

Cumberland County Planning Department

Urban Agricultural Series

COMMUNITY GARDENS MODEL ORDINANCE

INTRODUCTION

Communities around the country are looking to promote healthier eating by encouraging agriculture in urbanized areas. In many communities, this takes the form of backyard gardens and community gardens – places on public or private property where neighbors gather to cultivate vegetables and fruits, and even keep bees or raise poultry and small livestock. The food in community gardens is typically grown for the gardeners' own consumption or donation.

This model ordinance was developed by the Cumberland County Planning Department using a variety of ordinances from municipalities in the county and around the state and from ordinances in surrounding states. The model is intended to provide a review of issues involved in regulating Community Gardens in urbanized areas. Municipalities are not recommended to implement this entire ordinance without modification. Rather, municipalities should review this ordinance, examine their local situation, and adopt the regulations that make the most sense for their municipality.

HOW TO USE THIS MODEL

Any text in the following model ordinance in *italics* is an option that a municipality may or may not choose to implement. In these cases, the ordinances that were reviewed for this model were inconsistent in how, and if, they regulated certain aspects of Community Gardens. Municipalities should choose if they want to adopt these regulations in their jurisdiction. Ordinance language not in italics is recommended to be included in municipal ordinances, although some modification may be necessary.

In some cases, there could be multiple ways to regulate a certain aspect of a Community Garden. In these cases the word "OR" has been placed in the text of the ordinance. Municipalities should choose the option that works best with their existing ordinances and regulatory framework.

In some instances, a range of options may be provided. In these cases, the sample range is provided in brackets with the regulations commonly found in other ordinances and an "XX" (15', 20', XX) to indicate that municipalities may want to adopt a different standard. Footnotes are used throughout the model for informational purposes only and are not intended as ordinance text.

COMMUNITY GARDENS

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 may be a principle or accessory use of a site.¹

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.

Farm Stand – A structure for the display and sale of products grown on the property upon which the stand is located.

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.



Farm Stand



Cold Frame



Hoop House

¹ Community gardens may be used to fill different needs: food source, recreation, community activity, and education. This definition is broad enough to encompass all of these types of community gardens.

SECTION 3: PERMITTED USES

- A. Community Gardens are permitted by right in every zoning district subject to the requirements of this section.

OR

- B. Community Gardens are permitted by right in Conservation, Agricultural, low density residential (Rural, R-1), Commercial, and Industrial zoning districts; and permitted by Conditional Use/Special Exception in medium - high density residential zoning districts (R-2, R-3, Village) subject to the requirements of this section.²

- C. Community Gardens may include the following uses:

1. The cultivation, growing, and harvesting of any agricultural, floricultural, 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.
5. *Farm stand as an accessory use for display and sale of agricultural products.*³
6. *Compost bins as an accessory use.*
7. *Keeping of animals (chickens, beekeeping, XX) as an accessory use.*⁴

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.

²Community Gardens may not be appropriate for all zones. Some are permitted by Conditional Use/Special Exception in higher density residential zones due to its close proximity to adjacent residences, especially if retail sales, keeping of animals, or composting is permitted.

³ Some communities prohibit retail sales in Community Gardens, especially in residential zones. If allowed in residential zones, it is generally permitted through the conditional use/special exception process with specific regulations to minimize its impact.

⁴ Allowing animals in community gardens presents a problem of oversight as gardeners may not attend to the garden every day. Some communities specifically prohibit animals for this reason and its impact on adjacent residences. If allowed in residential zones, it is permitted through the conditional use/special exception process with specific requirements. If permitted, chickens and beekeeping are the most common animal uses allowed in Community Gardens.

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 be setback (5', 10', XX) from a property line.
3. *The keeping of animals as an accessory use shall comply with the minimum setback requirements for animals (See Section I of this model ordinance).*

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, XX) % of the lot.

OR

3. *For multiple adjoining lots that are under common ownership and used as a Community garden, the limit for the combined area of structures is applied over the entire site rather than each individual lot.*

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', 25', XX') 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 (2, 4, XX) 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 may be unpaved or surfaced with gravel or other loose material.
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. *Off-street parking shall be limited in size to 10% of the lot area.*
7. *The ingress/egress shall be improved with a dustless surface.*

F. Signs

1. Signage for a Community Garden shall be in accordance with Section (XX) of this ordinance.⁵

OR

2. A Community Garden may include 1 sign per road frontage, no larger than (4, 6, 10, XX) square feet in a residential district; and (10, 15, 20, XX) square feet in a non-residential district.⁶
3. *Signage for Farm stands/Roadside stands related to Community Gardens shall be in accordance with Section (XX) of this ordinance.*⁷

G. Composting

1. Setback regulations for composting containers and materials shall comply with underlying zoning regulations for accessory structures.

OR

2. Any compost container or pile must be located at least (3, 5, 10, XX) 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.

⁵ Municipality should review their signage requirements to determine if standards already exist to address Community Gardens, such as sign provisions for outdoor public, institutional, or recreational uses.

⁶ The municipality should review their signage requirements to determine the appropriate sign size to match the existing character of permitted residential and non-residential signs.

⁷ Municipality should review their signage requirements to determine if standards exist to address Farm stands or Roadside stands.

OR

4. *Designated composting areas shall be screened from adjoining residences and residential districts according to buffering and screening provisions in Section (XX) of this ordinance.*
5. 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.
6. Composting materials shall only be generated onsite.
7. *Organic waste material for composting may be accepted from outside sources and used on-site, but may not be sold.*

H. Farm Stands⁸

1. Sales on site are limited to incidental sales of plants and agricultural products generated on site.
2. *Sales of produce from a Community Garden shall occur for no more than (3, 4, XX) consecutive days on (2, 3, XX) different occasions during a calendar year in residential zones.*

OR

3. *Sales of produce from a Community Garden shall be regulated consistent with garage sales in residential zones.*
4. Farm stands do not have a minimum front setback requirement, but are not permitted within the street right-of-way.

OR

5. Farm stands must be located at least (5, 10, 20, XX) feet from the street right-of-way.
6. *Only one farm stand is permitted per lot.*
7. *Farm stands must be removed from the premises or stored inside a structure on the premises during that time of the year when the facility is not open for public use.*

⁸ If the municipality chooses to allow retail sales, sample regulations are provided. If permitted, many communities limit sales to ensure community gardens remain primarily a noncommercial activity. Conditional use/ special exception process is generally used if permitted in residential zones. If retail sales are prohibited, it should be specifically stated in the regulations.

I. Keeping of Animals⁹

The keeping of animals in Community Gardens is permitted as an accessory use and shall be limited to (chickens/fowl, beekeeping, XX).

1. Chickens/Fowl

- a. All chickens shall be provided with a covered, predator-proof cage or other shelter, designed to be easily accessed and cleaned, and of sufficient size to permit free movement of the chickens.
- b. *There must be at least 10 square feet allocated per chicken.*
- c. Coops and cages shall be cleaned of hen droppings, uneaten feed, feathers and other waste on a (daily, regular, as necessary) basis to ensure they do not become a health, odor or other nuisance.
- d. All animal feed shall be stored in sealed, rodent-proof containers.
- e. No more than (5, 10, XX) hens are permitted per community garden. Roosters shall not be permitted.
- f. The coops or cages housing chickens may not be located in the front yard areas and shall not be located within (5, 10, XX) feet of the property line.

2. Beekeeping

- a. Beekeeping facilities must be consistent with the Pennsylvania Bee Law and Pennsylvania Department of Agriculture “Best Management Practices for Maintaining European Honey Bee colonies in the Commonwealth of Pennsylvania”.
- b. All hives must be properly registered with the Pennsylvania Department of Agriculture, Bureau of Plant Industry, pursuant to applicable Pennsylvania state laws;¹⁰
- c. Ownership, care and control of the honey bees shall be responsibility of the individual listed on the registration;¹¹

⁹ If the municipality chooses to allow the keeping of animals, sample regulations are provided. Most do not permit animals due to problems with care and supervision. If permitted, types of animals are usually limited to chickens and/or beekeeping. The conditional use/special exception process is generally used if permitted in residential zones.

¹⁰ Governed by 3 Pa.C.S.A. § 2105 Registration of apiaries. “Bee Law”

¹¹ Governed by 3 Pa.C.S.A. § 2101-§ 2117. “Bee Law”

- d. *One hive is permitted for every (2,000, 3,000, 4,000, XX,) square feet of lot area;*
- e. A maximum of (2, 3, XX) hives may be kept on a lot.¹²
- f. Location:
 - i. Hives are not permitted within (10, 25, 30, XX) feet of any lot line.¹³
 - ii. The front of any hive shall face away from the property line of the residential property/zone closest to the hive;
 - iii. No hive shall be kept in front or side yards that abut streets.
- g. For all colonies located on a property, a flyway barrier at least six feet in height consisting of a solid wall, fence or dense hedge parallel to the property line and extending at least 10 feet beyond the apiary in each direction is required. *A flyway barrier is not needed if the beehive is kept at least 8 feet off the ground.*
- h. A supply of fresh water shall be maintained in a location readily accessible to all bee colonies on the site throughout the day to prevent bees from congregating at neighboring swimming pools or other sources of water on nearby properties.

J. 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 land shall be served by a water supply sufficient to support the cultivation practices used on the site.*
 5. The site must be designed and maintained so that water and fertilizer will not drain onto adjacent property.
 6. All seed and fertilizer shall be stored in sealed, rodent-proof containers.
 7. Processing or storage of plants or plant products is prohibited on site.

¹² Keeping at least 2 hives per lot helps maintain healthy honeybee colonies, Pa. State Beekeepers Assoc.

¹³ Pa. Dept. of Agriculture, Best Management Practices for Maintaining Honey Bee Colonies recommend 10' setback; other sources varied from 15' to 30' setbacks.

8. Gardening tools and supplies may be stored within an accessory building that is in compliance with Section (XX).
9. 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.

OR

10. A Community Garden shall comply with the Performance Standards in Section (XX).
11. Community Gardens and their users shall comply with all federal and state regulations concerning the use and storage of pesticides.¹⁴

SECTION 5: PERMITTING PROCESS FOR COMMUNITY GARDENS¹⁵

Applicants proposing a Community Garden must submit a zoning permit application or land development plan (if required) 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,

¹⁴ Pesticides are regulated under federal and state law: Federal Insecticide, Fungicide, and Rodenticide Act; Federal Food, Drug, and Cosmetic Act; Pa. Pesticide Control Act. A municipality is generally prohibited from regulating pesticides unless a community garden is on municipal property.

¹⁵ The municipality should review the zoning permit requirements and incorporate these requirements as applicable.

- 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.