

Local Law relating to **Street Lawns and Gardens**

Extract from the Government Gazette (No.46) of 19 March 1993
Local Government Act 1960
City of Melville Local Law Relating to Street Lawns and Gardens

In pursuance of the powers conferred upon it by the abovementioned Act, and of all other powers enabling it, the Council of the abovementioned Municipality hereby records having resolved on the 17th day of November 1992, to make and submit for confirmation by the Governor the following Bylaw Relating to Street Lawns and Gardens.

Repeal

1. The Street Lawns and Gardens Local Laws published in the Government Gazette 26 June 1981 and amended from time to time thereafter are hereby repealed.

Interpretation

2. In this Local Law, unless the context otherwise requires -

"the Act" means the Local Government Act, 1960 (as amended) and, except as otherwise in this Local Law provided, words and expressions have the same meanings as they have in the act;

"carriageway" means a portion of a street that is constructed for use by vehicular traffic, and includes the shoulders, and areas, including embayments, at the side or centre of the road, used for the standing or parking of vehicles; but does not include a lane, right of way or crossover;

"crossover" means that portion of the street constructed to provide vehicular access from the carriageway to land abutting the street;

"property line" means the boundary between the land comprising a street and the land it abuts.

"path" includes that part of a street constructed for the use of pedestrians and/or cyclists and where no part of a street is so constructed, that portion on both sides of a street two metres in width measured from the kerb line and extending alongside the carriageway;

3. Where, before the coming into operation of this Local Law, a garden has been planted in a street, the owner or occupier of the land that abuts on that portion of the street in

which that garden is planted shall ensure that the garden complies with the provisions of this Local Law but is not required to obtain a permit pursuant to this Local Law.

4. (i) A person shall not plant a garden in a street, except in accordance with a permit issued by the Council under this Local Law;
 - (ii) A person requiring a permit to plant a garden in a street shall submit to the Council a sketch plan setting out details of the proposed garden and the positions of the proposed garden beds, in relation to the property line and the carriageway.
 - (iii) The Council may issue a permit under this Local Law subject to such conditions as it sees fit to impose; and a person who plants a garden otherwise than in compliance with those conditions commits an offence.
5. A person shall not plant a lawn or garden in a street -
- (i) so that it extends beyond the prolongation of the side boundaries between the subject lot and the abutting lots
 - (ii) so that it encroaches on to the pavement of a carriageway, or on to a path;
 - (iii) that is not graded evenly, from the property line of the land abutting on that portion of the street, to the kerb of the carriageway.
6. (i) Any water pipes laid to a lawn or garden in a street, shall -
- (a) be laid beneath the surface of the street, at a depth of not more than thirty centimetres, nor less than fifteen centimetres, and so that any fitting connected to them does not project above the surface of the lawn or garden;
 - (b) if connected to a public water supply, be laid to comply with the requirements of the body constituted for, and having the control of, that supply under an Act;
 - (c) have approved valves, located within the property where they are connected to the supply and fitted so as to give complete control of the flow of water from the supply.
- (ii) Where a person, in the course of laying pipes pursuant to this Local Law, causes damage to any road pavement, path, or crossover, to any water, gas or sewerage pipes, to any power or telephone cables or to a fire hydrant, that damage may be made good, by the authority having the control of the thing damaged, at the expense of that person or of the person on whose behalf the pipes were laid; and the amount of that expense may be recovered in any court of competent jurisdiction.
7. A person shall not water a street lawn or garden in such manner as will, or may, cause inconvenience to persons using the adjoining carriageway or path.

8. (i) A person planting a lawn or garden in a street may do all things reasonably necessary to maintain that lawn or garden and shall make good any damage thereby caused to the street and shall keep the lawn mowed to a reasonable height.
 - (ii) Nothing in this Local Law authorises a person to place or erect any fence, enclosure or other obstruction on, or about, a lawn or garden in a street.
 - (iii) A person shall not plant any tree or shrub that is grown, or is of a variety likely to grow, to a height exceeding 0.6 metres, in a lawn or garden in the locations shown on the First Schedule.
9. The Council may at any time, by notice in writing to the owner or occupier of land that abuts upon that part of a street in which a lawn or garden is planted, require that owner or occupier to remove any tree, shrub or water piping or fitting and may, where the owner or occupier does not comply with the notice, remove the tree, shrub, piping or fitting at the expense of the owner or occupier, and any expense incurred by the Council pursuant to this Local Law may be recovered in any court of competent jurisdiction.
10. (i) The Council or any other authority empowered by law to dig up a street may, without being liable to compensate any person therefore, dig up all or any part of a lawn or garden including reticulation, piping and sprinklers in a street, for the purposes of carrying out any authorised works.
- (ii) A person employed by the Council or other authority acting pursuant to this Local Law shall not disturb a lawn or garden in a street or damage any pipes laid under it to any greater extent than is reasonably necessary for the purpose of carrying out any authorised works and shall, upon the completion of the works, reinstate the lawn or garden, as far as is reasonably practicable.
11. (i) except as provided in this Local Law, a person shall not wilfully damage a lawn or garden in a street.
- (ii) except as provided in this Local Law, a person other than the owner or occupier of land that abuts upon portion of a street in which a garden is planted or a person authorised by that owner or occupier shall not remove any flower, plant, or shrub from that garden.
12. The Council shall not be liable for any damage sustained by a person by reason of, or arising out of, the planting, or existence, of a lawn or garden in a street.
13. (i) A person not being the occupier of the land abutting on that lawn or garden, shall not, without the consent of that occupier, drive or stand a vehicle upon a lawn or garden planted in a street pursuant to these Local Laws.

- (ii) Where a complaint brought under this Local Law is in respect of the driving of a vehicle upon a lawn or garden, if the pavement of the carriageway adjoining the lawn or garden does not exceed 5.5 metres in width, it is a sufficient defence to the complaint to show that:
 - (a) The wheels of one side only of the vehicle passed over the lawn or garden; and
 - (b) It was necessary to drive upon the lawn or garden, in order to pass another vehicle then being driven or standing on the pavement of the carriageway.
14. Any person who contravenes this Local Law commits an offence, and is liable upon conviction to a penalty as prescribed in section 190(7) (d) (i) and (ii) of the Act."

Amendments

Nil