



# REPORT TO THE CITY COUNCIL

**TO:** Mayor and Members of the City Council

**FROM:** Debra M. Irvin, City Manager

**DATE:** February 4, 2021

**SUBJECT:** **Case # 21-02** – A request for a referral to the City Plan Commission from the City Manager to consider amending the Zoning Code to allow Community Gardens in R-1 and R-2 districts.

## **ZONING**

R-1 and R-2 have large lots and will allow for community gardens. R-3 (Wards 2 and 4) are smaller lots and would impact neighbors.

## **COMMUNITY GARDENS**

Community Gardens are moving throughout our North County area; and are making fresh nutritional produce accessible and more affordable for its citizens. Community members are engaged to oversee the maintenance of the gardens at each site. Community gardens provide an opportunity for neighborhood social interaction, produce nutritious food, and maximize family food budgets.

Food from the Garden will not be sold.

## **PLAN COMMISSION DATE**

March 10, 2021

## **SUPPORTING DOCUMENTS**

- -Staff Report
- -Special Use Application
- -Draft Ordinance



### TYPE OF APPLICATION

(Please check all that apply)

**INITIAL FEE \$350**

<input type="checkbox"/> Preliminary (Plats)	<input type="checkbox"/> Special Use Permit
<input type="checkbox"/> Re-approval (Plats)	<input checked="" type="checkbox"/> Zoning Change (Add a new land use)
<input type="checkbox"/> Amending (Plats)	<input type="checkbox"/> Resubdivision/Reconsolidation
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Business Name/Ownership Change
<input type="checkbox"/> Lot Consolidation	<input type="checkbox"/> Variance (Land Use)
<input type="checkbox"/> Street Name (New, Change)	<input type="checkbox"/> Variance (Building Code)
<input type="checkbox"/> Street Vacation	<input type="checkbox"/> Liquor/Lottery/Financials (Money Grams/Order)
<input type="checkbox"/> Medical Marijuana (Dispensary)	<input type="checkbox"/> Medical Marijuana (Grow Facility)
<input type="checkbox"/> Medical Marijuana (Researching/Testing)	<input type="checkbox"/> Building Code Appeal
<input type="checkbox"/> Food Truck - SUP \$100.00	<input type="checkbox"/> Food Truck - Fire Inspection \$75.00
<input type="checkbox"/> Food Truck Business License \$75.00	<input type="checkbox"/> Other

**REQUIREMENTS:**

1. Prepare twenty (20) legible sets of drawings detailing interior & exterior of property.
2. Submit a completed application three (3) weeks prior to Planning meeting.
3. **DO NOT** destroy, tear down or remodel proposed business structure until 'FINAL' approval by City Council.
4. If you do not submit your application in a timely manner your request will be considered on the next meeting date.

APPLICANT(S) LEGAL NAME(S) Debra M. Irvin, representing the City of Berkeley

APPLICANT IS (CHECK ONE): OWNER  AGENT \_\_\_\_\_ PURCHASER OF CONTRACT \_\_\_\_\_ TENANT \_\_\_\_\_

APPLICANT(S) ADDRESS: STREET 8425 AIRPORT ROAD

CITY BERKELEY STATE MO ZIP 63134 PHONE 314-400-3705 E-MAIL irvin@ci.berkeley.mo.us

LOCATION OF PROPOSED USE

STREET ADDRESS: \_\_\_\_\_

PROPERTY DESCRIPTION: Add land use for community gardens in R-1 and R-2 districts

PRESENT ZONING DISTRICT: none PROPOSED ZONING DISTRICT (If applicable) \_\_\_\_\_

THE PROPERTY IS PRESENTLY BEING USED AS FOLLOWS: \_\_\_\_\_

THE PROPERTY IS TO USE IT FOR: (Type of Business) \_\_\_\_\_

DAYS & HOURS OF OPERATION ETC. \_\_\_\_\_

PROPOSED NAME OF BUSINESS: \_\_\_\_\_

APPROXIMATE SIZE OF TRACT: ACRES \_\_\_\_\_ SQ FT OF SPACE (Under roof) \_\_\_\_\_

**IF APPLICANT IS NOT OWNER: OWNER(S) NAME:** \_\_\_\_\_

ADDRESS: STREET: \_\_\_\_\_ CITY \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ PHONE: (\_\_\_\_) \_\_\_\_\_ E-MAIL \_\_\_\_\_

I HAVE AUTHORITY TO ACT ON BEHALF OF THE OWNER: \_\_\_\_\_

SIGNATURE

By signing this application the owner(s) and applicant(s) attest that all information and facts provided on this form and attachments are complete and accurate and that any omission or incorrect fact or information may invalidate any notice or subsequent action taken by the City of Berkeley Board of Adjustments, City of Berkeley Planning & Zoning Commission. (All applicants and owners shall sign the application. Attach additional name/address/signature/date pages as needed.)

APPLICANT(S) SIGNATURE Debra M. Irvin OWNER(S) SIGNATURE \_\_\_\_\_

DATE 2/4/2021 DATE \_\_\_\_\_

On this date \_\_\_\_\_, all items necessary for a technical review of the proposed special use permit plan have been submitted and

Constitute a COMPLETE APPLICATION. STAFF SIGNATURE: Debra M. Irvin

DATE PAID N/A  Cash  Check  Money Order  Debit/Credit RECEIPT NO: \_\_\_\_\_ CASE NO: 21-02

**AN ORDINANCE OF THE CITY OF BERKELEY CREATING A NEW SECTION \_\_\_\_\_  
ESTABLISHING COMMUNITY GARDENS AND ESTABLISHING RULES AND REGULATIONS  
FOR SUCH USE**

**SECTION 1: PURPOSE AND INTENT**

- Allow the growing of crops in urbanized areas while minimizing negative impacts to adjacent properties and the community.
- Encourage locally grown produce, promote healthy and nutritional food, and fill gaps in food accessibility for a community.
- Foster community development by providing opportunities for recreation, education/training, special events, social interaction, and economic potential.
- Provide green space in urbanized areas to enhance community character and reduce the impact of pollutants and stormwater runoff.

**SECTION 2: DEFINITIONS**

**Community Garden** – Land managed and maintained by a public or nonprofit organization, or a group of individuals, to grow and harvest food crops and/or ornamental plants for use by a group, individuals cultivating the land and their households, or for donation. Community Gardens may be divided into separate plots for cultivation by individuals or used collectively by members of a group. A Community Garden is the principle use of a parcel of land.

**Cold Frame** – 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.

**Greenhouse** – A structure or portion of a structure made primarily of glass or other translucent material, for which the primary purpose is the cultivation or protection of plants.

**Hoop House** – A structure made of piping or other material covered with translucent plastic, constructed in a half round or hoop shape.

**Raised bed** - A bed in a garden or park is an area of ground that has been specially prepared above the ground in box for planting



Cold-frame house



Hoop House



Raised bed



Greenhouse

### SECTION 3: PERMITTED USES

- A. Community Gardens are permitted by right in residential (R-1, R-2,) districts. However, only one garden per Ward. (R-3 is not allowed because of density)
- B. Community Gardens may include the following uses:
  - 1. The cultivation, growing, and harvesting of any agricultural, or horticultural commodity.
  - 2. Greenhouses, hoop houses, cold frames, and similar structures for the growing of plants.
  - 3. Open space for active and passive recreation including children’s play areas. *However, playground equipment is prohibited.*
  - 4. Sheds, gazebos, and pavilions, and similar structures as accessory uses.

### SECTION 4: SPECIFIC CRITERIA FOR COMMUNITY GARDENS

Community Gardens are subject to the following regulations:

#### A. Lot size and width

- 1. Community Gardens shall comply with the minimum lot size and width in the district in which it is located.

#### B. Setbacks

- 1. All structures must comply with the setbacks for accessory structures in the district in which it is located unless a more restrictive setback is required by this section, OR
- 2. All structures must meet the existing setback from a property line.
- 3. *The keeping of animals is prohibited*

#### C. Coverage

- 1. Lots used as Community Gardens must comply with the coverage requirements of the zoning district in which it is located, OR
- 2. Impervious coverage from buildings and parking areas associated with community gardens is limited to (15, 20, 25, and 50) % of the lot. *Or up to 100% by Special Use Permit.*

#### D. Height

- 1. The height of structures shall be in conformance with accessory building height of the zoning district, OR
- 2. No structure shall be greater than (12’, 15’) in height.

#### E. Parking

- 1. The applicant shall demonstrate that sufficient parking spaces and loading spaces will be available or provided for all uses proposed, OR
- 2. One (1) parking space is required for every individually plotted cultivated area within the community garden.

3. All parking lots and loading areas shall be designed and maintained in accordance with the off-street and loading provisions in Section (XX), or
4. Off-street parking areas shall be paved
5. *If after opening the facility, (municipality) determines that additional space is needed, the governing body can require additional parking/loading space be provided.*
6. *The ingress/egress shall be improved with a dustless surface.*

#### **F. Signs**

1. Signage for a Community Garden shall be in accordance with Chapter 400 of the City's Zoning Code, OR
2. A Community Garden may include one (1) sign per frontage, no larger than (12) square feet in a residential district;

#### **G. Composting**

1. Setback regulations for composting containers and materials shall comply with underlying zoning regulations for accessory structures, OR
2. Any compost container must be located at least (5-10) feet away from any lot line.
3. Compost materials shall be stored in a manner that is not visible from adjacent residential properties and zoning districts. or
4. Composting areas and structures must be maintained in a way that protects adjacent properties from nuisance odors, the attraction of rodents or other pests, and runoff onto adjacent properties.
5. Composting materials shall only be generated onsite.
6. Organic waste material for composting may be accepted from outside sources and used on-site, *but may not be sold.*

#### **H. Operations**

1. The hours of operation shall be consistent with other outdoor public and institutional uses in the district and protect neighbors from light, noise, disturbance or interruption, or
2. The hours of operation shall be from dawn until dusk and protect neighbors from light, noise, disturbance or interruption, or
3. The hours of operation shall be developed at the discretion of the governing body and protect neighbors from light, noise, disturbance or interruption.
4. The site must be designed and maintained so that water and fertilizer will not drain onto adjacent property or public sewers.

5. All seed and fertilizer shall be stored in sealed, rodent-proof containers.
6. Processing or storage of plants or plant products is prohibited on site.
7. Gardening tools and supplies may be stored within an accessory building that is in compliance with Section (XX).
8. A 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
9. Community Gardens and their users shall comply with all federal and state regulations concerning the use and storage of pesticides.

#### **SECTION 5: PERMITTING PROCESS FOR COMMUNITY GARDENS**

Applicants proposing a Community Garden must submit a zoning permit application "Exhibit A" identifying the following:

- A. Location map and property address.
- B. Name and contact information of person or organization
- C. All existing and proposed structures and buildings.
- D. Location and height of proposed structures and buildings including sheds, containers, *animal housing, coops, hives*, compost facilities, landscaping and fencing.
- E. Description of the proposed operation and activities; and retail sales (if permitted).
- F. Distance between structures/activities and neighboring properties.
- G. Driveways, access drives, parking areas, and loading areas.
- H. Location and adequacy of sewage facilities (if required).
- I. Stormwater plan (if required).
- J. Proposed operating dates/times,
- K. Estimated number of separate plots to be cultivated by individuals.
- L. Buffering and landscaping requirements in accordance with Section (XX).
- M. Certify compliance with all applicable local, state, and federal regulations and permits.
- N. If planting on city owned land, a Hold Harmless Agreement shall be attached to the application.

**SECTION 6.** This Ordinance shall be in full force and effect from and after its passage.

1st Reading, this \_

2nd Reading this \_

3rd Reading, PASSED and APPROVED, this

\_\_\_\_\_  
Babatunde Deinbo, Mayor

ATTEST:

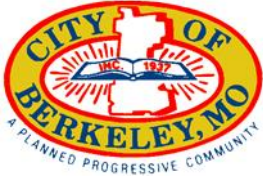
\_\_\_\_\_  
Deanna L. Jones, City Clerk

\_\_\_\_\_  
Approved As To Form:  
Donnell Smith, City Attorney

Final Roll Call:

Councilwoman Mitchell	Aye	__	Nay	__	Absent	__	Abstain	__
Councilwoman Williams	Aye	__	Nay	__	Absent	__	Abstain	__
Councilwoman Hoskins	Aye	__	Nay	__	Absent	__	Abstain	__
Councilwoman Anthony	Aye	__	Nay	__	Absent	__	Abstain	__
Councilman Hindeleh	Aye	__	Nay	__	Absent	__	Abstain	__
Councilwoman-at-Large Greene	Aye	__	Nay	__	Absent	__	Abstain	__
Mayor Deinbo	Aye	__	Nay	__	Absent	__	Abstain	__

DRAFT



**COMMUNITY GARDEN APPLICATION**  
"Exhibit A"

- A. Location map and property address. \_\_\_\_\_
- B. Name and contact information of person or organization \_\_\_\_\_  
\_\_\_\_\_
- C. All existing and proposed structures and buildings. \_\_\_\_\_
- D. Location and height of proposed structures and buildings including sheds, containers, *animal housing*, *coops*, *hives*, compost facilities, landscaping and fencing. \_\_\_\_\_
- E. Description of the proposed operation and activities \_\_\_\_\_
- F. Distance between structures/activities and neighboring properties \_\_\_\_\_
- G. Driveways, access drives, parking areas, and loading areas \_\_\_\_\_
- H. Stormwater plan (if required). \_\_\_\_\_
- I. Proposed operating dates/times, \_\_\_\_\_
- J. Estimated number of separate beds to be cultivated by individuals. \_\_\_\_\_
- K. Buffering and landscaping requirements in accordance with Section (XX) \_\_\_\_\_
- L. Certify compliance with all applicable local, state, and federal regulations and permits. \_\_\_\_\_
- M. If planting on city owned land, a Hold Harmless Agreement shall be attached to the application.  
\_\_\_\_\_

**Community Garden Waiver and Acknowledgement**

I, \_\_\_\_\_ the undersigned, attest that I have read and understand the attached City of Berkeley Community Gardens Regulations and Subscription Agreement. I further understand that the City of Berkeley and Global Montessori School are not and shall not be responsible or liable for any illness or injury to person, or loss of, or damage to, property. As the Subscriber, and the undersigned, I hereby forever release and hold harmless the City of Berkeley, their respective employees, agents and representatives, from any and all claims of any kind that I, or my respective heirs, executors, administrators or assigns may have, or claim to have, resulting from the participation in the Berkeley Community Gardens. Also, the applicant and the undersigned, authorizes the Berkeley Community Gardens to use at its discretion any photographs or video taken of the applicant while participating in the Program and waive any and all claims that the applicant or their respective heirs, executors, administrators or assigns may have or claim to have resulting from such photograph(s) or video(s).

**I understand if I fail to do so I may lose my garden plot, plot fee and garden privileges.**

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_