

ARTICLE IX
Tree Preservation

[Adopted 11-22-2000 by Ord. No. 2000-38; amended in its entirety 11-12-2002 by Ord. No. 2002-39]

§ 188-160. Purpose.

It shall be the purpose of this article to preserve and protect the environment, aesthetics and rural character of the Township of Hillsborough by restricting and otherwise controlling the removal of mature trees throughout all land within the Township.

§ 188-161. Definitions.

As used in article, the following terms shall have the meanings indicated:

TREE — Any nursery stock tree with a caliper measurement of 2.5 inches, any flowering or ornamental tree with a caliper measurement of three inches or greater, any deciduous or coniferous tree of six-inch caliper or greater or any coniferous tree eight feet or greater in height.

CALIPER — The diameter of a trunk as measured at a height of four feet above grade.

CROP — To cut off the branches, top or trunk of a tree.

CRITICAL FOOTPRINT AREA — An area of new home construction that includes the portions of a private residential lot reserved for driveways and the actual building foot print plus an additional 40 feet beyond the perimeter of the building footprint and septic field.

PRUNE — To cut off or remove living or dead parts or branches of a tree.

UNDERSTORY — The plant growth on the ground beneath the canopy, or upper branches of trees.

§ 188-162. Applicability.

A. The following activities shall be regulated by this article:

- (1) Removal of more than three trees per calendar year on properties that can be subdivided, multifamily parcels and unimproved lots; provided, however, that on lots eligible to qualify for farmland assessment, three trees per acre on the overall tract may be removed per year without replacement except where those lots are otherwise exempt under the terms and provisions of Subsection B below.
- (2) Removal of any tree on an improved nonresidential lot. Nonresidential lots shall include, but not be limited to, the following: commercial retail or wholesale, office, industrial and warehousing properties.
- (3) Cropping or trimming of trees or other activities that will adversely affect the life span of the tree.

B. Exemptions. The following activities are exempt from the provisions of this article:

- (1) Removal of trees on developed single- and two-family residential lots that cannot be

subdivided, other than removal of trees that were planted as part of an approved subdivision or municipal street tree planting program. Trees that were planted as part of an approved subdivision or as part of a municipal street tree planting program that have been removed for any reason must be replaced in a like number and in the approximate location as originally planted.

- (2) Routine maintenance, such as trimming, that will not adversely affect the lifespan of the tree.
- (3) Removal of trees of any size shown to be dead or diseased or that are otherwise damaged and a threat to the health, safety and welfare of the public.
- (4) Selective thinning in conjunction with a management plan approved by the State Forester.
- (5) On land zoned for and/or used as a Township approved mine or quarry, removal of any tree located on that portion of land used or to be used for the actual extraction of mine or quarry materials or for a function essential to the actual extraction of mine or quarry materials. Upon termination of the mine or quarry operation, a reclamation plan shall be submitted in accordance with Township Code § 188-108E(7).

§ 188-163. Board approval required.

- A. Planning Board or Board of Adjustment, as the case may be, approval for tree removal shall be required except where otherwise exempted herein. In deciding whether to approve an application for tree removal, the Planning Board or Board of Adjustment, as the case may be, shall consider the following factors:
 - (1) Whether the removal of trees is justified and is related to an aesthetic and economic improvement of the land that is in the best interests of the citizens and property owners of the Township of Hillsborough.
 - (2) Whether the design of improvements maximizes tree preservation. Tree removal on new residential lots shall be restricted to inside the critical footprint area. Removal of trees outside this area requires a waiver from Planning Board or Board of Adjustment, as the case may be.
 - (3) Whether the applicant has attempted to preserve stands of trees and existing understory in logical locations.
 - (4) Whether appropriate measures will be taken to protect remaining trees during the construction period.
 - (5) Whether the mitigation or tree replacement plan is satisfactory.
- B. Mitigation Required. Mitigation for tree removal shall be required in accordance with § 188-164, Mitigation shall be required for the removal of trees on any residentially zoned lot or any non residentially zoned lot in accordance with site plan approval as provided in Subsection A above. However, in no case shall more than up to 20% of all the count of trees on a residential zoned lot or up to 60% of the count of all trees on any nonresidential lot be

removed even with mitigation measures.

- C. Tree preservation plan submission requirements. In addition to the standard development application form, the following information shall be required for approval for tree removal:
 - (1) A rider explaining why each tree is to be removed.
 - (2) A tree preservation plan that depicts:
 - (a) The location, species and caliper of all trees to be removed on a surveyed drawing.
 - (b) The location, species and caliper of each tree within the dripline of each tree to be removed.
 - (c) The quality, quantity and limits of vegetation on the remainder of the site and within 200 feet of the property line.
 - (d) The location of existing and proposed structures, including parking areas, detention basins and other stormwater facilities.
 - (e) Existing contours and proposed grading.
 - (f) Proposed preservation methods of trees to remain.
 - (g) The location of replacement trees, including a replacement schedule indicating species, quantities and size in accordance with § 188-164, Mitigation required, below.
- D. Variance required. Deviation from the requirements of this article shall require variance approval in accordance with N.J.S.A. 40:55D:70(c).

§ 188-164. Mitigation required.

Replacement trees are required for the removal of any tree as regulated herein.

- A. Number of replacement trees. Replacement shall be required in accordance with the following schedule, and are exclusive of the shade trees required as per § 188-80:

Caliper of Removed Tree	Number of Replacement Trees
6 to 12 inches	2
13 to 24 inches	4
25+ inches	6

- B. Replacement species. Trees shall be replaced with the same species. In the case where the species is known to be disease-prone or is otherwise not ecologically or aesthetically appropriate, other species shall be permitted with the approval of the appropriate Board.
- C. Planting standards. All replacement trees shall be nursery grown, certified and guaranteed and shall have a minimum caliper of 3.0 inches, or the industry standard equivalent for the species if ornamental. All trees shall be balled and burlapped and planted as per Township of

Hillsborough standards.

- D. Off-site contribution. If all required replacement trees cannot be provided on the subject lot(s), an off-site contribution to the Township of Hillsborough Parks Department of a like number of trees or cash equivalent to be placed in a dedicated fund to be used for the purchase of replacement trees by the Township of Hillsborough or for the purchase of equipment for the Township of Hillsborough to plant and/or maintain trees which are purchased by the Township of Hillsborough with these dedicated funds for use on public property and/or public right-of-way shall be considered by the Planning Board or Board of Adjustment, as the case may be. **[Amended 2-10-2004 by Ord. No. 2004-02]**
- E. Economic hardship waiver. In the case of commercial development, the Planning Board or the Board of Adjustment, as the case may be, will reduce the replanting requirement if the commercial developer can prove mitigation costs more than 1.5% of total site improvements for a commercial development. This reduction will limit the mitigation cost to 1.5% of the site improvements. In the case of residential development, the Planning Board or the Board of Adjustment, as the case may be, will reduce the replanting requirement if the residential developer can prove mitigation costs more than 1.5% of the total site improvements for a residential development. This reduction will limit the mitigation cost to 1.5% of the site improvements. The reduction in replanting will be approved at the site plan application stage. For the purpose of this section, the total site improvement costs shall include the estimated cost of construction for any proposed dwelling(s), commercial building(s) and any other structure(s) associated with the proposed development in addition to those costs normally associated with site preparation, soil erosion control, paving, utility work, landscaping and related site improvements. **[Amended 2-10-2004 by Ord. No. 2004-02]**

§ 188-165. Pruning and removal of trees in utility easements.

Pruning and removal of trees in utility easements or rights of way shall be the minimum necessary to protect the property of the applicable utility company. Pruning shall be performed in a manner than will serve to improve the shape of the tree and stimulate growth. The Township Engineer's office shall be informed by the applicable utility company of the time and location of any tree pruning or removal activities in rights-of-way or easements.

§ 188-166. Penalty and enforcement.

Violation of the provisions of this article shall be considered a Class C violation for each tree illegally removed, and for each day the offense continues without mitigation and application to the Planning Board or Board of Adjustment, as the case may be. A mitigation plan is required to be submitted for corrective action where any violation of the requirements of this article occurs.