

Legistar File No. 89254 Body - Version 2

DRAFTER'S ANALYSIS: This ordinance makes numerous changes to the City's ordinances to enhance the City's protection of its street trees.

Under the ordinance, and in combination with contemporaneous changes to the Tree Protection Specifications of the City's Standard Specifications for Public Works Construction, additional requirements will be placed on users of the public rights-of-way to identify street tree related conflicts earlier, to take precautions to protect street trees from damage, injury or removal if possible, and to require tree replacement and reestablishment where removals occur. These changes are being made to and incorporated within several permits: the right-of-way excavation permit under Section 10.05; the street occupation permit under Section 10.055; driveway permits under Section 10.08; and tree trimming, pruning and removal permits under Section 10.101. Permittees will be required to identify impacted trees at the time of application, obtain prior permission for any tree removal, and abide by the Tree Protection Specifications for any associated work. Permits may be denied if street tree impacts will occur, and permits may be revoked if street trees are damaged or removed without authority. Where street trees are removed by third parties, persons will be required to replace and reestablish street trees, which may include planting new trees or payment to the newly established Street Tree Replacement Fund, the proceeds of which will be used by the City to support the planting, establishment and protection of street trees. The goal will be to make the City whole for its loss, and provide more incentive for right-of-way users to avoid impacting street trees if possible, particularly mature, well-established trees that cannot be adequately replaced. Sec. 4.085(2)(c) is also being amended to make it clear that the costs incurred by the Urban Forestry Program that are funded by third party payments to the Street Tree Replacement Fund are not duplicative of those costs attributable to the Urban Forestry Special Charge.

This SUBSTITUTE updates the proposed penalty language in 10.05(11)(d)2 and 10.055(4)(s)2 to make it clear that only unauthorized tree removals will be penalized under these paragraphs. Also, ordinance cross reference typos are being corrected.

This ordinance will go into effect on January 1, 2026.

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

1. Subdivision (c) entitled "Program Costs" of Subsection (2) entitled "Definitions" of Section 4.095 entitled "Urban Forestry Special Charge" of the Madison General Ordinances is amended as follows:

"(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, or the Street Tree Replacement Fund under Sec. 10.105, MGO."

2. Subparagraph e of Paragraph 2 of Subdivision (b) entitled "Excavation Permit Application" of Subsection (6) entitled "Excavation Permit Requirement" of Section 10.05 entitled "Occupancy of Rights-of-Way" of the Madison General Ordinances is created as follows:

- “e. The applicant shall identify all street trees within the project area and whether the trees, including their root structures, will be impacted by the proposed work. When identifying any impacted trees, the applicant must identify the species of the impacted trees and the DBH or caliper measurement of the tree, as those terms are defined in Sec. 10.105(2).”

3. Subdivision (b) entitled “Repair or Restoration Required” of Subsection (8) entitled “Right-of-Way Repair/Restoration” of Section 10.05 entitled “Occupancy of Rights-of-Way” of the Madison General Ordinances is amended as follows:

- “(b) Repair or Restoration Required. The Permittee shall be required to either repair the public right-of-way and to pay a degradation fee, or restore the right-of-way. It is the Permittee's election whether to restore the excavation and surrounding pavement in lieu of repair and a degradation fee. In addition to repairing its own work, the Permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the Department. If the work will involve the removal of a tree in the right-of-way, Permittee shall also be required to comply with Sec. 10.105.”

4. Subdivision (d) entitled “Tree Protection” of Subsection (11) entitled “Other Obligations” of Section 10.05 entitled “Occupancy of Rights-of-Way” of the Madison General Ordinances is created as follows:

- “(d) Tree Protection.
1. Requirement. For any trees within the project area that are not the subject of a tree trimming, pruning or removal permit issued under Sec. 10.101, the applicant shall comply with Section 107.13, the Tree Protection Specifications, of the City’s Standard Specifications for Public Works Construction, where applicable, while performing work under the permit issued under this Section.
 2. Penalty. In addition to revocation or suspension of the permit under Sub. (12) and the requirements of Section 10.105, the failure to comply with the Tree Protection Specifications as required under this Subdivision shall be subject to a forfeiture of five hundred dollars (\$500), unless the violation results in the unauthorized removal of a tree, in which case the forfeiture shall be one hundred and fifty dollars (\$150) per trunk diameter inch of the impacted tree, as measured or estimated at 4 1/2 feet above the ground and rounded down to the nearest inch. Each day such violation or failure to comply continues shall be considered a separate offense.”

5. Paragraph 16 of Subdivision (a) entitled “Grounds” of Subsection (12) entitled “Revocations, Suspensions, Refusals to Issue or Extend Permits” of Section 10.05 entitled “Occupancy of Rights-of-Way” of the Madison General Ordinances is created as follows:

- “16. The applicant or Permittee has failed to identify impacted trees, comply with Section 107.13, the Tree Protection Specifications, of the City’s Standard Specifications for Public Works Construction or an approved tree trimming or tree replacement plan, or caused unauthorized injury or damages, including removal, of right-of-way trees on prior projects.”

6. Subsection (3) entitled "Permit Application" of Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is amended as follows:

"(3) Permit Application. An application for a street occupancy permit shall be in writing to the City Traffic Engineer and shall describe the premises to be occupied by lot, block and/or street on or over which such material or machinery is desired to be placed, the area of occupation sought, the character of the material for which the permit is desired and the duration of the proposed occupation. The application shall identify all street trees within the proposed occupancy area and whether the trees, including their root structures, will be impacted by the proposed work. When identifying any impacted trees, the applicant must identify the species of the impacted trees and the DBH or caliper measurement of the tree, as those terms are defined in Sec. 10.105(2). The application should also note whether the proposed occupation area will require, or reasonably necessitate, the trimming, pruning or removal of any City tree. The application shall include a drawing of the proposed occupation area, the application fee, the certificate of insurance and surety bond required under Subdivision (4)(a), and an agreement to abide by all conditions set forth in Subsection (4)."

7. Paragraph 4 entitled "Public Trees" of Subdivision (c) entitled "Occupational Limitations" of Subsection (4) entitled "Permit Conditions" of Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is created as follows:

"4. Public Trees. No permit shall be issued where, in the determination of the City Forester, the proposed occupancy will endanger the health or welfare of an existing street tree, unless the applicant has also been granted a tree trimming, pruning or removal permit under Sec. 10.101 and/or the applicant agrees to comply with Section 107.13, the Tree Protection Specifications, of the City's Standard Specifications for Public Works Construction."

8. Subdivision (n) entitled "Restoration" of Subsection (4) entitled "Permit Conditions" of Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is amended as follows:

"(n) Restoration. Upon either the expiration of the permit or, if the work of construction is completed before the permit expires, the completion of the work, the permitted area occupied under this Section shall be restored to its original condition and left in good repair and condition. The permittee shall be responsible for the repair of any damage noted by City staff and shall repair it to City of Madison Standard Specification for Public Works Construction. Any new or reconstructed sidewalk shall comply with Section 10.06. If the occupation resulted in the removal of a tree in the right-of-way, Permittee shall also be required to comply with Sec. 10.105. The City Traffic Engineer or City Engineer shall inspect the area upon completion of the restoration and the permittee shall make any further repairs required by the City Traffic Engineer or City Engineer needed to address any deficiencies that did not exist prior to the occupation. If permittee does not adequately restore the permitted area as required, the City may perform any repairs or restoration and recover the costs thereof as a special charge against the adjoining property under Sec. 4.09(13)."

9. Subdivision (s) entitled "Tree Protection" of Subsection (4) entitled "Permit Conditions" of Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is created as follows:

"(s) Tree Protection.

1. Requirement. For any trees within the project area that are not the subject of a tree trimming, pruning or removal permit issued under Sec. 10.101, the applicant shall comply with Section 107.13, the Tree Protection Specifications, of the City's Standard Specifications for Public Works Construction, where applicable, while occupying the permitted area.
2. Penalty. In addition to revocation or suspension of the permit under Sub. (6) and the requirements of 10.105, the failure to comply with the Tree Protection Specifications as required under this Subdivision shall be subject to a forfeiture of five hundred dollars (\$500), unless the violation results in the unauthorized removal of a tree, in which case the forfeiture shall be one hundred and fifty dollars (\$150) per trunk diameter inch of the impacted tree, as measured or estimated at 4 1/2 feet above the ground and rounded down to the nearest inch. Each day such violation or failure to comply continues shall be considered a separate offense."

10. Subsection (5) entitled "Public Trees" of Section 10.055 entitled "Occupancy of Streets or Other Public Areas" of the Madison General Ordinances is amended as follows:

- "(5) Public Trees. Any trimming, pruning or removal of public trees within the permitted area will require the prior issuance of a separate permit under Sec. 10.101. The trimming, pruning or removal of any City tree without a permit issued under Sec. 10.101 or without the permission of the City Forester shall be cause to revoke a permit issued under this Section. Any tree removal is further subject to Sec. 10.105."

11. Subdivision (e) of Subsection (3) entitled "Location of Entrances" of Section 10.08 entitled "Construction of Driveway Approaches and Parking Facilities" of the Madison General Ordinances is created as follows:

- "(e) No entrance shall be located where an existing City street tree is present unless no other location is available, the applicant obtains a tree trimming, pruning or removal permit under Sec. 10.101, and the applicant complies with Sec. 10.105."

12. Paragraph 11 of Subdivision (b) of Subsection (7) entitled "Application" of Section 10.08 entitled "Construction of Driveway Approaches and Parking Facilities" of the Madison General Ordinances is amended as follows:

- "11. Utility poles, fire hydrants, ~~trees~~ or other structures to be moved."

13. Paragraph 22 of Subdivision (b) of Subsection (7) entitled "Application" of Section 10.08 entitled "Construction of Driveway Approaches and Parking Facilities" of the Madison General Ordinances is created as follows:

- "22. The applicant shall identify all street trees within the adjoining right-of-way and whether the trees, including their root structures, will be impacted by the proposed driveway

approach. When identifying any impacted trees, the applicant must identify the species of the impacted trees and the DBH or caliper measurement of the tree, as those terms are defined in Sec. ~~10.101(2)~~ 10.105(2).”

14. Subdivision (c) of Subsection (7) entitled “Application” of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances is amended as follows:

“(c) Application for residential driveway approaches shall be made at the City Engineering Division and shall identify all street trees within the adjoining right-of-way and whether the trees, including their root structures, will be impacted by the proposed driveway approach. When identifying any impacted trees, the applicant must identify the species of the impacted trees and the DBH or caliper measurement of the tree, as those terms are defined in Sec. ~~10.101(2)~~ 10.105(2). Application for commercial driveway approaches to off-street vehicle facilities shall be made at the Traffic Engineering Division.”

15. Subdivision (b) of Subsection (8) entitled “Restrictions and Responsibilities” of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances is amended as follows:

“(b) The construction of such driveway and approaches shall not interfere with any existing structure on any street right-of-way without specific permission in writing from the Board and other owner thereof. The trimming, pruning and removal of any street tree shall require the prior issuance of a permit under Section 10.101 and compliance with Section 10.105.”

16. Subdivision (c) of Subsection (8) entitled “Restrictions and Responsibilities” of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances is amended as follows:

“(c) The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly during the construction of any approach or driveway, including the injury or damage to any street tree.”

17. Subdivision (m) of Subsection (8) entitled “Restrictions and Responsibilities” of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances is created as follows:

“(m) Tree Protection. For any trees within the right-of-way adjacent to the permitted driveway entrance and approach area that are not the subject of a tree trimming, pruning or removal permit issued under Sec. 10.101, the permittee shall comply with Section 107.13, the Tree Protection Specifications, of the City’s Standard Specifications for Public Works Construction, where applicable, while performing work on the authorized driveway entrance and approach.”

18. Subdivision (d) of Subsection (9) entitled "Administration" of Section 10.08 entitled "Construction of Driveway Approaches and Parking Facilities" of the Madison General Ordinances is repealed.

19. Subsection (10) Section 10.08 entitled "Construction of Driveway Approaches and Parking Facilities" of the Madison General Ordinances is repealed and recreated as follows:

"(10) Penalties.

- (a) Except as provided in Subdivision (b), any person violating the provisions of this section shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) and each day of continued violation shall constitute a separate offense.
- (b) The failure to comply with the Tree Protection Specifications as required under Subsection (8)(m) shall, in addition to the requirements of Section ~~40.1015~~ 10.105, be subject to a forfeiture of five hundred dollars (\$500), unless the violation results in the removal of a tree, in which case the forfeiture shall be one hundred and fifty dollars (\$150) per trunk diameter inch of the impacted tree, as measured or estimated at 4 1/2 feet above the ground and rounded down to the nearest inch. Each day such violation or failure to comply continues shall be considered a separate offense."

20. Subsection (2) entitled "Definitions" of 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 as follows:

"Tree Replacement Plan. A plan, proposed by a person seeking a permit to remove a tree in a public street, alley or highway, prepared by a certified arborist, to replace the tree, which plan shall take into account the size, age, species, canopy and location of the tree, and may include actual tree replacement and reestablishment at or near the location of the removed tree, other tree plantings, payments to the Street Tree Replacement Fund as provided for under Sec. ~~40.104~~ 10.105, or a combination thereof."

21. Paragraph 4 of Subdivision (b) of Subsection (3) entitled "Permit Required for Trimming, Pruning, and Removal of Trees within the Public Right-of-Way of any Street, Alley, Highway or Greenway" of 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 created as follows:

"4. If removal of a tree in a public street, alley or highway is proposed, a Tree Replacement Plan shall also be required."

22. Subdivision (d) of Subsection (3) entitled "Permit Required for Trimming, Pruning, and Removal of Trees within the Public Right-of-Way of any Street, Alley, Highway or Greenway" of 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 as follows:

"(d) If the City Forester determines that the Tree Trimming Plan and, if applicable, the Tree Replacement Plan are ~~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)."

23. Subdivision (f) of Subsection (3) entitled "Permit Required for Trimming, Pruning, and Removal of Trees within the Public Right-of-Way of any Street, Alley, Highway or Greenway" of 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 created as follows:

"(f) If a Tree Replacement Plan is approved, a condition of the permit shall also be compliance with the approved Plan."

24. Subsection (7) entitled "Penalty" of 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 as follows:

"(7) Penalty.

- (a) Except as provided in Sub. (b), 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 Any person who, without the authority granted by a permit issued under this Section, causes the removal 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. shall, in addition to the requirements of Section 10.105, be subject to a forfeiture of one hundred and fifty dollars (\$150) per trunk diameter inch of the impacted tree, as measured or estimated at 4 1/2 feet above the ground and rounded down to the nearest inch."

25. Section 10.105 entitled "Street Tree Replacement Fund" of the Madison General Ordinances is created as follows:

"10.105 STREET TREE REPLACEMENT FUND.

- (1) Purpose. Over the last several decades, the City has invested in growing, sustaining and protecting its urban forest, including street trees located in the median or terrace areas of the City's rights-of-way. These street trees provide substantial benefits to the City, its residents, visitors, and property owners, in addition to providing long lasting environment benefits. Street trees support both individual and community goals for healthy, safe and prosperous communities. Indeed, a healthy, vibrant, diverse, established and well managed urban forest is crucial for the health, safety and welfare of the public. It can take generations to develop a healthy urban forest, and generations to replace one. The City's historical and ongoing commitment to its urban forest has led it to be recognized by the Arbor Day Foundation as a Tree City USA community since 1989.

However, in addition to being subject to disease and infestations like other trees, street trees face numerous other unique challenges due to their location, including threats posed by passing vehicles, soil quality, space availability, impacts from construction activities, and conflicts with other right-of-way users (including utilities) and adjoining property uses. A fully mature street tree, if removed before the end of its natural life, may take several decades to be replaced, although, in reality, many such trees can never actually be fully replaced.

The purpose of this ordinance is to establish a mechanism whereby the City and the public will be made whole for the removal of a street tree.

- (2) Definitions. For the purposes of this section, the following definitions apply:

Aggregate Diameter means the combined diameter of a Multiple Stemmed Tree of each stem that has a diameter of six inches or greater when measured at breast height as follows:

For Multiple Stemmed Trees where the trunk separations begin at lower than four and one-half feet from the ground, but higher than one foot from the ground, measurement shall be taken one foot below the separation.

For Multiple Stemmed Trees where the trunk separations begin below one foot from the ground, the measurement shall be taken at four and one-half feet above the average ground level at the base of the tree.

Caliper means the diameter of a tree as measured at a point six inches above the existing grade at the base of the tree. This point of measurement is used only for measuring nursery stock and replacement trees.

DBH or Diameter at Breast Height means the diameter of the trunk of the tree measured in inches at a point four and one-half feet above the existing grade at the base of the tree or the Aggregate Diameter of a Multiple Stemmed Tree, rounded down to the nearest inch. This point of measurement is used for measuring mature and established trees.

Multiple Stemmed Tree means a single tree made up of two or more main stems originated below the height used for measuring DBH.

Person has the same meaning as in Sec. 10.05(1)(b), except that it does not include the City, its employees, agents, contractors and subcontractors when acting in their official capacity on behalf of the City.

Reestablishment Cost means the costs incurred to prepare a site suitable for the City to plant a replacement tree, including stump removal, soil replacement, and planting box construction.

Replacement Cost means the cost to the City to replace a lost tree, including purchasing of a tree, planting costs, and initial care and maintenance.

Street Tree is a tree within City controlled right-of-way, including within terrace areas, medians, and undeveloped right-of-way. Trees do not include shrubs and bushes.

- (3) Street Tree Replacement Fund. There is hereby established a Street Tree Replacement Fund, which fund shall only be used to directly support the planting, establishment, or protection of street trees. These funds may only be used by the Streets or Engineering Divisions, with the approval of the City Forester, to purchase and plant trees, replace soil, install planting boxes, protect existing street trees, or take other actions that directly support, protect, replace or enhance the City's street tree stock.

- (4) Requirement. Any person who removes, or causes the removal of a street tree shall either replace the tree as provided by an approved Tree Replacement Plan under Sec. 10.101, or reimburse the City for the value of the removed tree by

- paying into the Street Tree Replacement Fund. The value of the removed tree shall be established under Sub. (5).
- (5) Valuation. The City Forester shall determine the value of the removed street tree by applying the City Forester's Street Tree Valuation Policy, which policy shall be created by the City Forester and approved by the Board of Public Works. The Policy shall be updated at least bi-annually so that the valuations reflect the City's updated costs. In establishing the policy, the City Forester shall consider a tree's replacement cost (the costs that will be incurred by the City to purchase suitable replacement(s) for the tree), and reestablishment costs (the costs that will be incurred by the City to prepare a site suitable for sufficient canopy growth to replace the lost tree). Other factors to consider will include, but not be limited to, size, age, species, and character of the tree, type of street, soil condition, and the existing tree canopy. The value determination for a tree is meant to reflect the City's actual costs that would be incurred to replace the removed tree.
- (6) Notice. Once the valuation for a tree is determined under Sub. (5), the City Forester shall provide notice to the person of such value and the requirement to make payment to the Street Tree Replacement Fund within thirty (30) days. Notice may be provided in person, or be sent by first class mail or electronic communications. If notice is sent, it is considered complete upon mailing.
- (7) Appeals. Any person aggrieved by the City Forester's valuation determination under Sub. (5) may appeal the City Forester's determination to the Streets Superintendent by filing a notice of appeal with the City Forester within ten (10) days of the notice under Sub. (6), stating the grounds therefore. The Streets Superintendent may, after hearing from the City Forester and the appellant, affirm or modify, in whole or in part, the valuation determination of the City Forester. The decision of the Street Superintendent may be appealed to the Board of Public Works by filing a notice of appeal with the City Clerk-Engineer within ten (10) days of the Street Superintendent's determination, stating the grounds therefore. The Board of Public Works shall fix a reasonable time for the hearing on the appeal and give due notice to the parties in interest, and decide the same within a reasonable amount of time. During the hearing, any party may appear in person or by an agent or attorney. The Board of Public Works may, in conformity with this ordinance, affirm or modify, wholly or partially, the valuation determination. The Board's decision shall be a final administrative determination, subject to judicial review as may be provided by law.
- (8) Penalty.
- (a) Any person who fails to make payment to the City as required under Sub. (4) within thirty (30) days from the notice provided under Sub. (6) or the expiration of any appeals under Sub. (7), whichever is later, 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) Special Charge. In addition to the penalties provided for under Subd. (a), if payment to the City as required under Sub. (4) is not made, and if the City proceeds to replace the removed tree, the City shall recover the actual costs of the tree replacement incurred by the City, up to the tree valuation as determined under Sub. (5), by imposing a special charge for current services against the property served."

26. Section 23.24 entitled "Breaking, Damaging or Injuring Trees, Shrubs" of the Madison General Ordinances is amended as follows:

“23.24 BREAKING, DAMAGING OR INJURING TREES, SHRUBS AND PUBLIC PLANTINGS.

- (1) Except as authorized under Sec. 10.101, nNo person shall break, damage or injure any tree or shrub planted in any highway in the City of Madison, nor shall they pour salt water or anything detrimental to the health of the tree or shrub on any such public highway in such places as to injure any tree or shrub planted or growing therein.
- (2) No person shall occupy any flower bed or area of plantings nor shall any person injure, destroy or damage in any way any tree, shrub, flower or planting in any public park or public place within the eCity of Madison. For purposes of this subsection, public place means a place which is in public ownership or a place to which the public has access, distinguished from a private place.
- (3) No person, during the course of performing or causing to be performed public or private work on or immediately adjacent to property that the City of Madison has an ownership interest in, including, without limitation, highways and highway right-of-ways, public walkways and bike paths, parks, and greenways, shall intentionally or negligently cause damage to any tree planted on said City of Madison property ~~such that the tree must be removed~~. In performing or causing to be performed such work, persons are expected to exercise ordinary care to prevent unnecessary damage to the tree and root structure so that the tree remains viable after the work is performed. It shall not be a violation of this provision if the City Engineer or City Forester, or their designees, authorize the damage to the tree prior to the damage, or within a reasonable time thereafter. Each tree damaged shall be a separate violation, and any person violating this provision shall be subject to the following forfeitures: if the tree damaged has a diameter of three (3) inches or less (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of two hundred and fifty dollars (\$250) plus thirty dollars (\$30) per diameter inch; if the tree damaged has a diameter of more than three (3) inches (measured at twelve inches above ground level and rounded to the nearest inch), a forfeiture of one hundred and fifty-five dollars (~~\$155~~150) per diameter inch. However, no person shall be subject to a forfeiture under this subsection if that person has already reimbursed the City for the damage to the tree through the provisions of a public works contract.”

27. Subdivision (a) of Subsection (3) entitled “Schedule of Deposits” of Section 1.08 entitled “Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits” of the Madison General Ordinances is amended by creating and amending therein the following:

<u>“Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit *</u>
<u>Failure to Comply with Tree Protection Requirements During Excavation</u>	<u>10.05(11)(d)1</u>	<u>\$500/offense, or \$150/inch for tree removals</u>
<u>Failure to Comply with Tree Protection Requirements During Occupancy</u>	<u>10.055(4)(s)1</u>	<u>\$500/offense, or \$150/inch for tree removals</u>

<u>Failure to Comply with Tree Protection Requirements During Driveway Approach Construction</u>	<u>10.08(10)(b)</u>	<u>\$500/offense, or</u> <u>\$150/inch for tree</u> <u>removals</u>
<u>Causing Removal of a Tree Without a Permit</u>	<u>10.101(7)(b)</u>	<u>\$150/inch for tree</u> <u>removals</u>
<u>Failure to Make Payment to the Street Tree Replacement Fund</u>	<u>10.105(8)(a)</u>	<u>\$100/1st;</u> <u>\$250, 2nd;</u> <u>\$500, 3+</u>
Damaging a City Tree	23.24(3)	\$250 + \$30/inch, 0>3 diameter inches \$455 <u>\$150</u> per diameter inch over 3 inches”

28. This ordinance will go into effect on January 1, 2026.

Editor’s Note:

*New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.

Subdivision (d) of Subsection (9) entitled “Administration” of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances currently reads as follows:

“(d) Any person violating the provisions of this section shall be fined not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200) and each day of continued violation shall constitute a separate offense.”

Subsection (10) of Section 10.08 entitled “Construction of Driveway Approaches and Parking Facilities” of the Madison General Ordinances currently reads as follows:

“10. This ordinance shall be in effect from and after its passage and publication.”