

ORDINANCE NO. 20110210-017

**AN ORDINANCE REPEALING CHAPTER 8-4; REPLACING CHAPTER 14-7;
AND AMENDING CHAPTER 14-11 TO THE CITY CODE RELATING TO
SUSTAINABLE URBAN AGRICULTURE.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The Council finds that urban farms and city-supported community gardens:

- (A) provide access to nutritious foods produced with fewer carbon resources than those shipped to the community from other regions;
- (B) promote sustainability by reducing fuel consumption and air pollution with reduced transportation requirements for distributing food;
- (C) reduce the need for energy required for cooling through increasing plants in the environment;
- (D) increase storm water collection;
- (E) support the City's Climate Protection and Zero Waste initiatives;
- (F) contribute to food security for the City;
- (G) support the local economy;
- (H) provide educational opportunities for urban residents; and
- (I) when located on eligible city land, eliminate the need for City resources necessary to mow and maintain land owned by the City.

PART 2. Section 14-11-1(A) of the City Code is amended to read:

§ 14-11-1 APPLICATION REQUIRED.

- (A) Except as provided in Chapter 14-7 (*Sustainable Urban Agriculture*) and 14-11-2 (*Exceptions For Certain Uses Of Public Property*), a person must submit an application to the director of the Public Works Department to obtain a release of a public easement, license for the non-city use of public property, or vacation of a public right-of-way.

PART 3. City Code Chapter 8-4 (*Qualified Community Garden*) is repealed and a new Chapter 14-7 is added to read as follows:

CHAPTER 14-7. SUSTAINABLE URBAN AGRICULTURE.

ARTICLE 1. GENERAL PROVISIONS.

§ 14-7-1 DEFINITIONS.

In this chapter:

- (1) CITY-SUPPORTED COMMUNITY GARDEN means eligible city land controlled under a license agreement or non-city land controlled under a land control document which is issued a garden permit and located in the city corporate limits or extraterritorial jurisdiction by a non-profit organization that:
 - (a) is used by a group of four or more participating gardeners either on separate plots or farmed collectively by the group to grow, produce and harvest food crops for personal or group use, consumption or donation by the non-profit organization or cooperatively for the benefit of its members;
 - (b) is operated in a manner that includes water conservation, and in the case of eligible city land includes composting, non-polluting, and integrated pest management practices that promote a sustainable garden, and is cultivated solely for the production of organic produce;
 - (c) may include common areas maintained and used by the group for non-food, ornamental crops;
 - (d) is platted as a legal lot or exempted under Section 25-4-3 (*Temporary Exemption from Platting Requirements*); and
 - (e) has a community garden zoning use classification.
- (2) CITY LAND DEPARTMENT DIRECTOR means the department director or administrative head of the city department responsible for managing the city-owned land used as a city-supported community garden.
- (3) DEPARTMENT means the department or office designated by the city manager to administer this chapter.
- (4) DIRECTOR means the department director or administrative head of the department or the director's authorized designee.
- (5) ELIGIBLE CITY LAND means city-owned land identified by the director as public land that is eligible for use as a city-supported community garden

and the city land department director approves its use as a city-supported community garden.

- (6) GARDEN PERMIT means a permit issued by the director for a city-supported community garden.
- (7) LAND CONTROL DOCUMENT means a deed, written agreement (or an amendment to a previously executed land control document) or other documentation acceptable to the director evidencing the non-profit organization's control of the non-city land that allows the non-city land to be used as a city-supported community garden under this chapter.
- (8) LICENSE AGREEMENT means a written agreement (or an amendment to a previously executed license agreement) between the city and a non-profit organization approved by the director that allows eligible city land to be used as a city-supported community garden under this chapter and in a form acceptable to the city attorney.
- (9) NON-CITY LAND means a parcel of land not owned by the city that is eligible for use as a city-supported community garden.
- (10) NON-PROFIT ORGANIZATION means a non-profit entity under the Texas Business Organizations Code whose purpose allows it to operate a city-supported community garden, is legally responsible for filing an application and documentation under this chapter, and is authorized to enter into a license agreement or land control document under this chapter. The director will approve each organization that is eligible under this chapter.
- (11) PARTICIPATING GARDENER means each family or unrelated individual that participates in a city-supported community garden.
- (12) URBAN FARM means a parcel of land between 1 and 5 acres that is agriculturally cultivated by a person solely for the production of organic produce to be sold for profit.

§ 14-7-2 GARDEN PERMIT REQUIRED; WAIVER OF DEADLINES.

A person may not operate a city-supported community garden under this chapter unless the person obtains and possesses a garden permit and any other permit required by this chapter or the city, and pays any required fees.

§ 14-7-3 RESTRICTIONS ON ISSUANCE OF GARDEN PERMIT.

The director may not issue a garden permit on eligible city land unless the city land department director consents in writing to its use as a city-supported community garden.

ARTICLE 2. GARDEN PERMIT PROCESSING REQUIREMENTS.

§ 14-7-11 DOCUMENTATION REQUIREMENTS FOR GARDEN PERMIT APPLICATIONS.

- (A) An application in a form acceptable to the director for a garden permit filed under this chapter must be submitted to the director by a non-profit organization that has not been issued a notice under section 14-7-33 (*Notices Of Termination Of Use And Qualification*).
- (B) An application for a garden permit filed under this section must be accompanied by:
 - (1) any required fees; and
 - (2) in the case of a city-supported community garden on non-city land, a copy of the executed land control document.

§ 14-7-12 DETERMINATION ON GARDEN PERMIT APPLICATION; APPROVAL AND ISSUANCE OF GARDEN PERMIT.

- (A) The director shall review an application submitted by a non-profit organization for a garden permit for completeness and the acceptability of the application.
- (B) The director may approve or deny a garden permit after the director receives a complete and acceptable application. The director shall issue a permit to the non-profit organization if the director determines that the application for a garden permit complies with this chapter and any rules with respect to this chapter.

ARTICLE 3. LICENSE AGREEMENT APPLICATION AND APPROVAL PROCEDURES.

§ 14-7-21 APPLICATION REQUIREMENTS FOR LICENSE AGREEMENT APPROVAL; LICENSE AGREEMENT APPROVAL.

- (A) A non-profit organization desiring to operate a city-supported community garden on eligible city land must file a supplemental application for a license

agreement in a form acceptable to the director with the application for a garden permit.

- (B) The director may approve a supplemental application by a non-profit organization for a license agreement for the private use of eligible city land for a city-supported community garden, unless:
 - (1) the director or the city land department director determines that the proposed license agreement interferes with the public use of the eligible city land; or
 - (2) the city land department director:
 - (a) is not provided a copy of the application required by section 14-7-11 (*Documentation Requirements For License Agreement Applications*); or
 - (b) is provided a copy of the application required by section 14-7-11 (*Documentation Requirements For License Agreement Applications*) by the director and the city land department director objects to approval of the application; or
 - (3) a garden permit is not issued.
- (C) The director may approve execution of a license agreement if the director determines that the application complies with this chapter and any rules with respect to this chapter.

§ 14-7-22 CONTENTS OF LICENSE AGREEMENT; DESIGNATING AREA; EXECUTION.

- (A) A license agreement approved under this chapter must contain:
 - (1) a provision allowing the city to terminate the license agreement without cost to the city, and not earlier than 30 calendar days after issuing a written notice of the termination to the non-profit organization;
 - (2) a provision describing insurance requirements;
 - (3) a sketch including boundary points of the city-supported community garden;
 - (4) any special provisions required by the city land department director concerning limitations on the use of the eligible city land; and

- (5) other provisions that the city attorney determines are necessary.
- (B) A license agreement may not be executed until the non-profit organization has paid any fees required under this chapter.

ARTICLE 4. ADMINISTRATION.

§ 14-7-31 FEES.

The fees required under this chapter shall be established by separate ordinance.

§ 14-7-32 ANNUAL LICENSE AGREEMENT RENEWAL.

- (A) Each license agreement will be automatically renewed annually under the terms of the agreement, provided:
 - (1) a termination or suspension notice has not been issued under section 14-7-33 (*Notices Of Termination Of Use And Qualification*) or section 14-7-34 (*Suspension or Termination Of Garden Permit*); and
 - (2) the city land department director responsible for managing the land that is the subject of the license agreement consents to its continued use as a city-supported community garden.

§ 14-7-33 NOTICES OF TERMINATION OF USE AND QUALIFICATION.

- (A) A non-profit organization operating a city-supported community garden must notify the director and each person or garden committee responsible for managing each of the organization's city-supported community gardens not later than 90 calendar days before the organization terminates a garden permit.
- (B) If a non-profit organization operating a city-supported community garden ceases to qualify under this chapter, the director must notify the non-profit organization and each person or garden committee responsible for managing each of the organization's city-supported community gardens that the organization is no longer designated as a non-profit organization. The license agreement must be assigned to another eligible non-profit organization within 90 calendar days after the date the non-profit organization ceases to qualify under this chapter or the garden permit and the license agreement will be terminated by the director.

§ 14-7-34 SUSPENSION OR TERMINATION OF GARDEN PERMIT.

If the director determines that a non-profit organization or a participating gardener has violated or failed to comply with the terms of a garden permit or license agreement issued under this chapter, the director may immediately halt all city-supported community garden activities under the garden permit and suspend or terminate the garden permit.

§ 14-7-35 APPEAL.

A non-profit organization may appeal the suspension or termination of a garden permit under section 14-7-33 (*Suspension Or Termination Of Garden Permit*) to the city manager in accordance with Article 7, Division 1 (*Appeals*) of Chapter 25-1.

ARTICLE 5. URBAN FARMS.

§ 14-7-41 ADMINISTRATION OF URBAN FARMS.

An urban farm on city owned land will be managed by the city under an appropriate contracting method, as determined by the city manager.

PART 4. This ordinance takes effect on February 21, 2011.

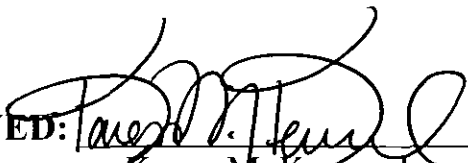
PASSED AND APPROVED

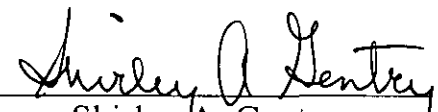
_____ February 10 _____, 2011

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Leo Peffingwell
Mayor

APPROVED: 
Karen M. Kennard
Acting City Attorney

ATTEST: 
Shirley A. Gentry
City Clerk