

CITY OF PASSAIC

ORDINANCE NO# 2445-24

**ORDINANCE AMENDING CHAPTER 289 OF THE CODE OF
THE CITY OF PASSAIC ENTITLED "TREES AND SHRUBBERY"**

WHEREAS, pursuant to N.J.S.40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, Chapter 289 of the Code of the City of Passaic, "Trees and Shrubbery," sets forth all regulations regarding Trees within the City of Passaic; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Passaic, that sections of Chapter 289 of the Code of the City of Passaic, "Trees and Shrubbery," set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged.

SECTION I

Section 289-1. Definitions

APPLICANT

Any "person", as defined below, who applies for approval to remove trees regulated under this ordinance.

CRITICAL ROOT RADIUS (CRR)

The zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6" DBH would have a CRR = 6"x1.5' = 9'

DEPARTMENT

Includes the Department of Parks and Public Property of the city, the Director of such Department and any person who the Director shall assign or appoint to perform any act under the provisions of this chapter.

DIAMETER OF BREAST HEIGHT (DBH)

The diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.

HAZARD TREE

A tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.

1. Has an infectious disease or insect infestation;
2. Is dead or dying;
3. Obstructs the view of traffic signs or the free passage of pedestrians or vehicles, where pruning attempts have not been effective;
4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE)

PARK

Includes a city park, city parkway or city park strip in the city.

PERSON

Any individual, resident, corporation, utility, company, partnership, firm, or association.

PLANTING STRIP

The part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.

RESIDENT

An individual who resides on the residential property or contractor hired by the individual who resides on the residential property where a tree(s) regulated by this ordinance is removed or proposed to be removed.

STREET

Includes road, roadway, highway, public alley and public place in the city.

STREET TREE

A tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, pedestrian refuges.

TREE

A woody perennial plant, typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground. This Includes shade tree, ornamental tree and shrubbery presently planted or which shall hereafter be planted in any street or park in the city.

TREE CALIPER

The diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.

TREE REMOVAL

To kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

Section 289-2. Regulated Activities**B. Tree Replacement Requirements**

- 1) Any person who removes one or more street tree(s) with a DBH of 2.5" or more, unless exempt under Section C, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 2) Any person, who removes one or more tree(s), as defined as Tree removal, with a DBH of 6" or more per acre, unless otherwise detailed under Section C, shall be subject to the requirements of the Tree Replacement Requirements Table. The species type and diversity of replacement trees shall be in accordance with Appendix A.
- 3) Replacement Trees Shall:
 - a) Be replaced in kind with a tree that has an equal or greater DBH than the tree removed or meet the Tree Replacement Criteria in the table below;
 - b) Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
 - c) Be monitored by the applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
 - d) Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements

Tree Replacement Requirements Table:

| Category | Tree Removed (DBH) | Tree Replacement Criteria (See Appendix A) |
|----------|---|--|
| 1 | DBH of 2.5" (for street trees) or 6" (for non-street trees) to 12.99" | Replant 1 tree with a minimum tree caliper of 1.5" for each tree removed |
| 2 | DBH of 13" to 22.99" | Replant 2 trees with minimum tree calipers of 1.5" for each tree removed |
| 3 | DBH of 23" to 32.99" | Replant 3 trees with minimum tree calipers of 1.5" for each tree removed |
| 4 | DBH of 33" or greater | Replant 4 trees with minimum tree calipers of 1.5" for each tree removed |

4) The fee for a tree removal permit application shall be the following

| Number of Trees | Fee |
|-----------------|--|
| 1 to 5 | \$50.00 |
| 6 to 10 | \$100.00 |
| 11 to 20 | \$200.00 |
| 21 to 50 | \$300.00 |
| 51 and Over | \$400.00, plus an additional \$100.00 for each additional 50 trees or part thereof |

5) Replacement Alternatives: If the municipality determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall plant replacement trees in a separate area(s) approved by the municipality.

C. Exemptions: All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. A signed statement of findings by a New Jersey licensed tree expert or professional arborist will be required for all persons claiming exemption.

- 1) Residents who remove less than four (4) trees per acre that fall into category 1, 2, or 3 of the Tree Replacement Requirements Table within a five-year period.
- 2) Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- 3) Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;
- 4) Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- 5) Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP), or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- 6) Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- 7) Hazard trees may be removed with no fee or replacement requirement.

D. Violations and Penalties: Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine of \$1,000.00 per tree.

Appendix A

Approved list of Replacement tree Species and Planting Standards for City of Passaic

| Tree Species | Cultivars | Planting Season | Planting Procedure (soil type, watering, pruning, staking, wrapping, exposure, depth, mulching, etc) |
|--|--|----------------------------|---|
| <u>Acer Rubrum</u> Red Maple | | Spring / Fall | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) |
| <u>Acaer x Freemanii</u> Freeman Maple | Armstrong, Fairfall, Marmo, scarlet Sentinel | Spring / Fall | Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) |
| <u>Amelanchier laevis</u> Shadblow Serviceberry | | Spring / Fall | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (prefers well-drained loams) |
| <u>Betula Nigra</u> River Birch | | Spring / Fall | Full Sun, Soil Moisture - average to wet, Soil Type- Prefers moist, acidic, fertile soils |
| <u>Carpinus Caroliniana</u> American Hornbeam | Native Flame | Spring | Part Shade, Soil Moisture - average to wet, Soil Type - Prefers moist, organically rich soils |
| <u>Celtis Occidentalis</u> Hackberry | | Spring | Full Sun to Part Shade, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) |
| <u>Cercis Canadensis</u> Eastern Red Bud | | Fall | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - Performs best in moderately fertile soils |
| <u>Cercis Chinensis</u> Chinese Redbud | | Late Spring / Early Summer | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - Performs |

| | | | |
|--|--|--------------------------------|---|
| | | | best in moderately fertile soils |
| <u>Cladrastis Kentukea</u> Yellowwood | Sweetshade, Perkins Pink | Spring | Full Sun, Soil Moisture - average, Soil Type - Prefers moist well drained, organically rich soils. |
| <u>Crataegus Crus-galli</u> Cockspurn Hawthorn | Thornless varieties only | Spring / Fall | Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) |
| <u>Ginkgo Bilobra</u> Ginkgo, Maidenhair Tree | | Spring / Fall | Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) |
| <u>Gladitsia Triacanthos</u> Honey Locust | Moraine, Shademaster, Sunburst, Imperial | Spring / Fall | Full Sun, Thornless, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) |
| <u>Gymnocladus Dioicus</u> Kentucky Coffeetree | | Early Winter / Early Spring | Full Sun, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils |
| <u>Liquidambar Styrciflua</u> American Sweetgum | Cherokee, Rotundiloba, Slender Silhouette, Worplesdon | Early Winter / Early Spring | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) |
| <u>Liriodendron Tulipifera</u> Tulip Tree | Ardis, Arnold, Emerald City, Fastigiatum | Spring / Fall | Full Sun, Soil Moisture - average, Soil Type - organically rich, well-drained loams |
| <u>Metasequoia Glyptostrobooides</u> Dawn Redwood | | Fall | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type - well-drained loam |
| <u>Nyssa Sylvatica</u> Black Gum | | Spring / Fall | Full Sun, Soil Moisture - average to wet, Soil Type sandy loam |
| <u>Ostrya Virginiana</u> Eastern Hop Hornbeam | | Spring / Fall | Full Sun to Part Shade, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils |
| <u>Platanus x Acerifolia</u> London Planetree | | Spring / Fall | Full Sun to Part Shade, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) |
| <u>Prunus Cistena</u> Purple-leaf Sand Cherry | | Early Spring | Full Sun, Soil Moisture - average, Soil Type - organically rich, well-drained loams |
| <u>Prunus Sargentii</u> Sargent Cherry | | Early Spring | Full Sun, Soil Moisture - Medium moisture, Soil Type organically rich, well-drained soils |
| <u>Prunus Virginiana</u> Chokecherry | | Spring / Early Summer | Full Sun to Part Shade, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) |
| <u>Quercus Bicolor</u> Swamp White Oak | Hightower | Spring | Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefers acidic soil |
| <u>Quercus Coccinea</u> Scarlet Oak | Kindred Spirit, Fastigiata, Skyrocket | Spring | Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) |
| <u>Quercus Macrocarpa</u> Bur Oak | | Spring | Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) Prefers moist well-drained loams |
| <u>Quercus Muehlenbergii</u> Chinkapin Oak | | Spring | Full Sun, Soil Moisture - average to dry, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams |
| <u>Quercus Michauxii</u> Chestnut Oak | | Spring | Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams |
| <u>Quercus Palustris</u> Pin Oak | | Spring | Full Sun, Soil Moisture - average to wet, Soil Type wide range (clay to sandy loam) Prefer moist fertile loams |
| <u>Quercus Phellos</u> Willow Oak | | Spring | Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefer moist well-drained loams |
| <u>Quercus Robur</u> English Oak | | Spring | Full Sun, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefer moist well-drained loams |
| <u>Quercus Rubra</u> Northern Red Oak | | Spring | Full Sun, Soil Moisture - average to medium moisture, Soil Type wide |

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|---|-----------------------|---------------|--|
| | | | range (clay to sandy loam) Prefers acidic soil |
| <u>Tilia Americana</u> American Linden | | Spring / Fall | Full Sun to Part Shade, Soil Moisture - average to medium moisture, Soil Type wide range (clay to sandy loam) Prefers moist, fertile, well-drained loams |
| <u>Ulmus Americana</u> American Elm | Accolade, Frontier | Spring / Fall | Full Sun to Part Shade, Soil Moisture - average to medium moisture, Soil Type - Prefers moist, fertile, well-drained loams |
| <u>Ulmus Parvifolia</u> Lacebark Elm | | Spring / Fall | Full Sun, Soil Moisture - average to medium moisture, Soil Type - Prefers rich, moist loams |
| <u>Zelkova Serrata</u> Zelkova | | Spring | Full Sun, Soil Moisture - average to medium moisture, Soil Type - Prefers rich, moist loams |

SECTION II

If any section of provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

SECTION III

All ordinances or parts of ordinances to inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION IV

This ordinance shall take effect upon publication as provided by law.

INTRODUCED BY COUNCILPERSON: Terrence Love

SECONDED BY COUNCILPERSON: Thania Melo

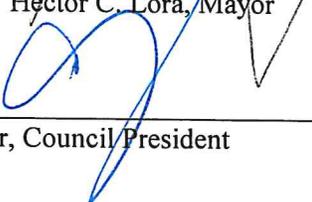
| Record of Council Vote on Final Passage | Aye | Nay | Abstain | Absent |
|---|-----|-----|---------|--------|
| COLON-MONTANEZ, M. | x | | | |
| GARCIA, J. | x | | | |
| LOVE, T | x | | | |
| MELO, T | x | | | |
| MUNK, C. | x | | | |
| SCHAER, G. | | x | | |
| SCHWARTZ, D. | x | | | |

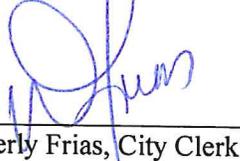
Adoption of first reading at a meeting of the Council of the City of Passaic, NJ on April 2, 2024

Adopted on the second and final reading after the hearing on April 18, 2024 .

APPROVED: 
Hector C. Lora, Mayor

4/23/2024
Date


Gary S. Schaer, Council President


Weatherly Frias, City Clerk