

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

ORDINANCE 2023-83

**AN ORDINANCE ADOPTING REGULATIONS FOR THE PLANTING,
GROWING AND/OR CULTIVATING OF BAMBOO**

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF HO-HO-KUS, IN THE COUNTY OF BERGEN AND STATE OF NEW JERSEY, AS FOLLOWS:

[New Chapter

“Chapter 76B – Trees – Regulation for the Planting, Growing and/or Cultivating of Bamboo”

Section 1. Purpose.

It is determined that certain types of the bamboo plants are invasive, often difficult to control and can cause significant damage to property. The purpose of this article is to preserve and protect public and private property in the Borough of Ho-Ho-Kus from the damaging spread of bamboo, to protect indigenous and other plant materials from the invasive spread of bamboo and to maintain the general welfare of the residents of the Borough of Ho-Ho-Kus.

Section 2. Definitions

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

BAMBOO – woody perennial grass plant species classified under the taxonomic family Poaceae, that may be known as monopodial (running) bamboo, sympodial (clumping) bamboo, “common” bamboo, golden bamboo and arrow bamboo, and including, but not limited to, the following species:

- A. Arundinaria.
- B. Bambusa.
- C. Chimonobambusa.
- D. Dendrocalamus.
- E. Fargesia.
- F. Phyllostia.
- G. Pleioblastus.
- H. Pseudosasa.
- I. Sasa.
- J. Sasaella.
- K. Semiarundinaria.

BAMBOO OWNER – any property owner or resident who has planted and/or grows bamboo, or who maintains bamboo on the property, or who permits bamboo to grow or remain on a property, prior to the effective date of this article.

BOROUGH/CODE ENFORCEMENT OFFICER – the Borough employee designated as the Code Enforcement Officer for the Borough of Ho-Ho-Kus or their designee.

BUFFER ZONE – a clear distance of 10 feet from any property line, street, public property or Borough right-of-way, or from any neighboring property, whichever is the most restrictive for the bamboo owner.

Section 3. Prohibitions.

A. No owner, tenant or occupant of a property, or person, corporation or other entity, shall plant, install or cause or permit the planting or installation of bamboo upon any property located within the Borough of Ho-Ho-Kus.

B. Any existing bamboo may not be replanted or replaced after any such bamboo has died or been destroyed, uprooted or otherwise removed.

C. Any person who plants or replants bamboo within the Borough limits after the effective date of this article shall be in violation thereof and subject to penalties as set forth herein.

Section 4. Duty to Confine.

A. In the event any bamboo is located upon any property within the Borough of Ho-Ho-Kus prior to the effective date of this prohibition, the owner and occupant of said property shall jointly and severally be required to confine such species to prevent the encroachment, spread, invasion or intrusion of same onto any other private or public property or public right-of-way.

B. Within 180 days of the adoption of this article, bamboo owners shall notify the Code Enforcement Officer, in writing, by certified mail, return receipt requested, confirming the presence of bamboo on the property prior to the effective date of this article.

(1) No existing bamboo shall be permitted to remain in any buffer zone, and it shall be removed.

(2) Bamboo that has been confirmed to have already encroached onto another property prior to the effective date of this article shall be removed from the affected property by the bamboo owner and the affected property shall be restored to preexisting conditions at the bamboo owner's expense, as well as ensuring compliance with the other provisions of this article.

(3) In lieu of confining the species, the property owner or occupant may elect to totally remove the bamboo from the property and all affected properties.

(4) Failure to properly confine such bamboo shall require removal as set forth below. The cost of said removal shall be at the bamboo property owner's expense.

(5) This duty to confine shall not apply if the property owner and/or occupant can establish to the satisfaction of the Borough that the bamboo which is on his/her property at the time of the adoption of this article originated on another property.

(6) Bamboo owners that fail to comply with the requirements of this article within 120 days from the adoption of this article shall be subject to penalties as set forth herein.

Section 5. Removal.

A. In the event any bamboo located upon any property within the Borough of Ho-Ho-Kus prior to the effective date of this prohibition, is found to have encroachment of bamboo plant or root, either by receipt of a complaint or as otherwise determined by the Code Enforcement Officer after observation and/or inspection, and the Code Enforcement Officer confirms encroachment or invasion on any adjoining/neighborhood private or public property or public right-of-way (hereinafter "the affected property"), the Borough shall serve notice to the bamboo property owner, in writing, that the bamboo has invaded other private or public property(ies) or public right-of-way (rights-of-way) and demand the removal of the bamboo from the affected property and demand confinement in accord with Section 4 of this article.

B. The Code Enforcement Officer shall provide notice to the bamboo property owner, as well as to the owner of the affected property(ies), by certified, return receipt requested mail and regular mail.

C. Within 30 days of receipt of such notice, the bamboo property owner shall submit to the Code Enforcement Officer a plan for the removal of the bamboo from the affected property, which plan shall include restoration of the affected property after removal of the bamboo; a copy of which shall be provided to the owner of the affected property.

D. Within 60 days of approval of the plan of removal and restoration, the removal and restoration shall be completed to the satisfaction of the Borough.

Section 6. Violations and Penalties.

A. If a bamboo owner fails to confine existing bamboo in accord with Section 4 or does not accomplish the removal of the bamboo from such other private or public property or public right-of-way in accord with Section 5, the Code Enforcement Officer shall cause a summons to be issued and assess a penalty of up to \$100 for each day the violation continues, enforceable through the Ho-Ho-Kus Municipal Court. Each and every day a violation of this chapter shall exist shall constitute a separate violation.

B. The Code Enforcement Officer may request, and the Municipal Court may grant, a specific performance remedy. The Borough may also institute civil proceedings for injunctive or civil relief.

C. Noting herein shall be interpreted as limiting the rights of a private property owner to seek civil relief through a court of proper jurisdiction nor the institution of civil proceedings against the proper parties.

D. When an encroachment is upon public property or a public right-of-way and the bamboo property owner and/or occupant has not complied with the written notice provided as set forth

above, the Borough of Ho-Ho-Kus at its discretion, may remove or contract for the removal of such bamboo from Borough property or the public right-of-way. The cost of said removal shall be the responsibility of the bamboo property owner and/or occupant and shall be paid or assessed as a lien against the property on which the bamboo growth originated. The cost of said removal from Borough-owned property and/or the public right-of-way shall include the installation of an appropriate barrier to prevent future bamboo invasion or other suitable remedy approved by the Borough.

Section 7. Enforcement.

The requirements under this article shall be enforceable by the Code Enforcement Officer or their designee, including, but not limited to, the Borough Construction Official or Zoning Officer. The Ho-Ho-Kus Police Department can also enforce provisions of this article.

Section 8. The terms of this ordinance shall not be deemed and are not intended to impair the provisions and enforcement of any other chapter of this Code, which shall remain in full force and effect.

Section 9. The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remain in effect; it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 10. All Ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only however, to the extent of such conflict or inconsistency, it being the legislative intent that all Ordinances or part of ordinances now existing or in effect unless the same being conflict or inconsistent with any provision of this Ordinance shall remain in effect.

Section 11: This ordinance shall take effect upon passage and publication according to law.

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 March 28, 2023. 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 Public Meeting on April 25, 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.