

TOWN OF WELLESLEY

Community Garden License Agreement

THIS COMMUNITY GARDEN LICENSE AGREEMENT, dated _____,
by and between **TOWN OF WELLESLEY, MASSACHUSETTS** acting by and through its
Board of Selectmen (the “Town”) with a principal office at 525 Washington Street, Wellesley,
MA 02482 and (name) _____ (the “Licensee”), with its principal office at
(address) _____.

RECITALS

WHEREAS, The Town is the owner of record of certain parcels of land known as
Weston RD Community Gardens, located at Weston RD and Howe ST, Wellesley, MA 02482,
and identified by the Town of Wellesley Assessor Map as Parcel 149-5 AND Brookside
Community Gardens, located at Oakland ST and Brookside RD, Wellesley, MA 02482, and
identified by the Town of Wellesley Assessor Map as Parcel 31-20 (the “Land”); and

WHEREAS, Licensee desires to use a portion of the Land more particularly described in
Exhibit A (the “Premises”) to conduct community gardening activities;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and the
payment of other consideration, the receipt and sufficiency of which is hereby acknowledged, the
parties hereby enter into a license agreement upon the terms and conditions set forth herein.

1. Grant of License.

a. The Town hereby grants to Licensee a temporary, non-exclusive,
revocable license to enter upon and use the Premises exclusively for the purposes
described herein, subject to the terms and conditions set forth herein.

b. The Town does not make any representation or warranty as to any matter
affecting or relating to the Land or the Premises, including, but not limited to, the
physical condition or suitability thereof for community gardening purposes, and Licensee
acknowledges that no such representation or warranty has been made and Licensee agrees
that this Agreement relates to the Premises in “as-is” condition as of the date of this
Agreement.

2. Term. The term of this License shall commence on the date hereof and shall
continue until January 1, 2020 or until the gardener changes plots, the assigned plot is revoked or
there are significant changes to the Rules/Regulations, unless terminated earlier by either party.

3. Permitted Use. The Licensee shall use the Premises solely for community garden use in accordance with the provisions of the Agreement, to the extent now and hereafter from time to time permitted under applicable laws, bylaws, ordinances, codes, rules, regulations, orders and other lawful requirements of governmental bodies having jurisdiction (the "Purpose").

4. License Fees/Utilities. In consideration for the use of this License, the Licensee agrees to pay the Town a one-time License Fee of One Dollar (\$1.00) included in their annual fees. Licensee shall be responsible for Licensee's proportionate share of the cost to supply water and supplies to the Premises.

5. Indemnification. The exercise of this License shall constitute the Licensee's acceptance of complete liability for the actions or omissions of Licensee, its contractors, agents, representatives, employees and assignees while present at the Land or upon the Licensed Premises in connection with the construction, upkeep and maintenance of the Purpose. Prior to being allowed to enter upon the Premises, the Licensee and all of its agents who are entering the Premises shall sign a release (attached hereto as Exhibit B) waiving any and all rights and claims against the Town for any injury suffered on the Premises.

The Licensee shall, to the maximum extent permitted by law, defend, indemnify and hold harmless the Town and its officers, employees, agents and volunteers from and against any and all damages, liabilities, actions, suits, proceedings, claims, demands, losses, costs and expenses (including reasonable attorneys' fees) whatsoever arising from, related to or in connection with this License or Licensee's use of the Premises.

The Licensee further expressly agrees not to make any claims against the Town and its officers, employees and agents for any injury, loss or damage to person (including bodily injury and death) or property arising out of or in connection with the activities undertaken or omissions to act by the Licensee, its contractors, agents, representatives, employees, assignees and invitees, as hereby licensed.

6. Conduct

a. Entry and use under this License by the Licensee and its contractors, agents, representatives, employees and assignees, shall, at all times, be subject to review by duly designated representatives of the Town.

b. During the exercise of rights hereby granted, Licensee shall at all times conduct itself so as not to interfere with activities of the Town within or upon the Land.

c. The Town shall have the right, at all reasonable times, to enter onto and inspect the Licensed Premises.

d. The Licensee shall observe and obey all applicable laws, statutes, ordinances, regulations and permitting or license requirements.

e. The Licensee shall not undertake any construction, reconstruction, rehabilitation or refurbishment upon the Land without having received the written approval of the Town or its authorized representative.

f. Licensee agrees that all work performed on the Premises shall be performed free of charge and provided at no expense to the Town.

f. In connection with the Purpose, the Licensee will use its reasonable best efforts to comply with the agricultural practices and procedures set forth on Exhibit C, attached hereto.

7. Termination; Ownership of Improvements. This License will terminate thirty (30) days after the giving of a written notice by either party, with or without cause.

Upon any termination of this License Agreement, Licensee shall promptly return the Premises to the same or better condition that it was in prior to commencement of this License Agreement, reasonable wear and tear accepted, and shall remove any item(s) of property left or placed in or on the Premises by Licensee.

8. No Interest in Real Estate. This Agreement does not grant Licensee, its successors, assigns or transferees any interest, legal or equitable, in the Premises or the Land, and this Agreement shall become null and void and without legal effect if it is recorded in any registry of deeds or any land registration office.

9. Modification; Assignment. Any modification or amendment to this License must be in writing. This License is not transferable and no privilege contained herein may be sublet or assigned to any other person or organization without the express written consent of the Town.

10. Survival of Terms and Provisions. All appropriate terms and provisions hereof shall survive the termination or revocation of this License.

IN WITNESS HEREOF, the parties hereto have caused this Community Garden License Agreement to be executed as a sealed instrument the day and year first written above.

TOWN OF WELLESLEY
By and through its Executive Director

Licensee:

By: _____

Date: _____

Date: _____

EXHIBIT A

DESCRIPTION OF THE PREMISES

Weston Rd.

Weston RD community gardens are located on the west side of Weston RD between Central ST and Turner Rd. The site is bordered by residential property to the southeast and across the road to the north and east, and forested land known as the North 40 to the west. The gardens sit on parcel 149-5. The parcel is approximately 2,008,000 square feet (46 acres), a portion of which currently includes roughly 80 plots.



Brookside Rd.

Brookside community gardens are located on the south side of Oakland Street between Standish Rd. and Brookside Rd. The site is bordered by residential property to the west and across the road to the north, the country club to the south, and Rosemary Town Forest land across the street to the east. The gardens sit on parcel 31-20, which is currently water department land and zoned as SR15-single residence. The parcel is approximately 102,000 square feet (2.4 acres), and currently includes roughly 40 plots and a small shed.



EXHIBIT B

RELEASE AND WAIVER OF LIABILITY

I, _____, of _____, in consideration of the Town of Wellesley allowing my use of the Town-owned Property known as Brookside or Weston Rd. Community Gardens, Wellesley, Massachusetts (the “Premises”) for community garden purposes agree as follows:

I, my heirs, personal representatives, next of kin, estate, administrators and assignees (the “Releasers”) hereby certify that I have full knowledge of the nature and extent of risks inherent in my use of the Premises as a community garden and I understand that I will be solely responsible for any loss or damage, including death, which any person may sustain or cause, to any myself, to any of my property or any other person or property as the result of my activities. By this agreement, Releasers are relieving the Town of Wellesley, and all of its employees, agents, and board members (the “Releasees”) of any and all liability for such loss or damage.

The Releasers agree to forever release the Releasees from any and all claims, rights of action and causes of action that may have arisen in the past, or may arise in the future, directly or indirectly, from my use of the Premises. The Releasers also promise to indemnify, defend, and hold harmless the Releasees against any and all legal claims and proceedings of any description that may have been asserted in the past, or may be asserted in the future, directly or indirectly arising from (a) personal injuries to myself or to other person(s); or (b) real or personal property damage resulting from my use of the Garden.

I HAVE CAREFULLY READ THIS AGREEMENT AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A RELEASE AND WAIVER OF LIABILITY AND A LEGALLY BINDING CONTRACT OF INDEMNITY GOVERNED BY MASSACHUSETTS LAW. I CERTIFIES THAT I AM 18 YEARS OF AGE OR OLDER, AM LEGALLY COMPETENT TO SIGN THIS AGREEMENT, AND HAVE SIGNED IT OF MY OWN FREE WILL AS A DOCUMENT UNDER SEAL.

Witness my hand and seal on _____.

Signature

EXHIBIT C

PERMITTED USE OF THE PREMISES

Please see Community Garden Rules and Regulations, approved July, 2015 by the Natural Resources Commission for a list of permitted activities.