

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

ORDINANCE 2024-96

**AN ORDINANCE AMENDING THE CODE OF THE
BOROUGH OF HO-HO-KUS FOR THE
PROTECTION OF TREES**

WHEREAS, it has come to the Borough's attention that there have been continued instances of the indiscriminate, uncontrolled and excessive destruction, removal and cutting of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Borough desires to amend the Borough Code so as to add provisions regarding the removal of trees on privately owned individual lots and tracts of land; and

WHEREAS, the Borough Council finds and determines that amending the Borough Code so as to establish regulations regulating the removal of trees on privately owned individual lots and tracts of land is required to ensure and protect the safety, health and welfare of residents of the Borough and the public at large.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Ho-Ho-Kus in the County of Bergen and State of New Jersey, that the Borough of Ho-Ho-Kus Code be hereby amended as follows:

SECTION 1. Amendment(s). The Borough Code is hereby amended (new sections in **bold**, changes in ~~strike through~~):

§ 76C-3 Trees allowed to be removed ~~without tree removal permit.~~ **with a no-cost tree removal permit**

If permitted as set forth below, any tree as defined in this chapter (and any smaller trees) may be removed from a privately owned lot or tract of land without the necessity of submitting a tree removal/replacement plan, **but every property owner and/or individual who intends to remove a tree or tree equivalent (as defined in Paragraph D below) must obtain a no-cost tree removal permit, and obtaining a tree removal permit** except that, in any case, no endangered species tree, historic tree or specimen tree may be removed without a **full tree removal application, review by the Borough Arborist and/or Zoning Official, and tree removal permit**, except in the case of an emergency as set forth in Subsection B(2), below:

A.

A no-cost tree removal permit may be obtained for up to six trees or tree equivalents ~~may be to be removed every 12 months for any reason from an existing lot within the Borough of Ho-Ho-Kus which contains a residential dwelling, but no more than 10 trees or tree equivalents may be removed for any reason from an existing lot which contains a residential dwelling within any five-year period.~~ The limitations herein shall not apply to any tree or trees removed for the approved construction of a new home, an addition to an existing home, the installation of a new septic system or the repair/replacement of an existing septic system, or the construction of an accessory structure to the home, such as a patio, deck, tennis court and/or swimming pool, but only to the extent reasonably required, after due consideration of the property owner's design needs, for the construction of the home, the addition, the repair/replacement of the septic system or an accessory structure. **However, in all cases above, a no-cost tree removal permit must be obtained before proceeding.**

B.

The removal of the tree or trees permitted below shall not count toward the six trees permitted to be removed every 12 months or the total of 10 trees permitted to be removed in each five-year period specified in Subsection **A** above.

(1)

Any dead or diseased tree, or any tree that creates an imminent hazard or danger to persons and property or an emergency, as defined in § **76C-2**, above, may be removed immediately. However, the property owner shall, upon request of the **Borough Arborist or Zoning Official**, be required to provide documentation confirming said conditions, which will include photographs of the trees removed and the property and a certification from a duly licensed LTE.

(2)

Any tree may be removed as directed by the Borough of Ho-Ho-Kus, Bergen County, the State of New Jersey.

(3)

Any tree may be removed pursuant to an application for development (as defined in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.) approved by the Ho-Ho-Kus Borough Planning or Zoning Board, provided that said approval includes a tree replacement plan.

(4)

Any tree may be removed as part of the operation of an agricultural or horticultural use on property that is five acres or more, and that is assessed for local property taxes pursuant to the New Jersey Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

C. Any property owner or individual who removes a tree without obtaining a no-cost tree removal permit shall be subject to a \$250 fine for the first offence, and subsequent offenders shall be subject to the penalties set forth in Section 76C-11. Any property owner or individual who removes a tree where a tree removal permit and/or replacement plan is required (other than a no-cost tree removal permit as set forth in this Section), shall be subject to the penalties set forth in Section 76C-11.

D. For the purposes of this Section, “tree equivalent” is defined as the number of replacement trees required pursuant to the chart found in Section 76C-6(c). By way of example, if a property owner or other individual intends to take down one tree greater than 31 inches, such tree shall be considered a tree equivalent of 4 trees and shall count as 4 of the 6 trees permitted.

76C-2 of the Borough Code is hereby further amended to clarify the following::

CALIPER/DBH

Standard measure of tree size for trees to be newly planted. The measurement is taken six inches above the ground level for trees four inches in diameter or less and 54 inches above the ground for trees over four inches in diameter.

TREE

Any living woody perennial deciduous plant with a caliper of at least six inches **measured 54 inches** above the ground, or any living woody perennial evergreen plant or thinner deciduous plant (e.g., dogwoods, birches, American hornbeams, etc.) at least 15 feet in height above ground level.

76C-3 of the Borough Code is hereby further amended to clarify the following:

76C- 3B(1)

Any dead or diseased tree, or any tree that creates an imminent hazard or danger to persons and property or an emergency, as defined in § **76C-2**, above, may be removed immediately. However, the property owner shall, upon request of the Zoning Official, be required to provide documentation confirming said conditions, which will include photographs of the trees removed and the property and a certification from a duly **New Jersey** licensed LTE.

76C-3 of the Borough Code is hereby further amended to clarify the following:

§ 76C-4 **Required tree removal/replacement plans.**

A.

Unless the tree is smaller than described in the tree definition of this chapter or is otherwise permitted to be removed in accordance with one or more of the provisions listed in § **76C-3** of this chapter hereinabove, no more than six trees **or tree equivalents as defined in Section 76C-3** every 12 months, or 10 trees **or tree equivalents** in any five-year time period on any residential lot within the Borough of Ho-Ho-Kus shall be removed (or purposely injured or damaged) unless a tree removal/replacement plan is submitted to and approved by the Zoning Official, with the advice and review of the Borough Arborist in accordance with the provisions of this chapter. This requirement remains applicable for up to two years prior to an application being submitted and applies to development projects as defined in § **76C-3A**.

76C-6 of the Borough Code is hereby further amended to clarify the following:

76C-6(c) is modified as follows:

Tree Removed/Destroyed (DBH in inches)	Number of Required Replacement Trees	T
6 to 11.99	1	
12 to 23.9	2	
24 to 30.99	3	
Greater than 31	4	

32C-2 of the Borough Code is hereby further amended to clarify the following::

LANDSCAPE and LANDSCAPING

To be in the business, occupation or trade of mowing lawns, trimming shrubs **or trees, removing trees, engaging in tree replacement, and/or** applying pesticides and/or fertilizers. For purposes of this definition, the planting of flowers, shrubs and/or trees or the laying of sod and establishment of a lawn is not landscaping.

SECTION 2. *REPEALER, SEVERABILITY AND EFFECTIVE DATE*

- A. Any and all Ordinances and provisions thereof inconsistent with the provisions of this Ordinance shall be and are hereby repealed to the extent of such inconsistency.
- B. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision and the remainder of this ordinance shall be deemed valid and effective.
- C. This Ordinance shall take effect immediately upon final 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 February 27, 2024. 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 March 26, 2024, 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.