



## Community Orchard & Edible Forest Policy

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Policy Number	POL-43
Effective	Not applicable
Review Date	Not scheduled
Final Approver	City Council
Training Course Code	Not applicable
Document State	Final

### 1.0 Purpose

This policy establishes a framework to permit community led planting, management and harvesting of fruit trees, nut trees and/or shrubs on City owned lands. The City recognizes that community led planting, management and harvesting of fruit trees, nut trees and/or shrubs on City owned lands promotes community development, increases opportunities for recreation, socialization and healthier lifestyle, provides access to healthy food, permits sustainable agriculture and contributes to an increased tree canopy. These benefits align with goals identified in the Sustainable Kingston Plan, the Parks and Recreation Master Plan and Kingston's Urban Forest Management Plan. The policy is to be applied with consideration of the By-Law to Provide for the Regulation Use of Parks and Recreation Facilities (2009-76), the Community Gardens Development and Operations Policy and other applicable law.

### 2.0 Persons Affected

- 2.1 This policy applies to all employees, including the Director of Recreation & Leisure Services.

### 3.0 Policy Statement

- 3.1 It is the policy of the City to ensure that:

- 3.1.1 planting, injury or removal of a tree, on City owned lands, shall not be permitted unless authorized by the City. The City, or its designate, may deny any proposed Community Orchard or Stewardship for any reason at its sole discretion;
- 3.1.2 a Food-producing Tree species proposed as part of a proposed Community Orchard, shall be subject to City approval prior to planting;
- 3.1.3 Community Orchards and Stewardships on City owned lands shall be maintained by a Community Orchard Group or a NPO. The City encourages and supports a diversity of community members (e.g... age, ability, cultural background, etc.) to participate in Community Orchards and Stewardships;
- 3.1.4 existing Food-producing Trees and Edible Landscapes on public lands may be foraged or informally harvested for personal consumption at the participant's own risk. Those participating in foraging or informal harvesting should make themselves aware of the risks associated with the growing conditions, environment and plant and food materials. For informal foraging and harvesting, the site of the existing tree(s) or shrub(s) will not be reviewed by the City to determine its suitability for growing food for human consumption;
- 3.1.5 the produce collected from Community Orchards or Stewardships, as described in this policy, shall not to be used for commercial purpose. The produce may be used for community member consumption or community benefits such as donation to local food distribution organizations, food pantries, food banks, meal programs, animal sanctuaries, NPOs or other related organizations. The selling of produce for the purpose of fundraising for the Community Orchard may be permitted given that all applicable permits and licenses are in place;
- 3.1.6 where growing food from existing trees for human consumption is determined to be unsuitable, through the processes described in this policy the City reserves the right to remove the tree if it poses an obvious potential health risk to the public;
- 3.1.7 if a Community Orchard Group requests to remove a Food-producing Tree (s) from a Community Orchard or Stewardship, then approval from the City shall be required. The removal of trees on City land may be subject to a tree permit under the Tree By-Law; and
- 3.1.8 the City shall inspect, at any time, the Community Orchard or Stewardship to ensure adherence to the terms and conditions of the Community Agreement. Failure to comply with the terms and conditions of the Community Agreement or this policy will result in a written warning. Failure to correct deficiencies in a timely manner or further neglect of the terms and conditions of the Community Agreement or this policy may result in termination of the

Community Agreement. The City has the authority to remove a Community Orchard if it is not being used or maintained by a Community Orchard Group. Unused or maintained Community Orchards shall be offered to other Community Orchard Groups. If adequate Community Orchard Group interest is not established to maintain a Community Orchard before the following harvest season of its abandonment, the City reserves the right to remove the Community Orchard.

### **City Support**

- 3.1.9 subject to available resources, the City shall provide NPOs and Community Orchard Groups support for Community Orchards and Stewardships including:
- i. promoting community projects and providing information to the public on the policy and existing Community Orchards and Stewardships
  - ii. providing a liaison contact;
  - iii. assisting interested groups in determining the suitability of land for Community Orchards or Stewardships;
  - iv. providing grants to help start, develop and manage Community Orchards or Stewardships;
  - v. assisting with public consultation process during the development of a Community Orchard;
  - vi. assisting with the design of a Community Orchard; and
  - vii. providing at least one accessible path, or flat surface, to the Community Orchard.

### **Site Selection and Permission Request**

- 3.1.10 a request to establish a Community Orchard shall be submitted to the City, or its designate, in writing;
- 3.1.11 in determining the suitability of a proposed new Community Orchard, the City, at its sole discretion, shall consider the satisfaction of any or all of the following requirements:
- i. available space in park or other City owned land;
  - ii. the Community Orchard will not adversely impact existing or future recreation programming, park structures, amenities, trees or other City infrastructure or purpose;
  - iii. the site is not in proximity to significant natural, cultural or heritage resources;

- iv. the site is not located within 30 metres of a Floodplain, Stormwater Management Facility, wetland, watercourse or lake;
  - v. the development of the site will not result in additional cost to the City, such as environmental remediation or archaeological potential clearance;
  - vi. the soil quality is suitable for agricultural use;
  - vii. in accordance with the EPA pertaining to prohibited changes of land use where the current or last known use was residential, parkland or agricultural. Sites with a historical commercial, industrial use, or contaminated sites, shall not be considered;
  - viii. compliance with existing zoning regulations;
  - ix. the site has appropriate sun exposure; and
  - x. the proposal has overall community and neighbourhood support.
- 3.1.12 for Stewardships, the site of the existing tree(s) or shrub(s) shall be reviewed in consultation with City departments to determine its suitability for growing food for human consumption including, but not limited to the current or former land use, which shall be park, agricultural or residential;
- 3.1.13 as part of the site selection approval process, the following shall be required:
- i. a design plan that identifies the limits of the Community Orchard site, number of trees, location of trees and size of the Community Orchard. The size is to be no larger than 200 square metres, unless otherwise authorized. The Community Orchard location and configuration is to be determined in consultation with City staff based on property size and existing or future park amenities; and
  - ii. evidence that the Community Orchard Group has consulted with stakeholders and facilitated a neighbourhood consultation in coordination with the City, or its designate, to inform and determine support from neighbouring residents on the proposed new Community Orchard location and proposed design and has received overall community and neighbourhood support to the satisfaction of the City. City staff will assist in consultation with other City departments as applicable.

### **Community Agreement**

- 3.1.14 upon approval of a Community Orchard or Stewardship the Community Orchard Group shall enter into a Community Agreement for a ten year term with an option to renew. If a Community Orchard forms part of an existing community garden, the existing agreement for the community garden may be amended to include the Community Orchard rather than having two separate agreements. The Community Agreement shall include:

- i. proof of comprehensive general Liability Insurance in the amount specified by the City prior to construction;
  - ii. proof of automobile comprehensive general Liability Insurance in the amount of two million dollars if vehicles are required to access the site and where a vehicle access permit has been issued by the City, or through its designate;
  - iii. a long term operational and maintenance plan approved by the City; and
  - iv. a requirement that the Community Group shall comply with this policy and it shall form part of the Community Agreement.
- 3.1.15 when a Community Orchard Group enters the last year of the Community Agreement term, they may submit a written request for renewal; and
- 3.1.16 the City may revoke a Community Agreement at its sole discretion.

### **Site Development**

- 3.1.17 the site shall be open for access at all times. Locked barriers are not permitted. Installation of any permanent and temporary structures within a Community Orchard site, including but not limited to signage, fencing, picnic tables, etc. shall receive prior consent from the City;
- 3.1.18 the Community Orchard shall be the responsibility of the Community Orchard Group;
- 3.1.19 expansion of the Community Orchard shall only be considered after the third year of operation, provided that it can be demonstrated that the Community Orchard Group is demonstrating, to the satisfaction of the City, the capacity to maintain more trees in accordance with this policy;
- 3.1.20 access to new municipal water services shall not be provided to Community Orchards unless developed in partnership with a Community Garden whereupon the terms of approval of the water service will be regulated by the Community Garden and Operations Development Policy;
- 3.1.21 within the understory of the Community Orchard site, Edible Landscapes and ornamental landscaping may be permitted to create a more sustainable system and beautify public spaces subject to consultation with the City or designate prior to implementation. The use of sustainable agricultural practice is encouraged such as permaculture design;

### **Operations**

- 3.1.22 the maintenance of the tree(s) and surroundings of the dedicated Community Orchard area shall be the responsibility of the Community Orchard Group. The maintenance of existing Food-producing Tree(s) under Stewardship shall be the responsibility of the Community Orchard Group.

Maintenance described in the long-term operational and maintenance plan shall include but not be limited to pruning, harvesting, regular removal of fallen fruits or nuts, and leaves, branches, weeds and other required horticultural practices;

- 3.1.23 the City shall maintain the grass around the Community Orchard site and areas under Stewardship as part of regular park maintenance and the Community Orchard Group shall be responsible to maintain the grass within the Community Orchard limits. If the area under Stewardship area is a group of trees, grass cutting may be required by the Community Orchard Group;
- 3.1.24 disposal of waste and fallen fruits, nuts or brush and branches from pruning of the trees, or garbage generated from the operation of the Community Orchard or areas under Stewardship shall be the responsibility of the Community Orchard Group. Organic waste shall be removed from the site by members of the Community Orchard Group and disposed of in their household green bins (up to a maximum of 66 pounds), or brush, fallen fruit or other yard waste may be brought to the KARC. No garbage, recyclables, organic waste or leaves and brush generated from the site shall be collected by the City or are permitted to be stored on site;
- 3.1.25 the use of chemical insecticides, herbicides, and fungicides shall be prohibited on City land as per Ontario's Pesticide Act 63/09. Natural, organic and non-synthetic horticultural oil, herbicides, fungicides and insecticide soap may be permitted but are not to be stored on City land and shall be identified in the long-term operational and maintenance plan in a Community Agreement;
- 3.1.26 soil conditioning or fertilization shall not be permitted without authorization from the City or designate. Only commercial grade compost and manure may be considered; and
- 3.1.27 the use of netting on the Food-producing Trees shall be prohibited, unless authorized. The Migratory Birds Convention Act, a frequent monitoring plan and time of use restriction shall be considered prior to authorization.

### **Breach of Policy**

- 3.2 Any employee who breaches this policy may be subject to discipline up to and including dismissal.

## **4.0 Responsibilities**

- 4.1 The Director of Recreation & Leisure Services, or designate, is responsible for:
  - 4.1.1 resolving any issues or conflicts related to this policy; and

- 4.1.2 reviewing requests from residents for Community Orchards and Stewardships on City owned land and approve or deny a request in accordance with this policy.
- 4.2 Employees are responsible for compliance with this policy and shall be aware that any employee who breaches this policy may be subject to discipline up to and including dismissal.

## 5.0 Approval Authority

Role	Position	Date Approved
Quality Review	Policy & Web Coordinator	9/16/2017
Subject Matter Expert	Manager, Parks Development	9/21/2016
Legal Review	Senior Legal Counsel	9/21/2016
Final Approval	Council	12/6/2016

## 6.0 Revision History

Effective Date	Revision #	Description of Change
11/09/2016	1	<p>section 3.2 and 4.2 amended as per direction from Director, Legal Services. Previous wording:</p> <p>3.2 Any employee who breaches this policy may be subject to review under the Code of Conduct and/or discipline proceedings up to and including dismissal.</p> <p>4.2 Employees shall be aware that non-compliance of this policy is subject to discipline, up to and including dismissal.</p>

## 7.0 Appendix

Information for this section has not yet been provided.

## Related Definitions

### Accessible

means a product or service with features that are intended to remove barriers for people with disabilities in accordance with the AODA.

### AODA

means the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11

### City

or Corporation means The Corporation of the City of Kingston.

### Community Agreement

means a Contract setting out terms and conditions binding the City and community members.

### Community Orchard Group

means a minimum of three City residents or a Kingston based NPO with a minimum of three members, unless otherwise authorized by the City, who participate together in a community function that agree to terms of a Community Agreement.

### Community Orchard

means an area of land containing one or more fruit or nut trees and/or shrubs that is managed by a Community Orchard Group. These lands may include Edible Landscapes, Permaculture, Food-producing Tree and Stewardship.

### Contract

as per the Purchasing Bylaw 2000-134, as amended, means a written Agreement authorized or ratified by the appropriate authority acceptable to the Legal Services Department of the City in form and content and executed by the Mayor and the City Clerk or other delegated authority properly authorized by Council.

### CRCA

means the Cataraqui Region Conservation Authority.

### Edible Landscape

means an installation of plants that serve a decorative landscaping function, including trees, shrubs and perennials, where some or all of the plants or the fruits or nuts produced by the plants, are suitable for human consumption.

### EPA

means the Ontario Environmental Protection Act, R.S.O. 1990, c. E.19.

### Floodplain

means lands subject to flooding as regulated under provincial law and administered by the CRCA.



### Food-producing Tree

means a tree or shrub that produces fruits or nuts that are suitable for human consumption.

### KARC

means the Kingston Area Recycling Centre and is located at 196 Lappin's Lane.

### Liability Insurance

means coverage that provides protection from claims arising from injuries to other people or damage to other people's property in a form satisfactory to the City.

### NPO

means not-for-profit organization and is a corporation registered as a charity and created under the Corporations Act, R.S.O. 1990, c.C.38

### Stewardship

means the harvesting and maintenance of one or more existing Food-producing Trees by a Community Orchard Group.

### Stormwater Management Facility

means a pond and surrounding lands, channel, ditch, overland flow route or any element of the municipal drainage system created in accordance with good engineering practices and used to control flooding, or avoid downstream erosion and to remove sediment and pollutants from water before it enters water bodies.

## Related information

### Policy

Community Gardens and Operations Development Policy

### Reference

Parks & Recreation Facilities Bylaw 2009-76

Parks and Recreation Master Plan

Urban Forest Management Plan