

Community Gardens on Public Land

Negotiating a Win-Win Situation

In many cities across Canada, community gardens have become a popular alternative for urban dwellers that don't have access to the type of gardening space readily available in the countryside or private backyard. They can also be beneficial for municipalities – if properly managed.

Community gardens are parcels of public land that are sub-divided into smaller plots and gardened by a group of people. They provide an open space where residents can grow their own food, engage in healthy exercise and make their community a better place.

Community gardens can also be beneficial to municipalities, allowing cities to assume a leadership position in the protection and use of open space, while promoting healthy lifestyles and community building.

If managed properly, they can be a win-win situation. If not, community gardens can grow into a weed of problems for all parties involved.

What can happen if it's managed improperly?

In one example of what can go wrong, a municipality granted permission to a community group to build a garden on a particular parcel of land. Both parties entered into a short term agreement which specified that the municipality retained the right to sell the land but would provide advance notice of sale.

At the beginning of the gardening season, the association signed the short-term rental agreement, began fundraising activities and used the funds to install new raised beds. The municipality's real estate division, unaware of this contractual arrangement, sold the land. The community group did not receive advance notice of sale but rather received notice to evacuate as the land was now under new ownership and construction would begin shortly. Needless to say, the gardeners and their supporters were upset by the process.

The situation resolved itself when the municipality apologized for its error and agreed to find another suitable location, relocate and rebuild the garden at its own cost. As a result of this unfortunate incident, the municipality developed a comprehensive Community Gardening Policy.

Issues to consider when developing Community Gardening Policies

If you are planning to grant permission for a community group to build a garden on a certain parcel of land, we recommend that you:

- 1) Compile an inventory of suitable land space such as, undeveloped land; marginal areas of parkland; public easements and rights of way. Do not consider land slated for development in the near future. Make sure the land is free of environmental contaminants, has a water source and has suitable parking.
- 2) Consider Zoning Regulations that establish community gardens as a permitted use of the land. Address the issue of public sale of produce on community gardening property to prohibit unlicensed vegetable markets from popping up in various municipal locations.
- 3) Develop appropriate land use policies such as:
 - Land tenure terms
 - Size of plots
 - Types of plants that can be grown
 - Use of herbicides, pesticides, composting
 - Water access and water use
 - Provision of gardening tools and sheds
 - Garbage pick-up
 - Provision of benches so gardeners can rest
 - Annual rental fees
- 4) Consider whether you will provide operational support. If yes, what sort of support? ie: rotatilling; garden tools, etc.
- 5) Appoint a municipal point person to address public concerns.
- 6) Enter into partnerships with local non-profit groups such as gardening clubs and/or neighbourhood associations. Let them manage the process with your support.
- 7) Work with these partners to identify the target group of gardeners and any modifications that may be necessary. For example, seniors and those with limited mobility may require raised beds, wheelchair accessibility, longer-handled tools, etc.
- 8) Enter into formalized Land Use Agreements with either the community gardening association or each individual gardener. Include in the agreement a Hold Harmless and Indemnification Clause and a requirement for insurance. Consider waivers of liability.
- 9) Develop a set of Community Garden Rules that are both fair and firm and apply to each gardener. Require all gardeners to agree to the rules in writing at the beginning of every season.

If you require a sample set of Community Gardening Rules, please contact Barb Szychta at barb.szychta@frankcowan.com