



# New York City Community Garden Coalition Stance on the Proposed HPD / DPR Rules\* for Community Gardens

*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 )*

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## Introduction

### **Karen Washington, President, NYCCGC Board of Directors**

We are entering into a new phase of urban agriculture – where it is seen as a necessary part of sustainability - and New York City’s community gardeners and urban farmers are leading the way.

No longer a short-term solution to urban blight, community gardens have become an integral part of the City’s landscape. The community gardeners of this city are doing more than just beautifying neighborhoods. We are growing healthy food, educating children, showcasing our wonderfully diverse communities through cultural expression, and advocating for social and food justice.

The 2002 Community Gardens Agreement is set to expire on September 17, 2010, just over a month away. The City has decided to propose new rules and regulations that would govern the way community gardens are viewed: the proposed Rules do not establish gardens as permanent, but continues to treat them as temporary spaces.

As President of its board of Directors, I personally want to express my thanks to the Coalition for their leadership in advocating for a policy change in how community gardens are viewed.

For months we have been behind the scenes meeting with local elected officials, city lawyers and the Parks department - something that would never have happened under the Giuliani administration. We are proud and grateful to have been at the table.

However, the consensus of our Coalition’s membership is that the proposed rules and regulations don't go far enough in protecting and creating more community gardens.

August 10<sup>th</sup>, 2010, 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 a natural part of New York’s urban planning for the future, not an afterthought.

While we are appreciative of the positive support the Bloomberg administration has shown the city’s community gardens, we must also keep in mind that this administration's time will soon expire, and that change is inevitable.

Will the next administration be as garden-friendly? We cannot afford to gamble with our gardens’ futures. We need to be ready for future administrations who might favor developers over community gardens.

(continued)

So let us also look beyond the rules and regulations and work on legislation that will recognize community gardens as the community assets they are, and with protected status.

Here on the steps of City Hall and at the hearing in Chelsea on August 10th, let us stand united, as community gardeners and urban farmers, raising our shovels and voices.

United We Grow!!!

Karen Washington  
President, NYCCGC Board of Directors

### **NYCCGC 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 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.

**Major flaws to the Proposed Rules are:**

- The Rules need to include in Parks Dept. community gardens, at present totaling 282, which were preserved in 2002 when offered to be preserved as parks or land trusts.
- GreenThumb is no longer required to be funded
- The Proposed Rule specifically opposes the gardens parkland status, it opposes the long-standing State law that states many of the gardens qualify as Dedicated Parkland under the law of Implied Dedication (if land is used as Parkland under the Parks Department even though it is not mapped it is dedicated as Parkland).
- The Rules need to mandate that all notices posted on a public website as well as sent to gardeners in the language understood by majority of those community gardeners (Spanish, Korean, etc).
- Although alternative sites are still offered when available, with negligent vacant city land remaining, the alternative site offering is mostly pointless.

**FOR IMMEDIATE RELEASE**  
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**\_MAYOR MICHAEL R. BLOOMBERG AND ATTORNEY GENERAL ELIOT SPITZER  
ANNOUNCE AGREEMENT TO ENABLE CONSTRUCTION OF AFFORDABLE HOUSING  
AND PRESERVATION OF GREENTHUMB GARDENS**

\_Mayor Michael R. Bloomberg and Attorney General Eliot Spitzer today announced an agreement that will enable the City to proceed with plans for the construction of more than 3,000 units of affordable housing while preserving almost 200 GreenThumb gardens and increasing the protection of almost 200 gardens, thus raising the number of protected gardens in the City to 500. This agreement allows for the construction of critical affordable housing and other community facilities on City property. The process will ensure that existing gardens are considered in City land use decisions and that gardens on property being developed will be offered alternate gardening space, where available. The agreement resolves a three-year-old lawsuit over the development of City-owned property containing community gardens. The Mayor and Attorney General were joined by Parks Commissioner Adrian Benepe, Housing Preservation and Development Commissioner Jerilyn Perine, Counsel to the Attorney General David Nocenti, Corporation Counsel Michael A. Cardozo and First Assistant Jeffrey D. Friedlander, whose office negotiated the settlement.

"This comprehensive agreement benefits all New York City residents," said Mayor Bloomberg. "It allows much-needed affordable housing development to move forward - providing construction jobs and a boost to our City's economy. **In addition, we are providing permanent protection to hundreds of community gardens throughout New York City,** and establishing a fair process for reviewing future proposals to develop other garden properties. I would like to thank Attorney General Spitzer and his staff, as well as the Jeffrey Friedlander and his team at the City's Law Department, for their efforts in helping to reach this agreement. I think this agreement strikes the right balance between building for the future and **preserving precious open space.**"

"Since the day this lawsuit was filed, I have asserted that New York City residents need affordable housing and community gardens, and this settlement proves that they can indeed have both," said Attorney General Spitzer. "We need to preserve as much green space as possible, while at the same time allowing for development where appropriate. I applaud Mayor Bloomberg for recognizing that these two goals are not mutually exclusive, and for saving so many community gardens, which are a vibrant part of the City's neighborhoods."

"I am pleased that the City can address the housing shortage with more than 3,000 new homes and apartments for working families and low-income senior citizens, which now can move forward," HPD Commissioner Jerilyn Perine, whose agency promotes quality housing and viable neighborhoods for New Yorkers.

"The Parks Department is pleased that a settlement has been reached that will both provide neighborhoods with new housing opportunities and preserve community green

spaces," said Parks Commissioner Adrian Benepe. "Under the agreement, a significant number of community gardens will remain open to provide horticultural oases and recreational space for New Yorkers. The Parks Department already manages nearly 100 community gardens and offers support to hundreds more through our GreenThumb Program. We look forward to helping more gardens flourish throughout the City."

The agreement includes the following components:

**Housing Development Immediately.** The City can move forward with the development of 2,319 units of affordable housing. Plans for an additional 710 units can proceed. A total of 153 GreenThumb sites may be returned to residential use.

**Gardens That Are To Be Protected.** The City will offer 198 sites to the Parks Department and/or to not-for-profit land trust organizations for preservation as community gardens or as open space. 197 gardens that were already preserved will be granted additional protection and the City will not seek to develop 100 gardens maintained by the Department of Education, raising the number of preserved gardens to 495.

**Garden Review Process.** The agreement establishes a garden review process that will provide detailed information about each garden planned for development during the public review process for the proposed development. The agreement also provides for the relocation of a garden to an alternate site if available when a garden is developed.

**City To Offer Licenses.** Gardeners will be offered licenses to operate gardens, and the GreenThumb Program will be continued.

Established in 1978, GreenThumb is the nation's largest urban gardening program, assisting neighborhood groups in the creation and maintenance of community gardens. GreenThumb was initiated in response to the City's severe financial crisis during the 1970's, which resulted in a serious loss of population and housing in neighborhoods throughout the five boroughs. GreenThumb gardens were interim land-uses for vacant City-owned land.

Since the inception of the program, 86 gardens have been preserved through formal acquisition by the Parks Department while the City has sought to develop other gardens for housing. A lawsuit was filed in May 1999 by the Attorney General to stop the auctioning of community gardens to developers; a settlement resulted in the purchase and preservation of 111 gardens by the Trust for Public Land and Bette Midler's New York Restoration Project.

In February 2000, the Attorney General obtained a further injunction preventing the City from selling or developing 351 GreenThumb gardens. That order remained in effect until today's settlement. This agreement preserves 198 more gardens, and grants additional protection to 197, while 153 may be used for housing. In addition, the City will not seek to develop the 100 gardens under the jurisdiction of the Department of Education, raising the total of protected gardens to 495.