

QUESTIONS AND ANSWERS

2023 NYC PARKS GREENTHUMB LICENSE

NYC Parks GreenThumb consolidated the questions discussed during the in-person and virtual Q&A Sessions hosted in the fall of 2022. Questions have been edited for clarity and brevity. Please note that The GreenThumb Gardeners' Handbook,¹ referred to in several responses below and considered an essential policy document, can be found on the GreenThumb website or by contacting your Outreach Coordinator.

License Agreement – General Questions

Is the License for all gardens?

The License Agreement is a requirement for all garden groups stewarding sites under the jurisdiction of NYC Parks. Gardens on land trust, other City agency, or private property do not sign a License Agreement with GreenThumb, but a Memorandum of Understanding).

What is the due date for the License Agreement?

In order to remain in good standing, GreenThumb must receive the completed relicensing packets from garden groups operating on Parks property by *December 31st, 2022*.

When garden groups receive the new license packet?

License packets will be mailed and emailed to all garden primary and secondary contacts in November.

What are next steps? Do we need to sign in-person?

A completed License packet will consist of:

- a License Agreement signed by the primary and secondary contact,
- a complete registration form, which includes:
 - tentative open hours for the 2023 season,
 - membership list,
 - plot/bed wait list (if applicable)
- a copy of the most up-to-date version of the garden group's bylaws (and which must meet the bylaws requirements outlined in The GreenThumb Gardeners' Handbook). Garden contacts are expected to share these documents, like all information sent by GreenThumb, with the entire garden group.

Printed packets can be mailed to:

NYC Parks, The Arsenal
Attention: GreenThumb
830 Fifth Avenue
New York, NY 10065

Packets can also be hand-delivered to the GreenThumb office from 1pm – 7pm on Wednesday, November 30th, Wednesday, December 7th, Wednesday, December 14th, Wednesday, December 21st, and Wednesday, December 28th.
100 Gold Street
Suite 3100
New York, NY 10008

And for garden groups able to complete materials entirely online, this option will be provided via email to the designated garden contacts.

¹ The GreenThumb Gardeners' Handbook 2021,

https://greenthumb.nycgovparks.org/pdf/GreenThumb_Gardeners_Handbook_2021.pdf

Will the License Agreement be provided in a digital or shareable format? Will we be able to obtain a copy of the slides from the presentation?

The License Agreement and Registration are available in digital format as PDF files on the [GreenThumb website](#). All content in the Q&A presentation can be found in the [License Agreement Video Tutorial](#).² A Spanish version of the same License Agreement Video Tutorial is also [available](#).³

How long is the License?

The new term of the GreenThumb License Agreement is 10 years, from January 1st, 2023 through December 31st 2032.

Can you explain the “whereas additions” to the License Agreement?

We wanted to make sure that there is language that celebrates the unique partnership with garden groups for over four decades and our gratitude working with garden volunteers. The “whereas” clauses from the City acknowledge this long-term partnership.

Did you do a comparison breakdown between the old License and the new one?

There are a few changes between the [2019 License Agreement](#) and [2023 License Agreement](#) which are explained in detail in the [License Agreement Video Tutorial](#). The major changes include the increase of the length of the term from four (4) years to ten (10) years and the increase in the number of on-site fundraisers allowed in the garden from two (2) to four (4).

Can you explain who exactly the Licensee might be? Is this the garden group? Can we change the primary and secondary contacts who sign the License?

The community garden group is the Licensee. The Primary and Secondary contacts sign on behalf of the entire group. More information on the role of primary and secondary contacts – who are not necessarily leaders of the garden group – can be found in The GreenThumb Gardeners’ Handbook. Additionally, the License must be signed by individual garden members and not by external organizations.

What happens if the signers leave the garden – because 10 years is a long time?

Since the garden contacts sign on behalf of the community garden group, new signatories will not be required if they change or leave the garden group. However, the group is required to notify your GreenThumb Outreach Coordinator whenever primary or secondary contacts change so that we can continue to ensure that the garden group is receiving timely information and updates.

Can we get physical copies of The GreenThumb Gardeners’ Handbook to distribute in multiple languages, like Bengali, at meetings without printing them ourselves?

Yes, GreenThumb is currently in the process of revising The Gardeners’ Handbook, by including more accessible language incorporating feedback from gardeners, and clarifying policies. Print copies will be made available to garden groups. Translated copies of the current 2021 version of Handbook are available in Bengali, Chinese, Korean, Polish, Russian, and Spanish on the GreenThumb website. Translations of the updated 2023 Handbook will also be made available.

Will we receive a copy of the signed license?

Yes, a printed and digital copy of the fully executed license will be provided to garden groups.

Would the additional length of time added to the licensing periods ensure that the community gardens continue to steward the land?

Signing the License Agreement and maintaining an active garden group is the best way to ensure that the garden continues to be used and maintained as a community garden.

² License Agreement Video Tutorial, <https://youtu.be/IBYNsF64KTI>

³ Acuerdo de Licenciamiento de GreenThumb del 2023 Video Tutorial, <https://youtu.be/VbBydziTB5E>

If there are no current violations, is there any reason a garden's license wouldn't be signed?

No, but the group must ensure that meets all the requirements, including the bylaws requirement. GreenThumb encourages all garden groups to make use of the bylaws template and other resources listed in the [Group Development Toolkit](#).⁴

If a garden is in good standing, is it guaranteed to remain a garden?

City property under the jurisdiction of NYC Parks that is currently being used as a community garden is intended to continue being used for that purpose.

What happens if the garden does not sign the License Agreement?

The License Agreement is a required part of stewarding gardens under the jurisdiction of NYC Parks and a signed License Agreement and active garden groups are the best ways to ensure that these spaces are maintained as community gardens. Garden groups who refuse to sign the License Agreement would no longer be eligible for resources from GreenThumb. Our goal is to help garden groups succeed, including in meeting the terms of the License Agreement.

Bylaws

Are bylaws still required? Do we need to re-submit bylaws?

Garden group bylaws are required as part of the submission of the License Packet. Bylaws are the mutually agreed upon rules and procedures that a garden group creates to regulate its current and future practices for the day-to-day operations and governance of the garden. A garden's bylaws are where the group establishes, in writing, various garden responsibilities among group members, protocol for bringing in new members, changing garden leadership, handling finances and disputes, planning events, and any other activities the group takes on. Garden group bylaws must meet the minimum standards outlined in The GreenThumb Gardeners' Handbook and groups may be required to make changes to their bylaws if they contain anything contrary to GreenThumb policy, such as limiting membership by geography. Garden groups must re-submit a current version of their bylaws as part of re-licensing and must share bylaws whenever they are changed.

Do you need garden rules attached to bylaws?

Garden rules should also be included in the bylaws submitted with the entire License Packet. Both garden rules and bylaws must be reviewed by GreenThumb to ensure that there are clear processes on how members of the public can join the garden group and to ensure that there are no garden policies that are contrary to GreenThumb or NYC Parks policies.

Where can we find assistance or examples of bylaws?

GreenThumb has developed a bylaws template and collected other tools and trainings to assist groups in all aspects of group development. You can find those as part of the [Group Development Toolkit](#) on the GreenThumb website.⁵ Your Outreach Coordinator can recommend some trainings or assist you with drafting and improving garden group bylaws.

How does due process work under the bylaws, especially in terms of removing members?

As long as the garden group follows the process in their bylaws, GreenThumb typically does not get involved, especially as these are often inter-personal disputes. Bylaws are essential for garden groups and help them to function and manage these spaces via grassroots governance. Different groups have developed different processes to handle conflict within groups. We can recommend and connect groups with mediation resources, but this process depends on all parties being willing to participate and cannot be forced upon all parties.

⁴ GreenThumb Group Development Toolkit, https://greenthumb.nycgovparks.org/news.html?news_id=496

⁵ GreenThumb Group Development Toolkit, https://greenthumb.nycgovparks.org/news.html?news_id=496

Membership Processes

What information is needed on the member list?

A complete list of garden members, including at least one form of communication, including phone number(s) or email address, must be given to GreenThumb with garden registration every year. GreenThumb uses this information internally and will never share it. Updates to the garden membership list must be sent to your GreenThumb Outreach Coordinator by mail or email at the beginning of each year and GreenThumb has created a [membership template](#) that garden groups can use.

Is there a minimum number of members required?

No, there is no minimum number of garden members. However, there must always be a pathway for garden membership, even if there are no garden beds available. Wait lists are acceptable for beds, but there can never be a wait list for general membership. All GreenThumb gardens must have an active and inclusive membership. Anyone from the public must be able to join the garden as a member, subject to reasonable membership requirements, such as participating in a certain number of workdays, meetings, and/or events. There can be no cap on the number of members at the garden, and the group must have a process for accepting new members clearly explained in the garden's bylaws. Eligibility for membership or admission to the garden cannot be restricted on the basis of race, creed, religion, color, national origin, ethnic origin, age, gender, sex, disability, marital status, or sexual orientation.

What suggestions does GreenThumb have to continue accepting membership?

GreenThumb has created a [Group Development Toolkit](#) with a number of excellent resources for managing membership.⁶ Plots can have a wait list, but there cannot be a wait list to join the garden itself as a member. Different people in the neighborhood can play different roles beyond tending individual raised beds, such as opening the garden gates, event planning, administrative support, social media, watering plants, shoveling snow, outreach to local elected officials, and so much more. Gardens can also create reasonable requirements to be a member, such as having new volunteers having to volunteer certain number of hours per week and then become a member, but these requirements must be clearly explained in the garden group's bylaws, which must be submitted to GreenThumb for review.

Can you provide more information on the zero-dollar requirement? If there is a zero-dollar pathway, how would a garden that relies on fees be impacted?

Having a zero-dollar pathway for potential members to join the garden is a GreenThumb requirement. We want to make sure that people that have no means can be part of community gardens. Having a zero-dollar option ensures that all can be part of a garden. Many groups have chosen to have those cases where people cannot afford dues instead dedicate additional volunteer hours or different roles to support the garden. We have also expanded fundraising options in order to support gardens, which should create alternatives should you find the garden facing a decrease in garden dues. If you are not able to do fundraising events, consider micro-fundraising options, such as series of fitness classes or similar.

In case where people cannot afford dues, how would we know they can't afford them? Should we ask for income documentation?

The exact processes by which garden groups determine a zero-dollar pathway to general membership and garden beds will be determined by the particular group. GreenThumb advises groups to stay away from inquiring about personal information. At the end of the day, we need to trust each other. If someone says they cannot afford \$10 for a year, we need to take their word. The group can determine to waive the fee or require reasonable extra hours to be a member and if the person is sticking to that, the group can take that at face value and a sign of their sincere interest.

If by chance, a garden has an ex-member who is causing issues with the garden members – are we allowed to “ban” them from the community garden?

Garden groups must have a written removal process in their bylaws ahead of time and this process must include a written pathway for members to re-apply for membership at a later date. Lifetime bans are not permitted. Ex-members, like any member of the public, must still be allowed to access the garden during open hours. For more serious cases, including

⁶ GreenThumb Group Development Toolkit, https://greenthumb.nycgovparks.org/news.html?news_id=496

repeated harassment, menacing, stalking, gardeners can seek restraining orders or orders of protection⁷. Gardeners that feel unsafe are encouraged to contact Parks Central Communications or the NYPD for emergencies or as part of obtaining a restraining order/order of protection.⁸

Is it appropriate for a garden to remove its own officers?

Garden groups are required to create their own bylaws which must comply with GreenThumb requirements. For additional information, please see The GreenThumb Gardeners' Handbook. The expectation is that the group writes and ratifies their own bylaws and revisits their bylaws periodically. Garden groups should have their own processes in their bylaws for removing members and handling conflicts.

Liability

Are gardens liable for everything that occurs in the garden? Can you explain liability in greater detail? How does liability start and end? How does liability work? Is it the garden contacts who are liable?

In all instances, liability depends on the particular and unique circumstances of any given case. Garden groups are not responsible for everything that occurs inside gardens, regardless of who is the responsible party. Liability is always case-specific. It's all about the specific circumstances and it varies in all the potential scenarios. To help reduce the potential for injuries in gardens, it is important for Parks to understand what is occurring on public property under its jurisdiction. This is why garden groups must inform Parks of planned public programming. Please note, GreenThumb is not able to offer garden groups legal advice, including on the particulars of any lawsuits or hypothetical situations. If you have further questions on liability, Outreach Coordinators can direct gardeners to free and low-cost resources, including free legal sessions provided by pro bono legal service providers unaffiliated with the City, such as:

- [New York City Bar⁹](#)
- [Bronx County Bar Association¹⁰](#)
- [Access Justice Brooklyn¹¹](#)
- [New York County Lawyers Association¹²](#)
- [Queens Volunteer Lawyers Project¹³](#)
- [Richmond County Bar Association¹⁴](#)
- [Law Help NY¹⁵](#)

Additionally, some Council Members and other local elected officials offer free legal resources. GreenThumb is a part of the City and we are not able to provide legal advice.

Does Greenthumb or New York City have liability insurance that would cover our gardens? Can a garden get their own General Liability Insurance and what amount? Or is that up the garden group?

Until 2007, the City required gardeners to obtain a liability insurance policy in order to be licensed by NYC Parks. As the cost of providing insurance increased, some garden groups requested that City remove this requirement and in response the City did so. Some garden groups, however, have determined that it is beneficial to incorporate their garden groups and continue obtaining liability insurance to protect the group in the event of an injury. Garden groups have the option to incorporate and obtain liability insurance, but the license does not require them to do so.

Is there a way to have more communication between gardens on Parks property – we would like to find out what other gardens have insurance?

⁷ NY Courts - Orders of Protection Basics, <https://www.nycourts.gov/courthelp/Safety/OP.shtml>

⁸ NYPD Resources & Services: Orders of Protection, <https://nyc.gov/site/nypd/services/victim-services/resources-services-orders-protection.page>

⁹ New York City Bar, www.nycbar.org/for-the-public/free-legal-services

¹⁰ Bronx County Bar Association, www.bronxbar.com

¹¹ Access Justice Brooklyn, www.accessjusticebrooklyn.org

¹² New York County Lawyers Association, www.nycla.org

¹³ Queens Volunteer Lawyers Project, www.qcba.org/page-18081

¹⁴ Richmond County Bar Association, www.thercba.com

¹⁵ Law Help NY, www.lawhelpny.org

GreenThumb's Community Engagement team connects garden groups with a variety of available resources. The Outreach Coordinators have hosted regional meet-and-greets to support community gardeners in building relationships, sharing best practices, and hosting collaborative events. Please remember that GreenThumb cannot offer advice on particular insurance plans or products, however we can connect garden groups interested in discussing this and other topics together.

Assumption of Risk

Can GreenThumb clarify the assumption of risk clause and what it means?

The Assumption of Risk clause informs *garden members* that they take on the risks of participating in certain activities at the site. This is consistent with the general responsibility that the public has in using City property or engaging in activities that have an inherent risk of injury, such as organized sports. With gardening, risks can include summer heat, exhaustion from shoveling snow, exposure to poison ivy, and more. The assumption of risk serves as a reminder to gardeners that gardening is not entirely risk free, but we encourage gardeners to mitigate risks, for example – close the garden during thunderstorms, take breaks while shoveling snow, and drink water during the summer heat. The Assumption of the Risk does not mean that garden groups assume the risk for everything that occurs inside community gardens.

Violations and Termination

How does GreenThumb communicate violations?

Failure to comply with the License can result in violations of the agreement. Repeated violations or serious violations can lead to termination, or a license not being renewed. This is not our goal and GreenThumb is here to help your group resolve the violations. GreenThumb communicates concerns with the responsibilities and obligations of the License Agreement with the garden contacts. If a problem continues and the group unwilling to address the situation, GreenThumb would send a formal letter of violation through certified mail and email to garden contacts, and a copy is sent to the community board and elected officials. If the problem persists after multiple violations, unfortunately, we are required to terminate the License.

Can you explain the termination clause? Are the gardens at risk?

Violation and Termination processes help make sure that garden spaces remain accessible community spaces and meet the requirements laid out by the Parks Department. Garden groups that have abandoned their gardens or unable or unwilling to address and rectify violations will be at risk of having their License Agreement terminated and their access to the garden revoked. Abandonment includes but is not limited to failing to maintain the garden, respond to correspondence, or hold required public hours and events. City property under the jurisdiction of NYC Parks that is currently being used as a community garden is intended to continue being used for that purpose.

Will the people signing the License be removed if there are violations?

Violations of the License Agreement are always written to the garden group (Licensee), although addressed to the primary and secondary contacts. Primary and secondary contacts should be rotated or can be replaced depending on the procedures outlined in the garden's bylaws.

Open Hours

It's difficult to get people to commit to opening and closing the garden as everyone has varied schedules.

One suggestion is to increase your garden group's membership. GreenThumb can help with membership recruitment and retention. In some cases, garden groups have been able to redesign the garden in a way that can remain open without the presence of the garden members. A reminder that the requirement for open hours during the garden season is 20 hours per week with 5 hours on the weekend. Additionally, keep in mind that membership can and should look different – and volunteering to maintain open hours can be a great way to involve newly interested members of the public in the garden as they pursue full membership.

When the garden is being re-imagined or rebuilt, will the garden open hours still have to be in place?

If garden is under construction or if there is construction work adjacent to the garden impacting access, garden group must inform GreenThumb and decide on case by case, the open hours requirement.

Are gardens required to be open beyond open hours? What if it's not safe?

Gardens must remain open and accessible to the public for a minimum of 20 hours per week during the official GreenThumb garden season from April 1 through October 31. A sign with a schedule indicating at least 10 of those 20 hours a week must be posted on the garden gate. For garden groups operating under the GreenThumb License Agreement, GreenThumb Gardens must be open for at least five hours each weekend (Saturday and/or Sunday) during the season. GreenThumb encourages groups to work alongside all the garden members to open the garden as many hours as they can safely do it.

What if open hours change?

Please let your Outreach Coordinator know if open hours change throughout the season. The garden open hours are shared with the public and featured on the [GreenThumb website](#).¹⁶ If a garden is not open during the open hours previously shared with GreenThumb, this could result in complaints from neighbors and garden visitors.

Events and Events Processes

In the past, we would suggest a donation for use of the garden for private events – weddings, film shoots. Would that still be permitted?

Garden groups can only accept unsolicited donations and may not refer to expected donations, required donations, recommended donations, ticket fees, security deposits, or similar language. If the garden group is open to the idea of hosting a film shoot and if the company didn't already offer a donation, NYC Parks can follow up and request a donation on behalf of the group. This can occur after the event. The money will go to the garden group for operation of the space.

How long does it take to for someone from Greenthumb to respond to the Event Request Form?

GreenThumb responds to event requests within a few days. If you submit an event on short notice, please contact your Outreach Coordinator and GreenThumb will make best efforts to expedite its review of these submissions and provide a response as soon as possible.

We do a kids cooking event, do we need FDNY approval? Kids do not touch them and induction type burners are used, which do not have an open flame and are not hot to the touch.

We require all groups operating on Parks property to fill out the [Event Request Form](#)¹⁷ to help determine if your specific activity or event requires a permit. Please remember that FDNY does require a permit when there are open flames.

Can we hold private events if we are a 501(c)3 and ask for a donation?

As part of the new License Agreement, all garden groups are now allowed to host up to four (4) fundraisers per year on-site within the garden and proceeds must go toward the garden. Remember that the garden may not rent out the space. Garden groups and members can have their own private events, but these must occur outside of open public hours.

Can a garden host a fundraiser for another organization inside the garden? How do we seek approval?

Fundraisers to support the ongoing operation and maintenance of the garden that occur on-site within the garden can be held four-times each year with prior written approval from GreenThumb which can be submitted through the [GreenThumb Event Request Form](#).¹⁸ These events should not happen during the garden's designated open hours. Fundraisers that exclusively support external third-party organizations are not allowed.

Garden Structures, Raised Beds, Infrastructure

Are raised beds a requirement? Are resources provided?

Raised beds have been a long-term requirement. GreenThumb follows the framework for understanding urban soils outlined in the U.S. Environmental Protection Agency (EPA) document *Reusing Potentially Contaminated Landscapes: Growing Gardens in Urban Soils*.¹⁹ GreenThumb can provide untreated lumber, soil, compost, and landscape fabric to

¹⁶ GreenThumb Garden Map, <https://greenthumb.nycgovparks.org/gardensearch.php>

¹⁷ GreenThumb Event Request Form, <https://forms.office.com/g/M1Q2CunhDp>

¹⁸ GreenThumb Event Request Form, <https://forms.office.com/g/M1Q2CunhDp>

¹⁹ Reusing Potentially Contaminated Landscapes: Growing Gardens in Urban Soils, https://www.epa.gov/sites/default/files/2014-03/documents/urban_gardening_fina_fact_sheet.pdf

support groups in meeting this requirement. Additional details can be found in The GreenThumb Gardeners' Handbook under Safe Soil Gardening Requirements.

Is every garden required to grow vegetables?

The majority of GreenThumb gardens were abandoned lots transformed by volunteers into green spaces for relaxation, socializing, and growing food, or a combination. These community gardens are managed by neighborhood residents with GreenThumb support. Community garden groups make their own decisions regarding the use or uses of their community garden.

What is needed to have a fishpond in a community garden if we build it ourselves?

All new structures and modifications to the garden must be first approved by GreenThumb to ensure that there is compliance with all relevant City rules and regulations, this includes any excavation and construction. For ponds, the process is outlined in The GreenThumb Gardeners Handbook. Ponds need to be clean and safe and must have a pump. As part of this process, the garden group would need to present a proposal to their Outreach Coordinator. Depending on the scale of the pond, GreenThumb would then have a conversation and determine and facilitate the process.

Deliveries and GreenThumb Operational Support

For material deliveries, can GreenThumb enter the garden without anyone being there?

GreenThumb needs to be able to access the garden in the event of an emergency, for deliveries, and for site visits. The goal of providing daisy-chain systems, combination locks, and lockboxes is to ensure that GreenThumb has access to gardens under the jurisdiction of NYC Parks and to relieve garden groups of the need to have someone present.

Who makes sure all staff have access to lockbox/combo codes for gardens to ensure smooth deliveries of materials? We sometimes receive calls from GreenThumb staff who are delivering materials.

GreenThumb staff have access to combination lock and lockbox codes which are saved in a database. Garden contacts might receive calls in case GreenThumb staff were not notified of changes to the locks.

Miscellaneous

As the New York laws around Cannabis changes will Greenthumb have conversations around its policies?

The cultivation, use, sale, processing or distribution of marijuana and tobacco is prohibited inside GreenThumb community gardens operating on property owned by the City of New York and under the jurisdiction of NYC Parks.

When will the 2023 GreenThumb Gardeners' Handbook be available?

GreenThumb is working to update The GreenThumb Gardeners' Handbook and has been using the Q&A Sessions with gardeners to determine which sections need clarifications and additional guidance. We hope to have a digital version of The GreenThumb Gardeners' Handbook available in December 2022. Printed copies in multiple languages will be available too.

What can be done when there is construction adjacent to a garden?

As per the License Agreement, no construction activities, including but not limited to excavation, paving, or erecting of any permanent or temporary structures, including sheds, storage facilities, greenhouses, rainwater capture systems, and other similar structures, or the removal of soil from the site, may take place without prior written permission from GreenThumb and with valid permits (if applicable). All contractors and/or developers must go through a permitting process when their work impacts gardens on NYC Parks property. Garden members should contact their Outreach Coordinator and instruct contractors to contact GreenThumb to discuss potential garden access.