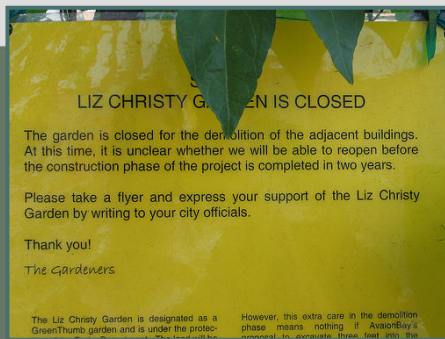


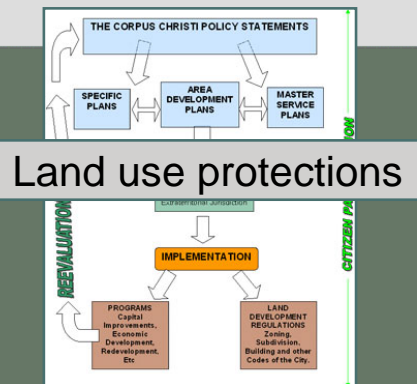
Using Land Use Regulations To Promote and Protect Community Gardens

Amy S. Ackerman

October 28, 2009



How?



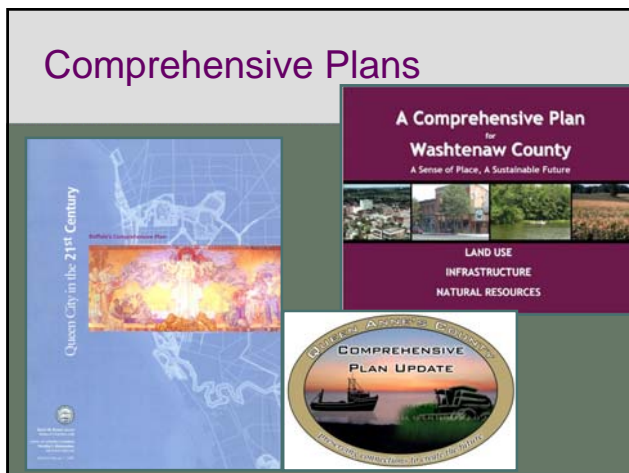
Why Land Use Regulations?

- Establish official policy to promote and preserve community gardens
- Make it easier to establish new gardens by removing barriers
- Preserve existing gardens

Land Use and Community Gardens

- Quick overview of comprehensive plans and zoning codes
- Introduction to NPLAN's land use tools for Community Gardens
 1. Model Comprehensive Plan language
 2. Model Zoning Ordinances:
 - o Community Gardens as a permitted use
 - o Community Gardens as an open space subdistrict

Comprehensive Plans



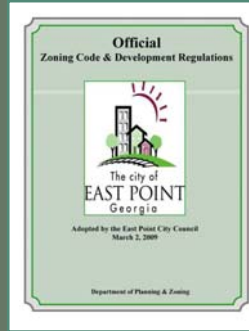
Comprehensive Plans

- Long-term policy guide for physical and economic development of jurisdiction
- Cover 10 – 30 year period
- Typically address:
 - o Future land use
 - o Traffic/transportation
 - o Housing
 - o Parks, recreation and open space areas, and
 - o Public facilities

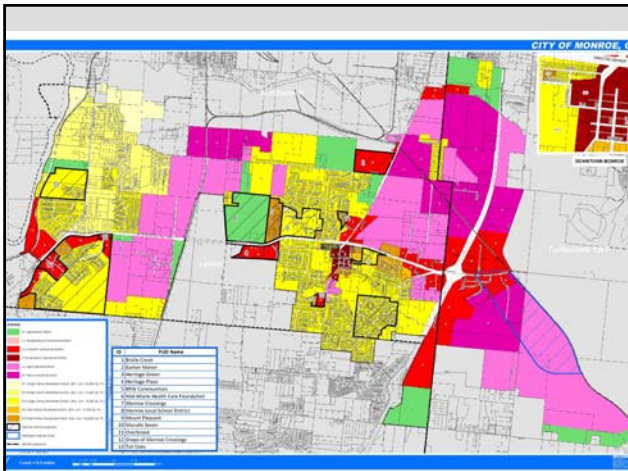
Zoning Ordinances

- Set forth the regulations to implement the policies in the comprehensive plan
- Determines
 - what can and cannot be built and
 - what activities can and cannot take place
 - on the parcels of land throughout a community.

Zoning



- Most cities have “use-based” codes
- City is divided into districts
- Different uses permitted in different districts



Community Gardens v. Urban Agriculture

- Community Gardens
- Urban Agriculture



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phip public health law & policy

Establishing Land Use Protections for Community Gardens

Establishing Protections for Community Gardens

A Fact Sheet for Advocates

Community gardens play a valuable role in improving healthier communities. This fact sheet explains how model policies from NPLAN can help advocates work with local governments to create and sustain their important neighborhood resources.

Community gardens can bring great benefits to a neighborhood. Not only do they increase access to fresh produce, community gardens provide valuable opportunities for neighbors to connect with each other, learn about nutrition, nutrition, and perhaps even start a business.

Local governments across the country are increasing community gardens in a variety of ways. Some cities provide financial support for community gardens; others inventory municipal land to determine where vacant public lots may be available; local farmers open up their own community garden programs. Local governments also can adopt land use laws—specifically comprehensive plan policies and zoning rules—to help create and preserve community gardens.

To help advocates work with local governments to adopt these types of policies, NPLAN has developed *Establishing Land Use Protections for Community Gardens*, a policy package that includes model language that can be incorporated into local land use guidelines.

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But first: One size does not fit all!

➔

Model COMPREHENSIVE PLAN Language to Protect and Expand Community Gardens

The following comprehensive plan language establishes a land use policy to promote the establishment of community gardens as an important community feature. The language is designed to be tailored to the needs of an individual community. The local jurisdiction will need to determine where to add the language to its existing plan, make other amendments as necessary for consistency, and follow the appropriate procedures for amending the comprehensive plan. Language written in *italics* provides different options or explains the type of information that needs to be inserted in the blank spaces in the policy. "Comments" describe the provisions in more detail or provide additional information.

Goal/Objective: *Protect existing and establish new community gardens and urban farms as important community resources that build social connections, offer recreation, education, and economic development opportunities; and provide open space and a local food source.*

Policies/Actions

- Encourage the creation and operation of one community garden of no less than 1,000 square feet for every (2,500) households. Identify neighborhoods that do not meet this standard and prioritize the establishment of new gardens in neighborhoods that are underserved by other open space and healthy eating opportunities.

COMMENT: The standard presented here is based on Seattle's standard – one community garden per 2,500 households. This standard matches closely the National Recreation and Park Association's widely used "best practice standards" for a neighborhood park or lot (1/2 acre: 2,500 households for a lot lot; 1 acre: 5,000 households for a neighborhood lot). Communities that are more or less urban will need to assess whether this standard is appropriate for them.

- Identify existing and potential community garden sites on public property, including parks, recreation and senior centers, public courtyards and right-of-ways, and surplus property, and give high priority to community gardens in appropriate locations.
- Adopt zoning regulations that establish community gardens as a permitted use in appropriate locations. Community gardens are compatible with the (insert names (e.g., Residential, Multifamily, Mixed Use, Open Space, Industrial, Public Facility) land use designations shown on the General Plan land use map.

Goal/Objective: Protect existing and establish new community gardens and urban farms as important community resources that build social connections; offer recreation, education, and economic development opportunities; and provide open space and a local food source.

Policies/Actions

- Encourage the creation and operation of one community garden of no less than [*one*] acre for every [*2,500*] households. Identify neighborhoods that do not meet this standard and prioritize the establishment of new gardens in neighborhoods that are underserved by other open space and healthy eating opportunities.

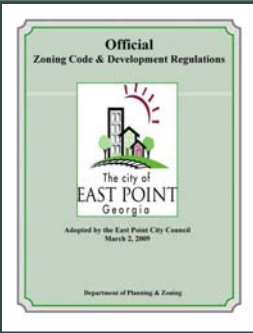
COMMENT: The standard presented here is based on Seattle's standard -- one community garden per 2,500 households.¹⁷ This standard matches closely the National Recreation and Park Association's widely used "best practice standards" for a neighborhood park or lot (1/2 acre: 2,500 households for a lot lot; 1 acre: 5,000 households for a neighborhood lot¹⁸). Communities that are more or less urban will need to assess whether this standard is appropriate for them.

- Identify existing and potential community garden sites on public property, including parks, recreation and senior centers, public easements and right-of-ways, and surplus property, and give high priority to community gardens in appropriate locations.
- Adopt zoning regulations that establish community gardens as a permitted use in appropriate locations. Community gardens are compatible with the [*insert names (e.g., Residential, Multifamily, Mixed Use, Open Space, Industrial, Public Facility)*] land use designations shown on the General Plan land use map.

More Comprehensive Plan Policies

- Identify existing and potential community garden sites
- Adopt zoning regulations that establish community gardens as a permitted use in appropriate locations
- Encourage [*or require*] all new affordable housing units to contain designated yard or space for residents to garden
- Create a Community Gardening Program within the [*Parks and Recreation Department*]
- Increase support for community gardens through partnerships with other governmental agencies and private institutions
- Secure additional community garden sites through long-term leases or through ownership as permanent public assets

Zoning Code Ordinances



Model Zoning Ordinance Language Establishing Community Gardens as an Approved Use

Permitted Use of Community Gardens
Community Gardens shall consist of land used for the cultivation of fruits, vegetables, plants, flowers, or herbs by multiple users. The land shall be served by a water supply sufficient to support the cultivation practices used on the site. Such land may include available public land. Community gardens are a permitted use in the following zones: residential, multifamily, mixed-use, open space, industrial [*and other zoning districts*] subject to the following regulations:

COMMENT: Some communities may permit community gardens to keep bees and raise chickens on garden sites. If so, this definition can be amended to allow these uses.

(a) Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

COMMENT: Most communities will want to ensure that community gardens are established on land free of contamination. A Phase I ESA is a historical search of the property to determine if there are any past uses that could have caused contamination to the soil. The municipality could conduct the assessment or require those wanting to establish a new garden to have an assessment conducted. Alternatively, the municipality could require a soil testing protocol for new gardening sites.¹⁹

Funds and grants for environmental site assessments, testing, and cleanup procedures may be available from a variety of state and federal sources. Site users should coordinate with their local economic development and redevelopment agencies, as well as their local/regional environmental health/monitoring agency.

(b) Site users must have an established set of operating rules addressing the governance structure of the garden, hours of operation, maintenance and security requirements and responsibilities; a garden coordinator to perform the coordinating role for the management of the community gardens; and must assign garden plots in a fair and impartial manner according to the operating rules established for that garden. The name and telephone number of the garden coordinator and a copy of the operating rules shall be kept on file with the City [*insert department name*] Department.

COMMENT: To function effectively, a community garden must have established operating rules and a garden coordinator. In this ordinance, a municipality could (1) require that gardens have rules, as the model language does above; (2) provide a complete listing of rules; or (3) give

Model Zoning Ordinance Language Establishing Community Gardens as an Approved Use

Permitted Use of Community Gardens

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COMMENT: Some communities may permit community gardeners to keep bees and raise chickens on garden sites. If so, this definition can be amended to allow these uses.

- (a) Site users must provide a Phase I Environmental Site Assessment (ESA). Any historical sources of contamination identified in the ESA must be tested to determine type and level of contamination; appropriate remediation procedures must be undertaken to ensure that soil is suitable for gardening.

Why?

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 MARCH 27, 2009

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Gardening ordinance OK'd

• The City Council's vote is unanimous after the measure undergoes minor amendments.

BY JEFF WISE

The City Council unanimously approved an ordinance Thursday allowing community gardens on vacant private land without special permission from the city.

The approval came after Councilor Jack Henderson offered three minor changes to the ordinance, which he initially opposed.

"I think we've come up with some ideas to help facilitate this and make it better for everyone," he said.

Henderson was strongly against organized gardening without gov-

CHANGE AGENT
Jack Henderson
 The councilor dropped his initial opposition after winning passage of some changes.

ing residents a voice on whether they wanted it in their neighborhood.

He said he was never against community gardens but that they are going to work only if the community wants them.

Although the city allows private owners to garden on their own land, it had no ordinance to address organized community gardens on privately owned vacant land.

Community gardening is a national trend that started on vacant lots in urban areas and on rooftops in some cities.

Even first lady Michelle Obama, with the help of a group of fifth-graders, started this week transforming 1,200 square feet on the south lawn of the White House into a kitchen garden.

Following Obama's lead, California's First Lady, Maria Shriver announced this week that a public garden will be planted in Sacramento's Capitol Park to bring awareness to children, students and visitors about the important role of food, where it comes from, its nutritional value and how it is grown and harvested.

Business people at Thursday's council meeting were prepared to advocate for the allowance of community gardens on private land.

SEE GARDEN A1

Permitted Use



- In designated districts:
 - Residential,
 - Multi-family
 - Mixed-use
 - Open space
 - Industrial
 - Other?
- Subject to regulations



Regulations: Balancing competing needs



Balancing competing needs

- Accessibility
- Community engagement



Balancing competing needs

- Sufficient regulation for
 - health
 - safety
 - aesthetics



Regulations – one size doesn't fit all

- Operating rules and hours, garden coordinator, fair manner for assigning plots
- Limits on structures and fences
- Limits on sales
- Restrictions on water drainage



Soil Testing



Soil contamination has forced the Southwest borough to close two community gardens and part of a third.



No Easy Answer

- Phase One Environmental Site Assessment
- Testing Protocol
- Raised Beds



Model Zoning Ordinance Language Establishing Community Gardens Open Space (Sub)districts

Community Garden Open Space (Sub)districts

Community Garden open space subdistricts shall consist of land divided into multiple plots appropriate for and limited to the cultivation of fruits, vegetables, plants, flowers or herbs by various users. Such land may include available public land.

COMMENT: Some communities may permit community gardeners to keep bees and raise chickens on garden sites, assuming local law so permits. This definition can be amended to allow these uses.

Land Use Regulations

- Establish official policy to promote and preserve community gardens
- Make it easier to establish new gardens by removing barriers
- Preserve existing gardens



Happy Gardening!



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TO PREVENT CHILDHOOD OBESITY

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