



City of North Port

ORDINANCE NO. 2019-10

1 **AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, ALLOWING FOR COMMUNITY**
2 **GARDENS IN THE AG AGRICULTURAL DISTRICT, GU GOVERNMENT USE DISTRICT,**
3 **RSF RESIDENTIAL SINGLE-FAMILY DISTRICT, RTF RESIDENTIAL TWO-FAMILY DISTRICT,**
4 **RMF RESIDENTIAL MULTIFAMILY DISTRICT, AND RMH RESIDENTIAL MANUFACTURED**
5 **HOME DISTRICT BY AMENDING THE CITY OF NORTH PORT UNIFIED LAND**
6 **DEVELOPMENT CODE, SECTION 53-25, SECTION 53-64, SECTION 53-121, SECTION 53-**
7 **134, SECTION 53-147, AND SECTION 53-160; PROVIDING REGULATIONS FOR**
8 **COMMUNITY GARDENS BY AMENDING THE CITY OF NORTH PORT UNIFIED LAND**
9 **DEVELOPMENT CODE SECTION 53-240 – SPECIAL STRUCTURES; PROVIDING RELEVANT**
10 **DEFINITIONS BY AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT**
11 **CODE, SECTION 61-3 – DEFINITIONS AND WORD USAGE; CREATING A COMMUNITY**
12 **GARDEN OPERATION PERMIT FEE BY AMENDING THE CODE OF THE CITY OF NORTH**
13 **PORT, APPENDIX A – CITY FEE STRUCTURE; PROVIDING FOR ADOPTION; PROVIDING**
14 **FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF**
15 **AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

16 **WHEREAS,** cities are increasingly recognizing that urban food production can help provide food security
17 for their residents, reduce greenhouse gas emissions, and help meet their goals to become sustainable
18 cities; and

19 **WHEREAS,** community gardens are smaller-scale urban agriculture sites where neighbors and residents
20 can gather to cultivate fruits, vegetables, plants, flowers, or herbs that are grown primarily for personal
21 consumption or donation; and

22 **WHEREAS,** community gardens can promote healthy eating and active living in the community; and

23 **WHEREAS,** community gardens can improve nutrition, physical activity, community engagement, and
24 safety for a neighborhood and its residents and provide environmental benefits to the community; and

25 **WHEREAS,** on July 24, 2018, the City Commission directed staff to research community gardens and their
26 regulation; and

WHEREAS, on March 21, 2019, the City of North Port Planning and Zoning Advisory Board, designated as the Local Planning Agency (LPA) for the City, held a properly-noticed public hearing to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission has held properly-noticed public hearings to review the recommendations of the Planning and Zoning Advisory Board and to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission has determined that the proposed amendments are consistent with the Comprehensive Plan and serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

SECTION 1 – FINDINGS:

1.01. The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

SECTION 2 – ADOPTION:

2.01 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE II. – AG AGRICULTURAL DISTRICT

...

Sec. 53-25. – Permitted principal uses and structures.

Permitted principal uses and structures are ~~shall be~~ as follows:

...

N. Community gardens in accordance with Sec. 53-240(H)."

2.02 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE V. – GU GOVERNMENT USE DISTRICT

...

Sec. 53-64. – Permitted principal uses and structures.

...

H. Community gardens in accordance with Sec. 53-240(H)."

2.03 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE IX. – RSF RESIDENTIAL SINGLE-FAMILY DISTRICT

...

Sec. 53-121. – Permitted principal uses and structures

...

I. Community gardens in accordance with Sec. 53-240(H)."

2.04 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE X. – RTF RESIDENTIAL TWO-FAMILY DISTRICT

...

Sec. 53-134. – Permitted principal uses and structures.

...

F. Community gardens in accordance with Sec. 53-240(H)."

- 2.05 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE XI. – RMF RESIDENTIAL MULTIFAMILY DISTRICT

...

Sec. 53-147. – Permitted principal uses and structures

H. Community gardens in accordance with Sec. 53-240(H)."

- 2.06 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 2. – SCHEDULE OF DISTRICT REGULATIONS

...

ARTICLE XII. – RMH RESIDENTIAL MANUFACTURED HOME DISTRICT

...

Sec. 53-160. – Permitted principal uses and structures.

...

D. Community gardens in accordance with Sec. 53-240(H)."

2.07 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 53 – ZONING REGULATIONS

...

PART 3. – SPECIAL DISTRICT REGULATIONS

...

ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS

...

Sec. 53-240. – Special structures.

...

H. Community gardens.

(1) General requirements.

(a) Operation permit. The use and operation of a community garden must comply with all federal, state, and local laws and regulations relating to such use and operation. Before a community garden is established, a community garden operation permit for the community garden location must be issued by the City's Department of Neighborhood Development Services. Permits will only be issued for vacant lots that contain no building(s) or structure(s).

(b) Site assessment. Each application for a community garden operation permit must include a Phase I Environmental Site Assessment ("ESA") subject to the standards established by the American Society for Testing and Materials. Where an ESA identifies a historical source of contamination at the community garden location, the applicant must submit evidence that the location has been tested and a determination has been made regarding the type and level of contamination at the location. An applicant must ensure and provide evidence that any necessary and

appropriate remediation procedures are undertaken to ensure that the location's soil is suitable for gardening.

- (c) Garden operation. Each application for a community garden operation permit must include an established set of operating rules for the community garden, which the City will keep on file. Operating rules must include but are not limited to the following:

(i) The governance structure of the garden;

(ii) The name and telephone number of the community garden coordinator who will oversee the daily operation of the community garden and who will be the garden's liaison to the City;

(iii) The hours of garden operation. No gardening activities may take place between the hours of 9:00 p.m. and 6:00 a.m.;

(iii) Responsibilities for garden maintenance;

(iv) Any security requirements; and

- (d) Garden conclusion. When the operation of a community garden has concluded, the permit holder must ensure that all garden equipment, improvements, or modifications to the location are removed from the location and that the location is left in the same or better condition than when the permit was issued. The operation of a community garden will be deemed concluded upon the occurrence of any of the following:

(i) The expiration or termination of its community garden operation permit;

(ii) The abandonment, in the City's sole discretion, of the community garden; or

(iii) Notice to the City from the permit holder that the operation of the community garden has concluded.

(2) Site design.

- (a) Universal design. The City encourages the use of a universal design where community gardens are designed and composed so that they can be accessed, understood, and used to the greatest extent possible by all people regardless of one's age, size, ability, or disability and so all residents can utilize and participate in a community garden.

- (b) Water. Permit holders must ensure that their community garden is served by a water supply sufficient to support the cultivation practices used at the permitted location.

- (c) Drainage. A community garden must be designed and maintained so that water and fertilizer will not drain or encroach onto adjacent property.

247 (3) Storage.

248
249 (a) Non-vegetative material. The outdoor storage of non-vegetative material is
250 prohibited. No building or structure is permitted on the property where a community
251 garden is located, other than the following:

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253 (i) One (1) shed for the storage of gardening tools and equipment, no larger than
254 one hundred and twenty (120) square feet;

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256 (ii) Benches;

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258 (iii) Bicycle racks;

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260 (iv) Raised planting beds accessible to the disabled;

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262 (v) Compost and garbage/waste receptacles;

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264 (vi) Picnic tables;

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266 (vii) Rain barrel systems, in accordance with Sec. 53-240(A);

267
268 (viii) Garden art, in accordance with Sec. 53-240(A); and

269
270 (ix) Fences, in accordance with Sec. 53-240(M).

271
272 (b) Seed and fertilizer to be used at the community garden. All seed and fertilizer must
273 be stored in sealed, rodent-proof containers.

274
275 (4) Parking.

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277 (a) The Director of Neighborhood Development Services will determine if off-street
278 parking is required at a community garden. The following criteria will be considered
279 to determine if off-street parking is required:

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281 (i) The size of the garden;

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283 (ii) The number of gardeners expected;

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285 (iii) The availability of parking on the berm, shoulder, and/or swale right-of-way area;
286 and

287
288 (iv) The ability of gardeners to travel to the garden by means other than automobile.

289
290 (b) Any off-street parking must be consistent with Sec. 59-16 of the Code of the City of
291 North Port.

292
293 (c) If off-street parking is required, a driveway to the community garden location will
294 have a minimum width of sixteen feet (16') and will be constructed in accordance

with the requirements of Sec. 33-6.B.(6). Driveways may be constructed from City approved pervious materials, including but not limited to shell or gravel, provided that the driveway apron within the City right-of-way is constructed of concrete.

(5) Waste disposal. A permit holder must ensure that waste, trash, and recycling receptacles ("receptacles") are provided and available at the community garden location to ensure the proper disposal of refuse.

(a) All receptacles must be screened from adjacent properties by a six-foot (6') high fence or natural buffer.

(b) All refuse must be removed from the permitted location regularly so that the receptacle area and the garden location are kept free from litter.

(c) Compost materials from the garden must meet the setback requirements for the zoning district in which the garden is located. Compost must be stored in a fully-enclosed container that is not visible from adjacent property, controls odor, prevents animal and insect infestation, and minimizes runoff into waterways and encroachment onto adjacent properties.

(6) Sales. On-site retail sales are prohibited; however, any excess fruits, vegetables, plants, flowers, and/or herbs grown on the property may be sold off-site.

(7) Maintenance. A community garden must be maintained, including grass height, throughout the year in accordance with Secs. 42-21 and 42-22 of the Code of the City of North Port, Florida. A community garden must maintain waste throughout the year in accordance with Chapter 62 of the Code of the City of North Port, Florida.

(8) Sustainable gardening. The City strongly encourages proper water conservation, composting, and non-polluting, integrated pest and pathogen management at all community garden locations.

(9) Organic practices. The City strongly encourages the use of materials and practices used for the organic production of fruits, vegetables, plants, flowers, and herbs as found in the Organic Materials Review Institute guidelines. Any use of fertilizer must comply with Chapter 22, Article 2 of the Code of the City of North Port.

(10) Prohibited plants. Community gardens are prohibited from planting Category I invasive exotics as identified by the Florida Exotic Pest Plant Council ("FEPPC"). The City strongly encourages the avoidance of planting Category II invasive exotics as identified by the FEPPC.

...

[Current sections H through CC shall be renumbered.]"

2.08 The North Port City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 61 – DEFINITIONS

...

Sec. 61-3. – Definitions and word usage.

...

COMMUNITY GARDEN – Land managed and maintained for the non-commercial cultivation of fruits, vegetables, plants, flowers, and/or herbs, by multiple users. 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 or used by group members.

...”

- 2.09 The North Port City Commission hereby approves and adopts the following amendments to the Code of the City of North Port:

“APPENDIX A – CITY FEE STRUCTURE

...

B. PLANNING AND ZONING FEES

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Community Garden Operation Permit	\$150.00
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...”

SECTION 3 – CONFLICTS:

- 3.01 In the event of any conflict between the provisions of this Ordinance and any other Ordinance or portions thereof, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY:

- 4.01 If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODING OF AMENDMENTS:

- 5.01 In this Ordinance, additions are shown as underlined and deletions as ~~striketrough~~. These editorial notations shall not appear in the codified text.

385 **SECTION 6 – EFFECTIVE DATE:**

386 6.01 This Ordinance shall take effect immediately after adoption by the City Commission of the City of
387 North Port, Florida. No development order or development permits dependent on this Ordinance
388 may be issued before it has become effective.

389 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public
390 session the _____ day of _____ 2019.

391 PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida, on the second and
392 final reading in public session this _____ day of _____ 2019.

CITY OF NORTH PORT, FLORIDA

CHRISTOPHER HANKS
MAYOR

ATTEST:

KATHRYN PETO
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY