ORDINANCE NO. 08- _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING SUBDIVISION 2., TRADITIONAL ZONING DISTRICTS, OF DIVISION 6., ZONING DISTRICTS AND OFFICIAL ZONING MAP, OF ARTICLE VI, ZONING, CHAPTER 10, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, LAND DEVELOPMENT CODE, TO AMEND SECTION 10-1, DEFINITIONS, FOR THE PURPOSE ESTABLISHING A NEW DEFINITION FOR COMMUNITY GARDEN AND AMENDING ARTICLE VI, ZONING, DIVISION 8, SUPPLEMENTARY REGULATIONS FOR SPECIFIC USES, FOR THE PURPOSE OF ESTABLISHING A NEW SECTION SETTING OUT STANDARDS FOR COMMUNITY GARDENS IN RESIDENTIAL DISTRICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

SECTION 1. Article I of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "In general" is hereby amended to amend Section 10-1.101, "Definitions," as follows:

Community garden shall mean any garden established on a lot or parcel associated with a lawfully established residential use in a residential district for the purpose of growing produce or horticultural plants for the enjoyment and consumption of the residents, neighbors, friends, and family. Community gardens do not include gardens wherein plants are grown for the purpose of commercial wholesaling.

SECTION 2. Division 8, Article VI of Chapter 10 of the Code of Laws of Leon County, Florida, entitled "Zoning, Supplementary regulations for specific uses" is hereby amended to establish a new section, Section 10-6.816, "Community gardens" as follows:

Sec. 10-6.816 Community gardens.

(1) *Purpose and intent.* To allow residents and their neighbors to grow produce and horticultural plants for their consumption and enjoyment and for consumption and

enjoyment by friends and relatives on a not-for profit basis, except as expressly provided herein, without creating adverse environmental impact or land use incompatibilities.

(2) *Exception.* This section shall not be construed so as to apply to any garden established as an accessory use to an allowed principal residential use.

(3) *General provisions.* Community gardens may be established on any parcel upon which a lawfully established residential use is located, or any adjacent parcel, with permission of that property's owner. Community gardens may extend over multiple parcels.

(4) Specific standards. Community gardens shall comply with the following specific standards:

a. *Size limitation.* A community garden may not be greater in size than one acre.

b. *Environmental permit requirements.* Any person wishing to establish a community garden of greater than one-half acre in size shall be required to contact the Department of Growth and Environmental Management to determine whether an environmental permit shall be required as a prerequisite.

c. *Noise limitations.* No gardening activities may take place before sunrise or after sunset. The use of hand tools, and domestic gardening tools and

equipment is encouraged; the use of small power equipment, such as gas-powered tillers and edgers are allowed; however, gas-powered equipment of greater than 10 horsepower is prohibited.

d. *Maintenance responsibilities.* The owner of the property(-ies) on which the community garden is located shall be responsible for maintaining the property, so that it does not become: overgrown with weeds; infested by invasive exotic plants or vermin; or, a source of erosion or stormwater runoff; or pollution by fertilizer or pesticide, insecticide, herbicide or other agricultural-use chemicals.

e. *Agricultural chemical application.* Application of fertilizer, pesticide, insecticide, herbicide or and agricultural-use chemicals shall be consistent with label instructions.

f. The owner of any community garden shall ensure that the garden complies with applicable standards set out in Article IV, Environmental management.

g. *Sale of produce and horticultural plants.* The produce and horticultural plants grown in a community garden are not intended to be sold wholesale nor offered for sale on the premises except that surplus may be sold in compliance with Section 10-6.803 (c), Accessory uses, home occupation.

h. *Community gardens not eligible for any agricultural tax exemption.* Community gardens are accessory to the principal use of property for residential use and shall not be considered as principal agricultural uses

and shall not be construed so as to qualify for agricultural tax exemptions afforded by the local, state, or federal government.

(5) *Biennial review.* The regulations and standards for community gardens shall be reviewed on a biennial or more frequent basis as may be required by the Board of County Commissioners to ensure their efficacy and fairness. The review shall be conducted by the Department of Growth and Environmental Management or their successor agency. The review shall document any outstanding issues and provide any recommendations for modifications to the standards and regulations set out herein.

SECTION 3. Conflicts. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict, as of the effective date of this Ordinance, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan, as amended, which provisions shall prevail over any parts of this Ordinance which are inconsistent, either in whole or in part, with the Comprehensive Plan.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective date. This ordinance shall be effective according to law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this ____ day of _____, 2009.

LEON COUNTY, FLORIDA

BY: _____
BRYAN DESLOGE, CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

ATTEST:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

BY: _____

APPROVED AS TO FORM:
LEON COUNTY ATTORNEY'S OFFICE

BY: _____
HERBERT W.A. THIELE, ESQ.
COUNTY ATTORNEY