

PERMIT

THIS PERMIT, made and entered into this 30th day of November 1985, by and between the CITY OF PORTLAND, hereinafter called "City" and ALBERT J. GARRE, hereinafter called "Permittee";

WITNESSETH:

City, for and in consideration of the covenants, conditions, agreements, and stipulations of Permittee, contained in this permit does hereby grant Permittee permission to use the following described real property:

See Exhibit 1 - Attached hereto and made a part hereof by reference herein.

FOR AGRICULTURAL PURPOSES ONLY.

TO HAVE AND TO HOLD the above described property, hereinafter called "premises," unto Permittee for a term commencing December 1, 1985 and terminating June 30, 1990.

SECTION 1 - CONSIDERATION

1.1 Permittee shall not pay the City a fee for use of the property. However, commencing upon tender of possession of the premises by City as provided herein, Permittee shall package and prepare for shipment to nonprofit charitable institutions of the City's choice a portion of each crop harvested. The total annual wholesale value of all crops packaged and prepared for shipment shall not be less than \$600.00. Permittee shall state in writing the value of each crop prepared for shipment.

1.2 Permittee shall pay for all personal property taxes assessed against premises and improvements thereon and shall provide City with evidence of such payment before December 1 of each year.

1.3 In the event real property taxes are assessed against the premises, City shall give written notice to Permittee prior to December 30 of the year in which the tax statement is received and City shall have the right to terminate the Permit effective June 1 of the next calendar year.

1.4 Permittee shall, at his sole expense, keep and maintain all of the premises free of all weeds and debris, and all inflammable or explosive materials of every kind, and shall keep premises at all times in an orderly, clean, safe and sanitary condition.

SECTION 2 - USE OF PREMISES

2.1 It is the intent of the parties hereto that premises be used only for agricultural purposes. Premises shall not be used for the storage, dismantling

or manufacture of any inflammable material, waste materials, junk, scrap or equipment, and shall not be used for any purpose deemed by City to be a potential fire or other hazard.

2.2 Permittee shall not: (a) install facilities for or operate on premises a gasoline supply station or gasoline pump; (b) allow vehicles used or designed for the transportation of gasoline, petroleum products or explosives on premises; (c) store bulk gasoline, petroleum products or explosives on premises.

2.3 Permittee shall not use or allow premises to be used for any unlawful purpose whatsoever.

2.4 No vending of any kind shall be conducted or allowed upon premises.

SECTION 3 - ALTERATIONS TO PREMISES

3.1 No improvements shall be placed in or on premises, and no alterations including grade changes shall be allowed on premises without the prior written consent of City.

3.2 Except for signage, all permanent improvements made by Permittee resting on or below the surface of the premises shall, at City's option, become the property of City upon termination of the initial permit term. Upon final termination of the original permit term or any renewal term, Permittee shall, at City's direction, restore the demised premises and any contiguous land disturbed by Permittee's improvements to their original condition or better.

SECTION 4 - INDEMNIFICATION & INSURANCE

4.1 City shall in no event be liable for any accident or injury to any goods or persons whatsoever occurring in or about said premises, which accident or injury is caused by or arises out of the failure of the Permittee to observe any covenant, agreement or condition of this permit, or any statute or municipal ordinance, or which is caused by or arises out of any negligence on the part of any agent or employee of the Permittee, or of any person doing work under contract or otherwise for the Permittee, and the City shall not be responsible or liable in any way for the injury or death of any person or damage to any property caused in or about the premises; nor shall the City be liable for any damage or loss suffered by the business or occupation of the Permittee arising from any such accident or injury to any goods or person happening in or about the premises; nor shall the City be liable for any injury to the goods, stock or property of the Permittee or any other person in or upon the said premises, or from any cause including, but not limited to, damage by water, gas or steam, or by reason of any electrical apparatus in or about said premises. Permittee does hereby jointly and severally covenant to save the City harmless from any loss, damage or liability resulting from or arising out of any such accident or injury (except those based on City's own acts of negligence), and in the event of any suit or action for damages being brought by any person whomsoever the Permittee agrees at its own cost and expense to defend the City against any such suit or action and any and all appeals therefrom, and to satisfy and discharge any judgment that may be awarded against the City on account thereof.

4.2 Before going into possession of the premises, the Permittee shall at its own expense procure and thereafter during the term of this permit shall continue to carry the following insurance coverage, with an insurance carrier satisfactory to City, naming as an additional insured the City of Portland and its Council, agents and employees:

- A. Public liability and property damage insurance with a responsible company with limits of not less than \$300,000 combined single limit for personal injury and property damage in any one occurrence, including, without limitation, cracking or breakage of plate glass. Such insurance shall cover all risks arising directly or indirectly out of Permittee's activities or any condition of the permitted premises whether or not related to an occurrence caused or contributed to by City's negligence, shall protect Permittee against the claims of City on account of the obligations assumed by Permittee under this permit and shall protect City and Permittee against claims of third persons. The certificates evidencing such insurance shall bear endorsements requiring thirty (30) days written notice to City prior to any change or cancellation.
- B. Coverage of all Permittee's employees is required under the provisions of the Worker's Compensation Law. Permittee shall supply City, at City's request, with satisfactory evidence of public coverage or the certificates of private coverage in the same form as required above for Permittee's general liability insurance.

SECTION 5 - PERMITS AND LICENSES

5.1 Permittee shall secure all necessary permits and licenses required in connection with operations of premises and shall comply with all federal, state and local statutes, ordinances and regulations that may concern, in any way, Permittee's use of premises.

SECTION 6 - UTILITIES

6.1 Permittee shall pay for all utility services furnished to premises and shall order and pay for such meter installations as are necessary.

SECTION 7 - ASSIGNMENT

7.1 Permittee shall not assign this permit or sublet premises without the prior written consent of City and any attempt to assign or sublet without said written consent shall be void and shall be grounds for termination of this permit at the option of City. City may withhold consent to assign this permit for any reason. Permittee is expressly prohibited from charging, assessing or otherwise collecting a fee for use of any portion of the premises.

7.2 The provisions of this permit and all obligations and rights thereunder shall extend to and bind the heirs and assignees of Permittee and any assignee or legal successor of City.

SECTION 8 - RIGHT-OF-ENTRY

8.1 City reserves the right to enter premises for purposes of inspection and to determine whether Permittee is complying with the provisions of this agreement; and to perform acts necessary or proper in connection with public construction or maintenance. City also reserves the right to enter and take possession of premises in case of national or other emergency for the purpose of preventing sabotage; in such event Permittee shall be relieved from the obligation to comply with the provisions of this permit.

SECTION 9 - TERMINATION

9.1 This permit may be terminated by the City of Portland as to all or part of premises when needed for public purposes upon giving of a six-month notice. City shall have the right to terminate at any time if it is determined the premises or any part thereof are needed in connection with public projects.

9.2 In the event of termination, regardless of how effected, including termination for need or failure to comply with any provision of this permit, Permittee shall, on the date of said termination, peaceably and quietly leave, vacate completely and surrender premises, including those improvements and fixtures placed or made thereon by Permittee that belong to City, in a good, clean and sightly condition, reasonable use and wear, and damage by earthquake, fire, public calamity, the elements, acts of God, or other circumstances over which Permittee has no control, excepted. Signs and other appurtenances not specified herein as belonging to City shall be removed by Permittee. If any such signs or other appurtenances, or property not belonging to City, are not removed from, premises and premises are not completely vacated by said termination date, and if premises are not restored to a clean and sightly condition by said date, City may proceed to remove the same and restore premises, and Permittee shall pay City, upon demand, the reasonable cost to City of such removal and restoration.

SECTION 10 - DEFAULT

10.1 If Permittee should breach or fail to comply with any provision of this permit, said act constitutes a forfeiture of all rights under, the voiding of, and the termination of this permit. The further occupancy of premises after such forfeiture by Permittee shall be deemed a forcible detainer thereof by Permittee, and City may, without notice, re-enter and take possession of premises, and may, with or without force, and with or without legal process, evict and dispossess Permittee from premises. If any suit, action or proceeding is brought by City against Permittee for the breach of any provision of this permit by Permittee, or if any suit, action or proceeding is brought by City for forfeiture of this permit, or to recover possession of premises, Permittee agrees to pay reasonable attorney fees and costs for commencing and prosecuting such suit, action or proceeding in an amount which shall be ascertained and fixed by the court.

SECTION 11 - TIME IS OF THE ESSENCE

11.1 Time is of the essence of every provision of this permit. Failure of City to object to the violation of any provision of this permit shall not be deemed a waiver by City of a subsequent similar breach or of City's right to demand strict performance by Permittee of the provisions hereof.

SECTION 12 - DISCRIMINATION

12.1 Permittee, for himself, his heirs and assigns, as part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that (1) no person, on the grounds of race, color, or national origin, shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of premises and the facilities located thereon; (2) that in connection with the construction of any improvements on premises and the furnishing of services therein, no discrimination shall be practiced in the selection of employee and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors; and (3) that Permittee shall use premises in compliance with all other requirements imposed pursuant to Title 15, Code of Federal Regulations, Commerce and Foreign Trade, Subtitle A, Office of the Secretary of Commerce, Part 8 (15 C.F.R., Part 8), and as said Regulations may be amended.

12.2 In the event of breach of any of the above non-discrimination covenants, City shall have the right to terminate this permit, to re-enter and repossess premises, including the facilities thereon, and to hold the same as though this permit had never been made or issued.

SECTION 13 - NOTICES

13.1 Any notice required or permitted under this permit shall be given when actually delivered or when deposited in the United States mail as certified mail, addressed as follows:

To City: Bureau of Facilities Management
1120 SW Fifth Avenue, Room 1204
Portland OR 97204

To Permittee: Albert J. Garre
12532 NE Rose Parkway
Portland OR 97230
PH: 257-8428

or to such other address as may be specified from time to time by either of the parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate as of the day and year first above written.

PERMITTOR:
CITY OF PORTLAND

PERMITTEE:
ALBERT J. GARRE

By _____
Commissioner of Public Works

By Albert J. Garre
Albert J. Garre

By _____
City Auditor

APPROVED AS TO FORM

ATTORNEY

EXHIBIT 1

A tract of land in Section 23, Township 1 North, Range 2, East of the Willamette Meridian, in County of Multnomah and State of Oregon, described as follows:

Beginning at the Southwest corner of Section 23, Township 1 North, Range 2, East of the Willamette Meridian; thence North $1^{\circ}07'45''$ East a distance of 471.64 feet to the South line of Beech Street; thence North $89^{\circ}25'$ East along said South line 1,155.0 feet to the Northeast corner of Lot 1, Block 5, Beechway Addition and the true point of beginning of the tract herein described; thence North $89^{\circ}25'$ East a distance of 1.49 feet; thence along the arc of a 250 foot radius curve to the left (the long chord of which bears North $65^{\circ}55'$ East 199.37 feet) a distance of 205.08 feet; thence North $42^{\circ}25'$ East a distance of 252.88 feet; thence along the arc of a 150 foot radius curve to the right (the long chord of which bears North $53^{\circ}43'44''$ East 58.84 feet) a distance of 59.23 feet; thence South $0^{\circ}37'45''$ West a distance of 670.56 feet to a point in the North line of Argay Terrace; thence South $89^{\circ}25'$ West along the North line of said Argay Terrace 401.46 feet to a point on the East line of Block 13, said Argay Terrace; thence North $1^{\circ}07'45''$ East along said East line and the prolongation of same, being the East line of Block 5, Beechway Addition, a distance of 371.82 feet to the true point of beginning.

Also including a tract of land in Section 23, Township 1 North, Range 2, East of the Willamette Meridian, County of Multnomah and State of Oregon, described as follows:

Beginning at the Southwest corner of Section 23, Township 1 North, in Range 2, East of the Willamette Meridian; thence North $1^{\circ}07'45''$ East a distance of 100.0 feet; thence North $89^{\circ}25'$ East 1556.46 feet to the true point of beginning of the tract herein described; thence North $0^{\circ}37'45''$ East 670.56 feet to a point on a curve; thence along the arc of a 150.0 foot radius curve to the right (the long chord of which bears North $81^{\circ}13'43''$ East 83.64 feet) a distance of 84.76 feet; thence South $82^{\circ}35'$ East 166.7 feet; thence along the arc of a 400 foot radius curve to the left (the long chord of which bears North $89^{\circ}17'12''$ East 113.14 feet) a distance of 113.52 feet to an iron rod; thence South $0^{\circ}37'45''$ West 659.53 feet to a point on the North line of Argay Terrace; thence South $89^{\circ}25'$ West, along said North line, 361.25 feet to the true point of beginning.

This property is also described as Beech Park.

[illegible]

R5

SCALE 1" = 200'

**ZONING
REVISED**

7.84



(R5)

Maximum Potential Zoning
as per Comprehensive Plan

2643

NG DESIGNATIONS ARE SUBJECT TO CHANGE.
GRAPHIC CORRECTION; VERIFY ZONING PRIOR
DEVELOPMENT OR SALES.

ORDINANCE No. 158121

An Ordinance authorizing the execution of a permit between the City of Portland and Albert J. Garre for cultivation of 10.07 acres of raw land and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

1. The City of Portland's Park Bureau is assigned a 10.07 acre parcel of land located on the north side of Fremont Street at 127th Avenue.
2. The subject parcel of land is earmarked for the future development of a neighborhood park.
3. Mr. Albert J. Garre, an adjacent property owner and farmer, is desirous of farming the property until such time as it is needed for development of a neighborhood park.
4. The Bureau of Parks and the Bureau of Facilities Management cooperated in the structuring of the compensation to be paid by Mr. Garre, which is to consist of a portion of each crop harvested on the property; each crop to be packaged and prepared for shipment to non-profit, charitable institutions of the City's choice.
5. The total annual wholesale value of all crops packaged and prepared for shipment shall not be less than \$600.
6. The permit has been approved as to form by the City Attorney.

NOW, THEREFORE, the Council directs:

- a. The Commissioner of Public Works and Auditor are authorized to execute on behalf of the City a permit with Albert J. Garre similar in form to Exhibit A attached hereto and made a part hereof by reference herein.

Section 2. The Council declares that an emergency exists since failure to execute the permit in a timely manner may result in loss of aid to agencies and citizens in need of food products; therefore, this ordinance shall be in force and effect from and after its passage by Council.

Passed by the Council, JAN 8 1986

Commissioner Bogle
Bradley P. Fudge/tw
December 17, 1985

Jewel Lansing

Auditor of the City of Portland

By

Elena Cervera Deputy

Calendar No. 40

ORDINANCE No. 158121

Title

An Ordinance authorizing the execution of a permit between the City of Portland and Albert J. Garre for cultivation of 10.07 acres of raw land and declaring an emergency.

| THE COMMISSIONERS VOTED AS FOLLOWS: | |
|--|------|
| | Yeas |
| BOGLE | / |
| LINDBERG | / |
| SCHWAB | / |
| STRACHAN | / |
| CLARK | / |

| FOUR-FIFTHS CALENDAR | |
|----------------------|--|
| BOGLE | |
| LINDBERG | |
| SCHWAB | |
| STRACHAN | |
| CLARK | |

Filed JAN 0 3 1986

JEWEL LANSING
Auditor of the CITY OF PORTLAND
By J. Garre Deputy

| | |
|---|------------------------|
| INTRODUCED BY | |
| Commissioner Bogle | |
| NOTED BY THE COMMISSIONER | |
| Affairs | |
| Finance and Administration | |
| Safety | |
| Utilities | |
| Works | <u>Rich Boyle/Hunt</u> |
| BUREAU APPROVAL | |
| Bureau: Facilities Management | |
| Prepared By: Date: | |
| Bradley P. Fudge 12/17/85 | |
| Budget Impact Review: | |
| <input type="checkbox"/> Completed <input checked="" type="checkbox"/> Not required | |
| Bureau Head: <u>all</u> | |
| Allyn R. Staley | |
| CALENDAR | |
| Consent X Regular | |
| NOTED BY | |
| City Attorney | |
| City Auditor | |
| City Engineer | |