

**ORDINANCE NO. 2017-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AMENDING CERTAIN PROVISIONS OF ARTICLE I OF THE CLAY COUNTY LAND DEVELOPMENT CODE, BEING THE CODIFICATION OF ORDINANCE NO. 2010-15, AND COMPRISING THE GENERAL PROVISIONS, AS SAID ARTICLE I HAS BEEN SUBSEQUENTLY AMENDED BY ORDINANCE, BY AMENDING SECTION 1-15, *DEFINITIONS*, TO ADD A DEFINITION FOR COMMUNITY GARDEN; AMENDING CERTAIN PROVISIONS OF ARTICLE III OF THE CLAY COUNTY LAND DEVELOPMENT CODE, BEING THE CODIFICATION OF ORDINANCE NO. 93-16, AND COMPRISING THE ZONING AND LAND USE LAND DEVELOPMENT REGULATIONS, AS SAID ARTICLE III HAS BEEN SUBSEQUENTLY AMENDED BY ORDINANCE, BY AMENDING SECTION 3-5, *CONDITIONAL USES*, TO ESTABLISH CONDITIONAL USES FOR COMMUNITY GARDENS; BY AMENDING SECTION 3-39(c) TO ADD COMMUNITY GARDENS TO THE LIST OF CONDITIONAL USES ALLOWED WITHIN THE PS-2, PRIVATE SERVICES, ZONING DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Be It Ordained by the Board of County Commissioners of Clay County:

**Section 1.** As used in Section 2 of this ordinance, the term “Article I” shall mean and refer to Article I of the Clay County Land Development Code, (the Code), being the codification of Ordinance No. 2010-15 and comprising the General Provisions of the Code. As used in Sections 3 and 4 of this ordinance, the Term “Article III” shall mean and refer to Article III of the Clay County Land Development Code, (the Code), being the codification of Ordinance No. 93-16 and comprising the Zoning and Land Use provisions of the Code.

**Section 2.** Subsection (59) of Section 1-15, Article I, is hereby added as follows (remaining subsections to be renumbered accordingly):

- (59) *Community Garden* – A piece of land that is managed and maintained by a group of people to grow and harvest food crops and non-food ornamental crops, such as flowers, for personal or group use, consumption, donation, or limited sale. A community garden may be divided into separate plots for cultivation by one or more individuals, or may be farmed collectively by members of a group, and may include common areas maintained by group members.

**Section 3.** Subsection (s) of Section 3-5, Article III, is hereby added as follows (remaining subsections to be renumbered accordingly):

- (s) *Community Gardens*

- (1) *Property maintenance.* The property owner shall be responsible for maintaining the property in an orderly and neat condition. Plots may not be consistently weedy, untended or filled with debris. No trash or debris shall be stored or allowed to remain on the property. Tools and supplies shall be stored indoors or removed from the property daily. Vegetative material (e.g., compost), soil for garden use and other bulk supplies shall be stored to the rear or center of the property and shall not create a visual blight or offensive odors. The community garden shall be designed, managed, and maintained to prevent any chemical pesticide, fertilizer, or other garden waste from draining off the property.
- (2) *Hours of operation and equipment limitations.* No gardening activities may take place before sunrise or after sunset. Use of hand tools and domestic gardening tools and equipment is encouraged. Use of small power equipment, such as gas-powered tillers and edgers, is allowed. Gas-powered equipment greater than ten horsepower is prohibited.
- (3) *Sustainable gardening.* Water conservation, composting, and non-polluting, integrated pest and pathogen management are strongly recommended.
- (4) *Chemical use and storage.* Organic gardening is strongly encouraged. Fertilizer, pesticide, insecticide, herbicide, or agricultural chemical use must be consistent with label instructions and must be in compliance with applicable ordinances and laws. Pesticides and fertilizers may only be stored on the property in a locked structure and must comply with all applicable requirements for hazardous material use and handling.
- (5) *Sale of surplus produce and plants.* A community garden is not intended to be a commercial enterprise; however, there may be occasions of surplus. Produce and plants grown in community gardens shall not be sold wholesale or offered for sale on the premises except at yard sales, which are limited to two per year calendar year, each for a period of no more than 72 hours.
- (6) *Accessory structures.* Only the following structures are permitted in a community garden:
  - (i) Greenhouses, hoophouses, storage sheds, and planting preparation houses. The combined floor area of structures may not exceed 300 square feet and must be erected in the rear 30 percent of the lot.
  - (ii) Open-air shade structures such as pole barns, and pergolas. The combined floor area of all open-air shade structures may not exceed 1,200 square feet.
  - (iii) Fencing, meeting the conditional requirements set forth in this Article.
  - (iv) Compost bins and rain barrel systems.

All structures must be located no closer than 20 feet from the rear and side yard property lines and no closer than 25 feet from the front property line (as determined by street frontage)

- (7) *Off-street parking.* Off-street parking is not required for a community garden unless need for such is determined by the Planning and Zoning Director. Said determination shall be based on the garden size, potential number of gardeners, availability of on-street parking, and ability of gardeners to travel to the garden by means other than the automobile.
- (9) *Restoration.* If operation of a community garden has been discontinued for six months or more, the property owner must level and clean the property, including removal of plant materials, planting structures and materials, and debris.
- (10) *Off-street parking.* All parking shall be provided on site. No on-street parking is permitted.
- (11) *Application.* An application for administrative approval for a community garden must be submitted to the Planning and Zoning Director along with the following documentation:
  - (i) A notarized letter signed by the property owner giving permission for use of the property for a community garden.
  - (ii) A site plan showing the property size and dimensions, the location of the community garden plot(s), the location of all existing structures, and the location of all proposed structures.

**Section 4.** Subsubsection (13), Subsection (c), of Section 3-39, Article III, is hereby added as follows:

- (13) Community Gardens.

**Section 5.** If any section, phrase, sentence or portion of the ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 6.** This ordinance shall become effective as prescribed by Florida general law.

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**DULY ADOPTED** by the Board of County Commissioners of Clay County, Florida, this 25th day of April, 2017.

**BOARD OF COUNTY COMMISSIONERS  
CLAY COUNTY, FLORIDA**

BY: \_\_\_\_\_  
Wayne Bolla  
Its Chairman

ATTEST:

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S.C. Kopelousos  
County Manager and Clerk of the  
Board of County Commissioners