



## Legislation Text

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**File #:** Ord 19-69, **Version:** 2

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Amending Section 105.04 of the Legislative Code to aid construction of boulevard rain gardens.

### SECTION 1

WHEREAS, the City of St. Paul enacted Section 105.04 of the Legislative Code to allow property owners to plant and maintain the boulevard areas adjoining their property in a manner which enhances and improves the aesthetic appearance of city streets, avenues and alleys; and

WHEREAS, the City wishes to make minor amendments to Section 105.04 to clarify and modify the restrictions on where plantings are permitted; now therefore be it

RESOLVED, that the Council of the City of Saint Paul does hereby ordain:

### SECTION 2

The Saint Paul Legislative Code Section 105.04 is hereby amended.

#### **Sec. 105.04. - Boulevard planting.**

(a) *Purpose.* It is the purpose and intent of the city to allow property owners to plant and maintain the boulevard areas adjoining their property in a manner which enhances and improves the aesthetic appearance of city streets, avenues and alleys.

(b) *Definitions.*

*Boulevard* shall mean the public right-of-way lying between the property line and sidewalk, and between the sidewalk and the roadway, or where no sidewalk exists, between the property line and the roadway.

*Boulevard plantings* shall mean plantings that do not meet the definition of boulevard rain garden.

*Boulevard rain garden* shall mean a landscaped depressed area that can hold stormwater runoff from impervious surfaces while it infiltrates into the soil below.

*Drip line* shall mean an imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

*Noxious weeds* shall mean the annual, biennial and perennial plants which are deemed by the commissioner of agriculture to be injurious to public health, environment, public roads, crops, livestock and other property, as set forth in Minn. Rules 1505.0730, including but not limited to: *Convolvulus arvensis* (field bindweed), *Cannabis sativa* (hemp), *Rhus radicans* (poison ivy), *Euphorbia esula* (leafy spurge), *Sonchus arvensis* (perennial sow thistle), *Cirsium vulgare* (bull thistle), *Cirsium arvense* (Canada thistle), *Carduus nutans* (musk thistle) and *Carduus acanthoides* (plumeless thistle).

(c) *Plantings permitted.* A property owner in the city shall be permitted to plant, care for and maintain gardens on the boulevards adjacent to their property, subject to the restrictions set forth below.

(1) Boulevard rain gardens shall be registered as described in chapter 116 and authorized by the

department of public works prior to construction, except for those authorized as part of a city street reconstruction project. Rain gardens that impact existing boulevard trees or the area within the drip line shall be reviewed and approved by the department of parks and recreation-forestry.

- (2) Boulevard rain garden slopes shall not exceed thirty-three (33) ~~twenty-five (25)~~ percent, the bottom depth shall not exceed six (6) inches below the elevation of adjacent gutter flow line ~~hard surface~~, and there must be a two-foot wide level grass strip between the adjacent hard surface and top of slope. Excavations shall not occur within the drip line of boulevard trees as determined by the city forester.
  - (3) Plantings may not exceed thirty-six (36) inches in height. Plantings within thirty (30) feet of any intersection as measured from the property line; or within five (5) feet of any alley, or driveway approached as measured from the end of the radius or within five (5) feet of a public utility fixture may not exceed eighteen (18) inches in height. Plantings shall be limited to eighteen (18) inches in height within ten (10) feet of the curb on street sections that do not have parking lanes, or on street sections or portions of street sections where "rush hour or 24-hour no parking" restrictions apply.
  - (4) Plantings must be maintained in such a way that there is no overhang or encroachment onto the sidewalk, curb or street area.
  - (5) Plantings may include flowers, vegetables and other plants, but in no event shall any noxious weed be planted or maintained.
  - (6) No herbicides, pesticides and/or fertilizers may be used in the maintenance of gardens under this section without written approval of the city forester, which approval shall contain the type and amount of said herbicide, pesticide and/or fertilizer which is permitted.
  - (7) No garden shall be planted on the boulevard without written documentation that the property owner has contacted "Gopher State One Call" for utility locations forty-eight (48) hours before digging, and has planned plantings which will not interfere with said utilities.
- (d) *Compliance requirements.* The department of safety and inspections shall have the authority to investigate boulevards to determine compliance with this section. For any property deemed to be in violation, the enforcement officer shall give notice of the alleged violation to the property owner, following the procedures set forth in section 45.10 of the Saint Paul Legislative Code. The department of safety and inspections may additionally determine whether a planting otherwise in compliance with this chapter nonetheless poses a nuisance or hazard, and may take action to abate such nuisance or hazard.
- (e) *Public works and utilities.* Notwithstanding the foregoing, all such boulevards remain public property and subject to the right of the city to perform necessary work, to plant, trim and otherwise maintain trees, to access utilities and to store excess snow. In the event the city interferes with boulevard plantings in the course of such work, it shall be responsible only to restore the boulevard to the original grassy state by use of black dirt and grass seed. In no event shall the city be liable for any damage to, disruption of or removal of plantings, either direct or indirect, as a result of the city, its employees, agents or contractors performing any installation, maintenance or repairs. Further, the city shall have the right to remove or restrict any plantings that are deemed to interfere with the safety of pedestrians and motorists.

### SECTION 3

This Ordinance shall take effect and be in force thirty (30) days follow its passage, approval, and publication.