



Legislation Details (With Text)

File #: 090595 **Version:** 3

Type: Ordinance **Status:** Passed

File created: 9/1/2009 **In control:** PUBLIC WORKS COMMITTEE

On agenda: **Final action:** 10/13/2009

Effective date:

Title: A substitute ordinance relating to amending planting standards in certain portions of the public right-of-way.

Sponsors: ALD. KOVAC, ALD. WITKOWSKI

Indexes: LANDSCAPING, MEDIAN ISLANDS

Attachments: 1. Fiscal note, 2. Fiscal Analysis, 3. Petitions, 4. Hearing Notice List, 5. Notice Published on 10-29-09

| Date | Ver. | Action By | Action | Result | Tally |
|------------|------|------------------------|---------------------------|--------|-------|
| 9/1/2009 | 0 | COMMON COUNCIL | ASSIGNED TO | | |
| 9/4/2009 | 0 | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT | | |
| 9/4/2009 | 0 | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT | | |
| 9/10/2009 | 0 | PUBLIC WORKS COMMITTEE | HELD TO CALL OF THE CHAIR | Pass | 4:0 |
| 9/24/2009 | 1 | CITY CLERK | DRAFT SUBMITTED | | |
| 9/24/2009 | 0 | PUBLIC WORKS COMMITTEE | HEARING NOTICES SENT | | |
| 9/30/2009 | 2 | PUBLIC WORKS COMMITTEE | AMENDED | Pass | 4:0 |
| 9/30/2009 | 3 | PUBLIC WORKS COMMITTEE | RECOMMENDED FOR PASSAGE | Pass | 4:0 |
| 9/30/2009 | 1 | PUBLIC WORKS COMMITTEE | SUBSTITUTED | Pass | 4:0 |
| 9/30/2009 | 3 | CITY CLERK | DRAFT SUBMITTED | | |
| 10/13/2009 | 3 | COMMON COUNCIL | PASSED | Pass | 15:0 |
| 10/14/2009 | 3 | MAYOR | SIGNED | | |
| 10/29/2009 | 3 | CITY CLERK | PUBLISHED | | |

090595
SUBSTITUTE 3
081573
081117

ALD. KOVAC AND WITKOWSKI

A substitute ordinance relating to amending planting standards in certain portions of the public right-of-way.

- 116-54-1 am
- 116-54-2 am
- 116-54-3 am
- 116-55 am
- 116-56 am

This ordinance removes the requirement that plantings in the public right-of-way be 1 ½ feet from

both the curb and sidewalk as long as plantings do not encroach in the path of pedestrians or block the vision of motorists. It changes the maximum height of plants from 2 feet to 3 feet. It removes the restrictions that landscaping edging is limited to 1 ½ feet from both the curb and sidewalk and 6 inches in height. It also adds flower and other vegetation encroachment abatements to the special assessment for trimming. The homeowner would have 30 days after notification to abate the encroachment. After that time the City would remove the encroaching vegetation and charge the costs to the parcel where that the encroachment is in front of.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 116-54-1 to 3 of the code is amended to read:

116-54. Planting of Flowers in the Public Right-of-Way.

1. PLANTING OF FLOWERS. The planting of flowers in the public right-of-way is permitted ~~[[if the planting is 1½ feet from both the curb and the sidewalk]]~~ >>as long as it does not encroach in the path of pedestrians or block the vision of motorists. The diggers hotlines must be contacted at least 3 business days prior to any excavation related to this subsection<<.

2. REQUIREMENTS. Plants may not grow so as to obstruct or encroach upon the curb or sidewalk, block sight lines to the street, be higher than ~~[[2]]~~ >>3<< feet or potentially create a trip hazard on the sidewalk or roadway. The department of public works may issue additional planting guidelines.

3. LANDSCAPING EDGING. Decorative landscaping edging is permitted in the public right-of-way ~~[[if it is 1½ feet from both the curb and the sidewalk]]~~. It may not obstruct or encroach upon the curb or sidewalk, block sight lines to the street ~~[[, be higher than 6 inches]]~~ or potentially create a trip hazard on the sidewalk or roadway.

Part 2. Section 116-55 of the code is amended to read:

116-55. Overhanging Branches >>and Vegetation<<.

1. INTERFERENCE WITH TRAFFIC OR STREET LIGHTS. Branches of trees ~~[[øf]]~~ >>shrubs >> flowers or other vegetation<< shall not be permitted to overhang streets, sidewalks and alleys at such a height as to interfere with vehicle or pedestrian traffic, or with the proper radiation of light from the Milwaukee municipal street lighting system. It shall be the duty of property owners to trim trees ~~[[and]]~~ >>shrubs >> flowers or other vegetation<< to conform with this section upon due notice from the commissioner of public works.

2. INTERFERENCE WITH TRAFFIC CONTROL DEVICES. Branches of trees ~~[[øf]]~~ >>shrubs >> flowers or other vegetation<< shall not be permitted to overhang streets, sidewalks and alleys at such a height or in such a manner as to interfere with the visibility of official traffic control devices. Whenever trees or shrubs or the branches of trees or shrubs or other obstructions are found to block or interfere with the visibility of an official traffic control device, the provisions of s. 116-56 shall not apply. The commissioner of public works may take immediate action after he has received notification of such interference, to remove, trim or cause to have removed or trimmed the branches of such tree or shrub, >>flowers or other vegetation<< or to remove or to cause to have removed other obstructions irrespective of the ownership of the tree, shrub >>flowers, other vegetation<<or other obstruction.

Part 3. Section 116-56 of the code is amended to read:

116-56. Special Assessment for Trimming. In the event of the failure of the owner of any property or premises in front of or on which trees [[øf]] >>_1<< shrubs >>_1, flowers or other vegetation<< grow with branches hanging over the sidewalk, streets or alleys, and with a level less than that provided under s. 116-55 to trim his >>or her<< trees [[øf]] >>_1<< shrubs >>_1, flowers or other vegetation<< in conformity thereto for a period of not less than 30 days after being notified, then the commissioner of public works may cause the branches of such trees [[øf]] >>_1<< shrubs >>_1, flowers or other vegetation<< to be trimmed, as provided for in s. 116-55 and charge the cost of such work against the lots, parts of lots or parcels of land on or in front of which such trees [[øf]] >>_1<< shrubs >>_1, flowers or other vegetation<< may grow, in the manner and following the procedures set forth in s. 11.28, city charter.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

MET

9/30/09

LRB09369-4