L.C.B.L. 57/1/97

LOCAL COUNCILS ACT, 1993
(ACT NO. XV OF 1993)

Administration of Garden of Serenity (Santa Lucija Local Council) Bye-Laws, 1997

IN exercise of the powers conferred by sections 34 and 60 of the Local Councils Act, 1993, and in conformity with the provisions of subsection (8) of section 35 of this Act, the Santa Lucija Local Council has made the following Bye-Laws:-

Citation and commencement.

1.1 These Bye-Laws may be cited as the Administration of the Garden of Serenity (Santa Lucija Local Council) Bye-Laws, 1997.

1.2 These Bye-Laws shall come into force on the same day as the Council has been authorised by the Government by notice in the Gazette to administer the Garden of Serenity in terms of paragraph (2) of regulation 43 of the Local Councils (Financial) Regulations, 1993. L.N. 155 of 1993.

Interpretation.

2. In these Bye-Laws unless the context otherwise requires-

"Act" means the Local Councils Act, 1993;

"administration" has the same meaning assigned to it by paragraph (2) of regulation 43 of the Local Councils (Financial) Regulations, 1993;

"applicant" means the person, organisation or body of persons who apply to the Council for authorisation for the use of the Garden under the provisions of section 7 of these Bye-Laws;

"authorisation" means the authorisation granted by the Council to any applicant under the provisions of section 7 of these Bye-Laws;

"authorised person" means the person, organisation or body of persons who has been granted authority for the temporary use of the Garden under the provisions of section 7 of these Bye-Laws;

"children" means those persons under the age of fourteen years;

"commercial activity" means any activity which has as its primary objective the commercial promotion or sale of goods or services as designated in Part 3 of the Third Schedule to these Bye-Laws, or any other activity which is deemed to be so by the Council;

"Committee of Management" means the Council or any Committee set up by the Council in accordance with the provisions of section 47 and Standing Orders 26 to 28 of the Sixth Schedule to the Act in order to carry out the function of administration of the Garden on behalf of the Council under the terms stipulated in section 9 of these Bye-Laws;

"Council" means the Santa Luċija Local Council;

"Curator" means the person appointed by the Council as administrator of the Garden of Serenity in accordance with the provisions of section 6 of these Bye-Laws;

"exclusive use" means the use of the Garden by any person or organisation as indicated in section 8 of these Bye-Laws, which gives the right to such person or organisation to charge an admission fee to the authorised activity;

"Garden" means the Garden of Serenity;

"Garden of Serenity" means the garden within the set boundaries of the site known as "Izra u Rabbi" as designated in the site-plan in the First Schedule to these Bye-Laws and indicated as the shaded area ;

"non-commercial activity" means any activity relating to educational, social, cultural or informational purposes as designated in Part 3 of the Third Schedule to these Bye-Laws, but not concerning as its primary objective the commercial promotion or sale of goods or services;

"opening hours" means the period of time during which the Garden is open to the public and which shall be determined by the Council from time to time;

"organisation" means any association, organisation or body of persons, whether governmental or non-governmental ;

"Secretary" means the Secretary of the Santa Luċija Local Council;

"site" means the area known as "Iżra u Rabbi" within the boundaries as designated in the First Schedule to these Bye-Laws;

"temporary use" means a period not exceeding five days or any lesser period.

Admission fee.

3.1 The Council shall have the right to charge an admission fee to any person who wishes to enter into the Garden:

Provided that the Council may give a concession for free admittance to any person or organisation as it may decide by resolution.

3.2 The admission fees are those stipulated in the Second Schedule to these Bye-Laws, which may be varied by the Council from time to time by means of other Bye-Laws.

3.3 The collection of these fees shall be made either by the person who is authorised by the Council so to do, or by any other means as the Council may determine.

Prohibitions in all areas of the Garden.

4. In all areas of the Garden, children not accompanied by adults, bicycles, ball-games, skate-boarding, roller-skating, blade-rollers, smoking, food, drinks and animals, are prohibited.

Devices to register automatically the number of persons admitted into the Garden.

5. For the purpose of record-keeping, the Council may install any turnstile or other device which would automatically register the number of persons admitted into the Garden.

Curator.

6.1 The Council may appoint a person to act as Curator of the Garden.

Engagement of Curator.

6.2 The engagement of the Curator shall be by means of a contract for a period of one year, which may be renewed for further successive periods of one year each.

Functions of Curator.

6.3 The Curator shall be the administrator of the Garden. His functions shall be -

a. to administer the day-to-day running of the Garden;

b. to have custody of all the assets within the Garden;

c. to manage, supervise and give any instruction to any person carrying out duties within the Garden or any other duty connected thereto;

d. to draw up a detailed and up-to-date inventory of all the items within or pertaining to the Garden;

e. to grant permission for the use of any furniture, fittings, equipment, vehicles, plant, machinery or any other item under his control, within the boundaries of the Garden;

f. to carry out periodic checks on all items on the inventory and report any surplus or deficiency to the Secretary;

g. to take measures of control and storage of all items on the inventory;

h. to maintain an accurate inventory of stock items;

i. to draw up a report of any incident occuring within the boundaries of the Garden whenever he is required so to do by the Secretary;

j. to issue entrance block tickets issued by the Council to any person or organisation who books for admission in advance, and to take any decision concerning admission or expulsion from the Garden as he deems necessary in the circumstances; provided that he has no authority to grant or revoke any authorisation which is incumbent on the Council;

k. to keep a record of all the activities held in the Garden and those which are scheduled to take place, where authority has been granted;

l. to deposit with the Secretary, every day, the monies collected from admission fees and those collected in the coin-operated machines, as well as draw up weekly financial statements and forward them to the Secretary;

m. to draw up a quarterly administrative report to the Council, which shall include recommendations for improvements to the Garden and the system of management in general;

n. to carry out any other duties that may be detailed or delegated to him by the Council.

Authorisation by Council for certain activities.

7.1 The Council shall have the right to give authorisation in writing to any person or organisation for the temporary use of the Garden, for which a fee shall be paid to the Council.

Authorisation to be signed by Secretary or Mayor.

7.2 The written authorisation issued in terms of section 7.1 above shall be granted under the signature of the Secretary or the Mayor after an application has been made to the Council on the form prescribed in Part 1 of the Third Schedule to these Bye-Laws:

Provided that a commercial activity shall only be authorised by the Council by resolution. In the case of doubt whether an activity is commercial or non-commercial, this shall be decided by the Council whose decision shall be final:

Provided further that in the case of an application for Wedding, Engagement, Holy Communion and Confirmation photo-sessions, the authorisation shall be given by the Secretary on application.

7.3.1 Any authorisation given shall be subject to the terms and conditions stipulated in Part 2 of the Third Schedule to these Bye-Laws. Authorisation subject to terms and conditions.

7.3.2 A copy of the terms and conditions for a given authorisation may be put up by the Council in a prominent place at the entrance to the Garden for the duration of the activity.

7.4 The applicant shall pay a fee as stipulated in Part 3 of the Third Schedule to these Bye-Laws, according to the nature of the activity : Authorisation fees.

Provided that the fee paid shall be refunded to applicant if the authorisation is not granted, for any reason, by the Council, and to any applicant who cancels his application at least one week from the first day of the activity: Refund of application fee.

Provided further that the authorisation shall be deemed not valid if the authorised person fails to comply with the terms and conditions established in the authorisation or if he fails to abide by any instruction given to him by the Council. In such an instance, the fee which would have been paid would be forfeited in favour of the Council. Failure to abide by terms and conditions results in forfeiture of authorisation fee.

7.5.1 The Council shall have the right to give an authorisation to an applicant who intends to make an activity for which the authorised person may charge an admission fee. In this case, the Council shall have the right to recieve up to twenty per centum (20%) of all proceeds from the admission fee charged for the authorised activity: Authorised person may charge an admission fee.

Provided that, in all cases the Council shall receive not less than 25c per adult:

Provided further that where no admission fee is charged by the authorised person, the fees stipulated in the Second Schedule to these Bye-Laws shall apply.

7.5.2 The Council shall also have the right to recieve a maximum of twenty per centum (20%) of all the proceeds from sponsorship, commercial advertisements or sales derived from or as a result of the authorised activity.

Additional costs and expenses to be paid to Council by authorised person.

7.6 The Council may request also the authorised person to pay any additional costs and expenses incurred by the Council as a consequence of the activity, including utilities and the rendering of additional services.

Other activities.

7.7 The Council shall also have the right to give authorisation for the temporary use of the Garden for any activity which is not listed in Part 3 of the Third Schedule to these Bye-Laws, against a fee which shall be determined by the Council and which in no case shall exceed one hundred Maltese liri (Lm 100).

Caution money.

7.8.1 The Council may also, at its discretion, in addition to the fee mentioned in subsection 7.4 above, charge a sum not exceeding one hundred Maltese liri (Lm 100), as caution money.

Refund of caution money.

7.8.2 Such sum would be paid back to the authorised person if the Council is satisfied that at the end of the activity no damages or breach of the conditions were committed by the authorised person.

Caution money forfeited in favour of Council for breaches of terms and conditions.

7.8.3 In the case of any breach of any of the terms and conditions mentioned above, the said sum would be forfeited in favour of the Council without prejudice to any other action that the Council may take.

Insurance policy.

7.9 Without prejudice to the provisions of subsection 7.8 above, the Council may also demand that the applicant submit an insurance policy to cover any damages, theft and any other source and form of liability or claim from third parties for the duration of the activity, including the period of preparation and of removal of equipment, apparatus, furniture or any other device used for the activity.

Special concession.

7.10 The Council may grant a special concession to any voluntary organisation or any other organisation to hold any activity within the Garden, at a fee which is less than that stipulated in Part 3 of the Third Schedule to these Bye-Laws, or at no fee at all.

Exclusive use of the Garden or part thereof.

8. The Council, any central Government authority, or any person or organisation to whom authorisation is given under the provisions of subsection 7.5.1 of these Bye-Laws, may make exclusive use of the Garden or part thereof provided that prior notice of at least two weeks is given to the Council. For this purpose, the entire Garden or part thereof may be closed or admission restricted.

Committee of Management.

9.1 The Council may appoint a Committee of Management which shall perform all such duties as are competent on the Council in respect of the management of the Garden in accordance with the provisions of these Bye-Laws:

Provided that the financial management shall be the responsibility of the Secretary.

9.2 The number of members, the bodies to be invited to nominate members and the terms of reference of the Committee of Management shall be determined by the Council.

Right of Council to contract to third parties rights, concessions, etc.

10. The Council shall have the right, in terms of regulation 43 of the Local Councils (Financial) Regulations, 1993, to contract to third parties, rights, concessions, permits or authorisation to manage, operate, use or occupy the Garden or part thereof :

Provided that the contract shall be only valid if the person to whom it is given has obtained any perrmits or licenses necessary under any other law.

Coin-operated machines.

11. The Council may install, within the boundaries as designated in the First Schedule to these Bye-Laws, any coin-operated machine for the selling of tickets, fish-food, drinks or snacks, as well as for other purposes normally associated with public places, including mobile public toilets, and any other coin-operated equipment as the Council may deem proper, subject to any other permit required under any other law.

Penalty.

12. Every person who is in breach of one of the provisions of these Bye-Laws, or any condition of the authorisation given by virtue of these Bye-Laws, shall, on conviction, be liable to a fine *(ammenda)* of thirty Maltese liri (Lm 30) for such contravention, and to a further fine (*ammenda*) of five Maltese liri (Lm 5) for every day during which one of the provisions of these Bye-Laws or any condition of the authorisation is breached.

Notice to be fixed or erected at entrance to the Garden.

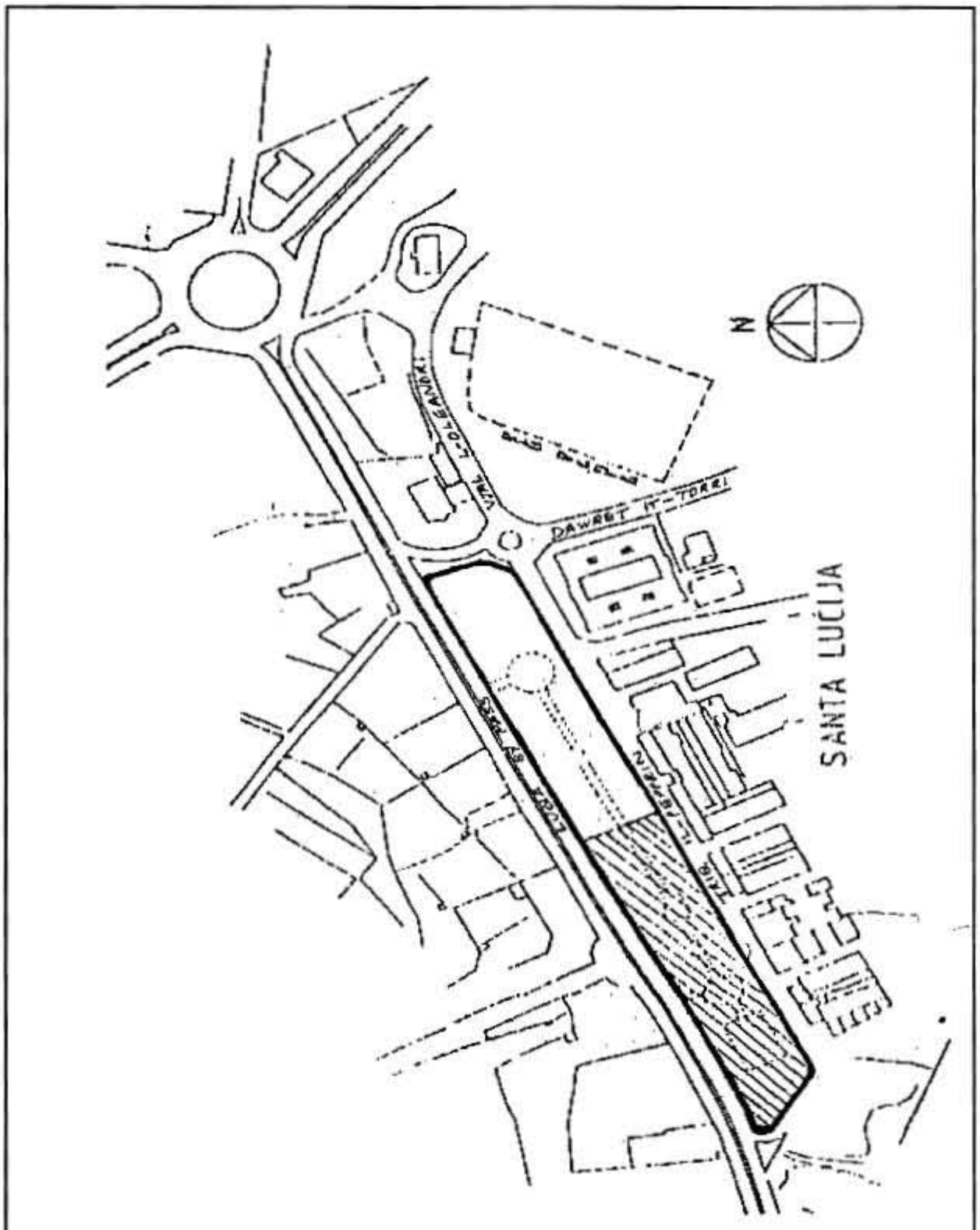
13. The Council shall have the right to fix or erect a notice at the entrance to the Garden reproducing these Bye-Laws or part thereof in both the Maltese and English language.

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FIRST SCHEDULE

(Section 2)

BOUNDARIES OF SITE KNOWN AS "IŻRA U RABBI" (SANTA LUĊIJA)



Area within boundaries: Site known as "Iżra u Rabbi"
Shaded area : Garden of Serenity

SECOND SCHEDULE

(Section 3)

ADMISSION FEES

Category of Persons	*Fee*
Adults	10c per person
Holders of "Kartanzjan" *	5c per person
Disabled Adults	5c per person
Children under supervision	free of charge
Groups of School-children (under supervision) **	free of charge

* On production of the "Kartanzjan"

** Subject to prior notice being given to the Council Secretary or to the Curator

THIRD SCHEDULE

(Section 7.2)

PART 1

APPLICATION FORM

[This application is being made in terms of the provisions of the Administration of Garden of Serenity (Santa Lucija Local Council) Bye-Laws, 1997, and subject to the terms and conditions stipulated in Part 2 of this Schedule. *]*

Application No. (*to be inserted by Council*) : _____

Name of Applicant : _____

Identity Document No. / Passport No. : _____

Position in Organisation : _____
(*e.g. President, Secretary, etc.*)

Name of Organisation : _____

Official Address : _____

_____

Tel. No. : _____ Fax No. : _____

Activity to be carried out : _____
(*give full details*)

Whether a Commercial / Non-Commercial Activity (*delete as appropriate)*
(see Part 3 to this Schedule)

Whether Exclusive Use is requested : Yes / No (*delete as appropriate*)
(*see section 7 of the Bye-Laws. If yes, attach site-plan indicating exclusive area requested*)

Number of persons participating : _____

Date/s of Activity : From _____ To _____

Duration : From (*time*) _____ To (*time*) _____

Fee Paid : Lm _____ Caution Money Paid : Lm _____
(*if charged*)

Receipt No. : _____ (*to be filled in by Council*)

_____ _____
Secretary / Mayor * Date

* *signifying Council's authorisation*

COUNCIL RUBBER STAMP

(Section 7.3)

PART 2

TERMS AND CONDITIONS FOR THE AUTHORISATION OF THE TEMPORARY USE OF THE GARDEN OF SERENITY

1. The authorisation shall only be valid if it bears the signature of the Council Secretary or the Mayor and on the dates and times indicated in the authorisation and as regards the authorised areas.

2. The Council shall have the right to revoke the authorisation at any time for any breach of any of these terms and conditions or of any provision of the Bye-Laws. The Council also has the right to revoke the authorisation if the activity is deemed contrary to public decency or morals.

3. If the Council revokes the authorisation for any of the reasons mentioned in paragraph 2 above, the authorised person shall not be refunded the fee paid or any part thereof.

4. The authorisation is subject to any permit or licence necessary under any other law, and which the applicant is obliged to obtain himself.

5. The authorised person may not carry out any activity which is not indicated in the authorisation.

6. The authorised person shall be held responsible for any theft, misuse or damage caused in the Garden as a consequence of the authorised activity.

7. The authorised person shall keep the place where the activity is held clean from any waste at all times during the activity.

8. The apparatus, devices, furniture and other accessories used during the activity have to be removed from the Garden by not later than _____ after the termination of the activity.

9. The manner by which the activity is to be held shall be discussed beforehand between the applicant and the Council Secretary or the Curator of the Garden, and the authorised person is bound to effect the adjustments recommended by the Secretary/Curator.

10. Any noise shall cease at 11.00 p.m.

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(Section 7.4)

PART 3

FEES DUE FOR ACTIVITIES REQUIRING AUTHORISATION BY THE COUNCIL

Type of Activity	*Fee Due*
1. **COMMERCIAL**	
Photo Sessions (excluding Wedding, Engagement, Holy Communion and Confirmation photo sessions), advertsing, modelling and fashion shows, fairs, etc. and the filming and productions in connection therewith, and any other activity so deemed in accordance with section 2 of these Bye-Laws.	Lm 100 for the first hour Lm 25 for every additional hour
2. **NON-COMMERCIAL**	
Plays, soirees, musical and literary activities, media productions and Photo Sessions connected with Weddings, Engagements, Holy Communion and Confirmation, and any other activity so deemed in accordance with section 2 of these Bye-Laws.	Lm 10 per day

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