

Community Garden Model Ordinance

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_____ MUNICIPALITY¹

_____ COUNTY, PENNSYLVANIA

ORDINANCE No. _____ - _____

AN ORDINANCE AMENDING _____'S MUNICIPAL ZONING CODE TO PROVIDE FOR THE USE OF COMMUNITY GARDENS IN ALL SPECIFIED ZONING DISTRICTS AS A PRINCIPAL OR ACCESSORY USE, SUBJECT TO THE SPECIFIED REQUIREMENTS HEREIN.

WHEREAS, _____ Municipality Board of Commissioners/Council, of _____ County, Pennsylvania hereby finds that the creation of community gardens serve the following purposes:

- (a) facilitate food security by promoting locally grown produce and healthy dietary choices;²
- (b) promote an increase in food accessibility in more urbanized areas;³
- (c) revitalize bare and blighted spaces within the community;
- (d) enhance the environment, by shortening the distance citizens travel to purchase food, thus decreasing the need

¹ Since this ordinance may be used by either a borough or a township in PA, there are a few locations where information may be picked from two choices. Within this model ordinance alone, there are italicized phrases or words that should be checked in accordance with specific ordinances already previously enacted. Additionally, many numbers are either replaced by "XX" or italicized.

² J. S. Lee & E. A. Frongillo, *Nutritional and Health Consequences Are Associated with Food Insecurity among U.S. Elderly Persons*, 131 THE JOURNAL OF NUTRITION. (2001).

³ Cultivating Community Gardens, <https://www.lgc.org/case-study-1/> (last visited Oct. 27, 2016).

for transported food and decreasing the amount of food packaging;⁴

(e) promote an avenue of expression through an increase in social interaction within the community;⁵

(f) reduce stormwater runoff;

(g) increase residential property values.⁶

NOW, THEREFORE, be it enacted and ordained by the _____ *Municipality Board of Commissioners/Council,* _____ County, Pennsylvania:

Section 1. Short Title.

This Ordinance shall be known as the "Municipality Community Garden Ordinance."⁷

Section 2. Definitions.

The following words and phrases used in this Ordinance shall have the meanings given to them in this section unless the context clearly signifies otherwise:

⁴ Christopher L. Weber & H. Scott Matthews, *Food-Miles and the Relative Climate Impacts of Food Choices in the United States*, 42 ENVIRON. SCI. TECHNOL. 3508-3513 (2008).

⁵ Bethany Henderson & Kimberly Hartsfield, *Is Getting into the Community Garden Business a Good Way to Engage Citizens in Local Government?*, NATIONAL CIVIC REVIEW. (Winter 2009).

⁶ Megan Heckert & Jeremy Mennis, *The economic impact of greening urban vacant land: a spatial difference-in-differences analysis*, 44 ENVIRONMENT AND PLANNING A. 3010–3027, (2012).

⁷ Model Recycling Ordinance

“Accessory use” means the property is used for residential purposes, primarily, but the owners use part of the property as a community garden.

“Cold frame” means an unheated outdoor structure consisting of a wooden or concrete frame and a top of glass or plastic, used for protecting seedlings and plants from the cold.⁸

“Community Garden” means land managed and maintained by a group of individuals sharing responsibility for a particular site, either independently or under the auspices of a public or nonprofit organization to grow and harvest food crops and/or ornamental plants for individual or group use.⁹ This may include division of separate plots for cultivation by individuals or members of a group.¹⁰ A community garden may also be a principal or accessory use of a particular site.¹¹ A community garden does not

⁸ Borough of Carlisle, Pa., Municipal Code § 255.

⁹ City of Springfield, Ma., Municipal Code § 7.70.

¹⁰ Id.

¹¹ Id.

include retail sale of grown food crops and/or ornamental plants.¹²

“Food crops” means harvested tree crops, row crops, or field crops.¹³

“Greenhouse” means a structure generally made of glass or other transparent material for which the primary purpose is the cultivation or the protection of plants.¹⁴

“Hoophouse” means a structure made of piping or other material covered with translucent plastic, constructed in a half round or hoop shape.¹⁵

“License agreement” means a written agreement (including an amendment to a previously executed license agreement) between the municipality and a non-profit organization approved by _____¹⁶ that allows

¹² See Id. This may be revised to include retail sale of grown produce, if the Municipality so chooses. Other ordinances allow for retail at licensed vendors as long as the produce was grown in a raised bed.

¹³ City of Austin, Tx., Municipal Code § 25.

¹⁴ Borough of Carlisle, Pa., Municipal Code § 255.

¹⁵ Id.

¹⁶ In the blank spaces within this Model Ordinance, insert the name of the Municipality implementing it.

eligible municipal land to be used as a municipal-supported community garden.¹⁷

“Municipality” means _____ Borough, City, or Township within _____ County, Pennsylvania.

“Ornamental plants” means plants of horticultural or flora cultural specialties, including flowers, shrubs, and trees intended for ornamental or landscaping purposes.¹⁸

“Principal use” means a property is used solely for the purpose of community gardening.

“Tool house” means a structure for storing tools, supplies, and materials.¹⁹

Section 3. Amendments.

The following provisions within the Zoning Code of _____ Municipality, within _____ County, Pennsylvania are hereby amended to include Community Gardens as

¹⁷ City of Austin, Tx., Municipal Code § 25.

¹⁸ Id.

¹⁹ Id.

a principal use or an accessory use in the following Zoning Districts:²⁰

Section 4. Application.

(a) Permitted Accessory Uses.

All of the following are permitted accessory uses in compliance with Section (3) above.

(1) greenhouses, hoopouses, cold-frames, and similar structures used to extend the growing season;²¹

(2) open space associated with and intended for use as community garden areas;²²

(3) signs are limited to identification, information and directional signs, including sponsorship information where the sponsorship information is clearly secondary to the above permitted information on any particular sign, in conformance with the *Municipality/Borough's signage ordinances located in Section XX.*²³

²⁰ Here is where there would be space to implement amendments based on the specific municipality's zoning code.

²¹ City of Cleveland, Oh., Municipal Code §336.

²² Id.

²³ City of Cleveland, Oh., Municipal Code §336.

(4) benches, bike racks, raised/accessible planting beds, compost bins, picnic tables, seasonal farm stands, fences, and garden art;²⁴

(5) buildings, limited to tool sheds, shade pavilions, barns, rest-room facilities with composting toilets, and planting preparation houses, in conformance with the regulations this section;²⁵

(6) off-street parking and walkways, in conformance with this Section, nurseries, tool houses, gardening sheds, which are no less than XX feet from the lot line.²⁶

(b) Hours of Operation.

(1) All community gardening shall be permitted between dawn and dusk every day of the week.²⁷

(2) Each community garden shall be conducted in such a way that no traffic congestion, noise, glare, odor, smoke, vibration, fire hazards, safety hazards, electromagnetic interference, or otherwise, shall be noticeable at or beyond the property line.²⁸

(c) Signs

²⁴ Id.

²⁵ Id.

²⁶ Id.

²⁷ Borough of Carlisle, Pa., Municipal Code § 255.

²⁸ Id.

(1) Signs. Signs shall not exceed XX square feet in area per side and shall not exceed XX feet in height.²⁹

(2) One(1) identification sign shall be permitted.³⁰

(d) **Parking.**

(1) Off-street parking shall be permitted only for those community garden sites exceeding 15,000/XX square feet in lot area.³¹

(2) Such parking shall be limited in size to *ten percent (10%)* of the community 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.³²

(3) Walkways shall be unpaved except as necessary to meet the needs of individuals with disabilities.³³

(e) **Maintenance of Plots.**

(1) Appearance

(i) Community gardeners must maintain the site and tree belt. This includes cutting of the grass and

²⁹ Id.

³⁰ City of Springfield, Ma., Municipal Code § 7.70.

³¹ City of Cleveland, Oh., Municipal Code §336.

³² Id.

³³ Id.

overgrown vegetation, as well as removal of trash and debris.³⁴

(ii) At the end of the growing season, all community garden beds shall be cleared and cultivated, as appropriate.³⁵

(2) Trash Collection/Removal.

(i) The municipality will provide trash collection services on Municipal-owned property and will assess an annual trash fee.³⁶

(ii) Community gardeners are responsible for collecting the trash from the lot and the adjoining sidewalk and placing them in designated trash collection barrels for pick-up.³⁷

(3) Water

(i) _____ currently waives sewer disposal fees for accounts that are used for community gardening purposes.³⁸

(ii) If there is an existing water main installed near the lots, under Section (6), the _____³⁹ may

³⁴ City of Springfield, Ma., Municipal Code § 7.70.

³⁵ Id.

³⁶ Id.

³⁷ Id.

³⁸ Id.; Here is an incentive for the use of community gardens on a property.

install a water service and/or tap for a fee to be paid by the community garden entity.⁴⁰ Requests for installing a water service and/or tap must be made within six (6) months of anticipated installation.⁴¹

(iii) 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.⁴²

(f) Composting and Fertilizers.

(1) No fresh manure or other animal waste or other animal by-products shall be composted at any community garden.⁴³

(2) If community gardeners plan to compost on-site, they shall take steps to ensure that their respective Community Gardens are in compliance with _____ *Municipality Zoning Ordinance* _____ including setback regulations.⁴⁴

³⁹ This space is intended for whichever Water commission or like entity and should be filled in accordingly.

⁴⁰ City of Springfield, Ma., Municipal Code § 7.70.

⁴¹ Id.

⁴² Id.

⁴³ City of Royal Oak, Mi., Municipal Code §770-56.

⁴⁴ City of Springfield, Ma., Municipal Code § 7.70.

(3) Composting materials shall only be generated onsite.⁴⁵

(4) Fertilizer and compost shall be stored in sealed, rodent-proof containers.⁴⁶

(5) Designated composting areas shall be screened from adjoining residential districts with either a fence or suitable screening material.⁴⁷

(g) Equipment.

(1) Agricultural machinery, equipment and/or vehicles used in the tending of any community garden shall be limited to XX horsepower and/or a fully equipped weight of XX pounds, and XX horsepower and/or a fully-equipped weight of XX pounds for any community garden.⁴⁸

(2) Impacts related to the operation of equipment, including noise, odors, and vibration cannot adversely affect abutting properties.⁴⁹

(h) Structures. No building or other structure shall be greater than XX feet in height.⁵⁰

(i) Fences. Fences shall meet the following requirements:

⁴⁵ Borough of Carlisle, Pa., Municipal Code § 255.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ City of Royal Oak, Mi., Municipal Code §770-56

⁴⁹ City of Springfield, Ma., Municipal Code § 7.70.

⁵⁰ City of Cleveland, Oh., Municipal Code §336.

- (1) not exceed XX feet in height;
- (2) be at least XX% open if they are taller than XX feet; and
- (3) be constructed of the following material:
 - (i) wood;
 - (ii) chain link; or
 - (iii) ornamental metal.⁵¹

(4) Fencing is required for any community 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 _____.⁵²

(j) **Insurance.** All community gardeners on municipal-owned land will be required to sign a **“hold harmless clause”** with the municipality.⁵³

Section 5. Permitting Process. All applicants proposing a new community garden must submit a *community garden permit application/zoning permit application* to the *zoning officer* for approval. The application shall include all of the following⁵⁴:

⁵¹ Id.

⁵² Id.

⁵³ City of Springfield, Ma., Municipal Code § 7.70.

⁵⁴ Borough of Carlisle, Pa., Municipal Code § 255.

- (a) The property address with a location map.⁵⁵
- (b) The name and contact information for the organization or landowner.⁵⁶
- (c) A list of existing and proposed structures and buildings on the premises.⁵⁷
- (d) The location and height of the above structures.⁵⁸
- (e) A description of the proposed operation or activities;⁵⁹
- (f) The distance between any structures/activity and adjacent properties.⁶⁰
- (g) Any driveways, access drives, parking areas or loading areas.⁶¹
- (h) The estimated number of plots to be cultivated by individuals.⁶²

⁵⁵ Id.

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Id.; These structures include sheds, containers, landscaping and fencing

⁵⁹ Borough of Carlisle, Pa., Municipal Code § 255.

⁶⁰ Id.

⁶¹ Id.

⁶² Id.

(i) A certification of compliance with all applicable local, state, and federal regulations and permits.⁶³

(j) A copy of the executed land control document, if applicable. and/or⁶⁴

(k) Any accompanying fees, if required.⁶⁵

Section 6. Identification and Security of Municipal-Owned Land.

(a) Requests for community garden lots will be accepted by _____⁶⁶ between the months of *January and May*.
_____⁶⁷ will also identify available lots.

(b) Identification of lots for a community garden shall be based on the following criteria:

(1) lot is unlikely to be developed in the foreseeable future;⁶⁸

⁶³ Id.

⁶⁴ City of Austin, Tx., Municipal Code §14.

⁶⁵ Id.

⁶⁶ Whichever Municipal department or entity supervising is placed on this blank space.

⁶⁷ Same as above—label whichever department or entity is supervising the acceptance of community garden requests and identification of lots.

⁶⁸ City of Austin, Tx., Municipal Code §14.

(2) there is a water line on or near the property, or the buildings on the property have non-toxic roofs for the use of rainwater;⁶⁹

(3) the lot received adequate sunlight between April and October; and/or⁷⁰

(4) street lighting is available nearby.⁷¹

(c) Requirements for Application Approval.

(1) A non-profit organization desiring to operate a municipal-supported community garden on eligible land must file a supplemental application for a license agreement.⁷²

(2) _____ may approve a supplemental application by a non-profit organization for a license agreement for the private use of eligible land for a municipal-supported community garden, unless:⁷³

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id.

⁷² Id.

⁷³ Id.

(i) _____ determines that the proposed license agreement interferes with the public use of the eligible municipal land;⁷⁴

(ii) _____ is not provided with a copy of the application; or⁷⁵

(iii) the community garden permit is not issued.⁷⁶

Section 7. Fees.

(a) _____ may establish a schedule of fees to be imposed on community garden users to recover the cost of administration of the community garden program.⁷⁷

(b) The community garden operator may also establish a schedule of fees to be imposed to community garden users for plot rentals.

Section 8. Severability.

Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ Id.

⁷⁷ Town of Huntington, NY, Municipal Code § 95.

holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.⁷⁸

Section 9. Repeal.

All other ordinances of _____ Municipality, within _____ County, Pennsylvania, that are in conflict with this ordinance are hereby repealed to the extent of such conflict.⁷⁹

Section 10. Effective Date.

This ordinance shall take full force and effect in _____ Municipality, within _____ County, Pennsylvania thirty (30) days from and after its adoption.⁸⁰

ALL OF WHICH IS ADOPTED this _____ day of _____, 20__, by the Board of Commissioners/Council.⁸¹

⁷⁸ Model Pet Waste Ordinance

⁷⁹ Model Animal Control Ordinance.

⁸⁰ City of San Francisco, Ca., Municipal Code § 53A.

⁸¹ Id.