

**CHAPTER 1494
TREE REGULATIONS**

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1494.01 PURPOSE.

The purpose of this chapter is to promote the public health, safety and general welfare through the preservation of trees in order to moderate storm water runoff, reduce erosion and sedimentation, maintain wildlife habitats, provide visual screening, provide natural shading, maintaining a tree canopy, -protect property values, improve air quality, encourage sound landscape planning and enhance the natural beauty of the community. The decision as to whether or not to issue a tree removal permit under this chapter shall take this purpose into account.

1494.02 DEFINITIONS.

For the purposes of interpreting this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein; words used in the singular include the plural.

- (a) "Building area" means the area of construction for a building including a distance fifteen feet around the perimeter of the foundation.
- (b) "Caliper" means the diameter in inches of trees measured at the height of six inches above the ground for trees of four inches in diameter and under, and measured twelve inches above the ground for trees over four inches in trunk diameter.
- (c) "Clearing" means cutting and/or removal of trees and vegetation from a site prior to construction regardless of timing.
- (d) "Planning Commission" means the City Planning Commission.
- (e) "Development" means the construction, alteration or addition to a building, structure or improvement or the grading or alteration of land surface.
- (f) "Diameter at breast height (D.B.H.)" means the diameter in inches of a tree measured four and one-half feet above the existing grade.
- (g) "Dripline" means a vertical line extending from the outermost portion of the tree branch tips down to the ground.

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- (h) "Existing Conditions Topographic Survey" means a survey prepared and stamped by a licensed surveyor certifying the accuracy of the survey showing existing conditions on the property prior to Development including all existing trees ~~8~~six (6) inches D.B.H. or greater.
- (i) "Tree" means a self-supporting woody plant usually having a single trunk, which has the potential of a D.B.H. of at least two inches and a height of thirteen feet or more at maturity.
- (j) "Tree Protection Plan" means a plan based on an approved Existing Conditions Topographic Survey drawn at a scale of not less than 1" = 50' prepared by a landscape architect or tree forester
 - (1) Identifying and locating:
 - A. All existing trees or clumps of trees ~~eight~~ six inches D.B.H. or greater.
 - B. All trees to be removed.
 - (2) Describing the method of preservation or protection of existing trees which will not be removed .
 - (3) Identifying ing type, size and location ing of all replacement or new trees to be planted.
 - (4) Identifying and locating all landscaping to be placed on the property.
- (k) "Tree removal permit" means an official City authorization to commence or allow the clearing, cutting and/or removal of any tree of ~~eight~~six inches or more in D.B.H. that is regulated within this chapter, and not otherwise exempted in Section 1494.04.

1494.03 APPLICABILITY.

The regulations of this chapter shall apply to all lands in the City except as exempted herein and in Section 1494.04.

- (a) No tree with a Diameter at Breast Height (D.B.H.) of ~~eight~~six inches or greater shall be cut and/or removed without a tree removal permit and without conformance to the provisions of this chapter.
- (b) No building permit or grading and filling permit shall be issued for any development without conformance to the provisions of this chapter.

1494.04 EXEMPTIONS.

The following activities and properties are exempt from the regulations in this chapter and no tree removal permit is required.

- (a) The removal of dead, diseased or damaged trees.
- (b) The removal of trees necessary for the construction, operation and maintenance of drainage facilities and sanitary and storm sewers approved by the City.
- (c) The removal of trees for construction of public roadways and improvements approved by the City.
- (d) The removal of trees in time of emergency or which pose potential danger to life or property.

- (e) The removal of trees required for the installation, maintenance and repair of underground and overhead utilities approved by the City.
- (f) The removal of trees by an individual homeowner on his/her single family dwelling lot on which a dwelling is located, except that a tree removal permit shall be required before the removal of:
 - ~~(1) Four or more trees of D.B.H. of eightsix inches or greater in a calendar year, except as provided in section 1494.05(b).~~ ; or
 - ~~(2) Any tree with a D.B.H. of eight inches or greater in relation to any new construction of or addition to a dwelling or accessory building.~~

1494.05 TREE PRESERVATION.

All development shall be designed to preserve healthy trees and woodlands, especially trees providing natural buffering and trees of eightsix inches D.B.H. or greater, where possible. Buildings and parking areas shall be located to fit into the existing topography and preserve the natural amenities of the site.

- (a) The following provisions shall apply to Regulations pertaining to all Development Plans submitted pursuant to Chapter 1275 and Subdivisions submitted pursuant to Chapter 1244, except in the U-1 Single Family District. No preliminary or final subdivision plat shall be approved without the approval of the Tree Protection Plan as outlined in this section.
 - (1) An Existing Conditions Topographic Survey shall be submitted to the Building Inspector for review and approval by the City Engineer.
 - (2) A Tree Protection Plan based on an approved Existing Conditions Topographic Survey shall be prepared and submitted to the Building Inspector. The Building Inspector shall submit the Tree Protection Plan to the Architectural Board of Review for its review and written recommendation. Upon receipt of the Architectural Board of Review's recommendations the Building Inspector shall submit the Tree Protection Plan with the Architectural Board of Review's written recommendation and the Building Inspector's written recommendation to the Planning Commission for its review.
 - (3) The Planning Commission shall review the Tree Protection Plan and the recommendation of the Architectural Board of Review and the Building Inspector and determine whether the Tree Protection Plan is in accordance with the "Purpose" of Chapter 1494 as established in Section 1494.01 and the following standards:
 - (A) Existing trees or groupings of trees six (6) inches D.B.H. or greater shall be preserved whenever possible.
 - (B) Trees with a D.B.H. of six (6) inches or greater that are to be disturbed, destroyed, or removed shall be replaced with a minimum of 1.5 trees for each identified tree removed, destroyed or disturbed.
 - (C) A replacement tree shall be an approved tree of two and one half (2.5) inches or greater caliper and at least five feet in height.

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- ~~(C) A replacement tree shall be an approved tree of two and one half (2.5) inches or greater caliper and at least five feet in height.~~
- ~~(D) Replacement trees shall be of a similar species as the tree removed except when the tree to be removed is listed on the Prohibited Tree List in Section 1494.11.~~
- ~~(E) Diversity of tree species shall be encouraged to encourage sustainability, minimize potential disease transmission and reduce the potential for rapid canopy reduction.~~
- ~~(F) Replacement trees shall be common to Northeast Ohio in healthy condition and properly installed using acceptable planting procedures. New trees shall be staked, watered and mulched.~~
- ~~(4) Anyone aggrieved by the decision and/or action of the Building Inspector and City Engineer with regard to the Tree Protection Plan may appeal such decision and/or action to the Planning Commission. The Planning Commission shall have final authority to confirm, reverse, or modify any determination and/or action of the Building Inspector and City Engineer with regard to the Tree Protection Plan.~~
- ~~- (6) Preliminary subdivision plans or the development plan shall indicate areas which have existing trees or groupings of trees with a D.B.H. of eight inches or greater. Improvement plans and individual building plot plans shall indicate trees or areas of trees the developer intends to preserve.~~
- (c) Tree Protection Methods to Be Implemented for Any Trees Which Are Required to Be Preserved in any district:
 - (1) All trees or groups of trees to be preserved shall be marked with a blue colored ribbon or paint stripe prior to any clearing.
 - (2) Prior to any construction or grading, a protective barrier, fence, posts and/or signs shall be placed around the trees to be preserved.
 - (3) Protection barriers shall be located no closer than two-thirds of the distance from the tree trunk to the dripline.
 - (4) No building material, equipment, vehicles or chemicals shall be stored or placed in the protection area of the dripline.
 - (5) Surface grade shall not be changed more than six inches within the protected area without the installation of an aeration system, wells or retaining walls.
 - (6) No wires, boards, nails, signs, fences or other similar material shall be attached during development to a tree to be preserved.

1494.06 VARIANCES.

The Planning Commission may grant variances provided the variance is not contrary to the spirit of this Chapter.

1494.07 PROTECTION OF TREES ON CITY PROPERTY.

No person shall plant, remove, destroy, cut, prune, fertilize, treat, break, climb, injure or spray any tree on any property owned by the City, or authorize or procure any person to do

so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device whatsoever either to such tree or to any device placed for the protection of such tree, or authorize or cause the same to be done, unless a written permit has first been issued by the Service Director for such action.

1494.08 PLACING DELETERIOUS SUBSTANCES NEAR TREES.

- (a) No person shall permit any natural or artificial gas, salt, browning water, oil, liquid dye or any other substance deleterious to trees to come in contact with the soil surrounding the roots of any tree located on City property in such a manner as to kill, injure, deface, destroy or affect the growth of such tree.
- (b) No person shall place or maintain any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the root of any tree located on City property without first obtaining a permit from the Service Director. Unless otherwise provided for, there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for a tree three inches in diameter and for every two inches of increase of such diameter there shall be an increase of at least one square foot of open ground.

1494.09 TRIMMING TREES.

The Service Director shall trim any tree located on City property so as to protect the public safety or welfare of the property. In addition, the Service Director shall remove any such tree or any part thereof which is in an unsafe condition or which is injurious or detrimental to the public safety or welfare or which is infected with any fungus, insect or other pest or disease which cannot otherwise be controlled.

1494.10 DUTIES OF BUILDING INSPECTOR.

- (a) The Building Inspector shall be responsible for the enforcement of the provisions of Chapter 1494. The Building Inspector shall prepare an application form for a Tree Removal Permit which application form shall be completed and filed with the Building Inspector by each applicant for a Tree Removal Permit. The application for the Tree Removal Permit for property located in any district ~~other than a U-1 single family district~~ shall include the Existing Conditions Topographic Survey and the proposed Tree Protection Plan.
- (b) Prior to commencing any Development in a U-2, U-3, or U-4 Zoning District or a Subdivision in the U-1 Single Family District the applicant shall post a cash bond with the City in the amount of \$200 for each tree of eight~~six~~ inches D.B.H. or greater on the lot to be preserved. If any tree of eight~~six~~ inches D.B.H. or greater is removed in violation of this Chapter or a Tree Removal Permit, the bond shall not be returned to the applicant until the applicant has planted replacement trees approved by the Planning Commission. The bond shall be returned to the applicant upon the applicant's compliance with the Tree Removal Permit as determined by the Building Inspector.

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- (c) If a Tree Removal Permit application is for development or subdivision in any property located in a district ~~other than a U1 single family district~~ the Building Inspector shall submit the Tree Removal Permit application to the Architectural Review Board and the Planning Commission for its review pursuant to Section 1494.05(a). If a Tree Removal Permit application is for new construction or an addition on property located in a U1 single family district the Building Inspector shall review the application, submit it to the Architectural Board of Review for approval and issue a Tree Removal Permit if the application complies with the applicable provisions of Chapter 1494.
- (d) The Building Inspector shall not issue a building permit for any Development until a Tree Removal Permit has been issued as required under Chapter 1494 or the Building Inspector determines in writing that a Tree Removal Permit is not required under Section 1494.04 "Exemptions."
- (e) If the Building Inspector determines that any Development or removal of trees is in violation of the provisions of Chapter 1494, the Building Inspector shall immediately issue a Stop Work Order which shall continue until the Building Inspector determines that the violation has been corrected.
- (f) The permit fee for a Tree Removal Permit is one hundred dollars (\$100.00) for property in a non-residential zoning classification and for Subdivisions. ~~and The permit fee for a Tree Removal Permit is~~ fifty dollars (\$50.00) for property in a residential zoning classification, ~~which~~ The fee shall be paid at the time of submitting the Tree Removal Permit application.

1494.11 PROHIBITED TREES

Based upon recommendations from the City Arborist, the Planning Commission shall establish a list of trees which shall be prohibited within the City. This list shall be kept on file in the office of the Building Inspector. The Commission may update the list from time to time as deemed appropriate.

1494.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree. Punishment shall be provided as in the General Offenses Code. A separate offense shall be deemed committed each day each such violation continues. Whoever cuts or removes any tree in violation of this chapter shall be required to take reasonable measures through the planting of replacement trees to remediate the harm caused.