



TENANCY AGREEMENT AND ALLOTMENT RULES

CONSULTATION DRAFT

CONSULTATION PERIOD 17/1/12 TO 17/2/12

**Written responses to Murray Davidson
At Aquila House, Breeds Place, Hastings, TN34 3UY
or
www.hastings.gov.uk/consultation**

January 2012

	<u>PAGES</u>
<u>CONTENTS:</u>	2
Allotment Tenancy Agreement	3-5
Allotment Rules (Appendix 1)	6
Definition of Terms	7
Application	8
Tenancies and Vacant Allotments	8
Assignment	8
Rent	8-9
Cultivation and use of allotment gardens	9-10
Hoses, Bonfires, Rubbish, Chemical use and Other Restrictions	10-12
Dogs, Animals and Bees	12-13
Unauthorised Persons	13
Paths	13
Sheds, Buildings and Structures	13-15
Advertisements	15
Inspection	15
Disputes	16
Harassment	16
Termination	16-17
Change of Address and Notice	17
Notice to Improve (Appendix 2)	18
Notice to Quit (Appendix 3)	19-20



ALLOTMENT TENANCY AGREEMENT

DRAFT

This **Agreement** incorporates the Allotment Rules (appendix 1) made on the 1st April 2013 and any subsequent amendments.

By signing this Tenancy Agreement you are bound to comply with the Allotment Rules and the terms of this Agreement.

AN AGREEMENT made the _____ day of

Two Thousand and Thirteen and made **BETWEEN:**

HASTINGS BOROUGH COUNCIL of Town Hall, Hastings, East
Sussex TN34 1QR (“the Council”) and

of:

(“the Tenant”)

1. WHEREBY the Council agrees to let and Tenant agrees to take on a yearly tenancy from the _____ day of _____ Two Thousand and Thirteen the allotment garden numbered _____ in the group of allotments at _____ size _____ rods the yearly rent of £ _____ payable annually in advance on the 1st April each year (or such other rental as may become payable in accordance with the provisions contained in the Allotment Rules and any subsequent amendments). Agreements taken out any other times will be charged proportionally pro-rata based on full calendar months.
2. THE Tenant agrees
 - (1) To pay the rent as required in Clause 1 above.
 - (2) To pay the charge per rod (25.29^{m2}) that is set annually by the Council and for the supply of water to the allotment garden.
 - (3) To use the allotment garden only for the production of

vegetables, fruit crops and flowers; (produce grown for the individuals commercial benefit is prohibited).

- (4) That any case of dispute between the tenant and any other occupier of an allotment garden in the allotment field shall be referred to the appropriate office of the Council whose decision shall be final (Rule 13.1 applies)
- (5) To comply with the Allotment Rules (made on any subsequent amendments).

The hands of the parties hereto the day and year first before written

SIGNED by the Tenant (signature)

Full name (in block capitals)

IN THE PRESENCE OF (witness)

Name of witness (to be printed)

ADDRESS (of witness)

.....

SIGNED BY.....

CORPORATE DIRECTOR, ENVIRONMENTAL SERVICES

For and on behalf of HASTINGS BOROUGH COUNCIL



ALLOTMENT RULES

**(Made under S28 Small Holdings and Allotment
Act 1908)**

Definition of Terms

“The Council” means Hastings Borough Council and includes any committee of the Council or any Officer appointed by the Council under the Council’s Constitution and Allotments Acts 1908 -1950.

“Allotment Garden or “Plot” means the area of land used primarily for the cultivation of fruit, flowers and vegetables which is let to the tenant.

“Allotment Rules” means these rules approved by Cabinet on.....

“Association” means an Allotment Association (a formally constituted democratic organisation) which manages a Site on behalf of the Council or which works in partnership with the Council to maintain a site.

“Cultivation” means digging, mulching, pruning, weeding and planting and is to be for the production of vegetables, fruit, herbs, flowers or other ornamental plants. It is not sufficient simply to clear weeds without using the area to produce crops and flowers. A lawn does not constitute cultivation.

“Dwarf Root Stock” means Tree, bush or shrub or crop which requires more than 12 months to mature. Fruit trees that have dwarfing or semi dwarfing root stocks i.e for apples, M9 or M27 for dwarfing, and either M26 or MM106 for semi dwarfing. For peach/nectarine/apricot/plum/damson - Pixy. Cherry - Gisela 5. Standard trees propagated on seeding root stocks are not permitted

“Rent” means the annual rent payable for the Tenancy of an Allotment Garden/plot and all amenities provided with it.

“Site” means the entire area of land owned or leased by the Council comprising of allotment gardens, roadways and buildings. There are 14 sites within Hastings Borough Council’s responsibility.

“Statutory allotments” means parcels of land acquired or appropriated by the local authority specifically for use as allotments. These sites cannot be sold or used for other purposes without relevant consent.

“Tenancy Agreement” means the document in the form approved by the Council, confirming the letting of an Allotment Garden/plot to a Tenant.

“Tenancy” means the letting of an Allotment Garden to a Tenant.

“Tenant” means a person who holds a tenancy of an Allotment Garden.

1. Application

- 1.1 These rules are made under Section 28 of the Small Holdings and Allotments Act 1908 and apply to all Allotment Gardens/plots when the new tenancy agreements are signed.
- 1.2 The Council maintains a database for all allotment plots under its administration. Applicants are selected from a waiting list on a first come, first served basis, preventing any undue preferences. Your gender, race, cultural background, sexual orientation, religion or health is not barrier to you renting an allotment.

2. Tenancies and Vacant Allotments

- 2.1 All Tenants must complete and sign a Tenancy Agreement. This is a legally binding agreement. Each Plot will be in the name of one Tenant only. Groups or Organisations must submit a pre-tenancy application for approval by the Council; such Tenancies will be in the name of one person known as the principal Tenant.
- 2.2 Joint or shared Tenancies are not permitted.
- 2.3 Vacant Allotment Gardens on a Site must be offered by the Council to applicants on the waiting list for that Site kept by the Council except where the Plot falls vacant because of the Tenant's death where they must be offered to any member of the Tenant's immediate family who wishes to take over the Allotment Garden.
- 2.4 Tenants must reside within the Borough of Hastings Borough Council.
- 2.5 The Tenant shall be aged 18 years or more.

3. Assignment

- 3.1 The Tenancy of an Allotment Garden is personal to the Tenant. Tenants may not assign, underlet or part with possession of all or part of their Allotment Gardens (including any shed/locker/greenhouse).

4. Rent

- 4.1 Rent, including water charges is due at the commencement of the Tenancy and annually on 1st April thereafter (unless otherwise stated in the Tenancy Agreement).

4.2 Rent will be reviewed annually and may be increased in accordance with inflation as of 1st April each year. The minimum increase will reflect inflation based on the Retail Price Index (RPI) at that time.

5. Cultivation and Use of Allotment Gardens

5.1 Tenants must use Allotment Gardens for their own personal use and must not carry out any business or sell produce from Allotment Gardens.

5.2 Allotment Gardens must be kept safe and maintained in a good state of cultivation and fertility and productive condition – at least 25% of the plot should comply within 6 months, 50% in 12 months and 75% cultivated at 24 months of taking up the Tenancy. Only 25% in total to be used for recreational purposes. Weeds, grasses and seeds shall be prevented from spreading to other Allotment Gardens.

5.3 Where a Tenant fails to maintain a good standard of cultivation, the Council will serve a “Notice to Improve” giving 14 days for improvement. Failure to improve the Plot may lead to termination of the Tenancy. Refer to Appendix 2 (Notice to Improve) and Appendix 3 (Notice to Quit)

5.4 On termination of the tenancy, the plot must be left in a clean condition suitable for immediate re-letting. If the Council has to carry out works to relet the plot, the tenant may be required to reimburse the Council for reasonable costs.

5.5 Tenants must not cut or prune any trees which are not their responsibility. This does not affect the routine pruning of the Tenant’s own trees and hedges on the Allotment Garden.

5.6 The Council reserves the right to remove from any Allotment site any tree, bush or shrub which interferes with the use of any other allotment, in the event of that the tenant fails to remove the problem having been given 14 days notice.

5.7 Allotment Rules will be reviewed annually and any amendments will also be binding and effective immediately. The Council will consult with Site Secretaries of proposed changes. The Council will advise tenants in writing of any changes.

5.8 Tenants must comply with all directions given by an Officer of the Council or any directions properly given by or on behalf of an Association with regard to the content of these rules and the tenancy agreement.

- 5.9 Tenants must leave a minimum gap of 1000mm between the rear of their Plot and any adjoining boundary fence to allow access for maintenance.
- 5.10 Tenants are not to cause damage to other Tenant's property or crops, nor to the infrastructure of the site e.g. roadways, paths, fences, gates etc.
- 5.11 Tenants are required to lock the gates after they enter the Site and when they leave. Locks and chains are not to be tampered with.
- 5.12 Any ponds on the allotment garden must be made safe by being netted or suitably covered.

6 Hoses, Bonfires, Rubbish, Chemical use and Other Restrictions

- 6.1 Sprinklers are not allowed. Hosepipes or siphoning devices are not to be used to remove water from any water trough. Tenants must take every precaution to prevent contamination of water supplies. Water may only be extracted from a water course with the approval of the Council and subject to the appropriate licence. Mains water supply will be shut off during winter months. Water authority regulations will apply at their discretion. Washing vehicles is prohibited. Tenants are expected to use water sparingly and responsibly.
- 6.2 Bonfires must not be allowed to cause a nuisance to neighbouring plot holders and residents and under no circumstances should they be left unattended.
- 6.3 Underlay and asbestos may not be used on any Site. If carpet is used, it must be removed on termination of tenancy. The Council supports the use of proprietary weed suppressants and bio degradable materials such as cardboard to suppress weeds.
- 6.4 Rubbish, refuse or decaying matter (except for manure, compost or woodchip required for cultivation and mulching) must not be deposited on the Allotment Garden by the Tenant or by anyone else with the Tenant's permission. Tenants are to compost or reuse all matter arising from the cultivation of their allotment plot. Any matter that is not compostable or reusable must be removed from the Site by the Tenant. See 6.10
- 6.5 The Tenant must not deposit any matter in the hedges, ditches or water courses situated within the Site. The Tenant is expected to compost all suitable waste plant material.

- 6.6 Tenants must not remove any mineral, gravel, sand, earth or clay from the Site unless they have written permission to do so from the Council.
- 6.7 Tenants must not cause or allow any nuisance or annoyance to the Tenant of any other Allotment Garden and must comply with Rules 14.1 -14.3
- 6.8 The Allotment Garden may not be used for any illegal or immoral purpose and the Tenants must observe all relevant legislation or Codes of Practice relating to activities they carry out on the Allotment Garden.
- 6.9 Where the Council's title to a Site requires certain conditions to be observed, all Tenants on that Site must observe those conditions. e.g registered covenants on title of the land and rules that apply to conservation areas.
- 6.10 Any manure on Site that has not been dug into or spread on to the Allotment Garden must be covered. See 6.4
- 6.11 The Tenant shall not park a vehicle anywhere on the Site other than within defined parking areas, i.e. Choice Allotment off Blackman Avenue. No vehicle, trailer, caravan or similar equipment is to be left on the Site overnight.
- 6.12 The Tenant must ensure that tools and other personal equipment are kept safe and secure when not in use. The Council accepts no responsibility for the loss or damage to such items nor does the Council accept any responsibility for any injury caused by such items.
- 6.13 No weapons (e.g air rifles) are permitted on the Site.
- 6.14 When applying manufactured fertilizers or products used to control pests, unwanted plant species or disease, the tenant of the allotment garden must:
- a) take all reasonable care to ensure that adjoining hedges, trees and crops are not adversely affected, and must make good or replant as necessary should any damage occur, and
 - b) so far as possible select and use chemicals, whether for spraying, seed dressing or for any other purpose whatsoever, that will cause no harm to members of the public, game birds and other wildlife, other than vermin or pests and
 - c) comply at all times with current regulations.

- 6.15 Only if the prior written consent to the Council and from the Council can tenants plant any fruit trees regarded as permanent planting unless on dwarf rootstocks. Trees are not to cast shadow over neighbouring plots or resident's gardens and can be removed at any time at the discretion of the Council. Total combined area of all fruit trees crown spread must not exceed 33% of total plot area unless previously existing.
- 6.16 Tenants shall not obstruct or encroach by cultivation or construction on any path set out by the Council for the use of the occupiers of the allotment site.
- 6.17 Tenants have a duty of care to others on the allotment site. This includes visitors, trespassers, other tenants, themselves and family members and wildlife. This is particularly relevant in relation to; the timing and usage of mechanical equipment i.e. strimmers and rotovators and the means to power them such as petrol. The prevention of obstruction of paths and construction of any features on the site, i.e ponds. Safe application and storage of pesticides and fertilizers, where manufacturers recommended application and storage methods, rates and precautions must be adhered to and containers properly labelled and disposed of safely.
- 6.18 All incidences of rodent infestation to be reported immediately to the Council.

7. Dogs, Animals and Bees

- 7.1 Any dog (including Assistance Dogs) brought onto the Site must be kept on a lead and under strict control at all times. The tenant must ensure that any dog faeces is removed forthwith.
- 7.2 Animals or livestock (except hens or rabbits) must not be kept on Allotment Gardens to extent permitted by Section 12 of the Allotment Act 1950 and (b) in the case of any other livestock in accordance with the terms of the written consent of the Council.
- 7.3 Hens or rabbits must not be kept in such a place or in such a manner as to be prejudicial to health or a nuisance. Tenants must obtain prior permission from the Council and must comply with any husbandry conditions laid down by (and obtainable from) the Council. Failure to do so may lead to eviction from the allotment.
- 7.4 Any part and no more than 25% of any size of Allotment Garden/plot used for keeping hens or rabbits must be securely and adequately fenced to the satisfaction of the Council. Structures must comply with the Council's specifications.

- 7.5 Beehives are not allowed on the Allotment Gardens except with the prior written permission of the appropriate Officer of the Council. Tenants must have valid insurance cover.

8 Unauthorised Persons

- 8.1 Only the Tenant, or person/s authorised or accompanied by the Tenant is allowed on the Site except for invitations to events i.e. open days arranged by Associations. Access is not permitted to any Plot(s) other than let to the Tenant.
- 8.2 The Council may order any person unlawfully allowed on to the Site in breach of these rules to leave immediately.
- 8.3 The Council may take action for breach of their Tenancy Agreement against any Tenant who the Council reasonably believes was responsible for allowing an unauthorised person to be on the Site.
- 8.4 Gate keys are not to be reproduced and distributed to any other person.

9. Paths

- 9.1 Paths between two Allotment Gardens must be a minimum of 500mm in width where possible and must be kept trimmed and free from weeds up to the nearest half width by each adjoining Tenant.
- 9.2 Site paths must be kept clear of obstructions at all times except for paths provided by Tenants only for use on their Allotment.
- 9.3 The Tenant must not leave any tools or other equipment unattended on common pathways or other such areas of the Site nor in any other way that may cause accident or injury and must ensure that such tools and other equipment are used carefully and with due regard to the safety of others.

10. Sheds, Buildings and Structures

- 10.1 No buildings, walls or permanent structures may be put on the Allotment Garden by Tenants. Sheds, greenhouses or polytunnels must comply with these specifications and conditions.
- 10.2 Any shed, greenhouse or polytunnel which the Council allows on the Allotment Garden must be maintained in a good state of repair and condition to the satisfaction of the Council and if the Council is not satisfied with the state of repair it may order the Tenant to remove

the structure. The Council reserves the right to re-enter and remove unsatisfactory structures and to recover costs from the tenant.

- 10.3 Sheds and greenhouses may not be erected without prior consent from the Council. Such structures must have guttering connected to a water container (e.g. butt, barrel). A toolbox will be permitted of maximum capacity 2cu meters. See 10.6.
- 10.4 A polytunnel may not be erected without the prior written permission of the Council.
- 10.5 Structures should be sited to an agreed location or as directed by the Allotment Officer. No permanent footings or bases may be constructed. See 10.6
- 10.6 In all cases, a sketch plan showing approximate size and location of proposed structure should be submitted for the prior approval of the Corporate Director, Environmental Services at Aquila House, Breeds Place, Hastings TN34 3UY

Planning consent may be required at some sites as advised.

GREENHOUSES

These should be of the ridge type. Maximum floor area permitted is 80 square feet (7.43^{m²}) and the height should not exceed 7'6" (2.28m) at the ridge.

Types permitted: Wooden construction – painted white or treated with oil.

Aluminium frame

Polytunnel – maximum floor area as greenhouse and anchored securely.

The greenhouse/polytunnel will be of an approved design/specification acceptable to the Corporate Director, Environmental Services and affixed to an appropriate base.

SHEDS

Maximum floor area permitted is 48 square feet (4.45m²) and the height should not exceed 7'6" (2.28m).

The shed will be painted dark green or treated with a timber preservative. Framework clad in overlapping timber weatherboards. Roof boarding covered with mineralised roofing felt.

BUILDINGS

Buildings shall only be constructed in a position approved by the Council. All structures should be constructed to a reasonable standard from materials of good quality to specification as above and where vandalism is considered a possibility, a resistant cladding can also be agreed. Structures of inferior quality or not as specified will not be permitted. Structures are to be maintained in good condition.

The Allotment Tenant shall not be permitted to erect more than one shed and one greenhouse/polytunnel on each individual plot.

A shed and/or greenhouse will not be permitted on plots of less than 5 rods.

Allotment holders to submit full details of any structure to be provided for livestock, prior to construction for consideration.

The Corporate Director, Environmental Services must be informed when the shed/greenhouse has been constructed in order that an inspection can be made.

- 10.7 Barbed wire must not be used on individual Allotment Gardens/plot.
- 10.8 No toxic or hazardous materials or contaminated waste or tyres should be stored or brought onto the Site. All pesticides must comply with the Food and Environmental Protection Act 1985 and are to be used in accordance with manufacturer's recommendations. The storing of materials other than for direct and prompt use on the Plot is prohibited. All such materials must be stored in a safe manner (e.g glass for cloches) and must not be allowed to become a hazard or nuisance to others.
- 10.9 Petrol, oil, fuel, lubricants or other inflammable liquids are to be stored safely, in small quantities and in suitable containers.
- 10.10 The Council is not to be liable for loss by accident, fire, theft or damage of any tools or contents left in any Communal Shed provided by the Council or vehicles brought onto the site.

11. Advertisements

- 11.1 Tenants may not display any personal or commercial advertising.

12. Inspection

12.1 The Allotment Garden (and any structure on it) may be entered and inspected by an Officer or member of the Council/or its agent or the Police at any time and the Tenants must give whatever access they require with or without notice.

13. Disputes

13.1 Disputes between Tenants which cannot be resolved on site will need to be referred to the Council. The written decision of the Council will be binding on all the Tenants involved in the dispute.

14. Harassment

14.1 Hastings Borough Council has a commitment to eliminating unlawful or unfair discrimination and to achieving an environment free from harassment. This extends to the conduct of allotment Tenants (see Allotment Rule 6.8)

14.2 Harassment may be of a specifically racial, sexual or religious nature, but is generally accepted to be any unwelcome physical, verbal or non-verbal conduct. All Tenants are expected to comply with the Council's policies in respect of harassment and discrimination.

14.3 Complaints about harassment are to be referred to the Council. The Council will endeavour to protect Tenants against victimisation for making or being involved in a complaint. Wherever possible, Tenants should tell the person who is causing the problem that the conduct in question is unwanted and/or offensive and must stop.

15. Termination

15.1 The Council may terminate Allotment Garden Tenancies in any of the following ways:

- a) twelve months written Notice to Quit expiring at any time between 29th September to 6th April inclusive; or
- b) three months written Notice to Quit:-
- c) by re-entry by the Council at any time after giving one month's written Notice to Quit if:-
 - i) Rent is in arrears for 40 days or more (whether formally demanded or not), or
 - ii) the Tenant is in breach of the Tenancy Agreement or these rules, or
- d) automatically three months following the death of the Tenant. Item 2.3 applies.

- 15.2 Tenants may terminate Allotment Garden Tenancies by giving the Council one month's notice in writing to the Council, Environmental Services, Hastings Borough Council, Aquila House, Breeds Place, Hastings, TN34 3UY
- 15.3 Compensation may be payable in specific circumstances as set out in Allotment Acts 1908 – 1950

16. Change of Address and Notice

- 16.1 Tenants must immediately inform the Council in writing of changes of address.
- 16.2 Notices to be served by the Council on the Tenant may be:
- a) Affixed on the Allotment Garden, or
 - b) Sent to the Tenant's address in the Tenancy Agreement (or notified to the Council under these rules) by first class post, registered letter, recorded delivery or hand delivered or
 - c) Served on the Tenant personally.
- 16.3 Notices served under sub-paragraph 2 above will be treated as properly served even if not received.
- 16.4 Notices to be given to the Council should be sent to Hastings Borough Council, Amenities and Leisure Services, Aquila House, Breeds Place, Hastings, TN34 3UY or such other address as the Council notifies in writing to the Tenant.

APPENDIX 2

Notice to Improve

Dear

ALLOTMENT SITE

During an inspection of the above site carried out by Environmental Services on the **DATE**, it was noted that your plot number **PLOT NUMBER** did not appear to have been recently/satisfactorily cultivated. This is in breach of Clause 5.2 of your Tenancy Agreement

There may be a legitimate reason for this, if so, would you please contact me at the earliest opportunity. You may wish to discuss long term planting design and methods of flower/crop production proposed for the plot. Clause 5.2 of the Allotment Rules refers.

A further inspection will be carried out after 14 days from the date of this letter and if no significant improvement has been made to the plot in that time this Directorate will assume that you no longer wish to tenant and cultivate the plot/s and will serve a notice terminating your tenancy in accordance with your Tenancy Agreement and the Allotment Rules. Section 30 (2) of the Small Holdings and Allotment Act 1908.

Uncultivated plots are a source of considerable nuisance to neighbouring tenants and I am sure you will agree that the co-operation of all tenants is required to maintain an effective, properly cultivated allotment site. Allotment tenants sometimes abandon their plots and do not advise this Directorate.

Should you wish to terminate your tenancy in the meantime, can you notify me accordingly and return your allotment key/keys. Please remove any property belonging to you from the allotment.

Yours sincerely

APPROVED OFFICER OF

Notice to Quit

RECORDED DELIVERY

Dear

ALLOTMENT PLOT: (NAME OF SITE) - Plot (NUMBER)

I, Richard Homewood the Corporate Director for Environmental Services serve on you the enclosed Notice to Quit in connection with the above plot. The Notice comes into force one month from the date of this letter and thereafter the plot will be re-let.

Should you have any queries regarding the Notice, please telephone 01424 451853

Yours sincerely

RICHARD HOMEWOOD

Corporate Director for Environmental Services

Enc.



TO:

OF:

PLOT :

I Richard Homewood, Corporate Director for Environmental Services and on behalf of Hastings Borough Council and by their direction hereby give you notice that your tenancy of atallotments will terminate at the expiration of one month after service on you of this notice and that you will be required at the expiration of that period to give up possession of the said plot.

This notice is served in pursuance of Section 30 (2) of the Small Holdings and Allotment Act 1908, and of the power of re-entry contained in the agreement made between the Council and you on **DATE** on the ground that you have failed to cultivate your allotment as required by Clause 3 of the Conditions of Tenancy contained in the Agreement and Clause 5.2 of the Allotment Rules.

DATED the day of

SIGNED

RICHARD HOMEWOOD
Corporate Director for Environmental Services