

**BOROUGH OF HILLSDALE  
BERGEN COUNTY, NEW JERSEY  
ORDINANCE NO. 21-13  
(Adoption)**

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**ORDINANCE OF THE BOROUGH OF HILLSDALE, COUNTY OF  
BERGEN, STATE OF NEW JERSEY TO REPLACE §310-133, REMOVAL  
OF TREES, IN THE CODE OF THE BOROUGH OF HILLSDALE**

**WHEREAS**, §310-133 of the Code of the Borough of Hillsdale (“Borough”) provides for the care, replacement and removal of trees in the Borough; and

**WHEREAS**, the Governing Body desires to delete §310-133 in toto and replace same with the within Ordinance, entitled “TREES”.

**NOW, THEREFORE, BE IT ORDAINED** by the Governing Body of the Borough of Hillsdale, County of Bergen, State of New Jersey, that §310-133 shall be deleted in toto.

**NOW, THEREFORE, BE IT FURTHER ORDAINED** shall be added to the Code of the Borough as follows:

**TREE ORDINANCE.**

**-1. PURPOSE AND INTENT**

The purpose of this chapter is:

1. To preserve and protect trees within the Borough, which helps to preserve water quality, abate noise, and enhance the ambience and character of the community.
2. To protect the character and natural resources of the Borough, consistent with the goals and objectives of the Master Plan. This section is not intended to restrict homeowners from removing dead, diseased, or hazardous trees. It is not intended to restrict homeowners from conducting routine pruning of trees or other maintenance procedures.
3. To provide for a process whereby homeowners can remove and plant trees at their discretion in a responsible manner consistent with their rights as land owners and with the Borough’s Master plan.

**-2 DEFINITIONS**

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

**CALIPER** – The unit of measurement (measured in inches), used to describe, the diameter of a tree trunk, for example, “5-inch caliper”.

**DIAMETER AT BREAST HEIGHT (DBH)** – The diameter of a tree measured 4½ feet above ground level on the downhill side for existing trees. Trees utilized in the replacement of existing trees or proposed as a part of a landscape plan shall be measured at breast height.

**ENVIRONMENTAL COMMISSION** – The Borough appointed commission established for the protection, development and use of natural resources, including water resources, located within the territorial limits of the Borough.

PERSON – Any individual, person, corporation, association, entity or utility.

PRIVATE TREE – Any tree located on lands privately owned within the Borough of Hillsdale.

PUBLIC PROPERTY – Any property owned by the Borough of Hillsdale such as public right of ways or easements intended for the benefit of the Borough of Hillsdale.

PUBLIC TREE – Any tree located on lands owned or controlled by the Borough, or by any other governmental body, or located within a public right-of-way or easement. This definition is intended to be interchangeable with the definition of “Street Tree”.

REPLANTED TREE - Any deciduous or evergreen woody plant of the diameter caliper required in this section planted, for the purpose of replacing trees cut, removed or destroyed.

SHRUB – A woody plant that is never tree-like in habit and produces branches or shoots from or near the base.

SPECIES – The botanical or common name of the tree.

SIGHT TRIANGLE – an imaginary triangle drawn by connecting lines 25 feet from the intersection of any two roadways, and a third line within the corner property, free of vegetation above 2½ feet to maintain a clear line of vision for vehicular, bicycle and pedestrian safety.

STREET TREE – Any tree located on lands owned or controlled by the Borough, or by any other governmental body, or located within a public right-of-way or easement. This definition is intended to be interchangeable with the definition of “Public Tree”.

TREE – Any live, woody plant having a diameter or width greater than six inches and/or a 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.

TREE ARBORIST – An individual trained and certified in the science of planting, caring for, and maintaining trees, retained by the Borough of Hillsdale for that purpose either as an employee or on an as-needed basis.

TREE BANK – A tree restitution fund held in escrow and administered by the Borough specifically for the acquisition and planting of trees in the Borough, that is contributed to by land developers where on-site tree restitution could not be reasonably achieved.

### **-3 REGULATION OF TREES ON PUBLIC PROPERTY.**

The regulation of shade trees, street trees, and public trees shall be the jurisdiction of the Mayor and Council, who shall obtain recommendations from a Tree Arborist and the Environmental Commission, and who shall direct the DPW when any action, pursuant to this ordinance is determined to be necessary to:

(A) Control the planting, care and protection of such trees.

(B) Regulate the use of the grounds surrounding such trees as far as may be necessary to ensure their proper growth, care and protection.

(C) Regulate the removal of such trees or parts thereof which are deemed to be dangerous to public safety, electric power, gas lines, water lines, or other public improvements, or which harbor a disease or infestation readily communicable to neighboring healthy trees,

or for any reason in the exercise of a reasonable discretion, and within the purpose of this section.

(D) Require the removal of, or remove, dead trees.

(E) Prune such trees according to accepted technical methods used by qualified arborists, including measures to prevent the spread of disease.

(F) Maintenance of public right-of-way trees to include pruning, cable support, and removal where public safety hazards exist.

(G) Use Tree Bank funds for ongoing maintenance of Borough public trees, to include, but not limited to pruning, removal, watering, cable support, disease/pest infestation prevention and treatment.

#### **4 TREE PRESERVATION.**

No person shall do, or cause to be done by others, either purposely, carelessly or negligently, upon private or public property within the Borough of Hillsdale, any of the following acts:

(A) Cutting, destroying or damaging any tree, except as provided for in this section.

(B) Topping of public trees – defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree’s crown to such a degree as to remove the normal canopy and disfigure the tree.

(C) Plant any bush, tree, hedge, shrub or other plant life - except trees and grass within the sidewalk area of any street without first having acquired the opinion and consent of the DPW.

(D) Plant any shade or ornamental tree within 5 feet of a sidewalk or between the sidewalk and a street without first having obtained the approval by DPW Superintendent.

(E) Plant or permit to be planted, any poplar or willow tree within 50 feet of any street line or sanitary or storm sewer line.

(F) Attach any sign by nailing, stapling or use of other hardware which penetrates the bark of any tree located within public right-of-way.

(G) Trim, remove or cut down any Street Tree or Public Tree without an approved request form issued by the DPW.

(H) Placing or maintaining upon the ground anything which will impede the tree’s free access to air and water to the tree’s living components. This will not limit the ability to construct improvements on any property.

(I) Applying any substance to any part of a tree, including the roots, with the intention to injure or destroy the tree.

(J) Planting of any tree or shrub within the sight triangle of any two intersecting roads within the Borough.

(K) Failing to maintain trees, bushes, shrubs, buffer strips, and other landscaping and conditions imposed as part of site plan or subdivision approval without application and approval by a board of appropriate jurisdiction.

## 5 PERMITTED ACTIVITIES.

Notwithstanding the restrictions contained herein, the following activities shall be permitted:

(A) The removal of not more than three trees per calendar year on any approved or existing building lot, as shown on the current Tax Assessment Map of the Borough.

(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 Building Department, in conjunction with development or soil movement applications, so long as the approval includes a requirement that the applicant replace two trees for each tree removed for property that is not located in a floodplain. All replacement trees under this Ordinance shall be suitable in the discretion of the Planning Board or Planning Board Engineer with the input of the Environmental Commission, if deemed necessary

(1) Floodplains are identified by largest areas shown as either the one-hundred-year flood hazard area on the New Jersey Department of Environmental Protection flood delineation maps or as the special flood hazard area per the one-hundred-year flood on the Flood Insurance Rate Map (FIRM) prepared by the Federal Emergency Management Agency.

(2) For those properties located within either one-hundred-year floodplain, the ratio for tree replacement shall be four replaced trees for each tree removed from property that is within a one-hundred-year floodplain.

(3) The Mayor and Council may, if they desire, obtain recommendations for approval by the Hillsdale Environmental Commission and the Borough Engineer regarding replacement trees.

(4) The following replacement methodology shall be used subject to the recommendations of the Borough Engineer and the DPW, if requested.

[a] The first location for replanting shall be on the same property from which the tree was removed.

[b] The second location for replanting shall be on a different one-hundred-year floodplain property within the Borough of Hillsdale.

[c] The third location for replanting shall be on public property within the Borough of Hillsdale.

[d] If a suitable replanting site cannot be determined, payment to the Tree Bank shall be made as described elsewhere herein.

(C) The cutting, trimming or maintenance of trees in a manner which is not harmful to the health of the tree.

(D) To assure the removal of street trees which are diseased, dead, or partially or completely fallen by acts of nature or which endanger public safety.

(1) Removal Request Procedure – Residents shall submit an emailed request, through the Hillsdale website Public Works DPW tab: “Report a Problem to DPW” link. The Environmental Commission and/or its designated representative, if requested by the DPW, will review the request, conduct a visit, and respond to the DPW within ten (10) business days, citing whether a new tree should be permitted, and shall suggest tree species, and appropriate location.

(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. If replacement is not possible, the Applicant shall make the appropriate contribution to the Tree Bank.

(F) To direct activities involving tree trimming or removal located within a public right-of-way or easement, or publicly owned or controlled property, so long as the Borough of Hillsdale is in responsible charge of the activities.

(G) Street tree planting requests (within the public right-of-way) by private homeowners, may be permitted upon request, review and approval by the DPW. An underground public utility location mark-out is required prior to planting.

(1) Planting Request Procedure – Residents shall submit an emailed request, through the Hillsdale website Public works DPW tab: “Report a Problem to DPW” link. The DPW Superintendent shall inform the Borough Administrator of the resident’s desire to plant a tree in the right of way. The Administrator shall provide permission for such planting in his discretion.

(H) Any tree species that are designated as being invasive by the Environmental Commission may be removed from private property without formal application to the Borough and will not be counted towards any limitation placed on the number and frequency of tree removals on private property.

#### **-6 EXCEPTIONS TO THE WITHIN ORDINANCE.**

The following exceptions shall apply:

(A) The Planning Board may waive the replacement-planting requirements either in number, species or replacement size or grant exceptions from the requirements of this section, as may be reasonable and within the purposes and intent of this section. The Planning Board shall consider if the literal enforcement of one or more provisions is impracticable or will exact an undue hardship due to the peculiar conditions pertaining to the Property in question. The form of application will be the same as required pursuant to the Site Plan Review Ordinance.

(B) Where the Environmental Commission and Borough Engineer deem it acceptable and make such recommendation to the Planning Board or Construction Department, the number of trees for restitution may be reduced in quantity if replacement caliper sizes are increased based on the methodology found in the current New Jersey No Net Loss Reforestation Act "Caliper Tree Substitution Size" list for the various types of trees.

#### **-7 CRITERIA FOR CONSIDERATION OF TREE REPLANTING.**

(A) 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.

(B) Standards for replanted trees.

(1) Replanted trees shall be at least 2 1/2 inches in diameter caliper, measured at breast height, and must be nursery stock, balled in burlap and staked upon planting per Borough standards provided by the Borough Engineer or the New Jersey Department of Environmental Protection, Division of Parks and Forestry, New Jersey Forestry Services, as detailed in the most recent Program Guidelines. Trees for reforestation shall be indigenous to the site from which

trees have been removed, consistent with the species found and/or being considered for removal. The Planning Board may also consult with the Environmental Commission in the selection of replacement trees.

- (2) Replanted trees for restitution shall not include trees required for visual buffers, foundation plantings, or ornamental trees. Tree size substitutions and species shall be in conformance with the New Jersey No Net Reforestation Act (N.J.S.A. 13:1L-14.1 et seq.) Program Guidelines, current edition, and the recommendations made by the Hillsdale Environmental Commission.

(C) The location of Site Plan or Subdivision approved replanted trees shall be determined by the following schedule of preference when at all possible:

- (1) In the location where the trees are removed.
- (2) Within the building lot containing the removed trees.
- (3) Within the development site approved by the Planning Board or within the public right-of-way fronting or bounding the site.
- (4) Elsewhere in the Borough within public property, but as near as possible to the building lot where the trees are removed.
- (5) When a suitable relocation site is not available for replanting or relocation of a tree, a payment to the Tree Bank shall be made as described elsewhere herein.

[D] Replanted trees on private property shall be watered and maintained by the property owner. Replanted trees on public property shall be watered and maintained by adjoining property owners to the greatest extent possible.

[E] The Ordinance shall apply to tree service companies and they shall also be liable for penalties described in herein.

**8** Landscaped buffers, landscape plantings, and replacement trees that are part of an approved site plan, subdivision, soil movement permit, or plot plan shall remain in effect and be maintained in perpetuity. Conditions of approvals requiring such buffers and/or landscape plantings shall be binding upon all subsequent property owners of the lands upon which the approvals were granted. Any alteration of such improvements must be approved by the appropriate land use board or municipal official referenced under this section.

## **9 ENFORCEMENT.**

The Borough Zoning Officer or his/her designee is designated as the enforcing agent for this section. Upon review of as-built plans or site inspection of any development application or soil movement activity, the Borough Engineer shall inform the Zoning Officer of any trees removed in excess of those called for removal in the Planning Board's approval.

## **10 PENALTY.**

This section shall be administered and enforced by the Borough Zoning Official.

- (A) Any person violating any provision of this section shall, upon conviction thereof, be punishable by a fine not exceeding \$1,000 per offense. The cutting, destruction or removal of each tree shall constitute a separate offense.

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

<b>Diameter of Tree Removed (inches)</b>	<b>Number of 2.5-Inch-Caliper Trees to be Provided</b>
8 to 15	6
16 to 24	10
25 to 36	15
37 and over	20

(C) Fee Calculation Schedule, for the tree fund payment value of a standard 2 ½ - 3” inch caliper replacement tree, shall be set forth by the Borough Administrator, after first obtaining a recommendation by a Tree Arborist and taking into account the actual cost of the replacement tree and its planting.

If any section, paragraph, sub-section, clause or provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof.

All ordinances or parts of ordinances of the Borough heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency.

This Ordinance shall take effect upon passage and publication as provided by Law.

<b>Council member</b>	<b>Motion</b>	<b>Second</b>	<b>Yes</b>	<b>No</b>	<b>Absent</b>	<b>Abstain</b>	<b>Recuse</b>
DeRosa, Anthony							
Escobar, John							
Horvath, Zoltan							
Lundy, Abby							
Pizzella, Frank							
Trochimiuk, Janetta							
Ruocco, John							

Adopted: September 14, 2021

Attest: \_\_\_\_\_  
 Denise Kohan  
 Municipal Clerk

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 John Ruocco  
 Mayor