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## Community Garden Site User Agreement

### PURPOSE:

The City allows community gardens (via a license agreement) on its property pursuant to its Community Garden Policy. To participate in a community garden authorized by the Community Garden Policy, this Community Garden Site User Agreement and individual Participation/Use Community Garden Waiver must be executed.

### DEFINITIONS:

- A “Community Garden” is defined as a single piece of land gardened collectively by way of designated plots. Each plot is cared for by an individual or shared by a group of people; to grow vegetables, fruits, and flowers for personal use and/or for donation, with one individual designated as the “Farmer of Record.”
- “Community Garden Organization” means a group formed for the purpose of: (1) requesting to use City owned property to engage in community gardening; and (2), if approved by the City, to use an approved City site for community gardening, led by a Community Garden Site Organizer and having Community Garden Site Participants engage in gardening activities.
- “Community Garden Site Organizer” or “Site Organizer” means that person who is the point contact for the community group wishing to use City property for community gardening and who is responsible for operating the community garden as a whole and ensuring compliance with this Agreement, City Community Gardens Policy, and any other term or condition required by the City.
- “Community Garden Site Participant” or “Site Participant” means the person(s) who is actively engaged in gardening activities on a plot under the leadership and direction of the City and Community Garden Site Organizer.
- “Farmer of Record” means the Community Garden Site Participant responsible for the plot they are assigned.

### LICENSE AGREEMENT

This Licensing Agreement (“Agreement” or “License Agreement”) is entered into effective as of \_\_\_\_\_ (“Effective Date”) by and between the City of Chula Vista (“City”) and the below listed Site Organizer and Site Participants (collectively, the “Parties” or “Community Garden Site Organization” and, individually, a “Party”) and for valuable and sufficient consideration, agree to the following:

1. Site Organizer and Site Participant(s) acknowledge and agree that this Agreement is a license agreement which solely authorizes Site Organizer and Site Participant(s) to enter upon City owned property to engage in community garden activities under the terms set forth herein, the City’s Community Garden Policy, which is hereby incorporated by reference into this Agreement, and any other term or condition required by the City.

Site Organizer and Site Participant(s) further acknowledge and agree that this License Agreement (or any other document(s)) does not create for the Community Garden Organization, Site Organizer, Site Participants, or any other entity or person(s), any form of property interest in the City owned property which is being used for community gardening, including, but not limited to lease or easement interest or right.

2. Site Organizer, agrees, to the maximum extent allowed by law, Site Organizer shall protect, defend, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, "Indemnified Parties"), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys' fees and court costs), liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Site Organizer, Site Participant, or Community Garden Organization participating in the Community Garden (however formed), including its officials, officers, employees, agents, and volunteers, arising out of or in connection with the participating in community garden activities (including gardening), or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising from the sole negligence or willful misconduct of the City, including its Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the City, including its Indemnified Parties which may be in combination with the active or passive negligent acts or omissions of the Site Organizer, Site Participant, or Community Garden Organization participating in the community garden (however formed), including its employees, agents or officers, volunteers, or any third party. This paragraph shall continue remain in effect even after the expiration of the term or termination of this Agreement. The City may require insurance in support of this paragraph, in which case the City shall provide notice of its insurance requirements.
3. Site Organizer agrees to the terms of the attached Participation/Use of Community Garden Waiver and shall execute said waiver prior to engaging in any gardening activities. (See Attachment 1.) Site Organizer shall also ensure that all site Participants and their minor child or children have fully executed the aforementioned waiver.
4. Site Participant(s) agrees to the terms of the attached Participation/Use of Community Garden Waiver and shall execute said waiver prior to engaging in any gardening activities. (See Attachment 1.) Site Participant(s) shall also ensure that their minor child or children have fully executed the aforementioned waiver prior to engaging in any gardening activities.
5. Site Organizer and Site Participant agree that they (jointly and severally) will operate the community garden under the terms of this agreement, including the below gardening terms ("Gardening Terms"), the City's Community Garden Policy, and another terms or conditions required by the City. The Gardening Terms are as follows:
  - A. **Term:** The initial term of this Agreement shall be five years, beginning the effective date. The Agreement may be renewed for additional terms at the discretion of the City.

- B. **Point of Contact.** Site Organizer shall be the point of contact for the community garden and attendant Community Garden Organization. The Site Organizer's duties shall include, but not be limited to, the following: (1) ensure ADA compliance and shall notify of the City of any ADA issues; (2) gather and maintain financial records as required by the City regarding operation of the community garden; (3) provide City communications and notices to Site Participants; (4) keep their contact information current; (5) ensure Site Participants abide by this Agreement (including signed waiver), City Community Garden Policy, and other term or condition required by the City (collectively "Community Garden Documents"); (6) promptly report any violations of the Community Garden Documents to designated City staff; (7) ensure that the Participation/Use Community Garden Waiver is fully executed and only those that have executed said waivers participate in gardening activities; and (8) maintain a current list of Site Participants and shall provide said list to the City-including, reporting any changes within one (1) business day of any changes.
- C. **City Cooperation:** Site Organizer and Site Participants shall cooperate and work with the City to ensure good relationships and a successful operation of the Community Garden.
- D. **Plots:** The Community Garden shall consist of the City approved garden site plan and gardening activities shall only take place on said approved garden site. Plots will be assigned to an individual or a group by the Site Organizer. Each plot can be shared by as many people as desired, with one person being designated as the plot's Farmer of Record.
- E. **Farmer of Record.** If Site Participant is designated as the Farmer of Record, they shall be the point of contact for the Plot. The Farmer of Record's duties shall include, but not be limited to, the following: (1) provide City communications and notices to Site Participants which are sharing the plot with the Farmer of Record; (2) keep their contact information current; (3) ensure Site Participants abide this Agreement (including signed participation waiver), and the City's Community Garden Policy (collectively "Community Garden Documents"); and (4) promptly report any violations of Community Garden Documents to the Site Organizer and designated City staff.
- F. **Minor Children:** Site Organizer and Site Participants may seek to have their minor child (or children) participate in gardening activities with them. To do so, the Site Organizer and Site Participants must include them in their Participation/Use of Community Garden Waiver. Site Organizer and Site Participant

are responsible for supervising their own minor child (or children) at all times while at the community garden and while participating in gardening activities.

- G. **Limits of Agricultural Use:** The garden area shall be limited to growth of vegetables, fruits, and flowers, in compliance with all policies and ordinances of the City. Planting of trees will be allowed only in containers. The community garden shall not be used for any type of livestock or poultry nor shall marijuana of any type be grown, harvested, stored, or collected at a community garden.
- H. **Chemicals:** The use of insecticides, herbicides and synthetic fertilizers is strictly prohibited. Only natural organic methods and products shall be used for the treatment of nuisances and to provide plant and soil nutrition. The Qualifying Entity is encouraged to reference the Environmental Protection Agency's National Organic Program. Therefore, only 'Organic Gardening' is allowed to be practiced here. No herbicides or pesticides may be used, except for organic-based materials, such as iron phosphate for snail and slug bait.
- I. **Sale of Products:** Sale of products on-site is prohibited; products grown are for personal use, for sale off-site, or for donation by members of the garden.
- J. **Means of Planting:** Raised Beds with suitable commercial grade fabric barrier lying at the base and lower sides, to prevent disturbance of native soils and to protect new soils from contaminants. New soil should be brought to the site that is suitable for planting edible vegetation. No tilling of existing ground is allowed.
- K. **Water Source:** Potable water may be available on or in close proximity to the site. If available, potable water shall be used. If the City provides water, the City may charge for such water via a separate agreement. However, if water is not available nearby or from the City, Site Participant shall be required to provide water.
- L. **Maintenance:** The Site Organizer and Site Participants shall, jointly and severally, be responsible for all garden activities including maintenance and upkeep of garden grounds.
- M. **Utilities:** The Site Organizer shall be responsible for payment of water & electric charges if applicable, as agreed upon by the City.
- N. **Allotment Fees:** Site Organizer shall be responsible for collection of all fees, if any, associated with individual plots.

- O. **Mechanical Equipment:** Mechanical equipment is limited to residential grade, restricted to use between operational hours of the community garden, and must adhere to the Chula Vista Code of Ordinances, regarding noise control. Equipment may be stored on-site at the risk of its owners. The City will not be liable for loss, theft, or any type of damage incurred to equipment left or used on site.
- P. **Trash:** No trash or debris shall be left on site at any time.
- Q. **Accessory structures:** Accessory structures are permitted (e.g., storage sheds) in so much as they are removable and not permanent. Accessory structures shall be subject to City approval.
- R. **Composting:** A composting area is required on the Community Garden Site. The composting area shall be indicated on the site plan and comply with Chula Vista Municipal Code section 8.25.090. Composting materials are generated from the site only, and outside materials will not be brought in, unless approved by the City.
- S. **Fencing:** Fences shall not exceed six (6) feet in height and should be constructed of wood, chain link, or ornamental metal. No fence shall be installed without review and approval by the City. Fencing is meant to provide a visual delineation of the garden lot from the right-of-way and is not intended to provide security.
- T. **Signage:** A decorative sign, meeting Chula Municipal Code Section 19.60, and no larger than 18”h x 24”w may be hung at the front of the garden to display the name of the garden and associated entity. A laminated document 8.5” x 11” showing the Qualifying entity’s contact information, including the primary and alternate contacts, along with the rules and guidelines for the garden will be posted within the garden boundaries, at a readable height.
- U. **Boundaries:** Garden areas shall not encroach onto adjacent properties. The cultivated areas will meet the required setback(s) for the zoning district in which the garden is located.
- V. **Maintenance:** The property shall be maintained free of high grass and weeds in accordance with City regulations. Dead garden plants shall be removed regularly. Rotting fruits and vegetables shall be collected from garden areas and properly disposed of offsite or in compost area. The Site Organizer and Site Participants, shall jointly and severally, be responsible for vermin and similar pest control.
- W. **Miscellaneous Improvements:** Benches and trellises and will be permitted on site as miscellaneous improvements. Decorative ornamentation will be restricted to placement within an individual’s plot.

Items within the garden will be limited in height and will not block clear site lines into the garden from the right-of-way(s).

- X. **Operating Hours:** Hours of operation will be from 7:00 a.m. until sunset. The City, in its discretion, may increase or reduce the hours of operation.
- Y. **Insurance/ Waivers:** The City may require insurance and indemnification from the Community Garden Organization. If so, the requirement shall be under terms required by City Risk Management and/or the City Attorney's Office.
- Z. **Lighting:** No overhead lighting shall be permitted on site.
- AA. **Parking:** No parking will be permitted on the site.
- BB. **Existing Trees:** Removing or cutting of existing trees is strictly prohibited, unless otherwise approved by the City of Chula Vista. Trees may only be planted in containers and shall not become permanent fixtures on the City owned property.
- CC. **Fundraising:** Qualifying entities are free to undertake fundraising activities in order to build community support and resources to defray costs associated with operating a community garden. However, any fundraising activities involving use of the actual property must be pre-approved by the City of Chula Vista.
- DD. **Access:** The City of Chula Vista shall have 24 hour access to the property, with or without notice.
- EE. **Records:** Records of fees collected and expenditures related to the garden shall be maintained in a centralized location and available at the City's request.
- FF. **Exceptions:** Any use condition for a Community Garden may be modified by Special Exception upon approval by the City.
- GG. **Termination of Agreement:** The City may terminate this agreement at any time and with or without notice. However, the City may, when possible, give thirty (30) days written notice of its decision to end this Agreement. The written notice need not provide a reason for the terminating this Agreement, but shall simply provide the date by which community garden activities must cease and the garden site must be returned to its preexisting condition.
- HH. **Other Provisions Specific to this Site:** Individual lots may have conditions not addressed in this policy. If deemed necessary, an attachment will be included as part of this Agreement, listing other provision(s) specific to the site and will be considered part of this Agreement.

- II. **Changes to this Agreement:** The City May alter or modify any term of this Agreement, in its sole and unfettered discretion, at any time.

(Signature Page to follow.)

SAMPLE



**SIGNATURE PAGE**

**FOR SITE ORGANIZER:**

BY SIGNING BELOW, I AGREE THAT I have read and understand the City of Chula Vista’s “Community Garden Policy” and this Agreement (and attendant liability waiver); that I accept and agree to the terms in this Agreement (and attendant liability waiver) and the City’s Community Garden Policy; and agree to carry out the above terms with due care.

\_\_\_\_\_  
Name of Organization

\_\_\_\_\_  
Address of Organization

\_\_\_\_\_  
Phone#

\_\_\_\_\_  
Site Organizer, Print

\_\_\_\_\_  
Position/ Title

\_\_\_\_\_  
Site Organizer, Signature

\_\_\_\_\_  
Date

**FOR SITE PARTICIPANTS:**

BY SIGNING BELOW, I AGREE THAT I have read and understand the City of Chula Vista’s “Community Garden Policy” and this Agreement (and attendant liability waiver); that I accept and agree to the terms in this Agreement, including the attendant liability waiver, and the City’s Community Garden Policy; and agree to carry out the above terms with due care:

Name	Signature	Date	Address	Phone	Email





Additional Terms: \_\_\_\_\_

Utility Charges: \_\_\_\_\_

Other provisions specific to this site: \_\_\_\_\_

**ATTACHMENTS:**

1. Liability Waiver
2. Final City Community Garden Site Application and Site Plan

Approved: \_\_\_\_\_ Not Approved: \_\_\_\_\_ Date: \_\_\_\_\_

Signed by City of Chula Vista Staff: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Start of Agreement Date: \_\_\_\_\_

End of Agreement Date: \_\_\_\_\_

Date of First Site Visit by City Staff: \_\_\_\_\_

**GRAY AREAS FOR STAFF USE ONLY**