



HARRY OTSUBO COMMUNITY GARDENS GUIDELINES AND USE AGREEMENT

I. INTRODUCTION

The City of Dana Point Community Gardens, located at 24800 Stonehill Drive, Dana Point CA, 92629, was inspired by Harry Otsubo, the original owner of the Dana Point Nursery. Harry Otsubo understood the healing arts of gardening, he was beloved for his commitment to the community, and the endless donations of trees, plants and flowers to schools and parks throughout Dana Point. Harry was honored when the city christened the Searidge Park at Golden Lantern Street and Stonehill Drive in his name. Now, community members participate in the Harry Otsubo Gardens with plots they plant and harvest as their own.

II. PURPOSE

The purpose of the Community Garden is to produce fruits, vegetables, and flowers for our families, to learn and teach organic gardening methods and sustainable practices, to bring our community together and to create a project in which our community can participate. We strive to unify our community, foster fellowship, and create a sense of camaraderie and helpfulness among neighbors.

III. ELIGIBILITY REQUIREMENTS

- a. Garden plots are reserved for current residents of the City of Dana Point. Business addresses and P.O. Boxes **will not be accepted** during registration. Proof of residency must be provided in person at the time of application and upon annual renewal. Acceptable forms of verification are:
 - i. California driver's license, California identification card, AND
 - ii. A current utility bill (within 60 days of application or renewal) with a Dana Point address. (Acceptable utility bills include gas, water, electricity, or refuse).
- b. All gardeners, including assistant gardeners, must read and sign the Community Gardens Guidelines and Agreement. An assistant gardener is an assistant who may be temporarily caring for a plot in the absence of the primary gardener (i.e., an absence due to vacation or an illness).
- c. Once assigned a parcel, gardeners must actively garden the parcel, experience dictates that a minimum of 4 to 5 hours per week is necessary to keep and properly maintain a productive and attractive garden.
- d. Each gardener must perform a minimum of two (2) hours of community service at the Community Gardens annually.
- e. Remain current with dues and fees.

IV. SPECIAL NOTES REGARDING THE COMMUNITY GARDEN

- a. Parcels will be assigned by the General Services Department staff.
- b. All City regulations as provided by Ordinance 94-12 apply to the Community Gardens.
- c. A Community Gardens Committee, consisting of five (5) active gardener volunteers, will act as a liaison between the gardeners and the City staff. The Committee will resolve issues, if possible, at the gardens, and if violations continue to occur and enforcement of the guidelines are necessary, the Committee will

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notify City staff. The Committee, along with a representative from the City staff, will walk the gardens quarterly to address any unresolved issues or concerns.

- d. There is a limit of one (1) garden parcel per Dana Point household.
- e. The City may assign parcels to community/charitable organizations as appropriate.
- f. Gardeners are not permitted to sell, transfer, or sublet their assigned parcel to another person.
- g. Each gardener shall keep the City notified of his/her most current contact information, including address, telephone number, and email address. Any correspondence mailed or emailed to the members' address on file (physical or email) is considered delivered. Gardeners that move outside Dana Point may not renew the following renewal period, forfeiting their parcel. If we are unable to reach you after 3 attempts (disconnected phone, returned mail, unresponsive emails, etc.) we will conclude the plot has been abandoned.
- h. City is responsible for surrounding fencing and provision of combination lock on the gate but is not responsible for vandalism to the garden plots.
- i. If gardeners are experiencing a heavy yield of fruits or vegetables, the Dana Point Senior Center would appreciate the food which would be distributed to senior citizens. Please contact the Age Well Senior Center Director at 949-496-4252 to arrange for delivery of fruits and vegetables.
- j. Upon termination of this agreement the premises shall be cleared and left in a clean and attractive manner by the outgoing gardener.
- k. Upon the death of a member, the spouse or partner at the same address only, may take over the parcel for the duration of the year, but are not eligible to renew in November.

V. REGISTRATION

- a. Plots are rented for a one-year period, from January 1st to December 31st of each year.
- b. Plot registration for **returning gardeners** is required annually and will start on the first business day in November. Returning gardeners must complete renewal by the second Thursday in November. Registration renewal must be completed in person annually. To renew, please visit the Dana Point City Hall, General Services Department, at 33282 Golden Lantern, Suite 106, Dana Point CA, 92629. For registration/renewal, you will need the following:
 - i. Valid identification card (Driver's license, State identification)
 - ii. Proof of residency (Utility bill) that includes your name and a local address.
 - iii. If an active gardener has not renewed or contacted the City prior to the second Thursday in November, the plot will be cleaned out and considered "unassigned." The plot will then be assigned to the next person on the waitlist.
- c. An active gardener may request to change plots, once, during the lifetime of their garden tenancy, and only during the open registration period.
- d. Plot registration for **new gardeners** is required and will start on first business day in December. New gardeners must complete their registration by the second Thursday in December. Registration must be completed in person, no exceptions. To renew, please visit the Dana Point City Hall, General Services Department, at 33282 Golden Lantern, Suite 106, Dana Point CA, 92629. For registration/renewal, you will need the following:

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- i. Valid identification card (Driver's license, State identification)
 - ii. Proof of residency (Utility bill) that includes your name and a local address.
 - iii. Once your registration fee is paid, the plot is yours starting January 1st.
 - iv. All first-time gardeners will meet with two or more representatives from the Garden Committee within the first 30 days of plot assignment. New gardeners will be given an introductory garden tour by Committee members, dates and times will be posted on the read board.
 - v. If the new gardener has not renewed or contacted the City prior to the second Thursday in December, the plot will be considered "unassigned." The plot will then be assigned to the next person on the waitlist.
- e. All gardeners, including co-gardeners assisting with a plot, must read and sign the Community Gardens Guidelines and Agreement.
 - f. The plot fee is nonrefundable if cancellation occurs three or more weeks after registration.
 - g. Do not share lock combinations with anyone who is not a registered gardener.

VI. GARDENER CODE OF CONDUCT

- a. Abide by all hours of operation. Garden Hours: Monday - Saturday, 7:00 a.m. to dusk; Sunday, 9:00 a.m. to dusk. Noises associated with motorized gardening equipment are pursuant to Dana Point, Municipal Code, Chapter 11.10, will not be conducted between the hours of 8:00 p.m. and 7:00 a.m. on weekdays, including Saturday, or at any time on Sunday or a Federal holiday.
- b. There is no smoking, or the consumption of alcohol or drugs on the premises.
- c. Growing cannabis, or illegal substances in the community garden, is strictly prohibited.
- d. Each gardener is expected to work alongside others and resolve any conflicts respectfully.
- e. Always supervise children and any non-registered guests; gardeners assume responsibility for any person or persons assisting them with any gardening chores.
- f. Keep pets on a leash and always accompanied by the owner. Pet owners must pick up after their pet and are responsible for any damage that may occur to other parcels or the common areas.
 - i. If a gardener receives two warnings regarding a pet nuisance within the same year, the gardener will no longer be allowed to bring a pet into the Community Gardens.
 - ii. If a gardener receives a third warning, the gardener will be required to relinquish their plot to the next person on the waiting list.
- g. Gardeners may not barbeque, grill, or light a fire unless a permit is obtained from the City of Dana Point.
- h. Registered gardeners are expected to read email and mail correspondence for current information or needed actions.
- i. Use community garden equipment with care and return clean.
- j. Conserve water always.
 - i. Stay with the hose while watering.
 - ii. Must be done by hand using ONLY nozzles with automatic shut-off.
 - iii. All watering must be contained within the parcel boundary, with no overflow.
 - iv. Ensure water is turned off before leaving.

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- v. Report problems with water and hoses to the City immediately by calling the Parks Division at (949)248-3555 during normal business hours, or by email at GenServ@DanaPoint.org.
- k. Gardeners will not sell or use garden produce for profit.
- l. Do not enter another garden without explicit written permission. Removal of any item (crop, plant, tool, etc.) that is not yours is considered theft and cause for permanent loss of gardening parcel. The City is not responsible for the theft of crops, tools, or personal belongings.
- m. Do not destroy or damage any other gardener's property or property of the Community Garden.
- n. Please do not place or allow plants (including weeds) to grow beyond the boundaries of your plot, or to shade other plots.
- o. Gardeners must keep their plots and paths free from garbage, furniture, and unused or broken garden items, regardless of source. Contact General Services at (949)248-3555 or by email at GenServ@DanaPoint.org, if you need help disposing of "dumped" items.
- p. For any unkept plots, gardeners are encouraged not to intervene by weeding or planting. Unkept plots should be reported to the General Services Department at (949)248-3555 during normal business hours. This call will prompt the City to inspect the plot and issue a notice of warning to the gardener. "Rogue" or "renegade" gardening is cause for permanent loss of gardening parcel.

VII. GARDEN PARCEL REQUIREMENTS

- a. It is the responsibility of each gardener to keep their half of the walkways surrounding their plot clear and free of plant materials and supplies. Supplies are to be stored within the boundaries of each garden plot and planting can occur only within the designated garden boundaries.
- b. Each gardener is responsible for the removal of his or her own trash and plant materials. Green waste must be deposited in the dumpster provided. Green waste will not be dumped in or around the community garden.
- c. Keep boarder boards, and parcel markers, visible always and free of soil, chips, and plants.
- d. Keep garden parcel completely planted and harvested with new vegetables or flowers of the season; do not allow crops to go to rot.
- e. No structures more than 6' in height are allowed. Exceptions to this rule are trellises and wire utilized to grow climbing vegetables only.
- f. Parcels must be clean, neat and in a weed free condition always. To avoid the spread of disease, take reasonable steps to prevent and control disease and pests by:
 - i. Remove weeds and grasses by hand.
 - ii. Trim or remove diseased and/or pest-infested plants.
- g. Use neutral fertilizers only. Packaged soil amendments must be labeled as organic and/or must not list any synthetic ingredients. No chemical products allowed.
- h. No fertilizers, insecticides, weed killers, over-watering, or weed repellent shall be allowed that will in any way be detrimental to adjacent gardens or grounds.
- i. Do not use any type of chemical product on any parcel including synthetic pesticides, fungicides, and fertilizers and herbicides.

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- j. Garden plots must always be in a safe condition, or the City has the right to rectify the situation immediately. If the City is required to rectify an unsafe condition a second time, the gardener will relinquish their plot to the next available person on the waiting list.
- k. Arrange for someone to care for your parcel when necessary (i.e., during vacation or illness). The City is not responsible for maintaining any member's assigned parcel.
- l. Please do not place any item, plant, or grow any seed, plant, shrub, tree, or vine on or near the garden fencing or common areas without the City's permission.
- m. Do not leave the parcel unkempt; parcels not actively gardened for thirty (30) days will be notified via mail and email. If a second notification is needed, the gardener will relinquish their plot to the next available person on the waiting list.
- n. Gardeners shall not pay for ongoing professional gardening help in lieu of performing the work themselves (No professional gardeners and/or landscapers).
- o. If a garden plot is in violation of the guidelines or unattended, the General Services Department will notify the gardener of this discrepancy. If the discrepancy has not been corrected within thirty (30) days of the date of the notification, the gardener will relinquish their plot to the next person on the waitlist.

VIII. EQUIPMENT AND SPECIFIC PLANT RULES

- a. A dumpster, in the parking lot, is provided by the City for disposal of excess garden materials. Please do not leave refuse in walkways, along the fence or near the storage shed.
- b. Perimeter fencing is not to exceed 48" in height. Gardeners may build or use frames constructed of simple stakes, string, or prefabricated lightweight wire frames available at nurseries. The use of staples, screws, and nails along parcel perimeter is prohibited.
- c. Raised garden beds are provided by the City. The bed provided represents the leased area and may not be altered in any way.
- d. Large entrance archways and permanent internal fencing is not permitted.
- e. (1) storage container per parcel is allowed for tools and supplies and must be designed for outdoor use, weather resistant, and be no taller than 3.5 feet.
- f. Building or the use of trellises and plant supports can be no taller than six (6) feet tall; trellises or supports creating too much shade on neighboring parcels will need to be removed.
- g. Do not bring or use household items such as baby gates, tires, bookcases, shelves, construction material, screen doors, mailboxes, or other similar items.
- h. No permanent fixtures or indoor-style furnishings may be installed in a plot.
- i. Do not use carpet, impermeable plastics, or other household fabrics as weed control measures in either your parcel or the pathway.
- j. Asphalt foundations, pavement, rock, or gravel may not be used in plots or walkways.
- k. Gardeners may not apply any materials or substances to the pathways without City approval.
- l. No trees of any size may be planted in the ground as of July 1, 2022. Dwarf trees, less than five (5) feet in height, are allowed if contained in a pot above ground with a saucer (or equivalent) underneath to prevent in-ground rooting.
- m. Parcels must be at least 70 % edible crops or flowers, the other 30% may include:

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- i. Pathways
- ii. One plastic storage container (for personal gardening supplies).
- iii. An approved composting container
- iv. A small table, chair, or bench for sitting
- n. Automatic timers for watering are prohibited.
- o. Uncovered containers or any standing water, including bird baths, are not permitted for health reasons.
- p. Plants and vegetables that are invasive, toxic, have the potential for spreading plant diseases, harboring damaging insects, or causing physical harm are NOT ALLOWED for use in the Dana Point Community Garden (bamboo, horsetail fern, pampas grass etc.). Mint is allowed in the Garden, but it must be planted in a container.

IX. COMMUNITY SERVICE

- a. Community service working parties are scheduled throughout the year to help maintain the common areas of the community gardens.
- b. Each gardener (parcel) must attend one (1) working party per year, per parcel, giving at least two (2) hours of service to the common areas.
- c. Community service working parties will:
 - i. Be scheduled at least two (2) times per year and will be posted on the bulletin boards, online, and via email at least three (3) weeks in advance.
 - ii. Be scheduled on various days of the week for two (2) hours.
 - iii. Check-in will begin 15 minutes before the two hours begin. Members must stay the entire two hours to earn credit for service. At the end of the two hours, members will be provided with a receipt of service.
 - iv. No one under the age of 18 may be present during working parties unless directly supervised by their parent or guardian throughout the event.
 - v. No personal gardening is allowed during working parties.
 - vi. Members will be required to wear closed-toed shoes, gloves, and appropriate clothing during working parties.
 - vii. There will be no carry over from previous year(s) prior, and there will be no grace period or waiver allotted for any members.

X. GARDEN INSPECTIONS

- a. A garden inspection will be conducted by City staff periodically to identify any parcels out of compliance with the Community Garden Rules and Agreements.
- b. Parcels that are not compliant shall receive notification via email or US Postal Service if email is not available for non-compliance. Notice may be a correction notice or notice of termination (due to repeated correction notices).
 - i. A temporary sign will also be placed in the parcel as a secondary notification measure to the gardener.

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- ii. Correction notices will allow thirty (30) days for correction from the date of the notice, at which point a correction inspection will take place.
- iii. If the gardener has not made the appropriate corrective action upon conclusion of the correction inspection, the gardener will relinquish their plot to the next available person on the waiting list.
- iv. Termination notices will be emailed or mailed to members.

XI. COMPOST CONTAINERS AND COMPOSTING

- a. Composting must be done in covered containers. Open composting (in soil) is not permitted.
- b. Members shall not have more than two (2) compost containers per large parcel and more than one (1) compost container for smaller parcels.
- c. All crops in composter must be covered with dirt or manure to deter insects and animals.
- d. Members shall not use meat scraps or weeds in composters.
- e. Compost is considered part of your 30% non-planted area of the parcel.

XII. ANNUAL REGISTRATION FEES

Annual registration fees paid will cover the period of January 1st through December 31st.

- a. 8' x 8' – 10' x 10' plots: \$20
- b. 10' x 20' plot: \$35
- c. 20' x 20' plot: \$75
- d. ADA plot \$15

Please make checks payable to “City of Dana Point”

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XIII. **Waiver, Release, Hold Harmless, and Agreement not to Sue and Acknowledgement of Harry Otsubo Community Gardens and Use Agreement.**

Waiver, Release, Hold Harmless, and Agreement not to Sue

I voluntarily choose to participate in the City of Dana Point Harry Otsubo Community Garden (herein referred to as the Activity) and understand that participation in this Activity may expose me to the risk of personal injury, illness, communicable diseases including but not limited to COVID-19, loss of life, expense, property damage or loss, and I hereby assume any and all such risks. I agree that the City of Dana Point, its employees, officials, agents or assigns (herein referred to collectively as the “Released Parties”) are not liable or responsible in any way for any injury, illness, disease, death, damage, loss, or expense, to my person and/or property incurred in connection with my participation. Despite these risks, I choose to proceed in such Activity. I understand that I will not receive any compensation or benefits related to my participation.

I personally assume all risks in connection with this Activity for any harm, injury, loss, or damages that may befall me as a participant. I further exempt, release, discharge, hold harmless, and agree not to sue the Released Parties from any liability, responsibility, claim or lawsuit for personal injury, illness, communicable disease, including but not limited to COVID-19, property damage or loss, expense, or wrongful death, by me, my family, estate, heirs, or assigns, arising out of participation in the Activity.

I HAVE CAREFULLY READ THIS WAIVER, RELEASE, HOLD HARMLESS, AND AGREEMENT NOT TO SUE AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A FULL RELEASE OF ALL LIABILITY AND SIGN IT OF MY OWN FREE WILL.

| | | | | |
|--------------------------|-------------|-------------|---------------|-----------------|
| Gardener Printed Name | Plot # | Date | Signature | Staff Initials |
| | | | | |
| Street Address | Cell Number | Home Number | Email Address | Check # Cash |
| | | | | |
| Co-Gardener Printed Name | Plot # | Date | Signature | Staff Initials |
| | | | | |
| Street Address | Cell Number | Home Number | Email Address | |
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