



REPORT TO LAW & LEGISLATION COMMITTEE

City of Sacramento

4

915 I Street, Sacramento, CA 95814-2604

STAFF REPORT

April 21, 2011

Honorable Members of the Law and Legislation Committee:

Title: Community Gardens (M11-010)

Location/Council District: Citywide

Recommendation: Discussion and policy direction on permitting community gardens on private property

Contact: Joy Patterson, Principal Planner, (916) 808-5607

Presenter: Joy Patterson, Principal Planner, (916) 808-5607

Department: Community Development

Organization No: 21001010

Description/Analysis:

Issue: At the Law and Legislation meeting of April 5, 2011 committee members discussed the policies surrounding community gardens on public and private property. The committee requested that staff return to the committee for further discussion of gardens on private property and that the Department of General Services return with further information regarding the use of city property for gardens.

The attachment discusses the potential issues surrounding community gardens on private property and staff's recommendations if the committee decides to have an ordinance reviewed by the Planning Commission and City Council.

The Department of General Services has requested additional time to prepare information for the committee regarding gardens on public property and will return to the committee at a later date.

April 21, 2011

Policy Considerations: Policy considerations include whether the committee wishes to direct staff to draft an ordinance amending the Zoning Code (Title 17 of the Sacramento City Code) permitting community gardens on private property.

Committee/Commission Action: None. The Law and Legislation Committee first reviewed this item at their April 5, 2011 meeting.

Environmental Considerations:

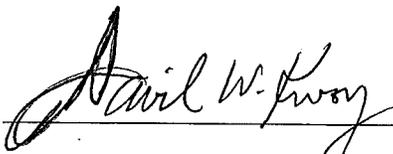
California Environmental Quality Act (CEQA): Because this report concerns general policy and procedure making, CEQA does not apply per Section 15378(b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be "projects" and are therefore exempt from CEQA.

Sustainability Considerations: Environmental Resources Policy 4.1.2 of the City of Sacramento 2030 General Plan states that "The City shall promote urban agriculture by supporting community and rooftop gardens and recognize their value in providing fresh food in urban areas in addition to their recreational, community building, landscaping, and educational value."

Rationale for Recommendation: Staff recommends that the Law and Legislation Committee provide policy direction for community gardens on private property and have staff prepare an ordinance amending the Zoning Code for the review and recommendation of the City Planning Commission.

Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by: 
David Kwong

Planning Director

Approved by: 
Max Fernandez
Director of Community Development

Recommendation Approved:



William Edgar

Interim City Manager

Table of Contents:

Report pg. 1

Attachments:

1 Background Information pg.4

2 Draft Ordinance Community Gardens
On Private Property pg. 10

BACKGROUND INFORMATION

In the City of Sacramento the utilization of a private piece of property for the primary purpose of growing food, or crops, is considered an agricultural use and is permitted only in the Agriculture (A) or Agriculture Open Space (AOS) zones. Gardening, or the growing of fruits, vegetables, plants on developed properties as an incidental use of the land (such as a garden in the yard of a single family home, garden in the common area of an apartment complex, a herb garden on a restaurant's property, a garden at a school) is generally considered a type of landscaping and is permitted as long as it does not create a hazard, blight, or nuisance.

Recently there has been interest in the City of Sacramento in the utilization of vacant properties for the development of community gardens where people can come together for the purpose of growing food for their personal use. Currently the City does operate a community garden program in City parks; however, several council members have expressed an interest in developing regulations allowing community gardens on private property. City staff from the Community Development, Parks and Recreation and Utilities departments and the City Attorney's Office has met to discuss the issues involved in developing community gardens on private property.

In developing regulations for community gardens on private property, there are several issues for the Law and Legislation Committee to consider, including:

- Definition of community garden
- Location of community gardens (zoning)
- Garden registration
- Size
- Drainage
- Fencing
- Permitted structures
- Water service
- Maintenance
- Garden refuse and composting
- Use of power tools and equipment (noise)
- Toilet facilities
- Prohibited plants
- Hours
- Security
- Sale of products

Staff has prepared a draft ordinance for community gardens on private property for the committee's discussion and review which addresses the items listed above (Attachment 2).

Definition of Community Garden

A community garden is proposed to be defined as follows:

- An otherwise undeveloped lot divided into multiple plots for the growing and harvesting of food crops or nonfood crops, such as flowers, primarily for the personal use of the growers, that is established, operated, and maintained by a group of persons.

A community garden would not include:

- A garden or edible landscaping on a lot developed with one or more residences and devoted to the personal use of the occupants of the residences; or
- A garden or edible landscaping on a lot developed with a nonresidential use, where the garden is incidental to the primary use of the lot.

A community garden coordinator would be defined as:

- The person or persons responsible for the management of a community garden.

Zoning and Size of Garden

Staff recommends that community gardens be permitted in all zones. The gardens would be divided into three sizes:

- Smaller gardens, at 16,600 square feet or less (the area of two 52 x 100 lots and one corner 62' x 100' lot) would be permitted by right if development standards were met. Garden coordinators would submit their registration information at the public counter of the Community Development Department and pay a nominal fee to recover the cost of department staff to process the application. Planning staff's research of community gardens in other cities on private property finds that community gardens in the one-third of an acre range are generally allowed by right.
- Mid-size gardens would exceed 16,600 square feet but be less than one acre in size. Staff finds that a garden of this size could have issues related to the development standards, such as appearance and compatibility of the garden in relation to the surrounding land uses, refuse disposal, and composting, that should require a discretionary review at the Zoning Administrator level. In addition, depending upon the location of the garden, parking issues may occur that could be addressed with the discretionary permit.

- Community gardens on private property one acre or more in size would require a special permit from the Planning Commission.

Garden Registration

The community garden coordinator(s) would register the community garden with the planning director. With their registration application, the garden coordinator would be required to provide:

1. Contact information for the garden coordinator(s);
2. The assessor's parcel number(s) of the site;
3. Property owner information and permission;
4. Utility billing information for city water service and solid waste pick-up; and
5. A site plan showing garden boundaries, location of refuse/trash collection areas, and location of any structure or compost area, if proposed.

Development Standards

1. Drainage: Site designed so that all irrigation drainage remains on-site and does not flow onto adjacent lots, public right-of-way or into the city drainage system.
2. Access: Require a four foot wide entrance from right-of-way to garden.
3. Fencing:
 - a. If the garden is adjacent to a residential use or zone a minimum six-foot high solid fence would be required along the interior property lines. An existing fence, be it on the site or the residential property would meet this requirement.
 - b. Any other fencing is at the discretion of the garden operators. This fencing must conform to zoning ordinance requirements.
4. Structures: One storage structure not exceeding 10 feet by 12 in size. A structure 120 square feet or less would not require a building permit.
5. Setbacks:
 - a. No gardening activity within five feet of any property line.
 - b. No structures within five feet of any property line.
 - c. No gardening activity in the public utility easement.
 - d. No structures in the public utility easement.
6. City Water and Solid Waste Service: The garden would be required to have a separate metered city water service connection for irrigation and a solid waste pick-up service. Estimated costs are as follows:
 - a. One-time start up costs:
 - Water Development Fee - based on meter size
 - Tap and Meter Fee – Based on Department of Utilities (DOU) Level of Service

	Full Service* (Case by Case by approval of the Field Services Manager)	Easement Service** (DOU Standard Service)
Water Development Fee (1" meter)	\$2487	\$2487
Tap Fee	\$3205	\$1881
Meter Fee (1" meter)	\$679	\$679
Encroachment Permit (DOT)	\$0	\$300
Trench Cut Fee	\$0	\$300
Total	\$6371	\$5647

*DOU excavates trench; installs taps, service connection and meter; backfills trench. This service is provided on case by case only.

Contractor excavates; DOU installs taps, service connection and meter, contractor backfills and restore pavement. **This is DOU standard service.

b. Monthly Bill

- Estimated to be \$135/month for a 16,000 square foot lot
- Based on the area of the site (for drainage fee)
- Based on water usage
- Based on size of meter

Example Bills	Garden by Fremont Mews 1401 Q Street	Garden by 4 th /5 th Street and Freeway 50 2216 5 th Street
Water Usage	9,614 cu feet of water/month	17,603 cu feet of water/month
ESTIMATED MONTHLY BILL FOR A 16000 sq ft Lot		
Water Usage	12000cu feet/month @ \$.007485/cu feet	\$89.82
1" meter (base fee)		\$18.33

Drainage	.001928/sq feet impervious area	(Minimum) \$8.39
Garden Refuse	Equivalent containerized SFR Service	13.71
Street Sweeping		4.38
Total		\$134.63

Monthly service for a 5200 sq feet would be estimated as \$74.00 assuming 4000 cu ft of water is used.

Operational Standards

1. Maintenance:
 - a. The garden is to be maintained as often as necessary to prevent overgrowth and blight and the adjacent frontage streets, gutters and sidewalks are required to be free of plant material, soil and other garden debris at all times.
 - b. Tools, equipment and gardening supplies must be stored in a storage structure if stored on-site; they cannot be stored outside in the garden.
2. Management of Garden Refuse and Composting:
 - a. Composting is permitted but the compost piles or containers must:
 - i. Be set back a minimum of five feet from adjacent properties;
 - ii. Located or screened so they are not visible from adjacent properties;
 - iii. Managed to prevent the harborage of rodents and pests and maintained to prevent odors.
 - b. Garden refuse storage areas must:
 - i. Be set back a minimum of five feet from adjacent properties;
 - ii. Located or screened so they are not visible from adjacent properties;
 - iii. Managed to prevent the harborage of rodents and pests and maintained to prevent odors;
 - iv. Removed from the site at least once a week.
3. Exterior Lighting: Prohibited at the garden.
4. Noise:
 - a. Noise making equipment can be used only between the hours of 9:00 a.m. and 5:00 p.m.
 - b. No amplified music permitted.
5. Toilet Facilities: Prohibited at the garden.
6. Prohibited Plants:
 - a. Marijuana.

- b. Illegal plants.
7. Hours: Hours of operation shall not extend beyond sunrise and sunset.
8. Security: If there is a storage structure or a fence it is to be locked during non-hours of operation.
9. Processing, Storage, Sale of Products: The processing, storage, and sale of food and nonfood crops are prohibited at the garden site.
10. Contact Information: A sign with contact information for the coordinators is required to be posted by the entrance to the garden.

Deviation from the Development and Operational Standards

- As noted above, a garden larger than 16,600 square feet but less than an acre would require a Zoning Administrator's Special Permit and a garden over one acre would require a Planning Commission Special Permit.
- The zoning administrator would have the authority to issue a special permit to vary the remaining development and operational standards listed above.

DRAFT

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTIONS 17.16.010, 17.24.040,
AND 17.24.050 OF TITLE 17 OF THE SACRAMENTO CITY
CODE (THE ZONING CODE) RELATING TO COMMUNITY
GARDENS (M11-010)**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Section 17.16.010 of the Title 17 of the Sacramento City Code (the Zoning Code) is amended as follow:

A. A definition for "community garden" is added to Section 17.16.010 to read as follows:

"Community garden" means an otherwise undeveloped lot divided into multiple plots for the growing and harvesting of food crops or nonfood crops, such as flowers, primarily for the personal use of the growers, that is established, operated, and maintained by a group of persons. A community garden does not include (1) a garden or edible landscaping on a lot developed with one or more residences and devoted to the personal use of the occupants of the residences, or (2) a garden or edible landscaping on a lot developed with a nonresidential use, which garden is incidental to the primary use of the lot.

B. A definition for "community garden coordinator" is added to Section 17.16.010 to read as follows:

"Community garden coordinator" means the person or persons responsible for the management of a community garden.

C. Except as amended by adding definitions for “community garden” and “community garden coordinator,” Section 17.16.010 remains unchanged and in full force and effect.

SECTION 2. Section 17.24.040 Industrial and Agricultural Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix set forth in Table 17.24.040 A is amended to add “community garden” to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
Community garden*	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86

B. The matrix for set forth in Table 17.24.040 B is amended to add “community garden” to read as follows:

Uses Allowed	E C	H C	S C	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MI P	MR D	H	SP X	T C	A	AO S	F	A R P-F
Community garden*	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86	86

C. Except as specifically amended to add “community garden,” section 17.24.030 and Tables 17.24.040 A and 17.24.040 B remain unchanged and in full force and effect.

SECTION 3. Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 86 is added to Section 17.24.050 to read as follows:

86. Community Gardens. Community gardens are allowed in this zone subject to the following requirements:

a. Registration. Prior to establishing or operating a community garden, a complete community garden registration application shall be filed with and accepted by the planning director. The community garden registration application shall be on a form provided by the city, and shall contain the following information:

- i. The name(s) and contact information of the community garden coordinator(s) for the garden;
- ii. The assessor's parcel number of the lot on which the community garden is to be located;
- iii. The name and contact information of the owner of the lot on which the garden is to be located and, if the owner is not one of the community garden coordinators, a letter of agency from the owner consenting to the filing of the application;
- iv. Utility billing information for city water service (irrigation only) and solid waste pick-up;
- v. A site plan showing the boundaries of the garden; the location of the storage structure, if one is to be provided; the location of the composting area, if one is to be provided; and the location of the garden refuse and trash collection and pick-up area;
- vi. Such other information as required by the planning director.

If the planning director determines that the community garden registration application is complete, the application shall be accepted. The determination by planning director shall be final and shall not be subject to appeal.

b. Development Standards. A community garden shall comply with all of the following development standards:

- i. Size. The lot on which a community garden is established shall not exceed 16,600 square feet.
- ii. Drainage. The site shall be designed and maintained so that all irrigation drainage remains on-site and does not flow onto adjacent lots or a public right-of-way, or into the city drainage system.
- iii. Access. A clearly marked entrance, at least four feet wide, shall be provided from the public right-of-way to the community garden.
- iv. Fencing. A minimum six-foot high solid fence shall be provided along all interior property lines adjacent to a residential use or zone. The fence may be located either on the community garden lot or on the adjacent residential lot. All other fencing shall conform to the provisions of this title.

v. Structures: A community garden may have one storage structure not exceeding 10 feet by 12 feet in size for the purpose of storing tools, equipment, and gardening supplies.

vi. City Water and Solid Waste Service. A separate metered city water service connection (irrigation only) and a solid waste pick-up service shall be provided for the community garden.

vii. Setbacks. No gardening activity and no structures shall be allowed over any public utility easement or within five feet of any property line.

c. Operational Standards. A community garden shall comply with all of the following operational standards and requirements:

i. General Community Garden Maintenance.

(a) All areas of the community garden, including all garden plots and other planting areas, shall be weeded, mowed, trimmed, and otherwise maintained as often as necessary to prevent overgrowth and blight.

(b) Adjacent frontage streets, gutters, and sidewalks shall be maintained clear of all plant material, soil, and other garden debris at all times.

(c) Outdoor storage of tools, equipment, and gardening supplies at the community garden is prohibited.

ii. Management of Garden Refuse and Composting.

(a) Composting. Opportunities for composting on-site at the community garden maybe provided. Composting piles or containers shall be set back a minimum of five feet from adjacent properties, and shall be located or screened in such a way so as not to be visible, from adjacent properties.

(b) Garden refuse storage areas shall be set back a minimum of five feet from adjacent properties, and shall be located or screen in such a way so as not to be visible, from adjacent properties. Garden refuse shall be removed from the site at least once a week.

(c) Composting piles and garden refuse storage piles shall be managed to prevent the harborage of rodents and pests, and shall be maintained to prevent odors.

iii. Exterior Lights Prohibited. Exterior lighting is prohibited at the community garden site.

iv. Noise. Noise making equipment, such as tillers, shredders, lawn mowers, line trimmers, and power blowers, shall be used only between the hours of 9:00 a.m. and 5:00 p.m. No amplified music or other sound is permitted at the community garden site.

v. Toilet Facilities Prohibited. Toilet facilities of any type are prohibited at the community garden site.

- vi. Prohibited Plants.
 - (a) The growing of marijuana at the community garden site is prohibited.
 - (b) The growing of illegal plants at the community garden site is prohibited.
 - vii. Hours. Hours of operation of a community garden shall not extend beyond sunrise and sunset.
 - viii. Security.
 - (a) If a storage structure is provided at the community garden, it shall be locked during non-hours of operation.
 - (b) If fenced, the community garden shall be locked during non-hours of operation.
 - ix. Processing, Storage, Sale of Products. The processing, storage, and sale of food and nonfood crops are prohibited at the community garden site.
 - x. Contact Information. An all-weather sign with the name and contact information of the community garden coordinators shall be posted at all times at a location clearly visible from the entrance to the community garden.
- d. Authority to Vary Requirements.
- i. Development and Operational Standards. Except as provided in subsection ii., below, the zoning administrator has the authority to issue a special permit to vary the development and operational standards set forth in subsections b. and c. of this Footnote 86 in accordance with and subject to the requirements of Chapter 17.212.
 - ii. Community Garden Size.
 - (a) The zoning administrator has the authority to issue a special permit to allow a community garden on a lot greater than 16,600 square feet but less than one acre in size, in accordance with and subject to the requirements of Chapter 17.212;
 - (b) The planning commission has the authority to issue a special permit to allow a community garden on a lot one acre or greater in size, in accordance with and subject to the requirements of Chapter 17.212.
- B. Except as specifically amended to add footnote 86, section 17.24.050 remains unchanged and in full force and effect.