

Introduced by: City Manager Debra Irvin

AN ORDINANCE OF THE CITY OF BERKELEY CREATING A NEW SECTIONS IN 400.090, 400.100, AND 400.110 ESTABLISHING COMMUNITY GARDENS AND ESTABLISHING RULES AND REGULATIONS FOR SUCH USE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

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 residential (R-1, R-2, and R-3) districts. However, only one garden per Ward. Multi-family (R-4 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 (400.090, 400.100, and 400.110) 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 in the in district which it is located
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 the Special Use Permit regulations in Section 400.530*

D. Height

1. The height of structures shall be in conformance with accessory building height of the zoning district in which it is located, 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 adjacent areas shall be designed and maintained in accordance with the off-street and loading provisions in each Zoning District
4. All off-street parking areas shall be paved.
5. If the Public Works Director determine that additional space is needed, the director can require additional parking/loading space be provided.
6. The ingress/egress shall be improved with a paved 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 any 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; and,
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 from dawn until dusk and protect neighbors from light, noise, disturbance or interruption
2. The site must be designed and maintained so that water and fertilizer will not drain onto adjacent property or public sewers.
3. All seed and fertilizer shall be stored in sealed, rodent-proof containers.
4. Processing or storage of plants or plant products is prohibited on any site.
5. Gardening tools and supplies may be stored within an accessory building that is in compliance with the Zoning District
6. 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.
7. 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 Sections 400.090, 400.100, and 400.110.
- 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 17th day of May 2021

2nd Reading this _____ day of _____ 2021

3rd Reading, PASSED and APPROVED, this _____ **day of** _____ **2021**

Babatunde Deinbo, Mayor

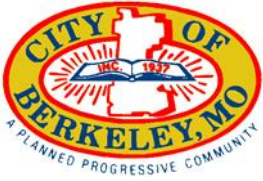
ATTEST:

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 ___ |



Community Garden Application

“Exhibit A”

ZONING PERMIT APPLICATION - COMMUNITY GARDEN

- A. Attach 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 rules and regulations of planting within the City of Berkeley. I further understand that the City of Berkeley is not and shall not be responsible or liable for any illness or injury to person, or loss of, or damage to, property. As the owner, 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 Community Gardens. Also, the applicant and the undersigned, authorizes the City of Berkeley 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: _____