

BOROUGH OF HO-HO-KUS
COUNTY OF BERGEN, NJ

ORDINANCE NO. 2022-77

“AN ORDINANCE TO REPEAL CERTAIN PORTIONS OF THE CODE OF THE BOROUGH OF HO-HO-KUS TO ABOLISH THE SHADE TREE COMMISSION, AND CREATE A “SHADE TREE AND BEAUTIFICATION COMMITTEE”

WHEREAS, the Mayor and Council of the Borough of Ho-Ho-Kus believes it is be in the best interest of the residents of the Borough to create a new Committee, which shall have the purpose of advising the Governing Body regarding issues related to downtown beautification; trees located on Borough Property; trees beautification generally; and such other issues as the Borough may, from time to time, deem necessary and appropriate; and

WHEREAS, the existing Shade Tree Commission structure is no longer in the best interests of the Borough and its residents; and

WHEREAS, A “Shade Tree and Beautification Committee” is more appropriate given the current issues facing the Borough of Ho-Ho-Kus, and the need to avoid duplicative and overlapping responsibilities;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 57, “Shade Tree Commission,” 57-1 to 57-16 of the Code of the Borough of Ho-Ho-Kus is hereby repealed and the Shade Tree Commission is hereby abolished;

BE IT FURTHER ORDAINED, that any debts of the Shade Tree Commission shall be undertaken by the Borough of Ho-Ho-Kus;

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 57, “Shade Tree Commission,” which was heretofore repealed, is replaced as follows (deletions in ~~strike through~~/**additions in bold**):

§ 57-1. Established.

A Shade Tree and Beautification Committee for the Borough of Ho-Ho-Kus is hereby established.

§ 57-2. Membership; term of office; vacancies.

The Shade Tree and Beautification Committee shall consist of seven (7) members up to a maximum of twenty-one (21) members who shall be residents of the Borough and who shall be appointed by Mayor, with the advice of the Borough Council. The term of each member of the member shall be for one year and members shall serve for their respective terms and until their successors are appointed and qualified. The members of the Committee shall be appointed at the organization meeting of the Governing Body in January of each year. Vacancies in the membership of the Committee, occurring for whatever cause, shall be promptly filled by the Mayor for the unexpired term.

Notwithstanding the above, the Mayor may waive the residency requirement of any member of the Committee for any individual upon application and for good cause shown.

§ 57-3. Compensation.

The members of the Shade Tree and Beautification Committee shall serve without compensation.

§ 57-4. Officers; meetings.

The Mayor shall appoint a Chairperson and request meetings as he may deem necessary. The Shade Tree and Beautification Committee shall hold its organizational meeting in January of each year and elect its officers at the organizational meeting.

§ 57-5. Duties.

The duties of the Shade Tree and Beautification Committee shall be as follows:

A. To exercise, subject to review by the Borough Council, recommendation over the regulation, planting and care of shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, public park or public lands owned or under the jurisdiction of the Borough of Ho-Ho-Kus including the planting, trimming, spraying, care and protection thereof. The provisions of this Article do not and shall not be interpreted to delegate any authority to the Shade Tree and Beautification Committee to enforce any of the provisions of Borough Code.

B. To recommend the removal of any tree or part thereof in any public highway, public park or public lands owned or under the jurisdiction of the Borough of Ho-Ho-Kus that presents a danger to public safety.

C. To encourage the planting of shade and ornamental trees and shrubbery throughout the Borough of Ho-Ho-Kus on public and on private property and to assist the various public boards, bodies and agencies of the Borough in their efforts with regard to the encouragement of planting shade and ornamental trees and shrubbery.

D. To prepare, develop and distribute information with respect to the growing of and care for shade and ornamental trees and shrubbery.

E. To provide for or administer treatment to or provide for the removal of any trees situate upon private property which are believed to harbor a disease or insects readily communicable to neighboring healthy trees in the care of the Borough, and to enter upon private property for that purpose; provided, however, that the consent of the property owner is first obtained in writing, and provided further that the suspected condition is confirmed by an arborist or as may be required by law.

F. To prepare, develop and recommend any improvements for the purpose of enhancing the overall outdoor appearance of the downtown area through streetscape design, plantings and landscaping, hardscape items, and other recommended projects in order to attract residents and businesses in a pedestrian friendly atmosphere.

G. To make annual reports to the Borough Council setting forth therein and detailing the activities and operations of the Shade Tree and Beautification Committee during the preceding 12 months.

§ 57-6. Appropriation of Funds. There may be appropriated in each annual budget of the Borough such sum or sums as may be determined by the Borough Council to be necessary for the proper operation and functioning of the Shade Tree and Beautification Committee; and the Committee is authorized, subject to approval of the Borough Council, to use and expend such funds for such purposes upon the adoption of the annual budget. All payments for services rendered to the Shade Tree and Beautification Committee shall be on standard Borough vouchers and shall be approved by the Borough Council before payment.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that a new Chapter of the Borough Code, "Chapter 75B – Trees", is hereby established as follows (deletions in ~~strike through~~/additions in bold):

§ 75B-1 Definitions.

As used in this chapter, the terms hereinafter set forth shall be defined and deemed to have the following meanings:

COMMITTEE

The Shade Tree and Beautification Committee of the Borough of Ho-Ho-Kus, including any of its duly appointed members and any of its duly authorized agents or designees.

DRIP LINE

A boundary on the soil surface delineated by the branch spread of the tree or group of trees.

PERMITS

Whenever, pursuant to any provision of this chapter, a permit is required, the applicant shall apply to the Borough of Ho-Ho-Kus building department, which shall refer the matter to the Shade and Beautification Committee, Zoning Official, Planning or Zoning Board, or other agency or Official as may be appropriate. The Construction Official (or appropriate official or officer or designee) shall either recommend approval or denial of an application for a permit, and it shall, in determining whether or not to recommend the issuance of such permit, take into consideration the nature, species, size, age and condition of any tree involved; the location thereof in the street or park; the planting, care, protection, maintenance, or removal procedures involved; the public safety and welfare; and the improvement and advancement of the shade tree plan or program of the Borough, based on conditions which may be established from time to time. The Construction Official shall thereafter make the final determination, subject to review by the Governing Body, of any permit application.

PERSON

Any individual, firm, partnership or corporation, or any combination thereof. Where, in the proper context, it is so required, this term may be construed to designate the plural as well as the singular.

STREET

Any road, avenue, street or highway dedicated to the public use for street purposes. A street shall be deemed to include all portions lying between the dedicated or established right-of-way lines and/or planting easement thereof, said lines being identical with the front property lines of lands abutting the street.

TREE

Any tree, shrub or plant, or any root, branch, flower or other part thereof that is located in or upon any street, park or public property.

TREE PROTECTION ZONE

The area designated by the Ho-Ho-Kus Shade Tree and Beautification to be free of equipment, supplies or building materials and to be delineated by an orange construction fence.

§75B-2 Responsibility for costs of planting and improvements.

Except as hereinafter provided, the initial cost of all trees recommended for planting by the Committee, the cost of planting the same, the cost of the posts and boards or guards used for the protection thereof, and the cost of the removal of any tree or part thereof dangerous to the public safety shall, if the Committee shall so determine, in accordance with uniform rules and regulations promulgated for this purpose, be a charge upon the real estate in front of which such tree or trees shall be planted or removed as an improvement thereof. Such cost, if it is so determined that it is to be paid by the owner, shall, unless paid directly to the Borough of Ho-Ho-Kus, be certified by it to the Collector of Taxes of the municipality; shall thereupon become and be a lien upon said real estate; shall be included in the next tax bill rendered to the owner or owners thereof; and be collected in the same manner as other taxes against that property.

B. The provisions of this section shall not apply to:

(1) A planting to replace a tree or trees theretofore recommended for planting by the Committee.

(2) A planting in connection with Arbor Day exercises or other educational demonstration.

§ 75-3 Prohibited acts.

No person shall, without a permit, do any of the following acts:

- A.** Cut, prune, break, injure, remove, disturb or interfere in any way with any tree, including the root system.
- B.** Spray with any chemical any tree or near a tree to cause injury or death to said tree;
- C.** Fasten any rope, wire, sign or other device to a tree or to any guard about such tree;
- D.** Remove or injure any guard or device placed to protect any tree;
- E.** Close or obstruct any open space provided about the base of a tree to permit the access of air, water and fertilizer to the roots of such trees.
- F.** Excavate under the drip line
- G.** No person shall plant any tree in any park, street, right of way, or Borough property without a permit.
- H.** Place any sign, lighting or decoration on a tree or root system.

§ 75-4 Obstructions.

- A.** No person shall, without a permit, place or maintain in any street or park any stone, cement or other sidewalk or any stone, cement or other substance which shall impede the free access of air and water to the roots of any tree.
- B.** Where any tree is to be surrounded by pavement of stone, cement, asphalt or any other substance tending to impede the free access of air and water to the roots of the tree, no portion of such pavement shall be nearer to any portion of the base of the trunk than four feet.
- C.** As to Borough sidewalks, this shall apply only to new development(s); not to replacement of existing sidewalks.

§ 75-4 Injurious substances; maintenance of utility lines.

- A.** No person shall place salt, brine, oil or any other substance injurious to plant growth in any street or park in such a manner as to injure any tree.
- B.** No person shall build any fire or station any tar kettle, road roller, fuel-oil-dispensing truck, or other engine in any street or any other place in such a manner that the heat, vapors, fuel, or fumes therefrom may injure any tree.
- C.** Every person or entity, having or maintaining any underground or overhead utility lines in any street, public property or park shall maintain such lines in such a manner as will safeguard the trees against any damage therefrom and shall make periodic adjustments whenever necessary to prevent damage to trees

§ 75-6 Construction and excavation work.

- A.** In any site improvement, erection, alteration or repair of any structure or building, the owner, contractor or other person in charge thereof shall place required protection around all street trees and nearby trees as directed by the Construction Official or his designee. No storage of equipment, supplies or building materials will be permitted in the tree protection zone.
- B.** No person shall use or operate any power equipment or any other implement or tool in such a manner so as to damage or destroy any tree.

§ 75-7 Wires; utility trimming.

- A.** No person shall string any wires in or through a public park or property without a permit.
- B.** Every person having or maintaining any electric, telephone, telegraph, cable TV or other wires running in or through a street, public property, or park shall securely fasten and maintain such wires in such manner as will safeguard all trees against any damage there from and shall make periodic adjustment whenever necessary to prevent damage to all trees.

C. No person shall, without a permit, attach or fasten any wires, insulator or other device for holding any wire to any tree.

D. Whenever the Commission shall deem it necessary to prune or remove any tree, any persons having a wire running in or through any street or park shall temporarily remove such wire within 24 hours after the service upon the owner or his agent of a written notice to do so.

E. Any public utility or its agents may upon receiving written permission (permit) from the Commission at least 72 hours prior to the start of work, prune or remove trees for line clearance of utility wires in nonemergency situations pursuant to a line clearance program.

F. Any public utility or its agents may undertake emergency tree work to restore electrical service or spot work to prevent interruption of electrical, telephone, telegraph, cable TV or other wire services. In such event the utility will notify the Commission of said work within three business days of its beginning.

§ 75-8. Violations and penalties; restitution; exemptions.

A. Any person who violates any provisions of this chapter or who fails to comply with the terms and provisions of any permit issued pursuant hereto shall pay a fine not less than \$200 nor more than \$1,500 for each violation. Each day that a violation shall continue shall constitute a separate offense. This chapter shall be enforced by either the Property Maintenance Officer, Zoning Officer or by the Borough of Ho-Ho-Kus through any of its duly authorized agents or employees by like proceedings and process consistent with the practice for the enforcement of ordinances of the Borough of Ho-Ho-Kus. The officers authorized by law to serve and execute process in the aforementioned court shall be the officers to serve and execute any process issued out of any court under this chapter.

B. Restitution. In addition to the penalties authorized in this chapter, any person who removes, damages or otherwise destroys a tree in violation of a municipal ordinance shall pay restitution or a replacement assessment to the municipality. The replacement assessment shall be the value of the tree as determined by the appraisal of a trained forester or licensed tree expert for that purpose. In lieu of an appraisal, replacement shall be determined by use a formula and schedule based upon the Council of Tree and Landscape Appraisers Guide for Plant Appraisal, 9th Edition (or latest edition) guidelines.

D. In the absence of the Property Maintenance or Zoning Officer, stop orders may be issued by the Borough Administrator, Superintendent of Public Works or duly authorized police officer.

§ 75-9. Disposition of fines and penalties.

A. All monies collected, either as fines or penalties, for any violation of a rule or regulation or as a charge against real estate, under any provision of this chapter, shall be forthwith paid over to the Custodian of the Municipal Funds.

B. Restitution shall be paid or the value of a tree removed, destroyed or damaged and for the value of labor and materials required.

§ 75-10. Liability.

Nothing in the chapter contained shall be construed to make the Committee or any member thereof responsible for the death or injury of any person or for any injury to any property or highway tree or shrub.

§ 75-11. Fee schedule.

A. The Shade Tree Committee shall adopt, upon approval of the governing Body, from time to time, a fee schedule policy for permits and services

B. Permit fee schedule.

(1) Tree Planting. One up to five trees: \$50 each. Over five trees: \$25 each additional tree.

(2) Tree Pruning. One up to five trees: \$100 each. Over five trees: \$50 each additional tree.

(3) Tree Removal. One up to five trees: \$250 each. Over five trees: \$150 each additional tree.

- (4) Excavation Inspection Fee: \$125 per hour.**
- (5) General Tree Inspection Fee: \$125 per hour.**

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 76 is hereby modified as follows (deletions in ~~strike through~~/**additions in bold**):

§ 76-1Definitions.

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

PERSON

Every person, firm, association, partnership, corporation and individual.

SHADE TREE

Shade and ornamental trees and shrubbery now located or which may hereafter be planted in any public highway, park or parkway in the Borough, except those located or planted on county highways, parks and parkways and state highways.

~~SHADE TREE COMMISSION~~

~~The Shade Tree Commission of the Borough of Ho-Ho-Kus and its duly authorized representatives.~~□

STREET

Any street, avenue, boulevard, road, parkway, viaduct, drive or other way which is an existing state, county or municipal roadway or which is shown upon a plat heretofore approved pursuant to law or which is approved by official action as provided by the Municipal Land Use Act or which is shown on a plat duly filed and recorded in the office of the County Recording Officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines. For the purpose of this chapter, "street" shall be classified as follows:

- A. ARTERIAL Those streets which are used primarily for fast or heavy traffic.
- B. COLLECTOR Those streets which carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such development.
- C. MINOR Those streets which are used primarily for access to the abutting properties.
- D. MARGINAL ACCESS Those streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
- E. ALLEYS Minor streets which are used primarily for vehicular service access to the back or side of the properties otherwise abutting on a street.

§ 76-2**Prohibited acts.**

A. No person, firm, corporation or individual connected with such firm or corporation shall do or cause to be done by others to any tree, shrub or plant on a public highway or place, either purposely, carelessly or negligently ~~Shade Tree Commission~~, any of the following acts:

- (1) Cut, prune, climb with spikes, break, damage or remove.
- (2) Cut, disturb or interfere in any way with any root.
- (3) Spray with any chemical.
- (4) Fasten any rope, wire, sign or other device.
- (5) Remove or damage any guard or device placed to protect any tree or shrub.

§ 76-3**Obstructions.**

A. No person or corporation shall, ~~without the permission of the Shade Tree Commission~~, place or maintain or cause to be placed or maintained upon the ground in any public highway or place any stone, cement or other sidewalks, or any stone, cement or other substance, which shall impede the free access of air and water to the roots of any tree or shrub in any public highway or place.

§ 76-5**Laying of sidewalks; construction and paving of streets.**

No person, firm or corporation is permitted to lay any sidewalk along or to open, construct, curb or pave any street or do any like act so as to interfere with or do injury to any highway shade tree ~~without the consent of the Shade Tree Commission.~~

§ 76-6 **Construction and excavation work.**

A. No person, firm or corporation shall do any excavating within two feet of any tree or shrub ~~without the permission of the Shade Tree Commission.~~

B. Where, in authorized excavations, it becomes necessary to expose or cut roots more than one inch in diameter, it shall be the duty of the contractor to protect such roots ~~under advice from the Shade Tree Commission.~~

§ 76-7 **Wires; utility trimming.**

A. No person, firm or corporation shall, ~~without written permission of the Shade Tree Commission,~~ attach or fasten any wire, insulator or other device for holding any wire to any tree or shrub in any public highway or place.

B. Any utility company or its agents may, ~~with prior permission from the Shade Tree Commission,~~ prune and remove trees for line clearance of utility wires.

§ 76-8 **Application for permit.**

Where the permission, consent or approval ~~of the Shade Tree Commission~~ is required by the provisions of this chapter, any person, firm or corporation required to obtain such permission, consent or approval shall first make application therefor to **the Building Department** ~~the Shade Tree Commission, Borough of Ho-Ho-Kus, County of Bergen.~~

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 80, is hereby modified as follows (deletions in ~~striketrough~~/**additions in bold**):

Article II. Volunteer Fee Exemptions

§ 80-12. Definitions.

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

ACTIVE MEMBER

A resident of the Borough of Ho-Ho-Kus who is an active member in good standing in the Ho-Ho-Kus Volunteer Fire Department, the Ho-Ho-Kus Volunteer Ambulance Corps, the Office of Emergency Management, the Recreation Commission, ~~the Shade Tree Commission,~~ **the Shade and Beautification Committee**, the Zoning Board of Adjustment, the Planning Board, the Library Board or the Board of Health. "Good standing" shall also include current compliance with all municipal, federal and safety mandated programs as may be applicable.

FAMILY

An active volunteer member, his or her spouse and all natural or adopted children under 21 years of age who are unmarried and permanently occupying the same residence as an active volunteer member in the Borough of Ho-Ho-Kus.

FEES

Those charges established by the governing body of Ho-Ho-Kus, County of Bergen.

VOLUNTEERS

Includes all active members of the Ho-Ho-Kus Fire Department, the Ho-Ho-Kus Volunteer Ambulance Corps, the Office of Emergency Management, the Recreation Commission, ~~the Shade Tree Commission,~~ **the Shade and Beautification Committee** the Zoning Board of Adjustment, the Planning Board, the Library Board and the Board of Health who have satisfactorily completed their probationary period, if applicable, and are in good standing either within their respective organizations or their board or commission memberships and whose property taxes or any receivables due to the Borough of Ho-Ho-Kus are not in arrears.

§ 80-14. Administration.

A. Not later than January 10 of each calendar year, the Fire Chief of the Ho-Ho-Kus Volunteer Fire Department, the Captain of the Ho-Ho-Kus Volunteer Ambulance Corps, the Emergency Management Director, the Chairpersons of the Zoning and Planning Boards, the Chairpersons of the Recreation ~~and Shade Tree~~ Commissions, **the Chairperson of the Shade and Beautification Committee** the Chairpersons of the Library Board and Board of Health shall submit to the Borough Clerk a list of all residents who meet the definition of an active member in good standing and whose property taxes or any receivables due to the Borough of Ho-Ho-Kus are not in arrears. Such list shall be updated on a periodic basis by the volunteer organization or boards to add those individuals who have completed their probationary status, as applicable, or to delete individuals who have been removed from membership or who no longer meet the criteria for active member status.

B. On a form provided by the Borough Clerk, each active member shall provide information related to family status to assist municipal officials to determine eligibility for the waiving of fees.

C. All active members and their families must comply with all registration procedures and complete all application forms established by the Borough of Ho-Ho-Kus.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 1, is hereby modified as follows (deletions in ~~striketrough~~**additions in bold**):

§ 1-1 Adoption of Code.

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Ho-Ho-Kus of a general and permanent nature, adopted by the Mayor and Council of the Borough of Ho-Ho-Kus and accepted and adopted by ~~the Shade Tree Commission of the Borough of Ho-Ho-Kus and~~ the Board of Health of the Borough of Ho-Ho-Kus, as revised, codified and consolidated into titles, chapters and sections by General Code Publishers Corp. and consisting of Chapters **1** through 86, together with an Appendix and Index, are hereby approved, ordained and enacted as "The Code of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey."

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 63, is hereby modified as follows (deletions in ~~striketrough~~**additions in bold**):

Chapter 63. Soil Movement

§ 63-17. General regulations.

Soil moving conducted in the Borough shall be performed in accordance with the following regulations:

A. In all operations for which a permit is required:

(1) Prior to the start of soil movement operations, the disturbance of a lot or construction, the following must be performed:

(a) The limits of disturbance must be delineated with construction fencing.

(b) Sediment barriers must be installed and maintained throughout the entire length of the project.

(c) Tree-protection measures must be installed and approved by the Borough Engineer ~~and/or the Shade Tree Commission.~~

~~(2)~~ Lands shall be graded to conform to the approved contour lines and grades.

(3) Streets, roads and paved surfaces shall be cleaned, at the applicant's expense, on a daily basis, of sediments and debris.

(4) The top layer of soil, to a depth of six inches, shall not be removed from the premises, but shall be set aside and respread over the premises when the remainder of the soil has been moved.

B. In all operations, whether or not a permit is required:

(1) Prior to the start of soil movement operations, the disturbance of a lot or construction, the following must be performed:

(a) Sediment barriers must be installed and maintained throughout the entire length of the project.

(b) Tree-protection measures must be installed and approved by the Borough Engineer ~~and/or the Shade Tree Commission.~~

(2) All boulders, tree stumps and other debris shall be removed from the property.

(3) In dry weather, the person conducting such operation shall dampen the ground where operations are conducted to prevent dust.

(4) No trucks used shall be loaded above the level of the sides of the truck, to prevent spillage, and all streets shall be cleaned, at the applicant's expense, each day, of any spillage or soil on such streets resulting from truck operations.

(5) All truckloads shall be covered with tarpaulin and, if necessary, treated by water or chemicals to prevent flying dust.

(6) No trucks, machinery or any part of the operation shall be conducted before 8:00 a.m. or after 5:00 p.m. on weekdays nor at any time on Saturday, Sunday or federal or state legal holidays.

(7) All vehicles engaged in such operations shall use as routes only those Borough streets which have been approved by the Planning Board. The applicant shall notify the Police Department as to the route which will be utilized for transporting soil.

(8) The entire area covered by the work shall be maintained and left in such manner as not to create or maintain a nuisance or condition hazardous to life and limb or to the health or general welfare of the inhabitants or the Borough of Ho-Ho-Kus.

(9) All excavation, removal and other mandatory ground cover work, including restoration of property to final grades and subsequent seeding, must be completed within one year from the date of the permit.

(10) No more soil shall be removed than is reasonably necessary for the development and use of the land.

(11) No soil removal shall be allowed which shall cause drainage to adjacent property or prejudicially affect the values of adjacent properties.

BE IT FURTHER ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus that Chapter 32B-10, is hereby modified as follows (deletions in ~~striketrough~~/additions in bold):

Chapter 32B. Land Subdivision and Site Plan Review

§ 32B-10. Design standards.

(7) Landscaping.

(d) Prior to any preliminary and/or final site plan approval, the Board shall have received a report from the ~~Shade Tree Commission~~ **Shade and Beautification Committee, Borough Planner, or Borough Arborist, or its designee**, as to the adequacy of the landscape plan.

(e) The Mayor and Council of the Borough of Ho-Ho-Kus finds that lack of street trees is causing increased drainage problems, soil erosion and sedimentation, decreased fertility of the soil, degradation of water resources, decreased groundwater recharge, increased buildup of atmospheric carbon dioxide, the establishment of a heat island effects and increased dust and pollution. All of the above can negatively affect the value of the properties in Ho-Ho-Kus and overall quality of life. Therefore, the Mayor and Council of the Borough of Ho-Ho-Kus finds that a street tree planting deposit is needed to ensure the health, safety and welfare of its residents and to maintain a high quality of life in the Borough of Ho-Ho-Kus.

[1] Streets trees and plantings within the right-of-way of the Borough, including Borough-owned parks and buildings, are **regulated by Ordinance under the jurisdiction of the Shade Tree Commission**. The street planting deposit shall apply to any new house constructed on a vacant parcel or on a lot where an existing residence is demolished or the additional floor area is increased by 25% as determined by the Construction Code Official and to all commercial properties. The ~~Shade Tree Commission~~ **Construction Code Official, Borough Arborist, or its designee**, shall inspect the affected property and make a determination on the requirement of a street tree planting deposit before a building permit is issued. ~~The Shade Tree Commission shall be notified before a demolition permit is issued. Prior notification would enable the Shade Tree Commission to inspect the site to evaluate the existing street trees and determine tree preservation and protection measures, if required.~~

[2] ~~The Shade Tree Commission~~ **Shade and Beautification Committee or Borough Arborist** shall be notified by the Planning Board or the Zoning Board of Adjustment

upon receipt of any application regarding Subsection E(1) above. ~~The Shade Tree Commission~~ **The Shade and Beautification Committee, Borough Arborist, or its designee**, will review and recommend street tree planting requirements within 15 business days. Plantings shall thereafter be done solely by an independent contractor engaged by the ~~Shade Tree Commission~~ **Borough** and shall not be done by the owner or developer, **absent written approval for the same.**

[3] ~~The Shade Tree Commission requires that~~ **One tree shall** be planted every 30 feet to 50 feet of street curb with a minimum of two trees per property ~~or as deemed necessary upon inspection by the Shade Tree Commission.~~ A deposit (currently \$500) is required for each two-and-one-half-inch-caliper tree. The tree species shall be determined by the ~~Shade Tree Commission~~ **Shade and Beautification Committee or Borough Arborist** for each site, and an inspection fee will apply.

[4] The estimate for street tree planting form is hereby adopted and shall be on file in the office of the Borough Clerk.

[5] Deposit; accounts.

[a] The street tree planting deposit shall be made prior to the issuance of a certificate of occupancy.

[b] ~~The existing Ho-Ho-Kus Shade Tree Commission Ross Trust Account shall continue until the funds therein have been expended. At such time it will be closed.~~

§ 32B-11. Improvements

(e) Shade trees should be located and of such types as specified by the ~~Shade Tree Commission~~ **Shade and Beautification Committee or Borough Arborist** of the Borough of Ho-Ho-Kus.

SECTION II: Repealer.

All other ordinances of the Borough, or parts thereof, which are in conflict with this ordinance, are hereby repealed to the extent of such conflict.

SECTION III: Effective Date.

This ordinance shall take effect upon passage and publication as required by law.

SECTION IV: The Borough Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this ordinance to the Bergen County Planning Board, and to all others entitled thereto pursuant to the provisions of N.J.S.A. 40:55D-15. Upon adoption of this ordinance, after public hearing thereon, the Borough clerk is further directed to publish notice of the passage thereof and to file copy of this ordinance as finally adopted with the Bergen County Planning Board as required by N.J.S.A. 40:55D-16 and with the Borough Tax Assessor.

NOTICE OF PENDING ORDINANCE

This Ordinance published herewith was introduced and pass upon first reading at a meeting of the Municipal Council of the Borough of Ho-Ho-Kus, in the County of Bergen, New Jersey, held on December 20, 2022. It will be further considered for final passage after the public hearing thereon, at a meeting of said Municipal Council to be held in the Municipal Building, 333 Warren Avenue, Ho-Ho-Kus, NJ 07423-1547, in said Borough at the Sine Die Meeting on January 3, 2023, at 7:00 p.m. at which time and place all interested member of the public who desire will be given an opportunity to be heard in connection with said Ordinance, and during the week prior to and up to and including the date of such meeting, copies of said has been posted on the bulletin board upon which public notices are customarily posted in the Borough Hall and copies are available at no charge in the Office of the Borough Clerk for members of the general public who may request them.

THIS IS TO CERTIFY THAT THE FOREGOING IS A TRUE AND EXACT COPY OF AN ORDINANCE ADOPTED BY THE MUNICIPAL COUNCIL OF THE BOROUGH OF HO-HO-KUS AT THE SINE DIE PUBLIC MEETING ON January 3, 2023.

ATTEST: _____ Joan Herve, RMC, Borough Clerk

APPROVED: _____ Thomas W. Randall, Mayor