



Legislation Details (With Text)

File #: 30379 **Version:** 1 **Name:** Tree subcommittee
Type: Ordinance **Status:** Passed
File created: 5/28/2013 **In control:** BOARD OF PARK COMMISSIONERS
On agenda: 6/18/2013 **Final action:** 6/18/2013
Enactment date: 6/27/2013 **Enactment #:** ORD-13-00117
Title: Amending Section 33.05(5) and Section 10.101 of the Madison General Ordinances to update the Board of Parks Commissioners Subcommittees, their responsibilities, membership and meeting schedule.
Sponsors: Anita Weier, Joseph R. Clausius

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
6/18/2013	1	COMMON COUNCIL	Adopt	Pass
6/12/2013	1	BOARD OF PARK COMMISSIONERS	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
6/4/2013	1	COMMON COUNCIL	Referred	Pass
5/28/2013	1	Attorney's Office/Approval Group	Referred for Introduction	

Fiscal Note

No appropriation required.

Title

Amending Section 33.05(5) and Section 10.101 of the Madison General Ordinances to update the Board of Parks Commissioners Subcommittees, their responsibilities, membership and meeting schedule.

Body

DRAFTER'S ANALYSIS: The Board of Parks Commissioners Subcommittee ordinances, as set forth in Sec. 33.05(5), MGO, are out of date with practice, poorly worded, or insufficiently detailed regarding membership, responsibilities, and meeting dates. This ordinance makes various changes to the Board of Parks Commissioners Subcommittee ordinances to correct these issues. The membership of the Golf Subcommittee is updated to eliminate the apparent memberships of the Superintendent of Parks and the Golf Supervisor on the Subcommittee as City staff members generally do not serve official roles on Committees. Quarterly meeting dates of the Subcommittee are also being established, as currently the Subcommittee has no designated meeting dates. The Warner Park Community Recreation Center Advisory Subcommittee's membership is being amended to correct the existing inaccuracies in that Subdivision, and to add two youth representatives to the Subcommittee. In addition, non-Alder appointees will not be able to serve more than two consecutive three-year terms on the Subcommittee. These changes are consistent with recent amendments to the Subcommittee's own bylaws. The Facilities, Programs and Fees Subcommittee rarely meets, and therefore the meeting schedule is being amended to clarify that the Subcommittee only meets as needed. The Parks Names Subcommittee is being formally eliminated as that Subcommittee has not met in a long period of time and all naming responsibilities of that Subcommittee, when the issue has arose, have been handled by the Long-Range Planning Subcommittee. In addition, these naming responsibilities are being formally assigned to the Long-Range Planning Subcommittee to recognize this long-established exercise of authority by that Subcommittee. Finally, the Madison Tree Subcommittee is being formally eliminated from the Ordinances as that Subcommittee has not met in a long period of time and all powers and responsibilities of

that Subcommittee are now being handled by the Habitat Stewardship Subcommittee, whose meetings will now formally be called for quarterly in recognition of current practice. As a companion change, Sec. 10.101 is being amended to change all references from the Madison Tree Subcommittee to the Habitat Stewardship Subcommittee.

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

1. Subsection (5) entitled "Subcommittees" of Section 33.05 entitled "Board of Park Commissioners" of the Madison General Ordinances is amended to read as follows:

"(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.

 - (a) Golf Subcommittee. Advises the Commission regarding policies, rate structure, rules and regulations, capital improvements, user complaints, operations and the selection of golf pros. The Golf Subcommittee is composed of seven (7) persons: one Park Commissioner; ~~the Superintendent of Parks (ex-officio), Golf Supervisor,~~ the President or designee representing the Odana Golf Association, the Yahara Golf Association, the Madison Area Retiree Association, and the Women's Municipal Golf Association; and two at-large members. This subcommittee meets quarterly, and All members shall be City of Madison residents. The President of the Board of Park Commissioners shall appoint the at-large members.
 - (b) Warner Park Community Recreation Center Advisory Subcommittee. Advises the Board of Park Commissioners regarding operations, policies and procedures, fees and user concerns, and makes program and budget recommendations, concerning the Warner park Community Recreation Center. The Subcommittee consists of nineeleven (911) persons; including five three citizen representatives from the Northside and at large; a representative from the Northside Planning Council, youth, the North/Eastside Senior Coalition, the MSCR Advisory BoardCommittee, and the Board of Park Commissioners; two youth representatives; and an Alder the two Warner Park area aldermanic representatives. This committee meets bi-monthly and all members shall be City of Madison residents. Notwithstanding Sec. 33.01(6)(b), and except for the Alder members, a member may not serve on the Subcommittee for more than two consecutive three-year terms.
 - (c) Facilities, Programs and Fees Subcommittee. Reviews policies and operation standards, makes program recommendations and recommendations on new user fees and charges. The Subcommittee consists of seven (7) members and meets as needed, ~~once or twice a year.~~
 - (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 ~~monthly~~quarterly.
 - (e) ~~Madison Tree Subcommittee. See Sec. 10.101(1), MGO.~~
 - (f) Long-Range Planning Subcommittee. Advises the Board of Park Commissioners, reviews the procedures and policies of the Parks Division and solicits input regarding the Parks Division from alders, groups and citizens. Also, when necessary, researches and advises regarding the naming of public parks. The Subcommittee consists of five (5) members and meets quarterly.
 - (g) Park Names Subcommittee. Researches and advises regarding the naming of public parks. The Subcommittee consists four (4) members: one Park Commission member, two citizen members and the Superintendent of Parks or his/her designee."
2. Section 10.101 entitled "Regulation of Tree Trimming, Pruning and Removal Within the Public Right-Of-Way of any Street, Alley or Highway" of the Madison General Ordinances is amended to read as follows:

"(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.

- (a) ~~Tree Subcommittee.~~ There is hereby authorized a Madison Tree Subcommittee as a subcommittee of the Madison Park Commission. The Tree Subcommittee shall consist of three (3) members appointed by the Park Commission President. Meetings of the Tree Subcommittee shall be held at the call of the chairperson and at such other times as the Tree Subcommittee may determine.

- (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).

~~Madison Tree Subcommittee.~~ Subcommittee of the Madison Park Commission consisting of three (3) members appointed by the Park Commission President.

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 ~~Madison Tree~~Habitat Stewardship Subcommittee will hold a hearing regarding the proposed Tree Trimming Plan at its first meeting after submission of the plan.

- (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 ~~TreeHabitat 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 ~~TreeHabitat Stewardship~~ Subcommittee.

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

All meetings of the ~~TreeHabitat Stewardship~~ Subcommittee, including all deliberations on a proposed tree trimming plan shall be open to the public. The ~~C~~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 Commission Division and shall be a public record.

The ~~TreeHabitat 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.

- (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).
- (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 ~~Madison TreeHabitat Stewardship~~ Subcommittee.

(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 ~~Madison TreeHabitat 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.

(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.

(8) Severability. ~~The provisions of this ordinance are declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this ordinance."~~