

ORDINANCE NO. 98-4

**AN ORDINANCE TO AMEND THE LAND USE ORDINANCES
OF THE BOROUGH OF HILLSDALE
TO REGULATE THE REMOVAL AND PRESERVATION OF TREES**

WHEREAS, this ordinance amendment is to control and regulate indiscriminate and excessive removal, cuffing, and destruction of trees, in order to regulate and prevent conditions which cause increased stormwater runoff, soil erosion and sedimentation of watercourses, and cause a decreased soil fertility, and impairs the stability and value of real estate, all of which conditions will in the future be detrimental to public health, safety, and general welfare of the public, and will preserve an important attribute of the Borough, by encouraging owners of existing developed lands and developers of lands to save or replace as many native mature trees as possible when making improvements to real property.

BE IT ORDAINED by the Mayor and Council of the Borough of Hillsdale County of Bergen, State of New Jersey, that the Land Use Ordinances are amended as follows to include the following new sections:

Section 1. The Land Use Ordinance of the Borough of Hillsdale is hereby amended to replace Section 310-133 as follows:

A. Definitions

As used in this Ordinance, the following terms shall have the meaning as set forth below

- a) Tree: Any live, woody plant having a diameter or width greater than 8 inches and/or circumference greater than 25 inches measured at the natural ground level. If a plant has multiple stems, then the aggregate of the stem diameters and/or the aggregate of the circumferences shall be used in determining whether the plant is a tree.
- b) Re-Planted Tree: Any deciduous or evergreen woody plant of the diameter caliper required in this ordinance, planted for the purpose of replacing trees cut, removed, destroyed.

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No individual, corporation, or association shall do, or cause to be done by others, either *purposefully*, carelessly or negligently, any of the following acts upon privately owned property within the Borough of Hillsdale:

- a) Cut, destroy, or injure any tree.
- b) Place, or maintain upon the ground any substance which will impede the free the free *access* of air and water to the tree's living components.
- c) Apply any substance to any part of a tree, including roots, with the intention to injure or destroy the tree.

C. Permitted Activities

Notwithstanding the restrictions contained in the above Section, the following activities shall be permitted:

- a) The removal of not more than 5 trees on any approved or existing building lot as shown on the current Tax Assessment Maps of the Borough, within a 12 month period.
- b) The removal of trees in accordance with a site plan or subdivision plan approved by the Planning Board, or a Plot Plan submitted for a Soil Movement Permit approved by the Planning Board, in conjunction with development or soil movement applications, so long as the approval includes a requirement that the applicant replace 2 trees for each tree removed.
- c) The cuffing, trimming, or maintenance of trees in a manner which is not harmful to the health of the tree.
- d) The removal of trees which are diseased, dead, partially or completely fallen by acts of nature, or which endanger public safety.

B. Prohibited Activities

- e) The removal of trees necessary to construct any structure for which a permit has been issued by the Construction Code Official, so long as the approval includes a requirement that the applicant replace at least 25% of the trees removed.
- f) Activities involving tree trimming or removal located within a public right-of-way or easements, or publicly owned or controlled property, so long as the Borough of Hillsdale is in responsible charge of the activities.

The following exceptions shall apply:

- a) The Planning Board may waive the replacement planting requirements either in number, specie, or replacement size.
- b) Upon application to the Planning Board, the granting of exceptions from the requirements of this Ordinance as may be reasonable and within the purposes and intent of this Ordinance if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. The form of application will be the same provisions as that of the Plot Plan review Ordinance.

E. Criteria for Consideration of Tree Removal and Re-Planting

The Planning Board may consult with the Hillsdale Environmental Commission, the Department of Public Works, the Borough Engineer, or any professional as provided in the Municipal Land Use Law, for guidance in considering land use, development, soil movement, or exception applications.

Re-planted trees shall be at least 2 1/2 inches in diameter caliper, measured at breast or chest height, and must be nursery stock, balled and burlap, and staked upon planting per Borough standards provided by the Borough Engineer.

The location of re-planted trees shall be determined by the following schedule of preference when at all possible:

- a) In the location where the trees are removed.
- b) Within the building lot containing the removed trees.

D. Exceptions

- c) Within the development site approved by the Planning Board, or within the public right-of-way fronting or bounding the site.

- d) Elsewhere in the Borough within public property, but as near as possible to the building lot where the trees are removed.

D. Exceptions

E. Enforcement

The Borough Code Compliance Officer is designated as the Enforcing Agent for this Ordinance, or his designee. Upon review of As-Built Plans or site inspection of any development application or soil movement activity, the Borough Engineer shall inform the Code Compliance Officer of any trees removed in excess of those called for removed in the Planning Board's approval.

F. Penalty

Any individual, corporation, or association violating any provision of this Ordinance shall upon conviction thereof be punishable by a fine not exceeding \$ 1000.00 per offense. The cutting, destruction, or removal of each trees shall constitute a separate offense.

If trees are cut, destroyed, or removed for any reason, in conjunction with any land use, development, or soil movement activity, in excess of a specified number of trees were approved for removal by the Planning Board, restitution shall be made by the applicant in accordance with the following schedule:

Diameter of Tree Removed (in inches)	Number of 2-Inch Caliper Trees to be Provided
8 to 15	6
16 to 24	10
25 to 36	15
37 and over	20

G. Severability

Randall, Randall, and Stevens.

H. Effective Date

This Ordinance shall become effective immediately.