and increase access to healthy food in innovative ways. The BFPI is an inter-governmental collaboration between various city departments. It started with seed funding from several foundations, and is now fully funded by the city’s general funds, which are bolstered by the Food Policy director’s solicitation of foundation grants.

A key component of BFPI is the Food Policy Advisory Committee (Food PAC), the equivalent of a Food Policy Council, which consists of over forty-five member organizations representing stakeholders in Baltimore’s food production, distribution, and consumption system, and helps implement the recommendations of the Food Policy Task Force. The BFPI recently updated the city’s zoning code to support urban agriculture by loosening regulations on the number of greenhouse structures per property in order to extend the growing period. Additionally, the BFPI was successful in removing the permit requirement for community gardens. The BFPI advocates for food policy changes at the federal, state, and local levels.

b. Helping Citizens to Help Themselves: Aurora

The local government in Aurora, Colorado offers recommendations for citizens who request help developing community gardens. The city recommends contacting Denver Urban Gardens (DUG), a nonprofit organization which serves as a land manager and liaison to municipalities, and works as a fiscal agent to solicit funds for construction materials and identify garden funding partners. In addition, DUG serves as a design and construction coordinator, helps organize volunteer labor, and provides long-term garden support to ensure sustainability and longevity. Some gardeners wish to work independently of DUG, and the government recommends they either obtain nonprofit status, or partner with another tax-exempt

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79 Id.
80 Id.
81 Id.
organization. The city puts the gardeners in touch with Water Division staff and the proper city officials, and even helps register the community garden with the city, so that it may advertise.

d. Food Coalition Funding Model: Cleveland

Cleveland-Cuyahoga County Food Policy Coalition secured funding from nonprofit partners and local universities, then received grants for further expansion. The advisory board is comprised of local decision-makers and nonprofit leaders, and meets quarterly to develop food policy activities and recommendations, which it extends to the City and County government. “Urban agriculture is one innovation that utilizes otherwise vacant land, while increasing the food production and farmland of Cleveland and Cuyahoga County. Community gardens in particular produce $2.6 – 3.0 million worth of fresh produce per year in Cuyahoga County, which accounts for over 55 acres of production. Local food production is a great economic use of urban vacant land, and provides a source of fresh produce in urban areas.”

To advance food system development at the city level, the Food Policy Coalition helped create a Department of Economic Development program called Gardening for Greenbacks. The program provides grants of up to $3000 for equipment related to growing and selling produce. As another source of funding, Cleveland has implemented block grants, which consolidate ten federal housing programs into one large flexible grant to fund local improvement projects such as urban gardening.

e. Nonprofit funding: Akron

The Akron, Ohio group NeighborFood began in 2011 when citizens expressed an interest in learning how to grow food and create community gardens. Most new community gardens do not have the several hundred dollars it can take to buy soil, boards for raised beds, fencing or

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83 Id. at 4.
85 City of Cleveland, http://www.city.cleveland.oh.us/CityofCleveland/Home/Government/CityAgencies/Community Development/BlockGrantProgram
plants. After several meetings, members of NeighborFood found their greatest barrier was finding financial support for new gardens. The next year, the Akron Community Foundation, a nonprofit community charity focused on developing policies that enable the reuse of vacant lands for growing food, provided $5,000 to NeighborFood. NeighborFood then issued a call for interested gardeners, and awarded micro grants of $500 to ten gardens throughout Akron. To ensure success, it also supplied each of the gardens with a mentor from a county master gardener volunteer organization.\(^6\) Akron Community Foundation funding has increased, and in 2013, the City of Akron, with support from the Foundation, awarded over $26,000 in matching gardening grants to local garden groups and projects.\(^7\)

3. Model City Ordinances that Have Helped Create Community Gardens

All municipalities have a general plan, and any progressive general plan must address the issue of community gardens. Local government leaders are uniquely equipped to promote active living, healthy eating, and higher quality of life in their communities.\(^8\) Pursuant to their police powers, city governments are duty bound to act in the interest of public health.

Most local governments are aware that incorporating local food systems into comprehensive plans is essential. It follows, therefore, that local governments should enact policies and regulations affecting the production of food.\(^9\) Through a variety of policies and partnerships, local governments can promote healthier communities by creating a municipally funded organization to support community gardens, by including community gardens in each city’s comprehensive plan, by creating a community garden committee, and by providing an easily accessible inventory of all vacant lots and open space.\(^10\)

Cities can play a major role in removing legal barriers and facilitating the transition to community-based food production. Through the adoption of resolutions, policy statements, or executive orders, the local legislature or office of mayor can initiate local action and create a task force.\(^11,12\) Lawmakers can encourage urban agriculture by removing zoning barriers to growing

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\(^8\) Cultivating Community, supra note 20, at 1.


\(^10\) Schukoske, supra note 8, at 361.


\(^12\) A model resolution (Community Gardens: Model Resolution Language, Public Health Law Center, June 2011) attached as Appendix 2.
and selling produce. 93 “Policymakers can ensure that zoning and land use planning promote community gardens by: including gardeners in the review of local ordinances and policies; amending problematic language; including community gardens in comprehensive plans, policies, and codes in a way that ensures government support; and limiting the specific regulations or requirements placed on community gardens.” 94

The first step toward creating a community garden ordinance or amending existing codes should be to examine “existing policy barriers in light of opportunities, public goals, and relevant stakeholders. Urban agriculture offers an array of activities at many different scales; it presents a classic planning opportunity for responding to and promising community participation in civic, social, political, and economic life.” 95

In 2004, the city council of Portland, Oregon unanimously passed Resolution 36272 calling for an inventory of city-owned lands suitable for agricultural uses. 96, 97 Cities should conduct similar land inventories to explore the potential for food cultivation on any viable unused city land. Cities can then identify prime locations for community gardens as well as provide an easily accessible online inventory of all vacant public or private lots and open space. 98

“Tax credits create an attractive incentive for property owners to open their land to community gardening or urban farming uses, with desirable public health and safety outcomes for cities.” 99 Cities should offer private landowners a property tax discount during years when an otherwise empty lot is used for food growing. The Williamson Act in California provides property tax incentives to preserve land as agricultural in rural areas; cities should treat urban areas similarly. Generally, land has higher income earning potential when it is developed, but regardless of landowners’ plans for future development, the government should reward them for contributing to the betterment of the community and putting their resource to productive agricultural use in the interim. Such a tax incentive could dramatically multiply the amount of available land for community gardening and urban farming. 100

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93 Model zoning language (From Establishing Land Use Protections for Community Gardens, Public Health Law & Policy, March 2009 at 10-13) attached as Appendix 3.
95 Zoning for Urban Agriculture, supra note 22, at 8
96 Policies for Shareable Cities, A Sharing Economy Policy Primer for Urban Leaders, Sustainable Economies Law Center, (Sep. 9, 2013), at 17.
97 Portland, OR Resolution No. 36272 attached as Appendix No. 4.
98 lgc.org, supra note 73.
99 Supra note 96, at 17.
100 Id.
All cities can and should put vacant city property to productive use by adopting a municipal ordinance promoting, supporting, and protecting community gardens.\textsuperscript{101}

\textbf{a. Milwaukee}

Milwaukee does not yet have its own community gardening initiative, but is working on its HOMEGR/OWN Initiative, which will encourage citizens to use foreclosures and vacant lots for food growth and production.\textsuperscript{102} In the meantime, city leaders actively encourage widespread use of vacant lots for community gardens through extremely permissive zoning codes.\textsuperscript{103} The Office of Mayor promotes urban agriculture by establishing it as a use category in the zoning code. By approaching urban agriculture as a use category, rather than a district category, the city encourages widespread gardening in residential, commercial, and industrial areas.\textsuperscript{104}

\textbf{b. Chicago}

Chicago’s City Council created its own innovative nonprofit entity using municipal and private funds. The nonprofit has the control over easements to open public spaces for development and maintenance by neighborhood groups, as well as the power to acquire vacant, tax delinquent parcels.\textsuperscript{105} The nonprofit operates eighty-one community gardens throughout the city. Recently the city issued a substitute ordinance acknowledging the great contribution of urban agriculture to the local economy and quality of life, and amended its zoning code to allow agricultural uses in more areas throughout the city.\textsuperscript{106,107}

\textbf{c. St. Petersburg}

In 2009 St. Petersburg City Council passed an ordinance allowing for community gardens on vacant private property in the city. Private property owners apply for a permit and supply the land for the community gardens. The St. Petersburg Community Garden Ordinance regulates the gardens, placing the responsibility for complying with the ordinance upon the property owner. The purpose of the ordinance is to establish standards and regulations for community garden use,

\textsuperscript{101} Schukoske, \textit{supra} note 8, at 390.
\textsuperscript{103} Sixteen City Survey, \textit{supra} note 76, at 25.
\textsuperscript{106} Chicago Municipal Code Title 17 Amendments \textit{available at} http://www.cityofchicago.org/content/dam/city/depts/zlup/Sustainable
\textsuperscript{107} Chicago Substitute Ordinance § 17 attached as Appendix 5.
thereby acknowledging the necessity and interest for community garden spaces. The ordinance may appear innocuous, but it is a major progressive leap and goes far to change the landscape. Prior to the enactment of this ordinance, community gardens were illegal in St. Petersburg.

d. Seattle

In 2010, the Seattle Department of Planning and Development released a report recommending the city amend its zoning code to enhance the local food system. The report lists many benefits of local gardening and farming, and asserts that removing existing zoning and land use barriers would open up myriad opportunities for urban agriculture. The resulting Urban Agriculture Ordinance amended the Seattle Municipal Code to provide better support for urban agriculture and greenhouses and allow urban farming activities in almost all zoning districts. This represents one of the nation’s most progressive zoning ordinances in terms of facilitating urban agriculture. It allows for gardeners, farmers, and residents to sell the food they grow on their own land, and generally allows for residential urban farms absent a permit, and for-profit urban farms with a conditional permit.

e. Oakland

Oakland, California's General Plan has a stated goal of becoming a more sustainable city. It lists maintaining and supporting a viable community gardening program as a policy goal, and calls for a City-sponsored Community Garden Program to assist the existing East Bay Urban Gardeners’ League (EBUG) in recruiting and organizing neighborhood residents to establish and maintain community gardens.

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108 St Petersburg, FL Ordinances §16.50.85 and § 16.70.030.1.13.
109 E-mail from Philip Lazzara, AICP, Zoning Official, Planning an Economic Development Department, City of St. Petersburg, FL (Mar. 2014) (on file with author).
111 A copy of St. Petersburg, FL Ord. § 16.50.085 attached as Appendix 6.
113 Id.
114 A copy of Seattle, WA Ord. No. 123378 attached as Appendix 7.
Recognizing the need to eliminate zoning laws that hobble urban food production, city officials amended the Home Occupation Permit rules to enable the sale of food crops grown on residential properties, and adopted new residential and commercial zones allowing crop and agricultural activities in all residential and commercial areas in the City. Officials intended for the change to be an interim measure until the City could conduct a comprehensive update to address all aspects of urban agriculture. To that end, Oakland is currently updating its zoning regulations related to urban agriculture to reflect its vital urban farming movement and to encourage and facilitate local food production to keep up with the popularity of urban farming in Oakland and across the nation.117

f. Tampa

In 2011, Tampa city officials proudly announced code changes adopted to recognize community gardens as an allowable use of city land.118 This ordinance was a hard won victory for the city council and zoning department, who worked diligently to assure dubious residents they would not suffer any resulting negative impact.119 Land Development Coordination and Zoning approved the first city community garden in September of 2011.120 121

g. Raleigh

Raleigh, North Carolina’s community gardening ordinance states that any community garden must be located on a lot zoned to permit gardening. In Raleigh though, that includes almost any zoning district.122 123

h. Madison

Madison, Wisconsin cites protecting existing community gardens and establishing areas for new gardens as objectives in its Comprehensive Plan, and has a goal of creating one community garden site for every 2,000 households in the City. The Plan includes many

118 Tampa, FL Ordinance No. 2011-62
121 A copy of Tampa, FL Ordinance No. 2011-62 attached as Appendix 8.
123 A copy of Raleigh, NC Schedule of Permitted Land Uses in Zoning Districts § 10-2071 attached as Appendix 9.
policies promoting the expansion of community gardening projects on city land and promoting garden longevity.\footnote{124}

In 2009 local government officials and the Madison Community Area Land Trust created the Madison Urban Agriculture Ordinance Workshop. The goal of the workshop was expanding city codes to advance the cause of all aspects of city farming and gardening, and incorporating urban agriculture into as many districts as possible.\footnote{125}

The local government of Madison worked for years to overhaul its zoning ordinance to promote food production and permit agriculture uses.\footnote{126}, \footnote{127}, \footnote{128} In 2011, Madison’s Common Council adopted a new zoning code establishing an Urban Agriculture District. This would ensure urban gardens and farms met the health, education, job training, natural resource, and various other needs of the community.\footnote{128}, \footnote{130} Madison also has an ordinance establishing a committee on community gardens through the Mayor’s office. The committee meets monthly in furtherance of its goal of providing gardening opportunities to every citizen.\footnote{131}

\begin{itemize}
\item[i.] \textbf{Cleveland}
\end{itemize}

In 2007, Cleveland adopted an “urban garden district” ordinance, recognizing that a garden may be the highest and best use of an urban lot.\footnote{132} While the prior codes did not restrict gardening, the new ordinances made it clear that the city officially permitted agricultural activities.\footnote{133} This resulted in the formation of many community gardens and urban farms.

\begin{footnotes}
\item[128] A copy of Madison, WI Zoning Code Subchapter 28G attached as Appendix 10.
\item[130] Madison, WI Code § 28.093(1)
\item[132] Cleveland, OH Ordinance Ch. 336 (2007)
\item[133] Mogk, supra note 118, at 1551.
\end{footnotes}
Cleveland’s Agriculture in Residential Districts Ordinance permits agriculture as a principal use on all vacant residentially zoned lots.\textsuperscript{134} While the city prohibits chain link fences in front yards, the Ordinance permits 4-foot high vinyl-coated chain link fences to protect front yards used for urban agriculture.\textsuperscript{135}

\textbf{j. Buffalo}

Buffalo’s Common Council adopted a Comprehensive Plan to come up with a guide for the city until 2025. The Plan encourages appropriate re-use of city-owned vacant land, and calls for the distribution of community gardens within each neighborhood.\textsuperscript{136}

In 2008 the Common Council’s Community Garden Task Force adopted a resolution addressing the vital importance of the reuse of vacant city property. The Task force commissioned University at Buffalo students to recommend policies and procedures for the creation and protection of community gardens as a valuable asset. The resulting plan recommended “exploring the establishment of a Food Policy Council, recognizing and adding urban agriculture to the zoning code, creating a ‘Diggable Cities Database,’ creating a streamlined process to get city-owned vacant land available for community gardening, and drafting a ‘performance based lease’ to protect community gardens on city-owned vacant land.”\textsuperscript{137, 138}

Buffalo has now embarked on its “Greencode” process, an historic effort to update the city’s land use and zoning plans, with a goal of economic resurgence, community renewal, and environmental repair. The process will result in new zoning districts, all of which permit agriculture and establish permanent community garden sites.\textsuperscript{139, 140}

\textsuperscript{134} Cleveland, OH Ordinance Ch. 336 (2007) and Cleveland’s Agriculture in Residential Districts Zoning Code Update are attached as Appendix 11.
\textsuperscript{137} Id. at 8 (referencing Queen City Gardens Plan, Planning for Community Gardens in the City of Buffalo, Department of Urban and Regional Planning at State University of New York at Buffalo (2009) available at http://www.seattle.gov/Neighborhoods/ppatch/pubs/City%20of%20Buffalo%20Queen%20City %20Gardens.pdf (last visited May 12, 2014)); See entire quote at Buffalo’s Food System, supra note 126, at 5.
\textsuperscript{140} A copy of Buffalo Greencode attached as Appendix 12.
k. Kansas City

In 2008, in its Climate Protection Plan, Kansas City’s Office of Environmental Quality included a set of recommendations to promote urban agriculture. In the resulting Ordinance No. 100299, Kansas City committed to being a “Green City.” Through the Ordinance, Kansas City promotes food production in residential areas and fosters agriculture in neighborhoods and vacant lots. The Ordinance contains language acknowledging that urban agriculture can return underused urban spaces to productive land uses, offers educational opportunities for residents, and reduces the need for processed food and food that is grown elsewhere, refrigerated, and transported. In addition, it provides for sales of produce grown in local city gardens.\textsuperscript{141}

l. Springfield

The City of Springfield implemented a progressive ordinance grandfathering in all existing community gardens listed and shown on a map created by its Food Policy Council as an appropriate use of the current lots.\textsuperscript{142, 143}

m. Minneapolis

In an effort to expand urban agriculture, Minneapolis leaders created Homegrown Minneapolis (HGM), an initiative to promote locally grown foods within the city and region. HGM was designed to build on existing community resources to form a comprehensive group of local food activists and existing organizations. The group amended city ordinances and regulations, and promoted policies to allow indoor farmers’ markets, as well as implemented frameworks that have resulted in an extensive land inventory analysis. HGM also created an Urban Agriculture Policy Plan, adopted by the City Council in 2011, which recommends changes to city zoning ordinances to facilitate urban agriculture. Minneapolis has incorporated the Plan into the city’s Comprehensive Plan. The Plan empowers the City Council to amend the zoning code (which is largely silent with respect to many aspects of urban agriculture) per the Plan’s recommendations.\textsuperscript{144, 145}

\textsuperscript{141} A copy of Kansas City, MO Ordinance No. 100299 (as amended) (2009) attached as Appendix 13.
\textsuperscript{142} City of Springfield, \url{http://www3.springfield-ma.gov/planning/fileadmin/Planning_files/Community_Gardens2-FINAL_2_x.pdf} (last visited May 12, 2014).
\textsuperscript{143} A copy of Springfield Revised Ordinances Chapter 7.70 attached as Appendix 14.
\textsuperscript{144} \textit{Sixteen City Survey}, supra note 76, at 29.
\textsuperscript{145} City of Minneapolis Urban Agriculture Policy Plan, \url{http://www.minneapolismn.gov/cped/planning/plans/cped_urban_ag_plan} (last visited May 13, 2014).
III. Considerations for Cities Working to Enact Laws Creating, Funding, and/or Supporting Community Gardens

A vibrant community gardening program is essential to any progressive city, and is well within every California city’s reach. The State has many existing laws on point for city leaders to consider when creating legislation of their own.

A. Current California Law on Point\textsuperscript{146}

State law requires each city in California to adopt a general plan for the physical development of the city. “This ‘constitution’ of the community underlies all land use decisions. Legally, all local government land use policies must rest on the principles and goals of the general plan.”\textsuperscript{147} Following is a brief overview of other current State laws that can benefit cities working to implement a community gardening program.\textsuperscript{148}

1. Urban Agriculture Property Tax Incentive: AB 551

AB 551 allows cities and counties (with populations of 250,000 or more) to designate “incentive zones” where landowners can get a property tax break in exchange for dedicating their vacant land to commercial or noncommercial agricultural use for at least five years. Under this arrangement, the State bases property taxes on an assessment of the agricultural value of the land, instead of its much higher market value.\textsuperscript{149}


This Code Allows the Secretary of the State and Consumer Services Agency to create facilitation programs to support organizations that develop community gardens.


This Code authorizes the Director of General Services to offer five-year leases of state properties to public agencies for use as community gardens. Lands used for community gardens may not consist of more than five acres. Only one parcel may be let for use as a community vegetable garden; “two or more contiguous parcels” owned by the state may not be let for the same use.

\textsuperscript{147} Establishing Land Use, supra note 46 at 10
\textsuperscript{148} National Conference of State Legislatures, \url{http://www.ncsl.org/research/agriculture-and-rural-development/community-gardens-state-statutes-and-programs.aspx#ca}
\textsuperscript{149} Cuesa.org, New Law Breaks Ground for Urban Ag, (October 4, 2013) \url{http://www.cuesa.org/article/new-law-breaks-ground-urban-ag} (last visited May 1, 2014).
4. Cal. Str. & H. Code § 104.7(a)

This code authorizes the Department of Transportation to lease vacant property on hold for eventual highway development to local municipal governments for $1 per year for lease periods of at least one year, provided the land used for agriculture as a first priority.


These Codes establish funding and legislation regarding school gardening programs.

6. Proposed Legislation: California AB 2561

AB 2561 recognizes that California is the breadbasket of the world, and will prohibit city or county restriction of community gardens. The bill would also require that, absent any health risk, each land use zone be considered zoned for entrepreneurial agriculture. By increasing the duties of local officials, this bill would impose a state-mandated local program.

B. Challenges

1. Longevity

Probably the most significant barrier facing community gardening efforts is insecure land tenure. The greatest threat to community gardens on public land is redevelopment.\footnote{150} Community gardeners on public lots have little recourse when the city supports the sites development.\footnote{151}

Because most urban gardeners do not have title to their land, they risk losing agricultural investments if a person or entity decides to develop the land for other purposes. “Methods need to be created to encourage agricultural use through land trusts, longer-term leases, and allied policy initiatives.”\footnote{152} Land agreements, such as short-term leases, provide little overall security, unless the landholder is serious about keeping the site in use as a community garden. That kind of commitment is often unreliable. The best tenureship arrangements are ones that provide the most tenure security. The associated benefits, such as community building, are likely to take root and grow over the course of years, as well. Secure tenureship is a prime concern.\footnote{153}

\footnote{151} City Farmer, \url{http://www.cityfarmer.org/madison.html} (last visited May 1, 2014).
\footnote{152} Mogk, \textit{supra} note 118, at 1548
\footnote{153} lgc.org, \textit{supra} note 73.
"Valuation of land creates a barrier to garden permanence. We tend not to value undeveloped land; that is to say, it is not worth anything unless we can build on and profit from it. Such a way of valuing land poses a barrier to the vitality and longevity of garden space."\textsuperscript{154} Cities want to extend their tax bases, and consider vacant land unproductive, as it is not a source of tax revenue. Unless the city has made a strong commitment to community gardening, more intensive and lucrative uses could replace garden uses eventually.\textsuperscript{155}

For the sake of longevity and sustainability, Denver Urban Gardens recommends building on public, not private land. As well intended as a citizen may be, "When the private site is sold for development (more or less inevitable), the garden and its partners lose everything that was collectively invested."\textsuperscript{156} Furthermore, equally well intended local leaders can change direction and undercut the efforts of existing programs in the name of progress.\textsuperscript{157}

Community gardens “cannot be any longer viewed as mobile and temporary, able to be dotted here and there on the urban map at will.”\textsuperscript{158} If they are not doing so, local leaders must learn to think of agriculture as part of the urban infrastructure. Zoning codes must address community gardens to avoid vulnerability to closure or displacement by development.\textsuperscript{159} Policy makers should incorporate language in their city’s comprehensive plans recognizing community garden space as a permanent land-use rather than temporary or interim land use.\textsuperscript{160}

2. Liability

Liability insurance can provide some protections to a community garden organization and landowners, but it can be costly and therefore difficult to come by. Government engagement can help to overcome liability issues. Local policymakers can extend municipal liability protection to community gardens on public property.\textsuperscript{161} A private citizen is probably not going to want to invest in additional insurance to let a group of gardeners use his land. One option in this case, is to seek out a third party willing to support the community garden by handling the insurance or waiver thereof.\textsuperscript{162}

\textsuperscript{154} Filling the Void, supra note 5, at 11
\textsuperscript{155} Id.
\textsuperscript{157} James J. Kelly, Land Trusts that Conserve Communities, 59 DePaul Law Review at 85 (Feb. 12, 2010).
\textsuperscript{158} Celeste Pagano, DIY Urbanism: Property and Process in Grassroots City Building, Forthcoming in the Marquette Law Review at 43.
\textsuperscript{159} Establishing Land Use, supra note 46, at 3
\textsuperscript{160} Policy Reference Guide, supra note 92, at 16
\textsuperscript{161} Id. at 20.
\textsuperscript{162} Pierce Conservation District, http://www.piercecd.org/images/CommunityGardens_PDFs/Find_a_Site.pdf (last visited Apr. 28, 2014).
Different types of landowners will have different requirements regarding insurance. Public agencies are accustomed to insuring public spaces, so treating the garden like a public space can often satisfy their requirements. Churches or other land-owning nonprofits are also familiar with insurance costs for insuring the land they own—there may or may not be changes necessary to turn parts of the land into a garden. A landowner may ask for a "hold harmless" waiver, or an agreement that the owner is not responsible for injuries on the property. The Local Government Commission recommends such a waiver. Landowners or garden officials should draft these waivers and releases specifically to increase likelihood of enforcement by the courts.

New York City sets a great example of municipal support for urban agriculture. The City has completely stopped requiring community gardeners on public property to carry liability insurance, and the Department of Parks and Recreation covers public gardens under its general liability insurance.

3. Logistical Challenges for Policymakers to Consider: Water, Soil, Compost, and Vandalism

Community gardens must have access to clean and affordable water for irrigation during the growing season. Policymakers and partners must work together to ensure gardens have access to municipal or county water sources, and install meters to determine water usage and cost.

Compost from decomposed organic waste provides essential nutrients for garden soil. Cities should contract with municipal waste services to obtain compost. Testing of soil and compost for possible contaminants is essential, particularly on formerly industrial land. Contaminated soil may result in the need for raised planter beds or purchased and imported soil. Policymakers and gardeners must work together to create resources for such testing and repair or removal of contaminated soil.

Urban gardens face urban problems, and vandalism is always a risk. Gardens should have good lighting, and be equipped with secure locked gates to deter vandalism (and therefore

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165 Sample Release of All Claims and Permission for Land Use forms (from American Community Gardening Association, www.communitygarden.org) attached as Appendix 15.
166 lgc.org, supra note 73.
It is important for cities encouraging urban agriculture to encourage law enforcement agencies to recognize that vandalism is a risk, so that they will provide surveillance and security.\(^{171}\) In addition, a vibrant and actively populated community garden will likely act as a deterrent. Gardeners should display signage identifying the garden as a neighborhood project, and develop and nurture relationships with the community.\(^{172}\) An attentive and engaged neighborhood can serve to discourage vandals.

**D. Top Ten Recommendations for Local Leaders of Progressive Cities**

In addition to creating a municipal ordinance, cities that have established sustainability as a goal can promote community gardening in other ways. The following is a list, based upon research for this paper, of top ten recommendations for implementation by city governments:

- Create a municipal community gardening program\(^{173}\)
- Update the city’s general plan to support and protect community gardens\(^{174}\)
- Appoint a food policy council to advise the city council
- Appoint a community garden coordinator to recommend and implement streamlined processes for acquiring public land\(^{175}\)
- Review and modify existing land use policies, like zoning ordinances, to ensure urban agriculture is a permitted use in all zones
- Identify and secure partnerships between government agencies and private nonprofits, or create a municipally funded nonprofit organization\(^{176}\)
- Set aside funds in the budget of the Parks and Recreation Department or other government agencies\(^{177}\)
- Establish a grant program for financial support\(^{178}\)
- Provide a design plan and necessary infrastructure, (a one-time capital expense)\(^{179}\)
- Take a land inventory, and secure (or purchase) viable sites for gardens\(^{180}\)

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\(^{171}\) *Seeding the City*, supra note 18, at 19

\(^{172}\) *Supra* note 168, at 6

\(^{173}\) *Cultivating Community*, supra note, 20 at 6

\(^{174}\) *Establishing Land Use*, supra note 46, at 3

\(^{175}\) *Seeding the City*, supra note 18, at 19

\(^{176}\) *Cultivating Community*, supra note 20, at 6

\(^{177}\) *Policy Reference Guide*, supra note 92, at 6

\(^{178}\) *Id.*

\(^{179}\) *Cultivating Community*, supra note 20, at 3

\(^{180}\) *Id.*
V. Conclusion

Sustainability is a lofty goal every progressive city must embrace. All cities have unused space that can be put to productive use for feeding, educating, bettering, and greening the community. Through partnerships, appointments, and aggressive, innovative policymaking and lawmaking, city leaders can enhance quality of life for generations to come. Bound by their civic duty to provide for the well-being of the citizenry, and their moral duty to foster stewardship of the land, leaders of progressive cities can pave the way for healthy change for citizens across the nation, and for future generations.
ORDINANCE NO. 2007-025

Adopted by the Sacramento City Council

April 3, 2007

AMENDING SECTION 17.68.010 OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO LANDSCAPING REQUIREMENTS IN REQUIRED FRONT YARD AND STREET SIDE YARD SETBACK AREAS FOR SINGLE-FAMILY AND TWO-FAMILY RESIDENTIAL USES (M06-052)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.68.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Subsection (A)(1) of section 17.68.010 is amended to read as follows:


a. Setback Area Paving Restrictions.

A maximum of forty (40) percent of the required front setback area may be paved for off-street parking and driveways. An additional maximum of ten (10) percent of the front setback area may be paved for walkways or uncovered patio use. A maximum of forty (40) percent of the required street side setback area may be paved for off-street parking, driveways, walkways or uncovered patio use; however, this requirement does not apply to that portion of the street side yard located behind a fence that is in compliance with the street side fence requirements set forth in Chapter 17.76 of this title.

b. Landscape and Maintenance Requirements.

Notwithstanding subsection (A)(1)(a) of this section, the remaining unpaved portion of the setback areas shall be landscaped, irrigated and maintained. The landscape may include grass, annuals, perennials, ground cover, shrubs, trees, and any design elements such as planters, rocks, mulch, or similar elements when integrated as part of the landscape. However, only living vegetation may be used as a primary ground cover; no cement, brick, artificial turf, or other non-vegetative products such as plastic plants or flowers may be used for this purpose. All landscaping materials shall be mowed, trimmed, and/or maintained as often as necessary to prevent overgrowth and blight. No junk, debris, or other similar materials shall be stored in the landscaped setback area.
c. Height Restrictions for Landscaping Located in the Clear Zone.

All landscaping located within the clear zone for driveways and corner lots, as set forth in Section 17.76.010 of this title, shall not exceed four (4) feet in height, except that trees exceeding four (4) feet in height shall be allowed if the tree is maintained free of branches five (5) feet above the finished grade, as defined in Section 15.88.050 of this Code.

d. Vehicle Parking Requirements.

Vehicles, including but not limited to automobiles, boats, campers, trailers, and other recreational vehicles must be parked on a paved surface, as provided for in Section 10.44.010 of this Code. Such vehicles are not permitted to be parked within the landscaped setback area.

B. Except as specifically amended by subsection (A)(1) above, the provisions of section 17.68.010 shall remain unchanged and in full force and effect.

Adopted by the City of Sacramento City Council on April 3, 2007 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, and Mayor Fargo.

Noes: Councilmember Waters.

Abstain: None.

Absent: None.

Attest: Shirley Concolino, City Clerk

Mayor Heather Fargo

Passed for Publication March 27, 2007
Published March 30, 2007
Effective May 3, 2007
Appendix 2
COMMUNITY GARDENS: MODEL RESOLUTION LANGUAGE

June 2011

The Public Health Law Center developed the following model language to be used as a tool for cities and counties to use in the promotion of community gardens on both public and private land. The model resolution is provided in both a short and long version. Both resolutions include a framework local governments can use to promote and encourage community gardens as a valuable resource and use of land on both public and private property.

The short resolution provides local governments with information regarding the benefits of community gardens and a general statement of support for the promotion of community gardens.

The long resolution provides information regarding the benefits of community gardens and more detailed policy steps a local government can take to promote community gardens. These include specific action steps to ensure the resolution is implemented and potential ways that local government can get involved in developing a sustainable community garden program.

Creating a resolution is one measure through which a local government can establish specific goals that encourage and support community gardens. The model Community Garden Resolutions, below, commit a local government to implementing a community garden policy, ensures governmental support to community gardens, and streamlines the process for creating a community garden. The local governing body will need to determine where to add language or make changes within specific policies, ordinances, or regulations to ensure the resolution best fits their needs and specific legal structure. Language in italics and language in [brackets] indicates language that may be inserted or an area to be changed to meet the needs of a specific local government.

For more information about policy drafting, please refer to the Public Health Law Center’s website, www.publichealthlawcenter.org and the Policy Drafting Checklists. The Center also offers trainings to certain local communities on drafting effective policies and may be able to review the draft of your resolution as resources permit. Please check the Center’s website at www.publichealthlawcenter.org for the latest version of the model resolutions.

To request assistance or provide suggestions, e-mail the Center at: publichealthlaw@wmitchell.edu.
Community Garden: Model Resolution Language - Short Version
Model Resolution Language to Encourage and Preserve Community Gardens

STATEMENT OF PURPOSE: The purpose of this resolution is to adopt a community gardens policy for [County/City]. The resolution calls on the [County/City] to develop such a [policy within one year from the adoption of this resolution.] The resolution reflects the [County/City's] support for community gardens as a valuable resource and the [County/City's] commitment to collaborate with the community, neighboring cities, non-profit organizations, and other stakeholders to encourage and preserve community gardens on public and private land.

A RESOLUTION declaring [County/City's] support for the creation, protection and long-term sustainability of community gardens.

WHEREAS, community gardens are any piece of private or public land where plants are grown and maintained by a group of individuals in the community. Community gardens often produce food for individual consumption, but may produce food for sale, be designed for beautification of the community, or be used for educational purposes; and

WHEREAS, community gardens make a significant contribution to the civic and cultural life of communities and create gathering places that bring people together across boundaries of age and ethnicity; and

WHEREAS, community gardens provide access to healthy, culturally specific food for people of all economic backgrounds, allowing residents to improve nutrition and lower food costs; and

WHEREAS, community gardens serve as a tool to fight obesity by positively contributing to the physical activity of participants, increasing access to nutritional foods, and serving as an important environmental and health educational tool; and

WHEREAS, community gardeners and their children eat healthier, more nutrient-rich diets than do non-gardening families; and

WHEREAS, community gardens provide positive attributes as urban green spaces: they beautify areas, build a sense of community among neighbors, abate criminal activity, and prevent trash accumulation, dumping, and littering; and

WHEREAS, community gardens contribute to the preservation, access to, and use of open space, vacant lots, and public parks; and

WHEREAS, community gardens empower residents to become more active in their communities, cultivating cross-cultural and intergenerational volunteers and leaders who come together to preserve open space and create gardens for the benefit of present and future generations.

NOW, THEREFORE, BE IT RESOLVED, that the [County/City] supports the creation of sustainable community gardens on both public and private property and will establish policies and procedures to ensure the success of community gardens on both public and private property.
COMMUNITY GARDENS: MODEL RESOLUTION LANGUAGE

Community Garden: Model Resolution Language - Long Version
Model Resolution Language to Encourage and Preserve Community Gardens

STATEMENT OF PURPOSE: The purpose of this resolution is to adopt a community gardens policy for [______ County/City]. The resolution calls on the [County/City] to develop such a [policy within one year from the adoption of this resolution.] The resolution reflects the [County/City's] support for community gardens as a valuable resource and the [County/City's] commitment to collaborate with the community, neighboring cities, non-profit organizations, and other stakeholders to encourage and preserve community gardens on public and private land.

A RESOLUTION declaring [______ County/City's] support for the creation, protection and long-term sustainability of community gardens.

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WHEREAS, community gardens empower residents to become more active in their communities, cultivating cross-cultural and intergenerational volunteers and leaders who come together to preserve open space and create gardens for the benefit of present and future generations.

NOW, THEREFORE, BE IT RESOLVED, that the [______ County/City] establish a Community Garden Policy that provides as follows:
1. The [County/City] supports community gardens as a valuable resource and commits to encouraging and preserving community gardens on public and private land.

2. That in order to encourage and protect community gardens on private and public land the [Board of Commissions/ City Council] directs the [Planning Commission/Park and Recreation Advisory Commission/ Parks Director/City Planner/ Parks Department], along with other key staff as selected, to develop a [County/City] Community Garden Policy.

3. The [County/City] will work with [non-profit organizations, gardeners and neighborhood groups] to identify public and private land suitable for community gardens.

4. The [County/City] will allow the use of public property, where appropriate, for new community garden sites, [such as undeveloped parcels, road rights of way, marginal park land, and adjacent greenway land] and will include community gardens as a desired use of public property.

5. The [County/City] will create an application process to establish community gardens on public property and provide information on who to contact and what to consider for starting a community garden on public property.

6. The [County/City] will provide guidance for community gardens on private property, including information on [who to contact, best practices, available parcels, and what issues to consider when starting a community garden].

7. The [County/City] will maintain an inventory of community gardens and their condition on public property with permission from private property owners and community garden groups.

8. The [County/City] will incorporate the Community Garden Policy into [County/City’s] Comprehensive Plan to encourage and preserve community gardens.

9. The [County/City] Community Garden Policy will provide an assessment of the [County/City’s] zoning and land use ordinances in order to encourage and provide ease of entry for community gardening, including but not limited to;

   a. The [County/City] will take appropriate measures to encourage community gardens on private and public land through re-zoning by identifying land not appropriate for gardens and ensuring that community gardens are permitted uses in all appropriate areas.

   b. The [County/City] will update zoning codes to ensure land set aside for urban agriculture and community gardens count toward existing green-space set-aside and green building regulations.

   c. The [County/City] will ensure shared access to community resources, such as water, compost, parking, electricity, and soil testing for both nutrients and contaminants, for public and private community gardens.

   d. The [County/City] will provide resources and technical assistance for remediation and/or removal of contaminated soil if testing results indicate garden soil is contaminated.
10. The [County/City] will publish the Community Garden Policy, a comprehensive inventory of public community gardens, application procedure, and community garden map on the [County/City] website.

11. The [County/City] will promote cooperation and consistency in the implementation of the Community Garden Policy through communication and collaboration among departments and agencies, including [the Parks and Recreation Advisory Commission/Department, the Department of Public Works, the Planning Commission/Department, the School District, the Community and Economic Development Office, the Public Health Commission/Department], to maintain, create, and enhance opportunities for community gardening on public and private land;

12. The [County/City] recognizes the economic, environmental and social value of community gardens and will attempt to provide budgetary support for the coordination of a community garden program.

13. The [County/City] will review all future policies to assess their impact on community gardens and ensure that these policies promote community gardens and do not create unnecessary obstacles or burdens on community gardens.

14. The [County/City] directs the [Parks Director/Director of Parks and Recreation, the Public Health Commission/Department] to create a Community Garden Advisory Committee ("CGAC"), within [three/six months] of the adoption of this resolution. The CGAC will:

a. Provide advice and direction to the [County/City/Mayor/City Council/County Government/Park Board/Planning Commission/Parks Department/ City Planner] in the creation and implementation of the Community Garden Policy; and

b. Include community members from established public and private community gardens in the [City/County] and from [neighborhoods/communities] seeking to promote and develop new community gardens.

15. The [County/City] directs the [Planning Commission/Park and Recreation Advisory Commission/ Parks Director/ City Planner/ Parks Department] to evaluate the implementation of the Community Garden Policy on an annual basis and present the evaluation to the [Board of Commissions] [three] years from adoption of this resolution and every [three] years thereafter.

BE IT FURTHER RESOLVED that this Policy shall become effective as of _____2011.
Appendix 3
Model ZONING Language
Establishing Community Gardens as an Approved Use

California state law requires each county and city to adopt a comprehensive, long-term plan for the physical development of the county or city, called the general plan.20,21 The community’s zoning ordinances set forth the regulations to carry out the policies of the general plan. Zoning is a regulatory mechanism by which a government divides a community, such as a city or county, into separate districts with different land use regulations within each district. Simply stated, zoning determines what can and cannot be built, and what activities can and cannot take place, on the parcels of land throughout a community.22

The majority of California’s cities have “use-based” zoning laws. Use-based codes divide the jurisdiction into distinct districts, such as residential, commercial, multi- or mixed-use, and industrial, and regulate the use and development of the land within the districts based on the designation.23 Community gardens are not usually addressed in zoning codes, which leaves them vulnerable to being closed down as “illegal” uses or to displacement by development that is expressly permitted in the zoning district.

The following model language is designed for California cities or counties to tailor and adopt as an amendment to their existing zoning laws.24 We offer two options: (1) an ordinance that establishes that community gardens are an approved use of land in residential, multifamily, mixed-use, industrial and any other districts in which a community garden would be appropriate; and (2) an ordinance that establishes a separate subcategory or subdistrict of open space dedicated for the use of community gardens.

The first designation allows residents to develop and maintain community gardens in the enumerated districts without requiring the residents to obtain any type of permit, finding, variance, or other government approval. Because no permits are required, the ordinance sets forth basic regulations for community gardens.

The second designation establishes community gardens as a legitimate use in specified zoning districts and gives them the same protections as other types of open space uses in the

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20 California Govt. Code § 65300.
21 Please see the accompanying document for model general plan language promoting farmers’ markets.
23 Another form of zoning that is becoming increasingly popular with “smart growth” advocates is “form based zoning.” While form based zoning is broader in how it defines allowed uses, use definitions still apply. Most of the provisions here could be applied to form based codes. For more information on form based and use based zoning, see Section V of How to Create and Implement Healthy General Plans, available at: www.healthyplanning.org/healthygpublictoolkit/HealthyGP_SectionV.pdf.
community. Communities can amend their zoning codes to include one or both of these designations.

The local jurisdiction will need to determine where within its existing code the ordinances would best fit, make other amendments as necessary for consistency, and follow the appropriate procedures for amending the zoning law. The language is designed to be tailored to the needs of an individual community. Language written in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the ordinance. “Comments” provide additional information.

**Permitted Use of Community Gardens**
Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. The land shall be served by a water supply sufficient to support the cultivation practices used on the site. Such land may include available public land. Community gardens are a permitted use in the following zones: residential, multifamily, mixed-use, open space, industrial *add other zoning districts* subject to the following regulations:

| **Comment:** Some communities may permit community gardeners to keep bees and raise chickens on garden sites. If so, this definition can be amended to allow these uses. |

(a) Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

| **Comment:** Funds and grant for environmental site assessments, testing and cleanup procedures may be available from a variety of state and federal sources. Site users should coordinate with their local economic development and redevelopment agencies, as well as their local/regional Department of Toxic Substances Control. |

(b) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City [insert department name] Department.

| **Comment:** To function effectively, a community garden must have established operating rules and a garden coordinator. In this ordinance, a municipality could (1) require that gardens have rules, as the model language does above, (2) provide a complete...
listing of rules; or (3) give authority for a particular city or county department or officer to establish community garden rules and require each community garden to adhere to those rules. A municipality could also choose to address some or all of the requirements for operating a community garden in this or an accompanying ordinance.

(c) The site is designed and maintained so that water and fertilizer will not drain onto adjacent property.

(d) There shall be no retail sales on site, except for produce grown on the site.

Comment: Community gardens can be a needed source of income to low-income residents, as well as a source of produce for neighbors who do not grow their own food. The model language allows gardeners to sell the produce they have grown, but permits no sales of other items. Because the model ordinance permits community gardens to be established in a variety of use districts, including residential districts, a municipality may be reluctant to allow major retail operations on garden sites. If the municipality chooses, it may allow more expansive sales at garden sites. Alternatively, it could permit gardeners to sell produce at a different site.

The model ordinance addresses land use issues when permitting sales, but does not address other regulations that may affect sales, such as health and sanitation laws or business license regulations. Before permitting sales of community garden produce, the municipality must ensure that those sales are permitted under other state and local laws.

(e) No building or structures shall be permitted on the site; however, [sheds for storage of tools limited in size to [_______] or subject to the requirements of section _____], greenhouses that consist of buildings made of glass, plastic, or fiberglass in which plants are cultivated, [chicken coops], benches, bike racks, raised/accessible planting beds, compost or waste bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, [beehives], [barbeque grills, outdoor ovens] and children's play areas shall be permitted. The combined area of all buildings or structures shall not exceed [15 percent] of the garden site lot areas. Any signs shall comply with applicable [city/county] ordinances.

Comment: Some communities may wish to allow community gardeners to erect sheds for the storage of tools on garden sites. The municipality should make sure that any provision regarding sheds conforms to other municipal code provisions regarding storage sheds on property. Additionally, if communities permit the cultivation of beehives and chickens in their community gardens, structures for the care of these animals should be included. Local laws vary on the keeping of farm animals in different use districts.
(f) Fences shall not exceed [six feet] in height, shall be at least [fifty percent] open if they are taller than [four feet], and shall be constructed of wood, chain link, or ornamental metal. For any garden that is [15,000 square feet in area or greater] and is in a location that is subject to design review and approval by the [City Planning Commission or Landmarks Commission], no fence shall be installed without review by the [City Planning Director, on behalf of the Commission], so that best efforts are taken to ensure that the fence is compatible in appearance and placement with the character of nearby properties.

**Comment:** Municipalities usually have requirements regarding fences in their zoning or building codes. If the municipality has existing regulations, it may not need this provision.

(g) Other Regulations

**Comment:** Communities may wish to impose additional regulations on community gardens, including:
- Prohibiting connections to electricity or sewers without a permit or other permission from the municipality or a particular department;
- Imposing specific regulations regarding maintenance of the site, such as frequency of waste collection;
- Requiring a community garden to have a nonprofit entity or neighborhood group as a sponsor or to act as garden coordinator; or
- Requiring particular landscaping or setbacks outside of the garden within the public right-of-way.

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**Community Garden Open Space (Sub)districts**

Community Garden open space subdistricts shall consist of land divided into multiple plots appropriate for and limited to the cultivation of fruits, vegetables, plants, flowers or herbs by various users. Such land may include available public land.

**Comment:** Some communities may permit community gardeners to keep bees and raise chickens on garden sites, assuming local law so permits. This definition can be amended to allow these uses.

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For an editable (Microsoft Word) version of Model Zoning Language Establishing a Community Garden as an Approved Use, see [www.healthyplanning.org](http://www.healthyplanning.org).
Appendix 4
Resolution No.

Direct applicable City bureaus to conduct an urban agricultural inventory of city owned land that may be suitable for community gardens and other agricultural uses. (Resolution)

WHEREAS, City Council, supports the Community Gardens Program that has been providing gardening and greening opportunities for the physical and social benefit of the people and neighborhoods of Portland since 1975; and

WHEREAS, There are 28 community gardens located throughout the city, developed and operated by volunteers and Portland Park & Recreation staff, offering a variety of programs and interests; and

WHEREAS; Community gardens are important neighborhood gathering places that contribute to the City’s parks and open space system and support neighborhood livability; and

WHEREAS; The Community Gardens Program encourages organic gardening, building healthy soil, new and heirloom plant varieties, composting, cover cropping, food sustainability, intergenerational activities; and

WHEREAS, In June 2002, the City and County created a joint Food Policy Council to provide ongoing advice and input to City and County staff on food-related issues; and

WHEREAS; Urban gardening supports self-sufficiency and access to healthy food for Portland residents; and

WHEREAS; Community Gardens annually donate 10,000 pounds of fresh vegetables to neighborhood emergency food pantries of the Oregon Food Bank, and the Oregon Food Bank reports continued increases in emergency food requests; and

WHEREAS; Gardening is an important part of our culture that connects Portlanders to the natural environment and Oregon’s agricultural heritage; and

WHEREAS; Local food production results in fresher, more nutritious food and reduces the transportation impacts of shipping food long distances; and

WHEREAS; The nonprofit Zenger Farms, operating on City property, demonstrates the educational, environmental and community benefits of urban farming to residents of the Lents neighborhood, recent immigrants, school children and other Portlanders; and

WHEREAS, City Council is committed to continuing efforts to cultivate Community Gardens throughout the City of Portland as well as providing other agricultural opportunities; and
WHEREAS, The City can support the creation of additional community gardens and agricultural opportunities by allowing, where appropriate, City-owned lands to be used for those efforts.

NOW, THEREFORE, BE IT RESOLVED that the City of Portland will create an urban agricultural inventory of city owned land that may be suitable for community gardens:

(a) Using the City’s Geographic Information Systems (GIS), an inventory of City-owned properties will be mapped using applicable criteria to determine site potential for community gardens or for other agricultural uses.

(b) The Community Gardens Program, Food Policy Council, applicable bureau staff, and Commissioner Saltzman’s Office will work jointly to identify the criteria for suitable sites that have the potential to become community gardens or have other agricultural uses on City-owned property. In particular, pump stations, storage tanks and other Water Bureau and Bureau of Environmental Services facilities will be examined for their potential to become community gardens or used for other agricultural uses.

(c) Within six months of the acceptance of this Resolution, the groups identified in section (b) will submit a report to City Council which will include an urban agricultural inventory of City-owned sites that are suitable for community gardens and other agricultural uses.

Adopted by the Council,
Commissioner Dan Saltzman
Brendan C. Finn
November 24, 2004

GARY BLACKMER
Auditor of the City of Portland
By
Deputy
SUBSTITUTE ORDINANCE

Whereas, to ensure the health and safety of all its residents, the City of Chicago ("City") seeks to create and encourage programs and policies that sustain greater local food security and improve access to healthy food in under served neighborhoods; and

Whereas, urban agriculture contributes to the local economy by generating living-wage jobs, sales of food at farmers markets, grocery stores, and on-site farm stands and offering the opportunity for resident entrepreneurship in creating food-related small-businesses; and

Whereas, urban agriculture provides a proven tool for improving the City’s quality-of-life by reducing the negative impact of vacant lots, buildings and unused rooftops and helps to support neighborhood stabilization and recovery; and

Whereas, the City will research outdoor and rooftop aquaponic and hydroponic systems; and

Whereas, the City will also research apiary systems to determine if limits should be raised and will make recommendations within 6 months of this ordinance taking effect; now therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 17-2-0207 of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

17-2-0207 Use Table and Standards.

<table>
<thead>
<tr>
<th>USE GROUP</th>
<th>Zoning Districts</th>
<th>Use Standard</th>
<th>Parking Standard</th>
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<tbody>
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<tr>
<td>Specific Use Type</td>
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</table>

P= permitted by-right  S = special use approval req’d  PD = planned development approval req’d  - = Not allowed

(Omitted text is unaffected by this ordinance)

PUBLIC AND CIVIC

(Omitted text is unaffected by this ordinance)

H. Parks and Recreation (except as more specifically regulated)

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<th>Use Category</th>
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1. Community Centers, Recreation Buildings and Similar Assembly Use

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2. Community Garden

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(Omitted text is unaffected by this ordinance)

SECTION 2. Section 17-3-0207 of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of
Chicago, is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

### 17-3-0207 Use Table and Standards.

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(Omitted text is unaffected by this ordinance)

1. Parks and Recreation (except as more specifically regulated)

   | Use Category |  $P$ |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |       |       |
   |--------------|-----|-----|-----|-----|-----|-----|       |       |
   | 1. Community Centers, Recreation Buildings and Similar Assembly Use |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |       |       |
   | 2. Community Garden |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |       |       |
   | 3. Community and Special Events |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |       |       |

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**W. Urban Farm**

1. Indoor Operation

   | Use Category |  $=$ |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |       |       |
   |--------------|-----|-----|-----|-----|-----|-----|       |       |
   | 1. Outdoor Operation |  $S$ |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |       |       |
   | 2. Rooftop Operation |  $S$ |  $P$ |  $P$ |  $P$ |  $P$ |  $P$ |       |       |

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**X. Communication Service Establishments**

1. Communication Service Establishments |  $=$ |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |       |       |

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**Y. Construction Sales and Service**

1. Building Material Sales |  $=$ |  $S$ |  $S$ |  $S$ |  $S$ |  $S$ |       |       |

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**SECTION 3.** Section 17-4-0207 of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

### 17-4-0207 Use Table and Standards.

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<td>3. Community Garden</td>
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<td>§17-9-0103.3</td>
<td>17-10-0208</td>
<td></td>
</tr>
<tr>
<td>2. Outdoor Operation</td>
<td></td>
<td></td>
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<td>P</td>
<td>§17-9-0103.3</td>
<td>17-10-0208</td>
<td></td>
</tr>
<tr>
<td>3. Roof Top Operation</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§17-9-0103.3</td>
<td>17-10-0208</td>
<td></td>
</tr>
<tr>
<td>W. X. Communication Service Establishments</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>P</td>
<td>§17-10-0208</td>
<td></td>
<td></td>
</tr>
<tr>
<td>X. Y. Construction Sales and Service</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>P</td>
<td>§17-10-0208</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Commercial Farm, Rooftop</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§17-9-0103.3</td>
<td>17-10-0208</td>
<td></td>
</tr>
<tr>
<td>Y. Z. Drive-Through Facility</td>
<td>-</td>
<td>S</td>
<td>-</td>
<td>S</td>
<td>§17-9-0102</td>
<td>17-10-0208</td>
<td></td>
</tr>
<tr>
<td>1. Just, Eating and Drinking Establishments (all, including Taverns)</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>P</td>
<td>§17-10-0208</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AA BB. Entertainment and Spectator Sports (except as more specifically regulated)</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>P</td>
<td>§17-9-0102</td>
<td>17-10-0208</td>
<td></td>
</tr>
</tbody>
</table>

| 1. Financial Services (except as more specifically regulated)                 | P | P | - | P | §17-10-0208                   |       |       |

| CC DD. Fleet Market                                                           |   |   |   | S | §17-10-0208                   |       |       |

| DD EE. Food and Beverage Retail Sales (except as more specifically regulated) | P | P | - | P | §17-10-0208                   |       |       |

| 1. Fortune Telling Service                                                   | S | S | - | P | §17-10-0208                   |       |       |

| FF GG. Funeral and Interment Service                                         |   |   |   |   | §17-9-0109                    | 17-10-0208 |       |

| GG HH. Gas Stations                                                          | - | S | - | S | §17-9-0109                    | 17-10-0208 |       |

| 1. Lodging                                                                   |   |   |   |   | §17-10-0208                   |       |       |

| 1. Medical Service                                                           | P | P | - | P | §17-10-0208                   |       |       |

| 1. Office                                                                    | P | P | - | P | §17-10-0208                   |       |       |

| 1. Parking, Non-Accessory                                                    |   |   |   |   | §17-9-0102                    | 17-10-0208 |       |

<p>| 1. Personal Service                                                          | P | P | - | P | §17-10-0208                   |       |       |</p>
<table>
<thead>
<tr>
<th>USE GROUP</th>
<th>Specific Use Type</th>
<th>District</th>
<th>Use Standard</th>
<th>Parking Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public and Civic</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1. Parks and Recreation (except as more specifically regulated)</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§ 17-10-0207-E</td>
</tr>
<tr>
<td>1. Community Centers, Recreation Buildings and Similar Assembly Use</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>2. Community Garden</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Commercial</td>
<td></td>
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<tr>
<td>M. Urban Farm</td>
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<td>--------------------------------------------------</td>
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<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>1. Indoor Operation</strong></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§ 17-9-0103.3 Accessory sale of goods produced on site shall not exceed 3000 square feet</td>
</tr>
<tr>
<td><strong>2. Outdoor Operation</strong></td>
<td></td>
<td>P</td>
<td>P</td>
<td>§ 17-9-0103.3 Accessory sale of goods produced on site shall not exceed 3000 square feet</td>
</tr>
<tr>
<td><strong>3. Rooftop Operation</strong></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>§ 17-9-0103.3 Accessory sale of goods produced on site shall not exceed 3000 square feet</td>
</tr>
<tr>
<td><strong>Communication Service Establishments</strong></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>N.O. Construction Sales and Service</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>Building Material Sales</strong></td>
<td>-</td>
<td>P</td>
<td>P</td>
<td>Customer-accessible retail sales areas may not exceed 20% of total floor area</td>
</tr>
<tr>
<td>2. <strong>Contractor/Construction Storage Yard</strong></td>
<td>-</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>3. <strong>Commercial Greenhouses</strong></td>
<td>-</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>4. <strong>Commercial Farm, Rooftop</strong></td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>$ 17-9-0103.3</td>
</tr>
<tr>
<td><strong>Drive-Through Facility</strong></td>
<td>S</td>
<td>S</td>
<td>S</td>
<td></td>
</tr>
</tbody>
</table>

| P.O. Eating and Drinking Establishments         |   |   |   |   |
| **(Omitted text is unaffected by this ordinance)** |   |   |   |   |

| Q.R. Entertainment and Spectator Sports          |   |   |   |   |
| **(Omitted text is unaffected by this ordinance)** |   |   |   |   |

| R.S. Financial Services (except as more specifically regulated) | P | P | P | Max GFA: 3,000 sq ft | $ 17-10-0207-L |
| **(Omitted text is unaffected by this ordinance)** |   |   |   |   |   |

| S.T. Food and Beverage Retail Sales             | P | P | P | Max GFA: 3,000 sq ft | $ 17-10-0207-M |
| **(Omitted text is unaffected by this ordinance)** |   |   |   |   |   |

| T.U. Gas Stations                                | S | S | S | § 17-9-0109 | $ 17-10-0207-R |

| H.V. Medical Service                             | P | - | - |   | $ 17-10-0207-T |

<p>| V.W. Office (except as more specifically regulated) | P | P | P | In M2 and M3, max GFA: 9,000 sq ft or accessory use to allowed industrial use | $ 17-10-0207-L |
| <strong>(Omitted text is unaffected by this ordinance)</strong> |   |   |   |   |   |</p>
<table>
<thead>
<tr>
<th>Use Category</th>
<th>Specific Use Type</th>
<th>POS-1 Regional or Community Parks</th>
<th>POS-2 Neighborhood, Mini- and Playlot Parks</th>
<th>POS-3 Open Space/ Natural Areas</th>
<th>POS-4 Cemeteries</th>
<th>Additional Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>S = accessory</td>
<td>P = permitted by-right</td>
<td>S = special use approval required</td>
<td>- = Not allowed</td>
<td>(Omitted text is unaffected by this ordinance)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SECTION 5. Section 17-6-0203-E of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

17-6-0203-E Use Table

<table>
<thead>
<tr>
<th>USE GROUP</th>
<th>Park/Open Space Facility Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Category</td>
<td></td>
</tr>
<tr>
<td>Specific Use Type</td>
<td>POS-1 Regional or Community Parks</td>
</tr>
<tr>
<td>A = accessory</td>
<td>P = permitted by-right</td>
</tr>
</tbody>
</table>
SECTION 6. Section 17-6-0403-F of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago, is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

17-6-0403-F Use Table and Standards.

<table>
<thead>
<tr>
<th>USE GROUP</th>
<th>PMD (Planned Manufacturing District)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Use Category</td>
<td>No. 1</td>
</tr>
<tr>
<td>Specific Use Type</td>
<td>A</td>
</tr>
<tr>
<td>(Omitted text is unaffected by this ordinance)</td>
<td></td>
</tr>
</tbody>
</table>

P = permitted by right  S = special use approval req’d  PD = planned development approval req’d  – = not allowed

PUBLIC AND CIVIC

<table>
<thead>
<tr>
<th>I. Parks and Recreation (except as more specifically regulated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>S</td>
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</tbody>
</table>

(�mitted text is unaffected by this ordinance)

<table>
<thead>
<tr>
<th>1. Community Centers, Recreation Buildings and Similar Assembly Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>-</td>
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</tbody>
</table>

(�mitted text is unaffected by this ordinance)

<table>
<thead>
<tr>
<th>2. Community Garden</th>
</tr>
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<tbody>
<tr>
<td>-</td>
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</tbody>
</table>

(�mitted text is unaffected by this ordinance)

COMMERCIAL

<table>
<thead>
<tr>
<th>M. Urban Farm</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>1. Indoor Operation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Max CPA: 3000 sq ft for accessory sales of goods produced on site</td>
</tr>
</tbody>
</table>

(�mitted text is unaffected by this ordinance)
Appendix 6
AN ORDINANCE OF THE CITY OF ST. PETERSBURG AMENDING THE CITY CODE BY CREATING A NEW SECTION 16.50.85 PROVIDING FOR COMMUNITY GARDENS; CREATING A NEW SECTION 16.70.030.1.13 PROVIDING FOR PROCEDURES FOR REVIEW AND APPROVAL OF AN ANNUAL COMMUNITY GARDEN PERMIT; PROVIDING FOR CONDITIONS OF APPROVAL; PROVIDING FOR SUSPENSIONS, REVOCATIONS AND APPEALS; AND PROVIDING AN EFFECTIVE DATE.

THE CITY OF ST. PETERSBURG DOES ORDAIN:

Section 1. The St. Petersburg City Code is hereby amended by creating a new Section 16.50.085 which shall read as follows:

Section 16.50.085 — Community Gardens

16.50.085.1 Applicability

A. This section shall apply to community garden uses as a principal use.
B. This section shall not apply to a residential garden which is accessory to a principal residential use.

16.50.085.2 Purpose and Intent

The purpose and intent of this Section is to establish appropriate standards which allow for a community garden use, while mitigating any associated undesirable impacts. A community garden is a use which allows neighboring residents and the permittees of the owner to grow produce and horticultural plants for their consumption and enjoyment and for the consumption and enjoyment of friends and relatives on a not-for-profit basis, except as expressly allowed herein. Community gardens may create impacts which can be detrimental to the quality of life of adjacent property owners.

16.50.085.3 Establishment

Community garden is a use of property where more than one person grows produce and/or horticultural plants for their personal consumption and enjoyment and/or for the consumption and enjoyment of friends and relatives, generally on a not for profit basis. Community garden uses shall be allowed in any zoning district and shall comply with the
development standards of the zoning district, the general development standards, and this section. No accessory use, nor any other use, shall be allowed on the same property with a community garden.

16.50.085.4 Use Specific Development Standards

16.50.085.4.1 Property Maintenance

The property shall be maintained in an orderly and neat condition consistent with the city's property maintenance standards. No trash or debris shall be stored or allowed to remain on the property. Tools and supplies shall be stored indoors or removed from the property daily. Vegetative material (eg compost), additional dirt for distribution and other bulk supplies shall be stored to the rear or center of the property, shall be kept in a neat and orderly fashion and shall not create a visual blight or offensive odors. Large power tools (eg mowers, tillers) shall be stored at the rear of the property. The community garden shall be designed and maintained to prevent any chemical pesticide, fertilizer or other garden waste from draining off of the property. Pesticides and fertilizers may only be stored on the property in a locked building and must comply with any other applicable requirements for hazardous materials.

16.50.085.4.2 Hours of Operation and Noise Limitations

No gardening activities shall take place before sunrise or after sunset. The use of hand tools and domestic gardening tools and equipment is encouraged; the use of small power equipment, such as gas powered tillers and edgers is allowed. Gas-powered equipment which is greater than 10 horsepower is prohibited.

16.50.085.4.3 Sale of Produce and Horticultural Plants

A community garden is not intended to be a commercial enterprise however there may be occasions when surplus is available. The produce and horticultural plants grown in a community garden are not intended to be sold wholesale nor offered for sale on the premises. Surplus produce and plants may be sold off the premises.

16.50.085.4.4 Accessory Structures

Structures, including buildings or signs, shall comply with the requirements of the zoning district.

16.50.085.4.5 Trash Storage

The property owner shall coordinate the location and type of trash container(s) used on the site with the POD. Trash containers shall be located abutting the alley. If there is no alley, then they shall be located to the rear of the property unless the POD determines that another location creates less impact on the adjacent properties.
16.50.085.4.6 Fencing

All fencing shall comply with the requirements for residential uses in the Fence, Wall and Hedge Regulations (currently Section 16.40.040).

16.50.085.4.7 Required Yards

All plantings shall not be planted closer than five feet to the side or rear property line and not closer than ten feet to the front or street side property line. All plantings shall comply with the visibility at intersections requirements.

Section 2. The St. Petersburg City Code is hereby amended by creating a new Section 16.70.030.1.13 which shall read as follows:

16.70.030.1.13 Community Garden Permit

A. Applicability. A permit shall be required for a community garden.

B. Application. An application shall include the following information in addition to the information that the POD may generally require for a zoning permit application:

1. Letter of authorization from the property owner.

C. Procedure.

1. The application shall be filed at least 30 days prior to the date on which the permit is to take effect. The POD may approve a lesser time period.

2. Upon receipt of the application, the POD shall determine whether the application conforms to all applicable requirements contained in the Land Development Regulations.

a. Public notice to property owners within 200 feet of the proposed location shall be required. The applicant shall be responsible for all required notice to property owners. Notice shall be provided at least 30 days prior to the date on which the permit is to take effect.

b. The POD shall consider the concerns of the public and may impose reasonable conditions to mitigate any adverse impacts of the use at this property.

3. If the POD determines that the application sufficiently complies with the standards for a community garden use and that appropriate conditions have been imposed to protect the public health, safety and welfare, the permit shall be issued. If the POD determines that the application does not comply or has adverse impacts which cannot be adequately mitigated, the POD shall identify the application’s deficiencies and deny the application. If the POD denies the application, such denial shall be in writing and
provided to the applicant within 15 working days of receipt of a complete application or
the end of the notification period. Appeals shall be heard by the CPC.

4. In order to protect the health, safety, and welfare of the general public, or to
obtain compliance with local, state or federal laws, the POD may add special conditions
and restrictions, which shall be binding upon the applicant, to any permit that may be
issued.

D. Expiration. A community garden permit shall expire on September 30 but may be
renewed on an annual basis. The application for renewal shall be made at least thirty days
prior to September 30. The POD shall review any application for renewal and impose the
appropriate conditions as set forth above. If the POD identifies any adverse impacts then
additional conditions may be imposed to mitigate the impacts.

E. Suspension and Revocation. In addition to the grounds for suspension or
revocation of a zoning permit generally, a permit issued under this section may be
suspended or revoked by the POD if the property is cited for a violation of the City Code
or if the property fails to comply with any condition of the permit. Decisions of the POD
to deny, suspend or revoke a permit may be appealed to the CPC.

F. Variances. Requests for variances shall be reviewed by the Community
Preservation Commission.

Section 3. In the event this ordinance is not vetoed by the Mayor in accordance
with the City Charter, it shall become effective after the fifth business day after adoption
unless the Mayor notifies the City Council through written notice filed with the City
Clerk that the Mayor will not veto the ordinance, in which case the ordinance shall take
effect immediately upon filing such written notice with the City Clerk. In the event this
ordinance is vetoed by the Mayor in accordance with the City Charter, it shall not become
effective unless and until the City Council overrides the veto in accordance with the City
Charter, in which case it shall become effective immediately upon a successful vote to
override the veto.

Approved as to form and content:

City Attorney (designee)
Appendix 7
AN ORDINANCE related to land use and zoning, amending Sections 23.40.002, 23.42.052, 23.43.006, 23.43.040, 23.44.006, 23.44.040, 23.45.504, 23.45.506, 23.45.508, 23.45.514, 23.45.545, 23.47A.004, 23.47A.011, 23.47A.012, 23.48.010, 23.49.008, 23.50.012, 23.50.020, 23.54.015, 23.84A.002, 23.84A.014, and 23.84A.036; adding new sections to Chapters 23.42 and 23.44; and amending the title of subchapter II of Chapter 23.44, to support urban agriculture, to modify restrictions on greenhouses and solariums and on the keeping of domestic fowl, to clarify and modify definitions for key terms related to urban agriculture and to make technical corrections.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection 23.40.002.A of Section 23.40.002 of the Seattle Municipal Code, last amended by Ordinance 122816, is amended as follows:

23.40.002 Conformity with regulations required ((i))

A. The establishment or change of use of any structures, buildings or premises, or any part thereof, requires approval according to the procedures set forth in Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions, except:

1. establishment of an urban farm, or community garden, that is permitted outright under the provisions of this Title 23 applicable to the lot;
2. as permitted in ((§))subsections 23.47A.004.F and 23.47A.004.F;
3. keeping of animals as permitted under Section 23.42.052; and ((except for))
4. reinstatement of a use interrupted by a temporary use authorized pursuant to Section 23.42.040.

* * *

Section 2. A new Section 23.42.051 of the Seattle Municipal Code is added as follows:

23.42.051 Urban farms

Form Last Revised on May 14, 2010
A. All Urban Farms in Residential Zones.

In all residential zones all urban farms are subject to the following provisions:

1. Mechanical equipment. Only mechanical equipment designed for household use may be used.

2. Sales. Retail sales and all other public use of the farm shall begin no earlier than 7:00 a.m. and end by 7:00 p.m. every day of the week.

3. Deliveries. Commercial deliveries and pickups are limited to one per day. On-site sales are not considered commercial pickups.

4. Motor vehicles. No more than two motor vehicles, each with a gross vehicle weight of 10,000 pounds or less, may be used for farm operations.

5. Location. The farm shall be located on the same lot as the principal use to which it is accessory or on a lot where the planting area is within 800 feet of the lot where the principal use is located.

6. Signs. One identification sign is permitted, not exceeding 64 square inches in area.

7. Structures. On a lot with no principal structure:

   a. The total gross floor area of all structures for urban farm use may not exceed 1,000 square feet.

   b. Structures for urban farm use may not exceed 12 feet in height, including any pitched roof.
c. Structures for urban farm use are also subject to the development standards that would apply to an accessory structure in the zone.

B. Urban Farms Requiring Conditional Use Permits in Residential Zones. If an urban farm in a residential zone requires an administrative conditional use permit, the provisions of this subsection 23.42.051.B also apply. The Director may approve, condition or deny a conditional use permit based on the general conditional use criteria applicable in the zone and based on potential impacts of the types described in this subsection 23.42.051.B.

1. Management Plan. The applicant shall provide a proposed urban farm management plan that addresses any probable impacts of the type described in this subsection 23.42.051.B and includes any proposed mitigation measures. The plan shall include, without limitation:

a. a site plan;

b. description of the type of equipment necessary or intended for use in each season and the frequency and duration of anticipated use;

c. disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for;

d. disclosure of whether the operation of the farm would involve 750 square feet or more of land-disturbing activity, or would otherwise require drainage approval under Chapter 22.800 et seq.; and

c. a proposed sediment and erosion control plan.
2. Potential Impacts and Mitigation. The Director, in determining whether to approve, approve with conditions or deny the application, shall consider the potential impacts and mitigation, including:

a. Water Quality and Soils. Impacts of irrigation run-off on adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.

b. Traffic and Parking. Impacts related to the number of staff onsite during work hours, and the number of potential visitors regularly associated with the site.

c. Visual Impacts and Screening. Visual impacts relating to the proposed nature, location, design, and size of proposed features, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening.

d. Noise and Odor. Impacts related to the location on the lot of the proposed urban farm, any trash or compost storage areas, any farm stand or additional accessory structure, and any other noise-generating or odor-generating equipment and practices.

e. Agricultural Chemicals. Impacts related to the use of chemicals, including any fertilizer and pesticide.

f. Mechanical Equipment. Impacts related to the operation of equipment, including noise, odors, and vibration.

3. Conditions of Approval. Conditions of approval may include, without limitation:
a. measures such as landscaping or fences to mitigate potential visual
 impacts on adjacent property and public areas;

b. measures such as landscaping, sound barriers or fences, mounding or
 berming, adjustments to location of parking or yard standards, structure design modifications,
 and limited hours of operation for facilities or activities, to mitigate potential noise and/or odor
 impacts; and

c. measures related to operation of the urban farm consistent with some or
 all of the provisions of the urban farm management plan, with any amendments required or
 permitted by the Director.

C. Odors or Fumes. In all zones, no odors or fumes from an urban farm shall be allowed
 to escape into the open air in such amounts as to be detrimental to the health of any individuals
 or the public; or noticeable, discomforting or disagreeable so as to offend the sensibilities of a
 reasonable individual at a distance of more than 200 feet from an urban farm.

Section 3. Section 23.42.052 of the Seattle Municipal Code, last amended by Ordinance
 122508, is amended as follows:

23.42.052 Keeping of ((A)) animals ((c))

The keeping of small animals, farm animals, domestic fowl and bees is permitted outright
 in all zones as an accessory use to any principal use permitted outright or to a permitted
 conditional use, in each case subject to the standards of this Section 23.42.052.

A. Small Animals. Up to three (((3))) small animals may be kept accessory to each
 business establishment, other than an urban farm, or dwelling unit on a lot, except as follows:
1. In no case is more than one ((4)) miniature potbelly pig allowed per business establishment or dwelling unit (see subsection 23.42.052.B ((of this section))).

2. In single-family zones,

   a. accessory dwelling units shall not be considered separate dwelling units for the purpose of this ((s))Section 23.42.052;

   b. up to four (4) small animals are permitted on lots of at least ((twenty thousand-(20,000))) 20,000 square feet; and

   c. one ((4)) additional small animal is permitted for each ((five thousand (5,000)) 5,000 square feet of lot area in excess of ((twenty thousand-(20,000))) 20,000 square feet. Accessory structures, including kennels, for four (4) or more animals must be at least ((ten-(10))) 10 feet from any other lot in a residential zone.

B. Miniature Potbelly Pigs. That type of swine commonly known as the Vietnamese, Chinese, or Asian Potbelly Pig (Sus scrofa bittatus) may be kept as a small animal, provided that no swine that is greater than ((twenty-two-(22))) 22 inches in height at the shoulder or more than ((one-hundred-fifty-(150))) 150 pounds in weight may be kept in the (C) city.

C. Domestic Fowl. Up to ((three (3))) eight domestic fowl may be kept on any lot in addition to the small animals permitted in subsection 23.42.052.A. ((For each one thousand (1,000)-square feet of lot area in excess of the minimum lot area required for the zone or, if there is no minimum lot area, for each one thousand (1,000)-square feet of lot area in excess of five thousand (5,000)-square feet, one (1) additional domestic fowl may be kept))
1. On lots greater than 10,000 square feet that include either a community garden or an urban farm, one additional fowl is permitted for every 1,000 square feet of lot area over 10,000 square feet in community garden or urban farm use.

2. Roosters are not permitted.

3. Structures housing domestic fowl must be located at least 10 feet away from any structure that includes a dwelling unit on an adjacent lot.

D. Farm Animals. Cows, horses, sheep and other similar farm animals are permitted only on lots of at least ((twenty-thousand-0)20,000()) square feet. The keeping of swine is prohibited, except for miniature potbelly pigs allowed under subsection 23.42.052.B ((of this section)).

1. One ((4)) farm animal for every ((ten-thousand-0)10,000()) square feet of lot area is permitted.

2. Farm animals and structures housing them must be kept at least ((fifty ()50()) feet from any other lot in a residential zone.

E. Beekeeping. Beekeeping is permitted outright as an accessory use, when registered with the State Department of Agriculture, provided that:

1. No more than four ((4)) hives, each with only one ((1))swarm, ((shall be kept)) are allowed on lots of less than ((ten-thousand-0)10,000()) square feet.

2. Hives shall not be located within ((twenty-five-0)25()) feet of any lot line except when situated ((eight-0)8()) feet or more above the grade immediately adjacent to the grade of the lot on which the hives are located or when situated less than ((eight-0)8()) feet...
above the adjacent existing lot grade and behind a solid fence or hedge ((six-\(\cdot\)6(\(\cdot\)))feet high parallel to any ((property)) lot line within ((twenty-five-\(\cdot\)25(\(\cdot\))) feet of a hive and extending at least ((twenty-\(\cdot\)20(\(\cdot\))) feet beyond the hive in both directions.

F. Miniature Goats. The types of goats commonly known as Pygmy, Dwarf and Miniature Goats may be kept as small animals, provided that male miniature goats are neutered and all miniature goats are dehorned. Nursing offspring of miniature goats licensed according to the provisions of this Code may be kept until weaned, no longer than 12 weeks from birth, without violating the limitations of subsection 23.42.052.A.

Section 4. A new Section 23.42.053 of the Seattle Municipal Code is added as follows:

23.42.053 Community gardens

A. In all zones, the total gross floor area of all structures for community garden use may not exceed 1,000 square feet on any lot.

B. In all zones, structures for community garden use are limited to 12 feet in height, including any pitched roof.

C. Structures for community garden use are subject to the development standards of the zone as they apply to accessory structures.

Section 5. Section 23.43.006 of the Seattle Municipal Code, enacted by Ordinance 117430, is amended as follows:

23.43.006 Residential Small Lot zone, principal uses permitted outright((\(\cdot\))

The following principal uses ((shall-be)) are permitted outright in the Residential Small Lot (RSL) zone:

Form Last Revised on May 14, 2010
A. Single-family Dwelling Unit on One ((4)) Lot. The designation RSL without a suffix shall indicate that a detached single-family dwelling unit on one ((4)) lot is the only residential structure type allowed in the zone.

B. Tandem Houses, pursuant to a neighborhood plan adopted or amended by the City Council after January 1, 1995. The designation RSL/T shall indicate that in addition to detached single-family dwelling units on individual lots, tandem houses are allowed in the zone.

C. Cottage Housing Developments, pursuant to a neighborhood plan adopted or amended by the City Council after January 1, 1995. The designation RSL/C shall indicate that in addition to detached single-family dwelling units on individual lots, cottage housing developments are allowed in the zone.

D. The designation RSL/TC shall indicate that in addition to detached single-family dwelling units on individual lots, tandem houses and cottage housing developments are allowed in the zone.

E. Parks and open space, and community gardens.

Section 6. Section 23.43.040 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.43.040 Accessory uses and structures; exceptions to development standards for solar collectors and solariums.

A. Accessory structures shall be permitted in the RSL zone under the following conditions:
1. New garages (shall be) are subject to the yard and setback requirements of
   (S)subsection 23.43.008.D when accessory to one (H) detached structure per lot, of
   (S)subsection 23.43.010.C when accessory to tandem houses, and of (S)subsection
   23.43.040.E when accessory to cottage housing.

2. When converted to principal use in tandem house developments, garages (shall be) are subject to the development standards for tandem house principal structures.

3. Garages (shall be) are limited to a height of (twelve-(12)) 12 feet as measured on the facade containing the entrance for the vehicle.

4. Accessory structures other than garages (shall also be) are limited to (twelve-(12)) 12 feet in height.

B. Solar Collectors and Solariums. Solar collectors are permitted outright as an accessory use to any principal use. Exceptions to certain development standards in this Chapter 23.43 are allowed for solar collectors and solariums, as set forth in this subsection 23.43.040.B, subject to the following standards:

1. Solar collectors, including solar greenhouses, (which) meet minimum standards and maximum size limits as determined by the Director(3) shall not be counted in lot-coverage.

2. Solar collectors, except solar greenhouses attached to principal (use) structures, may exceed the height limits of the RSL zone by (four-(4)) 4 feet or extend (four-(4)) 4 feet above the ridge of a pitched roof. However, the total height from existing grade to the top of the solar collector may not extend more than (nine-(9)) 2 feet above the height limit
established for the zone. A solar collector which exceeds the basic height limit for the zone shall
be placed so as not to shade an existing solar collector or property to the north on January 21st, at
noon, any more than would a structure built to the maximum permitted height and bulk.

3. Solar collectors and solar greenhouses meeting minimum written energy
conservation standards administered by the Director may be located in required yards according
to the following conditions:

   a. In a side yard, no closer than ((three (3)) 3 feet from the ((property))
side lot line; or

   b. In a rear yard, no closer than ((fifteen (15)) 15 feet from the rear
((property)) lot line unless the((re)) rear lot line abuts an((is a platted)) alley, in which case the
solar collector shall be at least((no closer than ten (10)) 10 feet from the centerline of the
alley.((or-))

4. ((e-))In a front yard, solar greenhouses meeting minimum written energy
conservation standards administered by the Director and solariums, in each case that ((which))
are integrated with the principal structure and have a maximum height of ((twelve (12)) 12 feet,
may extend up to ((six (6)) 6 feet into the front yard, but no((In no case shall be greenhouse be
located-)) closer than ((five (5)) 5 feet from the ((property)) lot line.

C. Home Occupations. Home occupations are regulated by Section 23.42.050((Home
Occupations)).

D. Common Structures in Cottage Housing Developments. Shared structures ((which))
that are used by the occupants of more than one ((4)) dwelling unit are allowed ((as an
accessory use). Such structures may include meeting space, a food preparation area, sinks, and toilets, but shall not include either sleeping quarters or bathing facilities.

E. Urban farms are regulated by Section 23.42.051. Urban farms with not more than 4,000 square feet of planting area are permitted outright as an accessory use to any principal use that is permitted outright or allowed by conditional use permit. Urban farms with more than 4,000 square feet in planting area may be allowed by conditional use permit as an accessory use to any principal use that is permitted outright or allowed by conditional use permit. The Director may grant, condition, or deny a conditional use permit for an urban farm in accordance with the provisions in Section 23.42.051 and Section 23.42.042.

Section 7. Section 23.44.006 of the Seattle Municipal Code, last amended by Ordinance 123209, is amended as follows:

**23.44.006 Principal ((u))Uses ((p))Permitted ((o))Outright**

The following principal uses are permitted outright in single-family zones:

A. Single-family Dwelling Unit. One ((4)) single-family dwelling unit per lot, except that an accessory dwelling unit may also be approved pursuant to Section 23.44.041, and except as approved as part of an administrative conditional use permit under Section 25.09.260;

B. Floating Homes. Floating homes, subject to the requirements of Chapter 23.60;

C. Parks and open space, and community gardens;

D. Existing railroad right-of-way;

E. Public Schools Meeting Development Standards. In all single-family zones, new public schools or additions to existing public schools, and accessory uses including child care
centers, subject to the special development standards and departures from standards contained in
Chapter 23.51B, except that departures from development standards may be permitted or
required pursuant to procedures and criteria established in Chapter 23.79((Development
Standard Departure for Public Schools));

F. Uses in existing or former public schools:

1. Child care centers, public or private schools, educational and vocational
training for the disabled, adult evening education classes, nonprofit libraries, community centers,
community programs for the elderly or similar uses, in each case in existing or former public
schools.

2. Other non-school uses in existing or former public schools, if permitted
pursuant to procedures established in Chapter 23.78 ((The Establishment of Criteria for Joint
Use or Reuse of Schools)).

3. Additions to existing public schools only when the proposed use of the addition
is a public school;

G. Nursing Homes. Nursing homes meeting the development standards of this ((e))
Chapter 23.44, and limited to eight ((8)) or fewer residents;

H. Adult Family Homes. Adult family homes, as defined and licensed by the state of
Washington((c));

I. Commercially operating horse farms in existence before July 1, 2000 on lots greater
than 10 acres, conforming to the limits on the number and location of farm animals and
structures containing them set forth in Section 23.42.052.
Section 8. The title of Subchapter II of Chapter 23.44 of the Seattle Municipal code, which subchapter was last amended by Ordinance 123046, is amended as follows:

Subchapter II – ((Principal)) Conditional Uses

* * *

Section 9. Section 23.44.040 of the Seattle Municipal Code, last amended by Ordinance 122823, is amended as follows:

23.44.040 General ((p))Provisions((l))

A. Accessory uses customarily incidental to principal uses permitted outright are permitted outright ((as provided below)).

B. All accessory uses and structures, except for urban farms and structures in urban farm use, must be located on the same lot as the principal use or structure, unless otherwise specifically provided.

C. Accessory conditional uses are subject to the development standards for accessory uses permitted outright unless otherwise specified in this ((s))Section 23.44.040. Urban farms also are subject to the development standards in Section 23.42.051.

Section 10. A new Section 23.44.042 of the Seattle Municipal Code is added as follows:

23.44.042 Urban farms

A. An urban farm with up to 4,000 square feet of planting area is permitted outright as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the applicable standards of this title, including the provisions of Section 23.42.051.
B. An urban farm with over 4,000 square feet of planting area may permitted as an administrative conditional use accessory to any principal use permitted outright or accessory to a permitted conditional use, pursuant to Sections 23.44.018 and 23.42.051.

Section 11. Table A for Section 23.45.504 of the Seattle Municipal Code, which section was enacted by Ordinance 123209, and subsection 23.45.504.C, are amended as follows:

**23.45.504 Permitted and ((P)) prohibited ((U)) uses**

A. All uses are permitted outright, prohibited or permitted as a conditional use according to Table A for 23.45.504 and this Section 23.45.504. Uses not referred to in Table A are prohibited, unless otherwise indicated in this Chapter 23.45 or Chapters 23.51A or 23.51B.

B. All permitted uses are allowed as a principal use or as an accessory use, unless otherwise indicated in this Chapter 23.45.
<table>
<thead>
<tr>
<th>Uses</th>
<th>Permitted and Prohibited Uses by Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Residential use</td>
<td>LDT, L1, L2, L3 and L4</td>
</tr>
<tr>
<td>B. Institutions</td>
<td>P/CU¹</td>
</tr>
<tr>
<td>C. Public Facilities</td>
<td></td>
</tr>
<tr>
<td>C.1. Uses in public facilities that are similar to uses permitted outright in this Section 23.45.504</td>
<td>P²</td>
</tr>
<tr>
<td>C.2. Police precinct stations; fire stations; public boat moorages; utility service uses; and other similar public facilities that meet the development standards for institutions in 23.45.570</td>
<td>P</td>
</tr>
<tr>
<td>C.3. Police precinct stations; fire stations; public boat moorages; utility service uses; and other similar public facilities not meeting the development standards for institutions in 23.45.570</td>
<td>Type IV or Type V decision³</td>
</tr>
<tr>
<td>C.4. New public facilities not listed in subsections C.1 and C.2 of this Table A for ((Section)) 23.45.504, and major expansions of such public facilities</td>
<td>Type IV or Type V decision³</td>
</tr>
<tr>
<td>D. Park and pool and park and ride lots</td>
<td>X/CU⁴</td>
</tr>
<tr>
<td>E. Parks and playgrounds including customary uses</td>
<td>X</td>
</tr>
<tr>
<td>F. Ground floor commercial uses⁵</td>
<td>RC</td>
</tr>
<tr>
<td>G. Medical Service Uses other than permitted ground floor commercial uses</td>
<td>P/X⁶</td>
</tr>
<tr>
<td>H. Uses not otherwise permitted in landmark structures</td>
<td>CU</td>
</tr>
<tr>
<td>I. Cemeteries</td>
<td>P/X⁷</td>
</tr>
<tr>
<td>J. Community Gardens</td>
<td>P</td>
</tr>
<tr>
<td>(K) All other uses</td>
<td>X</td>
</tr>
</tbody>
</table>

Note: Institutions meeting development standards are permitted outright; all others are administrative conditional uses pursuant to Section 23.45.506. The provisions of this Chapter 23.45 shall apply to Major Institution uses as provided in Chapter 23.69.
2. These public facilities are subject to the same use regulations and development standards that
govern the similar use.

3. These public facilities may be permitted pursuant to Section 23.51A.004.

4. Prohibited in Station Area Overlay Districts; otherwise, permitted as an administrative
conditional use pursuant to Section 23.45.506.

5. Subject to subsection 23.45.504.E.

6. Subject to subsection 23.45.504.G and 23.45.506.F.

7. Subject to subsection 23.45.504.F.

P = Permitted outright

CU = Permitted as an Administrative Conditional Use

RC = Permitted in areas zoned Residential Commercial (RC) zones, and subject to the provisions
of the RC zone, Chapter 23.46.

C. Accessory uses. The following accessory uses are permitted in all multifamily zones,
subject to the standards in Section 23.45.545, if applicable:

1. Private garages and carports;

2. Private, permanent swimming pools, hot tubs and other similar uses;

3. Solar collectors, including solar greenhouses;

4. Open wet moorage accessory to residential structures;

5. Uses accessory to parks and playgrounds, pursuant to Section 23.45.578;

6. Bed and breakfasts in a dwelling unit that is at least ((5)) five years old; ((and))

7. Recycling collection stations((c)); and
8. Urban farms with planting area not more than 4,000 square feet. Urban farms with greater than 4,000 square feet of planting area may be allowed as an administrative conditional use to any use permitted outright or as a conditional use. The Director may grant, condition or deny a conditional use permit in accordance with subsection 23.42.051.B.

* * *

Section 12. Subsection 23.45.506.A of Section 23.45.506 of the Seattle Municipal Code, enacted by Ordinance 123209, is amended as follows:

23.45.506 Administrative conditional uses

A. Uses permitted as administrative conditional uses in ((Table-A-for)) Section 23.45.504 may be permitted by the Director when the provisions of Section 23.42.042 and this Section 23.45.506 are met.

* * *

Section 13. Subsection 23.45.508.A of Section 23.45.508 of the Seattle Municipal Code, enacted by Ordinance 123209, is amended as follows:

23.45.508 - General provisions

A. Except for structures related to an urban farm, ((A)) a structure occupied by a permitted use other than a residential use may be partially or wholly converted to a residential use even if the structure does not conform to the development standards for residential uses in multifamily zones.

* * *
Section 14. Subsection 23.45.514.G of Section 23.45.514 of the Seattle Municipal Code, enacted by Ordinance 123209, is amended as follows:

23.45.514 Structure height in Midrise and Highrise zones

***

G. Rooftop Features.

1. Flagpoles and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are no closer than 50 percent of their height above existing grade or, if attached only to the roof, no closer than 50 percent of their height above the roof portion where attached, to any adjoining lot line.

2. Railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend 4 feet above the maximum height limit set in subsections A and B of this Section 23.45.514.

3. The following rooftop features may extend 15 feet above the applicable height limit set in subsections 23.45.514.A, 23.45.514.B, and 23.45.514.C, so long as the combined total coverage of all features does not exceed 20 percent of the roof area or 25 percent of the roof area if the total includes screened mechanical equipment:

   a. Mechanical equipment;

   b. Play equipment and open-mesh fencing which encloses it, so long as the fencing is at least 5 feet from the roof edge;

   c. Chimneys;
d. Sun and wind screens;

e. Penthouse pavilions for the common use of residents;

f. Greenhouses and solariums, in each case that ((which)) meet minimum energy standards administered by the Director;

g. Wind-driven power generators; and

h. Minor communication utilities and accessory communication devices,

except that height is regulated according to the provisions of Section 23.57.011.

4. Stair and elevator penthouses may extend above the applicable height limit up to 16 feet. When additional height is needed to accommodate energy-efficient elevators in zones with height limits of 160 feet or greater, elevator penthouses may extend the minimum amount necessary to accommodate energy-efficient elevators, up to 25 feet above the applicable height limit. Energy-efficient elevators shall be defined by Director's Rule. When additional height is allowed for an energy-efficient elevator, stair penthouses may be granted the same additional height if they are co-located with the elevator penthouse.

5. For height exceptions for solar collectors, see Section 23.45.545.D.

6. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection 23.45.514.((P)) at least 10 feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

   a. Solar collectors;
b. Planters;

c. Clerestories;

d. Greenhouses and solariums;

e. Minor communication utilities and accessory communication devices, permitted according to the provisions of Section 23.57.011;

f. Nonfirewall parapets;

g. Play equipment;

h. Sun and wind screens;

i. Penthouse pavilions for the common use of residents.

7. For height limits and exceptions for communication utilities and devices, see Section 23.57.011.

8. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed in this subsection 23.45.514.G does not exceed 50 percent of the roof area, and the greenhouse adheres to the setback requirements listed in subsection 23.45.514.G.6.

(8))9. Additional height in HR zones. A structure may exceed the applicable height limit in the HR zone as follows:

a. If the applicable height limit is 240 feet, the height of the structure may be increased by 30 feet if the area bounded by the facades of the portion of the structure above 240 feet is no greater than 6,500 square feet, or if the area bounded by the facades at an elevation
that is halfway between 240 feet and the height of the structure is no greater than 50 percent of
the area bounded by the facades at a height of 240 feet.

b. If the applicable height limit is 300 feet, the height of a structure may be
increased (1) by 30 feet if the area bounded by the facades of the portion of the structure above
300 feet is no greater than 6,500 square feet, or (2) by 45 feet if the area bounded by the facades
at an elevation that is halfway between 300 feet and the height of the structure is no greater than
50 percent of the area bounded by the facades at a height of 300 feet.

c. In all cases the area bounded by the facades extending above the height
limit may be occupied only by those uses or features otherwise permitted in this Section
23.45.514 as an exception above the height limit, although any limits on the height or coverage
of those uses or features totally screened by the facades extending above the applicable height
limit shall not apply. Height exceptions permitted for screening and rooftop features under other
provisions of this subsection 23.45.514.((F))G ((shall not be)) are not permitted above the height
gained by a structure under this subsection 23.45.514.G.9 ((provision)).

Section 15. Subsection 23.45.545.B of Section 23.45.545 of the Seattle Municipal Code,
enacted by Ordinance 123209, is amended as follows:

23.45.545 - Standards for certain accessory uses

* * *

B. Solar greenhouses, greenhouses and solariums.

1. Solar greenhouses, greenhouses and solariums, in each case that are attached to
and integrated with the principal structure and no more than 12 feet in height, are permitted in a
required rear setback, subject to subsection 23.45.545.B.3, and may extend a maximum of 6 feet into required front and side setbacks, subject to subsection 23.45.545.B.2.

2. ((Such)) An attached solar greenhouse((s)), greenhouse or solarium, in a required setback((s)), shall be no closer than 3 feet from side lot lines and 8 feet from front lot lines.

3. ((Such)) A solar greenhouse((s)), greenhouse or solarium allowed pursuant to subsection 23.45.545.B.1 shall not be closer than 5 feet to the rear lot line, except that it may ((may be built to a rear lot line that)) abut((s)) an alley(((provided that the greenhouse)) if it is no taller than ((ten)) 10 feet along the rear lot line, ((and)) is of no greater average height than 12 feet for a depth of 15 feet from the rear lot line, and ((the greenhouse)) is no wider that 50 percent of lot width for a depth of 15 feet from the rear lot line. ((Otherwise solar greenhouses may be no closer than 5 feet from the rear lot line.))

Section 16. Subsections 23.47A.004.A and 23.47A.004.B of Section 23.47A.004 of the Seattle Municipal Code, last amended by Ordinance 123046, and subsection A of Table A for 23.47A.004, are amended as follows:

23.47A.004 Permitted and prohibited uses

A. All uses are permitted outright, prohibited, or permitted as a conditional use according to Table A for 23.47A.004 and this ((s))Section 23.47A.004, except as may be otherwise provided pursuant to Division 3 of this subtitle.

B. All permitted uses are allowed as a principal use or as an accessory use, unless otherwise indicated in Table A for 23.47A.004.
Table A for 23.47A.004
Uses in Commercial Zones

<table>
<thead>
<tr>
<th>USES</th>
<th>NC1</th>
<th>NC2</th>
<th>NC3</th>
<th>C1</th>
<th>C2</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. AGRICULTURAL USES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A.1. Animal Husbandry</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>P</td>
</tr>
<tr>
<td>A.3. Community Garden</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>A.5. Urban Farm</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
</tbody>
</table>

KEY
A = Permitted as an accessory use only
CU = Administrative Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, pursuant to Section 23.47A.010)
CCU = Council Conditional Use (business establishment limited to the multiple of 1,000 sq. ft. of any number following a hyphen, pursuant to Section 23.47A.010)
P = Permitted
S = Permitted in shoreline areas only
X = Prohibited
10 = Permitted, business establishments limited to 10,000 sq. ft., pursuant to Section 23.47A.010
20 = Permitted, business establishments limited to 20,000 sq. ft., pursuant to Section 23.47A.010
25 = Permitted, business establishments limited to 25,000 sq. ft., pursuant to Section 23.47A.010
Section 17. Section 23.47A.011 of the Seattle Municipal Code, last amended by Ordinance 122311, is amended as follows:

23.47A.011 Outdoor activities(0)

A. Except as otherwise provided in this ((s))Section 23.47A.011, outdoor activities that are part of permitted commercial uses or permitted agricultural uses are permitted in NC zones or C zones, subject to any applicable standards.

B. Outdoor sales area is limited as follows, except for agricultural uses:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Maximum Size Limit of Outdoor Sales Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>NC1 zones</td>
<td>40% of lot area or 1,500 square feet, whichever is less</td>
</tr>
<tr>
<td>NC2 zones</td>
<td>40% of lot area or 10,000 square feet, whichever is less</td>
</tr>
<tr>
<td>NC3, C1 and C2 zones</td>
<td>No maximum size limit</td>
</tr>
</tbody>
</table>

C. Outdoor display areas for rental equipment are limited as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Maximum Size Limit of Outdoor Display of Rental Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>NC1 zones</td>
<td>10% of lot area or 500 square feet, whichever is less</td>
</tr>
<tr>
<td>NC2 and NC3 zones</td>
<td>15% of lot area or 1,000 square feet, whichever is less</td>
</tr>
<tr>
<td>C1 and C2 zones</td>
<td>No maximum size limit</td>
</tr>
</tbody>
</table>
D. Outdoor storage areas are limited as follows:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Maximum Size Limit of Outdoor Storage Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>NC1 and NC2 zones, and NC3 zones,</td>
<td>Prohibited</td>
</tr>
<tr>
<td>except at Seattle Center</td>
<td></td>
</tr>
<tr>
<td>NC3 zones at Seattle Center</td>
<td>1,000 square feet at any one location; and 10,000 square feet for the entire site.</td>
</tr>
<tr>
<td>CI and C2 zones</td>
<td>No maximum size limit</td>
</tr>
</tbody>
</table>

E. The following outdoor activities (must) shall be located at least (fifty (50)) 50 feet from a lot in a residential zone, unless the elevation of the lot with the activity is at least (fifteen (15)) 15 feet above the grade of the lot in the residential zone at the common lot line:

1. Outdoor sales and/or service of food or beverages, except products of an agricultural use on the lot;

2. Outdoor storage;

3. Outdoor sports and recreation;

4. Outdoor loading berths.

F. Outdoor activities (must) shall be screened and landscaped according to the provisions of Section 23.47A.016.

Section 18. Subsection 23.47A.012.D of Section 23.47A.012 of the Seattle Municipal Code, last amended by Ordinance 123020, is amended as follows:

23.47A.012 Structure height

* * *
D. Rooftop Features.

1. Smokestacks, chimneys, flagpoles, and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of 10 feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, solariums, parapets and firewalls may extend as high as the highest ridge of a pitched roof permitted by subsection 23.47.A.012.C or up to 4 feet above the otherwise applicable height limit, whichever is higher.

   a. In zones with mapped height limits of 30 or 40 feet, solar collectors may extend up to 4 feet above the otherwise applicable height limit, with unlimited rooftop coverage.
   b. In zones with height limits of 65 feet or more, solar collectors may extend up to 7 feet above the otherwise applicable height limit, with unlimited rooftop coverage.

4. Except as provided below, the following rooftop features may extend up to 15 feet above the ((otherwise)) applicable height limit, as long as the combined total coverage of all features gaining additional height listed in this subsection 23.47.A.012.D.4 does not exceed 20 percent of the roof area or 25 percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:
   a. Solar collectors;
   b. Mechanical equipment;
   c. Play equipment and open-mesh fencing that encloses it, as long as the fencing is at least 15 feet from the roof edge;
d. Wind-driven power generators;

e. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.012; and

f. Stair and elevator penthouses may extend above the applicable height limit up to 16 feet. When additional height is needed to accommodate energy-efficient elevators in zones with height limits of 125 feet or greater, elevator penthouses may extend the minimum amount necessary to accommodate energy-efficient elevators, up to 25 feet above the applicable height limit. Energy-efficient elevators shall be defined by Director's Rule. When additional height is allowed for an energy-efficient elevator, stair penthouses may be granted the same additional height if they are co-located with the elevator penthouse.

5. Within the South Lake Union Urban Center, the combined total coverage of all features listed in subsection 23.47A.012.D.4 may be increased to 65 percent of the roof area, provided that the following are satisfied:

a. The additional rooftop coverage allowed by this subsection 23.47A.012.D.5 is used to accommodate mechanical equipment that is accessory to a research and development laboratory; and

b. All mechanical equipment is screened; and

c. No rooftop features other than wind-driven power generators are located closer than 10 feet from the roof edge.

6. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit if the combined total coverage of all features gaining
additional height listed in this subsection 23.47A.012.D does not exceed 50 percent of the roof area, and the greenhouse adheres to the setback requirements in subsection 23.47A.012.D.7.

((6))7. The rooftop features listed in this subsection 23.47A.012.D.7 shall be located at least 10 feet from the north edge of the roof unless a shadow diagram is provided that demonstrates that locating such features within 10 feet of the north edge of the roof would not shade property to the north on January 21st at noon more than would a structure built to maximum permitted height and FAR:

a. Solar collectors;

b. Planters;

c. Clerestories;

d. Greenhouses and solariums;

e. Minor communication utilities and accessory communication devices, permitted pursuant to the provisions of Section 23.57.012;

f. Non-firewall parapets;

g. Play equipment.

((7))8. Structures existing prior to May 10, 1986 may add new or replace existing mechanical equipment up to 15 feet above the roof elevation of the structure and shall comply with the noise standards of Section 23.47A.018.

((8))9. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.012.

***
Section 19. Subsection 23.48.010.F of Section 23.48.010 of the Seattle Municipal Code, last amended by Ordinance 123215, is amended as follows:

23.48.010 General structure height ((c))

***

F. Rooftop Features

1. Smokestacks; chimneys; flagpoles; and religious symbols for religious institutions are exempt from height controls, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of 10 feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, parapets and firewalls may extend up to 4 feet above the maximum height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to 7 feet above the maximum height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to 15 feet above the maximum height limit, so long as the combined total coverage of all features listed in this subsection 23.48.010.F.4 does not exceed 20 percent of the roof area, or 25 percent of the roof area if the total includes stair or elevator penthouses or screened mechanical equipment:

   a. Solar collectors;

   b. Stair and elevator penthouses;

   c. Mechanical equipment;
d. Atriums, greenhouses, and solariums;

e. Play equipment and open-mesh fencing that encloses it, as long as the fencing is at least 15 feet from the roof edge; and

f. Minor communication utilities and accessory communication devices, except that height is regulated according to the provisions of Section 23.57.012.

5. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed in this subsection 23.48.010.F does not exceed 50 percent of the roof area.

6. At the applicant's option, the combined total coverage of all features listed in subsections 23.48.010.F.4 and 23.48.010.F.5 above may be increased to 65 percent of the roof area, provided that all of the following are satisfied:

   a. All mechanical equipment is screened; and

   b. No rooftop features are located closer than 10 feet to the roof edge.

((6))7. In order to protect solar access for property to the north, the applicant shall either locate the rooftop features listed in this subsection 23.48.010.F.((6))7 at least 10 feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk:

   a. Solar collectors;

   b. Planters;
c. Clerestories;

d. Atriums, greenhouses and solariums;

e. Minor communication utilities and accessory communication devices

according to the provisions of Section 23.57.012;

f. Nonfirewall parapets;

g. Play equipment.

((7))8. Screening. Rooftop mechanical equipment and elevator penthouses shall

be screened with fencing, wall enclosures, or other structures.

((8))9. For height limits and exceptions for communication utilities and accessory

communication devices, see Section 23.57.012.

Section 20. Subsection 23.49.008.D of Section 23.49.008 of the Seattle Municipal Code,

last amended by Ordinance 122582, is amended as follows:

23.49.008 Structure height((c))

The following provisions regulating structure height apply to all property in downtown

zones except the DH1, PSM, IDM, and IDR zones.

***

D. Rooftop Features.

1. The following rooftop features are permitted with unlimited rooftop coverage

and may not exceed the height limits as indicated:

   a. Open railings, planters, clerestories, skylights, play equipment, parapets

   and firewalls up to ((four (4)) 4 feet above the applicable height limit;
b. Solar collectors up to ((seven (7))) 7 feet above the applicable height limit; and

c. The rooftop features listed below shall be located a minimum of ((ten (10))) 10 feet from all lot lines and may extend up to ((fifty (50))) 50 feet above the roof of the structure on which they are located or ((fifty (50))) 50 feet above the applicable height limit, whichever is less, except as regulated by Chapter 23.64, Airport Height Overlay District:

((1)) Religious symbols for religious institutions,

((2)) Smokestacks, and

((3)) Flagpoles.

2. The following rooftop features are permitted up to the heights indicated below, as long as the combined coverage of all rooftop features, whether or not listed in this subsection 23.49.009.D.2, does not exceed ((fifty-five (55))) 55 percent of the roof area for structures that are subject to maximum floor area limits per story pursuant to Section 23.49.058, or ((thirty-five (35))) 35 percent of the roof area for other structures.

a. The following rooftop features are permitted to extend up to ((fifteen (15))) 15 feet above the applicable height limit:

((1)) Solar collectors;

((2)) Stair penthouses;

((3)) Play equipment and open-mesh fencing, as long as the fencing is at least ((fifteen (15))) 15 feet from the roof edge;

((4)) Covered or enclosed common recreation area; and
((5)) Mechanical equipment.

b. Elevator penthouses as follows:

((1)) In the PMM zone, up to ((fifteen-(15))) 15 feet above the applicable height limit;

((2)) Except in the PMM zone, up to ((twenty-three-(23))) 23 feet above the applicable height limit for a penthouse designed for an elevator cab up to ((eight-(8))) 8 feet high;

((3)) Except in the PMM zone, up to ((twenty-five-(25))) 25 feet above the applicable height limit for a penthouse designed for an elevator cab more than ((eight-(8))) 8 feet high;

((4)) Except in the PMM zone, when the elevator provides access to a rooftop designed to provide usable open space, an additional ((ten-(10))) 10 feet above the amount permitted in subsections 23.49.008.D.2.b.2 and 23.49.D.2.b.3((2) and (3) above)) shall be permitted.

c. Minor communication utilities and accessory communication devices, regulated according to Section 23.57.013, shall be included within the maximum permitted rooftop coverage.

d. Greenhouses that are dedicated to food production are permitted to extend 15 feet above the applicable height limit, as long as the combined total coverage of all features gaining additional height listed does not exceed 50 percent of the roof area.

3. Screening of Rooftop Features.
a. Measures may be taken to screen rooftop features from public view through the design review process or, if located within the Pike Place Market Historical District, by the Market Historical Commission.

b. Except in the PMM zone, the amount of roof area enclosed by rooftop screening may exceed the maximum percentage of the combined coverage of all rooftop features as provided in subsection 23.49.008.D.2 of this section.

c. Except in the PMM zone, in no circumstances shall the height of rooftop screening exceed ((ten (10)) ten percent of the applicable height limit, or ((fifteen (15)) 15 feet, whichever is greater. In the PMM zone, the height of the screening shall not exceed the height of the rooftop feature being screened, or such greater height necessary for effective screening as determined by the Pike Place Market Historical Commission.

4. Administrative Conditional Use for Rooftop Features. Except in the PMM zone, the rooftop features listed in subsection 23.49.008.D.1.c of this section may exceed a height of ((fifty (50)) 50 feet above the roof of the structure on which they are located if authorized by the Director through an administrative conditional use, Chapter 23.76. The request for additional height shall be evaluated on the basis of public benefits provided, the possible impacts of the additional height, consistency with the City's land use policies, and the following specific criteria:

a. The feature shall be compatible with and not adversely affect the downtown skyline.
b. The feature shall not have a substantial adverse effect upon the light, air, solar and visual access of properties within a ((three hundred (300))) 300 foot radius.

c. The feature, supporting structure and structure below shall be compatible in design elements such as bulk, profile, color and materials.

d. The increased size is necessary for the successful physical function of the feature, except for religious symbols.

5. Residential Penthouses Above Height Limit in DRC Zone.

a. A residential penthouse exceeding the applicable height limit shall be permitted in the DRC zone only on a mixed-use, City-designated Landmark structure for which a certificate of approval by the Landmarks Preservation Board is required. A residential penthouse allowed under this section may cover a maximum of ((fifty-five (55))) 50 percent of the total roof surface. Except as the Director may allow under subsection 23.49.008.D.5.b of this section:

   (((f))) 1) A residential penthouse allowed under this subsection 23.49.008.D.5 shall be set back a minimum of ((fifteen (15))) 15 feet from the street ((property)) lot line.

   (((f))) 2) A residential penthouse may extend up to ((eight (8))) 8 feet above the roof, or ((two (2)) (12))) feet above the roof when set back a minimum of ((thirty (30))) 30 feet from the street ((property)) lot line.

b. If the Director determines, after a sight line review based upon adequate information submitted by the applicant, that a penthouse will be invisible or minimally visible
from public streets and parks within ((three hundred (300))) 300 feet from the structure, the
Director may allow one or both of the following in a Type I decision:

((f)) 1) An increase of the penthouse height limit under subsection 23.49.008.D.5.a of this section by an amount up to the average height of the structure's street-facing parapet; or
((f)) 2) A reduction in the required setback for a residential penthouse.

c. The Director's decision to modify development standards pursuant to subsection 23.49.008.D.5.b ((must)) shall be consistent with the certificate of approval from the Landmarks Preservation Board.

d. A residential penthouse allowed under this section shall not exceed the maximum structure height in the DRC zone under Section 23.49.008.

e. No rooftop features shall be permitted on a residential penthouse allowed under this subsection 23.49.008.D.5.

6. For height limits and exceptions for communication utilities and accessory communication devices, see Section 23.57.013.

Section 21. Subsections 23.50.012.A and 23.50.012.B of Section 23.50.012, last amended by Ordinance 123282, and subsection A of Table A for 23.50.012, are amended as follows:

23.50.012 Permitted and prohibited uses
A. All uses ((shall be either)) are permitted outright, prohibited or permitted as a conditional use, according to Table A for 23.50.012.

B. All permitted uses ((shall be)) are allowed as either a principal use or as an accessory use, unless otherwise indicated in Table A for 23.50.012.

***

<table>
<thead>
<tr>
<th>Uses in Industrial Zones</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PERMITTED AND PROHIBITED USES BY ZONE</strong></td>
</tr>
<tr>
<td>USES</td>
</tr>
<tr>
<td>A. AGRICULTURAL USES</td>
</tr>
<tr>
<td>A.1. Animal Husbandry</td>
</tr>
<tr>
<td>A.2. Aquaculture</td>
</tr>
<tr>
<td>A.4. Horticulture</td>
</tr>
</tbody>
</table>

***

KEY

***

P = Permitted
X = Prohibited

(1) Animal shelters and kennels maintained and operated for the impounding, holding and/or disposal of lost, stray, unwanted, dead or injured animals are permitted.
(14) Except within designated manufacturing and industrial centers, where they are permitted only on rooftops and/or as vertical farming.

Section 22. Section 23.50.020 of the Seattle Municipal Code, last amended by Ordinance 122611, is amended as follows:

23.50.020 All Industrial zones—Structure height exceptions and additional restrictions(1)

A. Rooftop Features. Where a height limit applies to a structure, except as provided in subsections 23.50.024.C, 23.50.024.D, 23.50.024.E, and 23.50.024.F, the provisions in this subsection 23.50.020.A apply to rooftop features:

1. Smokestacks, chimneys and flagpoles, and religious symbols for religious institutions are exempt from height limits, except as regulated in Chapter 23.64, Airport Height Overlay District, provided they are a minimum of (ten (10)) 10 feet from any side or rear lot line.

2. Open railings, planters, skylights, clerestories, greenhouses, solariums, parapets and firewalls may extend (four (4)) 4 feet above the applicable height limit with unlimited rooftop coverage.

3. Solar collectors may extend up to (seven (7)) 7 feet above the applicable height limit, with unlimited rooftop coverage.

4. The following rooftop features may extend up to (fifteen (15)) 15 feet above the applicable height limit, as long as the combined total coverage of all features listed in this
subsection 23.50.020.A.4 does not exceed ((twenty-(20))) 20 percent of the roof area, or
((twenty-five-(25))) 25 percent of the roof area if the total includes screened mechanical
equipment:

a. Solar collectors;
b. Stair and elevator penthouses;
c. Mechanical equipment; and
d. Minor communication utilities and accessory communication devices,
except that height is regulated according to the provisions of Section 23.57.015.

5. Greenhouses that are dedicated to food production are permitted to extend 15
feet above the applicable height limit if the combined total coverage of all features gaining
additional height does not exceed 50 percent of the roof area. Greenhouses allowed under this
subsection 23.50.020.A.5, shall be located at least 10 feet from the north edge of the roof unless a
shadow diagram is provided that demonstrates that locating such features within 10 feet of the
north edge of the roof would not shade property to the north on January 21st at noon more than
would a structure built to maximum permitted height and FAR.

6. Within the South Lake Union Urban Center, at the applicant's option, the
combined total coverage of all features listed in subsections 23.50.020.A.4 and 23.50.020.A.5
above may be increased to ((sixty-five-(65))) 65 percent of the roof area, provided that all of the
following are satisfied:

a. All mechanical equipment is screened; and
b. No rooftop features are located closer than ((ten-40)) 10 feet to the roof edge.

B. ((Forty-five (45) Foot Height Limit Areas)) Additional Height Restrictions for Certain Structures in 45 Foot Height Limit Areas. In zones with a ((forty-five (45))) 45 foot height limit, except as provided for IC zones in Section 23.50.028, structures with no story at least ((fifteen (15))) 15 feet in height are limited to a maximum height of ((forty (40))) 40 feet.

C. Structures existing prior to October 8, 1987 that exceed the height limit of the zone may add the rooftop features listed as conditioned in subsection 23.50.020.A of this section (above)). The existing roof elevation of the structure (shall-be) is considered the applicable height limit for the purpose of adding rooftop features.

Section 23. Subsection 23.54.015.B of Section 23.54.015 of the Seattle Municipal Code, last amended by Ordinance 123209, is amended as follows:

23.54.015 Required parking

* * *

B. Parking requirements for specific zones

1. Parking in downtown zones is regulated by Section 23.49.019 and not by this Section 23.54.015((1)).

2. Parking for major institution uses in major institution overlay zones is regulated by Section 23.54.016 and not by this Section 23.54.015((1-and)).

3. Parking for motor vehicles for uses located in the Northgate Overlay District is regulated by Section 23.71.016 and not by this Section 23.54.015.
4. No parking is required for single-family residential uses in single-family zones on (parcels) lots less than (three thousand) 3,000 square feet in size or (thirty) 30 feet in width where access to parking is permitted through a required yard abutting a street according to the standards of subsection 23.44.016.B.2.

5. No parking is required for urban farms or community gardens in residential zones.

Section 24. The following subsection of Section 23.84A.002 of the Seattle Municipal Code, last amended by Ordinance 123020, is amended as follows:

23.84A.002 "A"

"Agricultural use" means any of the following: (a business establishment in which crops are raised or animals are reared or kept, but not including animal shelters and kennels. Agricultural uses include animal husbandry uses such as poultry farms and rabbitries, aquaculture uses such as fish farms and shellfish beds, and horticulture uses such as nurseries, and orchards.)

1. "Animal husbandry" means a (non-agricultural) use in which animals are reared or kept in order to sell the animals or their products ((they produce)), such as meat, fur or eggs, but does not include pet daycare centers or animal shelters and kennels. Examples of animal husbandry uses are poultry farms and rabbitries.

2. "Aquaculture" means a ((non-agricultural)) use in which food fish, shellfish or other marine foods, aquatic plants, or aquatic animals are cultured or grown in fresh or salt waters in order to sell them or the products they produce. Examples are fish farms and shellfish beds.

Form Last Revised on May 14, 2010
3. "Community garden" means a use in which land managed by a public or nonprofit organization, or a group of individuals, is used to grow plants and harvest food or ornamental crops from them for donation or for use by those cultivating the land and their households. Examples include P-Patch community gardens administered by the Department of Neighborhoods.

4. "Horticulture" means a((n-agricultural)) use, other than an urban farm, in which plants are grown for the sale of them or their products or for use in any business, and in which other customarily incidental products may be sold.((raised outdoors or in greenhouses for sale either as food or for use in landscaping)). Examples include nurseries ((g)) with greenhouses and garden stores ((but are not limited to nurseries, flower-raising, orchards, vineyards, and truck farms)).

5. "Urban farm" means a use in which plants are grown for sale of the plants or their products, and in which the plants or their products are sold at the lot where they are grown or off site, or both, and in which no other items are sold. Examples may include flower and vegetable raising, orchards and vineyards.

"Agricultural use" does not include landscaping or gardening that is incidental to a residential use or business if plants or their products are not sold.

* * *

Section 25. A new subsection of Section 23.84A.014 of the Seattle Municipal Code, last amended by Ordinance 122935, is added, as follows, to be inserted according to alphabetical order:
"Greenhouse" means a structure or portion of a structure, made primarily of glass or other translucent material, for which the primary purpose is the cultivation or protection of plants.

Section 26. The following subsections of Section 23.84A.036 of the Seattle Municipal Code, last amended by Ordinance 123046, are amended as follows:

"Sales and services, general" means one of the uses listed below, in which goods are rented or sold or services are provided primarily for household and personal use rather than for business establishments, institutions, or government agencies, but excluding medical services and uses in which goods are sold that primarily need to be delivered by truck, such as building materials, major durables and/or heating fuel.

1. "Retail sales and services, general" means a general sales and service use that is not a multi-purpose retail sales use. General retail sales and services include general retail sales uses, general services uses, and customer service office uses. Examples of general retail sales include but are not limited to bookstores, florists, and clothing stores. Examples of general services include but are not limited to shoe repair, hair cutting salons, pet grooming, pet daycare centers and dry cleaning. Customer service offices are uses in which services are provided to
individuals and households in an office setting in a manner that encourages walk-in clientele and
in which generally an appointment is not needed to conduct business, including but not limited to
uses such as branch banks, travel agencies, brokerage firms, real estate offices, and government
agencies that provide direct services to clients.

2. "Retail sales, multipurpose" means a general sales and service use in which a
wide range of items frequently purchased for household use are rented or sold. Examples of
multi(-)purpose retail sales include but are not limited to grocery, hardware, drug, and variety
stores, and farmers' markets.

* * *

"Solarium" means a room, porch, or other area, that is designed to admit sunlight, is part
of a larger structure, is enclosed substantially entirely by glass or another transparent material,
and is not primarily used for the cultivation or protection of plants.

* * *

Section 27. Severability. The provisions of this ordinance are declared to be separate and
severable. The invalidity of any clause, sentence, paragraph, sub-division, section or portion of
this ordinance, or the invalidity of the application thereof to any person or circumstance shall not
affect the validity of the remainder of this ordinance, or the validity of its application to other
persons or circumstances.
Section 28. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved and returned by the Mayor within 10 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the __ day of August __ 2010, and signed by me in open session in authentication of its passage this __ day of August __ 2010.

President ________ of the City Council

Approved by me this 23rd day of August __ 2010.

Michael McGinn, Mayor

Filed by me this 23rd day of August __ 2010.

City Clerk

(Seal)
Appendix 8
AN ORDINANCE OF THE CITY OF TAMPA, FLORIDA, MAKING COMPREHENSIVE REVISIONS TO CITY OF TAMPA CODE OF ORDINANCES, CHAPTER 27 (ZONING), RELATING TO COMMUNITY GARDENS; AMENDING SECTION 27-77, OFFICIAL SCHEDULE OF DISTRICT REGULATIONS; AMENDING SECTION 27-177, HISTORIC DISTRICT ESTABLISHED; AMENDING SECTION 27-242, NUMBER OF OFF-STREET PARKING SPACES; AMENDING SECTION 27-267, CLASSES OF SPECIAL USE PERMITS; AGENT OR BODY RESPONSIBLE FOR EACH GENERAL PROCEDURE; AMENDING SECTION 27-272, REGULATIONS GOVERNING INDIVIDUAL SPECIAL USES; AMENDING SECTION 27-438, OFFICIAL SCHEDULE OF PERMITTED PRINCIPAL, ACCESSORY AND SPECIAL USES; AMENDING SECTION 27-452, OFFICIAL SCHEDULE OF PERMITTED PRINCIPAL, ACCESSORY AND SPECIAL USES; AMENDING SECTION 27-545, DEFINITIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Tampa directed the Land Development Coordination office to complete the following amendments to Chapter 27, Code of Ordinances.

WHEREAS, the Hillsborough County City-County Planning Commission conducted a public hearing on this ordinance and made a finding that it is consistent with the Tampa Comprehensive Plan;

WHEREAS, the City Council of the City of Tampa has determined that the following amendments promote and protect the general health, safety and welfare of the residents of the City of Tampa; and,

WHEREAS, duly noticed public hearings as required by law were held by the City Council of the City of Tampa, at which public hearings all residents and interested persons were given an opportunity to be heard.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA:

Section 1. That “Sec. 27-77. Official schedule of district regulations.” is hereby amended by adding the underlined language as follows:
“Sec. 27-77. Official schedule of district regulations.

TABLE 4-1
SCHEDULE OF PERMITTED USES BY DISTRICT*

<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td>Permitted principal use</td>
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<tr>
<td>S1</td>
<td>Special use--Zoning administrator review</td>
</tr>
<tr>
<td>S2</td>
<td>Special use--City council review</td>
</tr>
<tr>
<td>A</td>
<td>Permitted accessory use</td>
</tr>
<tr>
<td>Blank</td>
<td>Prohibited use</td>
</tr>
</tbody>
</table>

**TABLE INSET:**

| Community garden, private | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 | S1 |

Section 2. That “Sec. 27-177. Historic district established.” is hereby amended by adding the underlined language as follows:

“Sec. 27-177. Historic district established.

TABLE 8-1
SCHEDULE OF PERMITTED USES AND PERMISSIBLE SPECIAL USES

<table>
<thead>
<tr>
<th>Legend</th>
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<tbody>
<tr>
<td>X</td>
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<tr>
<td>S1</td>
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</tr>
<tr>
<td>S2</td>
<td>Special use--City council review</td>
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<tr>
<td>A</td>
<td>Permitted accessory use</td>
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<tr>
<td>Blank</td>
<td>Prohibited use</td>
</tr>
</tbody>
</table>

**TABLE INSET:**

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<th>S1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community garden, private</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
<td>S1</td>
</tr>
</tbody>
</table>
Section 3. That “Sec. 27-242. Number of off-street parking spaces.” is hereby amended by adding the underlined language and deleting the stricken language as follows:

“Sec. 27-242. Number of off-street parking spaces.

The number of off-street parking spaces shall be as set forth in Table 10-1. Provided, however, the number of required off-street parking spaces for property in the central business district shall be as set forth in Article XVIII, section 27-442. Provided further, the number of required off-street parking spaces for property in the Channel District shall be as set forth in Article XIX, section 27-456.

TABLE 10-1
TABLE OF REQUIRED PARKING SPACES

<table>
<thead>
<tr>
<th>Use</th>
<th>Spaces</th>
<th>Per Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>(6) Public or nonprofit uses:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. Community garden, private¹</td>
<td>1</td>
<td>10 individual garden plots/beds</td>
</tr>
</tbody>
</table>

¹ Off-street parking is not required for gardens in the YC-, CBD-, and CD- districts.”

Section 4. That “Sec. 27-267. Classes of special use permits; agent or body responsible for each general procedure.” is hereby amended by adding the underlined language and deleting the stricken language as follows:

“Sec. 27-267. Classes of special use permits; agent or body responsible for each general procedure.

(b) Classes of special permits, the agent or body responsible for each and general provisions regarding the procedure are as follows:

(3) Contents of application for special use. The application for a special use shall be submitted on forms provided by the zoning administrator. The application for a special use shall include at a minimum:

   a. Short term S-1 special use permits (alcohol beverage sales -- temporary and vendor other than annual vendor) and S-1 permits for community gardens

   1. A full and accurate description of the proposed use;

   2. A detailed boundary description of the area receiving the special use permit, and a graphic (sketch) that depicts the boundaries. The graphic must delineate “north,” identify street names, and identify any structures on-site with dimensions. For alcohol beverage sales -- temporary
applications, the boundaries are the area where alcoholic beverages may be consumed ("Consumption Area"), and the graphic must also clearly delineate the areas where alcoholic beverages may lawfully be sold ("AB Sales Area") within the boundary;

3. The name and address of the property owner;

4. The name and address of the applicant, if different from the owner. The first application for a particular location will be considered the "master application." Any subsequent applications within the boundaries of the master application will be issued a "subpermit." The graphic for the master application must be amended to reflect the subpermit request.

b. All other S-1 special use permits (alcoholic beverage sales – sidewalk café, annual vendor) and S-2 special use permits

1. A full and accurate description of the proposed use;

2. The appearance and operational characteristics of the proposed use;

3. The name and address of the property owner;

4. The name and address of the applicant, if different from the owner;

5. All relevant information needed to show compliance with the general and specific standards governing the special use;

6. For alcoholic beverage sales ("AB permit"), the survey must include the following, as applicable:

i. A graphical depiction with square footage measurements of the location from where the sales activity will occur ("AB Sales Area") and those measurements required to demonstrate compliance with distance separation criteria; and,

ii. For locations without an existing active AB permit, then the survey required as part of the application is required to comply with 7. below; or,
iii. For locations with an existing active AB permit, where there is no expansion of floor area, outdoor/outside occupied area, or other alterations to the site are proposed, then the survey required as part of the application is required to comply with 7. below except for topographic contours or tree locations; or,

iv. For locations with an existing active AB permit, where there is an expansion of floor area, outdoor/outside occupied area, or other alterations to the site are proposed, then the survey required as part of the application is required to comply with 7. below.

7. For all other special uses under this subsection, the property survey must include boundary, topographic contours, and tree locations onsite and within twenty (20) feet of the property boundary on all sides, general property address, and legal description.

8. A site development plan that, at a minimum, represents a graphical depiction of the specifications above."

Section 5. That “Sec. 27-272. Regulations governing individual special uses.” is hereby amended by adding the underlined language and deleting the stricken language as follows:

“Sec. 27-272. Regulations governing individual special uses.

Community Garden, private: The following specific standards shall be used in deciding an application for approval of these uses:

a. Size Limitation. Within residential zoning districts, a community garden, private may not be greater in size than two acres.

b. Noise Limitations. No gardening activity may take place before sunrise or after sunset. The use of hand tools and domestic gardening tools is encouraged. The use of other machinery and other noise-emitting equipment is subject to the noise standards set forth in Chapter 14.

c. Maintenance responsibilities. The property maintenance responsibilities shall be that of the property owner and any lessee of the property, including the community garden group/organization. Standards for property maintenance are set forth in Chapter 19.
d. Agricultural chemical application. Application of fertilizer, pesticide, insecticide, herbicide and/or agricultural use chemicals shall be consistent with product label instructions and all applicable local, state, and federal laws. Integrated Pest Management and organic gardening is strongly encouraged.

e. Sale of harvested crops.

1. Within residential zoning districts, the produce and horticultural plants grown in a community garden are not intended to be offered for sale on or from the premises on a daily basis. Sales shall be allowed only when part of an event as stated in (4) below.

2. Within office and commercial districts, the produce and horticultural plants grown in a community garden may be sold from the premises on a daily basis.

f. Events. Events with sales of crops or goods on residentially zoned property will be limited to a maximum of four (4) events per year.

g. Permitted Structures. Only the following structures shall be permitted in a community garden:

1. Greenhouses, hoophouses, storage sheds, shade/water collection canopies, and planting preparation houses.

   i. Location. Buildings shall be setback from property lines consistent with the minimum principal building setbacks in the front yards and accessory building setback of the underlying zoning district for all other yards.

   ii. Height. No building or other structures shall be greater than fifteen (15') feet in height.

   iii. Building Coverage. The combined area of all buildings, excluding greenhouses and hoophouses, shall not exceed twenty (20) percent of the garden site.

2. Fences. Fencing shall be subject to the regulations of Sec. 27-133 and any applicable Overlay District, Historic District or design district regulation. Fencing placed parallel to the front property line shall adhere to Crime Prevention through Environmental Design (CPTED) principles.

3. Outdoor furniture and garden art.

4. Planting beds raised three (3) feet or more above grade, compost bins, and rain barrel systems shall maintain the following yard (setbacks) from property lines: 20' front yard, 3' side yard, and 3' rear yard.
5. Lot coverage (use and placement of impervious materials) shall not exceed 35% of the site area.

6. Signage: Each Community Garden will have a sign indicating the name of the Community Garden and contact information of the principal operator (garden coordinator), including name and current telephone number, web site, or e-mail address. Signage shall comply with Chapter 20.5 standards.

h. Parking. Off-street parking is not required for gardens on lots with a residential, YC-, CD-, or CBD- zoning district. For gardens on lots with an office or commercial zoning district, parking shall be provided at a rate of one (1) space per ten (10) individual plots, not to exceed fifteen (15) spaces. All parking shall comply with section 27-246.

i. Prohibited Activities. The following activities are prohibited within the Community Gardens:

1. Littering, dumping, alcohol consumption and other unlawful activities;

2. Amplified sound;

3. Pets are not allowed in the garden;

4. Storage or use of fireworks.”

Section 6. That “Sec. 27-438. Official schedule of permitted principal, accessory and special uses.” is hereby amended by adding the underlined language and deleting the stricken language as follows:

“Sec. 27-438. Official schedule of permitted principal, accessory and special uses.

TABLE 18-1
SCHEDULE OF PERMITTED PRINCIPAL, ACCESSORY AND SPECIAL USES*

<table>
<thead>
<tr>
<th>TABLE INSET:</th>
</tr>
</thead>
<tbody>
<tr>
<td>*Legend:</td>
</tr>
<tr>
<td>X</td>
</tr>
<tr>
<td>S1</td>
</tr>
<tr>
<td>S2</td>
</tr>
<tr>
<td>A</td>
</tr>
<tr>
<td>Blank</td>
</tr>
</tbody>
</table>
TABLE INSET:

<table>
<thead>
<tr>
<th>Use Group B</th>
<th>CD-1</th>
<th>CD-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community garden, private</td>
<td>S1</td>
<td>S1</td>
</tr>
</tbody>
</table>

Section 7. That “Sec. 27-452. Official schedule of permitted principal, accessory and special uses.” is hereby amended by adding the underlined language and deleting the stricken language as follows:

“Sec. 27-452. Official schedule of permitted principal, accessory and special uses.

TABLE 18-1
SCHEDULE OF PERMITTED PRINCIPAL, ACCESSORY AND SPECIAL USES*

*Legend:
X Permitted principal use
S1 Special use--Zoning administrator review
S2 Special use--City council review
A Permitted accessory use
Blank Prohibited use

<table>
<thead>
<tr>
<th>Uses</th>
<th>CD-1</th>
<th>CD-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community garden, private</td>
<td>S1</td>
<td>S1</td>
</tr>
</tbody>
</table>

Section 8. That “Sec. 27-545. Definitions.” is hereby amended by adding the underlined language as follows:

“Sec 27-545. Definitions.

*Community Garden, private: an area of land managed and maintained by a group or a group of individuals to grow and harvest crops (food or non-food) for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals, or may be farmed collectively by members of a group, and may include common areas maintained and used by group members.

*Greenhouse: a building made of glass, plastic, or fiberglass in which plants are cultivated.

*Hoophouse: a structure made of PVC piping or other material covered with translucent plastic, constructed in a “half-round” or “hoop” shape.”

Section 9. That should a court of competent jurisdiction declare any part of this Ordinance invalid the remaining parts hereof shall not, in any way, be affected by such determination as to the invalid part.
Section 10. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict.

Section 11. That this ordinance shall take effect immediately upon becoming a law.

PASSED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF TAMPA, FLORIDA, ON MAY 1, 2011.

ATTEST:

[Signature]
CHAIRMAN/CITY COUNCIL PRO TEM

[Signature]
CITY COUNCIL

[Signature]
CITY CLERK/DEPUTY CITY CLERK

APPROVED BY ME ON MAY 20, 2011

[Signature]
BOB BUCKHORN, MAYOR

APPROVED AS TO LEGAL SUFFICIENCY BY:

[Signature]
JULIA MANDELL COLE
SENIOR ASSISTANT CITY ATTORNEY

K:/Debbie/Ordinances/Chapter27/July 2010 text amendment cycle—Community Gardens—4.15.11_S-2
Appendix 9
Sec. 10-2071. - SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS.

ARTICLE D. USES, RESIDENTIAL DENSITY, SETBACK, HEIGHT REGULATIONS AND SUMMARY SCHEDULES

Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS

Principal uses and activities for buildings, structures, and land permitted by the Zoning Code are listed within the following schedule. All uses listed are principal uses of land, unless accessory uses are specifically identified. Additional requirements include any special use permits or other regulations which are not contained in this Article. The symbols on the schedule indicate categories of approval and certain approval procedures which are not contained in Article H.

- **General Use** requires site plan approval.
- **Conditional Use** requires site plan approval and special use permits in accordance with Section 10-2123.
- **Special Use** requires a public hearing and an approved special use permit by the City Council (10-2166).
- **Varying Use** requires a public hearing and special use permits by the Board of Adjustment (10-2144).
- **Site Plan Approval** requires site plan approval by the Planning Commission or the City Council depending on the location, size, and level of density (10-2132). See Article H.

**SYMBOLS**

- **Legend:**
  - General Use: Not allowed.
  - Conditional Use: Requires site plan approval.
  - Special Use: Requires site plan approval and special use permits.
  - Varying Use: Requires a public hearing and special use permits.
  - Site Plan Approval: Requires site plan approval by the Planning Commission or the City Council.

**ZONING DISTRICTS**

**LAND USE**

- Agriculture
- Nautical
- Commercial
- Manufacturing
- Institutional
- Industrial
- Residential
- Mixed-Use

**Section 10-2071. SCHEDULE OF PERMITTED LAND USES IN ZONING DISTRICTS**

*City council and/or plan approval shall be required for building activity that is not in camera or subject to special use permits, as outlined by the North Carolina Zoning Act. No other uses listed are not available to the development as an inside (10-2123).*
v. Any coop, hutch, hive, or other structure for housing animals shall be located at least 25 feet from any property line.

C. Plant Nursery

1. Defined
   A facility where horticultural and agricultural products produced on the premises are sold.

2. Use Standards
   a. Sales shall be limited to agricultural products produced on the premises, hand-held garden tools, bags of fertilizer, mulch, and similar items normally associated with nursery or gardening operations.
   b. Sales offices shall be limited to 200 square feet of gross floor area per acre of land area, but in no case can the sales office exceed 2,000 square feet of gross floor area.
   c. The use shall not be located within a Primary Reservoir Watershed Protection Area.
   d. No more than 1 on-premise announcement sign not to exceed 12 square feet in area and 3/4 feet in height.

D. Restricted Agriculture

1. Defined
   The raising and harvesting of tree crops (excluding forestry), vine crops and horticultural specialties not requiring intense cultivation. The keeping or grazing of animals for animal products, animal propagation or value increase is not allowed.

E. Urban Farm

1. Defined
   The raising and harvesting of tree crops (excluding forestry), vines, seeds, plants and crops, as well as the keeping, grazing or feeding of animals (including fish) for animal products, animal propagation, or value increase when located in an urbanized (developed) area. An urban farm may be owned by an individual, group or organization and may include intensive agriculture, typical large-scale farm equipment, and animal husbandry.

Sec. 6.6.2. Resource Extraction

A. Resource Extraction Use Category
   Characterized by uses that extract minerals and other solids and liquids from land. Resource extraction includes the following uses.
   1. Dredging, earth extraction, gas extraction.
   2. Extraction of phosphate or minerals.
   3. Extraction of sand or gravel, borrow pit.
   4. Land clearing for the purpose of resource extraction.
   5. Metal, sand, stone, gravel, clay, mining and other related processing.
   6. Stockpiling of sand, gravel, or other aggregate materials.

B. Use Standards
   1. A type B transitional protective yard with a berm (see Sec. 7.2.4.A.) must be established along all outer perimeter property lines except where the property abuts an IH District or is used for industrial uses listed in Article 6.5, Industrial Uses.
   2. For lawful resource extraction facilities established prior to September 1, 2013 that adjoin uses other than household living as listed in Sec. 6.2.1, existing woodland vegetation at least 15 feet in width may be used, in whole or in part, to satisfy the transitional protective yard, provided any gap in woodland vegetation 20 feet or more in width shall be planted with evergreen hedges that have a mature height of at least 25 feet tall.
   3. A type C street protective yard with a berm (see Sec. 7.2.4.B.) must be established along all property lines abutting a public right-of-way.
   4. Except for properties in an IH District or for industrial uses listed in Article 6.5, Industrial Uses, there shall be provided between overburden storage areas and adjoining properties not owned or leased by the operator, (a) walls, closed fences, berms or any combination equal or greater in height than the height of the overburden or (b) planted vegetation containing the following characteristics:
      a. Newly planted landscaping shall be of the following varieties: loblolly pine, genetically improved stock, Japanese cryptomeria 'Yoshino' and 'Nelle Stevens' holly;
12. At each exit driveway utilized by loaded trucks, a sign shall be erected reading that all loads exiting the property are required by City ordinance to be covered, and that failure to cover is a violation of the City Code. The sign shall be facing the property and all lettering shall be a minimum of 6 inches tall.

13. The primary crusher shall not be located closer than 500 feet to any outer property boundary and no closer than 50 feet to any residential district. In lieu of meeting these distances, the primary crusher may be located in any area of the excavation pit that is 150 or more feet below the then current grade surface level, so that the wall of the excavation pit will function as a noise baffle.
Appendix 10
SUBCHAPTER 28G: SPECIAL DISTRICTS

28.091 SPECIAL DISTRICT USES.

(1) Table 28G-1 lists all permitted and conditional uses in the Special Districts, except that uses allowed within the Campus Institutional District are listed separately in Sec. 28.096.

(a) "P" means permitted in the districts where designated.
(b) "C" means allowed as conditional uses in the districts where designated, in compliance with all applicable standards.
(c) "P/C" means permitted or conditional, depending on specific requirements in Supplemental Regulations, Subchapter 28J.
(d) "Y" means that there are specific requirements in Subchapter 28J associated with a use.
(e) "A" means Agricultural District.
(f) "UA" means Urban Agriculture District.
(g) "C" means Conservancy District.
(h) "AP" means Airport District.

<table>
<thead>
<tr>
<th>Table 28G-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural and Resource Uses</td>
</tr>
<tr>
<td>Agriculture - Animal husbandry</td>
</tr>
<tr>
<td>Agriculture - Cultivation</td>
</tr>
<tr>
<td>Agriculture - Intensive</td>
</tr>
<tr>
<td>Animal boarding facility, kennel</td>
</tr>
<tr>
<td>Clear cutting</td>
</tr>
<tr>
<td>Community garden</td>
</tr>
<tr>
<td>Equestrian center/riding, boarding stable</td>
</tr>
<tr>
<td>Market garden</td>
</tr>
<tr>
<td>Selective cutting of timber</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Civic and Institutional Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civic auditorium complex</td>
</tr>
<tr>
<td>Community center</td>
</tr>
<tr>
<td>Correctional facility</td>
</tr>
<tr>
<td>Land and water preserves</td>
</tr>
<tr>
<td>Parks and playgrounds</td>
</tr>
<tr>
<td>Public safety or service facilities</td>
</tr>
<tr>
<td>Reuse of former school or municipal building</td>
</tr>
<tr>
<td>Schools, arts, technical or trade</td>
</tr>
<tr>
<td>Schools, public and private</td>
</tr>
<tr>
<td>Training facilities, military or public safety</td>
</tr>
<tr>
<td>Category</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
</tr>
<tr>
<td><strong>Residential - Family Living</strong></td>
</tr>
<tr>
<td>Single-family detached dwelling</td>
</tr>
<tr>
<td><strong>Limited Production, Processing and Storage</strong></td>
</tr>
<tr>
<td>Artisan workshop</td>
</tr>
<tr>
<td>Recycling collection center, drop-off station</td>
</tr>
<tr>
<td><strong>Public Utility and Public Service Uses</strong></td>
</tr>
<tr>
<td>Electric substations</td>
</tr>
<tr>
<td>Heating and/or cooling plant</td>
</tr>
<tr>
<td>Gas regulator stations, mixing and gate stations</td>
</tr>
<tr>
<td>Railroad right-of-way</td>
</tr>
<tr>
<td>Sewerage system lift stations</td>
</tr>
<tr>
<td>Telecommunications towers and transmission equipment buildings</td>
</tr>
<tr>
<td>Water pumping stations, water reservoirs</td>
</tr>
<tr>
<td><strong>Transportation Uses</strong></td>
</tr>
<tr>
<td>Airport runways, hangars and related facilities</td>
</tr>
<tr>
<td>Airport terminal and related facilities</td>
</tr>
<tr>
<td>Transit stop or station</td>
</tr>
<tr>
<td><strong>Medical Facilities</strong></td>
</tr>
<tr>
<td>Veterinary clinic</td>
</tr>
<tr>
<td><strong>Retail Sales and Services</strong></td>
</tr>
<tr>
<td>Farmers’ market</td>
</tr>
<tr>
<td>Garden center</td>
</tr>
<tr>
<td>Greenhouse, nursery</td>
</tr>
<tr>
<td><strong>Commercial Recreation, Entertainment and Lodging</strong></td>
</tr>
<tr>
<td>Bed and breakfast establishment</td>
</tr>
<tr>
<td>Golf course</td>
</tr>
<tr>
<td>Lodge, private club, reception hall</td>
</tr>
<tr>
<td>Outdoor recreation</td>
</tr>
<tr>
<td><strong>Automobile Services</strong></td>
</tr>
<tr>
<td>Auto rental</td>
</tr>
<tr>
<td><strong>Parking and Storage Facilities</strong></td>
</tr>
<tr>
<td>Parking facility, private</td>
</tr>
<tr>
<td>Accessory Uses and Structures</td>
</tr>
<tr>
<td>------------------------------------------------------------------</td>
</tr>
<tr>
<td>Parking facility, public</td>
</tr>
<tr>
<td>Parking lot (surface) exceeding maximum parking</td>
</tr>
<tr>
<td>Accessory building or structure</td>
</tr>
<tr>
<td>Accessory dwelling unit</td>
</tr>
<tr>
<td>Caretaker’s dwelling</td>
</tr>
<tr>
<td>Catering</td>
</tr>
<tr>
<td>Coffee shop, tea house</td>
</tr>
<tr>
<td>Composting</td>
</tr>
<tr>
<td>Day care, home</td>
</tr>
<tr>
<td>Emergency electric generator</td>
</tr>
<tr>
<td>General retail</td>
</tr>
<tr>
<td>Health/sports club</td>
</tr>
<tr>
<td>Home occupation</td>
</tr>
<tr>
<td>Hotel, inn, motel, hostel</td>
</tr>
<tr>
<td>Indoor recreation</td>
</tr>
<tr>
<td>On-site agricultural retail, farm stand</td>
</tr>
<tr>
<td>Outdoor eating area associated with food &amp; beverage establishment</td>
</tr>
<tr>
<td>Outdoor sales events</td>
</tr>
<tr>
<td>Outdoor storage</td>
</tr>
<tr>
<td>Parking facility, public</td>
</tr>
<tr>
<td>Portable storage units</td>
</tr>
<tr>
<td>Post office</td>
</tr>
<tr>
<td>Professional office</td>
</tr>
<tr>
<td>Restaurant</td>
</tr>
<tr>
<td>Restaurant-tavern</td>
</tr>
<tr>
<td>Temporary buildings for storage of construction materials and equipment</td>
</tr>
<tr>
<td>Temporary off-street parking</td>
</tr>
<tr>
<td>Wind energy systems</td>
</tr>
<tr>
<td>Tavern, brewpub</td>
</tr>
<tr>
<td>Solar energy systems</td>
</tr>
<tr>
<td>Storage of trucks and heavy equipment</td>
</tr>
<tr>
<td>Wind energy systems</td>
</tr>
</tbody>
</table>

28.092 AGRICULTURAL DISTRICT.

(1) Statement of Purpose.
Rural agricultural areas designated as such in the Comprehensive Plan are located beyond the current extent of planned City development. These areas are outside the Central
Urban Service Area and without current access to municipal sanitary sewer and water service. They are characterized by active farming operations and associated fields, meadows, woodlots and other natural features. Agriculture and other rural land uses also continue to predominate within many areas planned, but not yet developed, for urban uses. These may include relatively large areas that are recommended in adopted City plans to continue in long-term agriculture uses, while urban areas grow around them.

The purpose of this district is to support the continuance of agriculture and rural character within outlying agricultural areas. In addition, the A district is intended to support local food production and community health by encouraging community and market gardens and other small-scale agricultural operations within city limits.

(2) Permitted and Conditional Uses.
See Table 28G-1 for a complete list of allowed uses within the Agricultural District.

(3) Dimensional Requirements. Permitted and Conditional Uses.
Requirements represent minimums unless otherwise noted. Dimensions are in feet unless otherwise noted.

<table>
<thead>
<tr>
<th>Agricultural District</th>
<th>Agricultural uses</th>
<th>All other uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area</td>
<td>5 acres</td>
<td>10 acres</td>
</tr>
<tr>
<td>Lot width</td>
<td>300</td>
<td>300</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>Side yard setback</td>
<td>80</td>
<td>80</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Maximum height</td>
<td>none</td>
<td>2 stories/35</td>
</tr>
<tr>
<td>Maximum coverage</td>
<td>lot</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td>5%</td>
<td></td>
</tr>
</tbody>
</table>

28.093 URBAN AGRICULTURAL DISTRICT.

(1) Statement of Purpose.
The purpose of this district is to ensure that urban garden and farm areas are appropriately located and protected to meet needs for local food production, and to enhance community health, community education, garden-related job training, natural resource protection, preservation of green space, and community enjoyment. Because urban agriculture will typically exist in close proximity to residential and other uses, concern will be given to ensuring compatibility between uses.

(2) Permitted and Conditional Uses.
See Table 28G-1 for a complete list of allowed uses within the Urban Agricultural District.

(3) Dimensional Requirements. Permitted and Conditional Uses.
Requirements represent minimums unless otherwise noted. Dimensions are in feet unless otherwise noted.
Urban Agricultural District

<table>
<thead>
<tr>
<th>Lot area sq. ft.</th>
<th>15,000</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>See (a) below</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Lot width</th>
<th>50</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front yard setback (structures)</td>
<td>15 or the setback of the adjacent district, whichever is greater</td>
</tr>
<tr>
<td>Side yard setback (structures)</td>
<td>6 or the setback of the adjacent district, whichever is greater</td>
</tr>
<tr>
<td>Rear yard setback (structures)</td>
<td>20 or the setback of the adjacent district, whichever is greater</td>
</tr>
<tr>
<td>Maximum height</td>
<td>25</td>
</tr>
<tr>
<td>Maximum lot coverage (buildings and paved areas)</td>
<td>15% (excluding greenhouses and hoophouses)</td>
</tr>
</tbody>
</table>

(a) Lot area of less than 15,000 square feet may be allowed as a conditional use

28.094 CONSERVANCY DISTRICT.

1. Statement of Purpose.
   The Conservancy District is established to recognize and protect the natural functions of certain natural and recreational areas, including large City and County parks, the University of Wisconsin Arboretum, stormwater management areas, golf courses, and similar areas. Development within the district is limited in character in order to protect natural drainageways and water retention areas, natural habitat for plant and animal life, steep slopes, woodlands, and other resources beneficial to the community.

   See Table 28G-1 for a complete list of allowed uses within the Conservancy District.

   Requirements represent minimums unless otherwise noted. Dimensions are in feet unless otherwise noted.

Conservancy District

<table>
<thead>
<tr>
<th>Lot area</th>
<th>5 acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot width</td>
<td>300</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>30</td>
</tr>
<tr>
<td>Side yard setback</td>
<td>80</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>100</td>
</tr>
<tr>
<td>Maximum height</td>
<td>2 stories/35</td>
</tr>
<tr>
<td>Maximum lot coverage</td>
<td>5%</td>
</tr>
</tbody>
</table>
Appendix 11
PART THREE — ZONING CODE
Title VII — Zoning Code
CHAPTER 336 — URBAN GARDEN DISTRICT

Complete to December 31, 2007

336.01 URBAN GARDEN DISTRICT

The "Urban Garden District" is hereby established as part of the Zoning Code to ensure that urban garden areas are appropriately located and protected to meet needs for local food production, community health, community education, garden-related job training, environmental enhancement, preservation of green space, and community enjoyment on sites for which urban gardens represent the highest and best use for the community.

(Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

336.02 DEFINITIONS

(a) "Community garden" means an area of land managed and maintained by a group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

(b) "Market garden" means an area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and/or non-food, ornamental crops, such as flowers, to be sold for profit.

(c) "Greenhouse" means a building made of glass, plastic, or fiberglass in which plants are cultivated.

(d) "Hoophouse" means a structure made of PVC piping or other material covered with translucent plastic, constructed in a "half-round" or "hoop" shape.

(e) "Coldframe" means an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or clear plastic, used for protecting seedlings and plants from the cold.  (Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)
336.03 PERMITTED MAIN USES

Only the following main uses shall be permitted in an Urban Garden District:

(a) community gardens which may have occasional sales of items grown at the site;

(b) market gardens, including the sale of crops produced on the site. (Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

336.04 PERMITTED ACCESSORY USES

Only the following accessory uses and structures shall be permitted in an Urban Garden District:

(a) greenhouses, hoophouses, cold-frames, and similar structures used to extend the growing season;

(b) open space associated with and intended for use as garden areas;

(c) signs limited to identification, information and directional signs, including sponsorship information where the sponsorship information is clearly secondary to other permitted information on any particular sign, in conformance with the regulations of Section 336.05;

(d) benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, garden art, rain barrel systems, chicken coops, beehives, and children's play areas;

(e) buildings, limited to tool sheds, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses, in conformance with the regulations of Section 336.05;

(f) off-street parking and walkways, in conformance with the regulations of Section 336.05. (Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)

336.05 SUPPLEMENTAL REGULATIONS

Uses and structures in an Urban Garden District shall be developed and maintained in accordance with the following regulations.

(a) Location. Buildings shall be set back from property lines of a Residential District a
minimum distance of five (5) feet.

(b) Height. No building or other structure shall be greater than twenty-five (25) feet in height.

(c) Building Coverage. The combined area of all buildings, excluding greenhouses and hoophouses, shall not exceed fifteen percent (15%) of the garden site lot area.

(d) Parking and Walkways. Off-street parking shall be permitted only for those garden sites exceeding 15,000 square feet in lot area. Such parking shall be limited in size to ten percent (10%) of the garden site lot area and shall be either unpaved or surfaced with gravel or similar loose material or shall be paved with pervious paving material. Walkways shall be unpaved except as necessary to meet the needs of individuals with disabilities.

(e) Signs. Signs shall not exceed four (4) square feet in area per side and shall not exceed six (6) feet in height.

(f) Seasonal Farm Stands. Seasonal farm stands shall be removed from the premises or stored inside a building on the premises during that time of the year when the garden is not open for public use.

(g) Fences. Fences shall not exceed six (6) feet in height, shall be at least fifty percent (50%) open if they are taller than four (4) feet, and shall be constructed of wood, chain link, or ornamental metal. For any garden that is 15,000 square feet in area or greater and is in a location that is subject to design review and approval by the City Planning Commission or Landmarks Commission, no fence shall be installed without review by the City Planning Director, on behalf of the Commission, who may confer with a neighborhood design review committee. If one exists, so that best efforts are taken to ensure that the fence is compatible in appearance and placement with the character of nearby properties.  (Ord. No. 208-07. Passed 3-5-07, eff. 3-9-07)
City of Cleveland
Zoning Code Update
Effective Date: November 3, 2010

AGRICULTURE IN RESIDENTIAL DISTRICTS

Section 337.02 One-Family Districts

In a One-Family District, the following buildings and uses and their accessory buildings and uses are permitted:

(a) Dwelling houses, each occupied by not more than one family and not more than two roomers or boarders.

(b) Playgrounds, parks.

(c) The extension of existing cemeteries.

(d) Railroad rights of way, not including switching, storage or freight yards or industrial sidings.

(e) Agricultural uses, subject to the regulations of Section 337.25 and Section 347.02.

(f) The following buildings and uses, if located not less than fifteen feet from any adjoining premises in a Residence District not used for a similar purpose:

(1) Churches and other places of worship, but not including funeral chapels or mortuary chapels.

(2) Telephone exchanges and static transformer stations, provided there is no public business office or any storage yard or storage building operated in connection therewith.

(3) Bus turn-around and layover areas operated by a public transit agency provided that no buildings other than a passenger shelter and restroom are located at each site, and provided, further, that any layover space accommodates no more than two buses.

(g) The following buildings and uses, if approved by the Board of Zoning Appeals after public notice and public hearing, and if adequate yard spaces and other safeguards to preserve the character of the neighborhood are provided, and if in the judgment of the Board such buildings and uses are appropriately located and designed and will meet a community need without adversely affecting the neighborhood:

(1) A temporary or permanent use of a building by a nonprofit organization for a dormitory, fraternity or sorority house, for the accommodation of those enrolled in or employed by an educational institution permitted in the District.

(2) Fire stations, police stations.
(3) the following buildings and uses, if located not less than thirty feet from any adjoining premises in a Residence District not used for a similar purpose, and subject to the review and approval of the Board of Zoning Appeals as stated above:

A. Public libraries or museums, and public or private schools or colleges including accessory laboratories, provided such private schools or colleges are not conducted as a gainful business.

B. Recreation or community center buildings, parish houses and grounds for games and sports, except those of which a chief activity is one customarily carried on primarily for gain.

C. Day nurseries, kindergartens.

D. Hospitals, sanitariums, nursing, rest or convalescent homes, not primarily for contagious diseases nor for the care of drug or liquor patients, nor for the care of the insane or developmentally disabled.

E. Orphanages.

F. Homes for the aged or similar homes.

G. Charitable institutions not for correctional purposes.

(4) The following buildings and uses, if located not less than fifty feet from adjoining premises in a Residence District not used for a similar purpose, and subject to the review and approval of the Board of Zoning Appeals as stated above.

A. Municipal recreation buildings.

B. Municipal swimming pools.

(5) Crematories in existing cemeteries, provided they are not less than 300 feet from any boundary that abuts a Residence District, and subject to the review and approval of the Board of Zoning Appeals as stated above.

Section 337.23 Accessory Uses in Residence Districts

(a) Permitted Accessory Uses. The following accessory uses and buildings are permitted in a Residence District. Such permitted accessory buildings shall be located on the rear half of the lot, a minimum of eighteen inches from all property lines and at least ten feet from any main building on an adjoining lot in a Residence District. Accessory buildings shall not occupy more than forty percent (40%) of the area of the required rear yard and, in the case of a corner lot, shall be located back of any required setback or specific building line. For side street yard regulations consult Sections 357.05 to 357.07.

(1) Within a main building, the office of a surgeon, physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building and employing in the office not more than one nonresident office or laboratory assistant.

(2) Customary home occupation for gain carried on in the main building or in a rear building accessory thereto and requiring only customary home equipment; provided that no nonresident help is employed for that purpose, no trading in merchandise is carried on and no
personal physical service is performed and, in a Limited One-Family District or in a One-Family District, no sign or other outward evidence of the occupation is displayed on the premises.

(3) Agricultural uses, subject to the regulations of Section 337.25 and Section 347.02 regarding the keeping of farm animals.

(4) Private incinerators for the burning of refuse and garbage produced on the same premises, provided that the construction is such as to assure immediate and complete combustion and freedom from offensive smoke, ash, unburned particles and odors, and a permit therefor is granted by the Commissioner of Environment.

(5) Fences and walls, as regulated in Chapter 358.

(6) Garages and parking spaces for the occupants of the premises and, when the premises are used for other than residence purposes, for their employees, patrons and guests.

A. In a Dwelling House District the floor area of a private garage erected as an accessory building shall not exceed 650 square feet unless the lot area exceeds 4,800 square feet in which event the floor area may be increased in the ratio of one square foot for each twelve square feet of additional lot area.

B. In Multi-Family Districts, garages and parking spaces erected or established as accessory uses shall be subject to the restrictions specified in Sections 343.19 to 343.21 and Chapter 349.

(7) Garage Sale or other Residential Property Sales, as defined in Section 676B.01(a), as long as they conform to the provisions in Chapter 676B.

(8) Signs permitted in accordance with the requirements of Chapter 350.

(9) Any other accessory use customarily incident to a use authorized in a Residence District except that no use prohibited in a Local Retail Business District shall be permitted as an accessory use.

(b) Accessory Building Erected Prior to Erection of Main Building. An accessory building may be erected prior to the construction of the main building only if:

(1) The accessory building is erected on the rear half of the lot.

(2) The accessory building is so placed as not to prevent the practicable and conforming location of the main building.

(3) The main building is completed within two (2) years from the date of issuance of the permit for the accessory building.

Section 337.25 Agricultural Uses in Residential Districts

Agricultural uses in Residential Districts shall be subject to the following regulations and the regulations of Sections 347.02 and 205.02 regarding the keeping of farm animals.
(a) **Permitted Accessory Structures.** In addition to fences, as regulated in paragraph (b) of this section, a permitted agricultural use may be served by the following accessory structures: sheds, greenhouses, coops, cages, beehives, hoop houses, cold frames, barns, rain barrels, composting, farm stands as regulated in paragraph (d) of this section, and similar structures not exceeding fifteen (15) feet in height.

(b) **Fences.** Fences for agricultural uses shall be permitted in accordance with the regulations applicable to fences in Residential Districts, except that the following regulations shall apply where an agricultural use is the principal use in a Residential District.

(1) **Front Yard and Other Street Yard.** A fence located in a required front yard, side street yard or other street yard, shall not exceed four (4) feet in height and shall be either ornamental or black or dark green, vinyl-coated chain link.

(2) **Other Locations.** A fence located at or behind the setback line of a required front yard or other street yard shall not exceed six (6) feet in height and shall be either ornamental or chain link. Any open lot area between a fence and a street line shall be planted with grass or other vegetation.

(c) **Setbacks for Structures.** No permitted accessory structures to an agricultural use, other than fences and farm stands, shall be located in a required front yard or side street yard area line or within eighteen (18) inches of an interior side or rear lot line.

(d) **Farm Stands and Sale of Produce.** The sale of produce and the placement of farm stands shall be permitted only in accordance with the following regulations.

(1) **Sale of Produce.** Where such sales have been permitted by the Board of Zoning Appeals, agricultural products, plants, eggs and honey grown or produced on a property or within 1,000 feet of the subject property may be sold on the premises of an agricultural use in a Residential District if the agricultural use is the only use of the subject property or occupies at least seventy-five percent (75%) of the property or at least 4,000 square feet. In addition, foods prepared on site or off site may be sold if the principal ingredients are grown or produced on the subject property or within 1,000 feet of the subject property. No sales shall be made before 8 a.m. or after dusk. Food sales shall be licensed by the Cleveland Department of Public Health if such licensing is required in the City’s Codified Ordinances.

(2) **Farm Stands.** Where a farm stand has been permitted by the Board of Zoning Appeals, any such farm stand located in a required front yard area in a One-Family or Two-Family District shall be removed from the front yard or stored inside a building on the premises during that time of the year when the garden or farm is not open for public use. Farm stands shall not occupy more than two percent (2%) of the subject property's land area and, in One-Family and Two-Family Districts, farm stands also shall not exceed 200 square feet in area on the subject property. A farm stand shall be set back at least eighteen (18) inches from any lot line.

(3) **Board of Zoning Appeals Approval.** No agricultural produce or related products may be sold from the property of an agricultural use and no farm stand for the sale of such products may be located on the property unless the Board of Zoning Appeals determines, after public notice and public hearing, that the farm stand and sales will meet a community need without adversely affecting the neighborhood. In making this determination, the Board shall consider, among others, the following factors:

A. the nature of nearby uses of land with respect to their sensitivity to the activity associated with farm stand sales,

B. the proximity of the farm stand to one-family and two-family houses.
C. traffic volumes on the street on which the subject property is located.

D. the availability of off-street or on-street parking to serve the farm stand use.

E. the proximity of other farm stands serving the immediate area, and

F. the maintenance of a substantially unobstructed view in the set back area which shall include a clear view through the farm stand above a height of three feet.

(e) Signs. Where an agricultural use is the principal use in a Residential District or occupies at least seventy-five percent (75%) of the property or at least 4,000 square feet, one sign shall be permitted on each street frontage identifying the agricultural use and listing hours of operations for market sales and contact information. Such sign shall not exceed four (4) square feet in area and, if freestanding, shall not exceed three (3) feet in height and shall be set back at least five (5) feet from all property lines unless the sign is placed on a permitted farm stand. No signs shall be permitted for an agricultural use that is an accessory use in a Residential District.

(f) Composting. Composting may be conducted on the premises of an agricultural use if limited to use on the subject property and if stored in a manner that controls odor, prevents infestation and minimizes run-off into waterways and onto adjacent properties.

(g) Maintenance. Any land devoted to agricultural use shall be well-maintained and shall be free of excessively tall weeds or grass. All accessory structures to an agricultural use shall also be well maintained.

(h) Building Permits. No Building Permit or Certificate of Occupancy shall be required for establishment of an agricultural use. A Building Permit shall be required for installation of a fence or for construction of a barn or other structure routinely requiring such permit, except that no Building Permit shall be required for cages, coops, beehives or similar structures that are not permanently attached to the ground or to another structure and do not exceed thirty-two (32) square feet in area nor eight (8) feet in height. No farm stand shall be installed without issuance of a Building Permit. The application for such Permit shall include the name, address and phone number of the operator of the farm stand; the length, width and height of the farm stand; a description of the type of produce to be sold from the farm stand; and the name of the property owner. If the applicant is not the property owner, the applicant shall include with the Permit application a written statement from the property owner authorizing the applicant to install and operate the farm stand.

(i) Definitions. As used in this section:

(1) "farm stand" means a temporary structure used for display or sale of produce as described in division (d)(1) of this section and that meets the requirements of this section.

(2) "subject property" refers to a parcel of land or two or more adjacent parcels of land in agricultural use.
Appendix 12
A Preview of Buffalo's New Zoning

MAKING THE CITY A BETTER PLACE TO LIVE, WORK, & INVEST

PREPARED FOR
THE CITY OF BUFFALO
OFFICE OF STRATEGIC PLANNING
MAYOR BYRON W. BROWN
JUNE 4, 2012

CAMIROS
“Every increment of construction must be done in such a way as to heal the city.”

Christopher Alexander
A Preview of Buffalo’s New Zoning

The City of Buffalo is moving forward with a 21st century approach to zoning that will make the city a better place to live, work, and invest.

This report provides a preview of the City of Buffalo’s Unified Development Ordinance (UDO). The UDO represents the final phase of the Buffalo Green Code, an economic development strategy driven by smart growth and sustainability principles.

The Green Code will reform the policies and regulations guiding the city’s physical development. The project includes the first citywide land use plan since 1977, and the first comprehensive zoning rewrite since 1963. Designed to reinforce the mixed-use, walkable places that give the city its competitive edge, the Green Code is recalibrating Buffalo’s development DNA.

This document is a “sneak preview,” outlining some core components of the new ordinance, including the new zone structure, permitted building types & frontages, the use table, and approval procedures. Public input will help refine these components as the new ordinance is written.

The Mayor’s Office of Strategic Planning and its consultant team are engaging the community in this early conversation—even before the first draft of the UDO is released—to get feedback on how the ordinance can help revitalize every neighborhood in the city.

What will the UDO change?

Today, land use regulations in Buffalo are difficult to understand, reflect views that are out of touch with current lifestyle and development trends, and often prevent quality investment.

Buffalo’s current zoning ordinance dates to 1953, its urban renewal plans as far back as 1957, and its subdivision ordinance to 1974. These documents are long—a staggering 1,804 pages. They often contradict each other. They do not embody a contemporary vision for the city’s future.
HOW WILL THE NEW CODE BENEFIT BUFFALO?

Some of the primary differences (what's history and what's next) between the current regulatory framework and the forthcoming UDO

**WHAT'S HISTORY**

- Rules do not address what people want to see in their neighborhoods.
- Vague and discretionary requirements make development difficult.
- Rules focus intensely on separating uses, regardless of their compatibility.
- Neighbors fear development because standards and procedures provide inadequate safeguards.
- Developers are required to emulate the suburbs.
- Standards are derived from boilerplate zoning templates.
- The design of streets and open spaces is not addressed.
- Standards are written in inaccessible legal jargon.

**WHAT'S NEXT**

- The community's vision is reflected.
- Clear, objective requirements bring clarity and predictability.
- A “form-based” approach makes it easier to adapt to an evolving economy.
- Neighbors have certainty about what can and cannot be built next door.
- Pedestrian-friendly development is allowed.
- Standards are based on regional character and building traditions.
- Transportation choices and a high quality public realm are priorities.
- Graphics, tables, and simple text make standards easy to understand and apply.

These outmoded regulations will soon be removed and replaced by a single, user-friendly document that combines related regulations so they are easy to understand and enforce. It will embrace Buffalo’s walkable, green neighborhoods. It will give Buffalo an advantage in attracting jobs, investment, and talent.

As a form-based code, the new ordinance will emphasize character-of-place as its organizing principle, rather than merely how land and buildings are used. This means that the community’s development vision will be communicated directly through the new ordinance. The employment of visuals and layman’s language will help ensure that standards are clear and unambiguous.

The new ordinance is being written to respond to assets, challenges, and opportunities identified by neighborhood residents over the past 18 months. More than 2,400 citizens have participated in public input opportunities for the Green Code. The general direction of the ordinance has been updated to facilitate the demands outlined by the public.

**How do I read this report?**

This report reveals preliminary concepts for core elements of the UDO:

1. Zones. This section (page 4) describes the ordinance’s new zones. Illustrative examples and descriptions of each
zone are provided, depicting the type of development that will be encouraged.

2. **Use Table.** This section (page 18) describes the uses that may be permitted, permitted with a conditional approval permit, or not permitted in each zone.

3. **Building Types & Frontages.** This section (page 20) describes the types of buildings that will be addressed in the neighborhood zones, which are the focus of the new ordinance's form-based standards. When released, the ordinance will contain detailed information about lot widths and areas, lot occupancy, yard requirements, building heights, building disposition, facade transparency, entrance location, parking, and other factors.

4. **Approvals.** This section (page 29) describes each type of approval, whether it will require a public hearing, what type of public notice will be required, and who will make the approval.

This preview is intended to start the conversation on major topic areas of the UDO. Specific standards continue to be developed and will be included in the first draft of the ordinance.

How do I stay involved?

Everything that is built in Buffalo must follow the City’s zoning ordinance. If the rules reflect the community’s vision, then great places result. That’s why it’s important for residents to attend public meetings, ask questions, and give input.

Anyone and everyone is welcome to participate, even if you haven’t been involved with the Green Code before. You are invited to review background materials that are available at buffalogreencode.com:

- Buffalo’s Comprehensive Plan. This award-winning plan adopted in 2006 contains the guiding principles for all policy and investment decisions made by the City of Buffalo.
- Buffalo’s Land Use Plan. This document, currently in draft form, translates the goals and objectives of the Comprehensive Plan into detailed policies for the city’s physical development over the next 20 years. The plan’s “place type” framework is the foundation for the zones of the UDO.
- Zoning Policy Brief. This document gives a brief overview of the form-based approach of the UDO.
- A New Zoning Direction for Buffalo. This detailed technical report outlines the proposed structure and approach for the UDO.
- Green Code FAQ. This two-page document gives a general overview of how the UDO will make Buffalo a better place to live, work, and invest.

Let us know if we are heading in the right direction by writing to info@buffalogreencode.com or to the Mayor’s Office of Strategic Planning, 920 City Hall, Buffalo, NY, 14202.
**WHAT ARE THE NEW ZONES OF THE UDO?**

The zones of the new Unified Development Ordinance are built around three "place types:" neighborhoods, districts, and corridors. Neighborhoods are mixed-use places where people live and work, varying in character from most to the least urban. Districts are specialized places serving a single predominant use, such as a college campus or industrial park. Corridors are linear systems of transportation, green space, or waterfront that form the border of and connect the other two place types (the neighborhoods and districts) of the city.

### URBAN CORE NEIGHBORHOODS
- N-1D Downtown/Regional Hub
- N-1E Downtown Edge
- N-1S Secondary Employment Center

### URBAN CENTER NEIGHBORHOODS
- N-2P P-Zone
- N-20 Open
- N-2R Restricted

### GENERAL URBAN NEIGHBORHOODS
- N-3P P-Zone
- N-30 Open
- N-3R Restricted
- N-3S Single Family

### URBAN EDGE NEIGHBORHOODS
- N-4-45 Villa
- N-4-60 Estate

### CAMPUS NEIGHBORHOODS
- N-C Residential Campus

### RETAIL DISTRICTS
- D-RC Retail Center
- D-RS Retail Strip

### CAMPUS DISTRICTS
- D-EC Educational Campus
- D-MC Medical Campus

### INDUSTRIAL DISTRICTS
- D-IO Office Campus
- D-IL Light Industrial
- D-IH Heavy Industrial

### OPEN SPACE DISTRICTS
- D-OO Olmsted
- D-OR Recreational
- D-OS Square
- D-OG Green
- D-ON Natural

### CORRIDORS
- C-W Waterfront
- C-R Rail
- C-H Highway
- C-G Greenway
- C-M Metro Rail
N-1D Downtown/Regional Hub

The N-1D Zone will address the core of downtown Buffalo and will facilitate development of substantial scale with an intense mix of uses.

N-1E Downtown Edge

The N-1E Zone will address the edges of the downtown core and will facilitate mid-rise development with an intense mix of uses.
N-1S Secondary Employment Center

The N-1S Zone will address mixed-use industrial clusters, such as the Larkin District and Niagara Industrial Corridor, generally defined by mid-rise and large-footprint structures.

N-2P P-Zone

The N-2P Zone will address mixed-use centers in Buffalo’s oldest neighborhoods, such as Allentown, Black Rock, and Elmwood Village.
The N-2O Zone will address secondary centers, typically at the edges of more intense mixed-use centers, in Buffalo's oldest neighborhoods. These areas are defined by a mix of homes and stores.

The N-2R Zone will address areas adjoining the centers of Buffalo's oldest neighborhoods, generally defined by compact residential blocks with corners that are occasionally mixed use.
N-3P P-Zone

The **N-3P Zone** will address mixed-use centers in Buffalo’s streetcar neighborhoods, such as North Park, Kensington/Bailey, and South Buffalo, that developed in the early 20th century.

N-3O Open

The **N-3O Zone** will address secondary centers in Buffalo’s streetcar neighborhoods, typically located at the edges of more intense mixed-use centers. These areas are defined primarily by a mix of homes and stores.
N-3R Restricted

The N-3R Zone will address areas beyond the centers of Buffalo’s streetcar neighborhoods, defined by moderately compact residential blocks with corners that are occasionally mixed-use.

N-3S Single Family

The N-3S Zone will address areas in Buffalo’s streetcar neighborhoods defined by moderately compact blocks of primarily single-family homes.
N-4-45 Villa

The N-4-45 Zone will address neighborhoods, such as Central Park and Kensington Heights, that are composed primarily of single-family homes on lots at least 45 ft. in width.

N-4-60 Estate

The N-4-60 Zone will address neighborhoods, such as Park Meadow, that are composed primarily of single-family homes on lots at least 50 ft. in width.
N-C Residential Campus

The N-C Zone will address residential campuses composed of garden apartments or towers in a park, typically organized within large-scale superblocks.

D-RC Retail Center

The D-RC Zone will address retail centers, such as Consumer Square on Delaware Avenue and Wegmans Plaza on Amherst Street, with prominent parking areas centered around one or more "big box" format buildings.
D-RS Retail Strip

The D-RS Zone will address linear retail strips typically located at conventional suburban arterials, highway access points, or adjacent to existing retail center zones.

D-EC Educational Campus

The D-EC Zone will address educational campuses, such as Canisius College and Buffalo State College.
D-MC Medical Campus

The D-MC Zone will address medical campuses such as Erie County Medical Center and the Buffalo Niagara Medical Campus.

D-IO Office Campus

The D-IO Zone will address office campuses such as the Buffalo Free Trade Complex.
D-IL Light Industrial

The D-IL Zone will address light industrial sites such as Kelly Island, Lakeside Commerce Park, and the Thruway Industrial Park.

D-IH Heavy Industrial

The D-IH Zone will address heavy industrial sites such as the Outokumpu American Brass Company plant in Black Rock.
D-OO Olmsted

The D-OO Zone will address the parks, parkways, roundabouts, and other public spaces that make up the open space system designed by Frederick Law Olmsted and Calvert Vaux.

D-OR Recreational

The D-OR Zone will address open spaces, such as Johnny B. Wiley Sports Complex, designed primarily to facilitate structured recreational uses, such as sports fields, indoor recreational facilities, and playgrounds.
D-OP Plaza

The D-OP Zone will address civic plazas, such as Niagara Square, located at the intersection of important thoroughfares, enclosed by building facades along most of their circumference, and designed for intensive public use.

D-OG Green

The D-OG Zone will address civic greens and parks, such as Days Park and Schue Park, characterized primarily by trees and landscaping, framed by landscape elements or building facades, and designed for passive use.
The D-ON Zone will address open spaces, such as the Tift Farm and Times Beach nature preserves, that are maintained in a predominantly natural state.
# WHAT USES WILL BE PERMITTED?

| RESIDENTIAL                  | N-10 | N-1E | N-1S | N-2P | N-2O | N-3P | N-3S | N-3R | N-4-45 | N-C  | D-RC | D-AS | D-MC | D-EC | D-OH | D-HL | D-OQ | D-OR | D-OP | D-OS | D-ON | C-W | C-R | C-H | C-G | C-HF |
|------------------------------|------|------|------|------|------|------|------|------|--------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|------|
| Dormitory                    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Dwelling, Accessory Unit    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Dwelling, Double Unit       |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Dwelling, Multiple Unit     |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Dwelling, Single Unit       |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Fraternity/Sorority House   |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Group Home                  |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| CIVIC                       |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Assembly, Large             |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Assembly, Small             |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Cemetery                    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Correctional Facility       |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Cultural Facility           |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Government Offices          |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Hospital                    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Lodge or Private Club       |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Police or Fire Station      |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Recreational/Sports Facility|      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| School, College/University  |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| School, Primary/Secondary   |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| School, Commercial          |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Zoo                         |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| LODGING                     |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Bed & Breakfast             |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Hotel/Hostel                |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Rooming House/S.R.O.        |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| RETAIL & SERVICE            |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Adult Use                   |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Amusement Facility, Indoor  |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Amusement Facility, Outdoor |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Car Wash                    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Day Care Center             |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Day Care Home               |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Drive-Through Facility      |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Funeral Services            |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Gas Station                 |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Liquor Store                |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Live Entertainment          |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Medical Clinic              |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Open-Air Market             |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Restaurant                 |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Retail & Service, General  |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |
| Retail & Service, Heavy    |      |      |      |      |      |      |      |      |        |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |      |

* Overlay (Use standards of base zone apply)  ○ Permitted  ◯ Conditional  ◆ Conditional, Corner Lots Only
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* Overlay (Use standards of base zone apply)  • Permitted  ○ Conditional  ◆ Conditional, Corner Lots Only
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</tbody>
</table>

- • Permitted
- ○ Corner Lots Only
Carriage House

A carriage house is a dwelling or live/work space located along an alley or at the rear of a principal dwelling. It is typically one or two stories and may integrate a garage at the ground level.

Cottage

A cottage is a dwelling on a narrow lot (15 to 30 ft.) ranging in height from one to three stories.
Detached House

A detached house is a dwelling on a typical urban lot (30 to 75 ft.) ranging in height from one to three stories.

Attached House

An attached house is a dwelling on a narrow lot (15 to 45 ft.) that shares a party wall with a structure on an adjoining lot, typically ranging in height from two to four stories.
Estate House

An estate house is a detached dwelling on a large lot (75 ft. or more) ranging in height from one to three stories.

Stacked Units

Stacked units are structures of two or more stories that facilitate multiple units connected with one or more shared entries.
Shopfront

A shopfront is a one-story building typically used for retail or employment uses, located adjacent to the front or corner lot lines and containing a highly transparent principal facade.

Shopfront House

A shopfront house is a house with an attached shopfront.
Commercial Block

A commercial block is a structure of two or more stories designed to facilitate pedestrian-oriented retail or office uses on the ground floor, with upper floors typically designed for residential, hospitality, or employment uses.

Tower

A tower is a stacked unit or commercial block structure of substantial height, typically limited to downtown or regional hub areas.
Loft Building

A loft building is a multistory structure with large footprints, often designed with tall ceilings, expansive windows, and light wells to allow maximum penetration of natural light.

Industrial Shed

An industrial shed is a single-story structure with a large footprint, often naturally lit with monitor or sawtooth roofs. Such structures are typically designed for industrial, office, or “big box” retail uses.
A civic building is a structure designed to stand apart from its surroundings due to the special nature of its use as a public facility. They are often the most prominently sited and architecturally significant structures in a community.
# HOW CAN BUILDINGS BE EMBELLISHED?

<table>
<thead>
<tr>
<th>Frontage Type</th>
<th>Carriage House</th>
<th>Cottage</th>
<th>Detached House</th>
<th>Attached House</th>
<th>Estate House</th>
<th>Stacked Units</th>
<th>Shopfront House</th>
<th>Commercial Block</th>
<th>Tower</th>
<th>Industrial Shed</th>
<th>Loft Building</th>
<th>Civic Building</th>
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</thead>
</table>

- Permitted
- Conditional
<table>
<thead>
<tr>
<th>APPLICATION</th>
<th>SCOPE</th>
<th>PUBLIC HEARING</th>
<th>NOTICE</th>
<th>APPROVAL BODY</th>
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</thead>
<tbody>
<tr>
<td>Zoning Text &amp; Map Amendments</td>
<td>Change UDO text or the zoning map</td>
<td>City Planning Board</td>
<td>Text Amendment; Published; Map Amendment; Published, Mailed, &amp; Posted</td>
<td>City Planning Board recommends; Common Council approves</td>
</tr>
<tr>
<td>Conditional Approval Permit</td>
<td>Approve, approve with conditions, or disapprove applications subject to discretionary review</td>
<td>City Planning Board</td>
<td>Published, Mailed, &amp; Posted</td>
<td>City Planning Board</td>
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<tr>
<td>Variance</td>
<td>Grant relief from UDO standards that cause practical difficulties or economic hardships</td>
<td>Zoning Board of Appeals</td>
<td>Posted</td>
<td>Zoning Board of Appeals</td>
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<tr>
<td>Site Plan Review</td>
<td>Special review of applications that cannot be addressed solely by objective requirements</td>
<td>None</td>
<td>None</td>
<td>City Planning Board</td>
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<tr>
<td>Administrative Exceptions</td>
<td>Grant minor exceptions to UDO standards that result in practical or economic difficulties</td>
<td>None</td>
<td>Mailed (Limited Area)</td>
<td>Zoning Administrator</td>
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<tr>
<td>Zoning Appeal</td>
<td>Appeal a decision of the Zoning Administrator</td>
<td>None</td>
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<td>Zoning Board of Appeals</td>
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<td>Zoning Verification</td>
<td>Verify an application complies with UDO standards</td>
<td>None</td>
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<td>Zoning Interpretation</td>
<td>File a written interpretation of a UDO provision</td>
<td>None</td>
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<td>Sign Permit</td>
<td>Approve an application for a sign that complies with UDO standards</td>
<td>None</td>
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<tr>
<td>Temporary Use Permit</td>
<td>Authorize an application for a temporary use or structure that complies with UDO standards</td>
<td>None</td>
<td>None</td>
<td>Zoning Administrator</td>
</tr>
<tr>
<td>Administrative Subdivision</td>
<td>Approve minor changes in boundaries between lots, division of lot into two, or consolidation of two lots</td>
<td>None</td>
<td>None</td>
<td>Zoning Administrator</td>
</tr>
<tr>
<td>Minor Subdivision</td>
<td>Approve division of lot into up to four lots, or consolidation of up to four lots into one</td>
<td>City Planning Board</td>
<td>None</td>
<td>City Planning Board</td>
</tr>
<tr>
<td>Major Subdivision</td>
<td>Approve all other divisions, consolidations, conveyances, and vacations of land</td>
<td>City Planning Board</td>
<td>None</td>
<td>City Planning Board</td>
</tr>
</tbody>
</table>
SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 100299, AS AMENDED

Amending Chapter 88, Zoning and Development Code, by repealing Tables 110-1, 120-1, 130-1, and 140-1, and Section 88-805-06 and replacing said tables and section with tables and a section of like number and title, changing the section number for Wireless Communication Facility, and adding a new Section 88-312, Agriculture, all to provide for and regulate urban agriculture; and directing the City Manager to make certain reports to the Council regarding this ordinance.

WHEREAS, Kansas City, through the adoption of the Climate Protection Plan in 2008, has committed to being a Green City; and

WHEREAS, said plan included recommendations to “promote residential neighborhood food production” and to “create urban agriculture zoning to foster fruit and vegetable production as well as small-scale animal husbandry on vacant land and lots within neighborhoods,” and

WHEREAS, all residents of the city should have access to healthy food that is reasonably priced; and

WHEREAS, the City desires to create local employment opportunities, particularly in the field of green infrastructure, and

WHEREAS, urban agriculture can return underused urban spaces to being productive land uses; and

WHEREAS, urban agriculture reduces the need for transportation, processing, packaging and refrigeration of food grown elsewhere and transported into the city; and

WHEREAS, urban agriculture offers opportunities for urban residents, especially children, to learn about the principles of environmental sustainability, ecology, biology, plants, and insects; and

WHEREAS, other cities across the country are adopting legislation to further urban agriculture; and

WHEREAS, although urban agriculture can bring many benefits to the City, there is a need to regulate such land uses to protect neighborhoods, prevent nuisances, protect property values, protect the environment, and ensure the health and safety of the City’s residents; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 88, Zoning and Development Code, by repealing Tables 110-1, 120-1, 130-1, and 140-1, and Section 88-805-06 and replacing said tables and
SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 100299, AS AMENDED

section with tables and section of like number and title, adding a new section 88-805-07, Wireless Communication Facility (which makes no substantive changes but rather renumbers the section from 88-805-06-C), and adding a new Section 88-312, Agriculture, to read as follows:

**Table 110-1**

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<th>Residential Districts Use Table</th>
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<th>Use Standards</th>
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<td>Household Living</td>
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<td>Nursing home</td>
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<td><strong>PUBLIC/CIVIC</strong></td>
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<td>College/University</td>
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## Use Group

#### Zoning District

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</table>

### General
- Reuse of officially designated historic landmark (local or national)
- Sports and Recreation, Participant

### Industrial
- Mining and Quarrying
- Waste-Related Use (except as noted below)
  - Demolition debris landfill

### Agricultural
- Agriculture, Crop
- Agriculture, Animal
- Agriculture, Urban
  - Home Garden
  - Community Garden
  - Community Supported Agriculture (CSA) Farm

### Accessory Services
- Wireless Communication Facility
  - Freestanding
  - Co-located antenna

### Table 120-1
Office, Business and Commercial Districts Use Table

#### Use Group

<table>
<thead>
<tr>
<th></th>
<th>Zoning District</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
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### Residential
- Household Living
  - In single-purpose residential building
  - Above ground floor (in mixed-use building)
- Group Living

### Public/Civic
- College/University
- Day Care
  - Home-based (1-4)
  - Family (5-10)
  - Group (11-20)
  - Center (21+)
- Hospital
## Use Group

<table>
<thead>
<tr>
<th>Use Category</th>
<th>O</th>
<th>B1</th>
<th>B2</th>
<th>B3</th>
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<th>Use Standards</th>
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<tbody>
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<tr>
<td>Park/Recreation</td>
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<td>Religious Assembly</td>
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<td>Safety Service</td>
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<td>- Fire station</td>
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<td>- Basic, minor</td>
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## Commercial

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<td>- Sex shop</td>
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<td>- Sales and grooming</td>
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<td>- Shelter or boarding</td>
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<td><strong>Vehicle Sales and Service (except as noted below)</strong></td>
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<td>Vehicle storage/towing</td>
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SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 100299, AS AMENDED

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<td>~Freestanding</td>
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<tr>
<td>~Co-located antenna</td>
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Table 130-1
Downtown Districts Use Table

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<tr>
<td>Household Living</td>
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<td>~In single-purpose residential building</td>
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<tr>
<td>~Above ground floor (in mixed-use building)</td>
<td>P P P</td>
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</tr>
<tr>
<td>Group Living</td>
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<td>College/University</td>
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<tr>
<td>Day Care</td>
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<tr>
<td>~Home-based (1-4)</td>
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<tr>
<td>~Family (5-10)</td>
<td>P P P</td>
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<tr>
<td>~Group(11-20)</td>
<td>P P S</td>
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<tr>
<td>~Center (21+)</td>
<td>P P S</td>
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<tr>
<td>Hospital</td>
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<td>Library/Museum/Cultural Exhibit</td>
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**COMMERCIAL**
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<td>Adult motion picture theater</td>
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<td></td>
<td>Sex shop</td>
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<td>Animal Service</td>
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*Chapter 14
### Table 140-1
**Manufacturing Districts Use Table**

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<th>Zoning District</th>
<th>Use Standards</th>
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<td>Co-located antenna</td>
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SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 100299, AS AMENDED

88-312. AGRICULTURE

88-312-01. Crop Agriculture

88-312-01-A. General
An area of land managed and maintained by an individual or group of individuals to grow and harvest food crops and horticultural products (including flowers, trees, and bees and apiary products) for off-site sale in locations where retail sales are an allowed use. Crop agriculture may be a principal or accessory use.

1. Crop Agriculture Standards

(a) Garden and farm-related buildings and structures must comply with the accessory structure setback requirements that apply in the subject zoning district (See 88-305). Crop areas must be set back at least 3 feet from all property lines. The required setback must be covered with ground cover plants, which may include grasses.

(b) The site must be designed and maintained so that chemicals will not drain onto adjacent property.

(c) On-site sales of whole, uncut, fresh food and/or horticultural products grown on the crop agriculture property are allowed on property zoned R-80.

2. Special Use Permit Required for On-Site Sales
In residential zoning districts, except R-80, on-site sales of whole, uncut, fresh food and/or horticultural products grown on the crop agriculture property may be allowed if reviewed and approved in accordance with the special use permit procedures of 88-525. A special use permit shall not be issued unless all of the approval criteria in 88-525-09 are satisfied.

88-312-02. Urban Agriculture

88-312-02-A. Home Garden
A garden maintained by one or more individuals who reside in a dwelling unit located on the subject property. Food and/or horticultural products grown in the home garden may be used for personal consumption, and only whole, uncut, fresh food and/or horticultural products grown in a home garden may be donated or sold on-site within a reasonable time of its harvest. The sales may only take place during the period of May 15 through October 15. Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80, if whole, uncut fresh food and/or horticultural products grown in the home garden are donated or sold on-site. “Row crops” shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height.
"Row crops" shall not mean cultivated or attended trees, bushes, or shrubbery less than 6 feet in height, or trees in excess of 6 feet in height, and shall not include grain, fruit or vegetable plants that are part of the front yard's borders, that extend no more than 5 feet from the side property lines or from the front of the principal building. A home garden is an accessory use to a principal residential use, and must comply with the lot and building standards for its zoning district. On-site sales made in accordance with this section shall not be considered to be commercial activity under this Code, and shall not be subject to the restrictions for home occupations in 88-305-04. Section 88-10-08-C shall govern any conflict between the provisions of this section and any private homeowner covenants or restrictions. Any area of land that is managed and maintained in a manner that fits within the description of Community Supported Agriculture in 88-312-02-C cannot be considered to be a Home Garden.

88-312-02-B. Community Garden
An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation. A community garden area may be divided into separate garden plots for cultivation by one or more individuals or may be farmed collectively by members of the group. A community garden may include common areas (e.g., hand tool storage sheds) maintained and used by the group. The Community Garden must comply with the lot and building standards for its zoning district. All chemicals and fuels shall be stored in an enclosed, locked structure when the site is unattended. Community garden group members may or may not reside on the subject property. Sales and donation of only whole, uncut, fresh food and/or horticultural products grown in the community garden may occur on-site on otherwise vacant property, but may not occur on residentially zoned and occupied property, except property zoned R-80. Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80, if whole, uncut fresh food and/or horticultural products grown in the community garden are donated or sold onsite. "Row crops" shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height. "Row crops" shall not mean cultivated or attended trees, bushes, or shrubbery less than 6 feet in height, or trees in excess of 6 feet in height, and shall not include grain, fruit or vegetable plants that are part of the front yard's borders, that extend no more than 5 feet from the side property lines or from the front of the principal building. A community garden may be a principal or accessory use. Any area of land that is managed and maintained in a manner that fits within the description of Community Supported Agriculture in 88-312-02-C cannot be considered to be a Community Garden.

88-312-02-C. Community Supported Agriculture (CSA)
An area of land managed and maintained by an individual or group of individuals to grow and harvest food and/or horticultural products for shareholder consumption or for sale or donation. Under the CSA model, shareholders arrange to work on the farm in exchange for a share of the food and/or horticultural
products grown on the CSA property and/or pay for a portion of the food and/or horticultural products in advance. A CSA may be a principal or accessory use. A CSA located in a residential zoning district, except R-80, requires a special use permit issued in accordance with the special use permit procedures of 88-525. A special use permit shall not be issued unless all of the approval criteria in 88-525-09 are satisfied. The permit is also subject to the following additional standards.

1. Community Supported Agriculture (CSA) Standards

(a) Garden and farm-related buildings and structures must comply with the accessory structure setback requirements that apply in the subject zoning district (See 88-305). Farming areas must be set back at least 3 feet from all property lines. The required setback must be covered with ground cover plants, which may include grasses.

(b) Row crops are not permitted in the front yard of a residentially zoned and occupied property, except property zoned R-80, if whole, uncut fresh food and/or horticultural products grown on the CSA property are donated or sold onsite. “Row crops” shall be defined as grain, fruit or vegetable plants, grown in rows, which are 24 inches or more in height. “Row crops” shall not mean cultivated or attended trees, bushes, or shrubbery less than 6 feet in height, or trees in excess of 6 feet in height, and shall not include grain, fruit or vegetable plants that are part of the front yard’s borders, that extend no more than 5 feet from the side property lines or from the front of the principal building.

(c) The CSA must comply with the lot and building standards for its zoning district.

(d) Shareholders may pick up food and/or horticultural products grown on the CSA property at the site and may work at the site.

(e) The site must be designed and maintained so that chemicals will not drain onto adjacent property.

(f) Tractors, lawnmowers, and other farm-related machinery in R-10 through R-0.3 residential districts must be stored in an enclosed structure.

(g) Interns and apprentices may be allowed to work on the CSA property.

(h) All chemicals and fuels shall be stored in an enclosed, locked structure when the site is unattended.
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(i) Synthetic pesticides or herbicides may be applied only in accordance with state and federal regulations.

(j) Sales and donation of only whole, uncut, fresh food and/or horticultural products grown on the CSA property may be allowed.

(k) Reasonable conditions for the operation of the CSA may be imposed.

(l) The permit may be granted for an initial period of one year. Subsequent renewals may be allowed for up to 5 years if the CSA has complied with all of the requirements of the permit for the previous permit period.

(m) Section 88-10-08-C shall govern any conflict between the provisions of this section and any private homeowner covenants or restrictions.

88-312-02-D. Private Nuisance Actions.
Nothing herein is intended to preclude any person from filing a private nuisance action against an offensive agricultural use.

88-312-03 Signage for Agricultural Sales
One temporary sign advertising only food or horticultural products grown on-site may be displayed during sales. The sign must be on-site, unilluminated, and must not exceed 6 square feet in area or 3 feet in height.

88-805-06. AGRICULTURAL USE GROUP
The agricultural use group includes the following:

88-805-06-A. AGRICULTURE, CROP
The use of land for the production of row crops, field crops, tree crops, timber, bees, apiary products, or fur-bearing animals.

88-805-06-B. AGRICULTURE, ANIMAL
The feeding, breeding, raising or holding of cattle, swine, poultry or other livestock, whether held in a confinement area or open pasture.

88-805-06-C. AGRICULTURE, URBAN
A home garden, community garden, or community supported agriculture (CSA) farm.

1. HOME GARDEN
A garden maintained by one or more individuals who reside in a dwelling unit located on the subject property to grow and harvest food and/or horticultural products for personal consumption or for sale or donation.
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Any area of land that is managed and maintained in a manner that fits within the description of Community Supported Agriculture cannot be considered to be a Home Garden.

2. COMMUNITY GARDEN
An area of land managed and maintained by a group of individuals to grow and harvest food and/or horticultural products for personal or group consumption or for sale or donation. Any area of land that is managed and maintained in a manner that fits within the description of Community Supported Agriculture cannot be considered to be a Community Garden.

3. COMMUNITY SUPPORTED AGRICULTURE (CSA)
An area of land managed and maintained by an individual or group of individuals to grow and harvest food and/or horticultural products for shareholder consumption or for sale or donation.

88-805-07. ACCESSORY SERVICES

88-805-07-A. WIRELESS COMMUNICATION FACILITY
Facilities related to the use of the radio frequency spectrum for the purposes of transmitting or receiving radio signals, and may include, but is not limited to radio towers, television towers, telephone exchanges, micro-wave relay towers, telephone transmission equipment buildings, commercial mobile radio service facilities or other personal wireless services (such as cellular, personal communication service [PCS], paging, specialized mobile radio [SMR], and other similar services). This use category includes all associated equipment unless the written context clearly indicates that another meaning is intended. The term “associated equipment” is to be read broadly and in context. Associated equipment may include, but is not limited to: antenna, equipment shelter or platform, lighting, monopole tower, mounting hardware, supporting electrical or mechanical equipment, access road, and guy system.

1. CO-LOCATED FACILITY
A wireless telecommunication facility that is attached to an existing pole, tower, or other structure including, but not limited to, a structure that can accommodate the future installation of 2 or more antenna systems.

2. FREESTANDING FACILITY
A new tower, monopole, or other unattached structure erected to support wireless communication antennas and connecting appurtenances.

Section 2. That the City Manager is directed to submit a report to the Council six months after the effective date of this ordinance, and again eighteen months after the effective date, detailing the permits issued under this ordinance, any complaints or known
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successes from this ordinance, and recommending any changes to this ordinance suggested by the City's experiences with urban agriculture during those periods.

I hereby certify that as required by Chapter 88, Code of Ordinances, the foregoing ordinance was duly advertised and public hearings were held.

Secretary, City Plan Commission

Approved as to form and legality:

[Signature]

M. Margaret Sheahan Moran
Assistant City Attorney

Authenticated as Passed

[Stamp]

Mark Funkhouser, Mayor

Vickie Thompson, City Clerk

JUN 10 2009

Date Passed
Appendix 14
AMENDING TITLE 7, CHAPTER 7.70 OF THE REVISED ORDINANCES OF THE CITY OF SPRINGFIELD, 1986, AS AMENDED, BY INSERTING A NEW CHAPTER 7.70 – COMMUNITY GARDENS.

Title 7 of the Revised Ordinances of the City of Springfield, 1986, as amended, is hereby further amended by adding a new Chapter 7.70 hereto as follows:

Chapter 7.70

COMMUNITY GARDENS

Sections:

7.70.010 PURPOSE AND PREAMBLE
7.70.020 Definitions
7.70.030 Community Gardening Regulations
7.70.040 Maintenance and Upkeep
7.70.050 Identifying and Securing Land
7.70.060 Land Use
7.70.070 Safety
7.70.080 Community
7.70.090 Sustainability

7.70.010 Purpose and preamble. Whereas, access to healthy and affordable food options is a key determinant of public health outcomes across the socio-economic spectrum;

WHEREAS, community garden projects provide satisfying labor and can be a source of seasonal employment and leadership development for both adults and youth;

WHEREAS, community garden projects encourage an urban community’s food security and increase healthy, affordable food access, allowing residents to grow their own food and make it available to others;

WHEREAS, community gardens also build community among diverse groups of neighborhood residents and are a productive and beautifying use of vacant and/or abandoned land;
WHEREAS, communities with gardens experience less crime and vandalism and increase in property values;

WHEREAS, community gardens connect people to the environment and educate community members about sustainable living practices;

NOW THEREFORE, be it resolved that the City of Springfield, Massachusetts (the “City”) passes this Community Garden Ordinance that establishes the rules by which stakeholders must follow.

7.70.020 DEFINITIONS. The terms listed below, as included in this Ordinance, shall have the following meanings:

A. Beds: area of land that has been specifically cultivated for agricultural use; beds may be raised off of the ground level.

B. Community garden: Land that is gardened by a group of individuals sharing responsibility for the site either independently or under the auspices of a public or nonprofit organization.

C. Community gardening: growing food within cities, towns and even village settings; it is not growing food outside of built human environments.

D. Cultivated: Preparing and using (land) for crops or gardening; to break up (soil) in preparation for sowing or planting.

E. Environmentally Critical Area: Geologic hazard areas, steep slope areas, flood prone areas, wetlands, fish and wildlife habitat conservation areas, and abandoned landfills.

F. Garden Group: see Garden Entity

G. Garden Entity: a group of people operating a community garden; or a Micro Enterprise with the purpose of establishing and maintaining a community garden or residential garden.

H. Gardening Activity: any activity associated directly with the cultivation, harvesting, or maintenance of a community or residential garden

I. Micro Enterprise: a type of small business, often registered, having five or fewer employees and requiring seed capital of not more than $35,000.

J. SFPC: The Springfield Food Policy Council; constituted in June 2010 and serves as a diverse group of stakeholders that provide a comprehensive examination and ongoing assessment of the Springfield food system as well as ongoing recommendations for policy and built environment solutions to improve access to fresh, affordable and culturally appropriate food for those who live and work in the City of Springfield.

K. Point of Contact: Designated contact person for a Garden Entity.

7.70.030 Community Gardening Regulations. A. In all zones, community gardens on all public and private lands are subject to compliance with all applicable provisions of the Springfield Zoning Ordinance, and the following provisions:
1. All gardening activity is allowed from dawn until dusk (provided that activities are not a nuisance to the abutters, (i.e., noise violations, etc.)) every day of the week.
   a. Gardeners are permitted to sell excess produce at licensed venues, provided that food is grown in raised beds that are buffered from potentially contaminated soil.
   b. If gardeners test the toxicity of soil, and results show that the soil is clean, raised beds are not required.

2. Signs: One (1) identification sign is permitted.
   a. The sign shall provide information for the responsible entity.
   b. The sign shall not be illuminated and shall comply with the size regulations of Springfield Zoning Ordinance.

3. All Community Gardens on both private and public land will receive guidelines from the SFPC. Garden Entities will also be required to submit an application to the City of Springfield Planning Department that addresses any probable impacts, including but not limited to:
   a. A proposed site for a community garden.
   b. A disclosure of any intent to spray or otherwise apply agricultural chemicals or pesticides, frequency and duration of application, and the plants, diseases, pests or other purposes they are intended for.
   c. A point of contact.

4. Additional guidelines for gardens:
   a. Water Quality and Soils. Irrigation run-off cannot adversely affect adjacent properties, water bodies and environmentally critical areas, and proposed sediment and erosion control measures.
   b. Traffic and Parking. Impacts related to the number of staff on-site during work hours, and the number of potential visitors regularly associated with the site, cannot adversely affect abutting properties.
   c. Visual Impacts and Screening. Visual impacts relating to the proposed nature, location, design, and size of proposed features, structures and activities, including the location of composting activities and planting areas, and any existing or proposed screening must be addressed and not adversely affect abutting properties.
   d. Odor. In all zones, at all times, all Garden Entities shall be responsible for maintaining their respective Community Gardens in compliance with Springfield Zoning Ordinance Article XV section 1511.5 relative to nuisance odors.
   e. Agricultural Chemicals. Impacts related to the use of chemicals, including any fertilizer and pesticide cannot adversely affect abutting properties.
   f. Mechanical Equipment. Impacts related to the operation of equipment, including noise, odors, and vibration cannot adversely affect abutting properties.
   g. Structures. The structures for residential garden (i.e. greenhouses and hoop houses) will comply with state and city regulations and ordinances pertaining to neighborhood/lot.
h. Insurance. All community gardeners on City-owned land will be required to sign a “hold harmless clause” with the City.

7.70.040 Maintenance and Upkeep. A. Trash Removal. If necessary, and if resources are available, the City will provide an initial land clearing for free on city owned property.
   1. Once the garden has been cleared by the City, gardeners are responsible for getting trash moved to a designated area at the garden site for City to collect.
   2. The City will remove bulk items on city owned property, if resources are available, that get illegally dumped after the initial clearing.
   3. Gardeners are responsible for collecting trash from the lot and the adjoining sidewalk and putting it in barrels for trash collection. An annual trash fee will be assessed by the City if municipal trash collection is desired.
   4. Appearance.
      a. Gardeners must maintain the site and tree belt. This includes cutting of the grass and overgrown vegetation, as well as, removal of trash and debris.
      b. At the end of the growing season, all garden beds shall be cleared and cultivated, as appropriate.
   5. Water.
      a. The Springfield Water and Sewer Commission (“SWSC”) currently waives sewer disposal fees for accounts that are used for community gardening purposes.
      b. If there is an existing water main installed near the lots, the SWSC may install a water service and/or tap for a fee to be paid by the community garden entity. Requests for installing a water service and/or tap must be made within six (6) months of anticipated installation.
      c. Unless grant funding is found, community gardeners will be responsible for paying water fees, including the turn on/turn off fee and monthly fees even when water main is not in use.
      a. The City will work with community gardeners to assist with compost delivery. Any community garden who desires compost must call or email and request it from the City. The City will arrange for the delivery of at least one truckload of compost to each garden in the late spring, annually, if requested by above deadline.
      b. If gardeners plan to compost on-site, they must take steps to ensure that their respective Community Gardens are compliance with Springfield Zoning Ordinance Article XV section 1511.5 relative to nuisance odors. Any complaints about compost must be validated by the City of Springfield Code Enforcement Department.

7.70.050 Identifying and Securing City Owned Land. A. There will be a designated person on the SFPC Steering Committee who will be responsible for accepting requests about community gardens. That person will work with the appropriate City Department liaisons from
Housing, Parks and Recreation, and Planning about lots that are available as requests are received.

1. If the garden entity is looking for available, City-owned land, the SFPC will accept requests for community garden lots between the months of January to May. Lots will be identified with the help of City departments of Housing, Parks and Recreation, and Planning.

2. Appropriate lots for community gardening can be made available based on the following criteria:
   a. The lot is unlikely to be developed in the foreseeable future.
   b. There is a water line on or near the property, and/or the buildings on-site have non-toxic roofs so that rain water catchments are safe to practice.
   c. The lot receives adequate sunlight between April and October.
   d. There is street lighting nearby.

3. The SFPC is the liaison between the garden group and the City.

4. If the community garden is to be located on a publicly owned parcel, the City or Springfield Redevelopment Authority ("SRA") and the gardeners shall sign a license and "hold harmless" agreement. Once the "hold harmless" agreement has been signed and the garden entity successfully maintains the site in compliance with this Ordinance for one (1) full season, the City or SRA shall elect to offer a five (5) year license agreement to allow that land to be used as a garden.

5. In the event that the City has concerns about the condition, operation, location or maintenance of a community garden, the City shall provide written notice to the community garden contact person, who shall have twenty-one (21) days to provide a written response to the City, addressing the stated concerns. In the event that a written response is not received by the City within the allotted time period set forth above, or the concerns set forth in the City’s written notice have not been fully corrected within thirty (30) days of receipt of said notice, the City reserves to the right to immediately withdraw from the land tenure agreement.

6. The City or SRA reserves the right to withdraw from the land tenure agreement if the following events occur, and shall provide the community garden contact person with a written forty-five (45) day notice of its intent to withdraw:
   a. If the garden entity fails to uphold the terms and conditions identified and set forth in the license agreement; or
   b. If there is significant change in the conditions, neighborhood, marketability, or opportunity for development occurs which calls for a different use of the land. In this circumstance, the City or the SRA shall work with the gardeners to make best efforts to secure a lot as close as possible to the garden entity by the next growing season.

7. **7.70.060 Land Use**

A. Garden entities are permitted to sell excess produce at licensed venues, provided that food is grown in raised beds that are buffered from potentially contaminated soil, and the sale of such excess produce is authorized by the Springfield Zoning Ordinance.
B. If garden entities test the toxicity of soil and results show that the soil is clean, raised beds are not required.

7.70.070 Safety. A. Liaison with the Police Department:
1. The SFPC subcommittee will forward to the Police Department a list of community gardens with contact information for each one each spring so the department knows the land is not abandoned and who to contact in case of emergency.
2. Police will take notice of garden sites when they drive by.

7.70.080 Community. A. In order to make the community aware of the gardens and the partnership with the City, a number of outreach methods will be used.
   B. The SFPC maintains a page on the City website including information about the gardens and a link to a map of the gardens.

7.70.090 Sustainability. A. All existing community gardens that are listed and shown on the map created by the SFPC as of August 2011 will be “grandfathered” as an appropriate use of that current lot as of the date of passage of the ordinance.

B. Community support for gardening is growing in our city and as funding becomes available to city departments more resources may be allocated to gardening as appropriate. In the meantime, research and exploration into funding in partnership with the City will be prioritized.

APPROVED: 
May 9, 2012

EFFECTIVE: 
May 30, 2012

ATTEST: WAYMAN LEE CITY CLERK
Appendix 15
Sample Form: Release of All Claims

The following form is intended as a guide only; be sure that the final agreement you use meets the needs and details of your group.

Release of All Claims

I, ________________________________, am a participant in the Community Garden. As a condition of being allowed to participate in the Community Garden, I agree to the following:

1. I am duly aware of the risks and hazards that may arise through participation in the Community Garden, and assume any expenses and liabilities I incur in the event of an accident, illness or other incapacity. If I have had any questions about the Community Garden, its nature, risks or hazards, I have contacted the garden coordinator and discussed those questions with him or her to my satisfaction.

2. In consideration of being granted the opportunity to participate in the Community Garden, I, for myself, my executors, administrators, agents and assigns do hereby release and forever discharge the Garden Committee, Garden Coordinator, volunteers, other gardeners, and the cooperating landowner from all claims of damages, demands, and any actions whatsoever, including those based on negligence, in any manner arising out of my participation in this activity. I understand that this Release means that, among other things, I am giving up my right to sue for any such losses, damages, injury or costs that I may incur.

I represent and certify that my true age is either 18 years old or, if I am under 18 years old on this date, my parent or legal guardian has read and signed this form. I have read this entire Release, fully understand it, and I agree to be legally bound by it.

Participant's Signature ____________________________________________

Printed Name ______________________________________ Date _______

Parent/Guardian's Signature ______________________________________

Printed Name ______________________________________ Date _______
Sample Form: Permission for Land Use

The following form is intended as a guide only; be sure that the final agreement you use meets the needs and details of your group and the property owner.

I, ________________ give permission to

(property owner's name)

____________________ to use the property located at

(community garden project)

____________________ as a community gardening project, for the

(site's street address)

term of ____ years beginning ______ and ending _______.

(start date) (ending date)

This agreement may be renewed with the approval of both the property owner and the community garden organization at the end of the agreement period. All questions about the community garden, its nature, risks or hazards, have been discussed with the garden coordinator to my satisfaction.

The community garden agrees to indemnify and save harmless the property owner from all damages and claims arising out of any act, omission or neglect by the community garden, and from any and all actions or causes of action arising from the community garden's occupation or use of the property.

As the property owner, I agree to notify the community gardening organization of any change in land ownership, development, or use 60 days prior to the change in status.

____________________ Property owner's signature

____________________ Date