



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, RMH RESIDENTIAL MANUFACTURED HOME
5 DISTRICT, AND THE SPRINGS (ACTIVITY CENTER #7) BY AMENDING THE CITY OF NORTH
6 PORT UNIFIED LAND DEVELOPMENT CODE, SECTION 53-25, SECTION 53-64, SECTION 53-
7 121, SECTION 53-134, SECTION 53-147, SECTION 53-160, AND SECTION 55-51;
8 PROVIDING REGULATIONS FOR COMMUNITY GARDENS BY AMENDING THE CITY OF
9 NORTH PORT UNIFIED LAND DEVELOPMENT CODE SECTION 53-240 – SPECIAL
10 STRUCTURES; PROVIDING RELEVANT DEFINITIONS BY AMENDING THE CITY OF NORTH
11 PORT UNIFIED LAND DEVELOPMENT CODE, SECTION 61-3 – DEFINITIONS AND WORD
12 USAGE; CREATING A COMMUNITY GARDEN OPERATION PERMIT FEE BY AMENDING THE
13 CODE OF THE CITY OF NORTH PORT, APPENDIX A – CITY FEE STRUCTURE; PROVIDING
14 FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY;
15 PROVIDING FOR CODIFICATION; AND PROVIDING 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), provided that it is located within the common area of an established manufactured home community."

- 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.

A. Accessory uses and structures. Permitted accessory uses and structures in all zoning districts shall be as follows:

...

(10) Agricultural uses in residential areas. Nothing in this Code shall prohibit the growing of plants in residential districts, including vegetable gardens and horticultural specialties, provided that no agricultural products, including plants, shall be sold from a residential site.

(11) Community gardens are a permitted accessory use in Agricultural (AG), Government Use (GU), Residential Multifamily (RMF), and Residential Manufactured Home (RMH) Districts subject to the regulations in Sec. 53-240.H.

...

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 one-time community garden operation permit for the community garden location must be obtained from the City's Department of Neighborhood Development Services. In Residential Single-Family (RSF) and Residential Two Family (RTF) zoning districts, permits will only be issued for vacant lots that contain no principal structure(s).

(b) 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; and

(iv) Any security requirements.

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

(3) Storage.

- (a) Non-vegetative material. The outdoor storage of non-vegetative material is prohibited. No building or structure is permitted on the property where a community garden is located, other than the following:
 - (i) One (1) shed for the storage of gardening tools and equipment, pursuant to the regulations in Sec. 53-240.A;
 - (ii) Benches;
 - (iii) Bicycle racks;
 - (iv) Raised planting beds accessible to the disabled;
 - (v) Compost and garbage/waste receptacles;
 - (vi) Picnic tables;
 - (vii) Rain barrel systems, in accordance with Sec. 53-240(A);
 - (viii) Garden art, in accordance with Sec. 53-240(A);
 - (ix) Fences, in accordance with Sec. 53-240(M); and

(x) Any similar structure of a non-permanent nature.

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

(4) Parking.

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

(i) The size of the garden;

(ii) The number of gardeners expected;

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

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

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

(c) If off-street parking is required, a driveway to the community garden location will 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 55 – ACTIVITY CENTER DESIGN REGULATIONS

...

ARTICLE VII. – THE SPRINGS (Activity Center #7)

...

Sec. 55-51. – Permitted accessory uses and structures.

A. Permitted accessory uses are as follows:

...

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

2.09 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.
 ...”

2.10 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

| PLANNING AND ZONING FEES | |
|--|----------------|
| ... | |
| Certificate of completion – temporary | \$250.00 |
| <u>Community garden operation permit</u> | <u>\$75.00</u> |
| ...” | |

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 – CODIFICATION:

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

SECTION 6 – EFFECTIVE DATE:

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

375 READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public
376 session the 9th day of April 2019.

377 PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida, on the second and
378 final reading in public session this 23rd day of April 2019.

CITY OF NORTH PORT, FLORIDA

CHRISTOPHER HANKS
MAYOR

ATTEST:

KATHRYN WONG
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY