

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2709

By: Scott

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5
6 AS INTRODUCED

7 An Act relating to community gardens; creating the
8 Garden and Egg Exchange Health Cooperatives Act of
9 2016; allowing owners of private land to make land
10 available for community garden purposes; directing
11 the Office of Management and Enterprise Services to
12 identify vacant state-owned land; requiring the
13 Oklahoma Tax Commission to develop application
14 process; requiring fee for use of certain property;
15 providing application requirements; requiring
16 maintenance of land; providing duration of use for
17 community garden; prohibiting erection of permanent
18 structures; requiring shelter for certain animals;
19 providing immunity from liability; providing
20 liability shall not be limited under certain
21 circumstances; defining terms; providing for
22 codification; and providing an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 21-1 of Title 2, unless there is
created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Garden and Egg
Exchange Health Cooperatives Act of 2016".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 21-2 of Title 2, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Owners of private land may make available to the Oklahoma
5 Tax Commission parcels of land for use as community gardens under
6 such terms and conditions as may be agreed upon between the owners
7 and the Oklahoma Tax Commission. The Office of Management and
8 Enterprise Services shall identify and report to the Tax Commission
9 vacant state-owned real property that may be suitable for community
10 gardening including, but not limited to:

- 11 1. State-owned surplus real property;
- 12 2. State-owned school lands and other public lands under the
13 management of the Commissioners of the Land Office;
- 14 3. Property owned by a public school district;
- 15 4. Any state park property under the management of the Oklahoma
16 Tourism and Recreation Commission; and
- 17 5. State-owned public right-of-ways.

18 B. The Oklahoma Tax Commission shall publish on its website a
19 list of real property owned by the state or by a public school
20 district available for lease and private land available for use as
21 community gardens. The Commission shall develop an online
22 application process to allow community groups and individuals to
23 apply to reserve available land for use as a community garden. The
24 Commission shall charge a reasonable fee not to exceed Ten Dollars

1 (\$10.00) for each reservation for use of real property owned by the
2 state or by a public school district. The applicant shall submit
3 information to include:

4 1. The name of the individual or the identifying name of the
5 group;

6 2. The not-for-profit status of the group, if applicable;

7 3. The name of a contact person for the group, if applicable,
8 and a legal mailing address, phone number, email address, if the
9 contact person has an email address, and Social Security number of
10 the contact person;

11 4. Name and contact information for the property owner if the
12 land to be used is private vacant land;

13 5. A legal description of the proposed garden site; and

14 6. Description of the condition of the proposed garden site.

15 C. Applicants shall submit a plan for the use of the land and
16 agree to maintain the land in a condition consistent with the land-
17 use plan. Land-use plans may include waste and gardening equipment
18 disposal conditions. Private landowners may pursue damages for
19 misuse and violation of land-use agreements.

20 D. The applicant shall reserve the community garden for no less
21 than one (1) year and no longer than three (3) years.

22 E. No permanent structures shall be erected upon approved real
23 property owned by the state or a public school district in
24 association with conducting gardening activities, including, but not

1 limited to, permanent dwellings for chickens. Permission to
2 construct permanent structures for gardening activities on private
3 vacant land may be granted by the landowner to the person or persons
4 using the property as a community garden.

5 F. A community garden that contains both a garden and a chicken
6 and egg cooperative must contain at least one (1) acre for every
7 twelve laying hens and enough shelter to adequately and humanely
8 protect the laying hens, unless otherwise prohibited by existing
9 statute, ordinance or municipal code.

10 G. The State of Oklahoma, a public school district and any
11 private landowner who makes land available for use as a community
12 garden shall not be liable for any accident or injury resulting from
13 the inherent risks of gardening activities. Nothing in this
14 subsection prevents or limits the liability of the State of
15 Oklahoma, a public school district or private landowner if the State
16 of Oklahoma, public school district or the private landowner does
17 any one or more of the following:

18 1. Commits an act or omission that constitutes negligence or
19 willful or wanton disregard for the safety of the person or persons
20 utilizing the land for use as a community garden, and that act or
21 omission proximately causes injury, damage or death to the
22 participant; or

23 2. Has actual knowledge or reasonably should have known of a
24 dangerous condition on the land, facilities or equipment used in the

1 gardening activity and does not make the danger known to the
2 participant, and the danger proximately causes injury, damage or
3 death to the participant.

4 H. For purposes of this section:

5 1. "Community garden" means vacant private or public land used
6 for the production of fresh food, chicken eggs, herbs and flowers
7 intended for local use or consumption or distribution to charity,
8 provided that production is not for the purpose of commercial
9 endeavors; and

10 2. "Community group" means any group consisting of more than
11 one person, who are all residents of Oklahoma.

12 I. The Oklahoma Tax Commission shall promulgate all necessary
13 rules and regulations to implement the provisions of this section.

14 SECTION 3. This act shall become effective November 1, 2016.

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