



# Stamford Town Council

## **RULES AND REGULATIONS FOR ALLOTMENT GARDENS – FEBRUARY 2017**

**In these Rules and Regulations**, the “Council”, “we” or “us” means STAMFORD TOWN COUNCIL and “you” means the Tenant of any of our Allotments.

**All previous Rules and Regulations for the Council’s Allotment Gardens are hereby cancelled.**

### **RULES FOR ALLOCATION OF ALLOTMENT GARDENS**

1. The Council will:

- (a) Divide the allotment land at each allotment site into plots (allotments) measured in area.
- (b) Prepare a plan showing the allotments and give each allotment a separate number.
- (c) Keep a register of vacant allotments.
- (d) Identify neglected allotments and give notice to the Tenants to cultivate the allotments within 30 days or relinquish their Tenancy, unless mitigating circumstances are advised to the Council, such as illness or caring for someone who is ill.
- (e) Accept applications from and keep a waiting list of people who would like an allotment, limited to one place on the waiting list per household.
- (f) Fix the Rent for each allotment having regard to its area and review its Rent once a year.
- (g) Allocate the Allotments generally in accordance with these Rules and the following preferences:
  - (i) First, to people living in the town of Stamford or within a mile of its boundary who wish to take over an allotment from another member of their household or a member of their immediate family (father, mother, brother, sister, son, daughter) who has an existing Allotment Tenancy, is not in breach of that Tenancy and consents to the transfer,
  - (ii) Second, to people living in the town of Stamford or within a mile of its boundary who do not have another allotment in their household and who have been longest on the waiting list.
  - (iii) Third, to people living in the town of Stamford or within a mile of its boundary who have another allotment and who have been longest on the waiting list for second or subsequent allotments.
  - (iv) Finally, to all other applicants who have been longest on the waiting list.
- (h) Regularly review the Tenancy Agreement and these Rules and Regulations.

2. The maximum area of all allotments for one household is 40 poles.
3. If more than one person with equal priority is on the waiting list for an allotment the issue will be determined by drawing lots.
4. If an applicant declines an offer of an allotment, no further offer will be made to that person in that year and that person may keep the same place on the waiting list, but only for one further year and one further offer.
5. If an applicant does not reply to an offer of an allotment within 30 days the offer shall lapse.
6. Applicants who cannot be contacted by email or phone or post may be removed from the waiting list.
7. The Council may let one or more allotments each year to charitable or similar non-profit organizations without regard to the waiting list.

### **REGULATIONS FOR ALLOTMENT GARDENS**

1. You must adhere to the guidelines at Annexes A,B,C & D to this document and:
  - (a) Use your Allotment garden for the production of vegetable, flowers or fruit crops for you or your family and not for commercial purposes.
  - (b) Keep your Allotment clean, free from weeds, in a good state of cultivation and fertility and otherwise in good condition; keep your Allotment's boundary hedges, if applicable, properly cut and trimmed; keep all ditches properly cleaned, maintained; and keep any fences, gates and buildings on your Allotment in good repair.
  - (c) Compost all green matter on your own Allotment [or in a designated area if identified for a particular allotments site] or alternatively remove it from the allotments site. Remove non-biodegradable rubbish such as glass, metal, & plastics from the allotments.
  - (d) Accept responsibility for the actions of all your guests, both children and adults that come onto the allotments and ensure that they do not cause any nuisance or annoyance to any other person.
  - (e) Ensure that all children under the age of 16 are accompanied by a responsible adult at all times, both to maintain the security of the allotments and in consideration of other tenants.
  - (f) Keep dogs brought onto the allotments on a short leash and keep them under control within your own allotment. Remove all excrement.
  - (g) Display your Allotment's number so as to be clearly visible from the access to the allotment site.
  - (h) Allow our staff or agents to enter and inspect your Allotment, including buildings, at any time.

2. You must not, without prior written permission from STC:

- (a) Use your Allotment for any other purpose, including any trade or business.
- (b) Cause any nuisance or annoyance to the occupier of any other allotment.
- (c) Obstruct or allow obstruction of any path in the allotments. People whose properties have a common fence with an allotment are permitted to access that fence to maintain it. Be aware of this if you store items against that fence.
- (d) Apart from a reasonable quantity of composting/composted material do not deposit or allow to be deposited rubbish of any sort in hedges, paths, roadways or river banks.
- (e) Use any barbed wire on or near your Allotment's boundary. See guidelines at Annex A to this document.
- (f) Put up a notice or advertisement.
- (g) Make or keep a connection to the STC provided water supply.
- (h) Light a bonfire except with reference to the guidelines set out in Annex B to this document.
- (i) Sell your Allotment's produce, except for the benefit of charity or an allotment association.
- (j) Stay overnight on your Allotment, or allow others to do so.
- (k) Store anything on your Allotment, except for use on it.
- (l) Plant crops that require more than 12 months to mature, trees or fruit bushes.
- (m) Cut, lop, fell or prune timber or trees (except routine pruning of fruit trees on your Allotment), or take, sell or carry away minerals, sand or clay, or excavate wells.
- (n) Keep livestock on your Allotment.
- (o) Have any building, structure or pond on your Allotment, as this may incur a charge. Permission is not needed for poles and cold frames more than 450mm from paths.
- (p) Install any hard landscaping, ie patios, crazy paving etc.
- (q) Keep bees except with reference to Annex C to this document.
- (r) Store petrol or accelerants except with reference to Annex D to this document.

## **Barbed Wire Guidelines**

### **Occupiers' Duty of Care to Trespassers**

Anyone who owns, or controls, property has a legal duty of care to protect people on the property from foreseeable harm. As the occupier of the allotment you control it and as such are required to exercise duty of care. This duty extends to people on the property without permission – including burglars and vandals. An occupier could be sued for damages under the Occupier's Liability Act 1984.

### **Occupiers' Liability Act 1984**

(1). The 1984 Act deals with trespassers on your land and in your home, but only applies to personal injury (unlike the 1957 Act that also includes damage and loss to the visitor's property). A 'trespasser' has a wide meaning and can be a thief about to burgle your home, but could be a child attempting to retrieve his ball.

*Occupiers' Liability Act Section 1 clause (3)* states the following:

#### ***Duty of occupier to persons other than his visitors***

*(2) An occupier of premises owes a duty to another (not being his visitor) in respect of any such risk as is referred to in subsection (1) above if—*

*(a) he is aware of the danger or has reasonable grounds to believe that it exists;*

*(b) he knows or has reasonable grounds to believe that the other is in the vicinity of the danger concerned or that he may come into the vicinity of the danger (in either case, whether the other has lawful authority for being in that vicinity or not); and*

*(c) the risk is one against which, in all the circumstances of the case, he may reasonably be expected to offer the other some protection.*

Importantly clause (5) of the Act states:

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*(5) Any duty owed by virtue of this section in respect of a risk may, in an appropriate case, be discharged by taking such steps as are reasonable in all the circumstances of the case to give warning of the danger concerned or to discourage persons from incurring the risk.*

Therefore clear signage warning of an injurious topping on your wall or fence will limit your liability providing that signage is specific to the risk, e.g. 'Danger of Injury Do not climb over spikes' and the danger can be seen. It therefore follows that you should not put injurious toppings on the inside face of a fence or wall (such as carpet gripper) or otherwise hide them, even if you have put up warning signs. It is largely due to the Occupiers' Liability Acts that residents tend to use prickly shrubs to deter fence climbing as these naturally growing defenders are outside the legislation.

### **Discharging your Duty**

An occupier may be able to discharge this duty by warning trespassers of the hazard or by discouraging them from coming onto the property. This could be done by putting up a sign that warns of the danger: "Attention – Barbed Wire on Wall!" and "Keep Out" thereby inviting trespassers not to risk hurting themselves. If an occupier was sued, the court would consider all the circumstances of the case before deciding whether the occupier was, in fact, liable for damages. The Criminal Justice Act 2003 provides some protection to occupiers. If a trespasser suffers an injury during the course of a crime, for which he is subsequently convicted and for which he could be sent to prison, he will only be able to sue the occupier if he gets the court's permission to do so. The court is unlikely to grant permission unless the occupier had taken grossly excessive steps or had not been acting to defend himself, his family or his property from an offence.

## **Other Legal Restrictions**

Section 164 of the Highways Act 1980 says that barbed wire on land adjoining a public highway must not cause a nuisance to humans or animals using the highway. Anything placed below 2.4 metres high will usually be deemed to be causing a nuisance and the local authority can issue a notice demanding its removal.

## **Current Situation**

As of the date that your contract comes into force, you are not to install barbed/razor wire, carpet gripper, spikes or similar, to any part of your allotment. Where, historically, any of these items are in place, then, as occupier you have the choice to remove them or erect warning signage in accordance with clause 5 of the Occupiers Liability Act 1984 (above). Stamford Town Council is not responsible for any injuries, howsoever caused, to personnel on your allotments.

Free signage is available on: [www.freesignage.co.uk](http://www.freesignage.co.uk)

## **Bonfires on Allotments**

### **Air Pollution**

Burning garden waste produces smoke – especially if that waste is green or damp. This will emit harmful pollutants including particles and dioxins. Burning plastic, rubber or painted materials creates noxious fumes that give off a range of poisonous compounds.

### **Health Effects**

Air pollution can have damaging health effects, and people with existing health problems are especially vulnerable, e.g. asthmatics, bronchitis sufferers, people with heart conditions, children and the elderly.

### **Annoyance**

Smoke, smuts and smell from bonfires have long been a source of a significant number of complaints to local authorities every year. Smoke prevents neighbours from enjoying their gardens, opening windows or hanging washing out, and reduces visibility in the neighbourhood and on roads. Allotments near homes can cause problems if plot holders persistently burn green waste, and leave fires smouldering.

### **Safety**

Fire can spread to fences or buildings and scorch trees and plants. Exploding bottles and cans are a hazard when rubbish is burned. Piles of garden waste are often used as a refuge by animals, so look out for hibernating wildlife and sleeping pets.

### **Composting**

Rather than burning garden waste or putting food waste in the dustbin where it will end up buried or incinerated, a compost bin will produce useful soil conditioner thereby saving money.

### **When and where can I have a bonfire?**

It is a common misconception that there are specific byelaws prohibiting garden bonfires or specifying times they can be lit – there aren't. However, this is not a licence for indiscriminate burning and it is the policy of Stamford Town Council not to permit bonfires until after 6pm.

### **Bonfires and the Law**

Under the Environmental Protection Act 1990 (as amended) it is an offence for people to dispose of their domestic waste in a way likely to cause pollution of the environment or harm to human health. In practice you should not burn waste that is likely to create excessive smoke or noxious fumes. If only dry garden waste is burnt, your bonfire should not cause a problem. Most bonfire problems are addressed under nuisance legislation. Under the Environmental Protection Act 1990, a statutory nuisance includes “smoke, fumes or gases emitted from premises so as to be prejudicial to health or a nuisance.” In practice a fire would have to be a recurrent persistent problem, interfering substantially with neighbours' well-being, comfort or enjoyment of their property. If a bonfire of industrial or commercial waste is emitting black smoke it is dealt with under the Clean Air Act 1993 – this includes the burning of such material in your garden!

### **How do I complain about a bonfire?**

If bothered by smoke, approach your neighbour and explain the problem. You might feel awkward but they may not be aware of the distress they are causing and it will hopefully make them more considerate in the future. If this fails, environmental health at your local

Council should be notified. They must investigate your complaint and must issue a notice under the Environmental Protection Act 1990 if they consider a nuisance is being caused. The Act also allows you to take private action in the magistrates' court. However, if a fire is a one-off it may be difficult to prove a nuisance. Similarly, if you are troubled from bonfires from different neighbours, each only burning occasionally, a nuisance action would be difficult as there are several offenders.

### **Current Bonfire Guidelines**

- Only burn dry material that originates from your allotment.
- Never burn household rubbish, rubber tyres or anything containing plastic, foam or paint
- Avoid lighting a fire in unsuitable weather conditions – smoke hangs in the air on damp, still days.
- Do not burn if the wind direction is directly towards surrounding properties.
- Avoid burning when air pollution levels in your area are high or very high. You can check air quality on 0800 556677 or at <http://uk-air.defra.gov.uk>.
- Keep your fire away from trees, fences and buildings.
- Never use accelerants (oil, petrol, methylated spirits etc.) to light a fire –you could damage yourself as well as the environment.
- Never leave a fire unattended or leave it to smoulder – put it out
- From 1<sup>st</sup> November to 31<sup>st</sup> March Annually bonfires are allowed with no restrictions on time, from 1<sup>st</sup> April to 31<sup>st</sup> October Annually bonfires are only allowed by special permission granted by Stamford Town Council due to blight, plots being cleared, extreme amounts of green waste etc.

### **Future Policy**

STC has issued the above guidelines and you are to adhere to them. If complaints reduce to an acceptable level then no further action will be taken. If they do not, further restrictions will be imposed which could eventually lead to an outright ban.

## **Guidelines for Keeping Beehives on Stamford Town Council Allotments**

### **General**

1. Inexperienced beekeepers will not be permitted to keep colonies of bees on the allotment without ensuring that there is an experienced beekeeper on hand to provide guidance. If you wish to apply to keep bees you will only be permitted to site 2 hives and must undertake to comply with the following guidelines:
2. **Do not:**
  - a. Place hives in positions from which flight paths impinge on other allotment users or pathways.
  - b. Allow the strength of colonies to increase to swarming strength in an unmanaged way.
  - c. Handle bees when other people are gardening in the immediate vicinity.
3. **Do:**
  - a. Site hives in a remote area of the allotment(s) away from other plot holders.
  - b. Limit the number of colonies in any area. Allow 2 hive widths between hives.
  - c. Use screening to make the bees rise 6ft before leaving the plot.
  - d. Ensure bees do not fly directly across other plots.
  - e. Handle bees at times when the bees are very active, thus leaving fewer in the hive.
  - f. Ensure there is someone else on site in case of an emergency when handling bees.
  - g. Nominate an experienced beekeeper to care for your hives during absences.

### **Management Policy**

4. The STC Allotment Manager is responsible for policing the conditions on which bees are permitted on allotments. Local Beekeeping Associations could be requested to appoint members to be available to offer advice if required but the members could not be responsible for any action by individuals or association members keeping bees on allotments. It is a condition of your permission to keep bees that you are a member of the local Beekeeping Association. Membership of a Beekeeping Association provides members with third party / public liability insurance through their affiliation to the British Beekeepers' Association.

## **Guidelines for the Storage of Petrol on Stamford Town Council Allotments**

### **General**

1. It is not illegal to store petrol on your allotment but, if you do, there are national regulations and local STC instructions which must be adhered to. In principle STC does not condone the storage of flammables on its allotments, but accepts that there are practical issues involved and that the risks can be mitigated by the observance of the guidelines below.

### **Storage Facility**

2. Petrol must not be stored in a shed where there are potential sources of ignition, such as petrol operated equipment, electrical outlets, fires etc. This is to ensure that any petrol vapours are not exposed to sparking, howsoever caused. A small, ventilated, storage enclosure adjacent to your shed should be considered. It should display a flammable liquid hazard sign which can be downloaded free from [www.freesignage.co.uk](http://www.freesignage.co.uk).

### **Quantities**

3. In total, no more than 4.5 litres (approx.. 1 gallon) can be stored. Only commercially produced containers, specifically made to contain petrol, are to be used. They are to be marked with the hazard warning words "Petrol" and "Highly Flammable". They are to display their capacity and manufacturers' details. They must be robustly constructed and leak-proof. It is recommended that, to allow for expansion, containers are only filled to 85% of their capacity.

### **Safe Storage Guidelines**

4. **All allotment holders, and their visitors, are to comply with these guidelines:**
- Do not smoke or vape when using petrol.
  - Never fill the petrol tank of your equipment inside a building. Fumes are explosive.
  - Never fill the fuel tank when the engine is hot. Fuel spilt on hot surfaces could spontaneously ignite.
  - Never use petrol, or any accelerants, to start or refresh a fire.
  - Do not use petrol as a degreasing agent.
  - As well as complying with the content of Paragraphs 2 & 3 above, petrol is not to be stored with any combustible materials.
  - Do not permit petrol to enter a drain, watercourse or aquifer, it is a criminal offence to do so.

## **Compliance**

5. Adherence to these guidelines will be monitored on a site by site basis and if it is shown that allotment holders are not complying with the contents of this document, then permission to store petrol on-site will be withdrawn.