



# Residential Boulevard Gardening Declaration

Edmonton

## Declaration

I, the Gardener (the owner or occupant of the private property participating in the Boulevard Gardening Program), hereby declare that my gardening on the City's residential boulevard (the "Application") will comply with the Declaration Requirements and all other applicable federal, provincial, or municipal laws, as may be applicable, in use of the shared road right of way to install and maintain a residential boulevard garden (the "Boulevard Garden"). I understand that gardening is only permitted on the residential boulevard immediately adjacent to the front (frontage) of my private property. This excludes center medians, side boulevards (flankage), rear of property (alley or back lane) and other forms of public spaces for consideration.

I acknowledge that I am agreeing with the insurance, indemnification, and release requirements as outlined in Appendix 1. I understand that the boulevard is a shared, public, City-owned space and is accessed by the public, the City of Edmonton, and utility and telecommunication companies at any time. The City may terminate the Application for any reason within 24 hours' notice. In the event of termination, I agree to remove all amenities and accessories related to this Boulevard Garden at my sole expense, and return the boulevard to its original state (i.e., turf grass). I understand that I may be required to remove the Boulevard Garden (in part or whole) to cooperate with City maintenance, construction activities and public utility maintenance. The Boulevard Garden may be removed without notice if emergency access is required and/or operational safety concerns are identified. I acknowledge that the Boulevard Garden may be subject to inspection by the City without prior notification. City of Edmonton employees and bylaw inspectors are permitted to take the steps to administer or enforce City Bylaws.

I acknowledge that if I no longer wish to maintain my Boulevard Garden, or I move or sell my residence, I will remove the Boulevard Garden and return the boulevard back to its original state (established turf through seeding or sod).

*By submitting your Declaration electronically from the web page for the Residential Boulevard Gardening program, you have confirmed that you have read, understand and agree to abide by the terms and conditions set out in the Declaration.*

# Declaration Requirements

**Note:** These requirements apply to a residential boulevard garden and accompany the Declaration.

## Eligibility

To be eligible to participate in the Residential Boulevard Gardening Program, the gardener must meet the following requirements:

- A. Be an Occupant or an Owner with a residential boulevard adjacent to the private property frontage. This is the same space that you are normally responsible for maintaining/mowing at the front of your resident property.
  - a. Through the Declaration permit, gardening is not permitted on other public spaces, such as center medians, side boulevards (flankage), rear of property or back alleys or on other roadside areas or City-owned properties. This includes areas where the boulevard is mowed by the City, currently under construction, under contract or warranty by a developer or a contractor.
- B. The applicant must be over 18 years of age to apply. Gardeners under the age of 18 must be supervised by an adult.

## Setback Distances from Trees and Tree Protection

If your boulevard has trees, you must follow the minimum protection distance of 1.5 meters and understand the [Tree Protection Zone](#). The gardener is responsible for completing their due diligence, which is not limited to conducting a preliminary site inspection to avoid damages, notifying neighbours, and determining the minimum setback distances and plant height restrictions.

**All gardening activities shall be located at a minimum distance of 1.5m (5ft) from all trees.**

## Tools and Equipment

Digging can only be conducted with hand tools (no excavators, rototilling, or compaction, etc) to ensure minimal impact to our trees and underground utilities.

**No motorized equipment is permitted.**

## Digging and Soil Amendments

“Low-impact digging” is permitted and refers to digging to depths not exceeding 5.1 cm (2 inches). **Figure 1:** Maximum 5.1 cm (2 inches) of low impact digging.

Additionally, the gardener is permitted to add 5.1 cm (2 inches) of clean, garden mix soil or organic mulch above the original existing grade. Artificially coloured mulch, landscape fabric, gravel or decorative rock is not permitted, as these materials can harm City trees.



The combination of digging and addition of clean, garden mix soil or organic mulch must be less than or equal to 10.2 cm (4 inches) in depth.

- A. Digging deeper than 5.1 cm (2 inches) is considered “disruptive digging” and requires a Licence of Occupation. Additional requirements may apply, including contacting Utility Safety Partners and providing a [Tree Protection Plan](#) before starting to garden.

## Obstruction and Safety Guidelines

No garden objects, tools or plant materials shall obstruct or partially obstruct sidewalks, pathways, parking access or roadways. Gardening amenities, accessories, and features shall not pose a danger or create additional hazards to pedestrians, pets, cyclists, parked vehicles, or City and utility workers or result in potential injury or property damage.

## Setback Distances from Fixed Objects

Gardening shall be located at a minimum distance of 1.5m (5ft) from all fixed objects (fire hydrants, utility boxes, light poles, bus stops, mail boxes, etc.)

*\*This clause excludes gardens that solely include alternative ground cover and low-growing plants (a mature height must be less than or equal to 30 cm (12 inches)).*

## Setback Distances from Intersections

Gardens must be at least:

- A. 5.0 m (16ft 5 inches) from the corner of an uncontrolled intersection.
- B. 10.0 m (32ft 9 inches) from the corner of a controlled intersection (stop/yield sign or signals) or an intersection with a marked pedestrian crosswalk.

*\*This clause excludes gardens that solely include alternative ground cover and low-growing plants (must be less than or equal to 30 cm (12 inches) at mature height).*

## Planter Requirements

Planters are permitted:

- A. Total coverage must be less than 20% of the total boulevard area.
- B. Each planter base has a maximum footprint of 27.9 cm by 27.9 cm (11 inches by 11 inches).
- C. The combined height of the planter and the plant growing in it must be equal to or less than 1.0 meter (3.3 feet).
- D. Ensure due diligence and complete a visual inspection of the area to avoid placing planters on top of tree roots.

## Permitted Plant Materials and Amendments

The following is permitted:

- A. Annual or Perennial flower plugs, grasses, bulbs and herbaceous plant material with a maximum height of 1 meter (3.3 feet)
- B. Ground covering plants or lawn alternatives. Examples: clover, creeping or woolly thyme, stonecrop or creeping phlox, etc. (exempt from setbacks, excluding the 1.5 meter tree setback, and must be less than or equal to 30 cm (12 inches) at mature height)
- C. Seeds sown directly into the existing ground (exempt from setbacks, excluding the 1.5 meter tree setback, and must be less than or equal to 30 cm (12 inches) at mature height)
- D. Organic or cedar wood mulch (no dyed varieties)
- E. Garden mix topsoil to a maximum of 5.1 cm (2 inches)
- F. Planters, as long as they meet all the specifications

# The Role of the Gardener:

1. Declare your boulevard gardening activities annually.
2. Work with the boulevard gardening program team to make adjustments and/or find solutions to your boulevard garden if, after review of your declaration, the team determines that you are not in line with the terms of the program.
3. Review their general liability insurance and understand risk and responsibilities. The City encourages the gardener to obtain \$2M General Liability insurance to respond to any bodily injury and/or property damage to any third party (refer to Appendix 1).
4. Ensure compliance with all applicable federal, provincial and municipal laws, ordinances, rules, regulations, bylaws and codes, including without limitation the Weed Control Act, SA 2008, c W-5.1, its regulations, the Public Tree Bylaw and the City's Community Standards Bylaw at all times.
5. Ensure that gardening is done respectfully, safely and is hazard-free.
6. Ensure that the garden is maintained regularly, obeys all setbacks and sightline requirements, and does not encroach onto other public or private areas. Note that the boulevard is an active public space that impacts multiple people, therefore, the gardener shall be aware and responsible for keeping their garden free of hazards.
7. Ensure that there is a clear path of travel along the road, sidewalk, and/or pathway at all times.
8. Ensure tools, watering hoses or cans or other gardening equipment are never left unattended on the boulevard or creating obstructions on the road or sidewalk.

# Appendix 1

## INDEMNIFICATION AND RELEASE

1. The City will not be responsible in any way for any injury to any person or any loss or damage to any property, including any planters, seeding or plants, however caused, belonging to the Gardener or to tenants, or licensees of the Gardener while such person or property which is caused by any activity, conditions, or events arising out of the Boulevard Garden. In no event shall the City be liable to the Gardener for any indirect or consequential damage, however caused, including, without limiting the generality of the foregoing, whether or not they would otherwise be considered indirect or consequential loss.

2. **The Gardener shall:** be liable to the City for, and indemnify and save harmless the City, its servants, agents and employees from and against any and all losses, liabilities, claims, suits, actions, demands, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against the City or which the City may pay or incur and which arise out of or in connection with:

- i. any of the rights or privileges granted to the Gardener pursuant to this Application;
- ii. any breach, violation or non-performance of any covenant, condition or guideline related to this Application to be fulfilled, kept, observed or performed by the Gardener;
- iii. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, occasioned by the use of the road right of way by the Applicant, its servants, agents, employees or licensees;
- iv. any damage to any property or injury to a person or persons, including death resulting at any time therefrom, arising from the escape, discharge or release of any gaseous, liquid, or solid hazardous substances including, but not limited to, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, bylaw or code, whether federal, provincial or municipal, occasioned by the use of the road right of way, by the Applicant, its servants, agents, employees or licensees; excepting such losses, liabilities, claims, suits, actions, demands, expenses, damages and costs arising from the sole negligence of the City, its servants, agents or employees.

## INSURANCE

The City encourages the applicant to obtain \$2M General Liability insurance to respond to any bodily injury and/or property damage to the third party. Depending on the circumstances of the use of the shared road right of way (public space) for the purposes of installing and maintaining a residential boulevard gardening (the "Boulevard Garden") including the risk exposures and mitigations put in place by the applicant, the City may require evidence of insurance. The City recommends contacting your home insurance provider or other insured organization for a similar stand alone policy to discuss liability coverage as required.