

THE CITY OF EDINBURGH COUNCIL

ALLOTMENT REGULATIONS

1 COMMENCEMENT

- 1.1. These regulations (the “**Regulations**”) adopted by resolution of the City of Edinburgh Council (the “**Council**”) dated 15 June 2021 relate to all Allotment Sites owned and/or managed by the Council. The Regulations are made in accordance with the Council’s powers under Part 9 of the Community Empowerment (Scotland) Act 2015 (the “**2015 Act**”).
- 1.2. The Regulations shall come into force on the day after the date of execution under section 116 of the 2015 Act (the “**Commencement Date**”).

2 INTERPRETATION

- 2.1. In the Regulations, any reference to:
- (i) “**Allotment Plot**” shall mean any single area of land designated as an allotment plot by the Council within an Allotment Site and which is used or intended for use (i) wholly or mainly for the cultivation of vegetables, fruit, herbs or flowers, and(ii) otherwise than with a view to making profit;
 - (ii) “**Allotment Site**” shall mean any area of land owned or leased by the Council and consisting wholly or partly of allotments and including other land that may be used by Tenants in connection with the use of their Allotment Plots;
 - (iii) “**Edinburgh Resident**” shall mean a person who is solely or mainly resident at premises the postal address of which is in the City of Edinburgh Council area;
 - (iv) “**Eligible Person**” shall mean an Edinburgh Resident aged 18 years or over, or any Third-Sector Organisation, and “**Eligible Persons**” shall be construed accordingly;
 - (v) “**Joint Tenancy**” shall mean two or more individuals jointly responsible for a plot.
 - (vi) “**Lease**” shall mean an agreement entered into between the Council and a Tenant made under the terms of the Regulations to lease an Allotment Plot and any reference to the word Lease shall be taken to include any missive of let;
 - (vii) “**Relevant Circumstances**” shall mean any illness, bereavement, injury or disability, or other extenuating circumstances;

- (viii) **“Relevant Period”** shall mean 21 days;
- (ix) **“Residence”** shall mean any residential property which is the sole or main residence of an Edinburgh Resident;
- (x) **“Site Association”** shall mean any association representing the Tenants of an Allotment Site;
- (xi) **“Tenant”** shall mean an Eligible Person, to whom an Allotment Plot has been leased under the terms of the Regulations;
- (xii) **“Termination Date”** shall mean the date upon which the Lease between the Council and the Tenant is terminated, and the Tenant is required to remove all their possessions from the Allotment Plot and the Allotment Site;
- (xiii) **“Third Sector Organisation”** means an organisation appropriately constituted with its registered address, or where there is no registered address its principal business address, in the Council area and which supports group allotment gardening;
- (xiv) **“Waiting List”** shall mean the list established and maintained by the Council in respect of each Allotment Site of persons who, by way of written notification, have made a request to lease an Allotment Plot.

- 2.2. References to “consent of the Council” or words to similar effect mean a consent in writing signed by or on behalf of the Council and “approved” and “authorised” or words to similar effect mean (as the case may be) approved or authorised in writing by or on behalf of the Council.
- 2.3. Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.
- 2.4. Headings are for convenience, do not form part of these Regulations and shall not be used in their interpretation.
- 2.5. Any references to a specific statute include any statutory extension, amendment, modification or re-enactment of such statute and any subordinate legislation made thereunder and any general reference to “statute” or “statutes” includes any subordinate legislation made thereunder.
- 2.6. Where there is a contradiction between these Regulations and the 2015 Act the terms of the 2015 Act shall apply.

- 2.7. These Regulations shall repeal and replace any allotment rules and regulations in force prior to the Commencement Date made by the Council or its predecessors.

3 EFFECT OF REGULATIONS

- 3.1. Failure by the Tenant to comply with the terms of these Regulations shall be a breach of the Regulations and may result in the Tenant being subject to termination of the Lease of the Allotment Plot in accordance with section 126 of the 2015 Act.

4 ALLOCATION OF ALLOTMENT PLOTS

- 4.1. A request to lease an Allotment Plot on an Allotment Site may be made:
- (i) online via the Council's website; or
 - (ii) by requesting a paper application from:

Parks, Greenspace and Cemeteries
Waverley Court
4 East Market Street
Edinburgh, EH8 8BG

Email: allotments@edinburgh.gov.uk

Phone: 0131 529 7916

or such other contact details as publicised by the Council from time to time.

- 4.2. Applications must include the applicant's:
- (i) name;
 - (ii) address;
 - (iii) date of birth;
 - (iv) preferred Allotment Site(s);
 - (v) preferred size of Allotment Plot;

and may include the applicant's:

- (vi) email address (if applicable); and
- (vii) Relevant Circumstances (if applicable) that the applicant wishes the Council to be aware.

- 4.3. All Eligible Persons who apply for an Allotment Plot shall be placed on the Waiting List(s) for the Allotment Site(s) requested.

- 4.4. The Council shall maintain a Waiting List for each Allotment Site and will offer an available Allotment Plot to the first applicant on the Waiting List for the relevant Allotment Plot having regard to

- (i) what has been requested; and
- (ii) the provisions of the 2015 Act.

- 4.5. If the Council offers to grant a lease of an Allotment Plot, but not of the size specified by the applicant, the applicant will remain on the Waiting List, unless the applicant accepts the offer, in which case the request will be treated as agreed and the applicant will be removed from the Waiting List. Where the Council makes an offer of an Allotment Plot of the size requested and such offer is unreasonably refused the applicants may be removed from the Waiting List.
- 4.6. Tenants may make a request in writing to the Council to move Allotment Site. In considering whether to allow a move to a different Allotment Site the Tenant's application date must be prior to the application date of any waiting list customers for the Allotment Site requested.
- 4.7. Tenants may make a request in writing to the Council to move to a different Allotment Plot. In considering whether to allow a move the Council shall have regard to the circumstance(s) / reason(s) for the request.
- 4.8. Where a new Allotment Site is established, the Allotment Plots within that Allotment Site ("New Allotment Plots") shall be allocated on the following basis:
 - (i) Where reasonably practicable, 50% of the New Allotment Plots shall be offered to Eligible Persons, who are solely or mainly resident in the area within one-kilometre radius of the entrance to the new Allotment Site and who apply for a New Allotment Plot.
 - (ii) The remaining unallocated New Allotment Plots shall be offered to Eligible Persons on the Waiting List for existing Allotment Sites. Individuals on Waiting Lists for existing Allotment Sites who are solely or mainly resident in the area within two-kilometre radius of the entrance to the new Allotment Site will be given priority.
- 4.9. All Tenants are required to sign a Lease on terms provided by the Council at the start of their tenancy of the Allotment Plot.
- 4.10. Where a Tenant is no longer an Edinburgh Resident, the Council will terminate the Lease.
- 4.11. The Council shall allocate a maximum of one Allotment Plot per Residence unless their property is registered as a House of Multiple Occupancy.
- 4.12. Regulation 4.11 shall not affect Tenants who were allocated more than one Allotment Plot prior to the Commencement Date.
- 4.13. Should an Allotment Site or Allotment Plot be removed from service all displaced Tenants will be placed at the top of the waiting list.

5 RENT

- 5.1. Unless otherwise agreed with the Council in writing rent shall be paid annually, and the Council shall issue an invoice on or around 18 January each year in this respect. Payment shall be due within 28 days of the date of the invoice. The Council shall set the levels of rent for each Allotment Site annually.
- 5.2. When determining the level of rent the Council shall take account of:
 - 5.2.1 the services provided by, or on behalf of, the Council to the Tenants of the Allotment Sites, including but not limited to site improvements, general repairs and maintenance, utility charges, arboricultural and grounds maintenance works;
 - 5.2.2 the costs of providing those services;
 - 5.2.3 any concession applicable to the Tenant, as stated on the Council website from time to time; and
 - 5.2.4 the size of the Allotment Plot leased to a Tenant.
- 5.3. Changes to circumstances, including any Relevant Circumstances, affecting a Tenant's ability to pay rent should be advised in writing by the Tenant to the Council.
- 5.4. Concessions shall only apply where all Tenants of a Joint Tenancy are eligible for a concession.
- 5.5. Where a Tenant fails to pay rent within 28 days of the receipt of an invoice issued under regulation 5.1, the Council may recover the rent as landlord in the same manner as any other case of landlord and tenant, and the Council shall seek to recover the rent on a pro rata basis for the period of time that the Tenant has occupied the Allotment Plot. In addition, the Council shall recover as a debt any administrative costs reasonably incurred by it in respect of any delay in payment.

6 BOUNDARIES AND POSSESSION OF ALLOTMENT PLOTS

- 6.1. The Tenant may not exchange Allotment Plots with any other Tenant, transfer their Lease of an Allotment Plot, or sub-let their Allotment Plot without the prior consent of the Council.
- 6.2. If there is any dispute between Tenants as to the boundaries of their Allotment Plots, the Council shall adjudicate and settle the dispute at its own discretion.
- 6.3. Where there is a dispute between Tenants as to the allocation of land per Allotment Plot, the Council shall consult with the affected Tenants and the Site Association to determine whether changes to Allotment Plot

boundaries are required. Any decision made by the Council is final and Tenants must comply with this decision.

- 6.4. Individuals added to a Joint Tenancy will be eligible to take over full tenancy only if the start date of their tenancy is prior to the application date of existing waiting list applicants for the site.

7 CULTIVATION OF ALLOTMENTS

- 7.1. Excluding permitted buildings, structures and paths at least 75% of the Allotment Plot must be cultivated to the satisfaction of the Council.
- 7.2. Tenants are responsible for ensuring that weed growth is controlled and must ensure that weeds do not spread to neighbouring Allotment Plots.

8 SALE OF SURPLUS PRODUCE

- 8.1. Tenants may sell produce grown by them on the Allotment Plot. Any proceeds or income generated from the sale of such produce may only be used for social enterprise or community advancement and not for the purposes of making a profit, trade or business.

9 MAINTENANCE OF ALLOTMENT PLOTS

- 9.1. The Allotment Plot, including any structures thereon, must be kept in good condition to the satisfaction of the Council. In considering whether or not the Allotment Plot is in good condition the Council shall have regard to any weeds, detritus or dilapidated buildings or structures on the Allotment Plot and the level of cultivation.
- 9.2. When considering whether an Allotment Plot is in good condition, the Council shall have regard to any impact that a lack of maintenance of the Allotment Plot could have on neighbouring Allotment Plots.
- 9.3. Tenants shall be responsible for ensuring that appropriate pest and disease control is carried out on their Allotment Plot.

10 MAINTENANCE OF ALLOTMENT SITES

- 10.1. Tenants shall be responsible for keeping boundaries, paths adjacent to their Allotment Plot and paths between Allotment Plots in a clean and tidy condition and free from obstructions. Where a path is adjacent to two or more Allotment Plots the respective Tenants shall share responsibility. Should dispute between Tenants arise in this regard, the Council shall direct the Tenants as to how maintenance is to be carried out. This excludes Allotment Site boundary fences.
- 10.2. Any keys to the Allotment Site remain the property of the Council and are issued to the Tenant strictly for the purposes of access to the Allotment Site and are not transferable to any other person. Keys should not be

copied as they will damage locks. Replacement keys can be arranged through the Council.

11 SHEDS, GLASSHOUSES AND POLYTUNNELS

- 11.1. The erection of any sheds, glasshouses or polytunnels on an Allotment Plot must have the prior consent of the Council.
- 11.2. Regarding the measurements of sheds, glasshouses and polytunnels on Allotment Plot;
 - 11.2.1 a shed for storage shall not exceed width 2m x length 3m x height 2.4m;
 - 11.2.2 a glasshouse shall not exceed width 2m x length 3m x height 2.4m; and
 - 11.2.3 a polytunnel shall not exceed width 2m x length 3m x height 2.4m or 25% of the Allotment Plot area.
- 11.3. The erection of any building or structure must be in accordance with planning legislation / aesthetic guideline and any materials used must be of suitable durability, in that they must be of a standard that would last at least five years and be consistent with the traditional aesthetic of the other structures on the Allotment Site. All structures must be maintained in a good and safe condition to the satisfaction of the Council. Any modification to an existing building or structure, other than as part of a regular repair, shall require the prior written consent of the Council.
- 11.4. Tenants are solely responsible for the safety and maintenance of any structure, including boundary fences, on their Allotment Plot with the clear exception of Allotment Site perimeter fencing.

12 ACCESS BY PERSONS (OTHER THAN TENANTS) AND DOMESTIC ANIMALS

- 12.1. Tenants shall be responsible for ensuring that any visitor whom they allow to visit the Allotment Site complies with these Regulations. Failure of visitors to comply may result in the Tenant being in breach of these Regulations.
- 12.2. Dogs and other pets may be brought on to the Allotment Site but must be kept under close control and not be allowed to enter any Allotment Plot without the permission of the relevant Tenant.
- 12.3. Any Tenant who brings or allows a pet onto the Allotment Site shall ensure that any fouling is bagged and disposed of promptly and properly.
- 12.4. Pets that become a nuisance or annoyance or cause a disturbance to other Tenants should be removed from the Allotment Site.

- 12.5. Tenants shall not kennel dogs or other animals overnight on the Allotment Plot.

13 THE KEEPING OF LIVESTOCK

- 13.1. Tenants shall not keep livestock including poultry and other birds on the Allotment Plot.
- 13.2. The keeping of bees shall not be permitted other than with the consent of the Council. Any Council consent may be subject to conditions.

14 ACCEPTABLE USE

- 14.1. The following conditions apply to all Allotment Plots and Tenants:
- 14.1.1 **Barbed Wire:** Tenants shall not have or use barbed wire on the Allotment Plot;
 - 14.1.2 **Bonfires:** Tenants shall not burn any material on the Allotment Plot or the Allotment Site unless it is organic material arising from the Allotment Plot and the material cannot be composted. Bonfires must never be left unattended. Tenants must give due consideration to other Tenants and neighbouring properties when choosing when and where to have a bonfire and the bonfire must not compromise or cause nuisance to other Allotment Plot Tenants or neighbouring properties. Bonfires are only permitted between 1 October to the 30 April. Local site rules may apply and will further restrict the use of bonfires at other times.
 - 14.1.3 **Compost bins:** Where there is no Site Association rule for compost bins all compost bins must be to the satisfaction of the Council. Materials composted should be green waste grown on the site only and should not attract vermin.
 - 14.1.4 **Fences & Hedges:** Tenants shall not erect fences or plant hedges on the Allotment Plot other than for the protection of crops. All fences and hedges must be in keeping with the traditional aesthetic of the Allotment Site and must be to the satisfaction of the Council. Hedges must be maintained to a maximum height of two metres and not cause any issue with a neighbouring Plot Tenant. Willow or elder hedging are not permitted.
 - 14.1.5 **Fruit cages:** Tenants must ensure that fruit cages are kept in a safe condition and must be to the satisfaction of the Council. Fruit cage areas cannot exceed 25m² unless permission from the Council has been obtained and they should not trap birds.

- 14.1.6 **Sheds:** On sites with a Council installed shed Tenants must regularly maintain this shed and treat it with water-based preservative (non-toxic) in green, black, brown, or cedar. The Council accepts no responsibility for the maintenance or replacement of any such sheds.
- 14.1.7 **Nuisance:** Within the Allotment Site, the Tenants and any invited guest(s) shall behave in an appropriate manner and shall always be considerate to other Tenants. Tenants and guests must not do anything or cause anything to be done which is or may become a nuisance or annoyance or cause a disturbance to any other Tenants. A Tenant is responsible for the behaviour of their guest(s).
- 14.1.8 **Organic:** If an Allotment Site has been designated as organic, Tenants must only use treatments for the control of pests, weeds and fungi which have been approved by the Council for use in the cultivation of organically grown produce.
- 14.1.9 **Pathways:** Tenants shall not block or obstruct the access to the Allotment Site, nor any of the access paths within the Allotment Site.
- 14.1.10 **Material:** A Tenant must not allow their Allotment Plot to be used for the storage of including glass, timber, refuse or any other material deemed unsuitable by the Council. Any material deemed unsuitable shall be removed immediately at the request of the Council.
- 14.1.11 **Trees:** No new trees other than fruit trees on shall be cultivated or allowed to grow on the Allotment Plot. New fruit trees shall be cultivated on dwarf stock only. Fruit trees must be maintained within the Allotment Plot and shall not grow into or cause shade to be cast on neighbouring Allotment Plots. Upon request by the Council, the Tenant must remove any fruit trees that are not maintained in accordance with this clause at the Tenant's own expense.
- 14.1.12 **Water:** Allotment Site water supplies must be used only for the upkeep of the Allotment Plot. The Tenant should use water responsibly, and where possible, take measures to conserve water.
- 14.1.13 **Flags, flag poles, signage, advertising banners:** Tenants shall not erect any flags, signage, flag poles or advertising banners within their Allotment Plot or any communal area without prior permission from the Council.
- 14.2. Tenants must also have regard to any Site Association rules that pertain to the relevant Allotment Site.

15 LANDLORD INSPECTIONS

- 15.1. The Council shall be entitled to inspect any Allotment Plot at any time without notice.

16 ENFORCEMENT

- 16.1. Where a Tenant is in breach of the Regulations, the Council may, issue an enforcement letter to the Tenant, setting out the reasons for the breach (the "Enforcement Letter").
- 16.2. The Tenant must, within the Relevant Period of receiving an Enforcement Letter, either:
 - 16.2.1 rectify the breach to the satisfaction of the Council; or
 - 16.2.2 provide an explanation of any Relevant Circumstances that justify the breach to the satisfaction of the Council.
- 16.3. If, at the end of the Relevant Period, the Tenant has not either:
 - 16.3.1 rectified the breach to the satisfaction of the Council; or
 - 16.3.2 provided a suitable explanation of Relevant Circumstances to the satisfaction of the Council;the Council may issue a Final Warning Letter in accordance with regulation 17 of these Regulations.
- 16.4. If a Tenant has received two Enforcement Letters within a 12-month period, and the Council intends to issue a third Enforcement Letter within that 12-month period, the Council shall instead issue a Final Warning Letter in accordance with regulation 17 of these Regulations.
- 16.5. Any information communicated to the Council to support a claim of Relevant Circumstances shall be dealt with confidentially and in accordance with applicable data protection legislation.

17 TERMINATION

- 17.1. One month prior to issuing a notice of termination of a Lease, the Council shall write to the Tenant, informing them that the Council is proposing to give notice of termination (the "Final Warning Letter"), which shall include:
 - 17.1.1 the reasons for this proposal to issue a Final Warning Letter; and
 - 17.1.2 where appropriate, the reasons for rejection by the Council of any previous explanation of Relevant Circumstances provided by the Tenant.

17.2. The Tenant shall then have the opportunity to make representations in writing to the Council in relation to the Final Warning Letter, including an explanation of any Relevant Circumstances that justifies any failure to rectify the breach, which the Council shall take account of in making any decision. Such representations must be submitted to the Council within 28 days of the date of the Final Warning Letter.

17.3. If at the end of 28 days following the issue of the Final Warning Letter, either:

17.3.1 the Tenant has rectified the breach to the satisfaction of the Council; or

17.3.2 following consideration of the Tenant's representations, including any Relevant Circumstances, the Council no longer proposes that the Lease shall be terminated;

the Council shall write to the Tenant informing them of this.

17.4. If at the end of 28 days following the issue of the Final Warning Letter, either:

17.4.1 the breach has not been rectified to the satisfaction of the Council; or

17.4.2 the Tenant has not provided an explanation of any Relevant Circumstances to the satisfaction of the Council;

the Tenant shall be in breach of the Regulations and the Council may terminate the Lease of whole or part of the Allotment Plot by giving written notice in the form of a letter (the "Termination Letter").

The Termination Letter shall state the Termination Date, which shall be a date no less than one month from the date of the Termination Letter, and the reasons for termination.

17.5. A Tenant who is aggrieved by the Termination Letter may appeal to the sheriff within 21 days of the date of the Termination Letter.

17.6. The Termination Letter has no effect until:

17.6.1 the period within which an appeal may be made has elapsed without an appeal being made; or

17.6.2 where such an appeal is made, the appeal is withdrawn or finally determined.

17.7. The decision of the sheriff on appeal is final.

- 17.8. Upon the termination of the lease, the Tenant shall remove, unless otherwise agreed with the Council, all buildings and/or structures on the Allotment Plot. Where the Tenant has not returned the Allotment Plot to a lettable condition, in the reasonable opinion of the Council, the Council will advise the Tenant of the cost of this work and may carry out the works and recover from the Tenant any expenses reasonably incurred by the Council in so doing. Any buildings, structures or equipment left on an Allotment Plot will become the property of the Council and may thereafter be offered to the next Tenant.
- 17.9. Each Tenant is responsible for returning the keys to the Allotment Site to the Council at the end of their tenancy.
- 17.10. A Tenant can terminate their lease at any time, however no refund of rent already paid will be made.

18 EXTREME CIRCUMSTANCES

- 18.1. If a Tenant behaves in a manner which causes fear, alarm or severe disruption to any person, the Tenant shall be issued with a Final Warning Letter, and access to the Allotment Site may be suspended.

19 LIABILITY FOR LOSS OR DAMAGE TO PROPERTY

- 19.1. The Tenant shall be responsible for the safekeeping of any objects or materials (including tools, machinery, equipment, goods, plants, fertilisers and compost) which the Tenant keeps or brings on to the Allotment Site. The Council shall not be liable for the loss of, or damage to any such objects or materials, howsoever caused.