

# 2022 Community Gardens 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 pleasant places to be and to look at, for gardeners, neighbors and the general public
- To ensure that community gardens are safe
- To establish fairness and equality 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.

## 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 "plotholder" 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 January 1 - December 31.

5. Primary Gardeners, who are in good standing and who desire to continue using the plot, are required to complete the Community Garden Registration/Agreement Form and pay their total annual registration fee by the registration deadline. 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.
6. 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.
7. 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, 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.
8. When a person on the waiting list is contacted and they say they cannot garden at the moment but would like to stay on the waiting list, they can keep their place, but will get only two chances to rent the plot, and after that they will have to go to the bottom of the 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 Community Gardens 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 total annual registration fee is to be made by cash, credit card, check or money order, payable to the City of San José.
14. The total annual registration fee 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 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 Community Gardens Coordinator. The fee is calculated by using the following 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 total 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 8 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 October 31.
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. Plot holders 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. Plot holders 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. Plot holders must have their plots planted with at least 50% of an edible plant.
4. Plot holders must utilize at least 75% of the plot for planting. Plots are not to be used to store materials/tools not associated with gardening.
5. Plot holders may not have their plots 60% planted with just one type of plant or vegetable crop. At least two types of plants or vegetable crops must be planted. The exception would be if you are growing a cover crop for the duration of the winter.
6. Plot holders 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.
7. 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 two 10 lb bags of sand will be allowed as an amendment to the soil.

8. The following water-intensive crops are prohibited: Taro, rice, sugar cane.
9. Crops must be harvested and not left on the ground to rot and go to waste.
10. 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.
11. 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.
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 plot and may not be more than 6 feet high, and may not be installed permanently.
14. 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/or Community Gardens Coordinator.
15. The plot header boards may not be more than 15 inches in height.
16. Raised beds situated within a plot may not be more than 18 inches in height. ADA plots are exempt from this rule.
17. Building materials for any garden structures, including but not limited to trellises and fencing, must be garden appropriate and free of any toxic paint, rust, or other harmful substances.
18. 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.
19. All tires, including car and truck tires, are prohibited for use in any capacity in any garden plot. However, Garden Management Teams may use them in the common areas for gardening purposes
20. Community Gardens are publicly, maintained City Property and there is no presumption of privacy.

#### **D. WATERING GUIDELINES**

1. 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. No pop-up heads or sprinklers allowed. Plot holders must notify the garden management team of any water leaks.
2. Water is used only for watering plants in the garden plot. If the community garden has an official, City installed wash station (sink), washing vegetables is allowed, except when water drought restrictions are enforced.
3. Flood Irrigation is not allowed.
4. No overhead spraying.
5. The depth of a trench or furrow may not be no more than 5 inches in depth and no more than 6 inches in width.
6. Timers are allowed. If a water spigot is shared between two gardeners, a Y or T connection must be installed to allow for both gardeners to use the water. If a timer malfunctions and water continues to run for a lengthy period of time, the plot holder will receive a fine as determined by the Community Gardens Coordinator.
7. 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 Community Gardens 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.
8. **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 the hose.

9. **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/buckets and on plastic ground covers.

## **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 60% 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 volunteer 4 hours of community service per year towards cleanup of the common areas.
5. Plotholders must complete 50% (2 of 4) of their annual community service hours by **June 30**, and if not, a written warning (VIR) may be issued. Plotholders must complete 75% (3 of 4) of their annual community service hours by **October 31**, and if not, a second VIR may be issued. Plholders must complete 100% (4 of 4) of their annual community service hours by **November 30**, and if not, the plotholder will not be allowed to re-register for the program for the upcoming year.
6. 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.
7. 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.
8. Plotholders must be involved in the hands-on cultivation of their plots.
9. 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.
10. In the event of a family emergency, illness, 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.
11. In the event of a family emergency, illness, 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.
12. In the event of an 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, if the plot has not been maintained, the Community Gardens Coordinator will determine whether or not the plotholder will have to give up the plot.
13. Plotholders are required to notify the Garden Management Team of the following: graffiti, theft, vandalism, rule violations, pest or disease problems.
14. In the event a plotholder is a victim of theft or vandalism to personal property (including plants), physical violence or harassment of any kind, including threatening telephone calls and e-mails, or stalking, plotholders must immediately report it to the police, and to the garden management team or the City of San Jose Program Staff.
15. Primary Gardeners and/or Gardener Helpers 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.
16. Plotholders and their guests must comply with all rules and regulations.
17. Plotholders will be held accountable for the behavior of their guests

## **VI. Violations of Community Gardens 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 (VIR) form, which will be issued to the gardener by the Community Gardens Coordinator or a member of the Garden Management Team either in person, by mail or email. When a VIR is issued, the gardener will have 7 consecutive days from the date of issuance, to correct the violation (s). If a second VIR is issued, another 7 consecutive days will be granted to correct the violation (s). If the violation (s) is not corrected after the second VIR, the gardener will be terminated from the Program.

Plotholders shall follow all reasonable instructions from the Garden Management Team. The City may issue a written warning or termination, as reasonably determined by the City based upon the facts and circumstances. If a Plotholder is terminated, the plotholder will be given 7 consecutive calendar days to remove their personal belongings from the garden. Any personal belongings left in the garden, will become property of the City of San José. If a plotholder is terminated, the plotholder may reapply for the Community Gardens Program a year from the date of termination and is prohibited from being anyone's gardener helper. Plotholders who are terminated will not receive a refund of the total annual plot fees. The decision of the Community Gardens Coordinator is final.

### **THE FOLLOWING VIOLATIONS WILL BE CAUSE FOR 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. \*Brandishing a firearm or weapon of any kind
6. \*The use of alcoholic beverages and illegal drugs of any kind, in any area of the City's Community Gardens
7. Urinating/defecating anywhere other than in a portable or permanent restroom
8. Receiving 2 VIR's with no correction taken, for the same violation, within the registration year
9. Receiving more than 4 written warnings for the same violation within 2 registration years
10. Failure to pay registration fee by the deadline

\*These violations will be reported to the San Jose Police Department

## **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. **Acceptable Attire:** Gardeners may not be shirtless and may not have their underwear exposed
3. **Hostile Person/Situation:** If you encounter a hostile person/situation, walk away and notify your Garden Management Team or Community Gardens Coordinator immediately, and if you feel threatened immediately dial 911; from a cell phone dial 408-277-8911.
4. **Gates:** In general, community garden gates are to be kept closed and locked at all times to prevent unauthorized access and theft
5. **Vehicles:** Vehicles are not allowed in the garden, except in designated parking areas as described by the Garden Management Team.

6. **Loud Noise/Music:** Loud noise and/or music, is not permitted in the garden or on the outside perimeter of the garden. Earphones are suggested.
7. **Smoking:** Smoking in the community garden is prohibited.
8. **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.
9. **Bathroom:** Proper bathroom facilities must be used. Urinating or defecating in the community garden is prohibited.
10. **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.
11. **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.
12. **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.**
13. **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.
14. **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.
15. **City Perimeter Fence:** Gardeners may not attach any object, hang garden equipment, or allow plants to grow on the City's perimeter fence.
16. **Tools:** Garden-owned tools are for garden use only and must be 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.
17. **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 without prior notification.
18. **Personal BBQ's:** Personal bbq's are not allowed in the community garden. The City bbq's may be used where available.
19. **Personal Items:** Personal items shall not be stored in the common areas without prior authorization from the Garden Management Team.
20. **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.
21. **Animals:** Pets are not allowed in community gardens unless the animal is identified as a Service Animal. The individual must maintain control of the service animal and not let it run loose throughout the garden. If the service animal is out of control and the handler does not take effective action to control it, the service animal must be removed from the garden. Feral cats can be kept at the 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 away from garden plots
22. **Bee Keeping:** Community gardens interested in maintaining a beehive must contact the Program Coordinator prior to placing a beehive in the garden.

## 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](http://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 is not limited to, substances that are allowed and prohibited.

PEST AND DISEASE CONTROL		FERTILIZERS		
Allowed		Prohibited	Allowed	Prohibited
Bacillus thuringiensis (Bt)	Baking soda	Rotenone	Cotton seed	Ammonium sulfate
Wood ashes	Borax, boric acid	Pyrethrate	Kelp	Ammonium nitrate
Horticulture pepper spray	Sluggo	Pyrethroids	Compost	Muriate of potash
Horticulture onion spray	Tanglefoot	Nicotine sulfate	Manure	Superphosphates
Sulfur	Marigolds	Malathion	Blood & bone meals	Chemical fertilizers
Sour milk solution	Beneficial nematodes	Diazinon	Horn & hoof meals	Ozmicote
Lace wings	Netting	Sevin	Liquid fish or seaweed	Non-organic
Micro-cop or equivalent	Dormant oils	Organophosphates	Organic fertilizers	Miracle Grow
Diatomaceous earth (DE)	* pyrethrum	Roundup		
* Pyrethrin: It's 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 <b>pyrethrum</b> or <b>pyrethrins</b> . Pyrethrins (without piperonyl butoxide or other enhancers) are permitted for use on organically grown crops.		Finale		
		Dursban		
		Organ chlorides		
		Chlorpyrifos		

## IX. Program Information

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