



STAFF REPORT

Urban Market Gardens

ULDC Text Amendment

From: Nicole Galehouse, AICP, Planning Division Manager

Thru: Frank Miles, MPA, Director, Neighborhood
Development Services

Date: March 3, 2019

ORDINANCE NO. 2019-11

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE TO ALLOW FOR URBAN MARKET GARDENS BY AMENDING CHAPTER 25 – PARKING AND LOADING REGULATIONS, ARTICLE II – OFF-STREET PARKING, SECTION 25-17 – MINIMUM OFF-STREET PARKING REQUIREMENTS; AMENDING CHAPTER 53 – ZONING REGULATIONS, PART 2 – SCHEDULE OF DISTRICT REGULATIONS TO ALLOW URBAN MARKET GARDENS AS A PERMITTED PRINCIPAL USE IN THE CG COMMERCIAL GENERAL DISTRICT, CG-S COMMERCIAL GENERAL SPECIAL DISTRICT, ILW LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT, AND NC-HI/NC-LI NEIGHBORHOOD COMMERCIAL HIGH/LOW INTENSITY DISTRICTS; AMENDING PART 3 – SPECIAL DISTRICT REGULATIONS, ARTICLE XX SPECIAL CIRCUMSTANCE REGULATIONS, SECTION 53-240 SPECIAL STRUCTURES; AMENDING CHAPTER 55 – ACTIVITY CENTER DESIGN REGULATIONS TO ALLOW URBAN MARKET GARDENS AS A PERMITTED PRINCIPAL USE IN PANACEA (ACTIVITY CENTER #4), MIDWAY (ACTIVITY CENTER #5), THE SHIRE (ACTIVITY CENTER #6), AND THE GARDENS (ACTIVITY CENTER #8); AMENDING CHAPTER 61 DEFINITIONS, SECTION 61-3 DEFINITIONS AND WORD USAGE; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

PROJECT:	TXT-18-208, Community Gardens
REQUEST:	Approval of Ordinance 2019-11
APPLICANT:	City of North Port
OWNER:	N/A
LOCATION:	Citywide Ordinance — Commercial and Industrial Zoning Districts and Activity Centers
PROPERTY SIZE:	N/A

I. BACKGROUND

At a regularly scheduled Commission meeting on May 8, 2018, a presentation was made by a local business owner regarding agriculture in the City. At this meeting, it was discussed that the City Commission had been interested in allowing community gardens, as well as commercial gardens. Staff researched the topic and provided the background information, at which point the item was placed for discussion on the July 24, 2018 special Commission meeting. At this meeting, it was determined that the Commission would like to see community gardens throughout the City and for commercial gardens to be permitted in several districts, including Activity Center 6, neighborhood commercial high and low districts, and the Estates. The two topics have been split into two separate ordinances. Ordinance 2019-11 (**Exhibit A**), Petition TXT-18-208, for urban market gardens is addressed in this staff report.

Cities are increasingly recognizing that urban food production can help provide food security for their residents, reduce greenhouse gas emissions, and help meet their goals to become sustainable cities. Urban market gardens take place where at a larger scale than a community garden and provide the opportunity for either an individual or group of individuals to cultivate fruits, vegetables, plants, flowers, or herbs that are grown primarily for commercial sale. These gardens can promote healthy eating and active living in their communities, which leads to an improvement in nutrition, physical activity, community engagement, and safety for a neighborhood and its residents and provides environmental benefits to the community.

While urban market gardens provide a great deal of health and wellness benefits to the community, in Florida there is a potential for significant interaction with Florida Statutes. There are several concerns that will be explained in the data and analysis which must be weighed and appropriately mitigated. The proposed text amendment attempts to balance the benefits and concerns of urban market gardens.

II. REVIEW PROCESS

Staff reviewed this petition for a Text Amendment and found this petition is consistent with the City's Comprehensive Plan. The City Attorney reviewed and approved Ordinance 2019-11 as to form and correctness. Staff worked with the City Attorney's office to evaluate the legal implications of this Ordinance.

III. DATA & ANALYSIS

Urban market gardens promote healthy eating and provide environmental benefits, expanding access to fresh food and reducing the impact of transporting goods on our roadways. The commercial nature of urban market gardens necessitates that they be sited within areas that are compatible to that level of use.

The proposed text amendment includes several key elements that permit urban market gardens as a use in the Unified Land Development Code:

- Addition of a parking standard for urban market gardens;
- Addition of urban market gardens as a permitted principal use to specific zoning districts and Activity Centers; and
- Addition of regulations for urban market gardens.

The regulations proposed by staff mimic the regulations that have been proposed for community gardens, but include standards that are specific to the commercial nature of the use and the location of the use within commercial zoning districts and Activity Centers. The proposed regulations include the application process, which requires compliance with the standard order of approval process for development and a site assessment to ensure the soil is safe for food. Site design standards are set out which include provisions to encourage accessibility and provide standards to protect the surrounding properties from potential nuisances. Environmental concerns were addressed to recommend sustainable and organic practices and prohibit planting of invasive exotics.

It is important to note several items in (or omitted from) the proposed text amendment which have been done to improve interaction with Florida Statutes. These include not permitting urban market gardens within the agricultural zoning district and limiting the size of urban market gardens. These interactions will be explained in more detail below under “Florida Statutes.”

Additionally, the proposed text amendment contains a cleanup item related to the definitions of garden centers/shops and plant nurseries. The term garden shop is used in the ULDC, but the only definition is for ‘garden center,’ while there is no definition for the use ‘plant nursery.’ The amendment revises the ‘garden center’ definition to ‘garden shop’ and adds a definition for ‘plant nursery.’ These definitions model Sarasota County and definitions from *A Planner’s Dictionary*, which is put out by the American Planning Association.

FLORIDA STATUTES

FLA. STAT. § 193.461 Agricultural lands; classification and assessment

Florida Statutes provides a process for the local Property Appraiser to classify property as agricultural for tax assessment purposes, which provides a potentially significant reductions in property tax assessments for ‘bonafide agricultural purposes.’ The determination of a ‘bonafide agricultural purpose’ speaks to ‘good faith commercial agriculture’ based on several criteria that are set forth in the Statute and relies on the discretion of the local appraiser.

The classification of land as agricultural by the property appraiser is not dependent on the zoning of the property and is able to be applied when the use is agricultural, regardless if the zoning is or not. Allowing agricultural uses in commercial zoning designations creates the potential for commercially zoned land to be eligible for significant property tax reductions. This could have a significant effect on the ad valorem tax revenue generated for the City.

According to GIS data from the Sarasota County Property Appraiser, the average agricultural assessment for lands with a “Cropland Soil Capability” classification is 28% of the just value, and the average assessment for lands with an “Ornamentals” classification is 30% of the just value.

	Net Operating Surplus/	Net Operating Surplus/
5 Acres Commercial Use	-\$7,102	\$308,707
5 Acres Agricultural Use	-\$142,204	-\$750,564
4 Acres Commercial Use & 1 Acre Agricultural	-\$34,122	\$96,853

When this assessment is included in the calculation of the fiscal impact of the property, the net operating surplus/deficit of the project on the City budget is also affected. The table on page 3 shows the comparison on the net operating surplus/deficit for 5 acres of commercial use, 5 acres of agricultural use, and a combination of the two. Only when the agricultural use is limited does the project become economically feasible for the City.

There is no finding in relation to this Statute, however Staff cautions against the permitting of urban market gardens throughout the City's commercial areas. Due to the initial platting of the City, there is limited opportunity for commercial development. The City needs to be vigilant in protecting its commercial areas to maintain a tax base that will allow it to be fiscally sustainable. For these reasons, the proposed text amendment does not allow urban market gardens within the agricultural zoning district as a means to distinguish it from traditional agricultural uses. Additionally, the proposed text amendment limits the size of an urban market garden to 3 acres, which in contrast is the minimum size for a lot in the agricultural zoning district. Staff recommends that this use be managed through the special exception process so as to limit the impact on the City's tax base.

FLA. STAT. § 604.50 Nonresidential farm buildings; farm fences; farm signs

Nonresidential farm buildings, farm fences, and farm signs are exempt from the Florida Building Code and any local code or fee when placed on lands used for a 'bonafide agricultural purpose.' Qualifying under this Statute does not rely on the classification of the land as agricultural by the Sarasota County Property Appraiser. If an urban market garden met the requirements of this Statute, it would not be required to meet the Florida Building Code or get any permits or inspections from the City, creating potential safety concerns within commercial zoning districts. Additionally, farm signs are exempt, so these uses would be exempt from building codes and permits for any signage used on the site, including limitations on size and quantity.

There is no finding in relation to this Statute. The proposed text amendment requires urban market garden to conform with the development review process. In Activity Centers, developments are subject to Urban Design Standards review, which should cover approval of the building and signage design.

General Note: The potential does exist for these processes to be challenged as it relates to this Statute, but the full breadth of that challenge would not be known until encountered.

Objective 1, Future Land Use Element

The Comprehensive Plan requires that development be directed in appropriate areas and use innovative regulations while being consistent with sound planning principles and the goals for the community. Urban market gardens are a new way for our community to gain access to fresh fruits and vegetables that are grown locally. They also give additional opportunities to bring businesses to the city and create jobs for our residents. The use is consistent with planning principles when located in zoning districts with an intent that is

compatible with the growing and selling of agricultural products.

Staff finds that the proposed text amendment is consistent with Objective 1 of the Future Land Use Element.

Policy 9.5, Future Land Use Element

Gardening, in any form, has the potential for use of harsh chemicals that have the potential to impact the City's water supply if not carefully managed. The proposed text amendment has taken that into consideration by requiring that drainage is maintained on-site and by encouraging sustainable and organic practices.

Staff finds that the proposed text amendment is consistent with Policy 9.5 of the Future Land Use Element.

Policy 1.12, Conservation & Coastal Zone Management Element

The proposed text amendment encourages sustainable gardening and organic practices.

Staff finds that the proposed text amendment is consistent with Policy 1.12 of the Conservation & Coastal Zone Management Element.

Policy 3.3, Conservation & Coastal Zone Management Element

The proposed text amendment prohibits the planting of Category I invasive exotics as identified by the Florida Exotic Pest Plant Council (FEPPC) and strongly discourages planting of Category II invasives. The plants listed in Policy 3.3 are all on the Category I list of invasive exotics.

Staff finds that the proposed text amendment is consistent with Policy 3.3 of the Conservation & Coastal Zone Management Element.

Chapter 53 — Zoning Regulations, Article III. — CG Commercial General District and Article IV—CG-S Commercial General Special District

The intent of the Commercial Districts is to provide areas within the City where trade, commerce, and retail sales can be carried out without the intrusion of incompatible residential uses and adverse effects of industrial uses. Urban market gardens involve land managed for the growth of agricultural products which are then sold on-site to consumers or restaurants.

Staff finds that the proposed text amendment is consistent with the intent of the CG and CG-S Districts in the ULDC.

Chapter 53 — Zoning Regulations, Article VI. — ILW Light Industrial and Warehousing District

The Light Industrial and Warehousing District is intended for light manufacturing,

wholesaling, and distribution. Service and commercial activities that relate to and support the character and activities of the district and its employees are permitted. Urban market gardens, while not manufacturing, have a retail sales component which would support employees and businesses in the area by providing access to fresh food.

Staff finds that the proposed text amendment is consistent with the intent of the ILW District.

Chapter 53 — Zoning Regulations, Article XIV.—NC-HI/NC-LI Neighborhood Commercial High/Low Intensity Districts

The intent of the Neighborhood Commercial Districts is to contribute to the diversification of the economic base and quality of life of residents with convenient retail sales and commerce while not being disruptive. Urban market gardens provide retail sales of agricultural products, including fresh fruits and vegetables, which would be conveniently located for nearby residents to purchase. Proposed regulations limiting the hours of gardening activities, size, and outdoor storage while requiring planting setbacks and buffers are intended prevent potential disruptions to the neighborhood.

Staff finds that the proposed text amendment is consistent with the intent of the NC-HI and NC-LI Zoning Districts.

Chapter 55 — Activity Center Design Regulations, Article IV. Panacea (Activity Center 4)

The intent of the Panacea Activity Center is to provide a large concentrated mix of uses including residential, commercial, office, industrial, and recreational uses to serve the entire city and regional market due to its proximity to I-75. The service that urban market gardens provide would fit into this mix of uses and would be beneficial to the residents of the city and the regional market.

Staff finds that the proposed text amendment is consistent with the intent of the Panacea Activity Center.

Chapter 55 — Activity Center Design Regulations, Article V. Midway (Activity Center 5)

The intent of the Midway Activity Center is to provide for both commercial and residential densities, including hotels and industrial uses, while creating connectivity within the Activity Center. The on-site retail sales of the urban market garden would be an appropriate use in this activity center as it is a commercial use. The connectivity of this activity center would make the fresh fruits and vegetables easily accessible for many residents.

Staff finds that the proposed text amendment is consistent with the intent of the Midway Activity Center.

Chapter 55 — Activity Center Design Regulations, Article VI. The Shire (Activity Center 6)

The intent of this Activity Center is to provide the City with commercial, industrial, and residential uses. As previously discussed, the retail sales of the urban market garden would allow this use to fit into the intended uses of this Activity Center.

Staff finds that the proposed text amendment is consistent with the intent of the Shire Activity Center.

Chapter 55 — Activity Center Design Regulations, Article VIII. The Gardens (Activity Center 8)

This Activity Center is intended to provide a large area of mixed use development including commercial, office/institutional, and residential uses in a planned community development framework. The retail sales aspect of the urban market garden would allow this use to fit into the intended mixed use development of this Activity Center.

Staff finds that the proposed text amendment is consistent with the intent of the Gardens Activity Center.

Chapter 55 — Activity Center Design Regulations, Article I. Mediterranean (Activity Center 1)

Mediterranea is a long established Activity Center located along U.S. 41 with an intent to provide office, commercial, and light industrial uses. Additionally, Mediterranean is also the U.S. 41 Architectural District, which explains the district to be a major commercial gateway and the 'traditional commercial core' of the City. The agricultural component of urban market gardens separates it from traditional commercial uses and makes it incompatible with the character of the Mediterranean Activity Center.

Staff finds that the proposed text amendment is not consistent with the intent of the Mediterranean Activity Center and has been excluded from the proposed text amendment.

Chapter 55 — Activity Center Design Regulations, Article II. Heron Creek (Activity Center 2)

Heron Creek is intended to provide space for governmental, residential, and office, and commercial uses. In addition to the Urban Design Standards Pattern Book that all Activity Centers follow, this Activity Center has the Heron Creek Pattern Book. This outlines three types of commercial uses which is limited to customary and traditional conduct of trade, retail sales, and commerce by small and medium sized businesses and high tech, non-obtrusive, and industrial uses. Urban market gardens, though a commercial use, would not be considered a customary commercial use as the vegetative product being sold is grown on-site and has an agricultural component.

Staff finds that the proposed text amendment is not consistent with the intent of the Heron Creek Activity Center and has been excluded from the proposed text amendment.

Chapter 55 — Activity Center Design Regulations, Article III. Gateway (Activity Center 3)

The intent of this activity center is to provide space for highway uses primarily serving interstate commuters and for economic development. Permitted principal uses are generally large-scale, such as an auditorium, commercial complex of at least 100,000 square feet, restaurants, and service stations. An urban market garden is not consistent with highway uses as it would not primarily serve a commuter population.

Staff finds that the proposed text amendment is not consistent with the intent of the Gateway Activity Center has been excluded from the proposed text amendment.

Chapter 55 — Activity Center Design Regulations, Article VII. The Springs (Activity Center 7)

The purpose of The Springs is to identify, protect, and preserve the property strategically located around the environmental resource of the natural spring. Its intent is to provide protection of Warm Mineral Springs while also providing for a limited mixture of development. Commercial uses are permitted within the Springs Activity Center, however they are limited to 12% of the site and a maximum of 62,000 square feet. The size of an urban market garden would not be consistent with the intent and limitations of The Springs district.

Staff finds that the proposed text amendment is not consistent with the intent of the Springs Activity Center has been excluded from the proposed text amendment.

IV. PUBLIC NOTICE & HEARING SCHEDULE

PUBLIC NOTICE

Notice of the public hearing was advertised in a newspaper of general circulation within the City of North Port on March 6, 2019 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1, Article II, Section 1-12 of the City's Unified Land Development Code (ULDC) (**Exhibit B**).

**PUBLIC HEARING
SCHEDULE**

Planning & Zoning Advisory Board Public Hearing	March 21, 2019 9:00 AM or as soon thereafter
City Commission 1st Reading Public Hearing	April 9, 2019 10:00 AM or as soon thereafter
City Commission 2nd Reading Public Hearing	April 23, 2019 6:00 PM or as soon thereafter

V. RECOMMENDED ACTION

Ordinance 2019-11 as presented is consistent with the Comprehensive Plan and ULDC. However, there are some potentially complex interactions with Florida Statutes as it relates to the agricultural portion of the use. For that reason, staff recommends one or more of the following actions:

1. Remove urban market gardens in the draft ordinance as a permitted principal use in any zoning district. This would allow the use as a special exception based on the criteria set out in Sec. 53-240. A special exception would allow conditions to be placed on the use, including a reiteration of the regulations that the use must comply with. It also allows the City Commission to evaluate the potential fiscal impact on a case-by-case basis.
2. Allow urban market gardens (as a permitted principal use or as a special exception) through a pilot program. The guidelines set forth in the proposed Sec. 53-240 would serve as the program guidelines, and Commission could determine a starting zoning district to pilot the use and evaluate the success of the program on an annual basis.

VI. ALTERNATIVE ACTIONS

- City Commission could approve Ordinance 2019-10 as written, adding urban market gardens as a permitted principal use in commercial zoning districts and the Panacea, Midway, Shire, and Gardens Activity Centers, providing regulations for use, and amending definitions.
- City Commission may recommend alternative locations or standards for urban market gardens.

EXHIBIT A



City of North Port

ORDINANCE NO. 2019-11

1 AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF
2 NORTH PORT UNIFIED LAND DEVELOPMENT CODE TO ALLOW FOR URBAN MARKET
3 GARDENS BY AMENDING CHAPTER 25 – PARKING AND LOADING REGULATIONS,
4 ARTICLE II – OFF-STREET PARKING, SECTION 25-17 – MINIMUM OFF-STREET PARKING
5 REQUIREMENTS; AMENDING CHAPTER 53 – ZONING REGULATIONS, PART 2 – SCHEDULE
6 OF DISTRICT REGULATIONS TO ALLOW URBAN MARKET GARDENS AS A PERMITTED
7 PRINCIPAL USE IN THE CG COMMERCIAL GENERAL DISTRICT, CG-S COMMERCIAL
8 GENERAL SPECIAL DISTRICT, ILW LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT,
9 AND NC-HI/NC-LI NEIGHBORHOOD COMMERCIAL HIGH/LOW INTENSITY DISTRICTS;
10 AMENDING PART 3 – SPECIAL DISTRICT REGULATIONS, ARTICLE XX SPECIAL
11 CIRCUMSTANCE REGULATIONS, SECTION 53-240 SPECIAL STRUCTURES; AMENDING
12 CHAPTER 55 – ACTIVITY CENTER DESIGN REGULATIONS TO ALLOW URBAN MARKET
13 GARDENS AS A PERMITTED PRINCIPAL USE IN PANACEA (ACTIVITY CENTER #4),
14 MIDWAY (ACTIVITY CENTER #5), THE SHIRE (ACTIVITY CENTER #6), AND THE GARDENS
15 (ACTIVITY CENTER #8); AMENDING CHAPTER 61 DEFINITIONS, SECTION 61-3
16 DEFINITIONS AND WORD USAGE; PROVIDING FOR FINDINGS; PROVIDING FOR
17 ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING
18 FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

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

22 **WHEREAS**, communities are looking to promote healthy eating and healthy food access; and

23 **WHEREAS**, urban market gardens can provide green space in urban areas as well as ecological and
24 environmental benefits to the community; and

25 **WHEREAS**, urban market gardens are sites where food may be grown by an individual, organization or
26 private enterprise with the primary purpose of growing food or plants for sale; and

WHEREAS, the City of North Port Commission recognizes a need for urban market gardens and directed staff to research urban market gardens and possible regulation at a regularly scheduled meeting on July 24, 2018; and

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

WHEREAS, the Commission has held public hearings with due public notice to review the recommendations of the North Port Planning and Zoning Advisory Board, and to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the 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.

1.02 The City Commission finds that the code amendments herein are consistent with the City of North Port Comprehensive Plan.

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 25 – PARKING AND LOADING REGULATIONS

...

ARTICLE II. – OFF-STREET PARKING

...

Sec. 25-17. – Minimum off-street parking requirements.

...

- B. The following minimum off-street parking requirements are applicable to all zoning districts:

Use	Number of Spaces
...	
Marinas or commercial piers	2 for each 3 boat slips or moorings (Accessory uses require added spaces).

Urban Market garden	1 per acre or fraction thereof, plus 1 per 200 square feet of building/structure, excluding sheds.
...	

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 III. – CG COMMERCIAL GENERAL DISTRICT

...

Sec. 53-38. - Permitted principal uses and structures.

...

A. Permitted principal uses and structures shall be as follows:

...

(39) Urban market gardens in accordance with Sec. 53-240(S). No urban market gardens are permitted within AC #1, 2, 3, or 7.

B. If permitted uses are combined, each use will be reviewed separately.

...

ARTICLE IV. – CG-S COMMERCIAL GENERAL SPECIAL DISTRICT

...

Sec. 53-51. - Permitted principal uses and structures.

...

A. Permitted principal uses and structures shall be as follows:

...

(34) Urban market gardens in accordance with Sec. 53-240(S). No urban market gardens are permitted within AC #1, 2, 3, or 7.

...

ARTICLE VI. – ILW LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT

...

Sec. 53-77. - Permitted principal uses and structures.

...

Permitted principal uses and structures shall be as follows:

...

85 U. Urban market gardens in accordance with Sec. 53-240(S). No urban market
 86 gardens are permitted within AC #1, 2, 3, or 7.

...

87 **ARTICLE XIV. – NC-HI/NC-LI NEIGHBORHOOD COMMERCIAL HIGH/LOW INTENSITY DISTRICTS**

...

88 **Sec. 53-179. - Permitted principal uses and structures.**

89

- A. The following shall be principal (P), special exceptions (SE), or not permitted (NP) uses and structures allowable in one (1) or both of the (NC) Neighborhood Commercial Districts. All commercial uses listed herein shall be conducted within completely enclosed buildings, unless exempted herein, and shall be visible and accessible to patrons walking or driving to the site and shall hold hours of operation (including deliveries) no earlier than 5:00 a.m. to no later than 10:00 p.m.

Permitted Principal Uses and/or Structures/Special Exceptions	NC-LI	NC-HI
...		
<u>(22) Urban market gardens in accordance with Sec. 53-240(S)</u>	<u>P</u>	<u>P</u>

..."

90 2.03 The North Port City Commission hereby approves and adopts the following amendments to the
 91 City of North Port Unified Land Development Code:

92

93 **"Chapter 53 – ZONING REGULATIONS**

...

94 **PART 3. – SPECIAL DISTRICT REGULATIONS**

95

...

96 **ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS**

...

97

98 **Sec. 53-240. – Special structures**

...

99 S. Urban market gardens.

EXHIBIT A

Ordinance No. 2019-11

- 100 (1) General requirements.
- 101 (a) Intent.
- 102 (i) It is the purpose of this section to create regulations for
103 urban market gardens in specific locations with the
104 intent that such gardens do not create adverse
105 environmental impacts or land use incompatibilities.
- 106 (ii) Exception. This section pertains to urban market
107 gardens that are a primary or accessory use (or as
108 allowed by special exception) on property and where
109 crops are grown on site. It does not apply to nurseries,
110 botanical gardens, garden shops, or uses that are
111 otherwise listed in the zoning and land development
112 regulations.
- 113
- 114 (b) Location and Size.
- 115 (i) Location. Urban market gardens may be a primary or
116 accessory use and may be located in any of Chapter 53's
117 zoning districts where they are permitted as principal
118 uses, accessory uses, or allowed through the special
119 exception process in the ULDC.
- 120 (ii) An urban market garden shall not be greater than three
121 (3) acres in size.
- 122 (c) Hours and Sales.
- 123 (i) No gardening activities may take place before sunrise or
124 after sunset.
- 125 (ii) The produce and horticultural plants grown in the urban
126 market garden may be sold on or off the premises.
- 127 (d) Compliance with laws. All urban market gardens and their users
128 must comply with all federal, state, and local laws and
129 regulations relating to the operation, use, and enjoyment of the
130 garden premises.
- 131 (e) Application process.
- 132 (i) All urban market gardens and their users must follow the
133 order of application process outlined in Sec. 53-5.
- 134 (ii) Environmental site assessment. Any individual, group of
135 individuals, organization, or entity that wishes to
136 establish a garden market must complete a Phase I

EXHIBIT A

Ordinance No. 2019-11

Environmental Site Assessment (“ESA”) prior to commencement of urban market garden activities. During the ESA, soil must be tested for any contaminants that would render it unsuitable for cultivating food on topsoil, including, but not limited to lead and other toxic heavy metals, industrial solvents, gasoline, oils and greases, perchloroethylene, and other chemicals that can be transmitted to people via soil contact or consumption of foods grown in such soil. Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination. If necessary, appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening prior to commencing garden activities.

- (iii) Urban market gardens are subject to the development regulations of Ch. 33, Art. II “Major Site & Review” of the City’s ULDC.

(2) Required planting setbacks and buffer requirements.

- (a) All planting shall be located so that all vegetation including all parts of above-ground vegetation remains at least ten (10) feet away from the front, side or rear property lines, or shall meet the setback requirements for the zoning district which it is in, whichever is greater. The cultivated area shall not encroach onto adjacent properties. When adjacent to a roadway, the plantings shall comply with Sec. 21-14 and be maintained to ensure sufficient safe visibility for vehicular traffic.

- (b) Gardening activities are permitted to take place outside of an enclosed structure, provided a Type C buffer, as identified in Sec. 21-9, is provided.

(3) Universal design. Universal design shall be used to provide access to any portion of the site that is available to the general public, including but not limited to, the following:

- (a) Raised beds or plots about two (2) feet high and thirty (30) inches wide for disabled access from one side or sixty (60) inches wide to be accessible from all sides in portions of the where the public can participate in gardening activities;

- (b) Number of raised beds required will be determined during the site plan approval;

- (c) Accessible routes and entrances to the facility as established by the ADA Standards for Accessible Design or the Uniform Federal Accessibility Standards (“UFAS”); and

EXHIBIT A

Ordinance No. 2019-11

- 178 (d) Accessible routes of sufficient width so that wheelchair users can
179 navigate between garden components (garden beds or plots).
- 180 (4) Storage.
- 181 (a) Outdoor storage. Outdoor storage of non-vegetative material is
182 prohibited.
- 183 (b) Composting. Compost materials from the garden shall be stored
184 within the setback requirements for the zoning district in which
185 the garden is located. The materials shall be stored in a manner
186 that is not visible from adjacent property, controls odor, prevents
187 infestation, and minimizes runoff into waterways and onto
188 adjacent properties.
- 189 (c) Storage of toxic and flammable materials.
- 190 (i) Only fuel used for the operation of lawnmowers or other
191 combustion engine-driven gardening machinery may be
192 stored on site. Such fuel shall be kept in sealed
193 containers in locked, ventilated structures in accordance
194 of the National Fire Protection Association ("NFPA")
195 Code 30: Flammable and Combustible Liquids. A
196 maximum of ten gallons of fuel is allowed to be stored at
197 the urban market garden at any given time. No other
198 flammable materials or chemicals are allowed.
- 199 (ii) Toxic materials, such as pressure treated wood
200 (creosote), shall not be used where they will come into
201 contact with soils that are growing food.
- 202 (5) Sustainable gardening. Water conservation, composting, and non-
203 polluting, integrated pest and pathogen management are strongly
204 encouraged.
- 205 (6) Organic practices. The use of synthetic chemical materials and/or
206 chemicals, such as those found in pesticides, herbicides, weed killers,
207 insecticides, and fertilizers, is prohibited. The use of materials and
208 practices used for organic production found in the Organic Materials
209 Review Institute ("OMRI") guidelines is strongly encouraged.
- 210 (7) Prohibited plants. Planting Category I invasive exotics as identified by the
211 Florida Exotic Pest Plant Council ("FEPPC") are prohibited. Planting
212 Category II invasive exotics as identified by the FEPPC should be avoided.
- 213 (8) Livestock and animals prohibited. The raising of poultry or other
214 livestock, fish and the keeping of bees shall be prohibited.
215

216 (9) Enforcement. The provisions of Chapter 2, Article IX – Code Enforcement,
 217 of the Code of the City of North Port, Florida, and the procedures and
 218 penalties contained therein, are hereby adopted and incorporated into
 219 and made a part hereof by reference.

220 ...
 221 *[Current sections S. through DD. shall be renumbered.]”*
 222

223
 224 2.04 The North Port City Commission hereby approves and adopts the following amendments to the
 225 City of North Port Unified Land Development Code:

226
 227 **“Chapter 55 – ACTIVITY CENTER DESIGN REGULATIONS**

228 ...
 229 **ARTICLE IV. – PANACEA (Activity Center #4)**
 230 ...
 231 **Sec. 55-31. – Permitted principal uses and structures.**

232 ...
 233 B. Permitted principal uses and structures shall be as follows:
 234 ...
 235 (37) Urban market gardens in accordance with Sec. 53-240(S).
 236 ...
 237 *[Current sections (37) through (64) shall be renumbered.]*

238 ...
 239 **ARTICLE V. – MIDWAY (Activity Center #5)**
 240 ...
 241 **Sec. 55-36. – Permitted principal uses and structures.**

242 ...
 243 B. Permitted principal uses and structures shall be as follows:
 244 ...
 245 (27) Urban market gardens in accordance with Sec. 53-240(S).
 246 ...
 247 *[Current sections (27) through (45) shall be renumbered.]*

248 ...
 249 **ARTICLE VI. – THE SHIRE (Activity Center #6)**
 250 ...
 251 **Sec. 55-41. – Permitted principal uses and structures.**

252 ...
 253 B. Permitted principal uses and structures shall be as follows:
 254 ...
 255 (25) Urban market gardens in accordance with Sec. 53-240(S).
 256 ...
 257 *[Current sections (26) through (47) shall be renumbered.]*

...

ARTICLE VIII. – THE GARDENS (Activity Center #8)

...

Sec. 55-56. – Permitted principal uses and structures.

...

B. Permitted principal uses and structures shall be as follows:

...

(17) Urban market gardens in accordance with Sec. 53-240(S).

...

[Current sections (17) through (28) shall be renumbered.]

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 61 - DEFINITIONS

...

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

...

~~GARDEN CENTER SHOP– A place of business where retail and wholesale products and produce are sold to the consumer.~~ A retail center for the sale of plant material, landscape supply, hoses, wheelbarrows, pots, garden tools, or other garden supplies. A garden center can include outdoor areas or enclosed areas.

...

URBAN MARKET GARDEN – An area of land managed and maintained by an individual or group of individuals growing and harvesting food crops such as vegetables, fruits, and herbs and/or non-food, ornamental crops, such as flowers, for commercial sale on-site to consumers and restaurants. Urban market 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. It is distinguishable from other types of farming by the diversity of crops grown on a small area of land, typically from under one acre to a few acres, or sometimes in greenhouses grown on site, including but not limited to using growing methods such as hydroponics.

...

PLANT NURSERY – The use of land and buildings for the purpose of growing for sale or selling various ornamental plants, grasses, shrubs, flowers, and horticultural specialties, and including the sale of landscaping accessories such as statuary, fertilizer, tools and similar commodities as accessory to the propagation and growth of plants.

...”

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 ~~striketrough~~. 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 of North Port City Commission. No development order or development permits dependent on this ordinance may be issued before it has become effective.

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

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

CITY OF NORTH PORT, FLORIDA

CHRISTOPHER HANKS
MAYOR

ATTEST:

KATHRYN PETO
CITY CLERK

EXHIBIT A

Ordinance No. 2019-11

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY

