

CITY OF MADISON, WISCONSIN

AN ORDINANCE _____

PRESENTED
REFERRED

October 5, 2010
Board of Park
Commissioners; BPW

Amending Sections 8.15(1)(a), (3) and (4) to clarify the requirements of this section, and amending Sec. 1.08(4) of the Madison General Ordinances to provide the Parks Division with enforcement authority over violations thereof.

Drafted by: Doran Viste

Date: September 23, 2010

SPONSOR: Aids. Skidmore & Clausius

DRAFTER'S ANALYSIS: This ordinance amends Section 8.15 of the Madison General Ordinances to clarify the requirements of this Section. Specifically, this ordinance adds language to Subdivision (1)(a) making it clear that it is a public nuisance for someone to chemically treat grass on park land or public greenways. Currently, this subdivision is interpreted as such, but this amendment makes it clear that such chemical treatment is a public nuisance. Additionally, this ordinance amends Subsections (3) and (4) to make it clear that notice of the violation is required to be provided to persons engaging in periodic violations of the ordinance (such as mowing of park lands), and that such persons have appeal rights. The legislative intent of these subsections requiring notice and appeal rights was that all public nuisances under Subsection (1) must be provided notice and appeal rights. This amendment clarifies this intent. Finally, this ordinance amends Subsection 1.08(4) so that the Superintendent of Parks, or his/her designee, and Park Rangers have citation authority over Section 8.15 so that public nuisances involving park land may be enforced by the Parks Division without necessitating the involvement of other Departments.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (a) entitled "Public Nuisance" of Subsection (1) entitled "Greenways and Park Lands" of Section 8.15 entitled "Regulation of Private Use of Greenways, Park Lands, and the Southwest Bike Path" of the Madison General Ordinances is amended to read as follows:

"(a) Public Nuisance. Private use of City-owned or leased greenways and park lands including, but not limited to, fences, retaining walls, outbuilding sites, dog runs, play equipment and gardens, storage of piers, boat hoists, or other private personal property, planting or pruning of trees and shrubs, mowing of grass on park lands, chemical treatment of grass on park lands or greenways, or mowing of grass on greenways when posted for no mowing is a public nuisance and is prohibited unless approval to use City-owned or leased greenways is obtained pursuant to Subdivision (b)."

2. Subsection (3) entitled "Abatement" of Section 8.15 entitled "Regulation of Private Use of Greenways, Park Lands, and the Southwest Bike Path" of the Madison General Ordinances is amended to read as follows:

"(3) Abatement. If the City determines that a public nuisance exists pursuant to (1) or (2), notice to remove such public nuisance or cease such public nuisance activity shall be sent to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. If the public

Approved as to form:

nuisance is not removed within the time specified in the notice, the City shall remove the public nuisance or cause it to be removed. The cost of abatement shall be assessed as a special charge to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. Any property held by the City after removal is subject to disposal thirty (30) days after a notice of removal is mailed to the owner, occupant or person causing, maintaining, or permitting the public nuisance.”

3. Subsection (4) entitled “Appeal” of Section 8.15 entitled “Regulation of Private Use of Greenways, Park Lands, and the Southwest Bike Path” of the Madison General Ordinances is amended to read as follows:

“(4) Appeal. Any person aggrieved by a determination that a public nuisance exists may appeal within fifteen (15) days of the mailing of the notice to remove the public nuisance or cease such public nuisance activity. Appeal shall be to the Board specified on the notice and will be either the Board of Public Works or the Board of Park Commissioners, depending on which Board has the control and management of the public property at issue. All requests for appeal shall be filed with the City Clerk and must inform the Board of the reasons for the appeal. Within thirty (30) days, the Board shall hold a hearing at which the parties may offer testimony and documents. Within twenty (20) days of the hearing, the Board shall affirm, modify, or reverse the determination that a public nuisance exists. Appeal from the action of the Board shall be to Circuit Court within thirty (30) days of the determination of the Board.”

4. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>“Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Superintendent of Parks or her/his designee, and Rangers.	<u>Section 8.15, Regulation of Private Use of Greenways, Park Lands, and the Southwest Bike Path; Section 8.16, Unauthorized Vehicles on Public Lands; Section 8.17, Vending in Public Parks; Section 8.185, Watercraft and/or Other Boating Equipment Storage on City Property Regulated; Section 8.19, Animals Prohibited in Certain Areas; Section 8.215, Lake Access Permits; Section 8.26, Temporary Structure Prohibited without Permit; Section 8.36, Play Golf on City Lands Restricted to Golf Courses; Section 8.42, Feeding Birds on Public Property Prohibited; Section 9.13, License for Selling on Public Streets; Section 10.056, Street Use Permit; Sections 10.18(1) and (6), garbage containers on terrace when prohibited.”</u>