

COMMUNITY GARDEN - GARDENER AGREEMENT & GARDEN RULES

Garden Use, Waiver of Liability, Release and Indemnification Agreement

*****Completed on paper and mailed or handed in to*****

Village of Port Jefferson
Attn: Marissa Lebron
121 West Broadway
Port Jefferson, NY 11777

Gardener Name: _____

Address: _____

City: _____

Phone: _____

Email: _____

Emergency Contact and Phone Number: _____

Welcome to Port Jefferson Village's Beach Street Community Garden (the "**Garden**"). Port Jefferson Village (the "**Village**") is the landowner and oversees the Port Jefferson Village Beach Street Community Garden. The "**Garden Manager**" of the Garden administers the Garden Rules. The Garden Manager is an individual appointed by the Village to manage the Garden and administers the Garden Rules. This document is a legal contract between you and the Village.

1. TEMPORARY RIGHT TO GARDEN

1.1 Plot. You have the temporary right to garden in plot _____ (the "**Plot**") in the Garden. Your immediate family members may garden with you as your guests. You may use the Plot from June 10th, 2024 to November 30th, 2024. You will have the chance to renew your membership on an annual basis and keep your plot for as long as the garden is running at that location and that you are following the Garden Rules.

1.2 No Refund. You understand that you will not get a refund or reimbursement for your expense, or any other payment if you decide not to garden or if the Village terminates your right to garden, even if you spend a lot of time and money on the garden. You understand that only you and no one else, including your family, has any rights under this Agreement.

1.3 Fee. When you sign this document, you will pay a fee of \$40 to use the Plot, if you have not already done so. Thereafter, you will pay an annual fee, no later than February 15th. You understand that we may increase the fee in future years.

1.4 No Transfer. You cannot let anyone other than your immediate family garden your plot unless the Garden Manager agrees to such in writing.

2. LIABILITY WAIVER, RELEASE, INDEMNIFICATION AND ACKNOWLEDGEMENTS

2.1 Awareness of Risk. You understand that participating in the Garden has a risk of death or injury to yourself or your guests and damage to your personal property. The risks could be caused by you, other gardeners, or the Village. The risk could also come from the condition of the land where the Garden is located, or the equipment and tools available at the Garden, or the weather or other environmental or local conditions. You also understand that hazardous conditions may exist at the Garden and that other gardeners may be unskilled.

2.2 Assumption of Risk and Waiver and Release of Claims. In exchange for your right to participate in the Garden, you agree to take on the risk of harm even if the potential harm is caused by someone else (In legal terms, you agree to “**assume the risk**”). You also agree to give up (“**waive**”) any right you may have to sue or otherwise attempt to collect money from the Village, Garden Manager, their board members, employees, volunteers, or anyone acting on their behalf (referred to altogether as “**Released Parties**”) for any losses or damages resulting from death, injury, or personal property damage to you, anyone else, or any personal property, that occurs while you or your guests are in the Garden. (In legal terms, you “**waive and release all claims**” against the Released Parties). You understand that the Village would not permit you to participate in the Garden without your agreeing to these waivers and releases.

2.3 Medical Care Waiver. You give up any right to sue or otherwise attempt to collect money from (“**waive and release any claim from**”) the Release Parties arising out of any first aid, treatment, or medical services, including the lack of such or timing of such, given in connection with your participation in the Garden. You understand that you are not covered by or eligible for any insurance, health care, workers’ compensation, or any other benefits maintained by Village.

2.4 Indemnification. You are responsible for any damages or losses suffered by the Village or Landowner that are caused by you or your guests’ actions.

2.5 Publicity. You agree to allow the Village to use any photograph, interview, videotapes, film, other visual or auditory recordings, or any other medium, including the internet, of you or your guests that we or others may create in connection with your or your guests’ participation in the Garden. You agree that you do not have to inspect or approve the finished project and you are not entitled to any compensation for the finished product.

3. TERMINATION

3.1 Failure to Comply with Gardener Agreement or Garden Rules. You confirm that you have read a copy of the Garden Rules attached to this agreement and you will comply with them. If you fail to obey the Gardener Agreement or the Garden Rules, the Village can terminate your right to garden.

4. OTHER PROVISIONS

4.1 Entire Agreement, Severability and Modification. If any part of this Gardener Agreement is ineffective, the remaining portions of the Gardener Agreement remain in effect. Any changes to this Agreement have to be in writing and signed by you and the Village.

4.2 Third-Party beneficiaries. You understand that this Gardener Agreement gives the Landowner a right to enforce certain parts of this Gardener Agreement against you by going to court. (In legal terms, the Landowner is an “**express third party beneficiary**”). The Landowner can enforce Section 2 and 3.2 of this Gardener Agreement.

4.3 The Gardener fully understands these agreements terms and conditions and has signed this agreement under their own free will in a clear state of mind.

GARDENER

By: _____

(signature)

Name: _____

Date: _____

ATTACHMENT: Garden Rules

Incorporated Village of Port Jefferson (“VILLAGE”)

By: _____

(signature)

Name: _____

Date: _____

This document sets out the rules that govern the Port Jefferson Village Beach Street Community Garden (the “**Garden**”). These Rules are intended to help all Community Gardeners grow fresh, healthy food in a thriving garden, to help create a sense of community among our gardeners, and to help the garden to be a good neighbor.

The Incorporated Village of Port Jefferson (the “**Village**”) is the landowner, and appoints a garden manager (the “**Garden Manager**”) who administers these Rules. Every person who has a plot in the Garden (called “**Gardeners**”) must sign a gardener agreement with the Village in which the Gardener agrees to comply with these Rules.

1. ACCESS TO THE GARDEN

Season:

The Garden is open and accessible from March through November.

Hours:

Gardeners may only be in the Garden between dawn and dusk.

Keys and Security:

Where applicable, the Garden Manager will give each Gardener the combination or code to open the lock for access to the shed/toolbox. Upon leaving the Garden, Gardeners are responsible for locking the shed/toolbox if there are no other individuals in the Garden. Gardeners will follow any additional security guidelines that may be announced by the Garden Manager.

2. GARDEN PLOTS

Use of Own Plot:

Gardeners may use only the plots assigned to them by the Garden Manager. Gardeners will maintain their plants within their plots and will trim any plants that extend into neighboring pathways, plots, or into common areas. Gardeners may not alter the dimensions of their plot.

Supplies:

Gardeners are solely responsible for the planning and management of their own plots, including providing their own seeds, plants, organic fertilizer, and any tools not provided by Village, Garden Manager or Gardeners collectively.

Organic Methods:

Gardeners will garden organically. Gardeners will check with the Garden Manager before applying any fertilizers, pesticides, herbicides, or rodenticides, even if clearly labeled “organic.” Use of compost, organic mulch, and weeding is always acceptable.

Water:

Water is provided through drip-irrigation to each bed. Gardeners are responsible for immediately reporting any leaking or improperly functioning irrigation lines to the Garden Manager.

Tools:

Gardeners may bring their own tools into the Garden to use in their plots, but neither the Garden Manager nor Village are responsible for the loss of these tools. Gardeners are responsible for any damage caused by tools they bring into the Garden. Gardeners may not use any power tools, such as those that require gasoline, batteries, or electricity.

Plot Activity Deadlines:

Gardeners must tend their plot by May 15th. If the kind of plants that Gardeners are growing must be planted later, Gardeners will weed plots as needed before then. Gardeners are responsible for their plots for the entire season and will keep them free of weeds and harvested through November.

The planting deadline is June 15th. Plots that are unplanted by the planting deadline are assumed abandoned and will be forfeited without a refund. Plots not planted will be reassigned.

Plot Maintenance:

Gardeners must maintain plots (including adjacent aisles) throughout the growing season. Gardeners who do not maintain their plots will not be eligible for a plot in the following year. Maintaining includes: planting, weeding, and harvesting. Gardeners will keep weeds down and maintain the areas immediately surrounding their plot.

Each gardener is expected to spend at least 1 hour per week working on his/her plot and the surrounding area.

Please contact your garden coordinator if you will be moving, taking an extended vacation, or otherwise will be unable to maintain your plot throughout the gardening season. Or if, for any reason (health, vacation, work), you will be temporarily unable to maintain their plot. If you have a substitute gardener, inform the coordinator. Any plot abandoned for more than 1 month, without having given prior notice (i.e. of vacation, sickness, etc.) to the garden coordinator, will be forfeited. At that time, it will be re-assigned or tilled in and any produce will be donated to charity.

Weeds and Disease

Gardeners agree to keep the garden and garden edges free of weeds, diseased plants, insect-infested plants and overripe vegetables. Weeds, if removed from your plot, are to be hauled to the compost site. Keep your garden neatly weeded on a regular basis. Weeds may not become taller than 8 inches. Weeds are a major complaint of neighbors and other gardeners, and are the leading cause of plot forfeiture.

Large/Woody Plants

Gardeners may not plant trees, shrubs, or perennial plants in plots. Perennial plants may be placed in containers within Gardeners' plots. All gardeners must understand that it is their responsibility to maintain plants within the limits of their plot and to keep vegetation less than four feet in height, so as not to shade neighboring plots.

Structures

No altering the dimensions of the plot or of the surrounding area. The gardener supplies the materials and labor for non-permanent structures. Simple trellis structures are permitted if they do not shade other gardens. Row covers are permitted; please anchor them to prevent blowing away, and store them when not in use. Cold frames are permitted if they are no larger than the plot dimensions in width and length, with a maximum height of 30 inches. Covers are to be made of sturdy plastic, not glass.

End of Season

Plots must be cleared and cleaned at the end of the growing season, November 30th . Gardeners who do not clean plots will lose first right of refusal for the plot the following year.

Cleaned up means the plot is clean and level. All dead plants and weeds should be removed. All stakes, materials, etc must be pulled and removed from site. Cover crops or hay/straw may be left on cleared and level plots.

Yearly Clean-up:

Gardeners will perform a yearly clean-up on their plots on a date to be determined by the Garden Manager.

Compost:

Gardeners will place any organic waste such as weeds, dead plants, or rotten produce, in the compost pile designated by the Garden Manager. The gardeners should cut any organic waste to 4" length before putting it into a compost bin and follow other compost rules as designated by the Garden Manager.

No Personal Property:

Gardeners may not keep any personal property on their plots or in the Garden when they are not in the Garden. If Gardeners leave personal property on their plots after the termination of their participation in the Garden, the Village can dispose of the abandoned property.

3. COMMON AREAS AND RESPONSIBILITIES

Common Tools:

Village, Garden Manager or Gardeners collectively may provide a set of tools in a storage shed in the Garden for use by all Gardeners (the "Common Tools"). Gardeners will return the Common Tools to the storage shed as soon as they are finished using them. If a Common Tool appears dangerous or in disrepair, Gardener will not use the Common Tool and inform Garden Manager immediately.

Common Responsibilities:

Gardeners will keep clean and neat any common areas, such as pathways and storage sheds. Gardeners will promptly report any concerns about the safety of the Garden to the Garden Manager. If there is vandalism, storm damage, or other damage to the Garden, all Gardeners are expected to help in cleaning up and restoring the Garden to its prior condition.

Gardener Volunteer Hours:

Gardeners will volunteer up to two (2) hours per month, in a contract period. Examples of volunteer activities: weeding common areas, turning the compost pile each week, seasonal garden cleanup effort, monitoring the water system, etc. Considerations will be given for special skills, physical and mental capabilities, and age. Youth participation is encouraged with adult guidance.

All completed hours should be logged within one week on the shared Volunteer Hours log. All service hours must be completed and reported by November 15. Gardeners who have not completed and reported required service hours will not be eligible for automatic renewal of their plot the following season.

4. COMMUNICATION

Garden Management:

The Garden Manager has authority to interpret and enforce these Rules.

Communication:

The Garden Manager may designate two members as "Garden Coordinators" to be the official point of contact for the Village and Garden Manager.

Contact Information:

The Garden Manager will provide a list of all gardeners' contact information and plot assignment. Gardeners must tell the Garden Manager of any change in their contact e-mail addresses or phone numbers.

Gardener Input:

Gardeners are welcome to provide suggestions about Garden operations to the Garden Coordinators and Garden Managers. Gardeners should contact the Garden Manager directly at the email provided by the Garden Manager, not the Village's office, with any questions relating to day-to-day operational matters.

Gardener Orientation:

New Gardeners must attend a Village or Garden Manager-led orientation to become familiar with how the Garden functions and their responsibilities as a Gardener.

Annual Meeting/Registration:

Once a year, the Garden Manager will invite all Gardeners to an annual meeting to notify Gardeners of any changes made in how the Garden operates, these Rules, the assignment of plots, and to discuss any issues or concerns. Garden Manager will give written notice of the annual meeting, sent by email or first-class mail, no fewer than 14 days in advance. At every annual meeting, annual garden fees are due.

Confidentiality:

Village, Garden Manager and other Gardeners will not use any personally identifiable information, including Gardener's name, email address, telephone number, or street address, for purposes other than the operation of the Garden.

5. CONDUCT**General Conduct:**

Gardeners are expected to be civil, honest, and cooperative in dealing with the Village, Garden Manager, Garden neighbors, other Gardeners, and guests of other Gardeners.

Guests:

Gardeners may bring guests, including children, into the Garden, provided that the guests comply with the Rules. Gardeners will supervise any child under the age of sixteen. Gardeners will be responsible for the conduct of children and their guests including making sure they do not damage or interfere with activities on other plots or otherwise engage in inappropriate conduct. Guest violations of these Rules are treated as violations by the Gardener.

Respect Others' Property:

Gardeners may not enter other plots, use another Gardener's tools or supplies, or harvest another Gardener's produce, without the explicit permission of the other Gardener.

Dogs

The Village Code applies to this the Garden. Leashes, fully secured by the dog's supervisor, and "pick-up" are required at all times. Dogs must be closely supervised as to not disturb Garden plots. Poorly behaved dogs will not be welcomed at the Garden.

No Illegal Plants:

Gardeners may not grow any plants considered illegal or invasive under local, state, or federal law.

No Cannabis or Marijuana Plants

Notwithstanding any legalization of cannabis or marijuana, gardeners may not grow cannabis or marijuana in the Garden.

Compliance:

Gardeners must comply with all applicable local, state, and federal laws.

No Smoking:

Gardeners may not smoke in the Garden.

No Alcohol or Drug Use:

Gardeners may not consume or use alcohol or illegal drugs while on the Garden premises. Gardeners may not bring alcohol or illegal drugs onto the Garden premises. Gardeners may not come into the Garden while under the influence of alcohol or illegal drugs.

No Loud Music:

Gardeners may not play music or the radio loud enough to be a nuisance to other Gardeners or to the Garden's neighbors.

No Sales:

The Garden is for personal, non-commercial use only; Gardeners may not sell any produce or flowers grown in the Garden.

No Signs

Gardeners may not install any signage (which includes posted signs, posters, banners, painting, drawing or other means of written or visual communication) in, on or about the Garden other than a small personal sign, no larger than 4" x 4", to identify the Gardener's plot. The Landowner, Village and Garden Manager shall at all times have the right to remove from the Garden any signage without notice or compensation.

6. VIOLATIONS AND TERMINATION

Dispute Resolution:

Gardeners will raise with the Garden Manager and Garden Coordinator any disputes about the Garden or with fellow Gardeners. The Garden Manager and Garden Coordinators have the power to hear these disputes and will resolve them in the best interest of the Garden.

Termination:

Gardeners may lose their rights to participate in the Garden if they fail to comply with any of these Rules, or if a Gardener:

- endangers other Gardeners, Garden Manager, Village, neighbors, or other individuals;
- takes or uses another Gardener's tools, supplies, or produce without permission;
- encroaches on Garden neighbors' property;
- grows illegal plants; or
- uses alcohol or illegal drugs in the Garden.

The Village may, at its discretion, terminate the Gardener's right to participate in the Garden. If that occurs, the Gardener must leave the Garden by the end of Garden hours on the termination day and may not re-enter without Village's or Garden Manager's permission.

Upon termination for any reason, a Gardener will promptly return to the Garden Manager any Village or Garden Manager property. Terminated Gardeners are not entitled to any refunds or other payments from the Village.

No Limit on Village Rights:

The process described in this Section 6 does not (i) limit the Village's or Garden Manager's ability to enforce its rights under these Rules; (ii) limit or qualify a Gardener's obligation to comply with applicable law or the Rules; or (iii) limit the Village's or Garden Manager's right to notify and/or involve government authorities as it may determine.

No Refund or Other Claims:

Gardeners under no circumstances will be entitled, directly or indirectly, to any refunds, any direct, incidental, consequential, punitive, or other damages, any other forms of compensation from the Village or Garden Manager or the landowner of the Garden's land, or to obtain an injunction, specific performance, or other equitable remedy, as a consequence of termination from participation in the Garden.

7. OTHER PROVISIONS

Changes in the Rules:

Village may amend these Rules in its discretion without advance notice. Village will attempt to provide all Gardeners with a copy of the current Rules, will post a copy of the current Rules at the Garden, and will summarize any changes in the next annual meeting. The Gardeners, through the Garden Managers and Garden Coordinators, may propose amendments to the Rules for the Village's consideration.

Garden Agreement Controls:

Nothing in these Rules limits, qualifies, or otherwise affects the Gardener Agreement between the Village and each Gardener. Should there be any ambiguity or conflict between the Gardener Agreement and these Rules, the Gardener Agreement will control.

Waiver:

Any waiver by the Village of these Rules must be in writing and signed by the Village. Failure, neglect, or delay by the Village at any time to enforce the provision of these Rules will not be considered a waiver of the Village's rights under these Rules. Waiver of any breach or provision of these Rules or failure to enforce any breach or provision of these Rules will not be considered a waiver of any later breach or the right to enforce any provision of these Rules.

Translation Not Binding:

Village may provide Gardeners with a translation of these Rules and related summaries or other explanatory materials. Village does so as a convenience. Should there be any ambiguity or conflict between the English and the translated versions of these documents, the English language versions will control. They, not the translations, are the official, legally binding documents.