



Governance and Priorities Committee Report For the Meeting of July 24, 2014

To: Governance and Priorities Committee
From: Julie MacDougall, Assistant Director, Parks
Subject: Interim Boulevard Gardening Guidelines – Staff Review

Date: July 24, 2014

Executive Summary

At their June 19, 2014 meeting, Council requested a staff review of the proposed Interim Boulevard Gardening Guidelines prior to their adoption. This report outlines the key areas of the proposed interim guidelines and how they may fit within the City of Victoria context.

The Interim Boulevard Gardening Guidelines are generally consistent with the 2012 Draft Official Community Plan which includes numerous provisions towards food security and urban food production. Related objectives include:

- Encouraging food production activities in visible and suitable public places, where appropriate, to foster a connection between people and the process of growing, harvesting and eating fresh produce.
- Increasing the opportunity for urban food production on public lands

The interim guidelines prepared by Mike Large for Council were adapted from the City of Vancouver's Boulevard Gardening Guidelines in consultation with food-security organizations and other stakeholders. There are several key differences between the City of Vancouver and the City of Victoria that should be considered in the development of Interim Boulevard Gardening Guidelines.

Input on the proposed interim guidelines was solicited from the Parks Division; Engineering (Transportation, Underground Utilities); Bylaw and Licensing Services; Sustainability Planning & Community Development; Permits & Inspections; the City Solicitor and the Fire Department.


Recommendation:

That Council adopt the Interim Guidelines with the amendments as described in Attachment 1 and direct staff to proceed with the development of a project charter and engagement strategy for final boulevard gardening guidelines, to be in place for the 2016 growing season.

Respectfully submitted



Leigh Sifton
Manager, Parks Planning & Design


Julie MacDougall
Assistant Director, Parks


Jocelyn Jenkyns
Acting Director, Parks,
Recreation & Culture

Report accepted and recommended by the City Manager:

Date:


July 17, 2014

Purpose

To provide a report to Council outlining the results of a staff review of the proposed Interim Boulevard Gardening Guidelines and to outline next steps towards the creation of final boulevard gardening guidelines.

Background

At their June 19, 2014 meeting, Council requested a staff review of the proposed Interim Boulevard Gardening Guidelines prior to their adoption. This report outlines the key areas of the proposed interim guidelines and how they may fit within the City of Victoria context.

The Interim Boulevard Gardening Guidelines are generally consistent with the 2012 Draft Official Community Plan which includes numerous provisions towards food security and urban food production. Related objectives include:

- Encouraging food production activities in visible and suitable public places, where appropriate, to foster a connection between people and the process of growing, harvesting and eating fresh produce.
- Increasing the opportunity for urban food production on public lands

The interim guidelines prepared by Mike Large for Council were adapted from the City of Vancouver's Boulevard Gardening Guidelines in consultation with food-security organizations and other stakeholders. There are several key differences between the City of Vancouver and the City of Victoria that should be considered in the development of any boulevard gardening guidelines:

- Legislation: Vancouver is governed by the Vancouver Charter. In comparison, most municipalities, including Victoria, are governed by the Local Government Act and Community Charter. The significant difference is that Vancouver has unique statutory defences which may limit its exposure to liability and are not available to Victoria.
- Street and lane layout: The majority of lots in Vancouver are serviced by back lanes. This means that the main vehicle access is at the rear of the property and leaves the boulevard clear of driveways. This impacts the total available area for boulevard gardening as there are fewer driveways and fewer associated safety issues due to mid-block sightline restrictions.
- Green Streets Coordinator: The City of Vancouver has a paid staff position to look after the Boulevard Gardening program (Green Streets Coordinator). While this may be something that could be considered with the implementation of the Final Boulevard Gardening Guidelines, this position does not exist to monitor or evaluate implementation under the Interim Guidelines.

Issues & Analysis

Input on the proposed guidelines was solicited from the Parks Division; Engineering (Transportation, Underground Utilities); Bylaw and Licensing Services; Sustainability Planning & Community Development; Permits & Inspections; the City Solicitor and the Fire Department. Key areas of comment were:

- Taxed boulevards: Approximately 25% of the boulevards within the City of Victoria are maintained by the City through the existing taxed boulevard program. This program generates approximately \$577,000 in revenue for the City, a portion of which subsidizes the maintenance of park and community institutional (churches, schools, etc) boulevards.

Without the taxed boulevard program, it would cost the City approximately \$247,000 (2012 estimate) to maintain City park and institutional properties. Parks crews are not able to provide maintenance to boulevard garden areas. It is suggested that the interim guidelines apply to non-taxed boulevards only. Should those on a taxed boulevard wish to participate, they have the option to go through the opt-out process as currently in place.

- **Property ownership:** Challenges arise when the property changes ownership or a new tenant moves in. For instance, a new property owner takes possession and does not want to tend a boulevard garden and it is left to go to weeds. Rental tenancy changes can be much more frequent and adds the additional issue of due notice to their landlord. Finally, issues can arise with people installing gardens in front of property that is not theirs and for which they do not have permission. It is recommended that the guidelines apply to property owners only. Should tenants wish to garden, they would need approval from their landlords and responsibility for maintenance would pass either to the new tenant or back to the property owner. The opportunity for people to garden in front of someone else's property should not be included in the guidelines.
- **Costs to the City:** When boulevards gardens are neglected or abandoned, the removal of them and re-instatement to turf is a cost to the city in both resources and staff time. There is no way to recover these costs. Enforcing and monitoring sightline requirements would require additional staff time.
- **Liability:** As the owner of the road right-of-way the City of Victoria would continue to be potentially liable for any unsafe conditions created as a result of boulevard gardening.
- **Bylaw Consistency:** The interim guidelines are inconsistent with the Streets and Traffic Bylaw. Approving an activity that is contrary to existing bylaws can be used to support a claim in negligence against both the City and the person engaged in the activity. The implementation of a permit system with staff time allocation would be needed or the existing Bylaw would need to be amended to resolve this inconsistency.
- **Bylaw Complaints:** Approximately 100 complaints have been received in the last 3 years (2011-2014) related to planted boulevards. 82% of these were regarding modified boulevards that weren't impeding pedestrians or vehicles; 15% were related to those impeding pedestrian or vehicles or had structures built on the boulevard and 3% were due to modifying boulevards in front of another person's property. It is anticipated that an increased number of boulevard gardens would create an associated increase in the number of complaints received.
- **Utilities:** Given that the City is ultimately liable as described above, stronger language around the need for utility locates should be included in the guidelines. Under the Streets and Traffic Bylaw, structures are not allowed on the boulevard. They can interfere with public safety and the City's ability to quickly access underground services. In addition, city-owned infrastructure, such as boulevard water services or hydrants, may not be used for watering.

Attachment 1 outlines proposed changes to the Interim Guidelines to reflect these issues and comments.

Implementation

Following Council adoption of the Interim Guidelines as amended, the Interim Guidelines will be implemented by posting them on the City's website with links from other relevant pages on the City's website. In addition, an email will be sent to all community associations and other known interested parties (for instance, existing community garden contacts, etc.) informing them of the Interim Guidelines.

Monitoring of the interim guidelines will include maintaining a record of any additional costs to the city (i.e. garden removals, bylaw enforcement hours, etc.) as well as a record of bylaw complaints.

Next Steps

Commencing in autumn 2014, Parks staff will prepare a project charter for the preparation of final Boulevard Gardening Guidelines. This will include working with the Citizen Engagement and Strategic Planning Department to develop an engagement strategy. This material will be brought forward to Council in early 2015 for their consideration and approval. The target is to have final Boulevard Gardening Guidelines in place for the 2016 gardening season. This would be accomplished by bringing a draft of the final guidelines to Council in January 2016 for their review and approval.

Recommendations

That Council adopt the Interim Guidelines with the amendments as described in Attachment 1 and direct staff to proceed with the development of a project charter and engagement strategy for final boulevard gardening guidelines, to be in place for the 2016 growing season.

Attachment 1

Interim Boulevard Gardening Guidelines – Proposed Changes

Section 2.1

Impacting underground utilities in the boulevard is a potentially significant issue, therefore language should be strengthened from "should" to "must". In addition, as the City as well as some utility companies are not a member of BC One Call, there needs to be an additional clause under Section 2.1 (b) stating that "in addition to calling BC One Call, residents who plan to dig or disturb the boulevard must also contact the Engineering and Public Works Department at 250.361.0313."

Section 2.4

Maintaining sightlines at all street crossings, driveways and so forth is paramount to pedestrian safety. As such, Delete clause 2.4 (a) and update clause 2.4 (b) to read "Plants must be no taller than 1 metre.

Add 2.4 (f): Fire hydrants must be easily visible and accessible from both the street and the sidewalk. Maintain clearance to ensure that plants do not interfere with the operation of the hydrant.

Section 2.6

Update 2.6 (a) to read: Permanent installations such as in-ground irrigation systems are not allowed. Structures or ornaments are not allowed as they interfere with public safety and the City's ability to quickly access underground services. This includes raised wooden garden beds.

Delete 2.6 (d) to (g) and 2.6 (i).

Section 3.2

Start section with the following statement: "City-owned infrastructure may not be used for watering. This includes boulevard water services and fire hydrants."

Section 3A.1

Delete section on guerilla gardeners.

Section 5.1

Update second paragraph to read: "Some boulevards are mowed, watered, fertilized and edged by the City, as a maintenance service to adjacent property owners. A service fee is applied to the property owner's tax bill as a "boulevard tax". If you are one of these property owners, and you wish to participate in the boulevard gardening program, you will need to work with your neighbours to opt-out of the boulevard tax. Visit

<http://www.victoria.ca/EN/main/departments/parks-rec-culture/parks/boulevards-program.html>

Section 5.2

The wording in this section will need to be updated based on either the implementation of a permit system with staff time allocation or amending the existing Bylaw.

Section 5.3

Update section title to: Liability and Indemnity (IMPORTANT PROVISIONS THAT AFFECT YOUR LEGAL RIGHTS – READ CAREFULLY)

Update wording to read:

"With control comes responsibility. By assuming control of the boulevard adjacent to your property for gardening purposes, you and your helpers assume full and sole responsibility for any bodily injury, property damage, or other harm that be suffered by you, your helpers, or any third party, arising in any way from, or connected in any way to, your garden-related activities, and any related liabilities, damages, complaints or claims (collectively, "Claims") including, without limiting the generality of the foregoing, injury to anyone who may trip and fall in your garden, illness to anyone who may eat plants from your garden, and lost or damaged plants, structures or ornaments caused by anyone including the City.

The publication of this Interim Guidelines and the granting of permission to engage in gardening on City boulevards is not intended to establish any agency or other relationship between the City and any person engaged in gardening on a boulevard. The City does not assume any responsibility or supervising authority for gardening on boulevards and will not inspect or manage boulevard gardens in any way.

By engaging in boulevard gardening, you agree, in return for permission to garden on City boulevards in accordance with these Interim Guidelines, to comply with these Interim Guidelines and to waive any and all claims against the City, its officers, employees, elected officials, contractors and agents (collectively, "Releases") in relation to any Claims and you further agree to indemnify and save harmless the Releases from any and all Claims including legal costs and expenses that may be based on or related to your action, omission or inaction.

Publication of these Interim Guidelines and the granting of permission to garden on City boulevards is not intended to confer any legal or equitable interest or property right in the City boulevards. The City reserves the right to re-occupy the boulevards at any time and for any reason without notice to you or payment of any compensation for removal of the plants or other property from the boulevard or for the time and effort spent by you or anyone else in gardening or improving the boulevard in any way.

The capacity to prepare for and respond to change is a cornerstone of a sustainable and resilient community, and policies are developed with inherent uncertainties. These Interim Guidelines are provided for information purposes only, are not exhaustive, and are no substitute for relevant experience, careful research, and sound judgment in relation to each specific site. These Interim Guidelines reflect the City's position in light of the information available to it at the time of preparation, including the fact that informal street gardens have been sprouting up in Victoria for several years. While reasonable steps have been taken in preparing these Interim Guidelines, any use that a gardener or any other person makes of them, or any reliance on or decisions based on them, are the responsibility of those parties. The City accepts no responsibility for Claims, if any, made or suffered by anyone as a result of decisions or actions based on these Interim Guidelines."

11.3 Interim Boulevard Gardening Guidelines

Councillors Alto, Helps and Isitt provided Committee with a report dated June 19, 2014 regarding Interim Boulevard gardening guidelines.

The City Manager advised Committee that staff haven't reviewed these regulations as they apply to the City of Victoria and staff would request that a review would be a first step.

- Action:** It was moved by Councillor Isitt, seconded by Councillor Alto, that Committee recommends that Council:
1. Adopt the Interim Boulevard Gardening Guidelines attached to the report dated June 19, 2014, and direct staff to post the Summary and Guidelines to the City website.
 2. Refer the Interim Boulevard Gardening Guidelines to the Community Services Standing Committee and to Staff to inform the wider Boulevard Review, with final Boulevard Gardening Guidelines to be adopted in time for the 2015 growing season.

Committee discussed the motion as follows:

- Withholding enforcement on boulevard gardening except in cases where there are safety or accessibility issues.
- The desire to move ahead with the interim guidelines as they have been waiting for these policies to be developed since 2008.
- Concerns that a delay of more than two weeks would impact this summer's growing period.
- The public's desire to move forward with this initiative and do so responsibly.
- Noting that boulevards are areas for dogs as well, which needs to be reviewed.
- Noting the taxed boulevard program and how that fits into this initiative.

Councillor Coleman suggested that an amendment to the motion to consider the 2014 growing season would be appropriate.

The City Manager advised that a thorough review is required and outlined the timing for reports to come to Committee. Returning to Committee at their July 24 meeting would be preferred.

- Action:** It was moved by Councillor Coleman, seconded by Councillor Alto, that Committee postpone consideration of the motion pending a review by staff on the interim boulevard gardening guidelines and that staff report back at the July 24, 2014 Governance & Priorities Committee meeting.

CARRIED 14/GPC384

- For:** Councillors Alto, Coleman, Gudgeon, Helps, Madoff and Thornton-Joe
Against: Mayor Fortin, Councillors Isitt and Young



GPC Report

Date: June 19, 2014 **From:** Councillors Alto, Helps and Isitt
Subject: Interim Boulevard Gardening Guidelines

BACKGROUND

The City of Victoria's Official Community Plan (2012) identifies the objective of supporting local Food Systems.

Some residents have attempted to put this objective into practice by converting City-owned land in front of their homes into food-producing gardens. In the absence of regulation, this practice has raised issues relating to accessibility, safety and proper maintenance of public rights-of-way.

It is therefore desirable that the City of Victoria adopt Interim Gardening Guidelines while the larger Boulevard Review is underway, to provide guidance to residents based on best practices. Victoria lawyer Mike Large has assisted this effort by adapting the City of Vancouver Boulevard Gardening Guidelines in consultation with food-security organizations and other stakeholders.

RECOMMENDATION

That the committee recommend that Council:

1. Adopt the attached Interim Boulevard Gardening Guidelines, and direct staff to post the Summary and Guidelines to the City website.
2. Refer the Interim Boulevard Gardening Guidelines to the Community Services Standing Committee and to Staff to inform the wider Boulevard Review, with final Boulevard Gardening Guidelines to be adopted in time for the 2015 growing season.

Respectfully submitted,

Handwritten signature of Marianne Alto.

Councillor Marianne Alto

Handwritten signature of Lisa Helps.

Councillor Lisa Helps

Handwritten signature of Ben Isitt.

Councillor Ben Isitt

Attachments:

Interim Boulevard Gardening Guidelines
City of Vancouver Boulevard Gardening Guidelines
Letter from Lifecycles Project Society
Letter from Habitat Acquisition Trust
Documents Reviewed and Commentary

City of Victoria – Summary of Interim Boulevard Gardening Guidelines

Consistent with objectives in its Official Community Plan, the City of Victoria has adopted a set of Interim Boulevard Gardening Guidelines to support and encourage gardening on City boulevards. The Interim Guidelines are meant to serve as a temporary measure, applicable until a comprehensive boulevard review is completed. In the meantime, with these Interim Guidelines in hand, beginners and experts alike will have basic information to help them garden on boulevards more confidently and responsibly.

Some highlights of the Interim Guidelines are as follows:

- Boulevard gardeners should be ever-mindful of safety, maintenance, and aesthetic considerations in relation to boulevard gardening projects. Aim to create a garden that you and your neighbours can be proud to show to visitors.
- The City is not interpreting applicable bylaws against those who garden responsibly on boulevards adjacent to their properties. Responsible gardening means following practices at least as diligent as those outlined in the Interim Guidelines.
- Confirm the location of underground utilities before disturbing the boulevard, and ensure that no utility company objects to your gardening proposal, by phoning BC One Call at 1.800.474.6886. Be careful to comply with instructions provided by utility companies in their responses to your call to BC One Call, including instructions regarding where and how deep you may dig. Use hand tools only.
- Specific guidelines apply in relation to safety, access, tree health, plant size, garden maintenance, temporary structures, soil contamination, and community consultations, among other topics.
- Do not plant trees. Trees may outgrow the space and become costly for removal in time; only trees planted by the City are allowed on the boulevard. Keep soil, compost or mulch from contacting trees as holding moisture against bark or wood threatens tree health.
- Before planting a food garden on the boulevard, consider the quality of the soil, the cost of watering, and the appearance of the boulevard in all seasons.
- With control comes responsibility. Understand the liability considerations that accompany a boulevard gardening project. Do not leave open holes unattended. Ensure that plants do not hang over the sidewalk or into the street.
- Basic information about your garden should be sent to **[insert email address]**. This is not an application or approval process. Rather, the City wishes to collect basic information to help monitor and evaluate the progress of boulevard gardening and report on the success of the Interim Guidelines.
- ***Questions, concerns and comments regarding the Interim Guidelines, and suggestions for longer-term boulevard initiatives, can be directed to [insert contact information].***

Kindly review the Interim Guidelines in their entirety before you begin boulevard gardening, and if you've already begun, review these guidelines before you continue:

- [Full text of the Interim Boulevard Gardening Guidelines](#)

City of Victoria

Interim Boulevard Gardening Guidelines

1. Introduction

Generally speaking, boulevards are the grassy strip of land between a property and the street and are owned by the City. The majority of boulevards have grass and trees between the sidewalk and the curb. Property owners are encouraged to transform or to support the transformation of the boulevard immediately adjacent to their property into well-designed and well-maintained gardens. Examples of support include giving permission to apartment or condo dwellers to garden on the adjacent boulevard, inviting others to help, and guiding their efforts.

Boulevard gardens can create more beautiful, interesting and diverse streets, add character to neighbourhoods and increase feelings of community pride. They can also support environmental benefits such as increasing ecological diversity and providing bird, butterfly and pollinator habitats. Working on the boulevard can bloom into community building, traffic calming, and healthier living. Edible plants can improve the availability of fresh, local, and sustainable food sources, using little or no fossil fuel. Not least of all, boulevard gardens can further cultivate Victoria's reputation as "The City of Gardens".

Remember that the boulevard is a shared public space, so please be courteous of neighbours and passers-by by keeping your garden tidy, clear of the sidewalk and free of garbage. Also, remember that underground utilities share the boulevard. The City and utility companies may require occasional access to maintain these underground utilities, to build new sidewalks, install street signage, or prune boulevard trees, for example. The following Interim Boulevard Gardening Guidelines (**Interim Guidelines**) aim to assist residents in transforming their streets in a way that is beautiful, manageable and safe. Kindly review this document in its entirety before you begin boulevard gardening, and if you've already begun, review these guidelines before you continue.

2. Preparation and Design

2.1 *Preparing the boulevard for planting:*

- (a) Boulevards are corridors for utilities such as hydro and gas lines and must be maintained so there is always easy access to these services. Be aware that if road or utility work needs to happen on your boulevard, you may lose what you've planted. You may or may not receive advanced notification. In either event, work crews should be treated respectfully.
- (b) Adjacent property owners should confirm the location of underground utilities before disturbing the boulevard, and should ensure that no utility company objects to the property owner's gardening proposal, by phoning BC One Call at 1.800.474.6886. Currently, no fee is charged by BC One Call or utility companies for this service. Visit www.bconecall.bc.ca for more information.
- (c) To avoid interference with underground utilities, be careful to comply with instructions provided by utility companies in their responses to your call to BC One Call, including instructions regarding where and how deep you may dig. Use hand tools only.
- (d) Keep plants and soil clear of utility covers. Work crews must be able to easily locate and access them. A pot of flowers on top of a utility cover is fine as long as it is easily moved by one person.
- (e) Remove existing grass and shake it well to ensure minimal soil loss. Sod that is removed should be composted. Alternatively, you can flip grass over. Better yet, place a layer of unwaxed cardboard (with any tape and staples removed) on top of the grass, and use layers of compostable materials (except food scraps) to create sheet mulch. Sheet mulching does less to disrupt soil ecology, and builds new soil by allowing the grass and other materials to

decompose in place. Water thoroughly before, during and after layering the mulch, to speed decomposition and help hold materials together. For more information on sheet mulching, visit <http://compost.bc.ca/education/factsheets/>.

- (f) Mound up compost or soil up to **20cm high**, or mulch up to **40cm high**, measuring from the original ground level, to ensure there is adequate soil for plants to root and that underground utilities are not disturbed (but mound up less material in the area above tree roots, as described below).
- (g) Use new, clean soil, compost or mulch to avoid weeds and toxins. Compost is available from some hardware and grocery stores, garden supply shops and other commercial sources in and around Victoria. Backyard composting is another excellent option. For more information on composting, visit <http://compost.bc.ca/education/factsheets/>.

2.2 *Working around boulevard trees:*

- (a) Boulevard trees are part of Victoria's urban forest and the City maintains them. More information about Victoria's urban forest can be found at www.victoria.ca/urbanforest.
- (b) Take care not to damage or cut roots, trunk, bark or branches when working around boulevard trees. Do not nail or tie signs, trellises or other fixtures to a boulevard tree.
- (c) Keep soil, compost or mulch from contacting the bark or wood of the tree (including the trunk, any exposed roots, and the root crown, which is the enlarged part of the trunk just above the ground) as holding moisture against bark or wood causes it to rot, threatening the health of the tree. Native trees must not be irrigated by homeowners unless they have not been established. Drought tolerant native plants are often the best choice for plantings under trees for this reason.
- (d) Do not place more than **10cm** of compost or soil, or **20cm** of mulch, in the area directly above underground tree roots as it may lead to shallow rooting, or deplete the roots of the moisture and oxygen they need. Healthy, deep-rooted trees are more likely to survive drought stress and are less susceptible to wind damage. You can estimate the extent of the area above underground tree roots by observing the 'drip line' of the canopy (i.e. the area of ground corresponding with the circumference of the densest part of the canopy above, errant branches excepted). In this area, use compost or soil with a sandy texture (at least 50% sand by volume) for good drainage, or rake sand into the area once your mulch has broken down to form soil.
- (e) Like many boulevard gardeners, trees are community-minded beings. If you have a tree on your boulevard, consider giving it a beneficial community, by selecting plants which will work in collaboration with each other and with the tree, for the benefit of all concerned. This approach is sometimes called companion planting, and the group of plants is sometimes called a guild. To find out about appropriate guilds for your boulevard tree, Google your tree's name, followed by "companion planting" or "guild." This should give you plenty of information about plants more beneficial to your tree than grass. For example, the Garry Oak Ecosystems Recovery Team offers valuable information regarding native plants well-suited as companions for Garry Oaks, at: http://www.goert.ca/gardeners_restoration/index.php.
- (f) When planting around trees, keep in mind that work crews may need access to trunk and branches, including enough room for ladders. Again, if work needs to happen on your boulevard, you may lose what you've planted.

2.3 *Setbacks, access and mobility:*

- (a) If there is no sidewalk, access along the boulevard must be provided so that pedestrians are not forced to resort to the street.
- (b) If parking is permitted along the curb, maintain a path of at least **60cm** wide along the curb edge to allow pedestrians to easily open and close vehicle doors, and to reach the sidewalk from the street. Garden beds should be no longer than **8m** without a break. If parking is permitted along the curb but is seldom used, it may be enough to leave periodic gaps or to

place stepping stones in your boulevard garden. Alternatively, if you have observed people relying on the boulevard to unload mobility equipment (e.g. walkers, wheelchairs, strollers) or other large items, look for ways to ease mobility across the boulevard. For example, a pathway with a firmer surface than grass (e.g. fine gravel) could be used to make paths.

- (c) Maintain a **1.5m** clearance around fire hydrants, utility poles, bus shelters, concrete bus pads, or other permanent structures. Make sure they are easily visible and accessible from both the street and the sidewalk, to avoid mobility issues, and in particular, to assist emergency workers and other work crews to carry out their duties.

2.4 *Plant size:*

- (a) Appropriate plant heights should be determined by imagining or observing the plant, fully grown, in its surroundings, and applying good judgment. If sightlines and safety are not a concern in relation to a particular plant type in a particular location, tall plants may be appropriate. For example, a row of sunflowers 3m tall may be an attractive and safe addition to the middle of a boulevard, their narrow stems doing nothing to interfere with sightlines or safety. Similarly, a Saskatoon berry bush 2m tall may pose no risk, if standing on the boulevard next to an even taller cedar hedge sitting on private property.
- (b) On the other hand, where sightlines or safety may be a concern, plants should be no taller than **1m**, in order to allow drivers and pedestrians to see clearly over the tops of the plants. In these locations, choose plants that grow to a mature height of **1m** or less or keep plants low by trimming.
- (c) Keep plants lower close to intersections, driveways, curbs, and sidewalk edges where sightlines or safety are clearly a concern. Plants should be no taller than **60cm** in these locations.
- (d) Ensure that plants do not hang over the sidewalk or into the street. If a plant threatens to obstruct or interfere with the free use of the sidewalk or the street, cut back or remove the plant.
- (e) If plants are deemed to be a visibility, mobility or safety concern by the City, or do not meet the above guidelines, the City reserves the right to ask that plants be trimmed, or to have them trimmed. If a plant remains a persistent problem, the City reserves the right to remove it.

2.5 *Plant selection and maintenance:*

- (a) Consider perennials, native plants, drought-tolerant plants and plants with winter interest. Aim to create a waterwise boulevard that looks great in all seasons. Ideas for plant selection are readily available on the internet, at the Victoria public library, and by talking to other neighbourhood gardeners. For example, the Habitat Acquisition Trust offers ideas in an online guide entitled "Gardening with Native Plants", available at: <http://hat.bc.ca/index.php/publications>.
- (b) Consistent with the City's Official Community Plan, food producing plants are encouraged within the guidelines set out below. Many food producing plants offer colourful flowers, plentiful pollen, abundant nutrition, and great taste. Importantly, food producing plants enhance local food security and sustainability.
- (c) Do not plant trees. Trees may outgrow the space and become costly for removal in time. Only trees planted by the City are allowed on the boulevard. The exception: some varieties of dwarf fruit trees, when mature, are similar in size to standard berry bushes (e.g. thimble berries; red currants). Viewed as akin to berry bushes (with larger fruit), rather than akin to standard-sized trees, these dwarf varieties may be appropriate on the boulevard, provided that all Interim Guidelines applicable to other plants are followed. Take special note of the guidelines regarding plant height, setbacks, and trimming, and boulevard tidiness. In this way, the City encourages an increased number of food-bearing trees on public lands, consistent with the Official Community Plan.
- (d) For those interested in planting fruit trees in visible, public places, the City of Victoria is

running a Community Orchard Pilot Program. For more information, including how to volunteer in an existing community orchard, visit:

http://www.victoria.ca/EN/main/community/sustainability/social/urban_food_production/community-orchards.html.

The Pilot Program involves community groups, and new initiatives are proposal-driven. If you would like to get involved in preparing a proposal to submit to the City, with a view to establishing a new community orchard, consider contacting a community group near you.

- (e) The non-essential use of outdoor pesticides (including insecticides, herbicides, and fungicides) on public land is generally prohibited in Victoria. To learn more about pest and weed management, visit

<http://www.victoria.ca/EN/main/departments/parks-rec-culture/parks/natural-areas/pesticide-reduction.html>.

2.6 Structures and ornaments:

- (a) Permanent installations such as in-ground irrigation systems are not allowed.
- (b) Temporary structures and ornaments are allowed within the parameters described below, provided they are easily movable and do not interfere with access or visibility.
- (c) All temporary structures and ornaments must be set back **1m** from the curb, **30cm** from the sidewalk and **1.5m** from any pole, fire hydrant or other permanent structure.
- (d) Raised garden beds are considered temporary structures. The recommended height for a raised garden bed is between **15cm** and **45cm**. Raised garden beds should not exceed **45cm**.
- (e) Provide a **1m** wide path between raised garden beds and other temporary structures and ornaments to ensure easy access between the sidewalk and parked vehicles. Raised garden beds should be no longer than **8m**.
- (f) Where plants should be no taller than **1m**, measure from the ground level, not the surface level of the raised garden bed. Where plants should be kept to a maximum of **60cm** (i.e. closer to intersections, driveways, curbs, and sidewalk edges where sightlines or safety is clearly a concern), again, measure from ground level.
- (g) If you are building wood-sided raised beds to grow food, avoid treated lumber or creosoted timbers as they may be toxic. Use wood that is naturally rot-resistant such as cedar or juniper. For low garden beds, materials such as bricks, landscape pavers or rocks can be used to retain soil and define the garden edge. A preferable form of raised bed may be a berm, a mound of earth in a distinct shape with no hard sides. Instead of using wood, rocks or other hard edges, plant ground cover around the sides of a berm to save materials and resist erosion. It is easier to create an interesting or artistic shape with a berm than with a wood-sided bed.
- (h) Stake plants that are vulnerable to falling over (e.g. sunflowers), or that might pose a trip hazard. Top the stake with a bright colour (e.g. a brightly-coloured scrap of fabric, or a piece of brightly-coloured tape) to improve its visibility.
- (i) Be aware that you may lose any temporary structures or ornaments, if emergency or other work crews need to perform work on the boulevard. You may or may not receive advanced notification. In either event, work crews should be treated respectfully.

3. Growing Food on City Boulevards

Under its Official Community Plan, the City wishes to consider new and innovative approaches to urban food production that increase food security, in partnership with community members. The City also wishes to enhance the appearance of major roads through planted boulevards; sustainably grow a healthy share of Victoria's daily food supply within and around the city, and encourage food production activities in visible and suitable public places to foster a connection between people and the process of growing, harvesting and eating fresh produce. Cultivating food plants on city boulevards is a modest yet inspiring step along this policy pathway.

At the same time, growing food on the boulevard can present special challenges. In general, many food producing plants, annuals in particular, require good soil and regular watering, so extra attention to these elements and their cost may be important to you. Also, boulevards are public land, so passers-by are likely to stop and pick. On the bright side, sharing food and friendliness with passers-by can grow into a valuable community building experience. For this reason and many others, a sunny boulevard can be a great place for growing food. Boulevard gardening creates memorable places, for gardeners and passers-by alike.

3.1 Year-round interest and beauty:

Ensuring that your boulevard looks great in all seasons is a key consideration when planning your garden. Many food producing plants are annuals that die back in the winter. Planting these areas with a winter cover will ensure the garden looks well-maintained while also protecting the soil from winter erosion. Consider planting perennial plants in your garden, to lessen annual workload, prevent soil erosion, create a winter presence, and give your garden a jump-start in spring. Native perennials are particularly well-suited to our local conditions and climate.

3.2 Watering and maintenance:

Many food producing plants, annuals in particular, demand more water and maintenance. It may be challenging to water your boulevard, so determine how you will water your plants before you begin to ensure a successful harvest. Be careful not to leave tools on the sidewalk as they can be a trip hazard for pedestrians. Be aware that garden hoses stretched across sidewalks can also be a trip hazard. Take reasonable precautions such as brightly-coloured hazard cones or flags to alert pedestrians that the hose is there. Be sure your caution alerts do not block the sidewalk so much that two people walking abreast, or someone using a mobility device, cannot pass.

3.3 Neighbourhood pets and passers-by:

The boulevard is a public space where you have little control over the way people and pets interact with your garden. Again, plants and produce may be picked by passers-by, and pets often have little consideration for garden beds. A certain level of quality and contaminant control may be lost when you garden along the street.

3.4 Soil quality:

As with any other land in the city, it is possible for contaminants to be present in soils on boulevards. Contaminants may appear at potentially unsafe levels, particularly in older or more industrial neighbourhoods where paints and sprays were used before the ban of certain chemicals. In many boulevards, the likelihood of industrial soil contamination is unknown; therefore, the City cannot guarantee the suitability of your boulevard for growing food.

Another source of potential contamination is in runoff of water from the street that can contain oil and other residues. Boulevards typically have raised curbs that obstruct the flow of water into the planted area. Gardeners, however, are encouraged to take note of water flow around their gardens.

If you are not certain that your soil is safe, have a soil test done. They are relatively easy, inexpensive and may provide urban gardeners with confidence that their food is safe for consumption.

If you are concerned about soil contamination:

- Use ornamental plants in your boulevard garden. Sustainable choices include native, drought-tolerant and/or pollinator-friendly species that will benefit the urban environment.
- Create raised beds if you intend to grow food. Use new, clean soil, compost or mulch for planting. Make sure your raised beds fit within the applicable guidelines appearing above.
- Contaminant levels are higher in the soil than in the plant material and therefore, the risk of

exposure is higher from direct contact with the soil (or soil particles on the surface of plants) rather than from the consumption of garden produce. Washing garden produce thoroughly will greatly reduce the risk of contaminant consumption. Gardeners should take care not to ingest soil or dust and wash hands, gardening clothes and tools well.

- Adding compost helps bind metals such as lead and also assists with the breakdown of oil or pesticide residues, making the soil safer for food growing. Compost also offers many other benefits, like enriching soil, holding moisture, and fighting pests.
- Fruiting crops like squash or berries are less likely to take up common contaminants than root crops or greens.
- The Society for Organic Urban Land Care has developed an Organic Land Care Standard as a guide and resource. The Standard is available for download at: <http://www.organiclandcare.org/soul-organic-land-care-standard.html>. Boulevard gardeners may find it challenging to comply with the entire Standard, because the historic use of your site may be unknown, airborne toxins along major streets may be excessive, and root barriers and row covers may be unaffordable to you, for example. Just the same, the principles, practices and products described in the Standard should be helpful to those who value working toward preserving and supporting the health of ecosystems and human communities. In particular, beware of unsafe levels of heavy metal contamination, and toxins generally, as described in the "Environmental Toxins" section of the Standard.

3A. Cultivating Community along City Boulevards

3A.1 *Notions of Neighbourliness*

A boulevard garden, cultivated courteously and consensually, can pull neighbours together; done recklessly, it can push people apart. Bear in mind notions of neighbourliness at every turn.

If you wish to establish a garden on a boulevard adjacent to your property, ask yourself: "How will my neighbours react to this boulevard garden?" If you are uncertain, why not ask them? One approach would be to canvas those neighbours who will be able to see your garden from their properties, aiming to get the 'ok' from a strong majority of them (say, 75%). Another approach would be to canvas immediate neighbours (those on either side of you, and directly across the street), aiming to get the 'ok' from all of them. Be sure to let your neighbours know how big the garden would be, and the kinds of plants you'd like to grow. Obtaining informed consent is the ethical way to go.

On the other hand, if boulevard gardens already dot your block, you may feel confident that those who have planted before you have helped stake out a new social norm in favour of boulevard gardening. Under these circumstances, you may believe that informed consent is implied by all concerned.

Under some circumstances, obtaining informed consent from your neighbours may be difficult or impossible. For example, your property may be adjacent to multi-unit buildings, occupied by large numbers of condo owners, tenants or both. Simply gaining access to these neighbours may be unworkable, and systematic canvassing may be unwelcome. In these kinds of situations, it is wise to start small. Establish your garden on only a portion of the boulevard adjacent to your property, with plants familiar to most people. While working in the new garden, you may recognize some passers-by as your neighbours. Observe how they react, listen to their comments. Consider shaping your subsequent gardening efforts based on the feedback you receive.

If you are a tenant, be sure to obtain the informed consent of your landlord before you begin gardening on the boulevard adjacent to your rental building. If you are a condo owner, you will want to approach your strata council. And if you are a guerilla gardener with your eye on potential

garden space adjacent to a stranger's property, first make that stranger your friend and ally, by obtaining their informed consent. Boulevard gardeners who ignore the interests or objections of neighbouring stakeholders can expect to sow discord and discontent along the boulevard.

Major changes to a boulevard garden can be controversial, so consider renewing community-building efforts whenever garden expansions or redesigns are planned. Once it appears that support for establishing or expanding a garden is strong, aim to create a garden that you and your neighbours can be proud to show to visitors.

3A.2 Neighbourhood Participation

Informed consent is one thing, active support is one better. You may be pleasantly surprised that your neighbours are eager to participate in your boulevard gardening project, in various ways. Neighbours may wish to help by propagating plants, pulling weeds, or watering while you are away. A neighbour may be inspired to establish their own boulevard garden, when they hear about your potential project. Consider declaring your boulevard garden to be an open one, where anyone can help and harvest. Even if you don't, the boulevard is public space, so expect that some passers-by will walk the garden, admire it, even graze, and you would have no cause for complaint.

3A.3 City Hall as Stakeholder

In Victoria, boulevards are public land, and the City is a key stakeholder. As a result, your garden will be vulnerable to public projects and purposes. You may find your garden limited in unexpected ways, in terms of time and space. For example, road reconstruction or block redevelopment may uproot your boulevard garden, and disrupt other street features. If the street is changed or widened, the new streetscape may include no boulevards at all. On the upside, the City gives advance notice of major construction projects to adjacent property owners. As a result, you should have an opportunity to transplant your favourite plants into pots, or over to other gardens.

3A.4 Neighbourhood Maintenance Help

If you have a stake in a boulevard garden and see a need for help with maintenance, consider sending an email to the Compost Education Centre at vicboulevardgardens@gmail.com. The Compost Education Centre keeps a list of neighbourhood volunteers who wish to work in local gardens. If the Centre is able to provide contact information to you regarding potential volunteers, it would be up to you to contact them, screen them, and work out some maintenance arrangement (including a basic understanding of the work involved, and how you might share seeds, cuttings, food or flowers, for example). Likewise, if you are interested in gardening but have no access to a garden plot, consider sending an email to the Compost Education Centre at vicboulevardgardens@gmail.com (and include the name of the neighbourhood where you'd like to garden in the subject line). The Centre would add your name, neighbourhood and contact information to its list of potential garden volunteers.

4. Safer Gardening on City Boulevards

Gardens on City boulevards are close to vehicle traffic. You can keep yourself and others safer while gardening if you follow these tips.

4.1 Be visible

- (a) Garden during daylight hours and when the weather provides clear visibility. Garden when traffic is light rather than during peak traffic hours. Your experience will be safer and more

enjoyable.

- (b) Wear a safety vest or other bright clothing when working in your boulevard garden.

4.2 *Be alert*

- (a) Pay special attention to passing bicycles and motor vehicles.
- (b) Access corner bulges from the sidewalk and not from the street. Avoid standing on the street or having your back towards traffic while tending your boulevard garden. Stand in the garden or along the sidewalk edge.

4.3 *Be responsible*

- (a) Make sure that children are closely supervised if they are helping with your boulevard garden.
- (b) Keep an eye on your personal belongings. Keep hoses, tools, and gardening supplies off the street. These items can be a hazard to pedestrians and cyclists. Do not leave open holes unattended.

5. **Boulevard Taxes, Boulevard By-laws and Other Legalities**

5.1 *Boulevard Taxes:*

In the City of Victoria, most of the boulevards are maintained by the property owners who own the land adjacent to the boulevard. If you are one of these property owners, feel free to simply switch from mowing to gardening, on all or part of the boulevard adjacent to your property. You may wish to leave a portion of the boulevard as grass, and continue to mow it, in order to maintain the setbacks and pathways described under these Interim Guidelines. Another attractive alternative is creating and maintaining a wood-chip path.

Some boulevards are mowed, watered, fertilized, and edged by the City, as a maintenance service to adjacent property owners. A service fee is applied to the property owner's tax bill as a 'boulevard tax'. If you are one of these property owners, feel free to begin gardening on all or part of the boulevard adjacent to your property, as described in the paragraph above. If you garden on the entire boulevard adjacent to your property, city maintenance crews should simply by-pass your boulevard garden when they arrive on your block to mow. If you leave a portion of the boulevard as grass, city maintenance crews may or may not maintain the grass, depending on how they judge its appearance, and whether or not they feel able to safely navigate the grassy portion of the boulevard with the equipment on-hand, without disturbing the garden. In any event, to opt out of the applicable boulevard tax, the petition-driven process described on the City of Victoria website continues to apply. Refer to: <http://www.victoria.ca/EN/main/departments/parks-rec-culture/parks/boulevards-program.html>.

5.2 *Boulevard Bylaws*

Bylaw No. 10-061 (**Boulevard Bylaw**) and related Bylaws prohibit some of the activities described under these Interim Guidelines. For example, under subsection 103A(2) of the Boulevard Bylaw, a person must not place any structure or thing on a boulevard without the written permission of the Director of Engineering. Under subsections 103A(7) and (8), a person must not cut turf or flowers, or remove them from a boulevard, without a permit from the Director of Parks or an agreement with the City. The Boulevard Bylaw is broadly drafted, in part to protect the aesthetic character and appearance of City streets. However, this Bylaw technically prohibits property owners from mowing grass and wild flowers on adjacent boulevards, or removing the clippings.

The City takes a purposive approach to interpreting these Bylaws, not a technical approach. As a result, the City is not interpreting these Bylaws against property owners who responsibly mow and maintain adjacent boulevards. Likewise, the City is not interpreting these Bylaws against those who garden responsibly on boulevards adjacent to their properties. Responsible gardening means following practices at least as diligent as those outlined in these Interim Guidelines. The

City recognizes that gardening on the boulevard can improve the aesthetic character and appearance of City streets, consistent with a purpose of the Boulevard Bylaw. Gardening is just one maintenance option for adjacent property owners, and their helpers.

5.3 *Other Legalities*

With control comes responsibility. By assuming control of the boulevard adjacent to your property for gardening purposes, it is the City's position that you and your helpers assume full and sole responsibility for any bodily injury, property damage, or other harm that may be suffered by you, your helpers, or any third party, arising in any way from your garden-related activities, and any related liabilities, damages, complaints or claims (collectively, **Claims**), including injury to anyone who may trip and fall in your garden, illness to anyone who may eat plants from your garden, and lost or damaged plants, structures or ornaments caused by anyone including the City.

The City is taking reasonable steps to reduce garden-related risks by publishing these Interim Guidelines, but is not in a position to supervise garden-related activities, rectify garden-related problems, or defend garden-related Claims. Those responsibilities are assumed entirely by you and your helpers.

The capacity to prepare for and respond to change is a cornerstone of a sustainable and resilient community, and policies are developed with inherent uncertainties. These Interim Guidelines are provided for information purposes only, are not exhaustive, and are no substitute for relevant experience, careful research, and sound judgment in relation to each specific site. These Interim Guidelines reflect the City's position in light of the information available to it at the time of preparation, including the fact that informal street gardens have been sprouting up in Victoria for several years. While reasonable steps have been taken in preparing these Interim Guidelines, any use that a gardener or any other person makes of them, or any reliance on or decisions based on them, are the responsibility of those parties. The City accepts no responsibility for Claims, if any, made or suffered by anyone as a result of decisions or actions based on these Interim Guidelines.

6. **Measuring and Sharing Success**

Once you have sketched out a plan for a boulevard garden adjacent to your property, or even after the garden is established, kindly send an email to the City at **[insert email address]**. Kindly tell us your name, your street address, and the nature of the garden (ornamental, food producing, or both). This is not an application or approval process. Rather, the City wishes to collect basic information about your boulevard garden, to help the City monitor and evaluate the progress of boulevard gardening and report on the success of these Interim Guidelines. The City may contact you down the road with additional questions about your gardening experience. If you run into obstacles and decide to return the boulevard to grass, kindly send another email to the City, at the same email address, saying that you no longer count yourself as a boulevard gardener.

7. **Conclusion**

In light of the number of boulevard gardens already growing in Victoria, it is clear that many people stand ready to establish and maintain these potentially productive spaces. In part, this trend arises from people's recognition that maintaining grassy boulevards consumes time and energy in ways that may be unsustainable, yet grass offers no food or flowers. In part, this trend arises from the demand for allotment gardens exceeding supply due to the high number of people renting or living in multi-unit buildings who lack access to land.

The City's Official Community Plan acknowledges that local people should have access to the knowledge and resources needed to produce their own food in urban areas. These Interim

Guidelines aim to increase the opportunity for urban food production on public lands, along with encouraging other forms of gardening. With these Interim Guidelines in hand, beginners and experts alike will have basic information to help them garden on boulevards more confidently and responsibly.

For decades, the City has taken care of boulevards for local people, and local people have taken care of boulevards for themselves. Under these Interim Guidelines, conscientious care-taking can continue in a spirit of reciprocity and respect.

Consistent with adaptive management as described in the Official Community Plan, these Interim Guidelines are part of a short- to medium-term strategy in response to emerging issues, opportunities and risks. In the longer-run, the City aims to make adjustments, introduce Bylaws, and/or develop more comprehensive guidelines. Questions, concerns and comments regarding these Interim Guidelines, and suggestions for longer-term boulevard initiatives, can be directed to [insert contact information].

The following text can be added to the City's website at the existing page on the Boulevard Program, following the section entitled "Petition Form":

<http://www.victoria.ca/EN/main/departments/parks-rec-culture/parks/boulevards-program.html>

Boulevard Gardening

One maintenance alternative for property owners is to create and maintain a garden on the boulevard immediately adjacent to their property. Information regarding this maintenance alternative is available at:

[Summary of Interim Boulevard Gardening Guidelines](#)