

Sections of Madison Ordinances affecting trees, with important portions highlighted.

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Chapter 4 Finance

**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.

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(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 charge 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.

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## Chapter 10 Streets, Alleys, Sidewalks, and Gutters

### 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.

#### Sec. 10.10(8) STREETS, ALLEYS, SIDEWALKS AND GUTTERS

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(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.

(Am. by Ord. 8798, 2-27-86)

(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.

(Am. by Ord. 8798, 2-27-86)

(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)

(Am. by ORD-12-00052, 4-25-12)

#### STREETS, ALLEYS, SIDEWALKS AND GUTTERS Sec. 10.101

10 - 22a Rev. 9/15/13

#### **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.

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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 (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)

STREETS, ALLEYS, SIDEWALKS AND GUTTERS Sec. 10.101(4)

10 - 22c Rev. 3/15/14

(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)

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**Ch 11 – Electrical – See 19.16 UNDERGROUND UTILITY ENTRANCE FACILITIES.**

Policy for funding the Undergrounding of Overhead Utility Lines

<http://legistar.cityofmadison.com/attachments/5380dbdc-78c2-4b95-b952-6c1701ced452.pdf>

Resolution for Undergrounding Utility Lines – May 2011

<http://legistar.cityofmadison.com/attachments/df96625b-d148-4221-b925-a09a8b6cda24.pdf>

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**Ch 16 General Planning – See sections related to preserving and planting trees in developments.**

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**Chapter 23 Offenses Against Public Policy –**

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.**

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**Chapter 33 Boards, Commissions, and Committees – concerns landscaping approval, allowed tree species and sizes, removing trees greater than two inches diameter, public rights-of-way require trees in planting plans prepared by City Forester.**

(5) Subcommittees. The following subcommittees of the Board of Park Commissioners assist in receiving citizen input and making recommendations to the Park Commission. Except where specified, members shall be appointed by the President of the Board of Park Commissioners and each subcommittee shall contain at least one member from the Park Commission.

...(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 – **Undergrounding utility lines in planning districts, e.g, Sec. 33.24(13)(e) Utility Service. It shall be a goal of this District to eliminate overhead wiring within the District. The undergrounding of utility wires should be considered in all street improvement projects undertaken within the district.**

To this end, the City of Madison and owners of property within the District, working with the gas and electric company, the telephone company, and cable television licensees, shall, in all major new developments and major additions, including street lighting and traffic signals, make provisions for underground service. Whenever possible, this shall be accomplished during building development and construction. When it is not possible, certification to the fact that provisions have been made for the future placement of service underground, signed by representatives of each utility company, licensee or service provider, shall appear on plans submitted to the Urban Design Commission for review.

(Sec. 33.02(12) Cr. by Ord. 11,781, Adopted 12-3-96; Renumbered by Ord. 13,216, 12-20-02)

**District 8 - East Washington Avenue Capitol Gateway Corridor Plan has special tree requirements for landscaping and open space:**

**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.**

**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 Z 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.**