

New York City Community Garden Coalition's Response to NYC Dept. of Parks and Recreation's *Rules for Community Gardens**

* New Chapter 6 of Title 56 of the Official Compilation of Rules of the City of New York

New York City Community Garden Coalition (NYCCGC) was at the table during the initial process of drafting the new Parks Department rules concerning community gardens, and we look forward to being involved in the drafting of future policies and legislation that will permanently preserve our city's vibrant community gardens, and create opportunities for the development of more. We are glad to see the rules state that any community garden under the Parks Department will remain so if these rules are followed. However, NYCCGC has several concerns about the new rules, which have been identified by our leadership, members, and legal counsel. We believe our recommendations, detailed below, would offer better support for community gardens and, going forward, request their adoption into the rules, procedures, policies, and legislation regarding community gardens.

NYCCGC recommends the following:

PART I - Create Transparent Processes for Gardens in "Default" and "Accelerated Default."

NYCCGC is concerned about what criteria the Department of Parks & Recreation (DPR) uses to determine that a garden is in "default" or "accelerated default." For example, according to the rules, a garden is in accelerated default if it "effects, or poses a threat to the health or safety of the community in which the Lot and Garden are located." The rules do not provide any criteria as to what will determine this violation. There is no clear notification process for a gardening group to learn that DPR considers its activities to "effect... the health or safety of the community." By the time that group receives a notice of default, according to the DPR rules, it has only 30 days to cure the perceived problem.

1.) Form an Advisory Group to Clarify and Correct Persistent Violations

We recommend that a GreenThumb advisory group be formed, with community gardeners as a majority of members. This group would deal with violations and could include NYCCGC, and other community and greening groups, to work directly with individual gardening groups and gardeners to correct violations that have persisted and may lead to a default. This group would need guidelines; documented criteria for default and accelerated default.

2.) Form a Review Panel for Transparent Processes and Decisions on Default:

Under the current rules, the final determination of default is at the sole discretion of the DPR's Commissioner. To create a transparent process before the Commissioner's determination, we recommend a panel of three individuals be formed to hold an evidentiary hearing to arrive at a recommendation for action. One of the individuals would be chosen by DPR, another chosen by community gardeners, and the third person would be someone mutually agreed upon by both DPR and community gardeners. The Commissioner would then accept or reject the panel's determination. In the event that

the Commissioner rejects the panel's decision, a court could review if the rejection was proper. Norman Siegel has been successful in the past in having such a procedure instituted at an administrative agency.

3.) Create a Dedicated Website to Inform Gardeners and the Community

We recommend that GreenThumb establish a dedicated public website where notifications to community gardens are posted. Automated alerts regarding infractions could be sent via an RSS "web feed" subscription. GreenThumb would publish and post persistent violations 30 days after the infraction, as well as individual community garden default notifications. Notices of garden default should also be mailed and emailed to all members of the garden group registered with GreenThumb.

PART II - Identify All Permanently Protected Community Gardens It is NYCCGC's contention that all gardens listed in the "Offer for Preservation" section of the NY State Attorney General's 2002 Community Garden Agreement is permanently protected by that document. We request a fully documented list of actions on all community gardens listed by the Agreement. This includes the 198 community gardens listed in the agreement, as well as those which were later transferred, swapped, and added to the list after 2002.

PART III - Collectively Forge New Legislation and Policy NYCCGC is mindful that the DPR rules cover only community gardens that are under DPR. Other gardens fall under the jurisdiction of many other agencies, including Housing Preservation & Development, Department of Education, Department of Transportation, and New York City Housing Authority, and are not covered by these rules. We are very excited to be working in a truly shared process with Speaker Quinn, Parks Council Chair Viverito, and the Mayor's office to create legislation and policies extending permanent protections and support to all current and future community gardens and urban farms. Our collaboration will provide the neighborhoods in our city with all the beauty and improved quality of life that nature provides, as well as access to nutritious, locally-grown food, opportunities for recreation, therapy, exercise, education, and inter-generational and cross-cultural connections.

NYCCGC New York City Community Garden Coalition 232 East 11th St, New York, NY 10003 Telephone + Fax: (888) 311-3993 • Email: United@NYCCGC.org

New York City Community Garden Coalition Stance on the Proposed HPD / DPR Rules for Community Garden

Chapter 6 of Title 56 of the Official Compilation of Rules of the City of New York (New proposed chapters 6 of Title 56 and Chapter 43 to Title 28 of the Official Compilation of Rules of the City of New York)

Introduction

The NYCCGC has taken the role of leadership in advocating for a policy change in how community gardens are viewed. For months, representatives from the current administration, local elected officials, city lawyers and representatives from the Parks department have met with us in good faith to discuss the Proposed Rules. While the consensus of our membership continues to be that the Proposed Rules and regulations lack important protections, the public hearing regarding the Proposed Rules, scheduled for August 10, will be a time for all New Yorkers and greening advocates to tell City Hall that the time has come to see that community gardens are protected, preserved and recognized as part of NYC urban planning. Let us make clear that our gardens deserve to be recognized as protected community garden land. On the steps of City Hall and at the hearing, let's stand united, as community gardeners and urban farmers, raising our shovels and voices. United We Grow!!!

Response to the Proposed Rules

The 2002 Memorandum of Agreement ("Garden Agreement") between New York City and the State Attorney General, which protects 301 of our remaining Community Gardens under the Parks Department and Housing Preservation and Development (HPD), is coming to an end on September 17th, 2010.

The Bloomberg administration assured NYCCGC at our annual Forum in both 2008 and 2009 that the Garden Agreement would be extended to allow sufficient time to implement a long-term solution for preserving all community gardens.

However, the Bloomberg administration has abruptly turned away from those assurances, proposing instead to replace the Garden Agreement by agency rule-making alone, before pursuing a permanent solution. The proposed rule provides no substantive protection for community gardens in Parks jurisdiction and treats all community gardens on Parks and HPD land as subject to other development.

NYCCGC is firmly in opposition to these Proposed Rules because they allow the development of hundreds of gardens on City property and fail to extend the protections of the 2002 Gardens Agreement.

- 1. The Proposed Parks Rules must continue the Community Gardens Agreement which states "all gardens are for preservation as community gardens"**
- 2. The Proposed Rules must include a transparent and public process, such as a dedicated website.**
- 3. The "Rules" must provide processes and procedures for creating new gardens and urban farms.**

Policy Goals: The City Administration needs to recognize community-controlled green spaces and provide long-term solutions for making community gardens permanent, including transferring HPD community gardens to Parks.