



Legislation Text

File #: Ord 23-62, **Version:** 2

Amending Chapter 105.04 of the Saint Paul Legislative Code to allow raised planter beds to be placed in the boulevard of the public right-of-way. (Third Reading. Public hearing continued from December 6, 2023)

SECTION 1

WHEREAS, the City of Saint Paul's municipal code currently prohibits placement of planter beds in the public right-of-way; and

WHEREAS, subsections allow certain objects to be placed in the public right-of way with an encroachment permit; and

WHEREAS, multiple appeals have come before City Council in the last year from residents wishing to place planter beds in City right of way; and

WHEREAS, cities across the United States already allow temporary planter beds to be placed in city right of way; and

WHEREAS, ~~t~~he City wishes to allow temporary **and removable** storage containers in the public right-of-way with an encroachment permit in response to the increased demand from residents who live in multi-family housing or have insufficiently sized driveways and do not have the option of placing the storage container on private property; and therefore

RESOLVED, the Saint Paul City Council does hereby ordain:

SECTION 2

Chapter 105.04 of the Saint Paul Legislative Code is hereby amended as follows:

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 yet does not create a hazardous condition.

- (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 and may include plantings within a raised planter bed.

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).

Raised planter bed shall mean any temporary and removable container or structure designed for the cultivation of plants, flowers, or other vegetation. Raised planter beds shall be constructed of wood, brick, masonry, landscape timbers, metal, ceramic, or synthetic lumber.

- (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) percent, the bottom depth shall not exceed six (6) inches below the elevation of adjacent gutter flow line, 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) Boulevard Pplantings may not exceed thirty-six (36) inches in height, including the combination of the plantings and any associated in raised planter beds. Boulevard Pplantings 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. Boulevard Pplantings and any combination of plantings and raised planter beds 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) Boulevard Pplantings, including raised planter beds, must be maintained by the adjacent property owner by the permittee in such a way that there is no overhang or encroachment onto the sidewalk, curb or street area.
- (5) Boulevard Pplantings 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, including any plantings in raised planter beds, 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.
- (8) Temporary Raised planter beds are allowed in the boulevard subject to the following conditions:

- (i) The property owner shall first obtain an encroachment permit for the raised planter bed under [Chapter 134](#) of the Saint Paul Legislative Code and in consultation with the City Forestry Department. The fee required for an encroachment permit to allow for a temporary raised planter bed will be \$20..
 - (ii) The top of the raised planter bed structure shall not be more than twelve (12) inches in height from the ground and shall not include below-ground footings-including any plantings inside the raised planter bed..
 - (iii) The encroachment-permit holder shall be responsible for ensuring any raised planter beds are structurally sound, not hazardous, and free from rot.
 - (iv) Raised planter beds shall not be constructed of wood, landscape timbers, brick, masonry, metal, ceramic, or synthetic lumber, but shall not include landscape timbers treated with creosote or any materials mortared together, and shall not include any sharp edges or other protrusions that are likely to cause injury. wire, chicken wire, rope, cable, railroad ties, utility poles, tires, plumbing fixtures, concrete, or any other similar materials.
 - (v) Raised planter beds shall not be built such that they encompass, or interfere with, an existing tree, utility access point, light pole, or signage in the boulevard. Additionally, any raised planter bed shall maintain a minimum three-foot distance from any fire hydrants in the boulevard.
 - (vi) Raised planter beds' exterior dimensions shall be a minimum of two (2) feet behind the back edge of curb or pavement if there is no curb to the boulevard, and a minimum of one (1) foot from any sidewalk pavement.
 - (vii) Raised planter beds shall be removed by the encroachment-permit holder - or the subsequent owner of the adjacent property - when that holder no longer inhabits the property. If the raised planting bed is not removed and becomes a hazard or nuisance installation, the City may remove the raised planter bed and assess any costs to the adjacent property owner.
 - (viii) The raised planter bed meets all other conditions for boulevard plantings contained in this section and any other relevant local, state, or federal laws or regulations.
 - (ix) The raised planter bed may not be on a boulevard lying next to a Parkway governed under Chapter 145 of the Legislative Code.
- (d) *Compliance requirements.* The department of safety and inspections shall have the authority to investigate boulevards to determine compliance with this section and any other relevant part of the Saint Paul Legislative Code, including soil-runoff regulations in [section 33.03\(g\)\(5\)](#) and Chapter 51. 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 of the Saint Paul Legislative Code. The department of safety and inspections may additionally determine whether a boulevard 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, place signage, place light poles, and 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 boulevard plantings, structures, or soil, either direct or indirect, as a result of any third parties' actions or 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 boulevard plantings that are deemed to interfere with the safety of pedestrians and motorists; the installation, operation, or maintenance activities of utilities; or any other activities necessary to the operation of the city.

SECTION 3

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