

Footpath Gardening Policy





01
02
03
04
05
06
07
08
09
10
11

01	01/Introduction
02	02/Creating new gardens
03	03/Footpath planter boxes
05	04/Road verges
06	05/Safe gardening
07	06/The policy
09	A/Appendix 1
10	B/Appendix 2
11	C/Appendix 3
12	D/Appendix 4

01 Introduction

Purpose

This policy applies to the City of Sydney Local Government Area. The policy does not apply to the Central Sydney Area as shown on the attached map (see Appendix 4) because of high pedestrian activity.

This policy was adopted by the City of Sydney Council (the Council) in February 2013, and consent was provided by the NSW Division of Local Government in May 2013.

How this policy works

Part 1 – Exempt from approval

Residents and businesses in the City of Sydney do not need approval to install planter boxes or carry out gardening on a public footpath as long as they comply with policy criteria, outlined in the footpath gardening checklists. The criteria ensure any planter boxes or gardening on public footpaths respects other uses of the footpath and maintains access and amenity.

Residents who want to garden on the footpath will be asked to sign and complete a checklist and submit the checklist to the City for record-keeping purposes.

Part 2 – Review by City of Sydney representatives

Planter boxes or verge gardens that do not comply with the checklist criteria are not permitted to be installed. The City's Operations team can provide advice to residents and businesses about how to ensure their footpath garden meets the criteria and can also inspect a proposed site. Once a planter box or verge garden is installed, the City will monitor compliance and may issue clean-up notices or removal orders if the garden is non-compliant or not adequately maintained.

The Footpath Gardening Policy (the Policy) allows residents and businesses to put planter boxes on the footpath and/or carry out gardening on footpath verges outside their properties under certain conditions.

Part 3 – Other matters

Appendix 1 – How to request a shared zone

Appendix 2 – Dial before you dig service

Appendix 3 – Major street planter box types

Appendix 4 – Map showing policy exclusion zone

Footpath accessibility

The policy encourages residents and businesses to green local streets and footpaths, as long as the footpath remains accessible for pedestrians and other users.

People with limited vision usually use the building line to help safely navigate the footpath, orientate themselves and locate businesses and premises. People with limited mobility and with prams need sufficient space in which to manoeuvre. To ensure the path remains accessible to everyone, planter boxes on the footpath should be positioned along the kerb line, with a sufficient gap between the planter box and the edge of the kerb. The planter box should also be placed away from street furniture and underground service access lids.

Planter boxes may have to be moved to allow access to utility service providers and the roads authority. In these cases, residents or businesses will be required to help the utility service providers to arrange removal or temporary storage and return after the works have been completed.

The City reserves the right to remove or relocate any planter box placed on the public footpath for any reason.

02 Creating new gardens

Requests for constructing new landscaped verges

The City has an ongoing street upgrade program, and will take requests from the community to construct new nature strips on public footpaths.

The City's footpaths have variable site conditions which need careful assessment to determine their suitability for landscape planting. Requests will be assessed individually, taking into account the footpath's gradient, soil, drainage, existing trees, access requirements and the location of underground services and utilities.

Where site conditions are favourable and funds are available, the City will upgrade the streetscape and install footpath gardens in consultation with residents and the neighbouring community.



Living Colour



Community gardens

Community gardens

The City of Sydney is expanding the network of community gardens which allow local residents to meet and become involved in producing organic food, herbs or native plants.

Community gardens are non-profit, community-based enterprises producing food primarily for member gardeners. They are community managed, multifunctional garden spaces that can provide a wide range of environmental, social and economic benefits.

Community verge gardens may be established on the footpath verge. These are considered a type of community garden in the *Community Gardens Policy* (2010) when they are managed collectively by a group of local residents and decisions are jointly made.

Residents wanting to set up community gardens are referred to the City's Community Gardens Policy and information provided on our website.

Living Colour

Streets in Central Sydney and busy village shopping streets have high levels of pedestrian and vehicle traffic. The City beautifies these streets with regular upgrades, street tree planting programs and Living Colour displays.

The City's Living Colour Program provides themed floral displays for six-to-12 weeks in summer and spring, creating attractive focal points in civic spaces and main village streets.

These seasonal displays beautify busy streets which are unsuitable for permanent landscaping or planter boxes.

03

Footpath planter boxes

Planter boxes on the public footpath

Planter boxes should contribute to the attractiveness of the street, but must also ensure pathways remain accessible and safe.

Residents and businesses are allowed to install and maintain planter boxes on the kerb side of the footpath outside their properties as long as they meet the requirements of this policy. Interested residents and businesses will be provided with an information package and a checklist which they must fill out and return to the City. The checklists specify the minimum clearances and criteria for access and safety.



The City celebrates the diversity and character of our different village areas, but also places importance in a consistent approach to decorating and maintaining public footpaths

The policy requires that planter boxes placed on the footpath:

- Are located within the permissible area shown on the map in Appendix 4;
- Are located on the kerb line and allow a minimum pedestrian clearance of 1.5 metres on residential streets, 1.8 metres on major streets and 2 metres on shared paths;
- Do not create access barriers or hazards for pedestrians, road users including public transport, neighbouring properties, public utilities, trees and services;
- Do not damage the footpath or property;
- Are a minimum height of 0.5 metres to avoid creating trip hazards for pedestrians and a maximum height of 1 metre to maintain clear lines of sight for pedestrians and road users;
- Are a maximum length of 1.5 metres to avoid creating access barriers to pedestrians and road users;
- Are of a contrasting colour with the ground and their surrounds so they are visibly obvious during the day and night;
- Are stable, durable, free of protrusions, sharp edges and spiky vegetation, and continuous to the ground; and
- Are well maintained to ensure they remain safe, tidy and attractive. The City is not responsible for the upkeep, repair or replacement of planter boxes installed under this policy. Clean-up notices or removal orders may be issued to owners of non-conforming planter boxes.

Planter boxes are not suitable for footpaths narrower than 2.6 metres. Footpaths that are too narrow for pedestrians, such as in a laneway, require the creation of a Shared Zone, as described in Appendix 1 of this Policy. Planter boxes may not be placed on traffic islands or blisters.



Crown Street, Surry Hills

Major village streets and retail strips (listed below) require the use of a consistent planter box design which reflects the character of the surrounding built environment.

Major village streets

Glebe Point Road

Glebe
(Parramatta Road to Cook Street)

Harris Street

Pymont
(Murray Street to the northern end)

Union Street

Pymont
(Harris Street to Murray Street)

King Street

Newtown
(City Road to Sydney Park Road, St Peters)

Erskineville Road

Erskineville
(Wilson Street to Swanston Street)

Crown Street

Surry Hills
(Cleveland Street to Oxford Street)

William Street

Darlinghurst
(from College Street to Darlinghurst Road)

Oxford Street

Darlinghurst and Surry Hills
(Wentworth Avenue to South Dowling Street)

Stanley Street

Darlinghurst
(Yurong Street to Crown Street)

Victoria Street

Darlinghurst
(Burton Street, Darlinghurst, to McElhone Steps, Potts Point)

Macleay Street

Potts Point
(William Street to Challis Avenue)

Redfern Street

Redfern
(Chalmers Street to Regent Street)

Regent Street/Botany Road

Redfern to Alexandria
(Redfern Street to Henderson Road)

Broadway

Broadway
(from Railway Square to Glebe Point Road)

04

Road verges

Gardening on road verges

Residents are allowed to plant and maintain nature strips outside their properties as long as they meet the requirements of this policy and after submitting a completed checklist to the City. Residents are not allowed to plant in raingardens, which are designed to capture and filter storm water. Residents should contact the City of Sydney if they are unsure if the verge they intend to garden is a raingarden.

The policy requires that footpath gardens:

- Are located within the permissible area shown on the map in Appendix 4;
- Do not create access barriers or hazards for pedestrians, road users including public transport, neighbouring properties, public utilities and services;
- Do not contain raised edges such as bricks or fences, tall or spiky vegetation which may block sight lines or impede people using the footpath;
- Are well maintained to ensure they remain safe, tidy, attractive, and do not cause runoff of water, soil or other material. The City may take responsibility for verge gardens that are unsafe or untidy. This may mean removing the footpath garden; and
- Do not include the planting or pruning of trees or tree roots. Gardening is not permitted close to tree trunks or within tree pits with grates, crushed granite, granite or porous paving. Residents may request the City of Sydney to enlarge tree pits to allow gardening at such places.

The City has high standards for its streets and open spaces. Well-maintained public spaces and streets look better, provide environmental benefits and improve property values.



Sydney verge garden

Resource conservation

Residents are encouraged to use native or water-wise plants where possible. Where watering is needed, residents should consider watering planters or road verges by hand with collected rainwater or recycled water. Irrigation systems are not permitted. Water must not flow on to the public footpath or into street drains. Mulch is recommended to retain soil moisture. The City strongly encourages using organic products rather than synthetic fertilisers, pesticides and other chemicals.

Landscaped verges are on the public footway and may be used by pedestrians, people accessing vehicles, or putting out waste bins for collection. The City takes no responsibility for damage to verge gardens or their contents.

05 Safe gardening

Health and safety

Health and safety precautions are the responsibility of the resident or business, and those interested in footpath gardening will be encouraged to consider basic safety precautions, including appropriate clothing, appropriate and safe use of tools and sun protection.

All planting must be carried out by hand with no excavation deeper than 30 centimetres. Mechanised tools and equipment are not permitted. Care should be taken as drain pipes or other utilities may be at very shallow depths.

Residents and businesses are asked to contact Dial Before You Dig prior to undertaking any digging. Dial Before You Dig is a free service for locating underground service and utilities. See Appendix 2 for more information.

It is important that footpath gardeners confirm the location of underground pipes and cables which carry vital services such as water, electricity, communications and gas.

There are many incidents of damage to underground services each year, costing millions of dollars. Most of this damage results from unawareness, carelessness or disregard. For residents' safety and the safety of others, it is important to avoid damaging underground pipes and cables. Legal action may be taken against individuals or companies.



Consultation

Occupants of neighbouring properties and, where applicable, owners' corporations of strata schemes, must be consulted before placement of the planter box or the creation of a footpath garden.

Public liability insurance

The City will provide public liability insurance to persons who place a footpath planter box or footpath garden provided that they fully comply with this policy and associated checklists. However, the City's indemnity does not prevent a third party from making a claim against the owner for any injury, loss or damage caused by the planter box or footpath gardens.

06 The policy

Legal status of this Policy

The Footpath Gardening Policy (the policy) is a local approvals policy, under section 158 of the *Local Government Act 1993*, for residents and businesses wanting to place **planter boxes on the footway**, (an activity under category E(2) of the table in section 68 of the Act), and/or **garden on footpaths** outside their properties.

Planter box structures and gardening activity on the footpath that meet the requirements of the footpath gardening checklists are considered exempt development under provisions of the Sydney Local Environmental Plan 2011, and so do not require consent, in line with section 76 of the *Environmental Planning and Assessment Act 1979*.

Planter-box structures and gardening activity on the footpath that comply with the requirements of this policy are taken to have general approval from the City under section 138 of the *Roads Act 1993*. This general approval is granted with the concurrence of Roads and Maritime Services, under section 138, where a planter box is located on the public footpath of a classified road.

This policy has been prepared to support the *Commonwealth Disability Discrimination Act 1992*, and the *City of Sydney Inclusion (Disability) Action Plan 2007–11*.

Cases of non-compliance

The City will educate and support the community regarding the appropriate use and placement of footpath planter boxes and gardens. As a last resort, the City may issue penalty infringement notices or issue orders under the *Local Government Act 1993*, to cease any gardening activity or remove any planter box on the footpath that does not comply with this policy.

The City will educate and support the community in the appropriate use and placement of footpath planter boxes and gardens.



The City may also issue penalty notices under the *Roads Act 1993* and clean-up notices under the *Protection of the Environment Operations Act 1997*, where the planter box or gardening activity does not comply with this policy.

Planter boxes placed by cafés, restaurants and hotels in association with their licensed footpath dining facilities must comply with any associated licensing conditions.

Policy Review

Under the *Local Government Act 1993* (Section 165(4)), a local policy is automatically revoked 12 months after the NSW local government elections.

Further information on footpath gardening and this policy, including the checklists, will be available on the City's website and customer service centres.

Contact the City of Sydney

cityofsydney.nsw.gov.au
council@cityofsydney.nsw.gov.au
Tel: 02 9265 9333
Fax: 02 9265 9222

Postal Address

City of Sydney
GPO Box 1591
Sydney NSW 2001



Appendix 1

How to request a shared zone

A **shared zone** refers to a street section where pedestrians, bike users and vehicles share the road space and drivers and cyclists must give way to pedestrians. Under current Roads and Maritime Services policy, 10km/h speed limits are placed on shared traffic zones.

To Create a Shared Zone

Residents wanting to install planter boxes on a street where footpaths are not wide enough to allow the required 1.5 metres clearance for pedestrian movement should contact the City to see if it is possible to create a shared zone.

If a shared zone is possible, the City must obtain the endorsement of the Local Pedestrian, Cycling and Traffic Calming Committee and the approval of Roads and Maritime Services to create a shared zone.

If the shared zone is approved it will be included for consideration for funding in the City's capital works program. Planter boxes can be installed once the shared zone has been implemented.

Guidelines for Shared Zones

Current policies and guidelines require the following criteria to be met for a 10km/h shared zone:

- A shared zone should be less than 250 metres long;
- The traffic volume is to be less than 300 vehicles a day;
- A shared zone road environment must be significantly changed in appearance to distinguish it from a normal road;
- Speed zone signage must be installed by Roads and Maritime Services; and
- Parking within a shared zone must be in accordance with Australian Road Rules and must be within marked bays or regulatory signs.

B

Appendix 2

Dial Before You Dig

Dial Before You Dig is a free referral service for information about locating underground services and utilities.

The owners of a service or utility respond by supplying plans and information about their underground network with advice about how to protect their assets during excavation, or by advising their service is not near the proposed worksite. This information is provided within two working days.

Why should residents or businesses use the service before excavation?

Dial Before You Dig provides important safety information and also ensures gardeners avoid damaging underground pipes and cables. Underground pipes and cables carry vital services such as water, electricity, communications and gas – damaging them can cause widespread disruption. Digging into an electricity cable or gas pipe with a misplaced stroke of a shovel can be a fatal mistake.

There are many incidents of damage to underground networks throughout Australia each year, costing millions of dollars. Most of this damage results from unawareness or disregard for the networks.

Who should Dial Before they dig?

Anyone intending to dig in the footpath or road should lodge an enquiry before starting.

Cost to obtain a location plan

Dial Before You Dig is a free service.

Type of information provided

Plans of underground services provide information about its presence only – they do not pinpoint the exact location of the cables and pipes. Digging should only be carried out by hand or with hand tools. Networks may not be installed in a straight line due to various obstacles. Several small potholes may need to be dug manually to determine the exact locations of cables or pipes to avoid mishaps.

If residents or businesses use the service and excavate, are they still responsible for any damage caused?

All individuals have a duty of care when working near underground plant. A vital component of that duty is to Dial Before You Dig before starting any excavation. When observing this duty of care the following must be considered:

- It is the excavator's responsibility to expose the underground pipes and cables manually;
- Location plans provide an indication of the presence of underground plant only; they do not pinpoint the exact location; this is why manual exposure is required;
- Utilities may hold individuals and companies liable for damage to their networks if negligent or careless behaviour can be shown; and
- Utilities can provide engineering support and advice where necessary.

Contact Information

Lodge an enquiry by calling 11 00 or visit 1100.com.au

C

Appendix 3

Major Street Planter Box Types



Granite-finish planter boxes – Oxford Street



Sandstone-finish planter boxes – Three Saints Square, Darlinghurst



Granite-finish planter boxes – Victoria Street, Potts Point

D

Appendix 4

Map showing Policy Exclusion Zones



General Enquiries or after-hours assistance

Tel: 02 9265 9333

(24 hours, seven days a week)

Fax: 02 9265 9222

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