



# **ELSENHAM PARISH COUNCIL**

## **ALLOTMENT GARDENS**

### **CONDITIONS OF USE**

**&**

### **TENANCY AGREEMENT**

#### Document Control

Approved on behalf of the Parish Council	5 March 2019
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#### Change History

Version:	Date:	Reason for change:
DRAFT C	February 2019	Pending transfer of the Smith Road allotments

## INDEX

<b>1.</b>	<b>Introduction.....</b>	<b>1</b>
<b>2.</b>	<b>Cultivation and Use of the Plot.....</b>	<b>2</b>
<b>3.</b>	<b>Conduct.....</b>	<b>3</b>
<b>4.</b>	<b>Condition of the Plot.....</b>	<b>3</b>
<b>5.</b>	<b>Water Supply.....</b>	<b>4</b>
<b>6.</b>	<b>Inspection and Access.....</b>	<b>4</b>
<b>7.</b>	<b>Indemnity.....</b>	<b>4</b>
<b>8.</b>	<b>Quiet Enjoyment .....</b>	<b>4</b>
<b>9.</b>	<b>Keeping of Honey Bees on Allotment Sites .....</b>	<b>4</b>
<b>10.</b>	<b>Annual Rental Charge and Other Payments.....</b>	<b>5</b>
<b>11.</b>	<b>Cessation of Use by the Plot-holder.....</b>	<b>5</b>
<b>12.</b>	<b>Cessation of Use by the Council.....</b>	<b>5</b>
	<b>Appendix A - Allotment Garden Plot-Holder (Tenancy) Agreement.....</b>	<b>7</b>

## **1. Introduction**

1.1 Elsenham Parish Council (the Council) operates and has responsibility for two Allotment Gardens sites within the village, these being:

a) St Mary's Church Allotment Gardens

These are privately-owned allotments and land that belong to the Church, but are under the management of Elsenham Parish Council, on behalf of the Elsenham Parochial Church Council.

b) Smith Road Allotment Gardens

These are allotments and land that are wholly-owned and managed by Elsenham Parish Council.

1.2 Due to the fact that there are two different types of land ownership for the above mentioned allotment sites, it has been necessary to vary certain of the Conditions of Use relating to the relevant allotment garden site and these variations are detailed and defined, as appropriate.

### **1.3 Definitions**

For the purposes of these Conditions of Use and the Allotment Gardens Plot-holder (Tenancy) Agreement, the following terms are defined.

- a) The Plot-holder (also referred to as the 'Tenant'), for the purposes of these 'Conditions of Use' shall be defined as the person or persons who have entered into an agreement with the Council for the tenancy and cultivation of an allotment garden Plot.
- b) Where the expression the Plot-holder consists of more than one person, the obligations on such persons shall be joint and several.
- c) The 'Allotment Gardens Plot' (also referred to as the 'Plot') for the purposes of these 'Conditions of Use' shall be nominally be defined as a single and defined area of land within the Council's Allotment Gardens that has been assigned to the Plot-holder and is the subject of the tenancy agreement between the Plot-holder and the Council.

### **1.4 Related Documents**

This Conditions of Use & Tenancy document should be read in conjunction with the following other Council documents:

- Allotment Gardens – Management Policy & Procedures
- Data Protection Policy
- Retention of Records & Documents
- Conditions and Procedures for the Keeping of Honey Bees

Copies of these documents may be found on the Council's website, or obtained directly from the Clerk.

## **2. Cultivation and Use of the Plot**

- 2.1 The Plot-holder shall use their Plot as an allotment only (that is to say for the production of vegetable, fruit or flower crops for consumption or enjoyment by the Plot-holder and their family) and for no other purpose.
- 2.2 The Plot-holder shall not sub-let any part of the allotment garden Plot, nor assign his/her interest therein to any person whatsoever.
- 2.3 The Plot-holder shall cultivate the allotment garden Plot in a proper manner for the purpose of raising vegetables, fruit or flowers for use by himself and members of his family.
- 2.4 At least one quarter (25%) of the Plot shall be under cultivation of crops after three (3) months from the commencement of the occupancy, and at least three quarters (75%) of the Plot under cultivation after twelve (12) months, and thereafter.
- 2.5 The area used for hard landscaping (internal paths, shed, etc.) shall not exceed one fifth (20%) of the area of the Plot.
- 2.6 The Plot-holder shall not plant any trees other than dwarf fruit trees or fruit bushes, the height of which, when mature, is not more than two (2) metres, after annual pruning has been carried out.
- 2.7 The Plot-holder shall not use any carpet or underlay as a weed suppressant.
- 2.8 The Plot-holder shall not erect any building on the Plot without the written consent of the Council; such consent not to be unreasonably withheld. The Plot-holder shall comply with any conditions as to position, construction or use the Council attaches to a consent for the erection of a building; such conditions not to be unreasonably imposed. Any such structure shall not be attached to the boundary walls or fences of the Allotment Gardens.
- 2.9 Bonfires will not be permitted in the Allotment Gardens. Vegetable matter shall be composted or removed from the site; however, the use of a purpose-built enclosed incinerator is permitted for disposal of small quantities. Non-compostable materials shall be removed from the Allotment Gardens by the Plot-holder.
- 2.10 Fuel, lubricants or other inflammable liquids shall not be stored in any shed or other building. Such materials shall be brought to the Plot only when required and that which has not been used shall be removed from the Allotment Gardens by the Plot-holder.
- 2.11 Livestock (includes goats, sheep, pigs, pigeons, ducks, and geese) shall not be kept on the Plot.
- 2.12 The Plot-holder shall not use any building on the Plot as a residential dwelling, **nor** for sleeping, nor as a workshop or office.
- 2.13 The Allotment Gardens shall not be used for any illegal or immoral purpose.
- 2.14 The Plot-holder shall not use the Plot for the purposes of any trade or business.
- 2.15 The Plot shall not be used for the display of any commercial or political advertisement.
- 2.16 The Plot-holder shall maintain the Plot number post in good order and ensure it is visible at all times.

### **3. Conduct**

- 3.1 The Plot-holder shall at all times observe and comply with all enactments, statutory instruments, local or other bylaws, orders or regulations affecting the Allotment Gardens.
- 3.2 The Plot-holder will be issued with a key to the door/gate to the Allotment Gardens by the Council. No replica key(s) shall to be made, and the key shall not be passed to anyone other than a person authorised by the Plot-holder to work on their Plot.
- 3.3 The entrance door/gate to the Allotment Gardens shall be closed and locked at all times. (For the protection of lone Plot-holders and to prevent unauthorised entry). The Plot-holder shall ensure that the door/gate is locked after the Allotment Gardens site is left.
- 3.4 The Plot-holder shall not cause any nuisance or annoyance to the Council, the occupier of any other Plot, the occupier of any other nearby property (residential or otherwise), or any other person in the locality of the Allotment Gardens, and shall have respect for the burial grounds and Church that are in close proximity to the St. Mary's Church Allotment Gardens.
- 3.5 The Plot-holder shall not deposit nor allow other persons to deposit on the Allotment Gardens any refuse or any decaying matter, except manure or compost in such quantities as may be reasonably required for cultivation. Any stored manure that has not been dug in shall be covered.
- 3.6 The Plot-holder shall not bring or allow any dog to be brought onto the Allotment Gardens unless it is held at all times on a short fixed leash and remains solely on the Plot-holder's Plot.
- 3.7 The Plot-holder shall not obstruct any road or path used by the occupiers of the Allotment Gardens, nor tip rubbish, soil or manure on any road, path or access way.
- 3.8 The Plot-holder shall not remove from the Plot any topsoil, mineral, gravel, sand or clay.
- 3.9 The Plot-holder shall not enter, nor remove produce from, any other Plot without the express permission of the relevant Plot-holder. The Plot-holder will be responsible for the actions of children and others entering the Allotment Gardens with the Plot-holder's permission.

### **4. Condition of the Plot**

- 4.1 The Plot-holder shall keep the Plot clean, free from contaminants and hazards (e.g. broken glass or scrap metal, etc.), reasonably free of weeds and noxious plants, in a good state of cultivation and fertility, and in good condition.
- 4.2 Only commercially available products from garden or horticultural suppliers (not agricultural or professional products) shall be used as fertilisers or for the control of pests and diseases. Such products should be selected and applied such as to minimise any harm to members of the public, game birds and other wildlife, other than vermin or pests. Any incidence of vermin (rats) shall be reported to the Council.
- 4.3 All sheds or greenhouses shall be kept in good repair to the satisfaction of the Council. Only glass substitutes (such as polycarbonate or Perspex) may be used in any permitted structures.
- 4.4 The Plot-holder shall keep any hedge that forms part of, or adjoins, the Plot properly cut and trimmed. Hedges and fences (excluding fruit cages) bordering the Plot shall not exceed a height of one (1) metre. Barbed or razor wire (or similar) shall not be used for any fence adjoining any road or path set out on the Allotment Gardens.
- 4.5 The Plot-holder shall cleanse, maintain and repair and keep cleansed, maintained and repaired all fences, gates and paths forming part of, or adjoining, the Plot (excluding the boundary walls of the Allotment Gardens and associated access ways).

- 4.6 As far as practical, the boundary walls and fences shall be kept clean and free of vegetation.
- 4.7 The Council will not be responsible for any loss by accident, fire or damage in, or theft from, the Allotment Gardens.
- 4.8 All shared paths between the Allotment Gardens Plot and any neighbouring allotment garden Plots shall be kept cut and clipped up to half their width by the Plot-holder unless otherwise expressly provided for by the Council.

## **5. Water Supply**

- 5.1 The Council will provide a supply of water by means of stand pipes equipped with double check valves. The Council may temporarily shut off the supply of water and empty the pipes to protect the pipes from frost, or for any other good reason.
- 5.2 The Plot-holder shall practice sensible water conservation, and the installation of water butts filled from the roofs of sheds or greenhouses is encouraged. All hoses shall be fitted with an approved self-closing mechanism (trigger control).
- 5.3 Porous, soaker or drip-line hoses shall not be used.
- 5.4 The Plot-holder shall not make any alteration or addition to the water supply apparatus.

## **6. Inspection and Access**

- 6.1 A Council officer, or a person authorised by the Council, may enter the Plot for the inspection of structures such as sheds and greenhouses, the state of cultivation and general tidiness, or for any other reasonable purpose, at a mutually agreed time. If a time cannot be mutually agreed then the officer may inspect alone.
- 6.2 In order to allow access to the boundary wall or fence for maintenance and repair purposes, any structure shall be a minimum of one half (0.5) metre from the wall.

## **7. Indemnity**

- 7.1 The Plot-holder agrees to keep the Council indemnified against all claims (including costs and expenses in connection with any claim) against the Council arising from:
  - a) Any breach of the Plot-holder's obligations contained in this Agreement.
  - b) The use of the Plot.
  - c) Any works carried out to the Plot by the Plot-holder.
  - d) Any act of neglect or default by the Plot-holder or any person on the Plot with the actual or implied authority of the Plot-holder.

## **8. Quiet Enjoyment**

Whilst the Plot-holder complies with the terms of this Agreement, the Council will allow the Plot-holder to possess and use the Plot without lawful interference from the Council or anyone who derives title from the Council, subject to Clauses 12.2 and 12.3.

## **9. Keeping of Honey Bees on Allotment Sites**

- 9.1 The Council is keen to support bee keeping and believes that honey bees play a critical role in the biodiversity of allotment sites and the wider environment. However, any tenant wishing to keep honey bees must obtain the prior permission of the Council and will be subject to the Council's Conditions and Procedures for the Keeping of Honey Bees, which relates to the keeping, siting and management of honey bees on Allotment Gardens land.

- 9.2. In the interests of safety and all Plot-holders well-being, only the Smith Road Allotment Gardens site is suitable and appropriate for the keeping of honey bees.
- 9.3 Hives shall not be permitted on individual plots, but will be sited within a designated apiary area, established in a suitable location by the Council and subject to the British Beekeepers' Association (BBKA) advice and guidelines.

## **10. Annual Rental Charge and Other Payments**

- 10.1 The Plot-holder shall pay an annual charge, as set by the Council, payable to the Council in advance on the 1st October of each year.
- 10.2 The supply of water will be included in the annual charge. However, a deposit may be required by the Council as a contingency against excessive water consumption in a given period.

## **11. Cessation of Use by the Plot-holder**

- 11.1 The Plot-holder may terminate the tenancy of the said allotment garden by six (6) months' notice, in writing to the Parish Clerk.
- 11.2 In the event of the unfortunate death of the Plot-holder or, it has been determined that they become incapable of managing the Plot for whatever reason, the tenancy shall terminate three (3) calendar months from the determination date. Following this, first refusal will be offered to the partner or spouse (only) of the Plot-holder. Only one such 'succession' will be granted.
- 11.3 Upon cessation of use of the Plot by the Plot-holder, the Plot-holder shall:
- a) Return the entrance door/gate key and any other associated keys to the Council, and leave the Plot in a clean and tidy condition.
  - b) If the Council so requires, remove from the Allotment Gardens any buildings, structures or fixtures which the Plot-holder or a predecessor has affixed to the Plot, and make good any damage which that causes.
- 11.4 If, in the opinion of the Council, the Plot has not been left in a satisfactory condition, the reasonable cost of any work carried out by the Council to return the Plot to a satisfactory condition will be charged to the departing Plot-holder.
- 11.5 If, on the termination of the tenancy, the Plot-holder is to be paid compensation by an incoming Plot-holder in respect of fruit trees, bushes or other improvements planted or made by him on the land, the tenant shall give notice thereof to the Council, including particulars of the matters for which payment was made, but not the sums paid.
- 11.6 Any written notice required by the tenancy shall be sufficiently served if sent by post to or left at the parties' address. Any notice to be served by the Plot-holder shall be addressed to the Parish Clerk.

## **12. Cessation of Use by the Council**

- 12.1 If the Plot-holder is in breach of any of the Allotment Gardens Conditions of Use, the Council may re-enter upon the Allotment Gardens Plot and the tenancy may be terminated by the Council.
- 12.2 The tenancy may be terminated by the Council by service of the one (1) month's notice on the Plot-holder if:
- a) The annual rent is in arrears for not less than 40 days, or;
  - b) Three (3) months after the commencement of the tenancy, the Plot-holder has not observed the Conditions of Use, or;

- c) The Plot-holder no longer lives within the Parish of Elsenham.

12.3 The tenancy may also be terminated by the Council:

- a) Giving the Plot-holder not less than twelve (12) months' written notice to quit expiring on or before the 6th day of April or, on or after the 29th day of September in any year.
- b) When the tenancy or right of occupation of the allotment land by the Council terminates; e.g. St. Mary's Church allotments gardens.

11.4 The termination of the tenancy by the Council in accordance with clauses 11.1 – 11.3 or after re-entry by the Council in pursuance of its statutory rights shall not prejudice the Plot-holder's statutory rights to compensation.

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## **Appendix A - Allotment Garden Plot-Holder (Tenancy) Agreement**

**ALLOTMENT GARDENS PLOT-HOLDER (TENANCY) AGREEMENT**  
**(40 POLES **OR** UNDER)**  
**UNDER THE ALLOTMENTS ACTS 1908 TO 1950**

THIS AGREEMENT made the (date) \_\_\_\_\_

BETWEEN THE PARISH COUNCIL OF ELSENHAM in the County of Essex (hereinafter called the Council) and

\_\_\_\_\_ (Hereinafter called the Plot-holder)

of (address) \_\_\_\_\_

by which it is agreed that:

The Council agrees to let to the Plot-holder, and the Plot-holder (as Plot-holder) agrees to accept the tenancy of the Allotment Gardens Plot numbered \_\_\_\_\_ in the Register of Allotments kept by the Council, and agrees to accept the Council's Allotment Gardens Conditions of Use.

The Plot-holder shall pay to the Council, a rent of £ \_\_\_\_\_ per Allotment Gardens Plot per year, which shall be subject to annual review and set by the Council, for the said allotment garden.

|                                            |                       |
|--------------------------------------------|-----------------------|
| Signed:                                    | Signed:               |
| <br><br>(Clerk to Elsenham Parish Council) | <br><br>(Plot-holder) |
| Date:                                      | Date:                 |

**Contact Details**

|                                               |  |                  |
|-----------------------------------------------|--|------------------|
| Title: ..... First Name: ..... Surname: ..... |  |                  |
| Address: .....                                |  |                  |
| .....                                         |  | Post Code: ..... |
| Tel. No.: ..... Mobile No.: .....             |  |                  |
| Email: .....                                  |  |                  |

**NOTE:**

Under Section 1 Allotments Act 1922, as amended by Section 1 of Allotments Act 1950, the Council may terminate this tenancy by a 12 months' notice expiring between September 29th and April 6th inclusive, or by re-entry for breach of terms of letting. Under Sections 4 and 5 of the Allotments Act 1922, a tenant may before the expiration of the tenancy remove any fruit trees, bushes, or other Improvements provided by him or for which he has made payment to a previous tenant. Under Section 4 of the Allotments Act 1950 a tenant can be required by his landlord at the expiration of his tenancy to pay compensation for the deterioration of the land caused by the tenant's failure to keep it clean and in a good state of cultivation and fertility.