

CITY OF MADISON, WISCONSIN

A SUBSTITUTE ORDINANCE _____

PRESENTED
REFERRED

February 26, 2013 _____

Creating Section 8.32 of the Madison General Ordinances to allow edible landscaping on City-owned land.

Food Policy Council, Board of Park Commissioners, Water Utility Board, Community Gardens Committee, Sustainable Madison Committee and Board of Public Works

Drafted by: Anne Zellhoefer

Date: February 25, 2013

LEGISTAR # 29178

SPONSOR: Aids. Rhodes-Conway, Ellingson, Rummel, Verveer & Palm

DRAFTER'S ANALYSIS: This ordinance will allow the planting and harvesting of edible landscaping on certain City-owned properties.

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

Section 8.32 entitled "Edible Landscaping on City-Owned Lands" of the Madison General Ordinances is created to read as follows:

8.32 EDIBLE LANDSCAPING ON CITY-OWNED LANDS.

- (1) Purpose. The purpose of this ordinance is to encourage the planting and harvesting of locally-grown fruits, vegetables, nuts and other edible plant forms, and to regulate the permitting, placement and maintenance of such edible landscapes on certain City-owned land.
- (2) Applicability. This ordinance shall be applicable to land owned solely by the City in fee. This ordinance shall not be applicable to rooftops, medians, rights-of way, including but not limited to street terraces, or to lands abutting bike paths or greenways, as the permissibility of plantings and the use and maintenance of those locations is governed by other existing ordinances.
- (3) Definitions. For the purpose of this section, the following words shall have the meanings indicated.
 - (a) Applicant means the person applying for an edible landscaping permit to plant and harvest edible landscapes on City-owned land.
 - (b) City-owned land means real property owned in fee by the City of Madison, including the subterranean, surface and air rights of such land.
 - (c) Department or Division Head means the individual whose agency is responsible for the City-owned land for which an applicant seeks an edible landscaping permit, or his or her designee.
 - (d) Edible landscape means any plant, other than invasive species as defined by Wis. Admin. Code ch. NR 40, that bears fruit, seeds, nuts vegetables or other parts edible to humans.
 - (e) Permittee means the person who has obtained a valid edible landscape permit, and the person's agents, employees, members, officers and volunteers.

Approved as to form:

- (f) Person means any individual, partnership, association, corporation, joint venture, limited liability company, partnership, trust or other entity that may enter into contracts.
- (4) Administration. This section shall be administered by the Office of Real Estate Services of the Economic Development Division of the Department of Planning and Community and Economic Development. No permit shall be issued or renewed without the written approval of the Department or Division Head.
- (5) Application for Edible Landscaping Permit. Application for a permit shall be made annually to the Office of Real Estate Services. No fee shall be charged for review of an application or issuance of a permit. Each permit shall expire December 31. Permits may be assigned by any permittee, provided the successor permittee submits an application. A completed application shall include all of the following:
 - (a) The name, address and telephone number of the applicant, and the name of the applicant's authorized agent if the applicant is not an individual.
 - (b) A planting plan, drawn to scale, showing the size and location of the proposed planting area, a description of the genus and species of each plant intended to be planted and its location within the planting area, along with each plant's approximate height at maturity.
 - (c) An agreement prepared by the Food and Alcohol Policy Coordinator and in a form acceptable to the City's Risk Manager, that the applicant will hold harmless, defend and indemnify the City, its officers, officials, boards, committees, employees and agents, from and against all liability, damages, claims and penalties resulting from the planting, use, maintenance, or presence of the applicant's edible landscape on City-owned land.
 - (d) Any supplementary information required by the Department or Division Head.
- (6) Standards. Every person shall plant, use, maintain, harvest and remove an edible landscape as follows:
 - (a) No person may plant or maintain an edible landscape on City-owned land without having obtained a permit.
 - (b) All perennial vegetation planted by a permittee on City-owned land shall be the property of the City.
 - (c) Each permittee is responsible for contacting Digger's Hotline to identify and mark any underground utilities prior to digging within the City-owned land.
 - (d) No vehicular access shall be allowed in the area designated for the edible landscape without the prior written consent of the Department or Division Head.
 - (e) No permanent improvements may be placed on the City-owned land by the permittee, with the exception that facilities for water service may be permitted at the permittee's sole cost and expense, subject to the prior written approval of the Department or Division Head. The permittee shall be responsible for the cost of all water, sewer and any other utility charges billed to the designated edible landscape area.
 - (f) Any chemical agent, insecticide or fertilizer proposed for use by the permittee must be approved prior to its use by the Department or Division Head.
 - (g) All cherry pickers, ladders, shears and saws used by the permittee to maintain plantings within the City-owned land shall be used and operated in a safe manner. Each permittee shall ensure that any person who intends to use a chainsaw shall complete a chainsaw safety class, have appropriate safety equipment, and sign a waiver of liability on a form to be approved by the City's Risk Manager prior to using a chainsaw on City-owned land.
 - (h) The permittee shall remove all garden refuse and prune or remove all dead plant material from the City-owned land no later than November 15. Throughout the permit term, the permittee shall maintain the planted area in the presentable condition, consistent with the general appearance of the City-owned land in which it is located. All edible produce shall be removed promptly so as to not create a hazard or nuisance due to rotting vegetation or produce. If any permittee fails to comply with the terms of the permit or this ordinance, the City may, at the direction of the Department or Division Head, terminate, revoke or refuse to renew the permit and remove and dispose of all edible landscaping.
 - (i) Each permittee's use of the City-owned lands shall be non-exclusive."