

Community Gardens Program 2017 Rules and Regulations

I. Overview

San José Community Gardens are intended to be beautiful, safe, and peaceful oases amidst the fast-paced life of Silicon Valley. The following set of rules and regulations have been designed for the following reasons:

- To ensure that community gardens are safe
- To ensure that community gardens are pleasant places to be and to look at: for gardeners, neighbors and the general public
- To establish fairness and equity among community gardeners
- To prevent damage to the land and groundwater
- To protect the future of community gardens in San José

As in any group endeavor, individuals must give up some of their individuality to accommodate the function of the group. Community gardening is no exception.

The Rules and Regulations are reviewed and revised annually in an ongoing effort to improve and keep them relevant to changing conditions. If you have suggestions or concerns, please call the Community Gardens Program office at (408) 793-4165. However, unless official changes are made, you must abide by these rules and regulations as they are currently written. Failure to do so may result in the termination of gardening privileges.

II. Who can participate in the San José Community Gardens Program?

Anyone age 18 or older who lives in the City of San Jose may participate in the San Jose Community Gardens Program.

III. Plot Allocation, Registration and Fees

1. One garden plot per residence. The Community Gardens Program uses the following guidelines to ensure that this rule is applied uniformly:
 - A primary gardener and/or gardener helper may not garden more than one garden plot
 - A primary gardener may be defined as an individual, Spouses, domestic partners or an entity having sole interest in the plot
 - A primary gardener may choose to have a garden helper noted on the registration form to help maintain the plot in the gardener's absence due to a family emergency, illness or injury, vacation or other unforeseen circumstance
 - The Primary gardener and their helper, who have entered into a current and valid agreement with the City, shall be referred to as a "plothead" in these rules
2. The person whose signature appears as the Primary Gardener on the Registration Form is ultimately responsible for the maintenance of the entire garden plot and for payment of all fees and charges.
3. The Primary Gardener is required to inform the Program Coordinator of any changes to their contact information, including home address and phone number, and, any changes to their helper's contact information. Failure to provide

current contact information for both the primary gardener and helper may result in termination from the Community Gardens Program.

4. Garden plots are issued on a year-to-year basis from February 1 – January 31.
5. The City may, in its discretion, enter into a new agreement with a Primary Gardener in good standing provided that the annual registration form is completely filled out and signed, and all appropriate fees are paid by the due date of January 31.
6. Primary Gardeners desiring to continue using the plot are required to complete the Community Garden Registration/Agreement Form and pay their annual registration fee by the registration deadline of January 31. Those who do not meet the registration/agreement deadline will automatically lose the assigned plot and the assigned plot will be reassigned to a new gardener.
7. During registration, current and new gardeners may be required to provide proof of residency in the form of a photo I.D. and a copy of a utility bill. Other forms of proof are subject to approval by the City or the Garden Management Team.
8. If there are no vacant garden plots, prospective gardeners may add their name to the community garden waiting list by contacting the Community Gardens Coordinator (See section IX, page 7 of these Rules & Regulations for contact information) and they will be contacted—in the order on the waiting list—when garden plots become available. Once contacted, persons on the waiting list have two calendar days to respond or they will be removed from the waiting list.
9. Prospective gardeners may have their name on only 1 waiting list.
10. Primary Gardeners who do not intend to continue gardening the plot for any reason should promptly notify someone on the Garden Management Team either verbally or in writing so that the plot may be reassigned to the next person on the waiting list.
11. Plotholders do not have any ownership interest in the plots and may not transfer a plot to anyone else, including a family member. The transfer of a plot will only be allowed between a husband and wife or domestic partners. Garden plots that become available will be re-assigned to new gardeners by the City's Community Gardens Program Coordinator.
12. New plotholders are required to complete the Community Garden Registration/Agreement Form and pay the total annual registration fee before they can begin gardening.
13. Full Payment of the annual registration fee is to be made by cash, check or money order, payable to the garden or City of San Jose, where applicable.
14. The annual registration cost includes a water fee and an administrative fee, and may include a materials fee, depending on the community garden. The water and administrative fee (s) go to the City and the materials fees go to the garden.
15. The Garden Management Teams have the option to impose an annual materials fee to be used to support garden activities. The materials fee may be for items such as, but not limited to, tools, pest control and key deposits. Management Teams shall track fees that are collected and how they are spent, and post a quarterly ledger at the garden. The City will reserve the right to review how the garden is spending the fees and will ensure that the fees are being spent appropriately.
16. The water fee is determined by the Program Coordinator. The fee is calculated by using this formula; cost per square foot multiplied by the size of the garden plot (square feet) equals the water fee. The cost per square foot is determined by monitoring the gardens total annual water usage and the local water company's current rates.
17. Plotholders who sign-up after the registration period may have their water fee prorated. The prorated water fee is determined by calculating the individual monthly water cost and multiplying it by the number of months left in the current registration period. The Administrative and materials fees are not prorated.
18. The annual registration fee is refundable only if the garden plot is completely cleaned, including all personal items, garden structures and fencing removed. A time limit of no more than 7 calendar days will be provided for cleaning of the plot. Refunds will be pro-rated with respect to the Period of Approval in the Registration/Agreement form.
19. Plotholders who leave the garden to transfer to another San Jose Community Garden may receive a refund of the annual registration fee. The water fee will be prorated, if applicable.
20. Five (5) ADA accessible garden plots are available at Guadalupe Community Garden. Individuals with a disability will have priority in renting any of the ADA accessible garden plots. If any of these ADA plots are not occupied, those plots may be assigned by the City on a temporary basis to the general public. Please note: Any ADA plot temporarily

assigned to the general public must be relinquished at the end of the current growing season or at the end of the registration year once a qualified ADA person is interested in the plot.

21. The definition of disability will be in accordance with the Americans with Disabilities Act (ADA) of 1990, Title 42, Chapter 126 or under California law.

IV. Gardening Guidelines

A. ORGANIC GARDENING

The Community Gardens Program adheres strictly to the gardening principles, concepts, and practices popularly called "organic." Products simply labeled "organic" or "natural" are not allowed unless they meet USDA or ORMI approval. The use of pesticides, herbicides, chemical fertilizers, or other such substances or practices inconsistent with organic gardening are prohibited. The use of fertilizer material or tillage methods harmful to the soil's structure, fertility or microorganisms is prohibited. The use of materials or products harmful to humans is prohibited. (Please refer to the "Garden Product Policy Guidelines" Section VIII, page 7 of these Rules and Regulations for more information.)

B. PLANTING SCHEDULE

1. Garden plots must be planted and maintained year-round.
2. Summer gardens must be planted by May 31st.
3. Remains of summer gardens must be removed by December 1st.
4. To prevent the spread of rust, garlic is to be planted in November and harvested by May. When garlic is left in the ground for too long, it is possible for rust to form on the garlic and then spread to other gardeners' plots.
5. Plotholders who do not actively garden during the winter either have to plant a cover crop, cover their plot with plastic or maintain their plot free of weeds.

C. PLANTING GUIDELINES

1. Plotholders may grow vegetables, herbs, flowers and edible weeds in their plot.
2. Edible weeds must be harvested and not allowed to go to seed.
3. Plotholders must utilize at least 75% of the plot for planting. Plots are not to be used to store materials/tools not associated with gardening.
4. The plot soil must be maintained in an aerated state, and no modification or amendment to the soil shall impede the future use of the plot. No more than 2 ten pound bags of sand will be allowed as an amendment to the soil.
5. Plotholders may grow woody perennials, such as grapes, berries and trees, including fruit trees or any plants considered invasive, such as bamboo, mint and Asian Yams, as long as it is in an above ground mobile container, planter, etc... Woody perennials such as grapes and berries, invasive plants, such as bamboo mint and Asian Yams and trees already existing in the garden plot must be removed by the gardener. Existing fruit trees planted in the garden plot may be left in place so long as the harvest is shared amongst all the current gardeners.
6. The following water-intensive crops are prohibited: Taro, rice, sugar cane.
6. Crops should be rotated.
7. Crops must be harvested and not left on the ground to rot and go to waste.
8. Plotholders should grow a variety of plants and should never grow less than two types of plants at any one time.
9. Respect the need of your neighbors' plants for sunlight. Do not plant tall crops, including those plants in above ground containers, in a way that will cause excessive shading to nearby plots.
10. All plants, planters, planter boxes and trellises must be placed inside plot perimeter. Plants may not over hang into the walk way. The City or the Garden Management Team has the right to trim excess plants over hanging into the walkway without prior notification.
11. All tires, including but not limited to car and truck tires, are prohibited for use in any capacity in an individual garden plot. However, Garden Management Teams may use them in the common areas for gardening purposes.

12. Trellises or arbors may not be more than 6 feet high, may not shade neighbors plot and may not be installed permanently.
13. Fencing around the perimeter of garden plots must be installed inside of the plot border, may not shade neighbor's plots and/or be more than 6 feet high, and may not be installed permanently.
14. Cement may not be used in a garden plot, under any circumstances. Any wood, metal or Iron posts, including rods, may not be driven into the ground more than 18 inches in depth.
15. Garden plots, with fencing around the perimeter, must be accessible at all times. If there is a lock on the fence, a copy of the key or the access code must be provided to the Garden manager and the Program Coordinator.
16. Community Gardens are publicly, maintained City Property and there is no presumption of privacy.

V. Plotholder Responsibilities

1. Plotholders are responsible for the year-round maintenance of their garden plots and the surrounding pathways. Plots and pathways must be kept free of weeds, trash and other debris at all times.
2. Primary Gardeners, compared to their garden helpers, are required to maintain the plot at least 50% of the time.
3. Common areas are maintained as a shared responsibility by all plotholders. Such maintenance will occur at garden cleanups scheduled by the Garden Management Team and/or on an ongoing basis.
4. Plotholders are required to attend scheduled garden cleanups or make alternative arrangements with the Garden Management Team to assist in the maintenance of the garden.
5. Plotholders are required to attend at least two garden meetings per year. If you are unable to attend a meeting, you are required to contact the Garden Management Team.
6. Plotholders must be involved in the hands-on cultivation of their plots.
7. Plotholders may not charge a fee to other gardeners for the use of their personal tools and/or equipment, including a rotor tiller. A small collection is permitted for the costs associated with fuel/oil and wear & tear of a rotor tiller.
8. In the event of a family emergency, illness or injury, vacation, or other unforeseen circumstance, and if the plotholder's gardener helper is unavailable, the plotholder may arrange for another gardener to tend the garden plot but must notify the Garden Management Team and provide the name of the other gardener, who already has a signed current and valid Community Gardens Registration/Agreement on file.
9. In the event of a family emergency, illness or injury, vacation, or other unforeseen circumstance, and if the plotholder's gardener helper is unavailable, the plotholder may hire a person, on a one-time basis, to help tend the garden plot but must have prior approval from the Garden Management Team.
10. In the event of a serious illness, and if the plotholder's gardener helper is unavailable, the plotholder may be provided 4 weeks for recovery. At the end of 4 weeks, and if the plot has not been maintained, the Program Coordinator will determine whether or not the plotholder will have to give up the plot.
11. Plotholders are required to notify the Garden Management Team of the following: irrigation problems such as water leaks, graffiti, theft, vandalism, rule violations, pest or disease problems.
12. Primary Gardeners and/or Gardener Helpers who have signed a current and valid Community Gardens Registration/Agreement may bring no more than 2 guests (collectively) to work on the garden plot with them at any one time, provided that the Primary Gardener and/or Gardener Helper shall be responsible for supervision of such guests at all times.
13. Plotholders and their guests must comply with all rules and regulations.
14. Plotholders will be held accountable for the behavior of their guests.

VI. Violations of Community Gardens Program Rules & Regulations

The City may enforce these Rules and Regulations, and in doing so will take action, including termination of the agreement with any gardener who is in violation of these Rules and Regulations. When a gardener violates the Program Rules and Regulations, the violation may be reported to the City using the Violation Incident Report (see pg. 8 for an example of VIR) which will be issued to the gardener by the Community Gardens Program Coordinator or a member of the Garden Management Team either in person, by mail or email.

Plotholders shall follow all reasonable instructions from the Garden Management Team. City may issue a written warning or termination, as reasonably determined by City based upon the facts and circumstances. If a Plotholder believes that a warning or termination notice was issued in error, the Plotholder should contact the City's Community Garden's Coordinator in writing by letter or email (for contact information, see section IX, page 7 of these Rules & Regulations) identifying the relevant facts and circumstances that the termination or warning should be rescinded, within 14 consecutive calendar days of the date of the written notice of warning or termination. When a plotholder is terminated, he/she may reapply for the Community Gardens Program a year from the date of termination, and is prohibited from being anyone's garden helper. The decision of the City's Community Garden Coordinator is final.

VIOLATIONS WARRANTING IMMEDIATE TERMINATION BY THE CITY

1. Theft of tools and equipment
2. Theft of produce and plants
3. Vandalism of tools, equipment and City Property, including but not limited to animals.
4. The use of foul language and offensive behavior including but not limited to threats, intimidation, violence, racial/ethnic slurs and sexual harassment.
5. The use of alcoholic beverages and illegal drugs of any kind, in any area of the City's Community Gardens
6. Receiving more than 2 combined written warnings within a Program year
7. Receiving more than 4 written warnings for the same violation within 2 program years
8. Failure to pay registration fee by the deadline

VII. At the Community Garden

1. **Hours of Operation:** Community gardens are open from sunrise to sunset (Cornucopia / El Jardín open at 8:30 a.m.)
2. **Behavior:** Foul language or offensive behavior is prohibited.
3. **Hostile Person/Situation:** If you encounter a hostile person/situation, walk away and notify your Garden Management Team or City Program Coordinator immediately, and if you feel threatened immediately dial 911, or from a cell phone dial 408-277-8911.
4. **Gates:** In general, garden gates are to be kept closed and locked at all times to prevent unauthorized access and theft
5. **Cars:** Vehicles are not allowed in the garden, except in designated parking areas as described by the Garden Management Team.
6. **Smoking:** Smoking in the community garden is prohibited.
7. **Controlled Substances:** No alcoholic beverages or illegal drugs of any kind allowed. It is prohibited to enter the garden under the influence of alcohol or drugs.
8. **Bathroom:** Proper bathroom facilities must be used. Urinating or defecating in the community garden is prohibited.
9. **Garbage:** Unless your garden has arranged for garbage removal, you must take any garbage you generate with you to discard elsewhere. Discarding of garbage on the ground or in compost or green waste piles is prohibited.
10. **Green Waste:** Weeds and plant material should be composted on-site or placed in the green waste collection area(s). Green waste should not be thrown away or left in the pathways.

11. **No Selling:** Produce from community gardens is primarily for family consumption. Excess food can be preserved for future use, shared with friends or neighbors, or donated to local food banks. **You may not sell your produce.**
12. **Harvesting:** Harvest only from your own plot. The unauthorized taking of produce from another gardener's plot will result in the immediate revocation of your garden plot.
13. **Water:** The amount of water used determines future water fees. No unattended and/or uncontrolled watering allowed. All gardeners are authorized to turn water off if it has been left unattended. Leaky water hoses must be replaced or repaired.
14. **Water Timers:** Timers are allowed. If a water spigot is shared between two gardeners, a Y or T connection must be installed to allow water use for both gardeners.
15. **Excessive Watering/Watering Schedules:** Excessive water use may result in a fine, and/or a specific watering schedule may be implemented for an individual or the entire community garden, as determined by the garden manager and/or Program Coordinator. Excessive water use may be defined as the following; water allowed to leave the defined vegetable plot/bed; water allowed to run off into the pathway or adjacent plot; unattended water hoses left running for extended periods of time –minimum of 20 minutes. Those gardeners not adhering to a watering schedule or who continue to use water in excess may be terminated from the Program.
16. **Watering Guidelines during a Declared Drought:** The following guidelines must be followed during a declared drought, in addition to following local and state laws: 1) Watering will be restricted to 3 days a week. 2) An automatic shut-off nozzle must be attached to the end of a hose. 3) No overhead spraying. 4) No flood irrigation
17. **Standing Water:** To reduce the breeding of mosquitoes and the spreading of West Nile Virus, no stagnant/standing water allowed, including but not limited to water in containers and buckets.
18. **Irrigation System:** The Garden Management Team must be notified of any alterations to the irrigation system and the City will have final approval of any changes. No alterations can be made to the irrigation system on Fridays, Saturdays, Sundays, or holidays because of the risk of an accident and the limited availability of City staff during these times. In the event of an irrigation emergency, you should contact your garden manager and/or the Community Gardens Program at (408) 793-4165. On weekends, please call the City of San José Call Center at (408) 535-3500. Any alterations to the MAIN irrigation line are prohibited.
19. **Tools:** Garden-owned tools are for garden use only and should be cleaned and returned to the toolshed after use. Tools must be kept locked in the tool shed overnight and should never be taken off the garden premises.
20. **Personal Storage Cabinets/Containers:** Storage cabinets and/or containers must be kept clean and organized and within the plot. They may not be installed permanently and may not shade neighbors plot. City Staff has the authority to conduct an inspection of the inside of the cabinet/container at any given time with out prior notification.
21. **Personal BBQ's:** Personal bbq's are allowed only in designated areas and not near garden plots or in pathways. They must be removed after use and not stored in the garden. They may only use/burn charcoal and propane gas. Ashes must be disposed of in a safe manner. Food preparation is allowed only in designated areas.
22. **Personal Items:** Personal items shall not be stored in the common areas without prior authorization from the Garden Management Team.
23. **Pests/Rodents:** Gardeners may trap and dispose of gophers, moles and ground squirrels. The use of chemicals, including over the counter smoke bombs, is PROHIBITED. All dead animals must be wrapped in plastic or placed in a container and disposed of in the garbage. If anything in a gardener's plot provides a habitat for rodents, including but not limited to rats, mice, and ground squirrels, the gardener must remove the habitat.
24. **Animals:** Pets are not allowed in community gardens unless the animal is identified as a Service Animal and any official documentation, which identifies the animal as a disability-related need, is provided to the Program Coordinator or the Volunteer Garden Management Team. Feral cats can be kept at a garden for rodent control if the following guidelines are strictly followed:
 - If agreed upon by a majority of the gardeners at the garden
 - No more than 3 cats per garden
 - All cats must be neutered and immunized
 - When cat caretakers leave the garden, they must take the cats with them or make appropriate arrangements for their future care
 - Cats must be fed in an area far way from garden plots

25. **Bee Keeping:** Community gardens interested in Bee Keeping must apply for a Beekeepers Permit by submitting an application to the office of San Jose Animal Care and Services. Please contact the Community Gardens Program Coordinator for an application.

VIII. Garden Product Policy Guidelines

Any organic substance for use in any of the City of San Jose’s Community Gardens must be approved by the U.S. Department of Agriculture’s (USDA) National Organic Program or by the Organics Materials Review Institute (OMRI). To see if a substance is allowed in a community garden check the USDA National Organic Program National List, Subpart G, 205.601 and 205.602 or the OMRI Web site, www.omri.org

Organic Gardening: The form of agriculture that relies on techniques such as crop rotation, green manure, compost and biological pest control. Organic Gardening uses fertilizers and pesticides but excludes the use of manufactured (synthetic) fertilizers, pesticides (including herbicides, insecticides and fungicides), plant growth regulators, sludge and nanomaterials.

The following table includes, but not limited too, some substances that are allowed and prohibited:

	Allowed	Prohibited
PEST AND DISEASE CONTROL	<ul style="list-style-type: none"> - bacillus thuringiensis(Bt) - soap spray - Horticulture pepper/onion spray - sulfur - wood ashes - sour milk solution - lace wings - dormant oils - micro-cop or equivalent (orchard use only) - diatomaceous earth (DE) <p>* Pyrethrin: It is a naturally occurring insect-killing chemical taken from chrysanthemum flowers. In the flowers, these bug-killers exist as a mixture of six separate chemicals that together are called pyrethrum or pyrethrins. Pyrethrins (without piperonyl butoxide or other enhancers) are permitted for use on organically grown crops.</p>	<ul style="list-style-type: none"> - baking soda - borax, boric acid - sluggo - lady bugs - tanglefoot - marigolds - beneficial nematodes - netting - Pyrethrum* <ul style="list-style-type: none"> - rotenone - pyrethrate, pyrethroids - nicotine sulfate - malathion - diazinon - sevin - organophosphates - Roundup - Finale - Dursban - organ chlorides - chlorpyrifos
FERTILIZERS	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <ul style="list-style-type: none"> - cotton Seed - kelp - compost - manure </div> <div style="width: 45%;"> <ul style="list-style-type: none"> - blood, bone, horn, and hoof meals - liquid fish or seaweed - fertilizers classed as “organic” </div> </div>	<div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <ul style="list-style-type: none"> - ammonium sulfate - ammonium nitrate - muriate of potash - superphosphates - highly soluble chemical fertilizer - Ozmicote - Non organic Miracle Grow </div> <div style="width: 45%;"> <ul style="list-style-type: none"> - ammonium sulfate - ammonium nitrate - muriate of potash - superphosphates - highly soluble chemical fertilizer - Ozmicote - Non organic Miracle Grow </div> </div>

IX. Gardens Program Contact Information

City of San Jose
 Community Gardens Program
 200 E. Santa Clara Street, 9th Floor Tower
 San Jose, CA 95113-1905
 Phone: (408) 793-4165
 Fax: (408) 292-6416
 Email: community.gardens@sanjoseca.gov
 Web Site: www.sjcommunitygardens.org

Violation Incident Report (VIR)
(SAMPLE)

Date: _____ **Time:** _____

Garden Name: _____

Name of Gardener (first/last): _____ **Plot#:** _____

Description of Violation: (Brief description)

Reference: Current Community Gardens Program Rules & Regulations

Page (s): _____ Section (s): _____ Paragraph (s): _____ Line (s): _____

Witnesses (if applicable):

Name (first/last): _____ Plot #: _____

Name (first/last): _____ Plot #: _____

Plan of Action (if applicable):

Expected Date of Correction (if applicable):

Action Taken:

First Warning: _____ Second/Final Warning: _____

VIR: mailed emailed handed to gardener

Program/Garden Management Signature: _____ Date: _____

*** The white copy of this form must be submitted to the Program Coordinator.**