



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	<u>1 per acre or fraction thereof, plus 1 per 350 square feet of building/structure, excluding sheds.</u>
...	

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:

...

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

...

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

...

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

- 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>

..."

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 3. – SPECIAL DISTRICT REGULATIONS

...

ARTICLE XX. – SPECIAL CIRCUMSTANCE REGULATIONS

...

Sec. 53-240. – Special structures

...

S. Urban market gardens.

(1) General requirements.

(a) Intent.

- (i) It is the purpose of this section to create regulations for urban market gardens in specific locations with the intent that such gardens do not create adverse environmental impacts or land use incompatibilities.

- (ii) Exception. This section pertains to urban market gardens that are a primary or accessory use (or as allowed by special exception) on property and where crops are grown on site. It does not apply to nurseries,

botanical gardens, garden shops, or uses that are otherwise listed in the zoning and land development regulations.

(b) Location and Size.

(i) Location. Urban market gardens may be a primary or accessory use and may be located in any of Chapter 53's zoning districts where they are permitted as principal uses, accessory uses, or allowed through the special exception process in the ULDC.

(ii) An urban market garden shall not be greater than three (3) acres in size when located in NC-LI/HI zoning districts, and shall not be greater than six (6) acres in size when located in any other zoning district where it is listed as a permitted principal use, accessory use, or allowed through the special exception process.

(c) Hours and Sales.

(i) The produce and horticultural plants grown in the urban market garden may be sold on or off the premises.

(ii) Sales at an urban market garden may be conducted outdoors.

(d) Compliance with laws. All urban market gardens and their users must comply with all federal, state, and local laws and regulations relating to the operation, use, and enjoyment of the garden premises.

(e) Application process.

(i) All urban market gardens and their users must follow the order of application process outlined in Sec. 53-5.

(ii) Environmental site assessment. Any individual, group of individuals, organization, or entity that wishes to establish a garden market must complete a Phase I 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) Storage.

- (a) Outdoor storage. Outdoor storage of non-vegetative material must be screened from the public view.

- (b) Composting. Compost materials from the garden shall be stored within the setback requirements for the zoning district in which the garden is located. The materials shall be stored in a manner that is not visible from adjacent property, controls odor, prevents infestation, and minimizes runoff into waterways and onto adjacent properties in accordance with best management practices.

- (c) Storage of toxic and flammable materials. Toxic materials, such as pressure treated wood (creosote), shall not be used where they will come into contact with soils that are growing food.

(4) Sustainable gardening. Water conservation, composting, and non-polluting, integrated pest and pathogen management are strongly encouraged.

(5) Organic practices. The use of materials and practices used for organic production found in the Organic Materials Review Institute ("OMRI") guidelines is strongly encouraged.

(6) Prohibited plants. Planting Category I invasive exotics as identified by the Florida Exotic Pest Plant Council ("FEPPC") are prohibited. Planting Category II invasive exotics as identified by the FEPPC should be avoided.

(7) Livestock and animals. The raising and breeding of poultry or other livestock, fish, and the keeping of bees are prohibited unless necessary for crop production.

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

...

[Current sections S. through DD. 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 55 – ACTIVITY CENTER DESIGN REGULATIONS

...

ARTICLE IV. – PANACEA (Activity Center #4)

...

Sec. 55-31. – Permitted principal uses and structures.

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

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

...

[Current sections (37) through (64) shall be renumbered.]

...

ARTICLE V. – MIDWAY (Activity Center #5)

...

Sec. 55-36. – Permitted principal uses and structures.

...

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

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

...

[Current sections (27) through (45) shall be renumbered.]

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220
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...

222 **ARTICLE VI. – THE SHIRE (Activity Center #6)**

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223 **Sec. 55-41. – Permitted principal uses and structures.**

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

...

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

226 ...

227 *[Current sections (26) through (47) shall be renumbered.]*

228

229 ...

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

...

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

...

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

...

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

235 ...

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

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238

239 2.04 The North Port City Commission hereby approves and adopts the following amendments to the
240 City of North Port Unified Land Development Code:

241

242 **“Chapter 61 - DEFINITIONS**

...

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

...

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

...

248 URBAN MARKET GARDEN – An area of land managed and maintained by an individual or group of
249 individuals growing and harvesting food crops such as vegetables, fruits, and herbs and/or non-
250 food, ornamental crops, such as flowers, for commercial sale to consumers and restaurants.
251 Urban market gardens may be divided into separate plots for cultivation by one or more
252 individuals or may be farmed collectively by members of the group and may include common
253 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 ~~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 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

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY