



Legislation Details (With Text)

**File #:** 18623      **Version:** 1      **Name:** Damaged trees  
**Type:** Ordinance      **Status:** Passed  
**File created:** 5/25/2010      **In control:** BOARD OF PUBLIC WORKS  
**On agenda:** 7/20/2010      **Final action:** 7/20/2010  
**Enactment date:** 7/27/2010      **Enactment #:** ORD-10-00071

**Title:** Creating Sec. 23.24(3) to impose penalties for the intentional or negligent damage of City trees during the course of private or public work; amending Sec.1.08(3)(a)4 to create a bond schedule for violations of this new subsection; and amending Sec.1.08(4) of the Madison General Ordinances to provide enforcement powers for this new subsection.

**Sponsors:** Marsha A. Rummel, Michael E. Verveer, Julia S. Kerr, Chris Schmidt, Shiva Bidar, Bridget R. Maniaci

**Indexes:**

**Code sections:**

**Attachments:** 1. Body

| Date      | Ver. | Action By                        | Action   | Result |
|-----------|------|----------------------------------|--|--------|
| 7/20/2010 | 1    | COMMON COUNCIL                   | Adopt  | Pass   |
| 7/7/2010  | 1    | BOARD OF PUBLIC WORKS            | RECOMMEND TO COUNCIL TO ADOPT<br>- REPORT OF OFFICER   | Pass   |
| 6/9/2010  | 1    | BOARD OF PARK<br>COMMISSIONERS   | Return to Lead with the Recommendation<br>for Approval |        |
| 6/2/2010  | 1    | BOARD OF PUBLIC WORKS            | Refer  |        |
| 6/1/2010  | 1    | COMMON COUNCIL                   |  |        |
| 5/25/2010 | 1    | Attorney's Office/Approval Group | Referred for Introduction                              |        |

**Fiscal Note**

The purpose of this ordinance change is to encourage careful treatment of City trees during the course of private or public work. New and higher penalties will be set as a function of the size of the tree damaged, based upon the canopy replacement costs as well as removal costs incurred by the City when damage to City trees occurs. If the tree damaged has a diameter of three inches or less (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of \$250 plus \$30 per diameter inch will be required, which corresponds to the cost of a 2-inch replacement planting and average removal costs of such a tree. If the tree damaged has a diameter of more than three inches (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of \$155 per diameter inch will be imposed, which corresponds to the average replacement cost of \$125 per inch and \$30 in average removal costs per inch. These forfeitures more closely match the replacement and removal costs of damaged trees incurred by the City. No additional appropriation would be required as a result of enactment of this ordinance change.

**Title**

Creating Sec. 23.24(3) to impose penalties for the intentional or negligent damage of City trees during the course of private or public work; amending Sec.1.08(3)(a)4 to create a bond schedule for violations of this new subsection; and amending Sec.1.08(4) of the Madison General Ordinances to provide enforcement powers for this new subsection.

**Body**

DRAFTER'S ANALYSIS: This ordinance creates Sec.23.24(3), MGO, to impose penalties upon a person performing public or private work who either intentionally or negligently damages City trees, such that the tree

must be removed. Under this new section, a person performing work must exercise ordinary care to prevent unnecessary damage to City trees and the root structures of City trees. The penalties provided for by the ordinance are based upon the diameter of the damaged tree, as measured at twelve (12) inches above ground level, and seeks to recover the average costs to the City of replacing the equivalent canopy cover of the damaged tree and the average costs incurred by the City to remove the damaged tree. A tree with a diameter of three (3) inches or less can be replaced with a new two (2) inch planting, with an approximate cost to the City of \$250. However, trees with diameters larger than three (3) inches cannot be easily replaced by the City, if they can be replaced at all. To replace the canopy cover of these lost trees, each two (2) inches of lost diameter can be replaced by a new two (2) inch planting. Hence, the replacement cost to the City will be approximately \$125 per diameter inch lost. Furthermore, the average cost to the City of removing a damaged tree (including labor, equipment and supplies) equates to approximately \$30 per inch of lost diameter. This provision is meant to apply to situations not already covered by clauses in public works contracts and is meant to operate in conjunction with the City's recently updated tree protection specifications. The purpose of this ordinance is to lead persons working in or near public lands to exercise sufficient care when working near trees or root structures to prevent the unnecessary loss of City trees, especially mature City trees that cannot be replaced, and to make the City reasonably whole for any loss of a City tree. In addition, this ordinance amends Secs.1.08(3)(a)(4) and 1.08(4) to create a bond schedule for violations of this new subsection and to provide enforcement powers for this new subsection to the City Engineer, the Street Superintendent, the Director of Building Inspection, and the Superintendent of Parks, and/or their designees.

\*\*\*\*\*

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

**SEE "BODY" IN ATTACHMENTS**