

Chapter 40: Trees and Vegetation Ordinance

August 2020

Commissioner questions and comments, and staff responses where applicable, are provided below.

- 1) Why is "lawn extensions" crossed out? Isn't maintaining vegetation on the lawn extension still the homeowner's responsibility? If there is no sidewalk, does the private property extend to the street?

Staff response: Maintaining vegetation on the lawn extension is still the homeowner's responsibility. Regarding the removal of the term "lawn extension" refer to the memorandum language associated with this [ordinance revision](#), which states the following: A 2015 amendment removed "lawn extension" from the first clause of the first sentence but did not consistently remove the term in other places. This is not a substantive change because the term "city right-of-way" includes the area referred to as the lawn extension. City right-of-way is generally present with or without the presence of a sidewalk. At most locations without sidewalks, the property lines end somewhere before the roadway, however there is typically no visible marker of where that point is located.

- 2) Does the current language encompass both tall vegetation that blocks views of cars on streets and tree branches that block pedestrians and bikers on sidewalks/multi-use paths? Because the language is about how tall the vegetation can be, it doesn't seem to apply to vegetation that blocks pedestrian/bike/scooter/etc. traffic on sidewalks and trails.

Staff response: A **different** ordinance, Section 3:14, specifically addresses issues of tree branches and other vegetation that block pedestrians and bikers on sidewalks. It provides in Section 3:14(1) as follows: "Trees and other vegetation on private property shall be maintained so that no part thereof intrudes upon street or sidewalk in the space 8 feet above the surface of the right-of-way."

Section 3:14 also specifically addresses tall vegetation that blocks views of cars on streets as follows: "Vegetation adjacent to intersections shall be maintained to allow for adequate sight distance." Section 3:14(2) further sets forth the applicable technical criteria for determining adequate sight distance.

The ordinance amendment to Section 3:16 does not make any changes to Section 3:14.

The term "multi-use path" is not specifically included in City Code, such paths would be considered part of the sidewalk definition: "The portion of a street between the curb lines or lateral lines and the right-of-way lines which is intended for the use of pedestrians."

- 3) Are there sight distance or other safety ramifications of raising the limit from 12 inches to 18 inches?

Staff response: It is acceptable to raise the vegetation height limit from 12 inches to 18 inches on private property. Plants at 18 inches tall, in general, do not block drivers' sight line. There may be unique locations, such as intersection approach on a steep slope, where sight line requires reduced vegetation height.

- 4) Are there accepted best practices on vegetation height by roads, and if so, what are they?

Staff response: Current city ordinance (3:15) includes limits in the right-of-way area as grass height at 12 inches, herbaceous plants height at 36 inches, and flower top plants height at 42 inches. Vegetation planted at mid-block crosswalks, bus stops or on pedestrian islands must not exceed a maximum height of 24 inches.

Recommendation from staff is an overall vegetation height limit of 18 inches in the right-of-way. Sight distance at horizontal curves, vertical curves, intersections, mid-block crosswalks, bus stops, pedestrian islands, railroad crossings, signs, signal lights, delineators, hazard markers and warning devices should be clear of obstructions. Private rain gardens must be placed on private property and not within intersection sight triangle.

Another recommendation for editorial revision in 3:16. Revise "... to allow 8 feet of clearance for streets ..." to "... to allow 8 feet of vertical clearance for streets ..."

- 5) Are there currently restrictions on placement for special gardens, like rain gardens and pollinator gardens, with regard to transportation safety? For instance, proximity to an intersection, driveway approach, or public utility. If there are no location guidelines in place, then we have to consider such scenarios when discussing plant height. It may be that there could be varying plant heights - a maximum plant height that applies generally, as well as maximum plant heights for special locations/situations.

Staff response: Section 3:14 includes requirements to maintain intersection sight distance. Staff recommends that rain gardens placed on private property and not within the intersection sight triangle.

- 6) A Commissioner's review and conclusion regarding the proposed ordinance revision:
- The proposed resolution *only* effects vegetation on private property. It does not alter Chapter 40, 3:15 at all. 3:15 is the set of similar rules but for City right-of-way.
 - The proposed resolution, in my reading, only really makes one substantive change: increasing the allowable turfgrass height from 12" to 18", but *only* on private property (no change for City Right-of-Way). Every other change is just to add specificity to what is allowed to be taller than 18" (again, only on private property).
 - Given that only Section 16 is changed, and not 15, I foresee some confusion amongst residents about which sections of turfgrass are allowed to be 12" and what are allowed to be 18".
 - Given that part of what a typical resident regularly mows/cares for is still required to be less than 12", I see no purpose in the resolution. No one would go out and mow their right-of-way to stay below 12", but let their private property grow from 12" to 18". It just doesn't seem practical to have two separate maximum heights on the same area of land that is cared for by the same person at the same time.
 - Absent hearing from any input for others on this topic which might change my mind, I am inclined to not support the proposed resolution. It adds confusion while only offering a modest benefit for those that want to maintain their grass at more than a foot long, only in part of their yard.

- Additionally, I don't know of any benefit to maintaining turfgrass to greater than 12". Aesthetically, there are issues with letting grass be longer than 12" though that's probably not Transportation's purview. If it is a type of ornamental grass meant to grow tall, then I believe it would already be covered by 'cultivated bed'.
- To me, these sections (3:15 and 3:16) read as, 'turfgrass must be 12" or less, while anything other than turfgrass can be taller (only up to 36" in the right-of-way).' I don't see a practical benefit to allowing turfgrass to be more than 12", especially since there are hardly any mowers that could manage to cut through 12", much less 18".

Staff response: As these are comments and not questions, a staff response is not provided.

7) A Commissioner's proposal for next steps:

- Though I oppose this resolution, I WOULD like this topic *in general* to come back to the Transportation Commission so we can consider changing it more substantially, with the goal of increased safety from a pedestrian/bike/kids perspective (especially the 36" in right-of-way portion).
- I would like to hear from staff their thoughts on what is appropriate for the right-of-way to ensure safety for these groups while cars drive in and back out of driveways, side streets, etc. This resolution as proposed doesn't address safety in any way, so if we are going to address these Sections of the Code, then I would like to see a much more thorough, research-based look at vegetation heights with comparisons to other municipalities with safety in mind.

Staff response: See response to question 4.