

STREETS, ALLEYS, SIDEWALKS AND GUTTERS

Sec. 10.101

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.

Sec. 10.101(3)(b)3.

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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 (c)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)

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Sec. 10.101(4)

- (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.

(Sec. 10.101 Cr. by Ord. 12,106, 4-20-98; Am. by Ord. 12,253, 11-17-98; ORD-13-00117, 6-26-13)

10.11 TEARING UP PAVEMENT, ETC. Any person who shall injure or tear up any pavement, sidewalk or crosswalk or any part thereof, or shall dig any hole, ditch or drain in any street, pavement or sidewalk, without a written permit therefor as provided in this chapter, or who shall hinder or obstruct the authorized making or repair of any pavement, sidewalk or crosswalk, or other public improvement, shall be subject to a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). (Am. by Ord. 13,760, Adopted 12-14-04)

10.12 PROHIBITING TRACTION ENGINES ON CERTAIN STREETS. No person shall propel or move or cause to be propelled or moved any traction engine or similar machinery having cogs, spikes or other projection on the outer circumference of wheels over or along any street or alley which has been paved with brick, macadam, asphalt or other pavement without first having obtained a permit therefor from the Street Commissioner (Superintendent of Sanitation). The Street Commissioner (Superintendent of Sanitation) is authorized to grant a permit in writing to propel or move a traction engine or similar machinery over paved streets or alleys in case any such engine or other machinery cannot be moved or