

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

DATE OF MEETING: Thursday, September 11, 2014
TIME OF MEETING: 4:00 p.m.
PLACE OF MEETING: Commission Chambers, First Floor, Muskegon City Hall

AGENDA

- I. Roll Call
- II. Approval of Minutes from the regular meeting of July 10, 2014.
- III. Public Hearings
 - A. **Hearing, Case 2014-11:** Staff-initiated request to amend Section 2313 (Community Gardens) of the Zoning Ordinance to replace it with an Urban Farming ordinance.
- IV. New Business
- V. Old Business
- VI. Other
- VII. Adjourn

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETING OF THE
CITY COMMISSION AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The City of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting, upon twenty-four hour notice to the City of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the City of Muskegon by writing or calling the following:

Ann Marie Cummings, City Clerk
933 Terrace Street
Muskegon, MI 49440
(231) 724-6705

TTY/TDD: Dial 7-1-1 and request that a representative dial 231-724-6705

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

July 10, 2014

Chairman T. Michalski called the meeting to order at 4:01 p.m. and roll was taken.

MEMBERS PRESENT: J. Doyle, T. Michalski, B. Larson, B. Smith, L. Spataro, B. Mazade, S. Gawron, S. Wisneski, F. Peterson

MEMBERS ABSENT: None

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: D. Mayville, BMA Architects; E. Wilgenburg, Newkirk Electric; J. Selmon, Muskegon Community College

APPROVAL OF MINUTES

A motion that the minutes of the regular meeting of May 15, 2014 be approved, was made by B. Mazade, supported by S. Wisneski and unanimously approved.

PUBLIC HEARINGS

Hearing, Case 2014-08: Request for an alley vacation for the alley between Vulcan Street and Brunswick Street from Nims Street to Keating Avenue, by Newkirk Electric. M. Franzak presented the staff report. Nims and Vulcan Streets were recently vacated so that Newkirk Electric could utilize their property at 1975 Vulcan Street and fence in all of their properties. Newkirk would now like to vacate the alley between Vulcan and Brunswick Streets from Nims to Keating to provide additional space for their operations. This would also help with maintenance of the area, since it would be difficult for anyone to maintain the alley once a fence is put up between the company and the residential homes. Notice was sent to property owners and tenants abutting the affected alley.

Board members verified that the required public notices had been made and that staff had received no objections or comments from the public. M. Franzak stated that was correct.

A motion to close the public hearing was made by B. Smith, supported by B. Larson and unanimously approved.

A motion that the vacation of the alley between Vulcan Street and Brunswick Street, from Nims Street to Keating Avenue be recommended to City Commission for approval, based on compliance with the City's 1997 Master Land Use Plan, was made by J. Doyle, supported by B. Smith and unanimously approved.

Hearing, Case 2014-09: Staff-initiated request to extend the current Master Plan. Per the Michigan Zoning and Enabling Act, the City must pass a resolution every five years to either update the Master Plan or extend the current Master Plan. Staff has recommended extending the current Master Plan while we update the Zoning Ordinance. The Planning Commission had previously indicated their support of extending the plan, but a public hearing is also required. Staff has given the proper notices to the other local jurisdictions and has received no comments. The issue is now ready for a final vote.

B. Mazade stated that there had been a lot of changes in the City since the last Master Plan, but its purpose was to serve as a guide, not a strict interpretation. T. Michalski suggested setting a timeline for updating

the plan. L. Spataro asked that the master plan issue be addressed before the next deadline. M. Franzak stated that the consultants who were currently working on form based codes for the City were also looking at some other areas of town, so that information should be useful when updating the plan. S. Gawron stated that action by the Planning Commission was needed for compliance with state regulations.

A motion to close the public hearing was made by B. Mazade, supported by L. Spataro and unanimously approved.

A motion that the City of Muskegon extend the current Master Plan was made by B. Mazade, supported by S. Gawron and unanimously approved.

NEW BUSINESS

Case 2014-010: Request for a site plan review for a building addition at 221 S. Quarterline Road, by Muskegon Community College. M. Franzak presented the staff report. The proposed one-story addition measures 17,600 square feet and will be located on the northeast side of the existing main school building. The property is zoned RM-1, Low Density Multiple Family Residential. The site plan meets all applicable setback requirements, with the front setback off Quarterline Road being 53 feet. Their parking requirements will still be met with this addition and no new parking spaces are planned. Staff is requesting the following changes to the site plan: a) A landscaping plan must be submitted. There will be nine oak trees and two pine trees removed for this development. Staff is requesting that these trees be replaced somewhere else on site, in addition to the other landscaping requirements; b) The temporary gravel drive needs to be asphalt to contain erosion; and c) Location of all existing fire hydrants at and near property shall be shown on the site plan. Fire hydrants shall comply with IFC appendix C. Staff would also like to make the applicant aware of the following requirements: a) Water supply fire flow test shall be conducted and submitted to the Fire Marshall, b) Soil Erosion permit is required from Muskegon County Public Works, and c) When working on water main, contact Dave Baker at 724-4184 for valves to be turned on/off.

M. Franzak stated that, regarding the paving of the temporary gravel drive, he was going to talk to the City Engineer to determine what could be done to minimize erosion, rather than requiring that the whole thing be paved. L. Spataro asked if the project required DEQ or County drain commissioner approval. M. Franzak stated that the County would have to approve a soil erosion permit. D. Mayville represented the applicant. He stated the building would be LEED-certified and they were very aware of environmental issues. He explained the site work and landscaping that would be done. He stated that they were installing a rain garden and a geothermal system, all of which was being communicated to the DEQ. J. Doyle asked if parking spaces would be added. D. Mayville stated that the campus currently had more parking spaces than required, and they would not be adding more.

A motion that the site plan for the building addition at 221 South Quarterline Road be approved, with the condition that the comments in item #6 of the staff report are addressed and approved by staff, was made by L. Spataro, supported by B. Smith and unanimously approved.

OLD BUSINESS

None

OTHER

J. Doyle asked about the former Michigan Steel Foundry property. F. Peterson stated that City staff has been meeting with the property owners.

There being no further business, the meeting was adjourned at 4:29 p.m.

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING

September 11, 2014

Hearing, Case 2014-11: Staff-initiated request to amend Section 2313 (Community Gardens) of the zoning ordinance to replace it with an urban farming ordinance.

STAFF OBSERVATIONS

1. There are some community garden organizations in the community are who working with schools and other non-profit organizations to donate/sell vegetables for their lunch programs. The current community gardens ordinance does not allow for the sale/donation of crops. This new ordinance will better define what can be sold/donated.
2. The new ordinance better defines what types of structures are allowed on site and defines the setback requirements.
3. The Planning Commission is being asked to recommend one of the two versions to the City Commission for adoption. One version will allow commercial sales and one version will prohibit commercial sales. The version that does not allow commercial sales would still allow urban farms to accept donations from individuals or other non-profit organizations as long as they are used to further sustain the operation and support of the mission of the urban farm.
4. There will be a presentation by city attorney Michelle Landis at the Planning Commission meeting to go over the details of the Michigan Right to Farm Act, GAAMPs and all other aspects of that may come into play under our new ordinance.
5. Enclosed in the packet are the current Community Gardens ordinance and two versions of the proposed Community Gardens, Urban Farms and Private Farms ordinance (one allowing commercial sales and one prohibiting commercial sales).

MOTION FOR CONSIDERATION

I move that the amendment to Section 2313 of the Zoning Ordinance, which (includes *OR* excludes) commercial sales, be recommended to City Commission for (approval/denial).

A.

Allows commercial sales

City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____

THE CITY OF MUSKEGON HEREBY ORDAINS:

Article XXIII, Section 2313, Community Gardens, of the City of Muskegon Zoning Ordinance is amended in its entirety as follows.

SECTION 2313: COMMUNITY GARDENS, URBAN FARMS and PRIVATE FARMS

1. Definitions

- a. Urban Farm ("farm"): a vacant parcel of land (or combination of two or more vacant adjacent lots) that is used for the cultivation of fruits and vegetables, plants, flowers or herbs by a city-recognized neighborhood group or 501(c) non-profit organization who work together to tend a single garden or several garden plots or crops on the parcel. An Urban Farm is not an individual garden maintained by its property owner(s) or occupant(s).
- b. Community Garden ("garden"): a vacant parcel of land or vacant portion of a parcel of land that is divided into plots for cultivation of fruits and vegetables, plants, flowers or herbs by one or more individuals and/or groups or cultivated by individuals and/or groups collectively. The land may or may not be owned by a participating member of the community garden group. The Community Garden need not be operated by a city-recognized group or 501(c) non-profit organization.
- c. Cold Frame: a transparent-roofed enclosure, built low to the ground, used to protect plants from adverse weather. The transparent top admits sunlight and prevents heat escape via convection that would otherwise occur, particularly at night. Essentially, a cold frame functions as a miniature greenhouse to extend the growing season.
- d. Compost: relatively stable decomposed organic matter for use in agricultural and other growing practices, usually consisting of materials such as grass, leaves, yard waste, worms, and also including raw and uncooked kitchen food wastes, but specifically excluding bones, meat, fat grease, oil, raw manure and milk products.
- e. Farm Animals: all animals traditionally found or used on an operating farm, including but not limited to, horses, sheep, goats, cows, chickens, donkeys, turkeys and alpaca.
- f. Farm Equipment and Tools: those pieces of machinery and tools used to prepare the soil, cultivate produce, fertilize, harvest, etc., including but not limited to, tractors, rototillers, rakes, shovels, hoes, fertilizer, pesticide and herbicide spreaders and sprayers, etc.
- g. Greenhouse: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.

- h. Hoop house: an unheated structure whose roof and sides are made largely of transparent or translucent material (not glass) for the purpose of the cultivation of plants inside.
 - i. Orchard: The establishment, care, harvesting of a group of more than ten (10) fruit or nut bearing trees.
 - j. Private Farm: A vacant parcel of land (or combination of two or more vacant adjacent lots) used to grow and harvest food crops and/or non-food crops for personal use by the owner or tenant of the land.
 - k. Private Farmer: the individual in charge of operating the Private Farm on property that s/he owns or leases.
 - l. Urban Farm Coordinator: the Urban Farm's designated liaison to the city.
 - m. Rainwater Catchment System: a method of catching rainwater runoff from the roof of a structure into rain gutters that channel into a rain barrel, drum or cistern.
2. The Urban Farm is intended to bring citizens together to work collaboratively in growing food for their personal use or donation, to promote education with regard to agriculture, provide a positive communal environment for children and adults living nearby and an opportunity for volunteer work among participants. A Private Farm is distinguished from an Urban Farm in that it is operated by a private party who owns or leases the property for the sole purpose of cultivating food and non-food products for personal consumption and use.
 3. The agricultural uses of Community Gardens, Private Farms and Urban Farms are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing and harvesting of any agricultural, floricultural, or horticultural produce. No farm animals are permitted.
 4. Community Gardens, Private Farms and Urban Farms are a permitted use in all Zoning Districts but require prior approval of the Zoning Administrator.
 5. No on-site sales shall be permitted. The products grown in the Community Garden, Private Farms and Urban Farms may be sold commercially within the City to non-profit organizations such as schools, at the City farmers' market, to restaurants, to grocery stores and to convenience stores that sell food products. Only Urban Farm groups may accept donations directly from individuals in exchange for products grown in the garden if such donations shall be used to further sustain the operation and support the mission of the Urban Farm.

6. Garden Coordinator and Urban Farm Coordinator

Each Community Garden shall have a Garden Coordinator ("Coordinator") and each Urban Farm shall have an Urban Farm Coordinator designated as its liaison to the City. The Coordinator's name and contact information shall be given to the Zoning Administrator.

7. The Garden Coordinator, Urban Farm Coordinator or Private Farmer shall submit a site plan to the Zoning Administrator for approval prior to beginning the garden or farm.

a. The site plan must include the following:

- i. The name of the Garden Coordinator, Urban Farm Coordinator or Private Farmer.
- ii. The project address.
- iii. The legal owner of the parcel(s).
- iv. If the Community Garden, Urban Farm organization or Private Farmer is a tenant, include the length of the current lease.
- v. The project name (if any).
- vi. Gross site area of parcel(s) to be used, including dimensions.
- vii. Location map showing all existing structures and proposed improvements to the parcel with dimensions, including height and set-backs.
- viii. Major roads abutting parcel(s).
- ix. Location of all lakes, streams, rivers, creeks, brooks, ponds or wetlands adjacent to or in the immediate vicinity of the parcel(s).
- x. Location of the crop areas.
- xi. Fencing or walls.
- xii. Location of compost piles.
- xiii. Ingress and egress.
- xiv. Location of loading areas.
- xv. Location of trash containers and/or dumpsters.
- xvi. Location of storage structure and items to be stored.
- xvii. Location and description of sign(s), if any.

b. The site plan shall also include a narrative generally describing the following, as applicable:

- i. The types, methods of application, storage of proposed pesticides, herbicides, fertilizers, and any other chemicals that will be used.
- ii. The type of machinery and equipment proposed and description of the noise, vibration, smoke, odor, dust, dirt that may be a nuisance to surrounding properties.
- iii. Evaluation of existing soil conditions and plans to mitigate soil issues, as necessary.

- c. The Garden Coordinator or Urban Farmer shall update the site plan with the Zoning Administrator as changes or additions are made to the site plan items enumerated in Section (a) above.
8. The garden or farm must be designed and maintained so that water, chemicals, dirt, mud or fertilizer will not drain into the streets, alleys or adjacent properties. Any use of pesticides or fertilizers must comply with applicable state or federal regulations.
9. Setback, height and size requirements.
 - a. Buildings and accessory structures must comply with the setback, height and size requirements of the zoning district in which the garden or farm is located. Hoop houses and greenhouses are considered primary structures. Sheds and garages are considered accessory structures.
 - b. Cultivation must comply with the following additional setback requirements:
 - i. Crop areas must be set back at least five (5) feet from all property lines.
 - ii. Orchards and all crops reaching a height of five feet at maturity shall be set back at least fifteen (15) feet from the lot line of any lot developed with a residential, public, civic/institutional, retail/service/commercial or manufactured/industrial land use.
 - iii. Planting beds must be set back at least three (3) feet from all property lines. However, if the plants are over five (5) feet tall, they must have a minimum setback from all property lines of fifteen (15) feet.
 - iv. Rain barrel systems must be set back at least three (3) feet from all property lines.
 - v. The required setback area must be covered with ground plants, which may include native or ornamental grasses.
 - vi. Compost areas or waste bins must be less than sixteen (16) square feet in size and must be set back at least ten (10) feet from all property lines and at least twenty (20) feet from the nearest principal residential structure.
10. Site plans containing the following may be included if they are not an obstruction to clear vision at drives or intersections, they meet designated set back requirements and they do not create an odor or other nuisance for neighboring properties:
 - a. Compost or waste bins
 - b. Picnic tables
 - c. Garden art
 - d. Rain barrel systems or rainwater catchment systems
 - e. Benches
 - f. Bike racks
 - g. Raised/accessible planting beds
 - h. Cold frames
 - i. Planting beds
 - j. Sheds

- k. Garages
- l. Greenhouses
- m. Hoop houses

11. Designated on site parking shall not be permitted.
12. The Urban Farm and Community Garden shall have a sign indicating an established set of hours of operation. The sign may indicate the farm, group or garden name. The sign shall be no larger than 5'x5' and must indicate the name and contact telephone number for the Urban Farm Coordinator or Garden Coordinator.
13. All fencing requires a Development Permit and must comply with existing fencing rules and regulations.
14. No water or irrigation wells may be installed unless by a state-licensed well-drilling firm, and with approval and necessary permit from the City and County. If the Community Garden is located on a city owned parcel, the city must first grant approval of the well. All groundwater wells located on city property must be removed by the responsible group, at their expense, when the garden is no longer in use.
15. Farm animals, including all livestock, are prohibited in a Community Garden, Urban Farm or Private Farm.
16. Oats, wheat and rye may be used as a winter cover crop but not grown to full maturity in any season.
17. Trash shall be located to the rear of the property unless the Department of Public Works determines that another location creates less impact on the adjacent properties.
18. Lighting, if provided, shall be shielded so that all directly emitted light falls within the property.
19. Property Maintenance.
 - a. The property shall be maintained free of high grass (with the exception of purposely cultivated native species, which shall be allowed), noxious weeds, or debris. Dead garden plants shall be removed regularly, and in any instance, no later than November 30th of each year.
 - b. Plants from cultivated areas shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.
 - c. The property shall generally be maintained in an orderly and neat condition.
 - d. Farm equipment and tools shall be stored in a shed or other approved structure on the premises.
 - e. Seeds and harvested crops on site shall be stored so as not to attract animals.

20. Nuisance.

Agricultural uses of community gardens, urban farms and private farms shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, or odors.

21. Motorized and other equipment; storage; noise; hours of operation.

- a. Tools, supplies and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off of the ground, in an enclosed, locked structure when the site is unattended.
- b. Motorized equipment within a residential zoning district shall be restricted to hours beginning at 8:00a.m. and ending at 8:00p.m

22. Restroom facilities.

If temporary restroom facilities are provided on site, they shall be screened on at least three (3) sides from public view by an opaque impact-resistant fence of sufficient height to screen the facility. Such facilities are allowed only during the growing season from April 15th through October 15th.

23. Compost.

Compost must be maintained and stored to avoid any odor reaching neighboring property.

24. Compliance with Other Regulations.

Community gardens, urban farms and private farms shall comply with all applicable local, state and federal regulations.

This ordinance adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____
Ann Cummings, MMC
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the _____ day of _____, 2014, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2014

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2014, the City Commission of the City of Muskegon adopted an amendment to Article XXIII, Section 2313, Community Gardens, of the City of Muskegon Zoning Ordinance, whereby the section was replaced in its entirety with the following:

Section 2313 was renamed "Community Gardens, Urban Farms and Private Farms"

1. Section 1 defines the terms used in the ordinance.
2. Section 2 describes the Urban Farm as a collaborative effort run by a city-recognized neighborhood group or 501(c) non-profit organization, to grow food, promote education and provide a positive communal environment for volunteers and the neighborhood. A Private Farm is distinguished from an Urban Farm in that it is operated by a private party who owns or leases the property for the sole purpose of cultivating food and non-food products for personal consumption and use.
3. Section 3 indicates that the gardens and farms are limited to growing and harvesting agricultural, floricultural or horticultural produce. No farm animals are permitted.
4. Section 4 states that the gardens and farms are permitted uses in all zoning districts but require approval of the Zoning Administrator.
5. Section 5 provides that products from the gardens or farms may be sold commercially within the City to non-profit organizations such as schools, at the City's farmers market, or grocery stores or convenience stores selling food products. Urban Farms may accept donations from individuals in exchange for products grown in the garden when such donations are used to further sustain the operation and support the mission of the Urban Farm.
6. Section 6 requires each Community Garden and Urban Farm to designate a Garden Coordinator or Urban Farm Coordinator as a liaison to the City.
7. Section 7 outlines the requirement of all site plans to be submitted for approval to the Zoning Administrator.
 - a. Section 7(a) lists all items to be included in the site plan, including but not limited to its dimensions, structures, growing areas, fencing, compost piles, etc.
 - b. Section 7(b) requires the site plan to include, among other things, a narrative describing the chemicals and equipment to be used and the existing soil conditions.
 - c. Section 7(c) requires that the site plan be updated with any changes or additions.

8. Section 8 prohibits the design and maintenance to allow for any water, chemicals, dirt, mud or fertilizer to drain onto adjacent property.
9. Section 9 outlines the setback, height and size requirements.
 - a. Section 9(a) provides that all structures must comply with the setback, height and size requirements of the zoning district in which the garden or farm is located.
 - b. Section 9(b) outlines additional setback requirements for crop areas, orchards, planting beds, rain barrels systems and compost bins.
10. Section 10 lists items that may be included on a site plan, including but not limited to, planting beds, compost bins, sheds, garages, greenhouses and hoop houses.
11. Section 11 prohibits on site parking.
12. Section 12 requires Community Gardens and Urban Farms to have posted hours of operation and indicate the name and contact telephone number of the Garden Coordinator or Urban Farm Coordinator.
13. Section 13 requires a development permit for all fencing.
14. Section 14 requires a permit from the city and county for wells.
15. Section 15 prohibits all farm animals, including livestock, in gardens or farms.
16. Section 16 prohibits growing oats, wheat and rye to full maturity.
17. Section 17 requires that trash be kept at the rear of the property unless the city determines another location would have less impact on adjacent properties.
18. Section 18 requires any lights to be shielded so that it falls within the property.
19. Section 19 outlines the property maintenance standards.
 - a. Section 19(a) prohibits high grass, noxious weeds and debris and requires that dead plants be removed regularly.
 - b. Section 19(b) prohibits allowing plants to encroach on neighboring properties.
 - c. Section 19(c) requires the garden/farm be orderly and neat.
 - d. Section 19(d) requires farm equipment and tools to be stored in a shed or other approved structure on the premises.
 - e. Section 19(e) requires that seeds and harvested crops be stored so as not to attract animals.
20. Section 20 prohibits excessive noise, smoke, fumes, vibrations or odors.
21. Section 21 outlines regulations for motorized equipment, tools and machinery.
 - a. Section 21(a) requires all tools, supplies and machinery to be stored in an enclosed structure and all chemicals stored off the ground.

- b. Section 21(b) prohibits motorized equipment between 8:00pm and 8:00am.
- 22. Section 22 provides for temporary restroom facilities on site from April 15th through October 15th, if screened on three sides from public view.
- 23. Section 23 requires compost to be maintained and stored to avoid any odor reaching neighbors.
- 24. Section 24 requires gardens and farms to comply with all other local, state and federal regulations.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: _____, 2014

By:

Ann Cummings, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

B.

Prohibits Commercial
Sales

City of Muskegon
Muskegon County, Michigan
Ordinance Amendment No. _____

THE CITY OF MUSKEGON HEREBY ORDAINS:

Article XXIII, Section 2313, Community Gardens, of the City of Muskegon Zoning Ordinance is amended in its entirety as follows.

SECTION 2313: COMMUNITY GARDENS, URBAN FARMS and PRIVATE FARMS

1. Definitions

- a. Urban Farm ("farm"): a vacant parcel of land (or combination of two or more vacant adjacent lots) that is used for the cultivation of fruits and vegetables, plants, flowers or herbs by a city-recognized neighborhood group or 501(c) non-profit organization who work together to tend a single garden or several garden plots or crops on the parcel. An Urban Farm is not an individual garden maintained by its property owner(s) or occupant(s). An Urban Farm is **not a commercial farming operation** as defined by Michigan's Right to Farm Act, MCL 286.471 *et. seq.*; the products grown are **not to be sold commercially.**
- b. Community Garden ("garden"): a vacant parcel of land or vacant portion of a parcel of land that is divided into plots for cultivation of fruits and vegetables, plants, flowers or herbs by one or more individuals and/or groups or cultivated by individuals and/or groups collectively. The land may or may not be owned by a participating member of the community garden group. The Community Garden need not be operated by a city-recognized group or 501(c) non-profit organization. A Community Garden is not a commercial farming operation as defined by Michigan's Right to Farm Act, MCL 286.471 *et. seq.*; the products grown are not to be sold commercially.
- c. Cold Frame: a transparent-roofed enclosure, built low to the ground, used to protect plants from adverse weather. The transparent top admits sunlight and prevents heat escape via convection that would otherwise occur, particularly at night. Essentially, a cold frame functions as a miniature greenhouse to extend the growing season.
- d. Compost: relatively stable decomposed organic matter for use in agricultural and other growing practices, usually consisting of materials such as grass, leaves, yard waste, worms, and also including raw and uncooked kitchen food wastes, but specifically excluding bones, meat, fat grease, oil, raw manure and milk products.
- e. Farm Animals: all animals traditionally found or used on an operating farm, including but not limited to, horses, sheep, goats, cows, chickens, donkeys, turkeys and alpaca.
- f. Farm Equipment and Tools: those pieces of machinery and tools used to prepare the soil, cultivate produce, fertilize, harvest, etc., including but not limited to, tractors,

rototillers, rakes, shovels, hoes, fertilizer, pesticide and herbicide spreaders and sprayers, etc.

- g. Greenhouse: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants.
 - h. Hoop house: an unheated structure whose roof and sides are made largely of transparent or translucent material (not glass) for the purpose of the cultivation of plants inside.
 - i. Orchard: The establishment, care, harvesting of a group of more than ten (10) fruit or nut bearing trees.
 - j. Private Farm: A vacant parcel of land (or combination of two or more vacant adjacent lots) used to grow and harvest food crops and/or non-food crops for personal use by the owner or tenant of the land. A Private Farm is not a farm operation under Michigan's Right to Farm Act, MCL 286.471 *et. seq*; the products grown on the Private Farm are for personal use or consumption and may not be sold commercially.
 - k. Private Farmer: the individual in charge of operating the Private Farm on property that s/he owns or leases.
 - l. Urban Farm Coordinator: the Urban Farm's designated liaison to the city.
 - m. Rainwater Catchment System: a method of catching rainwater runoff from the roof of a structure into rain gutters that channel into a rain barrel, drum or cistern.
2. The Urban Farm is intended to bring citizens together to work collaboratively in growing food for their personal use or donation, to promote education with regard to agriculture, provide a positive communal environment for children and adults living nearby and an opportunity for volunteer work among participants. A Private Farm is distinguished from an Urban Farm in that it is operated by a private party who owns or leases the property for the sole purpose of cultivating food and non-food products for personal consumption and use.
 3. The agricultural uses of Community Gardens, Private Farms and Urban Farms are limited to the cultivation of herbs, fruits, flowers, or vegetables, including the cultivation and tillage of soil and the production, cultivation, growing and harvesting of any agricultural, floricultural, or horticultural produce. No farm animals are permitted.
 4. Community Gardens, Private Farms and Urban Farms are a permitted use in all Zoning Districts but require prior approval of the Zoning Administrator.
 5. The products grown in the Community Garden, Private Farms and Urban Farms are not to be sold commercially. Only the Urban Farm groups may accept donations from

individuals or other non-profit organizations in exchange for products grown in the garden. Any such donations shall be used to further sustain the operation and support the mission of the Urban Farm.

6. Garden Coordinator and Urban Farm Coordinator

Each Community Garden shall have a Garden Coordinator ("Coordinator") and each Urban Farm shall have an Urban Farm Coordinator designated as its liaison to the City. The Coordinator's name and contact information shall be given to the Zoning Administrator.

7. The Garden Coordinator, Urban Farm Coordinator or Private Farmer shall submit a site plan to the Zoning Administrator for approval prior to beginning the garden or farm.

a. The site plan must include the following:

- i. The name of the Garden Coordinator, Urban Farm Coordinator or Private Farmer.
- ii. The project address.
- iii. The legal owner of the parcel(s).
- iv. If the Community Garden, Urban Farm organization or Private Farmer is a tenant, include the length of the current lease.
- v. The project name (if any).
- vi. Gross site area of parcel(s) to be used, including dimensions.
- vii. Location map showing all existing structures and proposed improvements to the parcel with dimensions, including height and set-backs.
- viii. Major roads abutting parcel(s).
- ix. Location of all lakes, streams, rivers, creeks, brooks, ponds or wetlands adjacent to or in the immediate vicinity of the parcel(s).
- x. Location of the crop areas.
- xi. Fencing or walls.
- xii. Location of compost piles.
- xiii. Ingress and egress.
- xiv. Location of loading areas.
- xv. Location of trash containers and/or dumpsters.
- xvi. Location of storage structure and items to be stored.
- xvii. Location and description of sign(s), if any.

b. The site plan shall also include a narrative generally describing the following, as applicable:

- i. The types, methods of application, storage of proposed pesticides, herbicides, fertilizers, and any other chemicals that will be used.
- ii. The type of machinery and equipment proposed and description of the noise, vibration, smoke, odor, dust, dirt that may be a nuisance to surrounding properties.

- iii. Evaluation of existing soil conditions and plans to mitigate soil issues, as necessary.
 - c. The Garden Coordinator or Urban Farmer shall update the site plan with the Zoning Administrator as changes or additions are made to the site plan items enumerated in Section (a) above.
8. The garden or farm must be designed and maintained so that water, chemicals, dirt, mud or fertilizer will not drain into the streets, alleys or adjacent properties. Any use of pesticides or fertilizers must comply with applicable state or federal regulations.
9. Setback, height and size requirements.
 - a. Buildings and accessory structures must comply with the setback, height and size requirements of the zoning district in which the garden or farm is located. Hoop houses and greenhouses are considered primary structures. Sheds and garages are considered accessory structures.
 - b. Cultivation must comply with the following additional setback requirements:
 - i. Crop areas must be set back at least five (5) feet from all property lines.
 - ii. Orchards and all crops reaching a height of five feet at maturity shall be set back at least fifteen (15) feet from the lot line of any lot developed with a residential, public, civic/institutional, retail/service/commercial or manufactured/industrial land use.
 - iii. Planting beds must be set back at least three (3) feet from all property lines. However, if the plants are over five (5) feet tall, they must have a minimum setback from all property lines of fifteen (15) feet.
 - iv. Rain barrel systems must be set back at least three (3) feet from all property lines.
 - v. The required setback area must be covered with ground plants, which may include native or ornamental grasses.
 - vi. Compost areas or waste bins must be less than sixteen (16) square feet in size and must be set back at least ten (10) feet from all property lines and at least twenty (20) feet from the nearest principal residential structure.
10. Site plans containing the following may be included if they are not an obstruction to clear vision at drives or intersections, they meet designated set back requirements and they do not create an odor or other nuisance for neighboring properties:
 - a. Compost or waste bins
 - b. Picnic tables
 - c. Garden art
 - d. Rain barrel systems or rainwater catchment systems
 - e. Benches
 - f. Bike racks
 - g. Raised/accessible planting beds

- h. Cold frames
- i. Planting beds
- j. Sheds
- k. Garages
- l. Greenhouses
- m. Hoop houses

11. Designated on site parking shall not be permitted.
12. The Urban Farm and Community Garden shall have a sign indicating an established set of hours of operation. The sign may indicate the farm, group or garden name. The sign shall be no larger than 5'x5' and must indicate the name and contact telephone number for the Urban Farm Coordinator or Garden Coordinator.
13. All fencing requires a Development Permit and must comply with existing fencing rules and regulations.
14. No water or irrigation wells may be installed unless by a state-licensed well-drilling firm, and with approval and necessary permit from the City and County. If the Community Garden is located on a city owned parcel, the city must first grant approval of the well. All groundwater wells located on city property must be removed by the responsible group, at their expense, when the garden is no longer in use.
15. Farm animals, including all livestock, are prohibited in a Community Garden, Urban Farm or Private Farm.
16. Oats, wheat and rye may be used as a winter cover crop but not grown to full maturity in any season.
17. Trash shall be located to the rear of the property unless the Department of Public Works determines that another location creates less impact on the adjacent properties.
18. Lighting, if provided, shall be shielded so that all directly emitted light falls within the property.
19. Property Maintenance.
 - a. The property shall be maintained free of high grass (with the exception of purposely cultivated native species, which shall be allowed), noxious weeds, or debris. Dead garden plants shall be removed regularly, and in any instance, no later than November 30th of each year.
 - b. Plants from cultivated areas shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.
 - c. The property shall generally be maintained in an orderly and neat condition.
 - d. Farm equipment and tools shall be stored in a shed or other approved structure on the premises.

e. Seeds and harvested crops on site shall be stored so as not to attract animals.

20. Nuisance.

Agricultural uses of community gardens, urban farms and private farms shall not be detrimental to the physical environment or to the public health and general welfare by reason of excessive production of noise, smoke, fumes, vibrations, or odors.

21. Motorized and other equipment; storage; noise; hours of operation.

- a. Tools, supplies and machinery shall be stored in an enclosed structure or removed from the property daily. All chemicals and fuels shall be stored off of the ground, in an enclosed, locked structure when the site is unattended.
- b. Motorized equipment within a residential zoning district shall be restricted to hours beginning at 8:00a.m. and ending at 8:00p.m

22. Restroom facilities.

If temporary restroom facilities are provided on site, they shall be screened on at least three (3) sides from public view by an opaque impact-resistant fence of sufficient height to screen the facility. Such facilities are allowed only during the growing season from April 15th through October 15th.

23. Compost.

Compost must be maintained and stored to avoid any odor reaching neighboring property.

24. Compliance with Other Regulations.

Community gardens and urban farms shall comply with all applicable local, state and federal regulations.

This ordinance adopted:

Ayes: _____
Nays: _____

Adoption Date: _____

Effective Date: _____

First Reading: _____

Second Reading: _____

CITY OF MUSKEGON

By _____
Ann Cummings, MMC
City Clerk

CERTIFICATE

The undersigned, being the duly qualified clerk of the City of Muskegon, Muskegon County, Michigan, does hereby certify that the foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Muskegon, at a regular meeting of the City Commission on the _____ day of _____, 2014, at which meeting a quorum was present and remained throughout, and that the original of said ordinance is on file in the records of the City of Muskegon. I further certify that the meeting was conducted, and public notice was given, pursuant to and in full compliance with Act No. 267, Public Acts of Michigan of 1976, as amended, and that minutes were kept and will be or have been made available as required thereby.

DATED: _____, 2014

Ann Cummings, MMC
Clerk, City of Muskegon

Publish: Notice of Adoption to be published once within ten (10) days of final adoption.

**CITY OF MUSKEGON
NOTICE OF ADOPTION**

TO: ALL PERSONS INTERESTED

Please take notice that on _____, 2014, the City Commission of the City of Muskegon adopted an amendment to Article XXIII, Section 2313, Community Gardens, of the City of Muskegon Zoning Ordinance, whereby the section was replaced in its entirety with the following:

Section 2313 was renamed "Community Gardens, Urban Farms and Private Farms"

1. Section 1 defines the terms used in the ordinance.
2. Section 2 describes the Urban Farm as a collaborative effort run by a city-recognized neighborhood group or 501(c) non-profit organization, to grow food, promote education and provide a positive communal environment for volunteers and the neighborhood. A Private Farm is distinguished from an Urban Farm in that it is operated by a private party who owns or leases the property for the sole purpose of cultivating food and non-food products for personal consumption and use.
3. Section 3 indicates that the gardens and farms are limited to growing and harvesting agricultural, floricultural or horticultural produce. No farm animals are permitted.
4. Section 4 states that the gardens and farms are permitted uses in all zoning districts but require approval of the Zoning Administrator.
5. Section 5 provides that products from the gardens or farms may not be sold commercially. Urban Farms may accept donations from individuals or other non-profit organizations in exchange for products grown in the garden when such donations are used to further sustain the operation and support the mission of the Urban Farm.
6. Section 6 requires each Community Garden and Urban Farm to designate a Garden Coordinator or Urban Farm Coordinator as a liaison to the City.
7. Section 7 outlines the requirement of all site plans to be submitted for approval to the Zoning Administrator.
 - a. Section 7(a) lists all items to be included in the site plan, including but not limited to its dimensions, structures, growing areas, fencing, compost piles, etc.
 - b. Section 7(b) requires the site plan to include, among other things, a narrative describing the chemicals and equipment to be used and the existing soil conditions.
 - c. Section 7(c) requires that the site plan be updated with any changes or additions.
8. Section 8 prohibits the design and maintenance to allow for any water, chemicals, dirt, mud or fertilizer to drain onto adjacent property.

9. Section 9 outlines the setback, height and size requirements.
 - a. Section 9(a) provides that all structures must comply with the setback, height and size requirements of the zoning district in which the garden or farm is located.
 - b. Section 9(b) outlines additional setback requirements for crop areas, orchards, planting beds, rain barrels systems and compost bins.
10. Section 10 lists items that may be included on a site plan, including but not limited to, planting beds, compost bins, sheds, garages, greenhouses and hoop houses.
11. Section 11 prohibits on site parking.
12. Section 12 requires Community Gardens and Urban Farms to have posted hours of operation and indicate the name and contact telephone number of the Garden Coordinator or Urban Farm Coordinator.
13. Section 13 requires a development permit for all fencing.
14. Section 14 requires a permit from the city and county for wells.
15. Section 15 prohibits all farm animals, including livestock, in gardens or farms.
16. Section 16 prohibits growing oats, wheat and rye to full maturity.
17. Section 17 requires that trash be kept at the rear of the property unless the city determines another location would have less impact on adjacent properties.
18. Section 18 requires any lights to be shielded so that it falls within the property.
19. Section 19 outlines the property maintenance standards.
 - a. Section 19(a) prohibits high grass, noxious weeds and debris and requires that dead plants be removed regularly.
 - b. Section 19(b) prohibits allowing plants to encroach on neighboring properties.
 - c. Section 19(c) requires the garden/farm be orderly and neat.
 - d. Section 19(d) requires farm equipment and tools to be stored in a shed or other approved structure on the premises.
 - e. Section 19(e) requires that seeds and harvested crops be stored so as not to attract animals.
20. Section 20 prohibits excessive noise, smoke, fumes, vibrations or odors.
21. Section 21 outlines regulations for motorized equipment, tools and machinery.
 - a. Section 21(a) requires all tools, supplies and machinery to be stored in an enclosed structure and all chemicals stored off the ground.
 - b. Section 21(b) prohibits motorized equipment between 8:00pm and 8:00am.

22. Section 22 provides for temporary restroom facilities on site from April 15th through October 15th, if screened on three sides from public view.
23. Section 23 requires compost to be maintained and stored to avoid any odor reaching neighbors.
24. Section 24 requires gardens and farms to comply with all other local, state and federal regulations.

Copies of the ordinance may be viewed and purchased at reasonable cost at the Office of the City Clerk in the City Hall, 933 Terrace Street, Muskegon, Michigan, during regular business hours.

This ordinance amendment is effective ten (10) days from the date of this publication.

CITY OF MUSKEGON

Published: _____, 2014

By:

Ann Cummings, MMC, Its Clerk

PUBLISH ONCE WITHIN TEN (10) DAYS OF FINAL PASSAGE

Ordinance to be replaced

SECTION 2313: Community Gardens [amended 6/10]

Community gardens shall consist of public or private vacant parcels used for cultivation of fruits, vegetables, plants, flowers, or herbs by recognized neighborhood groups, 501 C non-profit organizations or multiple users residing in the immediate area of the Community Garden. Community Gardens are a permitted accessory use in all Zoning Districts and require prior approval of the Zoning Administrator. These regulations do not apply to individual gardens maintained by property owners or occupants.

1. Community Gardens must have an established and posted set of hours of operation.
2. Each Community Garden shall have a garden coordinator to act as a liaison between the city and city departments. The garden coordinator shall submit their contact information, with a site plan, to ensure compliance with city ordinances for approval by the Zoning Administrator. The site plan must show the garden location and any proposed improvements to the vacant parcel. It is also the garden coordinators responsibility to keep this information up to date with the Zoning Administrator, should there be any additions or changes.
3. The site must be designed and maintained so that water and fertilizer will not drain into the streets, alleys or adjacent properties.
4. Planting beds, compost or waste bins, picnic tables, garden art, rain barrel systems and children's play areas shall be permitted as long as they are not located in a required front yard, they are not an obstruction to clear vision at drives or intersections and they do not create an odor or other nuisance for neighboring properties.
5. Each garden may have a sign indicating the group or garden name and the hours of operation. The signs must conform to all applicable sign regulations and require a permit prior to erection of the sign.
6. Any fencing used for the Community Garden requires a Development Permit and must comply with existing fencing rules and regulations.
7. No water or irrigation wells may be installed for a Community Garden, unless installed by a state licensed well drilling firm. If the Community Garden is located on a city owned parcel, the city must first grant approval of the well. All groundwater wells located on city property must be removed by the responsible group, at their expense, when the garden is no longer being used.
8. Any use of pesticides or fertilizers must comply with applicable state or federal regulations.