

**COUNCIL POLICY
CITY OF CHULA VISTA**

SUBJECT: COMMUNITY GARDENS POLICY	POLICY NUMBER	EFFECTIVE DATE	PAGE
	841-01	2/23/10	1 OF 7

ADOPTED BY: Resolution No. 2010-043

DATED: 2/23/10

AMENDED BY: Resolution No. 2017-238 (12/19/17)

BACKGROUND

The City of Chula Vista recognizes community gardens as a valuable recreation activity that can provide community members access to fresh, nutritious produce, and low-intensity physical activity. Community gardens can also foster environmental awareness, positive social interaction, and community education, all while bringing added food security to the community through the development of local food sources. The City has the ability to foster the creation of community gardens by permitting the establishment of such gardens on City owned lands, including the public right of way.

PURPOSE

This policy provides to the City Manager or their designee the authority and guidance to implement and approve the use of city-owned land, including city owned vacant land, passive/non-programmed recreational park space, and other City property (e.g. public right of way) at the City's discretion to establish community gardens (collectively "City Community Garden Sites"). This policy further details the procedure and requirements for the establishment of community gardens on City Community Garden Sites.

POLICY

I. COMMUNITY GARDEN AND COMMUNITY PARTICIPATION

The City may allow the placement and use of community gardens on city-owned vacant land, passive/non-programmed recreational park space, and other City property (e.g. public right of way) at the City's sole discretion, as approved by the City Manager or designee. The City Manager or designee has sole and unfettered discretion whether or not to allow the creation of a community garden pursuant to this Policy. For the purposes of this policy, when approval is required by the "City," it means approval by the City Manager or their designee, unless otherwise indicated.

A community garden, if permitted by the City, must be organized and operated by a "Community Group," which may include local civic associations, non-profit agencies, gardening clubs, homeowner's associations, or even a group formed for the purpose of establishing a garden. The Community Group must have and be able to demonstrate, to the satisfaction of the City, the capacity to effectively administer and operate the proposed community garden. The Community Group must have the support of the community where the garden is proposed as detailed further below. Each Community Group may only operate one community garden unless otherwise approved by the City.

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Community gardens are to be utilized by the recognized Community Group to produce annual fruits, vegetables, and flowers for use of group members, the City of Chula Vista, other non-profit agencies or groups or any other public agency approved by the City. Individual gardeners may sell their produce off-site, but it is not intended that the use of a community garden on City property be solely for business and/or for-profit endeavors. A community garden should promote environmental education, healthy diets, and encourage the involvement of all citizens.

Community gardens are a public resource, and as such, garden membership and participation must be equally open and accessible to all, in compliance with the Americans with Disabilities Act (ADA). The garden site plan prepared by the Community Group shall consider, but not be limited to, ADA compliance in terms of ingress/egress to, from, and within the garden site, the need for raised planter beds, access to water supplies, and communication needs. The Community Group shall also identify a person as a point of contact for ADA coordination and compliance. The Community Group shall be responsible for and bear any and all costs to ensure ADA compliance.

In addition to any obligation under this policy, Community Groups and individual gardeners must abide by all federal laws, state laws, and/or City of Chula Vista Charter requirements, ordinances, resolutions, and/or policies.

II. THE PROCESS FOR COMMUNITY GARDEN ESTABLISHMENT

The following steps are required to request the establishment of a community garden:

1. The Community Group must complete a *City Community Garden Site Application* (“Application”), as provided in substantial form as Attachment 1, to establish a community garden. The Application requires the following information:

- a. A description of the community group, including a point of contact;
- b. A description of the community group’s ability to effectively administer and operate a community garden;
- c. A proposed City Community Garden site to place the community garden. The City may assist the community group in locating a potential Community Garden Site;
- d. The signatures of immediately surrounding neighboring households or businesses to the proposed City Community Garden Site, as further specified in the Application. The amount of signatures required under this section may be increased by the City to ensure that there is community support for the community garden; and
- e. Any other information requested by the City.

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If more than one community group submits an application to establish a garden in the same area, garden approval will be awarded on a first-come, first-served basis to the group whose complete application is received first. The City, in its sole discretion and when possible, will assist the Community Group that did not prevail to locate alternate sites.

2. The application must include a community garden site plan that will include, but not be limited to, the layout and size of the plots, location of water sources and drainage, detailed plans for ADA compliance, and indicate any proposed structures or fences. The City must approve all community garden site plans. The site plan shall be subject to the following limitations:

- a. No structures or barriers to general public access can be erected, except fences as detailed below, raised/accessible planting beds, shared composting facility as per IV.3.e below, plant supports, and trellises, public art, rain barrels and benches. Structures must be mobile, or will require specification in the user agreement that such structures will be disassembled and removed by the community group managing the site at the termination of the user agreement.
- b. Fences shall not exceed six (6) feet in height and should be constructed of wood, chain link, or ornamental metal. No fence shall be installed without review and approval by the City.
- c. ADA accessibility should be clearly shown on Garden Site Plan.
- d. Any other limitations imposed by the City.

3. The Application will be submitted to the City's Development Services Department, which will act as the lead in garden establishment and determining appropriate department review and oversight.

4. The City will endeavor to accept or reject the Application within 30 days of submittal. The City has sole and unfettered discretion as to whether or not to accept or reject the creation of a community garden on City Community Garden Sites.

5. After a site is selected and site plans have been completed, the City will determine the applicability of CEQA for the site to ensure that environmental impacts of the gardens are addressed. The Community Group is responsible for any and all costs of CEQA compliance, specifically the City may require reimbursement of its expenditures in this regard.

6. The Community Group must agree to administer and operate the gardens according to a User Agreement, refer to Section IV. *Community Garden Site User Agreement* ("User Agreement"), which will extend a limited and revocable license for use of the city-owned land to the community group.

III. COMMUNITY GARDEN MAINTENANCE GUIDELINES

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All community gardens will be developed and maintained at no cost to the City of Chula Vista, have a minimal amount of impact on City of Chula Vista staff time and resources, and will be operated by volunteers from the community. The City, in its sole discretion, may assist the Community Group on a case-by-case basis.

During the first season, the City of Chula Vista's Public Works Department may assist the recognized group in the preparation of the garden site by the following:

- a. Removing grass
- b. Turning the soil
- c. Adding compost
- d. Adjusting irrigation systems.

If the City elects not to assist in the above activities, the Community Group is responsible for the completion of such activities.

The Community Group will be responsible for all garden activities including, but not limited to:

- a. Installation and maintenance of all community garden facilities;
- b. Maintain the garden's cleanliness and tend to weeds, particularly from January to March, when weeds are prevalent;
- c. Compliance with the ADA;
- d. Paying utility costs such as water or electrical bills, if any;
- e. Collecting allotment charges from plot users;
- f. Keeping record of all revenues and expenses incurred by the community garden to be forwarded to City of Chula Vista Finance Department annually on or before April 15th; and
- g. Any other responsibility required or assigned by the City.

IV. COMMUNITY GARDEN SITE USER AGREEMENT

If a Community Group is allowed by the City to create a community garden on a Community Garden Site, the Community Group and individual gardeners must agree to adhere to a *Community Garden Site User Agreement* ("User Agreement"), as provided in substantial form in Attachment 2.

The User Agreement is a limited and revocable license and does not create for the Community Group, individual gardener/participant, or any person or entity any form of property right or interest to the Community Garden Site, including, but not limited to, an easement, ownership interest, tenancy, adverse possession, or lease. Failure to abide by the terms of the User Agreement may result in

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termination of the User Agreement and community garden use.

The City Manager or designee and the City Attorney or designee must approve the User Agreement. The City or the City Attorney, in their sole and unfettered discretion, may require and include any and all terms it deems appropriate in a User Agreement. The User Agreement must include, at a minimum, the following terms:

1. GENERAL TERMS:

- a. The term of the agreement will be for a period of no more than five years. However, the City, in its sole discretion, may extend or decrease the period of the term. If a change in the term is made, the City will provide written notice at least 30 days before the term ends. The Community Group must agree to continuously use the Community Garden Site for the Community Garden and that the City may enter the site at any time, with or without notice, to ensure compliance with the User Agreement.
- b. Acknowledgement and agreement that the User Agreement is a limited and revocable license and does not create for the Community Group, individual gardener/participant, or any person or entity any form of property right or interest to the City Community Garden Site, including, but not limited to, an easement, ownership interest, tenancy, adverse possession, or lease.
- c. The City may require insurance and indemnification from the Community Group. If so, the requirement shall be under terms required by City Risk Management and/or the City Attorney's Office.
- d. The requirement that all participants sign liability waivers under terms specified by the City Attorney's office.
- e. Terms specifying the right of the City to terminate the User Agreement at any time and for any reason. The City may, when possible, give thirty (30) days written notice of its decision to end the User Agreement. The written notice need not provide a reason for the terminating the User Agreement. It shall simply provide the date by which community garden activities must cease and the garden site must be returned to its preexisting condition.
- f. Terms stating that the City will not be liable or responsible for damages or claims of any type by or from any person or entity, including and not limited to, damages or claims resulting from participation in the community garden or terminating User Agreement.

2. COMMUNITY GROUP AND PARTICIPANT TERMS:

- a. The Community Group shall provide that allotments of space must be made from a waiting list on a first come, first serve basis.
- b. Membership in the recognized Community Group, and the opportunity to be allotted a plot,

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must be open to any resident of the community.

- c. The Community Group may share costs to operate the community garden among its participants. To this end, the Community Group may require participants to pay a portion of the cost to operate the community garden, hereinafter "Allotment Charges." Allotment Charges may cover the yearly watering, maintenance, and site improvement costs, unless otherwise determined by City of Chula Vista. Allotment Charges charged to gardeners shall not exceed the amount necessary to cover the normal operating costs of the garden. Records of Allotment Charges to gardeners and expenses will be kept and forwarded to the City of Chula Vista Finance Department to ensure correct use of monies at the same time as records of revenues and expenses. Allotment Charges must be approved in advance of invoicing by the City, at a time frame determined by the City. The City may require that the Allotment Charges charged to gardeners be reduced or eliminated. Allotment Charges may not include any salary or similar compensation to any person acting in a position of or similar to a manager for the operation or management of the community garden – all persons participating in the community garden shall be volunteers. The community garden shall be a non-profit endeavor.
- d. In addition to any obligation under this policy, Community Groups and individual gardeners must agree to abide by all federal laws, state laws, and local ordinances, resolutions, or polices.

3. CITY COMMUNITY GARDEN SITE TERMS:

- a. A description of the pre-existing conditions of the approved garden site, the requirement that at the end of the User Agreement that the garden site be returned to its original condition (to the satisfaction of the City), and the requirement for payment of damages if the site is not returned to its original condition
- b. Hours of operation will be from 7:00 a.m. until sunset. The City, in its sole discretion, may increase or reduce the hours of operation.
- c. Language stating that members will only be able to sell the produce of their community garden plots off-site.
- d. Only organic cultivation is to be allowed on community garden sites. No pesticides or chemical fertilizers are to be used.
- e. Each garden will be required to have a shared composting area, which will avoid a build up of waste and to enhance soil fertility in future seasons.
- f. The recognized Community Group and individual gardeners must adhere to maintenance standards set forth by City of Chula Vista.

V. ADDITIONAL ITEMS

As progress is made on the creation of community gardens on city-owned lands, the City may explore

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expanding Community Gardens to other locations.

The City Manager, in his or her discretion, may develop and require additional terms and/or conditions not provided for in this policy to ensure the effective implementation of this policy for the City of Chula Vista.

ATTACHMENTS

1. City Community Garden Site Application
2. Community Garden Site User Agreement