

NORTH LINCOLNSHIRE COUNCIL

**NEIGHBOURHOODS
CABINET MEMBER**

REVISED ALLOTMENT TENANCY AGREEMENT

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To approve a revised allotment tenancy agreement.

2. BACKGROUND INFORMATION

- 2.1 The council has reviewed its existing allotment tenancy agreement. Some changes are suggested in order to simplify the document and improve its consistency and clarity.
- 2.2 The council is responsible for the maintenance and upkeep of five allotment sites (Buckingham Avenue, Healey Road, Somervell Road, Westcliff and Wheatfield's) within the Scunthorpe area.
- 2.3 The new agreement pulls together the main sections from the old agreement (contract, terms and conditions, appendices etc.) into a single document. We have revised the wording to remove possible ambiguity and mis-understanding, set out a clear procedure for dealing with instances of non-compliance and are now proposing to restrict bonfires/burning on our allotment sites. This issue has previously resulted in many complaints and although there are no laws against having a bonfire, there are laws relating to the nuisance they can cause, including harm to people's health, pollution and danger to traffic.
- 2.4 We have revised the date for payment of fees to later in the year (October) in order to allow sufficient time for the Council's "Fees and Charges" to be formally approved before we invoice tenants. It will also make it more convenient for the letting of plots allowing new tenants the Autumn/Winter period to work them up in readiness for the forthcoming growing season.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option one
- 3.1.1 To approve the revised Tenancy Agreement.
- 3.2 Option two
- 3.2.1 Do not approve the revised Tenancy Agreement and retain the existing Tenancy Agreement.

4. ANALYSIS OF OPTIONS

4.1 Option one is the preferred option as this provides a simplified contract that is easier to understand, easier to enforce and provides an improved procedure for both parties.

4.2 Option two will leave us with the existing agreement which is becoming out-of-date and difficult to manage.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

5.1.1 There are no financial implications; however we are intending to invoice tenants later in the financial year.

5.2 There are no other resource implications to consider.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 Not applicable.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 Our Legal and Democratic Services team have approved the wording and content of the revised agreement.

7.2 The allotment representatives from each of the above sites were invited to a couple of meetings to discuss the content of the new agreement. Their comments and suggestions were incorporated into the document wherever possible/appropriate.

At the latest meeting attended by ten allotment representatives and allotment holders their input helped to shape a number of amendments to the draft document. For example:

- Determining the bonfire/burning policy;
- Clarifying livestock definition as bees and poultry;
- Extending notice periods;
- General re phrasing of some sentences to ensure the document was easily understood.

8. RECOMMENDATIONS

8.1 That the Cabinet Member approves the implementation of the revised Allotment Tenancy Agreement.

DIRECTOR OF PLACES

Hewson House
Station Road
Brigg
DN20 8XY

Author: Andy Long/Ken Wardman

Date: 02 June 2015

Background Papers used in the preparation of this report: Nil

Dated:

NORTH LINCOLNSHIRE COUNCIL

TO

TENANCY AGREEMENT

OF

ALLOTMENT GARDEN NO:

OF THE

SITE

**W S BELL
ASSISTANT DIRECTOR LEGAL AND DEMOCRATIC SERVICES
NORTH LINCOLNSHIRE COUNCIL
CIVIC CENTRE
ASHBY ROAD
SCUNTHORPE
NORTH LINCOLNSHIRE
DN16 1AB**

AN AGREEMENT made this day
BETWEEN North Lincolnshire Council of Civic Centre, Ashby Road, Scunthorpe,
North Lincolnshire ("The Council") acting by Will Bell Assistant Director Legal and
Democratic Services and duly authorised agent (1) and
..... of
("the Tenant") (2) WHEREBY the Council agree to let and the Tenant agrees to take
as a yearly Tenant from the first day of October 20.... the allotment garden or
allotment gardens briefly described in Schedule One hereto (subject to any
exceptions and reservations affecting the Council's reversionary title) at the year rent
shown in the third column of Schedule One subject to the following conditions:

1. This tenancy is granted subject to (a) the Allotment Rules made from time to time by the Council for allotment gardens the current form of which is set out in Schedule 2 and (b) the Allotments Acts 1908 to 1950 or any statutory modification or re-enactment thereof for the time being in force.
2. This tenancy shall terminate:
 - (i) On the death of the tenant.
 - (ii) In accordance with Section 1 of the Allotments Act 1922 as amended by Section 1 (1) of the Allotments Act, 1950.
 - (iii) By re-entry after 12 months prior written notice where the Allotment is required for building, mining or any other industrial purpose or for roads or sewers necessary in connection with any of those purposes.
 - (iv) By re-entry if the rent shall at any time or times be in whole or part in arrear and unpaid for forty days after becoming due.
 - (v) If the tenant shall become bankrupt or make a composition with his creditors.
 - (vi) If it appears to the council that the tenant not less than three months after the commencement of the tenancy has not duly observed the conditions contained in this agreement.
 - (vii) If the tenant no longer resides in North Lincolnshire.
 - (viii) If the tenant is in persistent material breach of the terms of this tenancy having received written notice thereof from the Council.
3. The tenant may terminate this tenancy by giving the Council not less than three months prior written notice to expire on the 30 September then next following unless it is otherwise terminated by the Council in accordance with the terms of this agreement.
4. In the event of this tenancy expiring on the 30 September in any year the Tenant shall allow the incoming tenant to enter the allotment on the 2 September preceding for the purpose of cultivating the same.
5. The Council will not be liable under any circumstances whatsoever for injury or damage done to the allotment or the crops or produce thereon.

6. Complaints from or disputes between tenants will be dealt with by the relevant officer of the council ("the Manager") where appropriate and particulars of all such complaints or disputes must be submitted in writing to the manager for resolution in accordance with the Allotment Rules.
7. Any notice may be served on the Tenant either personally or by leaving it at his last known place of abode or by registered letter addressed to him there or by fixing the same in some conspicuous manner on the allotment.

Any notice from a tenant to the Council is to be served on the Council by delivering or posting it to Neighbourhood Services, North Lincolnshire Council, Northampton Road Depot, Northampton Road, Scunthorpe DN16 1UJ.

8. The Tenant shall pay any stamp duty payable on this agreement.
9. Nothing herein contained shall take away lessen or prejudice any of the powers of authority now vested or which may hereafter become vested in the council under or by virtue of the Acts and Bye-laws for the time being in force in North Lincolnshire or exempt the Tenant from any duty or obligation to which he may become liable under the Allotment Rules or such Acts and Bye-laws.

SCHEDULE ONE

No of Allotment in Register	Situation of Allotment	Yearly Rent

SCHEDULE TWO
ALLOTMENT RULES APRIL 2015
NORTH LINCOLNSHIRE COUNCIL
RULES WITH RESPECT TO ALLOTMENT GARDENS

1. Payment of Rent

- (i) The rent for an allotment garden shall be paid yearly in advance on the first day of October in each year.
- (ii) If the rent is unpaid on or by 10 November in any year then (unless the Council agrees in writing to the contrary) the tenancy automatically terminates.
- (iii) The Council may by giving not less than six months prior written notice to the tenant increase the yearly rent on and from 1 October in any year.

2. Joint Tenancy

- (i) Where two or more persons wish jointly to work an allotment garden then subject to compliance with the following sub clauses (ii) to (vii) of this clause 2 inclusive each person shall sign a Joint Allotment Agreement
- (ii) An application for joint tenancy shall be made by the existing tenant who wishes to share use and enjoyment of the allotment with anyone on the waiting list who is not otherwise the sole or joint tenant of any other allotment in Scunthorpe
- (iii) A joint tenant may have their name on any allotment site waiting list but if they accept the tenancy of a vacant plot they must relinquish their joint tenancy.
- (iv) (i) One joint tenant shall always be nominated as the "Principal Tenant" who is responsible for all payments and correspondence relating to the allotment. Where an existing plot holder wishes to change his/her tenancy to a joint tenancy then the existing plot holder shall be the "Principal Tenant".

(ii) A joint tenant not being a Principal Tenant may terminate his joint tenancy at any time by giving written notice both to the Principal Tenant and to the Council.
- (v) Where the Principal Tenant wishes to terminate his/her interest in the allotment then another joint tenant must first consent in writing to the Council to be Principal Tenant and if no other joint tenant is willing to be the Principal Tenant then the entire joint tenancy shall be terminated and the allotment will be offered to the next person on the waiting list.

- (vi) The cultivation or use by a joint tenant of additional allotment plots on any allotment site in Scunthorpe is not permitted.
- (vii) Every joint tenant is responsible for observing and complying with the allotment rules.

3. **Termination of a Tenancy of an Allotment Garden**

The tenancy of an allotment garden (unless subject to a joint tenancy or otherwise agreed in writing by the Council) shall terminate upon the death of the tenant. (The Council will allow members of the family of the deceased to remove growing crops). All tenancies will terminate if the Council ceases to own or have the right of occupation of the allotment land.

The tenancy may be terminated by the Council by re-entry after one month's notice:

- (i) If the rent is in arrear for more than 40 days or
- (ii) If any tenant (including a joint tenant) is in breach of the given allotment garden rules.
- (iii) If the tenant fails to carry out any prescribed improvement works after receiving 3 "Action Notices" from the Council.

The tenancy may also be terminated by the Council by giving such notice as is provided for at Section 1 (1) of the Allotments Act 1922.

4. **Power to inspect Allotment Gardens**

Authorised officers of the Council shall be entitled at any time to enter and inspect any allotment.

5. **General Conditions under which the Allotment Gardens are to be cultivated**

Every tenant of an allotment garden shall comply with the following conditions:-

- (i) The tenant shall commence the cultivation of the allotment garden before the first day of November in any year and shall keep the said allotment garden well manured and otherwise maintain it in a proper state of cultivation and clean and free from weeds to the satisfaction of the Manager and generally manage the same in a good and proper manner so that it shall be left at the termination of his tenancy in good heart and condition (the Tenant may be re-charged for any expense incurred by North Lincolnshire Council in bringing a vacated plot back to an acceptable standard).

- (ii) To keep the allotment garden clean, free from weeds and cultivated with compost or recognised soil improver and otherwise maintain it in a good state of cultivation and fertility.
- (iii) Not to place or keep on the allotment any covering, other than weed suppressant membranes for that purpose, and not to bring onto or store on the allotment (or in any structure) any hazardous materials or substances excepting fuel for immediate use on the allotment.
- (iv)
 - (a) To cultivate at least 60% of the area of the allotment for the production of edible crops; the remaining 40% may be used for other horticultural leisure purposes (lawn, flower beds etc.). Children's swings, paddling pools, or similar are not permitted.
 - (b) Cars must not be parked on allotment plots but within the designated parking area where available on the site.
- (v) To cultivate the whole of the allotment garden personally and not to underlet, assign, exchange or part with the possession of the allotment garden or any part of it.
- (vi) To keep the internal hedges, and the internal face of adjoining boundary hedges on the allotment garden properly cut and trimmed and to keep all ditches and watercourses clean and free flowing. Note: The Council retains responsibility for all external boundaries and the trimming from time to time of the top and external face of allotment site boundary hedges.
- (vii) The tenant shall (where they are adjacent to the said allotment garden) keep every hedge properly cut and trimmed, all ditches properly cleaned, maintain and repair any damage to gates and fences, and where paths have been set out for the use of occupiers of allotment gardens the tenant shall keep every such path on which the said allotment gardens abuts clear of weeds and in good repair and condition.
- (viii) As regards the allotment garden to observe and perform all conditions and covenants contained in the conveyance or in the lease.
- (ix) To observe and perform any other condition, which the council considers necessary to preserve, develop and/or improve the allotment garden.
- (x) Not to cause any nuisance or annoyance to the occupier of any other allotment garden or the owners or occupiers of any neighbouring property nor obstruct nor encroach upon any path/boundaries set out for the use of the occupiers of the allotment gardens. Failure to observe this condition may constitute a serious breach of this agreement on the part of the tenant and could result in one months notice to terminate the tenancy.

- (xi) Not without the written consent of the Council, prune any timber or other trees and not to sell or carry away turf, mineral or gravel, sand or clay.
- (xii) Not without the written consent of the Council, erect or place or permit on the allotment garden any building, greenhouse, polythene tunnel or other structure except those permitted. (See rules for the "erection of structures").
- (xiii) Not to use barbed wire or any other material that may cause injury on a fence or as a fence adjoining any path set out for the use of the occupiers of the allotment gardens.
- (xiv) Not to plant any trees or shrubs so as to overhang or interfere with any other allotment or any path or roadway on the allotment land.
- (xv) (a) Not without the written consent of the Council to keep any poultry or bees at the allotment, no other livestock allowed.
(b) To avoid the risk of injury to other allotment holders and to ensure any livestock is adequately and suitably cared for, allotment holders wishing to keep any livestock (poultry or bees) on their allotment will be required to demonstrate that they are competent to do so prior to requesting permission to keep them.
- (xvi) Not to plant or permit to grow on the allotment any willow, poplar, leylandii or any other trees which produce non-edible fruit.
- (xvii) Tenants are permitted to bring a dog onto the allotment provided it is under proper control and kept on a lead within the confines of their allotment plot at all times, and provided that it does not cause a nuisance or annoyance to any other person. All dog faeces must be removed from the allotment site. Failure to observe this condition will constitute a breach of the agreement on the part of the tenant and will result in this permission being withdrawn.
- (xviii) The allotment garden is not let and shall not be treated as a market garden. With the object of protecting the council from claims of compensation the following improvements are to be treated as prohibited for the purpose of Section 47 of the Small Holdings and Allotment Act, 1908, viz:
 - (a) Planting of standard or other fruit trees permanently set out.
 - (b) Planting of fruit bushes permanently set out.
 - (c) Planting of strawberry plants.
 - (d) Planting of asparagus, rhubarb or other vegetable crops which continue productive for two or more years.

If the tenant executes any of the improvements above he will be expected to remove the trees, bushes, crops or plants before the termination of the tenancy, levelling the surface of the land and restoring the same to a proper state and condition and making good any damaged caused by the removal.

- (xix) The tenant shall not employ any gun, weapon, net or other instrument for taking or destroying wildlife but shall protect and preserve the nests and eggs of birds for the benefit of the environment.
- (xx) The tenant shall not use the allotment garden or have access thereto otherwise than between the hours of 5.00 a.m. and 11.00 p.m. in each day (this clause shall not apply in a case of emergency to the tenant only, of an allotment garden where permission is granted to keep livestock) nor shall he trespass on adjoining lands but shall as far as possible prevent trespass on these lands.
- (xxi) The riding of bicycles and driving of motor vehicles within the boundaries of the allotment sites, at a speed dangerous to other tenants is strictly prohibited. Any motorised vehicles used for the purpose of cultivating the allotment must be insured to the satisfaction of the Council.
- (xxii) All remains of objects of an archaeological or other scientific interest found on the allotment garden are the property of the Council, and the Tenant on discovering any such remains or objects shall forthwith report the fact to the Principal Keeper at the Scunthorpe Museum (for the time being of the council) and hand over the same to him upon request.
- (xxiii) To maintain the number of the allotment plot (by a "marker" as provided by North Lincolnshire Council) placed in a prominent position on the allotment. This must not be removed or re-sited at any time.
- (xxiv) Not to construct a pond, bury a tub, tank or bath below ground level and not to construct or keep a container, tub or tank containing water above ground level, without the written permission of the Council.
- (xxv) The tenant shall not sink or construct any well on the said allotment and all water butts and other water receptacles thereon MUST at all times be securely covered up to the satisfaction of the Council.
- (xxvi) Where provided water taps are for the benefit of all plot holders and are to be used for the filling of small hand-held water receptacles. Tenants shall not run a continuous water supply from such taps but may run a hosepipe to fill larger static receptacles on their plots, as long as this does not inconvenience other users and the filling of small personal receptacles is allowed to take priority.

- (xxvii) Not to deposit or permit to remain on the allotment garden any refuse or any decaying matter (except manure and compost in such quantities as may be reasonably required for use in cultivation and stored correctly) or place any such matter in hedges, ditches, or dykes on or adjoining the allotment.
- (xxviii) Manure deposited on the roadways shall be removed onto the allotment garden within twenty four hours and no manure or rubbish whatever shall be deposited on any allotment garden within 600mm of any of the boundaries.
- (xxix) The tenant shall not use the allotment garden or any part thereof for trade purposes, the sale of refreshments, or distribution of intoxicating liquors.
- (xxx) The tenant shall immediately upon changing his residence notify the council by delivering the same or posting the same to Neighbourhood Services, North Lincolnshire Council Northampton Road Depot Northampton Road Scunthorpe DN16 1UJ.
- (xxxi) Burning or any other activity generating smoke is banned on all allotment sites.

**RULES FOR THE ERECTION OF STRUCTURES
AND GREENHOUSES ON ALLOTMENTS**

DRAFT

THE TENANT shall have the licence or privilege of erecting and maintaining a hut or greenhouse or a combined hut and greenhouse, or structure ("the Structure") upon the said allotment garden subject to the following conditions:-

- (a) The licence or privilege hereby granted shall continue until determined by either party giving to the other one calendar months notice in writing subject as hereinafter provided.
- (b) The design and construction of the said structure shall be subject to the previous approval of the council and no alteration or addition to the said structure shall be made without the consent in writing of the council having first been obtained.
- (c) The said structure shall be kept by the tenant at all times in a clean and tidy condition and in good state of repair.
- (d) The tenant shall within one calendar month of the erection of the said structure treat all the exterior parts of the same with paint or other preparation in accordance with the specification of the Manager and again so treat the exterior parts at least once in every third year during the continuance of the agreement.
- (e) The tenant shall not buy or sell any allotment produce in the said structure nor carry on any trade or business whatever there from nor use the same for the storage of any items not accepted for use in association with managing an allotment.
- (f) The tenant shall not have or make any claim against the council for compensation in respect of the said structure on the termination in any manner of this agreement.
- (g) The council shall not be liable for any damage occasioned to the said structure nor for the loss of or damage to any tools or other property placed in the same by the tenant or any other person.
- (h) The tenant shall pay and discharge all charges or fees and other outgoings which may become payable in respect of the said structure.
- (i) In event of any breach or non-performance of the foregoing conditions with reference to the said structure, it shall be lawful for the council forthwith to revoke and put an end to the licence or privilege hereby previously granted in respect of the said structure.
- (j) Upon termination of the tenancy agreement or upon vacation of the said allotment garden by the tenant for any reason

whatsoever and upon inspection of the said structure, the council acting reasonably decides that it is in a state of disrepair the tenant shall forthwith remove the said structure and leave the site thereof free from any erection or obstruction and shall make good all damage occasioned by such erection or removal and in default of his so doing the council by their servants or agents may enter upon the said allotment garden and remove and demolish the said structure and the expense of so doing shall be paid by the tenant.

- (m) The council reserves to them the right of deciding whether any allotment holder leaving North Lincolnshire at any time in any year shall hold the allotment garden for the current year or not.
- (n) The tenant shall immediately upon changing his residence notify the Manager of his new address.
- (o) The tenant shall observe and perform every other special condition which the council consider necessary to preserve the allotment garden from deterioration.

STRUCTURES

The following types and sizes of buildings are permitted on sites. Written application for permission to erect a hut or greenhouse should be submitted on the form attached, for consideration. A tenant may only erect:-

One hut (maximum size 2.4m by 1.8m by 2.25m high) and One greenhouse (maximum size 3.6m by 2.4m by 2.4m high) or,

One combined hut and greenhouse (maximum size 4.8m by 2.4m by 2.4m high) or,

One growing tunnel (maximum size 5.4m by 3.0m by 2.25m high)

On their plot, the structure must be erected on the position agreed/authorised.

All buildings to be of a semi permanent nature (i.e. minimal or no foundations) and soundly constructed of an approved commercially available type. Used or home built structures should comply with the size guidelines shown above and be constructed to an acceptable standard.

Growing tunnels to be constructed of a single sheet of clear polythene or plastic over a minimum of 5 rigid hoops. Maximum height to be 2.5 metres with overall maximum size of 5.4 metres by 3.0 metres.

Application Form to Erect a Structure on an Allotment

I have read the conditions respecting the erection and construction of buildings on allotment areas, and agree to comply with the regulations.

I accept fully responsibility for any damage that might be caused by the construction of the said structure should the works unearth or damage any service.

Please complete:-

1. Size of hut, greenhouse or structure
2. Lean to, or span roof
3. New or second hand
4. Please indicate intended position of the structure (using a diagram if necessary).
.....
.....
5. Construction materials, please detail
.....
.....

Please sign and return this form to:-

Neighbourhood Services
North Lincolnshire Council Depot
Northampton Road
Scunthorpe
DN16 1UJ

Site _____ Plot Number _____

Name _____

Address

Post Code _____

Signed _____ Date _____