

4.08 - SPECIAL ASSESSMENTS—PAYMENT IN INSTALLMENTS.

(1)Whenever any special assessments shall be levied to defray the cost of any public improvement, such special assessments may be paid in annual installments of not more than fifteen (15) in number for major improvements nor more than eight (8) for sidewalk repair and installation of street lights and street **tree** as determined by the Common Council. However, the number of installments may not exceed ten (10) if the special assessments are made pursuant to [Sec. 16.23](#)(9) of these ordinances. (Am. by Ord. 8748, 12-31-85; ORD-06-00115, 8-22-06)

4.09 - SPECIAL ASSESSMENTS FOR THE CONSTRUCTION OR RECONSTRUCTION OF SANITARY SEWERS, STORM SEWERS, AND STREET IMPROVEMENTS AND SPECIAL CHARGES FOR CURRENT SERVICES.

(13)Special charges for current services rendered may be imposed through the allocation of all or part of the cost to the property served. Such current services may include without limitation because of enumeration, subdivision service costs under [Sec. 16.23](#)(9)(e), unpaid public facilities impact fees imposed under [Chapter 20](#), MGO, mall-concourse special maintenance, street sprinkling, oiling and tarring, sealcoating and dust control, repair of sidewalks, curbs or gutters, garbage and refuse disposal, street lighting and/or traffic signal operation and maintenance, financing of lead service replacement for those property owners which meet the criteria of [Sec. 4.082](#), MGO, and **tree** care. The amount to be charged may include direct and indirect costs, including the resulting damages, if any, interest on City funds used in anticipation of the collection of the special charges, a reasonable charge for administrative staff services, any architectural, engineering and legal services costs, and any other item of direct or indirect cost reasonably attributed to the work or services rendered.

4.095 - URBAN FORESTRY SPECIAL CHARGE.

(1)Intent and Purpose.

(a)The Common Council of the City of Madison hereby finds that:

1.The City, through its urban forestry program, provides a service to all real property in the City by maintaining, protecting and growing the City's urban forest.

2.The City's urban forestry program leads to increases in property value, greater commercial activity, increased livability of the City's neighborhoods, reduction in energy usage, cleaner air, better storm water management and other tangible and intangible benefits. Every \$1 spent on City **trees** yields an estimated \$3.35 in benefits for the City of Madison. In addition, every street **tree**, a component of the City maintained portion of the urban forest, provides \$122 in annual benefits, while collectively intercepting an estimated 115 million gallons of rainfall each year and removing over 175,000 pounds of pollutants from the environment.

3.Invasive species and fungal diseases known and unknown, currently threaten our urban forest and have a history of causing significant harm to the urban forest. The City is currently facing the loss of approximately 20% of the urban forest due to arrival of the emerald ash borer in 2013. According to the adopted Emerald Ash Borer Taskforce Report (RES-12-00729, File ID # 26893), the projected cost to remove and replace the

approximately 22,000 terrace ash trees will be around \$13 million over five years, and the cost to treat suitable trees would carry an annual cost of over \$437,000. Removal, replacement and/or treatment of infested and healthy ash trees is necessary to prevent property damage, personal injury, and to reestablish the urban forest. These costs are significant and may fluctuate over time. Future infestations and diseases may cause similar harm in the future.

4. By creating this special charge, the City will be able to better perform its urban forestry obligations moving forward without sacrificing the level of service needed to adequately maintain, protect and grow the urban forest.

(b) This ordinance is adopted pursuant to those powers set forth in Wis. Stat. § 66.0627 and [Sec. 4.09](#)(13), MGO, in order to recover the costs to the City to maintain and manage the City's urban forest through its urban forestry program, which program provides a service to all real property in the City.

(2) Definitions.

(a) Urban Forest. The urban forest consists of all the trees located on public and private lands within the City.

(b) Urban Forestry Program. City operations on public lands that include, but are not limited to, the following services: planting, pruning, maintenance, treatment, integrated pest management, and the removal and stump grubbing of trees that are part of the Urban Forest.

(c) Program Costs. The Urban Forestry Program Costs shall include the costs to the City to perform the activities associated with the Urban Forestry Program. They do not include any costs incurred by the City that are reimbursed from other sources such as federal or state funding, grants, insurance proceeds, restitution, donations, endowments, or other third party sources, including, specifically, public nuisance abatement costs recovered under [Sec. 23.40](#), MGO.

(3) Urban Forestry Charge. There is hereby imposed upon all real property in the City an annual urban forestry special charge pursuant to [Sec. 4.09](#)(13), MGO, and Wis. Stat. § 66.0627, which charge shall recover the City's annual urban forestry program costs.

(4) Administering the Charge. The urban forestry charge shall be administered by the City Forester and the Finance Department. The proceeds from the charge shall be used to pay for the services provided by the City's urban forestry program. The City Forester shall prepare an urban forestry special charge policy that establishes the method of calculating and apportioning the charge. This policy shall be submitted to the Common Council for approval, and shall be updated as necessary to ensure that the charge is properly applied.

(5) Determining the Urban Forestry Special Charge. The Common Council shall annually approve the urban forestry charge. As part of this approval process, the Forestry Section shall prepare a report to the Common Council of the City's urban forestry program costs. The report shall detail the past and future anticipated expenditures for the program. If, after approving the charge, the actual urban forestry program costs are found to vary materially from the approved amount, the Forestry Section shall submit an updated report to the Common Council for consideration to account for the actual costs of the urban forestry program.

(6)Payment. Upon the Common Council's approval by resolution of the special charge or updated special charge under Subsection (5), the special charge shall be due by October 31. Payment may be made before that date, and any amount not paid to the City by that date will be considered delinquent and shall automatically be extended upon the current or next tax roll as a delinquent tax against that property and all proceedings in relation to the collection, return and sale of the property for delinquent real estate taxes shall apply to such special charges.

(7)Notice. Notwithstanding the provisions of [Sec. 4.09](#)(13) regarding notice, no notice or billing is required for the urban forestry special charge except for a Class I notice under Wis. Stat. ch. 985 within twenty (20) days of the Common Council's approval by resolution of the special charge or updated special charged under Subsection (5).

(8)Appeal. Within ten (10) days of the notice provided for under Subsection (7), a property owner may appeal the application of the urban forestry special charge policy to his or her property. A property owner may not appeal the total amount of the charge approved by the Common Council under Subsection (5) or the policy itself. This appeal shall be in writing to the City Forester and shall state the specific reasons why the property owner feels that the application of the policy to the property was erroneous and the relief being sought. If, upon review, the City Forester determines that all or part of the charge imposed is erroneous, unjust or unreasonable, the City Forester shall adjust the amount of the charge against the property. The property owner may appeal the City Forester's decision to the Administrative Review Board by providing written notice to the City Clerk within ten (10) days of the mailing of the City Forester's written decision on the appeal to the property owner. Upon the filing of the notice with the City Clerk, the appeal of the City Forester's decision shall follow the rules and procedures set forth in [Sec. 9.49](#), MGO.

(9)Sunset. No urban forestry charge shall be imposed under this section for services performed by the City after December 31, 2018.

8.15 - REGULATION OF PRIVATE USE OF GREENWAYS, PARK LANDS, AND THE SOUTHWEST BIKE PATH.

(1)Greenways and Park Lands.

(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) or the private use is pursuant to a valid permit issued under [Sec. 8.33](#), MGO. (Am. by Ord. 12,992, 1-25-02; Ord. 13,177, 11-5-02; ORD-10-00109, 11-17-10; ORD-13-00109, 6-12-13)

8.055 - SALEABLE LOGS.

Upon a determination that a former City tree could have marketable value if sold for lumber, City divisions may inform the Parks Superintendent, who may take possession of any such City-owned logs. Any such saleable logs may be stockpiled and sold or disposed of by the Parks Superintendent in a manner consistent with the City's interests, which may include consideration of non-monetary interests such as the reuse of local materials. If any logs are sold or disposed of under this Section, the Parks Superintendent shall report annually to the Council about the program and the manner of disposition.

8.41 - DOWNTOWN COORDINATING COMMITTEE.

(5) Duties and Responsibilities . The Downtown Coordinating Committee shall:

(a) Consider ongoing issues of operation, design, safety, maintenance and use of the Downtown Area; and provide advice on the development, implementation, and revisions to plans for improvements to be made in the Downtown Area; through periodic review of the implementation and enforcement of policies, regulations and city services that affect the quality of State Street and the Capitol Square as a high-quality urban space for pedestrians in an environment that promotes healthy businesses. This includes policies, regulations and city services that affect pedestrians, including people with disabilities; bicyclists; Mall Concourse maintenance; parking for bicycles, mopeds and automobiles; loading and unloading; motorized vehicles; signage and advertising; vending; sidewalk cafes; and streetscape items such as benches, planters and other street fixtures.

(b) Provide a forum for public information and stewardship for topics that affect the use of public space in the Downtown Area including trash, care of terrace trees and plants, use of sidewalks, placement of utility boxes and building maintenance.

9.54 - EQUIPMENT PLACEMENT ON SIDEWALKS AND TERRACES, PERMITS FOR INFORMATION TABLES AND EXPRESSIVE STREET VENDING

(4), however there shall be no equipment placed on the sidewalk, terrace or street, tree, plantings or any other public amenity and if there is a conflict in provisions between this ordinance

10.08 - CONSTRUCTION OF DRIVEWAY APPROACHES AND PARKING

FACILITIES.

All applications for driveway approaches except Class I and Class II to parking and loading facilities shall be accompanied by scaled drawings, in quintuplicate, and approved by the respective City departments before a building permit will be issued. The following items must be indicated and dimensioned on the five submitted drawings:

11.

Utility poles, fire hydrants, trees or other structures to be moved.

10.085 - OUTDOOR LIGHTING.

(d) **Trees** and shrubbery shall not be located where they significantly reduce or block the lighting of parking facilities or roadways.

10.10 - INSTALLATION OF STREET TREES.

(1) It shall be the policy of the City of Madison to promote and enhance the beauty and general welfare of the City through the planting and maintenance of **trees** or shrubs within the public right-of-way of any street, alley or highway. The City Forester shall direct, regulate and control the planting, care and removal of all public **trees** and shrubs within the City subject to the direction of the Superintendent of Parks and the Board of Public Works and the Board of Park Commissioners.

(2) Diseased or destroyed street **trees** shall be replaced by the City, provided that adequate space for **tree** growth is available and subject to availability of funds. The replacement of diseased or destroyed **trees** shall not be assessed to the abutting property owner.

(3) The full cost, including inspection and supervision, of the initial installation of street **trees** shall be assessed to the abutting properties providing that the abutting properties have not been denied access to the right-of-way in which the street **trees** are installed. Assessment for street **trees** shall be in accordance with Wis. Stat. § 66.0701 and this ordinance, except where street **trees** are installed as a part of a street improvement project in which case [Sec. 4.09](#), MGO, shall govern. The maintenance of street **trees** shall be the responsibility of the City.

(4) When the City Forester proposes the installation of street **trees** assessed to abutting properties he/she shall prepare a report listing the street **trees** to be planted, their location and a schedule of assessments.

(5) A notice shall be published in the official newspaper stating that the City Forester proposes to plant and assess street **trees** to each of the benefited properties and that the Board of Public Works will hold public hearings on the selection, planting and assessments. Such notice shall be published as a Class 1 notice, under Wis. Stat. ch. 985, ten (10) days before the hearing or proceeding, to every interested person whose post office address is known, or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10), and not more than forty (40) days after such publication. (Am. by ORD-10-00114, 12-8-10)

(6)

The Board of Public Works shall hold a public hearing on the planting of **trees** and assessments and shall prepare a report to the Common Council which shall consist of a recommendation on the City Forester's report.

(7) A notice shall be published in the official newspaper stating that the Board of Public Works has prepared a report on the City Forester's Report and that the Common Council will hold a public hearing on the assessments. Such notice shall be published as a Class 1 notice, under Wis. Stat. ch. 985, in the City and a copy of such notice shall be mailed at least ten (10) days before the hearing or proceeding, to every interested person whose post office address is known, or can be ascertained with reasonable diligence. The

hearing shall commence not less than ten (10) and not more than forty (40) days after such publication.

(8)The Common Council shall hold a public hearing on the assessments and after the hearing may approve, disapprove or modify, or it may re-refer the report to the Board of Public Works with such directions as it deems necessary to change the plans for the tree planting and to accomplish a fair and equitable assessment.

Upon adoption by the Common Council, the assessments shall be deemed authorized and made, and the date of such adoption shall constitute the date of levy. Assessments so levied shall be a lien against the property from such date. A copy of the resolution adopted by the Common Council shall be mailed to every interested person whose post office address is known or can be ascertained with reasonable diligence.

(9)After the project is completed and all costs have been charged to the project, the City Forester shall modify each special assessment proportionately based on actual cost sustained and submit a revised schedule of assessments to the Common Council.

Whenever the actual cost of any project shall, upon completion or after the receipt of bids, be found to vary materially from the estimates, or whenever any assessment is void or invalid for any reason, or whenever the Common Council shall determine to reconsider and reopen any assessment, it may, after giving notice as provided in Subsection (7) and after a public hearing, amend, cancel, or confirm any such prior assessment.

If the cost of the project shall be less than the special assessment levied, the governing body, without notice or hearing, shall reduce each special assessment proportionately where any assessments have been paid, the excess over cost shall be refunded to the property owner.

(10)Any person against whose land a special assessment has been levied under this ordinance shall have the right to appeal therefrom in the manner prescribed in Wis. Stat. § 66.0703(12), within forty (40) days of the day of the final determination of the governing body.

(11)The Council may, without any notice or hearing provided in Subsections (5), (6), (7) and (8), levy and assess the whole or any part of the cost of installation of street trees as a special assessment upon the property specially benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

(12)Special assessments for the installation of street trees shall be payable in installments as provided by [Section 4.08](#) of the Madison General Ordinances. (Cr. by Ord. 6224, 4-27-78)

10.101 - REGULATION OF TREE TRIMMING, PRUNING AND REMOVAL WITHIN THE PUBLIC RIGHT-OF-WAY OF ANY STREET, ALLEY OR HIGHWAY.

(1)Intent and Purpose .

(a)The intent of this ordinance is to regulate the trimming, pruning and removal of trees in an effort to preserve the health and maintain the natural shape of such trees, and to prevent trimming, pruning and removal that is unnecessarily disfiguring and/or

destructive, and to give property owners notice of, and an opportunity to contest, proposed **tree** trimming, pruning and/or removal operations.

(b)Exemptions. This ordinance is not intended to apply to the trimming, pruning or removal of **trees** under the following circumstances:

1. When the **trees** in the public street, alley, highway, or greenway are encroaching on an abutting property owner's property;
2. When the trimming or pruning is being performed by the City of Madison Departments of Public Works or Transportation or employees of those departments as those departments work under the direction of the City Forester who has established policies and procedures for trimming, pruning and removal;
3. When the trimming or pruning is in relation to routine installation (e.g. cable television, telephone, etc.), the installer shall not be required to obtain a permit, but must meet the standards in this ordinance and the standards of the city Forester in performing such work.
4. When the trimming, pruning or removal is by an individual property owner, the City Forester retains his or her discretion to issue individual permits for trimming, pruning or removal in the public right of way when such trimming meets the guidelines and standards of this ordinance and the City Forester.

(2)Definitions.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Greenway. As defined in Madison General Ordinances, [Sec. 16.23\(2\)](#).

Tree Trimming Plan. **Tree** Trimming Plan applies to trimming, pruning and removal of **trees** and includes any trimming and/or pruning of roots.

(3)Permit Required for Trimming, Pruning, and Removal of **Trees** within the Public Right-of-Way of any Street, Alley, Highway or Greenway.

(a) No person shall trim, prune, or remove any **tree** that is in a public street, alley, highway or greenway or cause such work to be done by others, without first obtaining a permit from the City Forester. Nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as are required by law.

(b) Any person seeking a permit to trim, prune, or remove a **tree** in a public street, alley, highway or greenway shall submit a written proposed trimming, pruning or removal plan to the City Forester, setting forth the following:

1. Clear and specific identification of the **trees** in a public street, alley, highway or greenway which the person is targeting for trimming, pruning, or removal. The identification shall include the name and block number(s) of the street(s) on which the **trees** are located.
2. A clear and specific statement identifying the dates on which the trimming, pruning, or removal will begin and end.
3. Detail regarding the general nature and character of the proposed trimming, pruning or removal.

The Habitat Stewardship Subcommittee will hold a hearing regarding the proposed **Tree** Trimming Plan at its first meeting after submission of the plan. (Am. by Ord. 12,807, 4-23-01; ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09; Am. by ORD-09-00147, 11-6-09)

(c)Notification. Upon submission of the **Tree** Trimming Plan to the City Forester, the party submitting the plan shall notify residents within the proposed **tree** trimming, pruning or removal area, via United States Mail or personal delivery.

The notice shall inform the resident(s) of the proposed date for trimming, pruning or removal, the date on which the Habitat Stewardship Subcommittee will consider the proposed **Tree** Trimming Plan, and inform the resident that he/she has the opportunity to appear and testify at the meeting of the Habitat Stewardship Subcommittee.

Whichever method is used to effect notification, the party shall submit proof to the Habitat Stewardship Subcommittee that notification was mailed or delivered to the affected residents.

All meetings of the Habitat Stewardship Subcommittee, including all deliberations on a proposed **tree** trimming plan shall be open to the public. The Subcommittee shall keep minutes of its proceedings, showing the vote for each member upon each question or, if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions, all of which shall be immediately filed in the office of the Park Division and shall be a public record.

The Habitat Stewardship Subcommittee, upon its findings, shall make a recommendation, including the reasons therefore, to the City Forester after the hearing. The recommendation shall be provided to the applicant. (Am. by Ord. 12,807, 4-23-01; ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09; Am. by ORD-09-00147, 11-6-09)

(d)If the City Forester determines that the **Tree** Trimming Plan is in accordance with the intent and purpose of this ordinance, it will, within 10 days of the hearing at which the plan was considered, authorize the City Clerk to issue a permit to the person submitting the plan. The City Clerk will issue the permit upon submission of the permit fee of fifty dollars (\$50.00.) (Am. by Ord. 13,601, 5-11-04)

(e)The permit shall indicate the streets affected by the **Tree** Trimming Plan and the dates on which the trimming, pruning or removal will occur. The permit will be valid for the streets and dates appearing on the permit, except as provided in subdivision (e)1. below. Any person trimming, pruning or removing **trees** outside of the streets or dates specified on the permit will be in violation of this ordinance and subject to penalty.

1.Public utilities and contractors may apply for and obtain, in accordance with this ordinance, an annual forestry permit which will be valid for a period of one (1) year from the date of issue, subject to the following additional conditions:

a.Provide the City Forester fifteen (15) days advance written notice of work to be performed;

b.Perform work in conformance with this ordinance and the written guidelines and directives of the City Forester;

c.Pay an annual forester permit fee of fifty dollars (\$50) to the City Clerk's office.

2.The annual forestry permit will be subject to renewal upon reapplication to the City Forester and re-hearing before the Habitat Stewardship Subcommittee. (Am. by ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09; Am. by ORD-09-00147, 11-6-09)

(4)Administration and Enforcement.

(a)The purpose of this section is to provide for the administration and enforcement of this ordinance.

(b)This section shall be administered and enforced by the City Forester and designees thereof and in conformity with Madison General Ordinances [Sec. 10.101](#)(1).

(c)Violations of this section shall be brought to the attention of the City Forester.

(5)Emergency Trimming, Pruning or Removal . The above specified notice procedure does not apply when circumstances arise which require immediate action to protect the public from imminent harm, such as sickness, disease, personal injury or property damage. In determining imminent harm, there must be a balancing of the rights of the abutting property owner to notice and appeal procedures with the right of the public to be protected from a risk of harm which could be avoided by prompt action.

(6)Appeals . Any person aggrieved by the administration or interpretation of any of the terms or provisions of this section may appeal to the Board of Park Commissioners by filing a notice of appeal, stating the grounds therefore, with the President of the Park Commission. The Board of Park Commissioners may, after a hearing, with notice to the appellant, reverse, affirm or modify, in whole or in part, the decision or determination of the Habitat Stewardship Subcommittee or the City Forester. The decision of the Board of Park Commissioners shall be a final administrative determination, subject to judicial review as may be provided by law. (Am. by ORD-09-00052, Pub. 4-2-09, Eff. 8-1-09; Am. by ORD-09-00147, 11-6-09)

(7)Penalty .

(a)Any person who violates the provisions of this section shall, upon conviction, pay a forfeiture of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). Each day during which any violation of the provisions of this section shall occur or continue shall constitute a separate offense.

(b)If, as the result of a violation of any provision of this section, the injury, mutilation, or death of a **tree** located within the public right-of-way of any street, alley, highway or greenway is caused, the cost of repair and replacement of such **tree** shall be the responsibility of the person in violation. The replacement value of **trees** shall be determined in accordance with the most recent edition of A Guide to Plant Appraisal published by the International Society of Arboriculture.

10.25 - PLANTINGS IN THE TERRACES.

(1)Definitions . For the purposes of this section, the following definitions apply:

(a)"Occupant" is any person who legally resides in a residential property immediately adjacent to a terrace, including any individual condominium owner within a condominium development.

(b)"Owner" is the person who has legal title to a property immediately adjacent to a terrace, and, for multi-unit properties, includes condominium associations.

(c)"Permissible plantings" are those plants, other than **trees** and shrubs, and landscape features that have been deemed permissible plantings under subsection (2).

(d)"Residential property" is any single or multi-family property zoned residential under [Chapter 28](#), MGO.

(e)"Terrace" is that portion of the public right-of-way in between the curb or road-way and the adjoining lot line, whether or not the area is occupied by a sidewalk or multi-use path.

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2) Permissible Plantings. The owner of a residential property may plant, maintain and cultivate, or allow an occupant of the residential property to plant, maintain and cultivate, certain plants and landscaping features within the terrace adjoining the owner's property if said plantings and landscaping features are consistent with the requirements of this subsection. Plantings may not include any **trees** or shrubs, the planting of which are subject to Secs. [23.21](#) and [23.22](#), MGO. Plantings and landscape features are permissible plantings under this subsection if the following conditions are met:

(a) gardens, flower gardens or landscaping are allowed. Any plant species that are deemed invasive and regulated under Wis. Admin. Code ch. NR 40, or elsewhere in these ordinances, are not allowed.

(b) Landscaping Features. Landscaping features meant to protect approved plantings, such as mulch, small rocks or other similar features, shall be allowed provided the materials are stable, do not create any potential public safety hazard, and are easily removable. Temporary wire fencing, lattices, vegetable cages and the like, are permissible landscaping features if necessary to assist the establishment of approved plantings. Specific criteria for these items shall be included in the terrace treatment policy provided for in sub. (2)(c) below. Pots, raised flower beds, railroad ties, and the like, are not landscaping features subject to this subdivision, but rather are encroachments subject to the privileges in street ordinance in [Sec. 10.31](#).

(c) Terrace Treatment Policy. To ensure public safety and access to public facilities, the City Engineer, in consultation with the Food and Alcohol Policy Administrator, shall prepare a terrace treatment policy that describes the following: (Am. by ORD-15-00116, 10-28-15)

1. Where on terraces approved plantings and landscaping features may be placed;
2. How high they are allowed to be maintained;
3. Criteria for more permanent features, such as low retaining walls, steps, and other incidental items when those items are necessary due to steep grades within the terrace; and,
4. Standards for the use of chemical agents such as insecticides or fertilizers.

The terrace treatment policy shall be approved by the Board of Public Works, after consultation with the Food Policy Council, and any amendments to this policy shall be approved by the Board of Public Works in like fashion. Once the terrace treatment policy is approved, the owner or occupant of the property may only place plantings and landscaping features in the terrace pursuant to the terrace treatment policy.

(d) Maintenance of Approved Plantings and Landscaping Features.

1. Approved plantings and landscaping features shall be maintained in a safe and orderly manner, free of any unapproved planting or landscaping feature and in the areas allowed under the terrace treatment policy.
2. endanger the public's use of a roadway, sidewalk or other multi-use path, and all approved plantings and landscaping features shall be maintained so as not to interfere with the public's right of travel over these areas, or the visibility required to exit private driveways.

(e) Responsibility. The owner or occupant responsible for the permissible plantings accepts full responsibility for the care and maintenance of the permissible plantings, and understands that permissible plantings in the terrace are made at their own risk, and that they may be removed at any time by the City without compensation. The owner or occupant seeking to place permissible plantings in the terrace is responsible for

contacting Digger's Hotline to identify and mark any underground utilities prior to digging within the right-of-way.

(f)Removal. Prior to performing any public works project that may threaten any permissible planting, the City shall attempt to notify property owners and occupants of the City's plans in order to give the owner or occupant sufficient time to relocate the plantings. This notification provision shall not apply in emergency situations or where such notice is not practicable.

(3)Planting of Shrubbery on Terraces Prohibited. Except for permissible plantings made under sub. (2), no person shall plant or maintain or cause to be planted or maintained on any terrace between the sidewalk and curb on any street in the City of Madison any plant or shrub in excess of twenty-four (24) inches in height or within a distance of twenty-four (24) inches from the back of the curb unless necessary to control erosion of the soil.

Any plants or shrubbery planted or maintained on any terrace contrary to the provisions of this ordinance shall be removed. The enforcement of this ordinance shall be under the supervision of the Police Department, the City Engineering Division, and the Building Inspection Division of the Department of Planning and Community and Economic Development.

Upon default of any person ordered to remove said plants or shrubbery, the City Engineering Division and/or the Department of Planning and Community and Economic Development may cause said plants or shrubbery to be removed. The cost of removal shall be assessed against the lot adjoining the terrace upon which the plants or shrubbery were located as provided in [Section 27.05\(2\)\(bb\)](#), MGO. Prosecution under this section shall not bar the City from causing the plants or shrubbery to be removed, nor shall the City's removal of the plants or shrubbery bar prosecution hereunder. (Am. by ORD-08-00109, 10-7-08; ORD-12-00134, 1-2-13)

16.23 - LAND SUBDIVISION REGULATIONS.

The installation of street **trees** shall take into account solar access objectives in the selection of **tree** species and planting location so as to minimize future

20. When and to the extent requested by the City Engineer because of drainage, ground or **tree** cover or ground water concerns, a lot grading plan for the preliminary plat showing proposed contours at vertical intervals of not more than two (2) feet. Elevation shall be marked on such contours based on City of Madison datum. (Cr. by Ord. 4929, 3-28-75)

(8) Design Standards .

(a) Streets and Alleys .

1. General . In any new subdivision the street layout shall conform to the arrangement, width and location indicated on the official map, master plan or component neighborhood unit development plan. In areas for which such plans have not been completed the streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and **tree** growth, to public convenience and safety, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas.

a. In residential districts a buffer strip at least thirty (30) feet in depth in addition to the normal lot depth required shall be provided adjacent to a railroad right-of-way or a state or U.S. highway. The subdivider shall install in the buffer strip, noise abatement facilities

per the Wisconsin Administrative Code, Department of Transportation, Chapter Trans 405, "Siting Noise Barriers". For the above lots, the strip shall be a part of the lots and shall have the following restriction lettered on the face of the plat:

"This strip reserved for noise abatement facilities. The building of buildings hereon is prohibited and any bermed area shall not be counted as any required yard. Maintenance of this strip and any facilities thereon is the responsibility of the owner."

For all other lots adjacent to a state or U.S. highway or railroad right-of-way such buffer strip shall be a part of the platted lots and shall have the following restriction lettered on the face of the plat:

"This strip reserved for the planting of trees or shrubs by the owner; the building of buildings hereon is prohibited, and the rear 30 feet of the strip shall not be counted as any required yard. Maintenance of this strip is the responsibility of the lot owner."

Street grades shall be established wherever practicable in such a manner to avoid excessive grading, the promiscuous removal of ground cover and tree growth and general leveling of the topography.

(

b)Easements .

1.Lines To Be Underground In Newly Platted Areas .

a.All new electric distribution lines (excluding lines of twelve thousand (12,000) volts or more), all new telephone lines from which lots are individually served, all new telegraph lines, community antenna television cables and services, installed within a newly platted area, mobile home park, cluster development or planned development district, shall be underground unless the Plan Commission shall specifically find after study that:

i.The placing of such facilities underground would not be compatible with the planned development; or

ii.Location, topography, soil, swamp, solid rock, boulders, stands of trees, rows of trees, hedges or other physical conditions would make underground installation unreasonable or impracticable; or

iii.The lots to be served by said facilities can be served directly from existing overhead facilities.

g)The installation of street trees shall take into account solar access objectives in the selection of tree species and planting location so as to minimize future shading of the most southerly side of contemplated building locations. (Cr. by Ord. 8128, 10-17-83)

7.Street Trees . In order to provide trees within the public right of way, the subdivider, and her/his heirs and assigns, waive notice and hearing to the assessment for public improvements in accordance with Section 66.0703(7)(b), Wis. Stats., and Section 10.10(11), Madison General Ordinances, in a recordable document. The trees shall then be installed by the City and special assessed to the benefited properties at a time determined by the City. In the alternative, the subdivider may elect to install the trees and other landscaping at her/his sole expense in accordance with plans prepared or approved by the Parks Superintendent as a component of the public improvements of the subdivision.

19.16 - UNDERGROUND UTILITY ENTRANCE FACILITIES.

(1)Purpose. The Common Council of the City of Madison does hereby declare it to be the public policy of the City of Madison to favor underground electrical and communications facilities. The exercise of police power to implement this public policy is based on the public benefit received including (but not limited to) the following reasons:

- (a)Clearing scenic views;
- (b)Improving civic appearance;
- (c)Removing safety hazards which are a danger to pedestrians and motorists;
- (d)Overcoming the threat of temporary loss of service due to high winds and ice conditions;
- (e)Eliminating damage to overhead equipment by wildlife;
- (f)Eliminating damage to wildlife by overhead equipment;
- (g)
Eliminating trimming of street **trees** required to prevent damage to overhead wires.

This ordinance is adopted to facilitate the orderly replacement and/or transfer from overhead facilities consistent with desirable aesthetic goals and sound economic practices. The Common Council of the City of Madison finds the utilities and other entities furnishing major utility services and other services transmitted by wire or coaxial cable have previously adopted policies of converting from overhead service to underground service.

23.21 - PRUNING OR REMOVING **TREES IN PUBLIC HIGHWAYS OR PUBLIC PLACES.**

(1)No person, corporation, or association shall plant, cut, prune, or remove any living **tree** or shrub in a public highway in the City of Madison, or cut, disturb or interfere in any way with the roots of any **tree**, to the extent of causing serious injury to such **tree**, in such public highway, or spray any such **trees** or shrubs with any chemical or insecticides without written permit of the Board of Park Commissioners.

(2)Nothing herein shall be construed as preventing the City Engineer or Superintendent of Streets, Sewers, and Sanitation (Superintendent of Sanitation) from trimming **trees** so as to prevent interference with street illumination, provided that before trimming the **trees** said City Engineer or Superintendent of Streets, Sewers, and Sanitation (Superintendent of Sanitation) shall obtain the suggestion of the City Forester, and if the trimming suggested by him/her shall be sufficient to accomplish the purpose the **tree** shall be trimmed accordingly. (Am. by ORD-14-00012, 1-14-14)

23.22 - PLANTING OF THESE **TREES IN PUBLIC HIGHWAY.**

No shade or ornamental **tree** or shrub shall be planted in any of the public streets of the City of Madison until such **tree** and the place where it is to be planted shall first have been approved by the Board of Park Commissioners, and a permit granted by said Board therefore.

- **23.23 - DEPOSITING MATERIALS NEAR TREES.**

No person shall place or maintain upon the ground, in a public highway of the City of Madison, stone, cement, lumber, or other substance or material which may impede the free passage of water and air to any tree or shrub in such highway without leaving an open space of ground outside the trunk of said tree or the base of said shrub, of an area not less than sixteen (16) square feet. Before depositing any material in any highway of the City of Madison near to trees therein, the person so depositing said materials shall place such guards around the trees as shall effectively prevent injury to them.

23.24 - BREAKING, DAMAGING OR INJURING TREES, SHRUBS.

(1) No person shall break or injure any tree planted in any highway in the City of Madison, nor shall she or he pour salt water on any such public highway in such places as to injure any tree or shrub planted or growing therein. (Am. by ORD-14-00012, 1-14-14)

(2) No person shall occupy any flower bed or area of plantings nor shall any person injure, destroy or damage in any way any tree, shrub, flower or planting in any public park or public place within the city of Madison. For purposes of this subsection, public place means a place which is in public ownership or a place to which the public has access, distinguished from a private place. (Am. by Ord. 11,938, 9-26-97)

(3) No person, during the course of performing or causing to be performed public or private work on or immediately adjacent to property that the City of Madison has an ownership interest in, including, without limitation, highways and highway right-of-ways, public walkways and bike paths, parks, and greenways, shall intentionally or negligently cause damage to any tree planted on said City of Madison property such that the tree must be removed. In performing or causing to be performed such work, persons are expected to exercise ordinary care to prevent unnecessary damage to the tree and root structure so that the tree remains viable after the work is performed. It shall not be a violation of this provision if the City Engineer or City Forester, or their designees, authorize the damage to the tree prior to the damage, or within a reasonable time thereafter. Each tree damaged shall be a separate violation, and any person violating this provision shall be subject to the following forfeitures: if the tree damaged has a diameter of three (3) inches or less (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of two hundred and fifty dollars (\$250) plus thirty dollars (\$30) per diameter inch; if the tree damaged has a diameter of more than three (3) inches (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of one hundred and fifty-five dollars (\$155) per diameter inch. However, no person shall be subject to a forfeiture under this subsection if that person has already reimbursed the City for the damage to the tree through the provisions of a public works contract. (Cr. by ORD-10-00071, 7-27-10)

23.25 - ATTACHING ELECTRIC WIRES, ETC., TO TREES.

No person, corporation, or association, shall attach any electric insulator, or any device for holding of electric wire, to any tree growing or planted upon any public highway of the City of Madison. Every person, corporation, or association having any wire or wires charged with electricity running through a public highway shall securely fasten such wire or wires to a post or other structure so that they shall not come in contact with any tree therein and every such person, corporation, or association shall, when and if the Board of Park

Commissioners shall determine it to be necessary in order to prune or cut down any tree growing on a public highway of the City of Madison, temporarily remove any such wire or wires or cut off the electricity within twenty-four (24) hours after service upon the owner of said wire or wires or his/her or its agents, of a written notice signed by the president of the Board of Park Commissioners to remove said wire or wires or cut off said electricity. (Am. by ORD-14-00012, 1-14-14)

23.26 - TALL BARBERRY AND PURPLE BARBERRY PROHIBITED.

No person shall hereafter sell or plant, within the City of Madison, the "berberis bulgaris", commonly known as the tall barberry or the "berberis purpurea", commonly known as the purple barberry.

23.27 - COTTON BEARING POPLAR TREES RESTRICTED.

No person shall sell or plant any female cotton bearing tree of the poplar family commonly called the Eastern Cottonwood, Populus deltoides, and the White Poplar, Populus alba, within the boundaries of the City of Madison. (R. & Recr. by Ord. 4667, 8-5-74)

23.28 - SEED BEARING BOX ELDER TREES RESTRICTED.

No person shall sell or plant any seed bearing box elder tree, Acer negundo, within the boundaries of the City of Madison. (R. & Recr. by Ord. 4666, 8-5-74)

23.40 - ELM TREES INFECTED WITH DUTCH ELM DISEASE OR

OAK TREES INFECTED WITH OAK WILT DISEASE OR

ASH TREES INFESTED WITH EMERALD ASH BORER A NUISANCE.

(1)Public Nuisances Declared.

(a)The Common Council of the City of Madison having determined that the health of the elm trees within the City of Madison is threatened by a fatal disease known as Dutch elm disease Ceratocystis Ulmi (Buisman) hereby declares the following to be a public nuisance:

- 1.Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles Scolytus mulristriatus (Marsh.) or Hylargophinus rufipes (Eichh.).
- 2.Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(b)The Common Council of the City of Madison having determined that the health of oak trees within the City of Madison is threatened by a fatal disease known as oak wilt disease (Ceratocystis fagacearum) hereby declares the following to be a public nuisance:

- 1.Any living or standing oak tree or part thereof infected with the oak wilt disease fungus.

2. Any dead oak **tree** or part thereof, including logs, branches, stumps, firewood or other oak material from which the bark has not been removed.

(c) The Common Council of the City of Madison having determined that the health of the ash **trees** within the City of Madison is threatened by Emerald Ash Borer (*Agrilus planipennis*), an exotic wood boring beetle that only feeds on ash **trees**, hereby declares the following to be a public nuisance:

1. Any living or standing ash **tree** or part thereof infected with or which harbors any of the beetles Emerald Ash Borer (*Agrilus planipennis*).
2. Any Emerald Ash Borer infested dead ash **tree** or part thereof, including logs, branches, stumps, firewood or other ash material from which the bark has not been removed and burned.

(3) Inspection. Following receipt of a complaint, the City Forester, or designee, shall inspect or cause to be inspected all premises and places within the City to determine whether any public nuisance as defined in Subsection (1) of this ordinance exists thereon and shall also inspect or cause to be inspected any elm **tree**, oak **tree** or ash **tree** reported or suspected to be infected with the diseases or insects defined in Subsection (1) of this ordinance or any elm bark, oak bark or ash bark bearing material reported or suspected to be infested with the diseases or vectors listed in Subsection (1) of this ordinance.

(4) Abatement of Nuisances.

(a) If the City Forester, or designee, upon inspection or examination in person or by some qualified person acting for her/him, shall determine that any public nuisance as herein defined exists in or upon any public street, alley, park or other public place, including the terrace strip between curb and lot line within the City of Madison, s/he shall:

1. Immediately cause it to be removed and the wood to be debarked, covered or chipped, or
2. Otherwise abate the nuisance in such manner as to destroy or prevent as fully as possible the spread of Dutch elm disease or the insect pests or vectors known to carry such disease fungus, or the spread of oak wilt disease, or the spread of Emerald Ash Borer beetles.

(b) If the City Forester, or designee, shall determine within reasonable certainty that any public nuisance as herein defined in Subsection 1 exists in or upon private premises, s/he shall report the existence of such nuisance to the Board of Park Commissioners; the Board shall, if it determines that such nuisance exists, cause notice to be issued to the owner of the lot or parcel of land on which such **tree(s)** stand or her/his agent, or if neither is known and there is a tenant or operator, occupying said property then to such tenant or operator, that the Board of Park Commissioners proposes ordering the removal and destruction of such **tree(s)** as nuisances under this ordinance. The notice shall specify the general location and number of such **tree(s)** on the lot or parcel of land, and inform that a hearing will be held before said Board of Park Commissioners for the purpose of ordering the removal and destruction of such **tree(s)**. The notice to the owner, agent or tenant of the property shall be issued at least two (2) weeks prior to the hearing and shall indicate the date, time, and location where the hearing will be held before the Board of Park Commissioners. The notice shall be mailed via first class mail to the property owner's last known address, and a copy shall be served upon the owner or occupant at the property location or may be posted by attaching to the entrance of any dwelling, building or other structure on the premises. After such hearing the City Forester, or designee, subject to the direction of the Board, shall abandon the work or proceed with it as s/he believes the

best interests of the public require. Once the Board of Park Commissioners has ordered the removal and destruction of such tree(s) as nuisances under this ordinance, in lieu of such removal by the City Forester, or designee, the City Forester, or designee, shall issue a written notice to the owner, agent or tenant or operator of the property to abate such nuisance within a reasonable period of time as specified in the notice. The notice shall include the method(s) by which the property owner, agent, tenant or operator shall abate the nuisance and the proper method(s) of disposal of such trees, and that failure to abate the nuisance as so ordered will result in the City abating the nuisance at the property owner's expense. The notice shall be mailed via first class mail to the property owner's last known address, and a copy shall be served upon the owner or occupant at the property location or may be posted by attaching to the entrance of any dwelling, building or other structure on the premises. (Am. by Ord. 9305, 10-29-87; Ord. 12,684, 9-25-00; Ord. 13,640, 6-23-04)

(c) If such owner, agent or tenant or operator does not abate said nuisance within the time limited, the City Forester, or designee, may cause the same to be abated. No damages shall be awarded to the owner for the destruction of any elm trees, elm wood, oak trees, oak wood, ash trees or ash wood or any part thereof pursuant to this section. (Cr. by ORD-09-00115, 8-11-09)

(5) Assessment of Costs of Abatement.

(a) The entire costs of abating any public nuisance as defined in Subsection (1) of this ordinance may be chargeable to and imposed as a special charge against the parcel or lot upon which such tree stands. The cost of abating any such nuisance which is located in or upon any park or public grounds, boulevards or public right-of-way shall be borne by the City.

(b) The City Forester, or designee, shall keep strict account of the costs of work done under this ordinance for which special charges are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amount chargeable to each. The City Forester, or designee, shall include in her/his report to the Common Council the aggregate amounts chargeable to each lot or parcel as recorded by her/him and such amounts shall be imposed as special charges against such parcels or lots pursuant to [Sec. 4.09](#)(13), MGO.

(Am. by Ord. 13,640, 6-23-04)

(6) Transporting of Wood Prohibited. No person, firm or corporation shall transport within the City of Madison any bark bearing diseased elm wood or diseased oak wood or Emerald Ash Borer infested ash wood or material without first securing the written permission of the City Forester, or designee. (Am. by Ord. 13,640, 6-23-04)

(7) Removal or Pruning of Oak Trees Prohibited. No person, firm or corporation shall remove, trim or prune any oak tree or portion thereof between April 1 and October 15 without first securing the written permission of the City Forester, or designee. (Am. by Ord. 11,012, 10-12-94; Ord. 13,640, 6-23-04; ORD-08-00071, 7-04-08)

(8) Interference With City Forester Prohibited. No person, firm or corporation shall prevent, delay or interfere with the City Forester, or designee, or any of her/his agents or employees while they are engaged in the performance of duties imposed by this ordinance. (Am. by Ord. 13,640, 6-23-04)

(9) Penalty. Any person, firm, or corporation violating any of the provisions of this ordinance shall upon conviction thereof be subject to a forfeiture of not more than five hundred dollars (\$500). Each day such violation continues shall be considered a separate offense. (Am. by Ord. 13,760, 12-14-04)

23.41 - USE OF DDT SPRAY PROHIBITED.

It shall be unlawful for any person to place DDT spray on any **tree** in the City of Madison.

25.21 - THROWING OF STONES, ETC.

No person shall throw or cast any stone or other missile or other item at or upon any person, or at or upon any building, **tree**, or other public or private property, or at or upon any railroad locomotive, tender, coach or car, or any passenger motor bus. Any person violating this Section shall be subject to a forfeiture or not more than five hundred dollars (\$500). (Am. by Ord. 13,716, 10-26-04)

27.05 - SAFE AND SANITARY MAINTENANCE OF PROPERTY

(c) Responsibility for Enforcement; Inspections .

1. It shall be the duty of the City **Forester** to make or cause to be made periodic inspections or inspections upon complaint of nuisances defined in subdivision (b)1.-3. above, when they exist in or upon any public street, alley, park, other City property or other public place, including the terrace strip between curb and lot line, within the City of Madison.

2. It shall be the duty of the Director of Building Inspection to make or cause to be made periodic inspections or inspections upon complaint of nuisances defined in subdivision (b)4. above. (Am. by ORD-08-00109, 10-7-08)

3. If the City **Forester** or employees or agents working under her/his direction, determine that a nuisance defined under subdivision (b)1.-3. exists in or upon private premises, the City **Forester** shall notify the Director of Building Inspection. The Director of Building Inspection may proceed as provided in subdivisions (d) and (e) of this subsection. (Am. by ORD-08-00109, 10-7-08)

28.006 - SCOPE OF REGULATIONS.

All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alteration or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this ordinance which are applicable to the zoning districts in which such buildings, uses or land shall be located. (See Transition Rules below.)

(1) All new building sites shall meet the requirements of this ordinance unless, prior to the effective date of this ordinance a building permit was issued and is still valid; and provided construction is begun within ninety (90) days of such effective date and diligently prosecuted to completion, said building may be:

- (a) Completed in accordance with the approved plans on the basis of which the building permit has been issued, and,
 - (b) May upon completion be occupied as approved in the building permit by the use for which it was originally designated.
- (2) Where the Zoning Administrator has issued a zoning approval pursuant to the provisions of this ordinance, the approval shall become null and void unless work thereon is substantially underway within six (6) months of the date of issuance of such approval.
- (3) The following changes to an existing use shall not require the entire site to be brought into compliance:
- (a) Adding pedestrian and/or accessibility accommodations required by building code provisions.
 - (b) Providing new/additional bicycle parking.
 - (c) Providing new/additional refuse enclosure areas.
 - (d) Resurfacing/reconstruction, maintenance of parking facilities where there is no change to layout, circulation or entrances.
 - (e) Replacing dead/undesirable, or non-functioning landscaping with new or different **trees** or shrubs.

28.052 - TRADITIONAL RESIDENTIAL - RUSTIC (TR-R) DISTRICT.

Statement of Purpose .

The TR-R District is established to stabilize and protect the natural beauty, historic character and park-like setting of certain heavily wooded low-density residential neighborhoods. The district is also intended to promote the preservation of the neighborhood's historic buildings, **tree** cover and landscape plan. This district is not intended for use in new development.

28.087 - EMPLOYMENT CAMPUS DISTRICT

A plan for **tree** islands and parking lot landscaping shall be included with the landscape plan required in sub. (5)(a) below. Off street parking facilities shall be located at least ten (10) feet from any property line and/or right-of-way and utilize a landscape buffer that includes **trees**. Shrubs, decorative fencing, benches, flowerbeds, ground covers, or other high-quality materials. For every twelve (12) to fifteen (15) parking stalls in a continuous row, at least once canopy **tree** shall be required in an interior parking island pursuant to the requirements of [Sec. 28.142](#) of these ordinances.

28.138 - LAKEFRONT DEVELOPMENT.

(1) Statement of Purpose . This subsection is established to further the maintenance of safe and healthful conditions by preserving and enhancing water quality, habitats, viewsheds, and other environmental and aesthetic qualities of lakes through the regulation of zoning lots abutting lakes within the City.

(2) Applicability .

(a) With the exception of (b) below, all new principal buildings, additions to principal building totaling in excess of five hundred (500) square feet during any ten (10) year period, or any accessory building on zoning lots abutting Lake Mendota, Lake Monona, Lake Wingra, Monona Bay, and associated bays, shall require conditional use approval and shall meet the requirements of this subsection.

(b) Conditional use approval and the requirements of this subsection shall not apply to any part of a zoning lot abutting Lake Mendota, Lake Monona, Lake Wingra, Monona Bay,

and associated bays that is more than three hundred (300) feet from the Ordinary High Water Mark (OHWM) or is separated from the OHWM by a street or public right of way.

(3)General Regulations .

(a)Upon the filing of an application for a conditional use, the development plan shall show a complete inventory of shoreline vegetation in any area proposed for building, filling, grading or excavating. In addition, the development plan shall indicate those **trees** and shrubbery which will be removed as a result of the proposed development. The cutting of **trees** and shrubbery shall be limited in the strip thirty-five (35) feet inland from the normal waterline. On any zoning lot not more than thirty percent (30%) of the frontage shall be cleared of **trees** and shrubbery. Within the waterfront setback requirements **tree** and shrub cutting shall be limited by consideration of the effect on water quality, protection and scenic beauty, erosion control and reduction of the effluents and nutrients from the shoreland.

28.139 - DEVELOPMENT ADJACENT TO PUBLIC PARKS.

(1)Nonresidential development immediately adjacent to the boundary of a City-owned public park shall be reviewed as a conditional use. The purpose of this requirement is to assess the impact of proposed development on natural resources, drainage patterns, pedestrian traffic and recreational uses of the park. Conditional use applications shall include the following:

(a)A complete inventory of vegetation in any area proposed for development within one hundred (100) feet of the park boundary.

(b)Any proposed cutting of **trees** or removal of vegetation within one hundred (100) feet of the park boundary. Removal of vegetation may be limited within thirty-five (35) feet of the park boundary.

(c)Grading and drainage within thirty-five (35) feet of the park shall be reviewed for its effect on drainage patterns and vegetation within the park.

28.142 - LANDSCAPING AND SCREENING REQUIREMENTS.

(a)Elements of the landscape plan shall include the following:

- 1.Plant list including common and Latin names, size and root condition (i.e. container or ball &burlap).
- 2.Site amenities, including bike racks, benches, trash receptacles, etc.
- 3.Storage areas including trash and loading.
- 4.Lighting (landscape, pedestrian or parking area).
- 5.Irrigation.
- 6.Hard surface materials.
- 7.Labeling of mulching, edging and curbing.
- 8.Areas of seeding or sodding.
- 9.Areas to remain undisturbed and limits of land disturbance.
- 10.Plants shall be depicted at their size at sixty percent (60%) of growth.
- 11.Existing **trees** eight (8) inches or more in diameter.
- 12.Site grading plan, including stormwater management, if applicable.

(c)Landscape points are calculated as shown in the following table.

Plant type	Points	Minimum Size at Installation
Overstory deciduous tree	35	2½ inch caliper measured diameter at breast height (dbh) Minimum 12'-14' Hgt.
Tall Evergreen Tree (i.e. pine, spruce)	35	5-6 feet tall
Ornamental tree	15	1½ inch caliper
Upright Evergreen shrub (i.e. arborvitae)	10	3-4 feet tall
Shrub, deciduous	3	#3 gallon container size Min. 12"-24"
Shrub, evergreen	4	#3 gallon container size Min. 12"-24"
Ornamental grasses/perennials	2	#1 gallon container size Min. 8"-18"
Ornamental/decorative fencing or wall	4 per 10 ln. ft.	n/a
Existing significant specimen tree	14 per caliper inch dbh	Minimum size: 2 ½ inch caliper dbh Maximum points per tree: 200 *Trees must be within developed area and cannot comprise more than 40% (30%) of total required points
Landscape furniture for public seating	5 points per	*Furniture be within developed area, publically accessible, and cannot comprise more than 5% of

Plant type	Points	Minimum Size at Installation
and/or transit connections	"seat"	total required points

*as determined by ANSI, ANLA—American standards for nursery stock. For each size, minimum plant sizes shall conform to the specifications as stated in the current American Standard for Nursery Stock.

d)Landscaping shall be distributed throughout the property along street frontages, within parking lot interiors, and as foundation plantings as specified in subsections (5) through (8) below, or as general site landscaping.

(e)Planting beds or planted areas must have at least seventy-five percent (75%) vegetative cover mulched.

(f)Canopy **tree** diversity requirements for new **trees**:

- 1.If the development site has fewer than five (5) canopy **trees**, no **tree**diversity is required.
- 2.If the development site has between five (5) and fifty (50) canopy **trees**, no single species may comprise more than thirty-three percent (33%) of **trees**.
- 3.If the development site has more than fifty (50) canopy **trees**, no single species may comprise more than twenty percent (20%).

(g)Not more than four (4) of any one species of canopy **tree** shall be used to meet a canopy **tree** requirement.

(5)Development Frontage Landscaping .

Landscaping and/or ornamental fencing shall be provided between buildings or parking areas and the adjacent street(s), except where buildings are placed at the sidewalk. Landscape material shall include a mix of plant material meeting the following minimum requirements:

(a)One (1) overstory deciduous **tree** and five (5) shrubs shall be planted for each thirty (30) lineal feet of lot frontage. Two (2) ornamental **trees** or two (2) evergreen **trees** may be used in place of one (1) overstory deciduous **tree**.

(b)In cases where building facades directly abut the sidewalk, required frontage landscaping shall be deducted from the required point total.

(c)In cases where development frontage landscaping cannot be provided due to site constraints, the zoning administrator may waive the requirement or substitute alternative screening methods for the required landscaping.

(d)Fencing shall be a minimum of three (3) feet in height, and shall be constructed of metal, masonry, stone or equivalent material. Chain link or temporary fencing is prohibited.

(6)Interior Parking Lot Landscaping .

The purpose of interior parking lot landscaping is to improve the appearance of parking lots, provide shade, and improve stormwater infiltration. All parking lots with twenty (20) or more parking spaces shall be landscaped in accordance with the following interior parking lot standards.

(a) For new development on sites previously undeveloped or where all improvements have been removed, a minimum of eight percent (8%) of the asphalt or concrete area of the parking lot shall be devoted to interior planting islands, peninsulas, or landscaped strips. For changes to a developed site, a minimum of five percent (5%) of the asphalt or concrete area shall be interior planting islands, peninsulas, or landscaped strips. A planting island shall be located at least every twelve (12) contiguous stalls with no break or alternatively, landscaped strips at least seven (7) feet wide between parking bays.

(b) The primary plant materials shall be shade **trees** with at least one (1) deciduous canopy **tree** for every one hundred sixty (160) square feet of required landscaped area. Two (2) ornamental deciduous **trees** may be substituted for one (1) canopy **tree**, but ornamental **trees** shall constitute no more than twenty-five percent (25%) of the required **trees**. No light poles shall be located within the area of seventy-five percent (75%) of mature growth from the center of any **tree**.

33.05 - BOARD OF PARK COMMISSIONERS.

(d) Habitat Stewardship Subcommittee . Reviews public **tree** concerns, advises and makes recommendations concerning the Conservation Parks. The Subcommittee consists of five (5) members and meets quarterly.

33.24 - URBAN DESIGN COMMISSION

6. Parking . The following requirements apply to the entire zoning lot.

a. Off street parking facilities shall be located at least ten (10) feet from any property line and/or right-of-way and utilize a landscape buffer that includes **trees**, shrubs, decorative fencing, benches, flowerbeds, ground covers, or other high quality materials.

b. Continuous internal pedestrian walkways at least six (6) feet in width shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, transit stops, street crossings, building and store entry points. Walkways shall have adjoining landscaped areas along at least fifty percent (50%) of their length. These areas shall include **trees**, shrubs, benches, flowerbeds, ground covers, or other such materials.

(8) Urban Design District No. 1 .

Design Review Required . All development in the district (including, but not limited to, new buildings or structures, additions to existing buildings or structures, major exterior alterations of existing buildings or structures, painting of existing unpainted exterior faces, exterior lighting, landscaping or screening done in conjunction with new buildings or structures or additions, and cutting or removal of **trees** greater than two inches in maximum diameter, and permits for new signs) shall require approval of the Urban Design Commission or the Secretary if authorized under [Sec. 33.24\(4\)\(g\)](#), and shall be designed, erected, and maintained in compliance with this ordinance, with all applicable federal and state laws, and with the Building Code, Zoning Ordinance, and other applicable codes of the City of Madison not in conflict with this ordinance. The applicable regulations of other codes shall continue to apply with full force and effect to all properties in the district.

However, if this ordinance conflicts with other city regulations, the regulations which are more restrictive or which impose higher standards or requirements shall govern. (Am. by ORD-09-00091, 8-1-09)

ii.Guidelines . Landscaping should express the unique natural beauty of Madison. There should be a variety of trees and shrubs in group plantings, alternated and dispersed in order to create some variety. While indigenous species will be favored, they should be in scale with the buildings and complement the topography. The unique character of the native landscape should be preserved and reinforced by selecting plant material which originally grew in the area. Both upland and lowland sites are included in the district. Species for planting should reflect this. A recommended list of appropriate species for both types includes:

Upland

<u>Trees:</u>		
Quercus alba	White Oak	
Quercus macrocarpa	Bur Oak	
Quercus rubra	Red Oak	
Tilia americana	Basswood	
Prunus serotina	Black Cherry	
Acer rubrum	Red Maple	
Fraxinus americana	American Ash	
Juglans nigra	Walnut	

Aesculus hippocastanum	Chestnut	
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Evergreens:	
Juniperus virginiana	Red Cedar
Juniperus horizontalis	Creeping Juniper

Shrubs:	
Cornus racemosa	Gray Dogwood
Corylus americana	Filbert
Crataegus Spp.	Hawthorne
Malus ioensis	Prairie Crabapple
Prunus virginiana	Common Chokecherry
Rhus glabra	Smooth Sumac
Rhus typhina	Staghorn Sumac

Rosa Spp.	Wild Rose
Viburnum lentago	Nannyberry Viburnum
Viburnum prunifolium	Blackhawk Viburnum
Euonymus Alatus	Burning Bush

Lowland

Trees :	
Quercus bicolor	Swamp White Oak
Fraxinus pennsylvanica	Green Ash
Crataegus mollis	Downy Hawthorn
Crataegus crusgalli	Cockspur Hawthorn
Carpinus caroliniana	Musclewood
Celtis occidentalis	Hackberry
Salix nigra	Black Willow

Acer rubrum	Red Maple
Betula nigra	River Birch

Evergreens :	
Thuja occidentalis	White Cedar or Arborvitae

Shrubs :	
Alnus incana (cold water)	Speckled Alder
Amelanchier canadensis	Shadblow Serviceberry
Amelanchier laevis	Alleghany Serviceberry
Amorpha fruticosa	Indigobush Fruticosa
Aronia arbutifolia	Red Chokecherry
Arnoia melanocarpa	Black Chokeberry
Cephalanthus occidentalis	Common Buttonbush

Clematis virginiana	Virginsbower
Cornus racemosa	Gray Dogwood
Cornus stolonifera	Redosier Dogwood
Cornus amomum	Silky Dogwood
Ilex verticillata	Common Winterberry
Malus ionensis	Prairie Crab
Sambucus canadensis	American Elder
Salix discolor	Pussywillow
Salix glaucophylla	Firm Blueleaf Willow
Salix lucida	Shining Willow
Salix petiolaris	Petiolaris Willow
Salix servicea	Silky Willow
Salix serissima	Autumn Willow

Viburnum dentatum	Arrowood Viburnum
Viburnum trilobum compacta	American Highbush Cranberry

5. Parking and Service Areas; Screening . The Urban Design Commission in its review of plans for the district will concern itself with the height at time of planting, the spacing, height at maturity, and ability of proposed plants to screen throughout the year. Screening shall meet the following requirements and conform as much as possible with the following guidelines:

b. Guidelines .

i. Large parking lots should be avoided. Parking lots with more than seven parking spaces should be subdivided by landscaping so that each subdivided area has no more than seven spaces.

ii. Acceptable screening may consist of any of the following or combinations thereof:

- A. Principal or accessory buildings;
- B. Earth berms;
- C. Masonry walls;
- D. Hedges;
- E. Trees;

(11) Urban Design District No. 4 .

(d) Basis for Design Review . In reviewing plans for development in the district, the Urban Design Commission shall consider the following requirements and guidelines as may be appropriate. The development shall meet the requirements and conform as much as possible to the guidelines. The overall design of each development shall be of high quality.

1. Public Rights-of-Way .

a. Requirement . Public rights-of-way shall be landscaped with appropriate trees and shrubs in accordance with planting plans prepared by the city Forester, after consultation with the Urban Design Commission.

2. Off-Street Parking and Loading Areas .

a. Requirements .

i. Parking lot landscape plans shall be developed in accordance with the revised New Approach to Parking Lot Landscaping adopted by the Common Council by Substitute Resolution No. 37,196, copies of which are on file with the City Clerk and are available in the Department of Planning and Community and Economic Development.

ii. The quantity of parking and service areas as well as the tree islands on the interior of new parking areas shall conform to the provisions of Chapter 28 of the Madison General Ordinances. No new parking space shall be more than fifty (50) feet from a canopy tree of at least 3-inch caliper.

(12)Urban Design District No. 5 .

(d)Basis for Design Review . In reviewing plans for development in the district, the Urban Design Commission shall consider the following requirements and guidelines as may be appropriate. The development shall meet the requirements and conform as much as possible to the guidelines. The overall design of each development shall be of high quality.

1.Public Rights-of-Way .

a.Requirement . Public rights-of-way shall be landscaped with appropriate **trees** and shrubs in accordance with planting plans prepared by the City Forester, after consultation with the Urban Design Commission.

2.Off-Street Parking and Loading Areas .

a.Requirements .

i.Parking lot landscape plans shall be developed in accordance with the revised New Approach to Parking Lot Landscaping adopted by the Common Council by Substitute Resolution No. 37,196, copies of which are on file with the City Clerk and are available in the Department of Planning and Community and Economic Development.

ii.The quantity of parking and service areas as well as the **tree** islands on the interior of new parking areas shall conform to the provisions of [Chapter 28](#) of the Madison General Ordinances. No new parking space shall be more than seventy (70) feet from a canopy **tree** of at least 2½ - 3-inch caliper.

(14)Urban Design District No. 7 .

7.Parking and Service Areas .

a.Requirements .

i.Off-street parking facilities for new buildings shall be located behind or on the sides of the building and be at least ten (10) feet from the front property line.

ii.At least one (1) **tree** island, planted with a **tree** and sized and landscaped pursuant to the Zoning Ordinance, shall be provided per twelve (12) parking spaces provided. This requirement is in addition to any other landscaping requirements of the Zoning Ordinance.

(15)Urban Design District No. 8

5.Landscaping and Open Space .

a.Requirements .

i.Landscaping within the East Washington Avenue setbacks and terraces and medians shall follow the approved palette and design concept.

ii.The street face shall be dominated by canopy **trees** in both the building setback and the public right of way.

iii.The type, number, and location of canopy **trees** in the building setback shall be coordinated with the type, number, and location of canopy **trees** in the public right of way.

iv.When planted, canopy **trees** shall have a caliper and height relationship consistent with the provisions of Table 1 in Section 1.2.1 of the American Standard for Nursery Stock (ANSI 2 60.1-2004).

v.Terraces shall have a minimum width of ten (1) feet to accommodate growth of canopy **trees**.

vi.If a public sidewalk is within six (6) feet of the public street, canopy **trees** shall be planted on the building side of the sidewalk.

vii. Unless existing infrastructure interferes, canopy trees shall be planted at a spacing of no greater than forty (40) feet on center.

viii. Unless existing infrastructure interferes, canopy trees planted along street faces, in parking lots, and parking lot islands shall have a mature height of at least sixty (60) feet.

b. Guidelines .

i. Property owners are encouraged to provide well-designed landscaped outdoor spaces for the use and enjoyment of employees and customers.

ii. Landscaping and fencing should be designed to complement the character of the building and provide a pleasing relationship with adjoining properties and the public sidewalk.

iii. The use of attractive landscaping is encouraged to establish continuity between buildings and to define the block face where there are no buildings.

iv. The use of rain gardens and bio-retention basins to collect runoff and filter pollutants is encouraged, where practical.

v. Landscape islands, open spaces, and porous pavements should be provided, where practical, for additional stormwater infiltration.

vi. Canopy trees should be located in all terraces and medians.

vii. When space permits, canopy trees should be located on both sides of the public sidewalk.

34.507 - FIRE PROTECTION WATER SUPPLY.

No obstructions, including but not limited to power poles, trees, bushes, fences or posts may be located within five feet of a fire hydrant. Grade changes exceeding one and one-half (1½) feet are not permitted within five (5) feet of a fire hydrant or hydrant lead.

Tree Goals from Madison's Sustainability Plan - 2012

- Preserve and expand urban forest resources.
- Create a comprehensive tree program, with tree maintenance, tree preservation ordinance, and species variation.
- Minimize loss of tree cover and green space in public rights of way ∞ Create a policy to facilitate underground placement of power lines and overhead wires.
- Promote tree planting by residents to complement municipal planting through a well-planned and systematic program, including education.
- Develop Urban Forestry Master Plan

Some Major Elements:

- Institute procedures for priority treatment of existing and new trees in planning and performing street and sidewalk installation/reconstruction and all types of developments, including providing appropriate soil, water and space for healthy trees.
- Review zoning code to optimize tree placement and survival, including consideration of building set-backs, auto/bike parking, fire access and solar arrays.
Develop and adopt a Canopy Coverage Goal for the City including public and private canopy trees.
- Develop a Tree Assessment and Tracking System to accurately track all terrace and Park trees (in open spaces) and provide regular reports on the state of our publicallyowned trees.
- Integrate street trees into the stormwater infrastructure and Complete Streets objectives of the City, including clear guidelines for trimming and maintenance of trees under utility lines.
- Support programs that assist planting trees on private property such as the Madison Canopy Project operated by the Urban Tree Alliance. ∞ Increase resident involvement in projects that expand or maintain the urban forest, such as the Parks Adopt-A-Tree project, our current new-tree-watering program, Greening Milwaukee and Chicago TreeKeepers.