

CHAPTER 96: TREES

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96.01 PLANTING OF TREE

Any person owning or occupying any lot, lands or premises in the city desiring to plant or transplant shade or ornamental trees in the streets contiguous to land may apply to the DPW whose duty it shall be to designate where these trees shall be set or planted, and when the DPW has so designated, then, and not until then, shall the party be permitted to set out or plant shade or ornamental trees. If any person is dissatisfied with the finding of DPW, he or she may bring the finding of the DPW before the Council whose finding shall be final. The action of the DPW shall be binding on all parties until the Council shall act upon it.

The DPW shall have control over all trees located within the street rights-of-way and parks in the city and the planting, care and removal thereof. The owner of land abutting on any street may, upon obtaining prior written permission of the DPW, prune, spray, plant or remove trees in that part of the street abutting the owner's land not used for public travel, but no person shall otherwise prune, spray, plant or remove any tree in any street or park. Where an owner of abutting property requests the removal of a tree, the DPW is authorized to require as a condition to granting of approval for such removal, that such property owner make the removal in accordance with regulations established by the department, assume all or any part of the costs of removing such tree, and also to require that the tree removed, be replaced at some other nearby location by planting another tree, not necessarily of the same type.

(Ord. 7, passed 6-21-1915)

96.02 CUTTING OR DESTROYING TREES

(A) No person or persons shall cut, cut down, destroy or mutilate in any manner, except as may be provided for in this chapter, any shade or ornamental trees so long as they are alive and growing within the limits of the city.

(B) All dead trees and trees afflicted with any fatal or communicable disease shall be removed by the DPW with the approval of the city manager. The city manager is hereby authorized to direct the DPW to remove any tree of a prohibited species.

(C) No person shall use any tree as an anchor, and no material shall be fastened to or hung on any tree.

(D) This section is not to be construed so as to prevent the owner of private premises from cutting any tree or trees growing wholly within or upon private premises.

(Ord. 7, passed 6-21-1915)

96.03 ELECTRIC WIRES

No electric wires shall be strung so as to transmit electric current to or interfere with the growth of any shade or ornamental tree alive and growing within the limits of the city.

(Ord. 7, passed 6-21-1915)

96.04 TRIMMING OF TREES

(A) All trees that stand in and extend over the streets of the city shall at all times be kept so trimmed that no branches thereof shall be less than eight feet above the sidewalk in or over which they stand.

Every owner of any tree on private property overhanging any street or right-of-way within the city shall trim the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or right-of-way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to trim any tree or shrub on private property when it interferes with the proper spread of light along the street from a street lamp or interferes with visibility of any traffic control device or sign, such trimming to be confined to the area immediately above the right-of-way.

(B) It shall be of the owners of these trees to keep them trimmed as required by this chapter.
(Ord. 7, passed 6-21-1915)

96.05 DANGEROUS, DISEASED OR INFESTED TREES

When the director shall discover that any tree growing on private property within the city is dead, dying, damaged, or has broken or decayed tree limbs and constitutes a hazard to the safety of persons or property, or is afflicted with any dangerous and infectious insect infestation or tree disease, the director shall forthwith serve a written notice upon the owner or the owner's agent, or the occupant of the property, describing the tree, its location and the nature of the hazard, infestation or tree disease and ordering the owner, agent and occupant to take such measures as may be reasonably necessary to eliminate such hazard or cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within ten days after service thereof, upon the owner, agent or occupant of the property on which the hazardous or afflicted tree is located, or within such additional time as may be stipulated in such notice.

The city manager and DPW shall have the authority to enter upon private premises for the purpose of examining any trees, shrubs, plants or vines for the presence of destructive insects or plant diseases. No damages shall be awarded for the destruction of any tree, shrub or plant or fruit or injury to the same, if done by the city manager or under the city manager's direction, in accordance with this article.

96.06 PROTECTED TREES

Any tree having a diameter breast height (DBH*) of six inches or greater should be considered a protected tree.

The unregulated and unnecessary removal of protected trees is a threat to the public health, safety, and general welfare of the citizens of City of the Village of Clarkston through the elimination of important physical, aesthetic, recreational and economic assets for both present and future generations. Specifically, it is found that:

- Protected trees provide for public safety through the prevention of erosion, siltation, and flooding;
- Protected trees aid in the protection of public health through the absorption of air pollutants and contamination, including the reduction of excessive noise and mental and physical damage related to noise pollution;
- Protected trees provide a significant aspect of the character of the city; and
- Protected tree growth serves as an essential component of the general welfare by maintaining natural beauty, recreation and irreplaceable natural heritage.
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If protected trees are removed, and not authorized by permit the city manager may require replacement of such removed trees with comparable protected trees to the extent required by the city council. Replacement shall mean that a sufficient number of new trees shall be planted so that the aggregate caliper of the replacement trees shall equal or exceed the aggregate DBH of the protected trees removed without a permit.

**Diameter Breast Height (DBH). A tree's diameter in inches measured by diameter tape at four and one-half feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.*

96.07 PENALTY

Any person or persons violating the provisions of this chapter on conviction thereof, shall be punished by a fine not exceeding \$500 and the costs of prosecution or by imprisonment in the county jail for a period of not exceeding 90 days, or both a fine and imprisonment in the discretion of the court or magistrate before whom the conviction is had.

(Ord. 7, passed 6-21-1915)