

Chapter 1287 Urban Agriculture Draft

December 15, 2016

1287.01 Purpose

The purpose of this chapter is to support the production and sale of locally grown foods; build community; improve public health and well-being; and provide economic opportunity, particularly in areas that have vacant or underutilized land, by affirming that gardening for personal use is a permitted use of land and additionally allow for community gardens and commercial urban farms with performance standards.

1287.02 Definitions. As used in this chapter, the following words and phrases have the following meanings:

- A. Community Garden – A vacant parcel of land or vacant portion of a parcel of land that is divided into plots for cultivation of crops including fruits, vegetables, plants, flowers and/or herbs by more than one individual and/or group. The land may be divided into separate plots for cultivation by one or more individuals or may be managed collectively by members of a group. The land may or may not be owned by a participating member of the community garden group.
- B. Compost – Relatively stable decomposed organic matter for use in agriculture and other growing practices usually consisting of materials such as grass, leaves, yard waste, works, and also including raw and uncooked food wastes.
- C. Crops – Commodities produced from the earth which are planted, raised, and gathered within the course of a single season and/or over multiple seasons. Crops include those plants or trees that are intentionally planted and require human intervention and cultivation, including flowers, berries, fruit, vegetables, herbs, spices, beans and legumes, grains, and nuts. For the purposes of this ordinance, marihuana is not considered a crop.
- D. 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, etc.
- E. Farmer's Market – A place where vendors and individuals can sell products from their crops.
- F. Farm Stand – A temporary structure, accessory to a private garden, community garden, or urban commercial farm, for the display and sale of produce and crops grown on the site.
- G. Greenhouse – An accessory 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 accessory structure whose roof and sides are made largely of transparent or translucent material for the purpose of the cultivation of plants inside.

- I. Orchard – The establishment, care, and harvesting of a group of more than ten (10) fruit or nut bearing trees. An orchard as a principal use is considered an urban commercial farm.
- J. Private Garden – An accessory use where the owner or tenant cultivates food crops and/or non-food crops primarily for personal use on the property they reside, or on vacant land not exceeding one (1) acre of land.
- K. Rainwater Catchment System – A method of catching rainwater runoff, including from the roof of a structure into rain gutters that channel into a rain barrel, drum, or cistern.
- L. Tree Farm – Any parcel of land used to raise or harvest more than ten (10) trees for wood products, Christmas Trees, transplanting, and/or where forest products are sold on-site or transported to market. A tree farm as a principal use is considered an urban commercial farm.
- M. Urban Commercial Farm – Land used for the cultivation of food crops and/or non-food crops primarily for sale or profit by the owner, tenant, and/or employees of the owner.

1287.03 Use and Performance Regulations

A. Private Gardens

1. Private gardens are allowed on any property when accessory to a permitted principal use and subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the private garden is located.
2. Private gardens are permitted on any vacant property less than one (1) acre in size with the following limitations:
 - a. Plant beds shall be set back three (3) feet from property lines and the public right-of-way.
 - b. Accessory buildings not to exceed 200 s.f. are permitted in the side and rear yard of the lot no closer than three (3) feet from the side and rear property lines, including the roof overhang, and no closer than ten feet to a principal structure located on or adjacent to the property.
 - c. Compost piles must be located at least five feet from all adjoining property lines and a minimum of twenty feet from the nearest residential structure. Each compost bin/area shall be less than sixteen (16) square feet in size.
 - d. Rain catchment systems must be located at least five feet from all adjoining property lines.
 - e. Farm stands selling plants grown at the property are permitted between 8 am and 8 pm and shall be setback three feet from the property line and the public right-of-way. Except for sales of plants produced within the private garden, there shall be no retail sales on the site.
 - f. Use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7 am and 8 pm.
 - g. Decorative landscape lighting is permitted.
 - h. Fencing shall comply with Ch. 1298.

B. Community Gardens

1. Community gardens are allowed on any property when accessory to a permitted principal use and subject to restrictions for accessory buildings, fencing, and nuisance provisions of the Battle Creek Codified Ordinances for the property on which the community garden is located.
2. Community gardens are a permitted use of vacant property that contains a minimum of 7,500 s.f. and minimum width of 66'.
3. The following provisions apply to community gardens:
 - a. Plant beds shall be setback three (3) feet from the property lines and the public right-of-way.
 - b. Accessory buildings including greenhouses, storage sheds, and shade pavilions shall be permitted in the side or rear yard, subject to Ch. 1286, but shall not exceed 10% of the total lot area.
 - c. Hoop houses are permitted as an accessory building but are not counted toward the allowable accessory building size limitation. The coverings must be maintained and remain intact, and removed when no longer in use for a period of six-months or longer.
 - d. Compost piles must be located at least five (5) feet from all adjoining property lines and a minimum of twenty (20) feet from the nearest residential structure. Each compost bin/area shall be less than sixteen (16) square feet in size.
 - e. Rain catchment systems must be located at least five (5) feet from all adjoining property lines.
 - f. Farm stands selling plants grown at the property are permitted between 8 am and 8 pm. Except for sales of plants produced within the community garden and sold at the farm stand, there shall be no retail sales on the site.
 - g. The use of motorized equipment, by use of gas or electricity, within a residential zoning district shall be restricted to the hours between 7 am and 8 pm.
 - h. Lighting, if provided, shall be a minimal amount and shielded so that all directly emitted light falls within the property.
 - i. Fencing shall comply with Ch. 1298.
 - j. Vehicle access to the site shall only be by way of a driveway constructed to city standards to avoid vehicle damage to the curb, sidewalk and any lawn area in the right-of-way.
 - k. There are no minimum parking requirements, however any parking lot proposed and designed for four or more vehicles must be constructed in accordance with Ch. 1284 only after a site plan has been reviewed and approved in accordance with Ch. 1294.
 - l. One freestanding sign consisting of no more than twelve (12) square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.
 - m. Trash containers may be provided on site.
 - n. Gardening activities shall be conducted in a manner which is consistent with the activities and noise levels of the neighborhood in which they are located.

125 C. Urban Commercial Farms

- 126 1. Except for as otherwise allowed by the Zoning Ordinance, Urban Commercial Farms
127 are a permitted use of land where contiguous properties are two (2) acres in size or
128 greater.
- 129 2. Urban Commercial Farms are permitted as a special use of land pursuant to Chapter
130 1290 where contiguous properties are less than two (2) acres in size.
- 131 3. The following provisions apply to urban commercial farms:
- 132 a. The development of any buildings, farmer's market, accessory structures, and
133 parking must comply with the setback, height, and size requirements of the
134 zoning district in which the farm is located and constructed only after approval
135 of a site plan pursuant to Ch. 1294.
- 136 b. Plant beds shall be setback three (3) feet from the property lines and the public
137 right-of-way, unless the adjacent property is residential in use, and in that case
138 the beds shall be setback fifteen (15') from that property line.
- 139 c. Orchards, tree farms, and any crop that reaches a height of five (5) feet at
140 maturity shall be setback at least fifteen 15' from property lines and the public
141 right-of-way.
- 142 d. Hoop houses are permitted as an accessory building but are not counted
143 toward the allowable accessory building size limitation. The coverings must be
144 maintained and remain intact, and removed when no longer in use for a period
145 of six-months or longer.
- 146 e. Compost areas shall be located at least five (5) feet from all adjoining property
147 lines and a minimum of twenty (20) feet from the nearest residential structure.
148 Each compost bin/area shall be less than sixteen (16) square feet in size.
- 149 f. Rain catchment systems must be located at least five (5) feet from all adjoining
150 property lines.
- 151 g. A farmer's market or farm stand is permitted between 8 am and 8 pm. In the
152 instance of a farm stand, except for sales of plants produced within the urban
153 commercial garden, there shall be no retail sales on the site.
- 154 h. Use of motorized equipment, by use of gas or electricity, within a residential
155 zoning district shall be restricted to the hours between 7 am and 8 pm.
- 156 i. Lighting, if provided, shall be a minimal amount, and shall be shielded so that
157 all directly emitted light falls within the property.
- 158 j. Fencing shall comply with Ch. 1298.
- 159 k. Vehicle access to the site shall only be by way of a driveway constructed to city
160 standards to avoid vehicle damage to the curb, sidewalk and any lawn area in
161 the right-of-way.
- 162 l. There are no minimum parking requirements, however any parking lot
163 proposed and designed for four or more vehicles must be constructed in
164 accordance with Ch. 1284 only after a site plan has been reviewed and
165 approved in accordance with Ch. 1294.

- m. One freestanding sign consisting of no more than twenty-four (24) square feet shall be allowed. Such sign shall otherwise comply with the applicable regulations of the zoning district in which it is located.
- n. Trash containers may be provided on site.
- o. Temporary restroom facilities are permitted only during the growing season from April 1st through October 31st. The facilities shall be screened on at least three (3) sides from public view by fencing, structures, or plantings of sufficient height.

1287.04 Property Maintenance

- A. Property used for private gardens, community gardens, and urban commercial farms shall be maintained in an orderly and neat condition, free of noxious weeds or debris. Dead garden plants shall be removed regularly and in any instance, no later than November 30th of each calendar year.
- B. Plants or ground cover other than grass shall be prevented from encroaching onto adjacent properties or onto the public right-of-way.
- C. No plants except grass may be grown in the public right-of-way or within one foot of the public sidewalk. Grass must be maintained a height that does not exceed nine (9) inches in height.
- D. No plant material may grow to a height that interferes with a clear vision line of sight at street intersections or when entering or exiting driveways.
- E. Oats, wheat, and rye may be used as a winter cover crop, but not grown to full maturity in any season.
- F. Trash receptacles shall be located to the rear of the property.
- G. Walkways shall be unpaved and covered with mulch, gravel or other aggregate that is treated to control dust.
- H. Garden waste or other refuse that is not allowed as compost may not be stored or allowed to accumulate on the site.
- I. Compost piles are only for waste created on the property and they must be maintained, Compost shall not include meat, grease, fat, oil, bones, manure, or milk products.
- J. These uses 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, odors, chemical, or biological pollutants. Nothing associated with a community garden or commercial urban farm, including allowable fertilizers, pesticides, insecticides, herbicides, compost materials, and water collection receptacles shall emit odors that can be detected beyond the confines of the property containing the garden or be an inordinate attraction for mice, rats or other rodents.
- K. 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 the ground in an enclosed, locked structure when the site is unattended.
- L. The property shall be maintained so as to prevent the flow of stormwater, irrigation water, chemicals, dirt, or mud across or onto adjacent lots, properties, public streets, or alleys.

M. At such time garden activity ceases completely and the site will no longer be used for a garden, any raised planting beds, accessory buildings, and other above ground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in that zoning district.

1287.05 Compliance with other Regulations

- A. Where the provisions of this Ordinance are inconsistent with those of the state or federal government, the more restrictive provisions govern, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- B. Where the provisions of this Ordinance are inconsistent with one another, or are in conflict with provisions found in other adopted Ordinances or regulations adopted by the City of Battle Creek, the more restrictive provisions shall govern. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- C. This Ordinance is not intended to provide permissions between private parties regarding use of land, or interfere with, abrogate, or annul any deed restriction or other agreement between private parties. The City of Battle Creek shall not enforce any such private agreements.