

Windom Community Garden Gardener's Agreement
Garden Use, Waiver of Liability, Release, and Indemnification Agreement

Application Deadline May 13, 2022

Please Print Legibly

Gardener Full Name: _____

Street Address: _____

City, State, Zip: _____

Phone: _____

Email: _____

Welcome to the Windom Community Garden (the "Garden"). Windom Community Council, called "WCC" or "we" in this document, is a nonprofit organization. The land on which the Garden sits is owned by the Minnesota Department of Transportation and is managed by the WCC as part of carrying out its mission. This document is a legal contract between you and the WCC.

1. TEMPORARY RIGHT TO GARDEN

1.1 Plot. You have the temporary right to garden in plot (the "Plot") in the Garden. (In legal terms, you have a "license" to garden.) Your immediate family members, roommates or housemates may garden with you as your guests. You may use the Plot from for the growing season, which typically runs until September of the same year that this Agreement is signed. Plots are assigned on a first come, first served basis. Gardeners who have previously participated at the Garden and have completed their service hours are given first preference. Plot numbers will be provided during the first garden work weekend (usually the second Saturday in May).

1.2 No Refund. You understand that you will not get a refund or reimbursement for your expenses, or any other payment if you decide not to garden or if the WCC 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 for a full raised bed (4ft x 20ft) or \$20 for a half bed (4ft x 10ft) to use the Plot and for water during the growing season. Thereafter, you will pay an annual fee, no later than May 13. If payment is made by check and the associated checking account does not have sufficient funds, you will be required to pay the bounced check penalty incurred by WCC and the Plot fee in cash.

1.4 No Transfers. You cannot let anyone other than your immediate family, roommates, or housemates garden here unless we give our agreement in writing. The individual assigned to the Plot remains responsible for payment of fees, cleanup, and other Plot duties.

2. LIABILITY WAIVER, RELEASE, INDEMNIFICATION AND ACKNOWLEDGEMENTS

2.1 Assumption of Risk and Waiver and Release of Claims. You understand that participating in the Garden has risks including injury to yourself or your guests and damage to your personal property. You understand that none of the WCG, the WCC or the owners of the land are responsible for your actions. You therefore agree to hold harmless the WCG, the WCC, City of Minneapolis and the Minnesota Department of Transportation for any liability, damage, loss or claim that occurs in connection with use of the Garden by you or any of your guests.

2.2 Indemnification. You are responsible for any damages or losses suffered by the WCC that are caused by you or your guests' actions.

2.3 Publicity. You agree to allow WCC or the Landowner to use any photographs, interviews, videotapes, film, other visual or auditory recordings, or any other medium, including on the internet, of you or your guests that we or others may create in connection with your or your guest's participation in the Garden without charge.

3. TERMINATION

3.1 Failure to Comply with 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 Agreement or the Garden Rules, we can terminate your right to garden.

3.2 Termination of Lease. If the WCC or the City of Minneapolis do not continue the Garden's use of the land where the garden is located, your right to garden will end. You will receive notification if this occurs.

4. OTHER PROVISIONS

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

4.2 Garden Rules. By signing this agreement, I certify that I have read and understand the attached garden rules and agree to adhere to them.

GARDENER

By: _____
(signature)

Name: _____

Date: _____

WINDOM COMMUNITY COUNCIL

By: _____
(signature)

Name: _____

Date: _____

ATTACHMENT: Garden Rules

Windom Community Garden Rules

This document sets out the rules that govern the Windom Community Garden (the "Garden"). These Rules are intended to help all our 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. Every person who has a plot in the Garden ("Gardeners") must sign a legal agreement with the Windom Community Council in which the Gardener agrees to comply with these Rules.

The Windom Community Council (WCC) is a nonprofit organization that is responsible to the City of Minneapolis and to the Minnesota Department of Transportation for the Garden land. In addition, the WCC sponsors the Garden and, with the assistance of the Windom Community Garden Leadership Circle (the "WCG") administers these Rules.

A. ACCESS TO THE GARDEN	
Season:	The Garden is open and accessible during the growing season (approximately May - September).
Hours:	Gardeners may be in the Garden from dawn until dusk.
Security:	Gardeners will receive either a combination or a key for all locks. Please close all gates and secure locks when leaving the Garden. If Gardeners receive a physical key, loss of the key will result in a \$5 replacement fine per key.
B. GARDEN PLOTS	
Choosing a Plot:	Plot requests are filled according to when registration forms are received. Previous gardeners who have completed their service hours are given preference, as are residents of the Windom Neighborhood.
Use of Own Plot:	Gardeners may use only the plots assigned to them by the WCG. Gardeners will maintain their plants within their plots and will trim any plants that extend into neighboring plots or into common areas. Gardeners are expected to remove weeds and to harvest produce in a timely manner.
"Plant By" Rules:	Gardeners must have planted something in their plots by the first weekend in June and keep the Plot planted and weeded during the entire growing season. Gardeners will inform the WCG if they decide not to plant in their plot.
Plot Maintenance and Absence:	Gardeners who are temporarily unable to maintain their plot should inform the WCG. Gardeners should inform the WCG if a substitute gardener has been secured for their plot. Absent such notification, plots that are excessively weedy (containing multiple 8" or higher weeds), filled with debris, or containing overripe or rotting produce will be given a warning from the WCG. If, following the abandonment warning, the plot remains unattended for a period of three (3) weeks, the plot will be presumed abandoned and is subject to forfeiture without refund by the WCG.
Garden Teams:	Gardeners are required to serve on one of six Garden teams: Outreach, Upkeep, Tree-watering, Community Plots, Compost or Administrative.
Supplies:	Gardeners are solely responsible for the planning and management of their own plots, including providing their own seeds, plants, fertilizer, and any tools not provided by the WCG or gardeners collectively.
Organic Methods:	Gardeners will garden organically. Gardeners will check with the WCG before applying any fertilizers, pesticides, herbicides, or rodenticides, even if labeled "organic." Use of compost, organic mulch, and weeding is always acceptable.
Water:	Water will be provided by the WCG, but water use is limited to 15 minutes per plot, per day. Hydrants need to be shut off and locked by the last gardener to use the hydrant.
Trash:	Gardeners are responsible for hauling and disposing of their own trash, such as weeds, boxes, trays, bags, packets, and similar items. Weeds should be placed in the designated weed-dumping area. Compost should be placed in the compost area.

Weeds and Disease:	Gardeners agree to keep the Garden free of weeds, diseased plants, insect-infested plants and over-ripe produce. Weeds should be placed in the weed-dumping area.
Plantings:	Gardeners may plant vegetables, fruits, and flowers. Gardeners may not grow plants above 4 feet in height without obtaining prior approval by WCG and Gardeners' plot neighbors.
Soil Amendments:	Gardeners are not allowed to bring in sand or gravel. Gardeners are encouraged to mulch with leaves, grass clippings and hay to reduce water evaporation and unwanted weeds.
C. COMMON AREAS AND RESPONSIBILITIES	
Common Tools:	The WCG 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. The WCG is not required to provide the Common Tools.
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 WCG and, as necessary, to the WCC. If there is vandalism, storm damage, or other damage to the Garden that is not caused by a Gardener, all Gardeners are expected to help in cleaning up and restoring the Garden to its prior condition, but the WCC will bear the cost of the repairs. If damage or vandalism is due to a Gardener, that Gardener will bear the cost of repairs.
Service Obligations:	Gardeners are required to perform eight (8) hours of service in support of garden operations, including participation in (a) either the initial clean-up day (usually in April) or the work weekend (usually in May), (b) service on one of the Garden teams, and (c) participation in ongoing maintenance of their plot. Failure to complete the 8 hours of service may result in a rule violation and a loss of plot preference or forfeiture of the plot.
Yearly Clean-up:	Gardeners will perform a yearly clean-up of their plots on a date to be decided on and advertised by the WCG.
Garden Group Meetings:	Gardeners will attend monthly WCG membership meetings during the growing season. If a conflict arises, Gardeners will contact the Leadership Circle for meeting updates.
D. COMMUNICATION	
Garden Management:	The WCC has complete authority to interpret the Rules and make decisions regarding the Garden. The WCC delegates management of day-to-day operations of the Garden to the WCG but may revoke such delegation at any time.
Leadership Circle:	Leadership Circle members enforce the rules and decisions regarding the day-to-day management of the Garden. Leadership Circle members are selected at the spring kick-off meeting of the WCG annually. If contested, a simple majority vote of attendees of the meeting shall determine the Leadership Circle members. Gardeners will abide by the decisions made by the Leadership Circle. Any disagreement with the Leadership Circle that remain unresolved should be reported to the WCC immediately.
Communication:	The WCC has designated the WCG to be the official point of contact for the WCC and Gardeners. The WCG has elected a Leadership Circle to manage the day-to-day operations of the Garden and to handle all communications and fee collection. Gardeners are expected to communicate with neighboring Gardeners to work out borders, weed issues and plant size issues.
Contact Information:	<u>Day-to-day Operations/ WCG:</u> WCC Staff at windomcommunity@gmail.com <u>Grievances, Disputes or other Issues/ WCC:</u> Windom Community Council at windomcommunity@gmail.com.
Gardener Input:	Gardeners are encouraged to provide suggestions about Garden operations to the WCG. Gardeners should contact the WCG directly at the email provided, not the WCC, with any questions relating to day-to-day operational matters. Gardeners are encouraged to attend the monthly WCC meetings to provide additional input regarding the Garden.
Annual Meeting	Once a year, the WCG will invite all Gardeners to an annual meeting to notify Gardeners of any changes made in how the Garden operates, these Rules, assignments of plots, to discuss any issues or concerns, and to elect a new leadership team. The WCG will give written notice of the annual meeting, sent by email, no fewer than 14 days in advance.

E. CONDUCT	
General Conduct:	Gardeners are expected to be civil, honest, respectful, and cooperative in dealing with the WCC, the WCG, Garden neighbors, other Gardeners, and guests of other Gardeners.
Guests:	Gardeners may bring guests, including supervised children, into the Garden, provided that the guests comply with the Rules. 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.
Animals:	Gardeners may not bring any pets into the Garden. However, service animals are allowed in the Garden. Gardeners are solely responsible for cleaning up after their service animals and must ensure that they do not interfere with or damage other plots.
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. Gardeners may not enter property next to the Garden without the owner's permission.
No Illegal or Invasive Plants:	Gardeners may not grow any plants considered illegal under state or federal law or plants that are considered noxious or invasive. Gardeners should contact the WCG with questions regarding appropriate plants for the Garden.
Compliance:	Gardeners must comply with all applicable local, state, and federal laws.
No Firearms	Gardeners may not carry, use, or store firearms in the Garden.
No Smoking/ Alcohol/Drug Use:	Gardeners may not smoke in the Garden. Gardeners may not consume or be under the influence of drugs or alcohol while in the Garden.
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.
Keep Garden Attractive:	Gardeners are to keep the garden attractive for neighboring residents and safe for all Gardeners.
F. PROBLEMS	
Informal Grievance:	If a dispute arises involving the day-to-day operations of the Garden (including but not limited to weeding, planting, or plot usage), the WCG encourages Gardeners to engage in open communication with a view toward dispute resolution. However, Gardeners should contact the WCG about disputes with the Garden or with fellow Gardeners. If the dispute is not resolved in a timely or satisfactory matter by the WCG, Gardeners should contact the WCC for resolution.
Formal Grievance:	<p>The formal grievance procedure is designed to provide Gardeners with a formal mechanism for the resolution of issues and concerns.</p> <p><u>Step 1:</u> Gardener submits a written grievance to the Leadership Circle and the WCC, stating the facts and desired outcome (the "Grievance"). The Grievance should include any attempts at a resolution. Within ten (10) days receipt of the Grievance, the Leadership Circle will review the Grievance and attempt to resolve the issue. The Leadership Circle will provide a written response of the Grievance outcome to the Gardener.</p> <p><u>Step 2:</u> If the Grievance is not resolved to the Gardener's satisfaction, an additional written appeal may be made to the WCC. Within ten (10) days receipt of the Grievance, the WCC will review and investigate the Grievance and attempt to resolve the issue. Gardeners will receive results of the investigation and any other outcomes in writing.</p> <p>If a grievance arises regarding harassment, bullying or discrimination, the Gardener should immediately contact the Leadership Circle and the WCC in writing. Gardeners may be accompanied by a fellow Gardener at each stage of the grievance process.</p>

Grievances Involving the WCG:	Grievances or disputes concerning a member of the WCG, or the Leadership Circle should be submitted to the WCC immediately. The WCC will investigate the grievance within ten (10) business days and respond to the Gardener in writing within three (3) weeks of receipt of the grievance. The WCG and the WCC treat all disputes and grievances in a sensitive, professional, and efficient manner.
Rules Violations:	<p>Gardeners may lose their rights to participate in the Garden if they fail to comply with any of these Rules. If a Gardener:</p> <ul style="list-style-type: none"> • endangers other Gardeners, the WCC, the WCG, neighbors, or other individuals. • takes or uses another Gardener's tools, supplies, or produce without permission. • encroaches on Garden neighbors' property. • grows illegal plants. • carries, uses, or stores firearms in the Garden; or • smokes, uses alcohol, or uses illegal drugs in the Garden. <p>The WCG may, at its discretion, terminate immediately 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 reenter without WCG's permission. If a Gardener violates any of these Rules, the WCG will inform Gardener of the violation by sending an email to Gardener. Gardener will have one (1) week to correct the violation. If the violation is not corrected within one (1) week, as determined by the WCG in its discretion, the WCC may, at its discretion, terminate the Gardener's Agreement. After termination, Gardener will have two (2) weeks to harvest and clean up the plot. Upon termination for any reason, a Gardener will promptly return to the WCG the key to the Garden (if provided) and any other WCG property. Terminated Gardeners are not entitled to any refunds or other payments from the WCC.</p>
G. OTHER PROVISIONS	
Changes in the Rules:	The WCC may amend these Rules in its discretion without advance notice. The WCG will provide all Gardeners with a copy of the current Rules and will summarize any changes in the next annual meeting. The Gardeners, through the WCG, may propose Rules for the WCC's consideration.
Master Agreement:	The Gardener's Agreements with individual Gardeners are subject to the master agreement between the WCC and the WCG. As a result, if the WCC terminates the agreement, the Garden will close, and the Gardener's Agreement will terminate. At that time the Gardeners will no longer have access to the Garden.
Garden Agreement Controls:	Nothing in these Rules limits, qualifies, or otherwise affects the Garden Agreements between the WCG and each Gardener. Should there be any ambiguity or conflict between a Gardener Agreement and these Rules, the Gardener Agreement will control.
No Discrimination:	Neither the WCC nor the WCG discriminate on the basis of race, color, national origin, religion, sex, disability, age, medical condition, ancestry, marital status, citizenship, sexual orientation, gender identity, or status as a veteran.
Translations Not Binding:	The WCC may provide Gardeners with a translation of these Rules and related summaries or other explanatory materials 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.
Disclaimer of Liability:	Gardeners understand that none of the Gardeners, the WCG, the WCC or the landowners are responsible for the Gardener's actions. Gardeners therefore agree to hold harmless the WCG, the WCC, the City of Minneapolis and the Minnesota Department of Transportation for any liability, damage, loss or claim that occurs in connection with the Gardener 's use of the Garden by the Gardener or any of their guests or service animals.