



BOROUGH OF HO-HO-KUS  
PUBLIC MEETING OF  
THE MAYOR AND COUNCIL  
JUNE 27, 2017- 7:30 PM

MINUTES

OPEN MEETING STATEMENT

Mayor Randall called the regular meeting to order at 7.30 PM. The open meeting statement was read.

The combined meeting of the Mayor and Council of the Borough of Ho-Ho-Kus is now in session. In accord with the provisions of Section 5 of the "Open Public Meetings Act", I wish to advise that notice of this meeting has been posted in the front lobby entrance to the Council Chambers of the Borough Hall and that a copy of the schedule of this meeting has also been filed with the Borough Clerk, and further that the required 48 hour notices have been sent to The Record and the Ridgewood News - newspapers with general circulation throughout the Borough of Ho-Ho-Kus

Roll Call: Members present were: Mayor Randall, Councilmembers, Troast, Rorty, Shell, Fiato and Crossley Also present were borough administrator William Jones and attorney David Bole.

Absent: Councilmember Iannelli.

PLEDGE OF ALLEGIANCE

Mayor for the day William Clasen led all in the pledge of Allegiance

CERTIFICATE OF RECOGNITION-50 Years

Mayor Randall presented Nick Torano Barber at Dominic and Pietro with a Certificate of Recognition for 50 years of dedication to the Borough of Ho-Ho-Kus.

APPROVAL OF MINUTES

1. April 18, 2017 Work Session

Motion: Cn. Rorty

Second: Cn. Crossley

Absent: Councilmembers Troast, Iannelli and Fiato

2. April 25, 2017 Public Meeting

Motion: Cn. Troast

Second: Cn. Fiato

Absent: Cn. Rorty

3. May 16, 2017 Work Session

Motion: Cn. Crossley

Second: Cn. Rorty

All Present

4. May 23, 2017 Public Session

Motion: Cn. Rorty

Second: Cn. Troast

**COMMITTEE REPORTS**- May 2017

On file

**PUBLIC DISCUSSION**

Stanley Kober 919 Washington Ave asked about the status of the County resolution.

**CORRESPONDENCE**

- County of Bergen- Open Space Public Hearing
- Nancie Soloman- Letter of Concern
- Josh Gottheimer-Newsletter
- BCJIF-Flood Insurance Program
- Teterboro Airport-Special Meeting
- State of New Jersey- NJDOT Municipal Aid Program
- County of Bergen- FHWA Interpretation Letter
- 200 Club- EMS Grant Funding
- Resignation Letters
  - a. Lauren Morgan
  - b. Michael Charnesky
- Larry Pagella re: Crossing Guards' Petition
- Borough of Waldwick: Pistol Range Improvements

**INTRODUCTION OF ORDINANCES**

- Ord # 2017-09 "Fair Share Housing

AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS, COUNTY OF BERGEN AND STATE OF NEW JERSEY ADDING CHAPTER 2 "AFFORDABLE HOUSING" TO THE CODE OF THE BOROUGH OF HO-HO-KUS TO ADDRESS THE REQUIREMENTS OF THE NJ SUPERIOR COURT

BE IT ORDAINED by the Borough Council of the Borough of Ho-Ho-Kus, County of Bergen and State of New Jersey, that the "Code of the Borough of Ho-Ho-Kus" ("Code") is hereby amended as follows:

Section I. Chapter 10, Article XII, "Municipal Housing Liaison", Repealed. That Article XII, "Municipal Housing Liaison" of Chapter 10 of the Code is hereby repealed.

Section II. Chapter 2, entitled "Affordable Housing Ordinance," Created. That Chapter 2, "Affordable Housing" is hereby added to the Code to read as follows:

Chapter 2  
AFFORDABLE HOUSING  
ARTICLE I

General Program Purposes, Procedures

§ 2-1. Affordable Housing Obligation.

- A. This section of the Borough Code sets forth regulations regarding the low and moderate income housing units in the Borough consistent with the provisions known as the "Substantive Rules of the New Jersey Council on Affordable Housing", *N.J.A.C.* 5:93 et seq., the Uniform Housing Affordability Controls ("UHAC"), *N.J.A.C.* 5:80-26.1 et seq., and the Borough's constitutional obligation to provide a fair share of affordable housing for low and moderate income households. In addition, this section

applies requirements for very low income housing as established in P.L. 2008, c.46 (the "Roberts Bill", codified at *N.J.S.A. 52:27D-329.1*).

- B. This Ordinance is intended to assure that very-low, low- and moderate-income units ("affordable units") are created with controls on affordability over time and that very-low, low- and moderate-income households shall occupy these units. This Ordinance shall apply except where inconsistent with applicable law.
- C. The Ho-Ho-Kus Borough Planning Board has adopted a Housing Element and Fair Share Plan pursuant to the Municipal Land Use Law at *N.J.S.A. 40:55D-1*, et seq. The Plan has also been endorsed by the Borough Council of the Borough of Ho-Ho-Kus. The Fair Share Plan describes the ways the Borough shall address its fair share for low- and moderate-income housing as determined by the Superior Court and documented in the Housing Element.
- D. This Ordinance implements and incorporates the Fair Share Plan and addresses the requirements of *N.J.A.C. 5:93*, as may be amended and supplemented.
- E. The Borough shall file monitoring and status reports with the Superior Court and place the reports on its municipal website. Any plan evaluation report of the Housing Element and Fair Share Plan and monitoring evaluation report prepared by the Special Master in accordance with *N.J.A.C. 5:91* shall be available to the public at the Ho-Ho-Kus Borough Municipal Building, 333 Warren Avenue, Ho-Ho-Kus, New Jersey 07423

§ 2-2. Definitions. As used herein the following terms shall have the following meanings:

"Accessory apartment" means a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.

"Act" means the Fair Housing Act of 1985, P.L. 1985, c. 222 (*N.J.S.A. 52:27D-301* et seq.).

"Adaptable" means constructed in compliance with the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.

"Administrative agent" means the entity responsible for the administration of affordable units in accordance with this ordinance, *N.J.A.C. 5:91*, *N.J.A.C. 5:93* and *N.J.A.C. 5:80-26.1* et seq.

"Affirmative marketing" means a regional marketing strategy designed to attract buyers and/or renters of affordable units pursuant to *N.J.A.C. 5:80-26.15*.

"Affordability average" means the average percentage of median income at which restricted units in an affordable housing development are affordable to low- and moderate-income households.

"Affordable" means, a sales price or rent within the means of a low- or moderate-income household as defined in *N.J.A.C. 5:93-7.4*; in the case of an ownership unit, that the sales price for the unit conforms to the standards set forth in *N.J.A.C. 5:80-26.6*, as may be amended and supplemented, and, in the case of a rental unit, that the rent for the unit conforms to the standards set forth in *N.J.A.C. 5:80-26.12*, as may be amended and supplemented.

"Affordable development" means a housing development all or a portion of which consists of restricted units.

"Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100% affordable development.

"Affordable housing program(s)" means any mechanism in a municipal Fair Share Plan prepared or implemented to address a municipality's fair share obligation.

"Affordable unit" means a housing unit proposed or created pursuant to the Act, credited pursuant to *N.J.A.C.*

5:93, and/or funded through an affordable housing trust fund.

“Agency” means the New Jersey Housing and Mortgage Finance Agency established by P.L. 1983, c. 530 (*N.J.S.A.* 55:14K-1, et seq.).

“Age-restricted unit” means a housing unit designed to meet the needs of, and exclusively for, the residents of an age-restricted segment of the population such that: 1) all the residents of the development where the unit is situated are 62 years or older; or 2) at least 80% of the units are occupied by one person that is 55 years or older; or 3) the development has been designated by the Secretary of the U.S. Department of Housing and Urban Development as “housing for older persons” as defined in Section 807(b)(2) of the Fair Housing Act, 42 U.S.C. § 3607.

“Alternative living arrangement” means a structure in which households live in distinct bedrooms, yet share kitchen and plumbing facilities, central heat and common areas. Alternative living arrangement includes, but is not limited to: transitional facilities for the homeless, Class A, B, C, D, and E boarding homes as regulated by the New Jersey Department of Community Affairs; residential health care facilities as regulated by the New Jersey Department of Health; group homes for the developmentally disabled and mentally ill as licensed and/or regulated by the New Jersey Department of Human Services; and congregate living arrangements.

“Assisted living residence” means a facility licensed by the New Jersey Department of Health and Senior Services to provide apartment-style housing and congregate dining and to assure that assisted living services are available when needed for four or more adult persons unrelated to the proprietor and that offers units containing, at a minimum, one unfurnished room, a private bathroom, a kitchenette and a lockable door on the unit entrance.

“Certified household” means a household that has been certified by an Administrative Agent as a low-income household or moderate-income household.

“COAH” means the Council on Affordable Housing, which is in, but not of, the Department of Community Affairs of the State of New Jersey, that was established under the New Jersey Fair Housing Act (*N.J.S.A.* 52:27D-301 et seq.).

“DCA” means the State of New Jersey Department of Community Affairs.

“Deficient housing unit” means a housing unit with health and safety code violations that require the repair or replacement of a major system. A major system includes weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement and/or load bearing structural systems.

“Developer” means any person, partnership, association, company or corporation that is the legal or beneficial owner or owners of a lot or any land proposed to be included in a proposed development including the holder of an option to contract or purchase, or other person having an enforceable proprietary interest in such land.

“Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any use or change in the use of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to *N.J.S.A.* 40:55D-1 et seq.

“Fair Share Plan” means the plan that describes the mechanisms, strategies and the funding sources, if any, by which the Borough proposes to address its affordable housing obligation as established in the Housing Element, including the draft ordinances necessary to implement that plan, and addresses the requirements of *N.J.A.C.* 5:93-5.

“Housing Element” means the portion of the Borough's Master Plan, required by the Municipal Land Use Law (“MLUL”), *N.J.S.A.* 40:55D-28b(3) and the Act, that includes the information required by *N.J.A.C.* 5:93-5.1 and

establishes the Borough's fair share obligation.

"Inclusionary development" means a development containing both affordable units and market rate units. This term includes, but is not necessarily limited to: new construction, the conversion of a non-residential structure to residential and the creation of new affordable units through the reconstruction of a vacant residential structure.

"Low-income household" means a household with a total gross annual household income equal to 50% or less of the median household income.

"Low-income unit" means a restricted unit that is affordable to a low-income household.

"Major system" means the primary structural, mechanical, plumbing, electrical, fire protection, or occupant service components of a building which include but are not limited to, weatherization, roofing, plumbing (including wells), heating, electricity, sanitary plumbing (including septic systems), lead paint abatement or load bearing structural systems.

"Market-rate units" means housing not restricted to low- and moderate-income households that may sell or rent at any price.

"Median income" means the median income by household size for the applicable county, as adopted annually by COAH or approved by the NJ Superior Court.

"Moderate-income household" means a household with a total gross annual household income in excess of 50% but less than 80% of the median household income.

"Moderate-income unit" means a restricted unit that is affordable to a moderate-income household.

"Non-exempt sale" means any sale or transfer of ownership other than the transfer of ownership between husband and wife; the transfer of ownership between former spouses ordered as a result of a judicial decree of divorce or judicial separation, but not including sales to third parties; the transfer of ownership between family members as a result of inheritance; the transfer of ownership through an executor's deed to a class A beneficiary and the transfer of ownership by court order.

"Random selection process" means a process by which currently income-eligible households are selected for placement in affordable housing units such that no preference is given to one applicant over another except for purposes of matching household income and size with an appropriately priced and sized affordable unit (e.g., by lottery).

"Regional asset limit" means the maximum housing value in each housing region affordable to a four-person household with an income at 80% of the regional median as defined by adopted/approved Regional Income Limits.

"Rehabilitation" means the repair, renovation, alteration or reconstruction of any building or structure, pursuant to the Rehabilitation Subcode, *N.J.A.C. 5:23-6*.

"Rent" means the gross monthly cost of a rental unit to the tenant, including the rent paid to the landlord, as well as an allowance for tenant-paid utilities computed in accordance with allowances published by DCA for its Section 8 program. In assisted living residences, rent does not include charges for food and services.

"Restricted unit" means a dwelling unit, whether a rental unit or ownership unit, that is subject to the affordability controls of *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, but does not include a market-rate unit financed under UHORP or MONI.

"Special master" means an expert appointed by a judge to make sure that judicial orders are followed. A master's function is essentially investigative, compiling evidence or documents to inform some future action by the court.

"UHAC" means the Uniform Housing Affordability Controls set forth in *N.J.A.C. 5:80-26.1* et seq.

"Very low-income household" means a household with a total gross annual household income equal to 30% or

less of the median household income.

“Very low-income unit” means a restricted unit that is affordable to a very low-income household.

“Weatherization” means building insulation (for attic, exterior walls and crawl space), siding to improve energy efficiency, replacement storm windows, replacement storm doors, replacement windows and replacement doors, and is considered a major system for rehabilitation

§ 2-3. Borough-wide Mandatory Set-Aside

A. A multi-family or single-family attached development providing a minimum of five (5) new housing units created through any municipal rezoning or Zoning Board action, use or density variance, redevelopment plan, or rehabilitation plan that provide for densities at or above six (6) units per acre is required to include an affordable housing set-aside of 20% if the affordable units will be for sale and 15% if the affordable units will be for rent. *This requirement does not give any developer the right to any such rezoning, variance or other relief, or establish any obligation on the part of Ho-Ho-Kus to grant such rezoning, variance or other relief. No subdivision shall be permitted or approved for the purpose of avoiding compliance with this requirement.*

B. This Borough-wide mandatory set-aside requirement does not supersede the effects or requirements of the Downtown Inclusionary Overlay Zoning (§85-13.1) for any inclusionary multi-family residential development that occurs within the boundaries of the Overlay area.

§ 2-4. New Construction. The following requirements shall apply to all new or planned developments that contain low- and moderate- income housing units.

A. Phasing. Final site plan or subdivision approval shall be contingent upon the affordable housing development meeting the following phasing schedule for low and moderate income units whether developed in a single phase development, or in a multi-phase development:

Percentage of Low- Income	Maximum Percentage of		Minimum and
	Market-Rate Units	Completed	
	25	0	
	25+1	10	
	50	50	
	75	75	
	90	100	

B. Design. In inclusionary developments, to the extent possible, low- and moderate- income units shall be integrated with the market units.

C. Payments-in-lieu and off-site construction. The standards for the collection of payments-in-lieu of constructing affordable units or standards for constructing affordable units off-site, shall be in accordance with *N.J.A.C. 5:93-8.10* (c).

D. Utilities. Affordable units shall utilize the same type of heating source as market units within the affordable development.

E. Low/Moderate Split and Bedroom Distribution of Affordable Housing Units.

1. The fair share obligation shall be divided equally between low- and moderate- income units, except that where there is an odd number of affordable housing units, the extra unit shall be a low income unit.

2. In each affordable development, at least 50% of the restricted units within each bedroom

distribution shall be low-income units.

3. Within rental developments, of the total number of affordable rental units, at least 13% shall be affordable to very low income households.
4. Affordable developments that are not age-restricted shall be structured in conjunction with realistic market demands such that:
  - (a) The combined number of efficiency and one-bedroom units shall be no greater than 20% of the total low- and moderate-income units;
  - (b) At least 30% of all low- and moderate-income units shall be two bedroom units;
  - (c) At least 20% of all low- and moderate-income units shall be three bedroom units; and
  - (d) The remaining units may be allocated among two and three bedroom units at the discretion of the developer.
5. Affordable developments that are age-restricted shall be structured such that the number of bedrooms shall equal the number of age-restricted low- and moderate-income units within the inclusionary development. The standard may be met by having all one-bedroom units or by having a two-bedroom unit for each efficiency unit.

F. Accessibility Requirements:

1. The first floor of all new restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall be subject to the technical design standards of the Barrier Free Subcode, *N.J.A.C. 5:23-7*.
2. All restricted townhouse dwelling units and all restricted multistory dwelling units attached to at least one (1) other dwelling unit shall have the following features:
  - (a) An adaptable toilet and bathing facility on the first floor;
  - (b) An adaptable kitchen on the first floor;
  - (c) An interior accessible route of travel on the first floor;
  - (d) An interior accessible route of travel shall not be required between stories within an individual unit;
  - (e) An adaptable room that can be used as a bedroom, with a door or the casing for the installation of a door, on the first floor; and
  - (f) An accessible entranceway as set forth at P.L. 2005, c. 350 (*N.J.S.A. 52:27D-311a et seq.*) and the Barrier Free Subcode, *N.J.A.C. 5:23-7*, or evidence that the Borough has collected funds from the developer sufficient to make 10% of the adaptable entrances in the development accessible.
    - (1) Where a unit has been constructed with an adaptable entrance, upon the request of a disabled person who is purchasing or will reside in the dwelling unit, an accessible entrance shall be installed.
    - (2) To this end, the builder of restricted units shall deposit funds within the Borough of Ho-Ho-Kus' affordable housing trust fund sufficient to install accessible entrances in 10% of the affordable units that have been constructed with adaptable entrances.
    - (3) The funds deposited under paragraph (2) herein, shall be used by the Borough for the sole purpose of making the adaptable entrance of any affordable unit accessible when requested to do so by a person with a disability who occupies

or intends to occupy the unit and requires an accessible entrance.

(4) The developer of the restricted units shall submit a design plan and cost estimate for the conversion from adaptable to accessible entrances to the Construction Official of the Borough of Ho-Ho-Kus.

(5) Once the Construction Official has determined that the design plan to convert the unit entrances from adaptable to accessible meet the requirements of the Barrier Free Subcode, *N.J.A.C. 5:23-7*, and that the cost estimate of such conversion is reasonable, payment shall be made to the Borough of Ho-Ho-Kus' affordable housing trust fund in care of the Municipal Treasurer who shall ensure that the funds are deposited into the affordable housing trust fund and appropriately earmarked.

(6) Full compliance with the foregoing provisions shall not be required where an entity can demonstrate that it is site impracticable to meet the requirements. Determinations of site impracticability shall be in compliance with the Barrier Free Subcode, *N.J.A.C. 5:23-7*.

G. Maximum Rents and Sales Prices.

1. In establishing rents and sales prices of affordable housing units, the administrative agent shall follow the procedures set forth in UHAC and by the Superior Court, utilizing the regional income limits established.
2. The maximum rent for restricted rental units within each affordable development shall be affordable to households earning no more than 60% of median income, and the average rent for restricted low- and moderate-income units shall be affordable to households earning no more than 52% of median income.
3. The developers and/or municipal sponsors of restricted rental units shall establish at least one rent for each bedroom type for both low-income and moderate-income units.
  - (a) At least 13% of all low- and moderate-income rental units shall be affordable to households earning no more than 30% of median income.
4. The maximum sales price of restricted ownership units within each affordable development shall be affordable to households earning no more than 70% of median income, and each affordable development must achieve an affordability average of 55% for restricted ownership units; in achieving this affordability average, moderate-income ownership units must be available for at least three different prices for each bedroom type, and low-income ownership units must be available for at least two different prices for each bedroom type.
5. In determining the initial sales prices and rents for compliance with the affordability average requirements for restricted units other than assisted living facilities, the following standards shall be met:
  - (a) A studio or efficiency unit shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;
  - (c) A two-bedroom unit shall be affordable to a three-person household;
  - (d) A three-bedroom unit shall be affordable to a four and one-half person household; and
  - (e) A four-bedroom unit shall be affordable to a six-person household.
6. In determining the initial rents for compliance with the affordability average requirements for restricted units in assisted living facilities, the following standards shall be met:

- (a) A studio or efficiency unit shall be affordable to a one-person household;
  - (b) A one-bedroom unit shall be affordable to a one and one-half person household;  
and
  - (c) A two-bedroom unit shall be affordable to a two-person household or to two one-person households.
7. The initial purchase price for all restricted ownership units shall be calculated so that the monthly carrying cost of the unit, including principal and interest (based on a mortgage loan equal to 95% of the purchase price and the Federal Reserve H.15 rate of interest), taxes, homeowner and private mortgage insurance and condominium or homeowner association fees do not exceed 28% of the eligible monthly income of the appropriate size household as determined under *N.J.A.C.* 5:80-26.4, as may be amended and supplemented; provided, however, that the price shall be subject to the affordability average requirement of *N.J.A.C.* 5:80-26.3, as may be amended and supplemented.
8. The initial rent for a restricted rental unit shall be calculated so as not to exceed 30% of the eligible monthly income of the appropriate household size as determined under *N.J.A.C.* 5:80-26.4, as may be amended and supplemented; provided, however, that the rent shall be subject to the affordability average requirement of *N.J.A.C.* 5:80-26.3, as may be amended and supplemented.
9. The price of owner-occupied low- and moderate-income units may increase annually based on the percentage increase in the regional median income limit for each housing region. In no event shall the maximum resale price established by the administrative agent be lower than the last recorded purchase price.
10. At the anniversary date of the tenancy of the certified household occupying a restricted rental unit, the rent may be increased, if such increase is consistent with the regional income limits most recently published by COAH, the Court, or other appropriate jurisdiction.
11. Tenant-paid utilities that are included in the utility allowance shall be so stated in the lease and shall be consistent with the utility allowance approved by DCA for its Section 8 program.

§ 2-5. Condominium and Homeowners Association Fees.

For any affordable housing unit that is part of a condominium association and/or homeowner's association, the Master Deed shall reflect that the association fee assessed for each affordable housing unit shall be established at 100% of the market rate fee.

§ 2-6. Reserved.

§ 2-7. Reserved.

§ 2-8. Reserved.

§ 2-9. Reserved.

## ARTICLE II

### Affordable Unit Controls and Requirements

§ 2-10. Purpose.

The requirements of this section apply to all developments that contain affordable housing units, including any currently unanticipated future developments that will provide low- and moderate- income housing units.

§ 2-11. Affirmative Marketing.

- A. The Borough shall adopt by resolution an Affirmative Marketing Plan, subject to approval of the Superior Court, compliant with *N.J.A.C. 5:80-26.15*, as may be amended and supplemented.
- B. The affirmative marketing plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer, sponsor or owner of affordable housing. The affirmative marketing plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward COAH Housing Region 1 and covers the period of deed restriction.
- C. The affirmative marketing plan shall provide a regional preference for all households that live and/or work in COAH Housing Region 1, comprised of Hudson, Bergen, Sussex, and Passaic Counties.
- D. The Administrative Agent designated by the Borough shall assure the affirmative marketing of all affordable units is consistent with the Affirmative Marketing Plan for the municipality.
- E. In implementing the affirmative marketing plan, the Administrative Agent shall provide a list of counseling services to low- and moderate-income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.
- F. The affirmative marketing process for available affordable units shall begin at least four months prior to the expected date of occupancy.
- G. The costs of advertising and affirmative marketing of the affordable units shall be the responsibility of the developer, sponsor or owner, unless otherwise determined or agreed to by the Borough of Ho-Ho-Kus.

§ 2-12. Occupancy Standards.

- A. In referring certified households to specific restricted units, to the extent feasible, and without causing an undue delay in occupying the unit, the Administrative Agent shall strive to:
  - 1. Provide an occupant for each bedroom;
  - 2. Provide children of different sex with separate bedrooms; and
  - 3. Prevent more than two persons from occupying a single bedroom
- B. Additional provisions related to occupancy standards (if any) shall be provided in the municipal Operating Manual.

§ 2-13. Selection of Occupants of Affordable Housing Units.

- A. The administrative agent shall use a random selection process to select occupants of low- and moderate- income housing.
- B. A waiting list of all eligible candidates will be maintained in accordance with the provisions of *N.J.A.C. 5:80-26 et seq.*

§ 2-14. Control Periods for Restricted Ownership Units and Enforcement Mechanisms.

- A. Control periods for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.5*, and each restricted ownership unit shall remain subject to the controls on affordability for a period of at least 30 years.
- B. Rehabilitated owner-occupied single family housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.

- C. The affordability control period for a restricted ownership unit shall commence on the date the initial certified household takes title to the unit.
- D. The affordability controls set forth in this Ordinance shall remain in effect despite the entry and enforcement of any judgment of foreclosure with respect to restricted ownership units.
- E. A restricted ownership unit shall be required to obtain a Continuing Certificate of Occupancy or a certified statement from the Construction Official stating that the unit meets all code standards upon the first transfer of title that follows the expiration of the applicable minimum control period provided under *N.J.A.C. 5:80-26.5(a)*, as may be amended and supplemented.

§ 2-15. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices. Price restrictions for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, including:

- A. The initial purchase price for a restricted ownership unit shall be approved by the Administrative Agent.
- B. The Administrative Agent shall approve all resale prices, in writing and in advance of the resale, to assure compliance with the foregoing standards.
- C. The method used to determine the condominium association fee amounts and special assessments shall be indistinguishable between the low- and moderate-income unit owners and the market unit owners.
- D. The owners of restricted ownership units may apply to the Administrative Agent to increase the maximum sales price for the unit on the basis of capital improvements. Eligible capital improvements shall be those that render the unit suitable for a larger household or the addition of a bathroom.

§ 2-16. Buyer Income Eligibility.

- A. Buyer income eligibility for restricted ownership units shall be in accordance with *N.J.A.C. 5:80-26.1*, as may be amended and supplemented, such that low-income ownership units shall be reserved for households with a gross household income less than or equal to 50% of median income and moderate-income ownership units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted ownership unit when the household is a low-income household or a moderate-income household, as applicable to the unit, and the estimated monthly housing cost for the particular unit (including principal, interest, taxes, homeowner and private mortgage insurance and condominium or homeowner association fees, as applicable) does not exceed 33% of the household's certified monthly income.

§ 2-17. Limitations on indebtedness secured by ownership unit; subordination.

- A. Prior to incurring any indebtedness to be secured by a restricted ownership unit, the administrative agent shall determine in writing that the proposed indebtedness complies with the provisions of this section.
- B. With the exception of original purchase money mortgages, during a control period neither an owner nor a lender shall at any time cause or permit the total indebtedness secured by a restricted ownership unit to exceed 95% of the maximum allowable resale price of that unit, as such price is determined by the administrative agent in accordance with *N.J.A.C.5:80-26.6(b)*

§ 2-18. Control Periods for Restricted Rental Units.

- A. Control periods for restricted rental units shall be in accordance with *N.J.A.C. 5:80-26.11*, and each restricted rental unit shall remain subject to the controls on affordability for a period of at least 30

years.

- B. Rehabilitated renter-occupied housing units that are improved to code standards shall be subject to affordability controls for a period of 10 years.
- C. Deeds of all real property that include restricted rental units shall contain deed restriction language. The deed restriction shall have priority over all mortgages on the property, and the deed restriction shall be filed by the developer or seller with the records office of the County of Bergen. A copy of the filed document shall be provided to the Administrative Agent within 30 days of the receipt of a Certificate of Occupancy.
- D. A restricted rental unit shall remain subject to the affordability controls of this Ordinance, despite the occurrence of any of the following events:
  - 1. Sublease or assignment of the lease of the unit;
  - 2. Sale or other voluntary transfer of the ownership of the unit; or
  - 3. The entry and enforcement of any judgment of foreclosure.

§ 2-19. Price Restrictions for Rental Units; Leases.

- A. A written lease shall be required for all restricted rental units, except for units in an assisted living residence, and tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. A copy of the current lease for each restricted rental unit shall be provided to the Administrative Agent.
- B. No additional fees or charges shall be added to the approved rent (except, in the case of units in an assisted living residence, to cover the customary charges for food and services) without the express written approval of the Administrative Agent.
- C. Application fees (including the charge for any credit check) shall not exceed 5% of the monthly rent of the applicable restricted unit and shall be payable to the Administrative Agent to be applied to the costs of administering the controls applicable to the unit as set forth in this Ordinance.

§ 2-20. Tenant Income Eligibility.

- A. Tenant income eligibility shall be in accordance with *N.J.A.C. 5:80-26.13*, as may be amended and supplemented, and shall be determined as follows:
  - 1. Very low-income rental units shall be reserved for households with a gross household income less than or equal to 30% of median income.
  - 2. Low-income rental units shall be reserved for households with a gross household income less than or equal to 50% of median income.
  - 3. Moderate-income rental units shall be reserved for households with a gross household income less than 80% of median income.
- B. The Administrative Agent shall certify a household as eligible for a restricted rental unit when the household is a very low-income, low-income household or a moderate-income household, as applicable to the unit, and the rent proposed for the unit does not exceed 35% (40% for age-restricted units) of the household's eligible monthly income as determined pursuant to *N.J.A.C. 5:80-26.16*, as may be amended and supplemented; provided, however, that this limit may be exceeded if one or more of the following circumstances exists:
  - 1. The household currently pays more than 35% (40% for households eligible for age-restricted units) of its gross household income for rent, and the proposed rent will reduce its housing costs;
  - 2. The household has consistently paid more than 35% (40% for households eligible for age-restricted units) of eligible monthly income for rent in the past and has proven its ability to

- pay;
  - 3. The household is currently in substandard or overcrowded living conditions;
  - 4. The household documents the existence of assets with which the household proposes to supplement the rent payments; or
  - 5. The household documents proposed third-party assistance from an outside source such as a family member in a form acceptable to the Administrative Agent and the owner of the unit.
- C. The applicant shall file documentation sufficient to establish the existence of the circumstances in (b)1 through 5 above with the Administrative Agent, who shall counsel the household on budgeting.

§ 2-21. Conversions.

Each housing unit created through the conversion of a non-residential structure shall be considered a new housing unit and shall be subject to the affordability controls for a new housing unit.

§ 2-22. Reserved

§ 2-23. Reserved.

§ 2-24. Reserved.

ARTICLE III  
Administration

§ 2-25. Municipal Housing Liaison.

- A. The position of Municipal Housing Liaison for the Borough of Ho-Ho-Kus is hereby established. The Municipal Housing Liaison shall be appointed by duly adopted resolution of the Borough Council and be subject to the approval by the Superior Court.
- B. The Municipal Housing Liaison must be either a full-time or part-time employee of the Borough of Ho-Ho-Kus.
- C. The Municipal Housing Liaison must meet the requirements for qualifications, including initial and periodic training found in *N.J.A.C.* 5:93.
- D. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Ho-Ho-Kus, including the following responsibilities which may not be contracted out to the Administrative Agent:
  - 1. Serving as the municipality's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents and interested households;
  - 2. The implementation of the Affirmative Marketing Plan and affordability controls.
  - 3. When applicable, supervising any contracting Administrative Agent.
  - 4. Monitoring the status of all restricted units in the Borough of Ho-Ho-Kus' Fair Share Plan;
  - 5. Compiling, verifying and submitting annual reports as required by the Superior Court;
  - 6. Coordinating meetings with affordable housing providers and Administrative Agents, as applicable; and
  - 7. Attending continuing education opportunities on affordability controls, compliance monitoring and affirmative marketing as offered or approved by the Superior Court.

§ 2-26. Administrative Agent.

- A. The Borough shall designate by resolution of the Borough Council, subject to the approval of the Superior Court, one or more Administrative Agents to administer newly constructed affordable units in accordance with *N.J.A.C.* 5:93 and UHAC.
- B. An Operating Manual shall be provided by the Administrative Agent(s) to be adopted by resolution of the governing body and subject to approval of the Superior Court. The Operating Manuals shall be

available for public inspection in the Office of the Municipal Clerk and in the office(s) of the Administrative Agent(s).

C The Administrative Agent shall perform the duties and responsibilities of an administrative agent as are set forth in UHAC and which are described in full detail in the Operating Manual, including those set forth in *N.J.A.C.* 5:80-26.14, 16 and 18 thereof, which includes:

1. Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by the Superior Court;
2. Affirmative Marketing;
3. Household Certification;
4. Affordability Controls;
5. Records retention;
6. Resale and re-rental;
7. Processing requests from unit owners; and
8. Enforcement, although the ultimate responsibility for retaining controls on the units rests with the municipality.
9. The Administrative Agent shall, as delegated by the Borough Committee, have the authority to take all actions necessary and appropriate to carry out its responsibilities, hereunder.

§ 2-27. Enforcement of Affordable Housing Regulations.

A. Upon the occurrence of a breach of any of the regulations governing the affordable unit by an Owner, Developer or Tenant, the municipality shall have all remedies provided at law or equity, including but not limited to foreclosure, tenant eviction, municipal fines, a requirement for household recertification, acceleration of all sums due under a mortgage, recoupment of any funds from a sale in the violation of the regulations, injunctive relief to prevent further violation of the regulations, entry on the premises, and specific performance.

B. After providing written notice of a violation to an Owner, Developer or Tenant of a low- or moderate-income unit and advising the Owner, Developer or Tenant of the penalties for such violations, the municipality may take the following action against the Owner, Developer or Tenant for any violation that remains uncured for a period of 60 days after service of the written notice:

1. The municipality may file a court action pursuant to *N.J.S.A.* 2A:58-11 alleging a violation, or violations, of the regulations governing the affordable housing unit. If the Owner, Developer or Tenant is found by the court to have violated any provision of the regulations governing affordable housing units the Owner, Developer or Tenant shall be subject to one or more of the following penalties, at the discretion of the court.

(a) A fine of not more than \$500.00 or imprisonment for a period not to exceed 90 days, or both. Each and every day that the violation continues or exists shall be considered a separate and specific violation of these provisions and not as a continuing offense;

(b) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment into the Borough of Ho-Ho-Kus Affordable Housing Trust Fund of the gross amount of rent illegally collected;

(c) In the case of an Owner who has rented his or her low- or moderate-income unit in violation of the regulations governing affordable housing units, payment of an innocent tenant's reasonable relocation costs, as determined by the court.

2. The municipality may file a court action in the Superior Court seeking a judgment, which

would result in the termination of the Owner's equity or other interest in the unit, in the nature of a mortgage foreclosure. Any judgment shall be enforceable as if the same were a judgment of default of the First Purchase Money Mortgage and shall constitute a lien against the low- and moderate-income unit.

- C. Such judgment shall be enforceable, at the option of the municipality, by means of an execution sale by the Sheriff, at which time the low- and moderate-income unit of the violating Owner shall be sold at a sale price which is not less than the amount necessary to fully satisfy and pay off any First Purchase Money Mortgage and prior liens and the costs of the enforcement proceedings incurred by the municipality, including attorney's fees. The violating Owner shall have the right to possession terminated as well as the title conveyed pursuant to the Sheriff's sale.
- D. The proceeds of the Sheriff's sale shall first be applied to satisfy the First Purchase Money Mortgage lien and any prior liens upon the low- and moderate-income unit. The excess, if any, shall be applied to reimburse the municipality for any and all costs and expenses incurred in connection with either the court action resulting in the judgment of violation or the Sheriff's sale. In the event that the proceeds from the Sheriff's sale are insufficient to reimburse the municipality in full as aforesaid, the violating Owner shall be personally responsible for and to the extent of such deficiency, in addition to any and all costs incurred by the municipality in connection with collecting such deficiency. In the event that a surplus remains after satisfying all of the above, such surplus, if any, shall be placed in escrow by the municipality for the Owner and shall be held in such escrow for a maximum period of two years or until such earlier time as the Owner shall make a claim with the municipality for such. Failure of the Owner to claim such balance within the two-year period shall automatically result in a forfeiture of such balance to the municipality. Any interest accrued or earned on such balance while being held in escrow shall belong to and shall be paid to the municipality, whether such balance shall be paid to the Owner or forfeited to the municipality.
- E. Foreclosure by the municipality due to violation of the regulations governing affordable housing units shall not extinguish the restrictions of the regulations governing affordable housing units as the same apply to the low- and moderate-income unit. Title shall be conveyed to the purchaser at the Sheriff's sale, subject to the restrictions and provisions of the regulations governing the affordable housing unit. The Owner determined to be in violation of the provisions of this plan and from whom title and possession were taken by means of the Sheriff's sale shall not be entitled to any right of redemption.
- F. If there are no bidders at the Sheriff's sale, or if insufficient amounts are bid to satisfy the First Purchase Money Mortgage and any prior liens, the municipality may acquire title to the low- and moderate-income unit by satisfying the First Purchase Money Mortgage and any prior liens and crediting the violating owner with an amount equal to the difference between the First Purchase Money Mortgage and any prior liens and costs of the enforcement proceedings, including legal fees and the maximum resale price for which the low- and moderate-income unit could have been sold under the terms of the regulations governing affordable housing units. This excess shall be treated in the same manner as the excess which would have been realized from an actual sale as previously described.
- G. Failure of the low- and moderate-income unit to be either sold at the Sheriff's sale or acquired by the municipality shall obligate the Owner to accept an offer to purchase from any qualified purchaser which may be referred to the Owner by the municipality, with such offer to purchase being equal to the maximum resale price of the low- and moderate-income unit as permitted by the regulations

governing affordable housing units.

H. The Owner shall remain fully obligated, responsible and liable for complying with the terms and restrictions of governing affordable housing units until such time as title is conveyed from the Owner.

§ 2-28. Appeals. Appeals from all decisions of an Administrative Agent designated pursuant to this Ordinance shall be filed in writing with the Borough.

Section III. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section IV. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section V. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey, held on June \_\_\_\_\_, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Council to be held in the meeting room of Borough Hall, 333 Warren Avenue, in the Borough of Ho-Ho-Kus on July 25, 2017 at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

Motioned: Councilmember Shell

Second: Councilmember Crossley

Absent: Councilmember Iannelli

- Ord # 2017-10 "Overlay Zone"

AN ORDINANCE OF THE BOROUGH OF HO-HO-KUS TO AMEND ARTICLE IV, "DISTRICT REGULATIONS" OF CHAPTER 85, "ZONING ORDINANCE OF THE BOROUGH OF HO-HO-KUS", TO CREATE DOWNTOWN INCLUSIONARY OVERLAY RESIDENTIAL / MIXED-USE ZONES 1 THROUGH 4, ALSO KNOWN AS OL-1, OL-2, OL-3, AND OL-4

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus as follows.

Section 1. Section 85-13.1, entitled "Downtown Inclusionary Overlay Residential / Mixed-Use Zones 1 through 4," Created. That Section 85-13.1 is hereby added to Chapter 85, Article IV, to read as follows:

A. Purpose: To address its affordable housing unmet need obligation, the Borough shall implement an Inclusionary Overlay Zone Ordinance that creates a realistic opportunity for housing in the Borough's Downtown that is affordable to low- and moderate-income households. This Ordinance establishes the Downtown Inclusionary Overlay Zone, and permits the creation of multi-family housing within the Downtown area (as outlined in the appended maps) provided that such housing complies with a required 20% inclusionary set-aside requirement and with the requirements of this ordinance.

Area Affected: The Downtown Inclusionary Overlay Zone is comprised of four (4) subzones shown on the maps in the appendix to this code. Overlays 1 and 2 (OL-1 and OL-2) comprise the blocks and lots surrounding North Maple Avenue and Sheridan Avenue. Overlay 3 (OL-3) includes commercial lots fronting on Franklin Turnpike, Sycamore Avenue, and Warren Avenue, and Overlay 4 (OL-4) includes the first three lots north of Warren Avenue, between Sycamore Avenue

and Sheridan Avenue.

Special Rules: Inclusionary multi-family development is permitted in each OL Overlay zone, conditioned on compliance with this ordinance and the following limitations:

Where a property in the OL-1, OL-2, or OL-3 zones is to be developed with a multi-family inclusionary residential use and the underlying zone is GB General Business, residential uses are restricted to the upper stories of a building and the ground-story use shall be a non-residential use.

Where multi-family inclusionary development is to occur on a property in the OL-1 or OL-3 zones, and the underlying zone is an R-2 or R-4 Residential zone, non-residential uses are prohibited from occurring on the same property.

Where multi-family inclusionary development is to occur on a property in the OL-4 zone, such property may be developed for and contain a mix of multi-family residential use and public use.

In any multi-family inclusionary development permitted by this ordinance, at least 20% of the residential units must be affordable to low- and moderate-income households. In the event that 20% of the total number of residential units does not result in a full integer, the developer / property owner may choose one of two options of addressing the fractional unit:

The developer / property owner may round the fractional number of units upward to provide one additional whole unit; or

The developer / property owner provides the whole number of units resulting from the 20% set-aside on the full unit count of the development, and pay a 6% affordable housing development fee on the number of the balance of the total units at the site that do not generate a whole affordable housing unit from a 20% set-aside. The number of market rate units subject to the 6% development fee will be calculated as follows:

Total # of units – (Affordable units to be constructed x 5) = # of market rate units subject to dev. fee

Examples:

If there are four (4) total units at a site, at least one (1) must be affordable or the developer must provide a development of 6% on each of the four (4) market rate units, because four (4) total units do not generate one (1) full affordable housing unit based on the 20% set-aside requirement.

Units subject to 6% development fee: 4 units – (0 affordable units X 5) = 4 market rate units subject to dev. fee

If there are 18 total units, the developer must create four (4) affordable units or create three (3) affordable units and pay a fee of 6% on 3 units that do not generate one (1) whole affordable housing unit based on the 20% set-aside requirement.

Units subject to 6% development fee: 18 units – (3 affordable units x 5)

= 18 units – 15 units

= 3 market rate units subject to development fee

The amount of the development fee shall be determined by the Borough prior to the issuance of a building permit, and shall be imposed as a condition of development approval.

In any multi-family development having five (5) or more residential units, at least one (1) unit must be established as affordable to low- and moderate-income households

All affordable units produced in an Overlay District must comply with the Borough's Affordable Housing Ordinance at Chapter 2 of the Borough Code.

The effects and requirements of this Ordinance shall supersede the requirements of the Borough-wide Mandatory Set-Aside at §2-3.

Permitted Principal Uses in the Downtown Overlay District shall be limited to the following:

- (1) All uses permitted by the underlying zoning, except that:
  - (a) Where the GB district is the underlying zoning, only those uses permitted in the GB District by §85-13.A(2) through (10), (15) and (16) are permitted as the ground story uses in any mixed use, multi-family inclusionary development.
  - (b) Uses permitted by §85-13.A(11) through (14) are permitted as stand-alone uses and are not subject to any other conditions of the overlay zone ordinance. However, if a use permitted by §85-13.A(11) qualifies as an eligible affordable housing credit, then such use may be permitted as an upper story use.
- (2) A multi-family inclusionary residential use is permitted, conditioned on compliance with §85-13.1.C, Special Rules, in this ordinance.
- (3) In the OL-4 Overlay Zone, the following uses are permitted individually or as mixed-use, provided compliance with the density and building height requirements for the OL-4 zone are observed and each use has separate building entrances and parking areas.
  - (a) Municipal government uses, and
  - (b) Inclusionary, multi-family residential uses

Accessory buildings, structures and uses shall be permitted when used in conjunction with a principal permitted use, and in compliance with §85-15.1, Accessory Buildings and Structures.

Private residential garage and off-street parking, in accordance with §85-36, Off-street Parking and Loading, of the Zoning chapter, except where it is superseded by the rules in §85-13.1.H, Parking, below.

Decks, balconies and porches.

Sheds for tools and equipment for the maintenance of the grounds.

Outdoor recreational uses for residents and their guests.

Fences and hedges subject to the requirements of §85-37.3, Fences, except where superseded by this ordinance.

Signs subject to the requirements of §85-37, Signs, except where superseded by this ordinance.

Satellite antenna less than one meter in diameter.

Outdoor seating for residents, employees, and customers (§85-15.1.C of the Accessory Buildings and Structures section shall not prohibit these structures from being located in the front yard).

Outdoor dining/café, as regulated by §85-13.1.I(10), Outdoor Dining/Cafes, in this ordinance.

Other customary accessory uses and structures which are clearly incidental to the principal structures and uses.

#### Prohibited Uses:

Where inclusionary multi-family uses are permitted by this ordinance, non-residential uses are prohibited on a second or third story. However, where a mixed-use development is permitted by this ordinance with a ground-floor non-residential use, an office, utility room, or storage room associated with a ground-story non-residential use in a three-story building may occupy not more than one-fifth (20%) of the gross floor area of the second story, provided that it is not accessed by any hall or stairway shared with residential uses in the same building.

Where the underlying zoning is GB, residential uses are prohibited from occupying the ground-story.

Except in the OL-4 zone, where the underlying zoning is R-2 or R-4, non-residential uses are prohibited.

#### Bulk Standards.

The bulk standards of the R-2 and R-4 zones shall be superseded by the following standards for any new multi-family development, provided that it conforms to the inclusionary set-aside standards of this ordinance, as follows:

Maximum Improved Lot Coverage: 60%

Maximum Lot Coverage: 40%

Minimum open space requirements of the R-2 and R-4 zones do not apply.

Front Yard Setback: 15 feet

The bulk standards of the GB zone shall apply to any property for which the underlying zoning is the GB zone, except that.

The required front yard setback for any building complying with this ordinance shall be reduced to 3 feet from the public right of way line, or the existing average setback of neighboring buildings.

Where two adjacent properties provide contiguous side yards, the minimum side yard requirement for each property is reduced from 10 feet to five (5) feet, so that the total space between the principal buildings is at least 10 feet, provided that access to the combined 10-foot side yard is shared between both properties. Otherwise, the existing side yard standards for the GB zone apply.

Density: The underlying zoning requirements shall be superseded by this ordinance to permit the following maximum net densities for each Overlay Subzone, in dwelling units per acre:

OL-1: 15 du/ac

OL-2: 12 du/ac

OL-3: 12 du/ac

OL-4: 6 du/ac

Number of Stories: The underlying zoning requirements shall be superseded by this ordinance to permit the following maximum number of stories for new or enlarged buildings in each Overlay Subzone.

OL-1: 3 stories

OL-2: 3 stories

OL-3: 2 stories

OL-4: 2 stories.

There shall be a planted buffer of at least five (5) feet between any parking area and the boundary of a contiguous residential zone outside of the Downtown Overlay area.

There shall be a planted buffer of at least 10 feet between any principal building and the boundary of a contiguous residential zone outside of the Downtown Overlay area.

All other properties and developments are subject to the side yard setbacks of the underlying zoning, except where otherwise provided in this section.

**Parking.**

Off-street parking shall be restricted to the rear yard or the side yard.

The minimum amount of parking required for a site shall be based on the rates required by §85-36, Off-Street Parking and Loading, except that:

- (c) Parking for residential units shall be calculated as:
  - (i) Studio/Efficiency and 1 Bedrooms: 0.8 spaces
  - (ii) 2-Bedroom: 1.3 spaces
  - (iii) 3-Bedroom: 1.9 spaces
- (d) The minimum parking requirement for mixed-use sites shall be calculated based on the table below, as follows:
  - (i) Determine the minimum parking requirements for each use on the site pursuant to §85-36, Off-Street Parking and Loading, except that the following shall supersede those parking requirements in any mixed-use structure.
    - A. Sit down restaurants and bars: 1 parking space for every four (4) seats.
    - B. Take-out restaurant: 1 parking space for every 30 square feet of gross floor area of customer/patron space.
    - C. Office: 1 parking space for every 300 square feet of gross floor area.
    - D. Retail: 1 parking space for every 200 feet of gross floor area.

- (ii) Multiply each minimum parking requirement by the corresponding percentages for each of the time periods set forth in columns b through g of the table below.
- (iii) Calculate the total for each time period
- (iv) The minimum parking requirement shall be the largest sum of the five columns

A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	5%	100%	5%	0%	15%	0%
Retail	0%	100%	80%	0%	100%	60%
Restaurant (not 24 hours)	20%	70%	100%	30%	75%	100%
Residential	100%	60%	100%	100%	75%	95%

Example. A ground floor restaurant with 36 seats (requiring 9 parking spaces), with a 7-space residential parking requirement and a 3-space office requirement.

A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	5% x 3	100% x 3	5% x 3	0% x 3	15% x 3	0% x 3
Retail	0% x 0	100% x 0	80% x 0	0% x 0	100% x 0	60% x 0
Restaurant (not 24 hours)	20% x 9	70% x 9	100% x 9	30% x 9	75% x 9	100% x 9
Residential	100%	60%	100%	100%	75%	95%

	x 7	x 7	x 7	x 7	x7	x 7
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A	B	C	D	E	F	G
Land Use	Weekdays			Weekends		
	1 am to 7 am	7 am to 6 pm	6 pm to 1 am	1 am to 7 am	7 am to 6 pm	6 pm to 1 am
Office	0.1 5 → 1	3	0.1 5 → 1	0	0.4 5 → 1	0
Retail	0	0	0	0	0	0
Restaura nt (not 24 hours)	1.8 →2	6.3 → 7	9	3	6.7 5 → 7	9
Residenti al	7	4.2 → 5	7	7	5.2 5 → 6	6.6 5 → 7
Total	10	15	17	10	14	16

Example Parking Requirement = 17

The parking requirement calculated by this method will be subject to Board review.

- A. At the time of Board review of the parking calculation for a mixed-use development, the Board may require the property owner to regulate the hours during which parking for one or more uses on the site is permitted.

Alternative Parking Options:

If the parking requirement calculated in §85-13.1.H(1) above exceeds the number of parking stalls that a site can realistically accommodate, an applicant may address its parking balance as follows:

Shared Parking: An applicant may participate in a shared parking agreement, provided the following:

- B. A shared parking site for residents and employees shall not be further than 300 feet from the building, as measured by distance walked along public rights-of-way and pedestrian walkway areas.
- C. A shared parking site for customers shall not be further than 500 feet from the building, as measured by distance walked along public rights-of-way and pedestrian walkway areas.
- D. All required barrier-free parking must be located on-site, and may not be displaced to a shared parking site.

An applicant requesting use of an off-site shared parking arrangement must submit a study demonstrating:

- E. That the required parking cannot feasibly be provided on site without compromising the economic value of the proposed development,
- F. That the distance between the site and the shared parking meets the requirements above,
- G. That the proposed shared parking location can reasonably accommodate peak parking and traffic for all uses that will be sharing the parking.

An applicant requesting to use shared parking must enter into an agreement with the owner of the shared parking site.

**Shared Parking Agreement.** A shared parking plan will be enforced through written agreement among all owners of record. The owner of the shared parking area shall enter into a written developer's agreement with the Borough with enforcement running to the Borough providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns. An attested copy of the agreement between the owners of record shall be submitted to the administrative officer for recordation in a form established by the Borough attorney. Recordation of the agreement must take place before issuance of a building permit or certificate of occupancy for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided on-site in accordance with the off-street parking schedules in this section. The written agreement shall be voided by the Borough if other off-street facilities are provided in accord with these zoning regulations.

**Parking Fund Contribution.** For an applicant that obtains variance or waiver relief for fewer parking spaces than required by §85-13.1.H(1) and (2) above, a payment shall be made to the Borough in the amount to be determined for each parking space in which said relief has been granted.

The fee required under this §85-13.1.H(3)c shall only apply to new deficiencies in parking spaces resulting from a change in use.

An applicant is permitted to pay the fee in lieu of parking for not more than half of its required parking.

An applicant requesting to pay the fee in lieu of more than half of its required parking must receive permission from the Borough, based on a determination that the applicant cannot provide adequate parking on- or off-site without

compromising the economic viability of the proposed residential and non-residential use, and that there are no available shared parking opportunities meeting the requirements of this chapter.

The said payment shall be deposited by the Borough into a dedicated account designated as "The Borough of Ho-Ho-Kus Parking Fund." The payment shall be due prior to issuance of a building permit. Any funds deposited into said account shall be utilized by the Borough for the express purpose of installing, replacing or repairing parking spaces or parking lots on sites to be determined by the Borough Engineer, upon proper authorization from the Governing Board.

An applicant may request of the Governing Body a waiver or modification of the payment upon showing of good cause.

Per New Jersey Department of Transportation Bicycle Compatible Roadways and Bikeways design guidelines, all facilities that provide parking to the public shall provide parking for bicycles at the rate of one bicycle parking space per 10 automobile parking spaces for the first 100 parking stalls and one bicycle space for every 20 automobile parking spaces beyond that.

#### Circulation

On-site parking shall be designed to avoid the backing out of vehicles onto public rights-of-way, except for townhouses where an individual townhouse unit's garage and associated parking apron is designed to allow one to back out directly onto a public right of way.

For any new buildings with frontage on Maple Avenue, the Borough encourages the developer to attempt to connect driveways to Brookside Avenue or First Street before resorting to connecting the driveway to Maple Avenue

#### Landscaping in Parking Areas

At least 15% of the ground area of parking lots (including driveways) shall be devoted to landscaping along the street right-of-way.

Parking areas shall be provided with landscaping along adjoining streets and properties with plant material, fencing or a wall. Interior parking lot landscaping shall also be required. Landscaped areas should be located in protected areas such as along walkways, in center islands, or at the end of parking bays and shall be distributed throughout the parking area to mitigate the view of the parked vehicles without interfering with adequate sight distance for vehicles or pedestrians. The landscaping shall consist of hardy, low-maintenance varieties of trees, and shrub plantings no higher than three feet unless otherwise directed by the Board.

One shade tree, with a minimum caliper size of two and a half (2.5) to three (3) inches at time of planting, measured three feet above the ground, shall be provided for every 10 parking spaces. Trees shall be staggered and/or spaced so as not to interfere with driver vision and shall have branches no lower than six feet.

Loading areas shall be screened with landscaping, fencing, berms, walls or any combination thereof and shall not be less than six feet in height. The screening shall be sufficient to at least partially obscure the view of parked vehicles, loading platforms and loading activities.

Parking located in a side yard must be screened from the public right-of-way by a fence designed and composed of materials that complement or enhance the architecture of the neighborhood.

#### Flood Plain:

Within the Flood Fringe area, parking must be compliant with N.J.A.C. 7:13-11.6.

Parking located outside of the flood hazard area may be below-grade.

Design Standards: The following are design standards; deviations from these standards require waiver relief.

Context: Development in overlay zones shall be sensitive to the established and historic context of its surrounding developed character, in recognition of the fact that a cohesive built environment is an essential component of the Borough's character. In an effort to ensure a visually attractive environment, new buildings and reconstructions are encouraged to incorporate such building elements as recessed or extended entrances, enhanced corner treatments, graphic panels, display windows, and vertical and horizontal articulations, as detailed below. The following design and related streetscape standards are to be addressed as part of all development applications in the Overlay Zones.

#### Goals of Design Standards:

To provide designs that complement the historic developed character of the Downtown and its surrounding neighborhoods, through appropriate massing, scale, use of building materials and original architectural details, and fenestration.

To provide multi-story buildings to be designed with horizontal and vertical articulation to facilitate an enhanced visual interest in the neighborhood's architecture, and discourage buildings that are characterized by non-descript blank walls.

To provide the use of such building materials as brick, wood, native stone and clapboard to ensure complementary visual interest such as is found in the neighborhood, and discourage use of vinyl, cement block and aluminum.

Provide at-grade retail storefronts to be developed with facades that are characterized by substantial window areas as a total proportion of the first story elevation to maximize visibility of store interiors, and thereby enhance visual interest for pedestrian experiences

#### Building Design Elements:

##### Façade design

Horizontal articulation between floors. Each facade should be designed to have a delineated floor line between street level and upper floors. This delineation can be in the form of a masonry belt course, a concrete lintel or a cornice line delineated by wood detailing.

Vertical articulation. Each building facade facing a public right-of-way must have elements of vertical articulation comprised of columns, piers, recessed windows or entry designs, overhangs, ornamental projection of the molding, different exterior materials or wall colors, or recessed portions of the main surface of the wall itself. The vertical articulations shall be designed in accordance with the following:

Each vertical articulation shall be no greater than thirty (30) feet apart.

Each vertical articulation shall be a minimum of one (1) foot deep.

Each vertical projection noted above may extend into the required front yard a maximum of eighteen (18) inches in

depth.

Buildings with expansive blank walls are prohibited.

Fenestration.

At least sixty percent (60%) of the first floor of retail building frontage shall be clear window glass. This percentage shall be calculated within the area of the building facade that is located between three (3) feet and ten (10) feet above sidewalk level.

A minimum of forty percent (40%) of the front entrance of retail development shall consist of glass in order to maximize the visibility of store interiors.

Materials. Exterior building materials shall be classified as either primary, secondary or accent materials. The facade shall be designed in accordance with the following:

The primary material shall cover at least sixty percent (60%) of the facade of the building.

Secondary materials shall cover not more than forty percent (40%) of the facade.

Roof lines/building height.

The top of all buildings must be capped by a cornice or sloping roof element.

An additional five (5) feet in height for ornamentation such as parapets and cornices is permitted.

All roof-mounted equipment, such as HVAC units, shall be screened from public view by use of parapet walls, as regulated elsewhere in this ordinance, provided that, the maximum height for screening roof-mounted elevator equipment shall be eight feet, with such screening set back minimally ten feet from the edge of the roof.

Awnings and canopies. See §85-37.2, Awnings, Canopies and Marquees.

Multi-Family Design.

The placement of multi-family buildings, including mixed use buildings, within overlay zones shall be harmonious in architectural style with the other buildings in the immediate area.

Angled walls, enlarged foyer or atrium areas, and building articulation are encouraged.

Townhouse Design

For townhouses, a maximum of six dwelling units in a single row with a minimum offset of two feet between every two dwelling units is encouraged.

The rooflines of at least 30% of the number of units attached in a structure are to be staggered in height by not less than 2.5 feet of the height of the rooflines of the other units in such structures, and/or by other features which will provide relief or articulation to the roofline.

Streetscape design.

All properties shall comply with the following requirements.

Where buildings are setback from the street ten (10) feet or more a landscaped area with a minimum width of five (5) feet

shall be provided.

All sidewalks installed in along the property frontage in portions of the GB or R-2 zones within the Downtown Overlay shall be decorative paver sidewalks or decoratively scored concrete, consistent with the existing streetscape.

Streetscape amenities such as benches, decorative artwork, bike racks, trash receptacles, etc. shall be incorporated as part of the streetscape, as deemed appropriate.

Street trees shall be provided along all public rights-of-way in accordance with the following standards:

Street trees should be located at a minimum distance of forty (40) feet on center. The exact spacing and planting location shall be evaluated on a site-specific basis and adjusted to reflect the neighborhood and existing or proposed buildings to minimize potential obstruction and visibility impacts on wall business signage.

Trees shall have a minimum caliper size of two and a half (2.5) to three (3) inches at time of planting.

Garbage and recycling containers shall be located in the rear yard where that yard is accessible by collection vehicles. If the rear yard is not accessible by collection vehicles, the containers may be located in the side yard or inside the building. If the containers are stored outdoors, they must be screened by a fence or other enclosure. Landscaping is encouraged around the enclosure.

Outdoor dining / cafes:

Outdoor dining / cafes, where proposed, may be located on sidewalks, plazas, and courtyards immediately adjacent to any eating and food establishment. Such facilities shall be provided in a manner that pedestrian circulation or access to store entrances is not impaired.

The operation of an outdoor cafe shall be located such that there is at least four (4) feet of clear and unobstructed passageway between the tables, chairs, and barriers and street trees, bike racks, lampposts, sign posts, and any other fixtures or obstructions. The approving authority may require more than four (4) feet to protect public safety if they deem necessary because of site-specific conditions.

The area occupied by the outdoor cafe must be located at least ten (10) feet from any driveway.

A screen visually separating adjacent at-grade residential units from the proposed outdoor cafe area must be provided. The screening may include landscaping, screen walls, and/or fencing materials or any combination thereof.

Umbrellas, awnings, canopies, and heating units are permitted in outdoor cafe areas.

All outdoor café areas shall be designed in compliance with the Americans with Disabilities Act (ADA) guidelines.

Landscape Standards:

A landscape plan prepared by a licensed Landscape Architect, licensed by the New Jersey State Board of Architects, or other qualified individual, shall be submitted with any plan for development.

All portions of the property not utilized by buildings or paved surfaces shall be landscaped utilizing combinations such as landscaped fencing, shrubbery, lawn area, ground cover, existing vegetation, and the planting of coniferous and/or deciduous trees native to the area in order to maintain or reestablish the vegetation in the area and lessen the visual

impact of the structures and paved areas.

Landscaping shall be designed to achieve a thorough integration of the various elements of site design, including building and parking placement and natural features.

The use of passive systems such as raingardens to offset offsite stormwater discharge shall be utilized to the extent feasible.

Water conservation measures such as drip irrigation and soil moisture-sensing irrigation systems shall be used where practicable.

Section II. Repealer. All ordinances or Code provisions or parts thereof inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

Section III. Severability. If any section, subsection, paragraph, sentence or any other part of this ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance.

Section IV. Effective Date. This ordinance shall take effect upon its passage and publication, as required by law.

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Borough Council of the Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey, held on June 27, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the Borough Council to be held in the meeting room of Borough Hall, 333 Warren Avenue, in the Borough of Ho-Ho-Kus on July 25, 2017 at 7:00 p.m., and during the week prior and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's Office to the members of the general public who shall request the same.

.Motion: Councilmember Rorty

Second: Councilmember Crossley

Absent; Councilmember Iannelli

## FINAL PASSAGE OF ORDINANCES

- Ord# 2017-06 "Bond Ordinance"

BOND ORDINANCE TO AUTHORIZE THE MAKING OF VARIOUS PUBLIC IMPROVEMENTS AND THE ACQUISITION OF NEW ADDITIONAL OR REPLACEMENT EQUIPMENT AND MACHINERY AND NEW AUTOMOTIVE VEHICLES, INCLUDING ORIGINAL APPARATUS AND EQUIPMENT, IN, BY AND FOR THE BOROUGH OF HO-HO-KUS, IN THE COUNTY OF BERGEN, STATE OF NEW JERSEY, TO APPROPRIATE THE SUM OF \$850,000 TO PAY THE COST THEREOF, TO MAKE A DOWN PAYMENT, TO AUTHORIZE THE ISSUANCE OF BONDS TO FINANCE SUCH APPROPRIATION AND TO PROVIDE FOR THE ISSUANCE OF BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SUCH BONDS.

BE IT ORDAINED by the Borough Council of the Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey, as follows.

Section I. The Borough of Ho-Ho-Kus, in the County of Bergen, State of New Jersey (the "Borough") is hereby authorized to make various public improvements and to acquire new additional or replacement equipment and machinery and new automotive vehicles, including original apparatus and equipment, in, by and for said Borough, as more particularly described in Section 4 hereof. The cost of the improvements includes all work, materials and appurtenances necessary and suitable therefor.

Section 2. There is hereby appropriated to the payment of the cost of making the improvements described in Sections 1 and 4 hereof (hereinafter referred to as "purposes"), the respective amounts of money hereinafter stated as the appropriation for said respective purposes. Said appropriation shall be met from the proceeds of the sale of the bonds authorized and the down payment appropriated by this ordinance. Said improvements shall be made as general improvements and no part of the cost thereof shall be assessed against property specially benefited.

Section 3. It is hereby determined and stated that the making of such improvements is not a current expense of said Borough.

Section 4. The several purposes hereby authorized for the financing of which said obligations are to be issued are set forth in the following "Schedule of Improvements, Purposes and Amounts" which schedule also shows (1) the amount of the appropriation and the estimated cost of each such purpose, and (2) the amount of each sum which is to be provided by the down payment hereinafter appropriated to finance such purposes, and (3) the estimated maximum amount of bonds and notes to be issued for each such purpose, and (4) the period of usefulness of each such purpose, according to its reasonable life, computed from the date of said bonds.

SCHEDULE OF IMPROVEMENTS, PURPOSES AND AMOUNTS

A. Undertaking the resurfacing of various roads in the Borough (including drainage improvements and reconstruction of curbs, where necessary) as the 2017 Road Resurfacing Program, as set forth on a list on file or to be placed on file with the Borough Clerk, and hereby approved as if set forth herein in full. Depending upon the contract price and other exigent circumstances, and upon approval by the Borough Council, there may be additions to or deletions from the aforesaid list. It is hereby determined and stated that said roads being improved are of "Class B" or equivalent construction as defined in Section 22 of the Local Bond Law (Chapter 2 of Title 40A of the New Jersey Statutes Annotated, as amended; the "Local Bond Law").

Appropriation and Estimated Cost	\$ 300,000
Down Payment Appropriated	\$ 14,300
Bonds and Notes Authorized	\$ 285,700
Period of Usefulness	10 years

B. Acquisition of new automotive vehicles, including original apparatus and equipment, for the use of the Department of Public Works ("DPW") consisting of (i) a truck chassis for a salter, (ii) a bucket truck and (iii) a roll-off truck.

Appropriation and Estimated Cost	\$ 355,000
Down Payment Appropriated	\$ 18,400
Bonds and Notes Authorized	\$ 336,600
Period of Usefulness	5 years

C. Acquisition of new additional or replacement equipment and machinery consisting of a front end loader for the use of the DPW.

Appropriation and Estimated Cost	\$ 195,000
Down Payment Appropriated	\$ 9,300
Bonds and Notes Authorized	\$ 185,700
Period of Usefulness	15 years
Aggregate Appropriation and Estimated Cost	\$850,000
Aggregate Down Payment Appropriated	\$ 42,000
Aggregate Amount of Bonds and Notes Authorized	\$808,000

Section 5. The cost of such purposes, as hereinbefore stated, includes the aggregate amount of \$30,000 which is estimated to be necessary to finance the cost of such purposes, including architect's fees, accounting, engineering and inspection costs, legal expenses and other expenses, including interest on such obligations to the extent permitted by Section 20 of the Local Bond Law.

Section 6. It is hereby determined and stated that moneys exceeding \$42,000, appropriated for down payments on capital improvements or for the capital improvement fund in budgets heretofore adopted for said Borough, are now available to finance said purposes. The sum of \$42,000 is hereby appropriated from such moneys to the payment of the cost of said purposes.

Section 7. To finance said purposes, bonds of said Borough of an aggregate principal amount not exceeding \$808,000 are hereby authorized to be issued pursuant to the Local Bond Law. Said bonds shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law. All matters with respect to said bonds not determined by this ordinance shall be determined by resolutions to be hereafter adopted.

Section 8. To finance said purposes, bond anticipation notes of said Borough of an aggregate principal amount not exceeding \$808,000 are hereby authorized to be issued pursuant to the Local Bond Law in anticipation of the issuance of said bonds. In the event that bonds are issued pursuant to this ordinance, the aggregate amount of notes hereby authorized to be issued shall be reduced by an amount equal to the principal amount of the bonds so issued. If the aggregate amount of outstanding bonds and notes issued pursuant to this ordinance shall at any time exceed the sum first mentioned in this section, the moneys raised by the issuance of said bonds shall, to not less than the amount of such excess, be applied to the payment of such notes then outstanding.

Section 9. Each bond anticipation note issued pursuant to this ordinance shall be dated on or about the date of its issuance and shall be payable not more than one year from its date, shall bear interest at a rate per annum as may be hereafter determined within the limitations prescribed by law and may be renewed from time to time pursuant to and within limitations prescribed by the Local Bond Law. Each of said bond anticipation notes shall be signed by the Mayor and by a financial officer and shall be under the seal of said Borough and attested by the Borough Clerk or Deputy Borough Clerk. Said officers are hereby authorized to execute said notes in such form as they may adopt in conformity with law. The power to determine any matters with respect to said notes not determined by this ordinance and also the power to sell said notes, is hereby delegated to the Chief Financial Officer who is hereby authorized to sell said notes either at one time or from time to time in the manner provided by law.

Section 10. It is hereby determined and declared that the average period of usefulness of said purposes, according to their reasonable lives, taking into consideration the respective amounts of bonds or notes authorized for said purposes, is a period of 9.06 years computed from the date of said bonds.

Section 11. It is hereby determined and stated that the Supplemental Debt Statement required by the Local Bond Law has been duly made and filed in the office of the Borough Clerk of said Borough, and that such statement so filed shows that the gross debt of said Borough, as defined in Section 43 of the Local Bond Law, is increased by this ordinance by \$808,000 and that the issuance of the bonds and notes authorized by this ordinance will be within all debt limitations prescribed by said Local Bond Law.

Section 12. Any funds received from private parties, the County of Bergen, the State of New Jersey or any of their agencies or any funds received from the United States of America or any of its agencies in aid of such purposes, shall be applied to the payment of the cost of such purposes, or, if bond anticipation notes have been issued, to the payment of the bond anticipation notes, and the amount of bonds authorized for such purposes shall be reduced accordingly.

Section 13. The Borough intends to issue the bonds or notes to finance the cost of the improvements described in Sections 1 and 4 of this bond ordinance. If the Borough incurs such costs prior to the issuance of the bonds or notes, the Borough hereby states its reasonable expectation to reimburse itself for such expenditures with the proceeds of such bonds or notes in the maximum principal amount of bonds or notes authorized by this bond ordinance.

Section 14. The full faith and credit of the Borough are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this ordinance. Said obligations shall be direct, unlimited and general obligations of the Borough, and the Borough shall levy ad valorem taxes upon all the taxable real property within the Borough for the payment of the principal of and interest on such bonds and notes, without limitation as to rate or amount.

Section 15. The capital budget is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith and the resolutions promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director, Division of Local Government Services, is on file with the Borough Clerk and is available for public inspection.

Section 16. This ordinance shall take effect twenty days after the first publication thereof after final passage.

Motion: Councilmember Rorty

Second: Councilmember Crossley

Absent: Councilmember Iannelli

- Ord # 2017-07 "Vehicles and Traffic"

BE IT ORDAINED by the Mayor and Council of the Borough of Ho-Ho-Kus, County of Bergen and State of New Jersey that in accordance with the provisions of Chapter 79-2B, the following is added to Schedule I:

Name of Street	Side	Location
Sycamore Avenue (west side of the Street) by rear driveway of Borough Hall	West	For a distance of 20 feet north and 20 feet south of the driveway

Chapter 79-34 On-Street Handicapped Parking Spaces is amended to add thereto the following:

Street	Number of Spaces	Location
Warren Avenue	One	333 Warren Avenue
Ross Place	One	216 Ross Place

I. Severability. If any portion of this Article is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of this Article but shall be confined in its effect to the provision directly involved in the controversy in which such judgment shall have been rendered.

II. Repealer. All other provisions of this Chapter which are not affected by this Article are hereby ratified and confirmed and shall remain in full force and effect. However, all ordinances or parts of ordinances which is inconsistent with the provisions of this Article are hereby repealed to the extent of such inconsistency.

III. Effective Date. This Article shall take effect after final passage and publication as required by law.

Motion: Councilmember Shell

Second: Councilmember Rorty

Absent: Councilmember Iannelli

- Ord # 2017-08 "Police Promotion"

AN ORDINANCE TO AMEND, AND SUPPLEMENT CHAPTER 46 OF THE CODE OF THE BOROUGH OF HO-HO-KUS SO AS TO MODIFY THE PROMOTIONAL PROCESS FOR POLICE OFFICERS

WHEREAS, the Borough of Ho-Ho-Kus has heretofore adopted Chapter 46 of the Code of the Borough of Ho-Ho-Kus, so as to establish the Ho-Ho-Kus Police Department, the organization thereof, and matters pertaining thereto; and

WHEREAS, the Borough of Ho-Ho-Kus wishes to amend said Chapter, and particularly to amend §46-9 of said

Chapter, so as to modify the promotional process for police officers;

NOW THEREFORE BE IT ORDAINED by the Mayor and Borough Committee of the Borough of Ho-Ho-Kus, that Chapter 46-9 of the Code of the Borough of Ho-Ho-Kus be amended and replaced in its entirety with the following:

I. General

- A. So as to provide all eligible candidates for promotion with fair notice and equal access to the promotional process, and to identify the most qualified members of the department for promotion to leadership positions within the department, the following promotional process shall be employed for promotions to all superior positions (Sergeant, Lieutenant, and Captain), other than the Chief of Police.
- B. The promotional process shall be governed by state law and in compliance with N.J.S.A. 40A:14-129, which provides that a promotion of any member or officer of the police department to a superior position shall be made from the membership of the department and due consideration shall be given to the length and merit of his/her service and preference shall be given according to seniority in service. The Chief of Police shall be responsible for the administration of the promotional process.

II. Promotion to the Rank of Sergeant

A. Eligibility

- 1. No person shall be eligible for promotion to the rank of Sergeant unless the candidate has served as a police officer with the Ho-Ho-Kus Police Department for at least five (5) years, and possess a minimum of an Associate's Degree (A.A.) or its equivalent, i.e. a minimum of 60 college credits, preferably in a social science, although not required.

B. The testing process for the above position will consist of the following:

- 1. Written examination administered by the New Jersey State Association of Chiefs of Police ("Chief's Association") or such other written examination approved by the Governing Body and administered by the Chief of Police.

- a. The written examination shall account for fifty (50%) percent of a candidate's total promotional score, up to a maximum of 50 total points.

Each candidate's total point score for the written examination shall be computed by taking a candidate's score on the written exam (which exam shall have 100 points as its maximum score) and multiplying same by 50%. By way of example, a candidate receiving a score of 80 points on his/her written examination shall receive 40 total points for the written examination element of the promotional process (80 x 50% = 40 total points).

To be eligible to proceed to the oral examinations by the Interview Panel and the Appropriate Authority, a candidate must achieve a minimum score of 70 points out of said maximum of 100 points on the written examination (i.e. at least 35 total points).

If the number of vacancies in the rank is equivalent to the number of applicants to the position, a written examination is still required. Promotion to the rank of Sergeant will be subject to passing the exam with a score of at least 35 total points.

- 2. Oral examination administered by an Interview Panel (the "Interview Panel") comprised of the following persons: the Chief of Police, the Borough Administrator, one member of the Public Safety Committee and one (1) command staff member designated by the Chief of Police.

- a. Only those candidates who have achieved a score of 70 points or greater (out of the maximum of 100 points) on the written examination shall be permitted to sit for an oral examination by the Interview Panel (i.e. at least 35 total points). Oral examinations by the Interview Panel shall take place after the receipt of the written examination scores.
- b. The Interview Panel's oral examination and assessment (which examination and assessment shall have 100 points as its maximum score) shall account for twenty-five (25%) percent of the candidate's total promotional score, with 25 total points being the highest possible score for such oral examination and assessment. By way of example, a candidate receiving a score of 80 points on his/her oral examination by the Interview Panel shall receive 20 total points for the Interview Panel's oral examination element of the promotional process (80 x 25% = 20 total points). The oral examination and assessment by the Interview Panel shall include an evaluation of the following criteria: commendations, employee reviews, disciplines and early intervention summaries, annual performance evaluations, merit, overall performance, demonstrated ability and accomplishments, efforts supporting department goals and objectives, in-service education and specialized schools, specialized job assignments, responsibilities, subsequent performance, attitude and demeanor, education, military experience, leadership ability, initiative, productivity, attitude toward peers, supervising officers recommendations, motivation and morale, previous job performance, loyalty to the department and community, experience and career development training. The Interview Panel shall utilize the same criteria for each of the candidates who are interviewed for the open position(s).
- c. Candidates will be interviewed by the Appropriate Authority, or its designee, after the completion of the oral examination by the Interview Panel and after the Appropriate Authority's receipt of the results of the Interview Panel's oral examination. The Chief of Police shall be available to the Appropriate Authority during such process, and may sit in on such process, for advice and counsel. However, the scoring of this portion shall be computed by the Appropriate Authority only. This evaluation shall have 100 points as its maximum score) shall account for twenty-five (25%) percent of the candidate's total promotional score, with 25 total points being the highest possible score. By way of example, a candidate receiving a score of 80 points shall receive 20 total points (80 x 25% = 20 total points).
- d. Due consideration shall be given to the eligible candidate for promotion based upon length of service and merit of service and preference shall be given according to seniority pursuant to N.J.S.A. 40A:14-129.

### III. Promotion to the Rank of Lieutenant and Captain

#### A. Eligibility

No person shall be eligible for promotion to the rank of Lieutenant or Captain unless the candidate has served as a Sergeant for the Ho-Ho-Kus Police Department for three (3) years.

#### B. The selection process will consist of the following:

1. Oral examination administered by an Interview Panel (the "Interview Panel")

comprised of the following persons: the Chief of Police, the Borough Administrator, one member of the Public Safety Committee and one (1) command staff member designated by the Chief of Police.

- a. The oral examination and assessment by the Interview Panel (which examination and assessment shall have 100 points as its maximum score) shall account for sixty (60%) percent of the candidate's total promotional score, with 60 total points being the highest possible total score for the Interview Panel's oral examination and assessment. By way of example, a candidate receiving a score of 80 points on his/her oral review and assessment by the Interview Panel shall receive 48 total points for the Interview Panel oral review and assessment element of the promotional process ( $80 \times 60\% = 48$  total points).
- b. The oral examination and assessment by the Interview Panel shall include and evaluation of the following criteria: commendations, employee reviews, disciplines and early intervention summaries, annual performance evaluations, merit, overall performance, demonstrated ability and accomplishments, efforts supporting department goals and objectives, in-service education and specialized schools, specialized job assignments, responsibilities, subsequent performance, attitude and demeanor, education, military experience, leadership ability, initiative, productivity, attitude toward peers, supervising officers recommendations, motivation and morale, previous job performance, loyalty to the department and community, experience and career development training. The Interview Panel shall utilize the same criteria for each of the candidates who are interviewed for the open position(s).
- c. Candidates will be interviewed by the Appropriate Authority, or its designee, after the completion of the oral examination by the Interview Panel and after the Appropriate Authority's receipt of the results of the Interview Panel's oral examination. The Chief of Police shall be available to the Mayor and Council during such process, and may sit in on such process, for advice and counsel. However, the scoring of this portion shall be computed by the Appropriate Authority only. This evaluation shall have 100 points as its maximum score) shall account for forty (40%) percent of the candidate's total promotional score, with 40 total points being the highest possible score. By way of example, a candidate receiving a score of 80 points shall receive 32 total points ( $80 \times 40\% = 32$  total points).
- d. Due consideration shall be given to the eligible candidate for promotion based upon length of service and merit of service and preference shall be given according to seniority pursuant to N.J.S.A. 40A:14-129.

#### IV. Procedure for Conduct of Promotional Process

- A. The Chief of Police shall obtain permission from the Governing Body to hold a promotional examination process. After having received such approval, the Chief of Police, or such other person as designated by the Governing Body, shall provide a written announcement of the promotional process to all eligible personnel.
- B. The announcement shall include the eligibility requirements for the position and shall include a description of the promotional process and should indicate to the candidates the format, length, and

duration of any examinations, together with a description of any other portions of the promotional process, and the date by which they must submit a written request to participate in the promotional process.

C. Candidates for promotion, in order to participate in the promotional process, shall be required to submit a written request to participate in such process and a current resume to the Chief of Police, or his designee, prior to the closing date set forth in the announcement.

E. No person shall be eligible to participate in the promotional process unless (s)he has submitted a written request to participate in such process and current resume prior to the deadline set forth by the Chief of Police.

V. Eligibility List

A. After the expiration of the time for filing an appeal as set forth below, and after the disposition of any such appeal, the Chief of Police shall submit an eligibility list to the Appropriate Authority following the promotional process for final determination.

B. The Appropriate Authority will authorize the Chief of Police to maintain this eligibility list for a period of two years (24 months), in the event that vacancies fall within that time. The period will start upon the passing of the resolution promoting the officer(s) to the new rank.

VI. Approval of Appropriate Authority

A. The Appropriate Authority shall have the final decision on all promotions after consultation with the Chief of Police

VII. Appeal of Process

Within ten (10) days of the notification to each candidate of his/her ranking, a candidate may file a written appeal directed to the Chief of Police. Said written appeal must contain the reason(s) or justification for the appeal. As part of any appeal, any candidate may review his or her evaluation or any other internal document pertaining to the candidate that was utilized in the promotional process.

The Chief of Police will assess the request for appeal and make a determination as to how the request will be addressed, on a case by case basis. Scores on the written examination shall be final and not subject to appeal. If the Chief determines the appeal should move forward, any appeals of the oral examinations or other section of this procedure shall be decided by the Governing Body, within 10 days from the filing of the appeal. The Governing Body shall make a written decision on the appeal together with a brief statement of the reasons therefore. All decisions by the Governing Body on appeal shall be final.

Except as modified herein, all other provisions of Chapter 46 shall remain in full force and effect as previously adopted.

Motion: Councilmember Rorty

Second: Councilmember Fiato

Absent: Councilmember Iannelli

RESOLUTIONS

None

CONSENT RESOLUTION

- Liquor License Renewals.  
#17-63 Ho-Ho-Kus Inn and Tavern LLC

WHEREAS, application has been made by certain persons and corporations for the renewal of Plenary Retail Consumption and

Plenary Retail Distribution licenses for the year commencing July 1, 2017 and terminating June 30, 2018;  
WHEREAS, no complaints or objections have been filed with the Borough Clerk against said persons or corporations; and  
WHEREAS, the Police Department of the Borough of Ho-Ho-Kus has not received any complaints of violations of Alcoholic Beverage Control regulations by any of the applicants hereinafter named; and  
WHEREAS, the said applicants have filed the necessary forms and have paid the required fees for said licenses;  
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the following Plenary Retail Distribution licenses be issued.

Ho-Ho-Kus Inn & Tavern LLC

(0228-33-002-010)

#17-64 Red Cellar Inc

WHEREAS, application has been made by certain persons and corporations for the renewal of Plenary Retail Consumption and Plenary Retail Distribution licenses for the year commencing July 1, 2017 and terminating June 30, 2018;  
WHEREAS, no complaints or objections have been filed with the Borough Clerk against said persons or corporations; and  
WHEREAS, the Police Department of the Borough of Ho-Ho-Kus has not received any complaints of violations of Alcoholic Beverage Control regulations by any of the applicants hereinafter named; and  
WHEREAS, the said applicants have filed the necessary forms and have paid the required fees for said licenses;  
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the following Plenary Retail Distribution licenses be issued.

Red Cellar Inc

(0228-44-003-007)

#17-65 Russak Inc

WHEREAS, application has been made by certain persons and corporations for the renewal of Plenary Retail Consumption and Plenary Retail Distribution licenses for the year commencing July 1, 2017 and terminating June 30, 2018;  
WHEREAS, no complaints or objections have been filed with the Borough Clerk against said persons or corporations; and  
WHEREAS, the Police Department of the Borough of Ho-Ho-Kus has not received any complaints of violations of Alcoholic Beverage Control regulations by any of the applicants hereinafter named; and  
WHEREAS, the said applicants have filed the necessary forms and have paid the required fees for said licenses;  
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the following Plenary Retail Distribution licenses be issued.

Russak Inc

(0228-44-004-005)

#17-66 Garbo's Italian Deli Inc

WHEREAS, application has been made by certain persons and corporations for the renewal of Plenary Retail Consumption and Plenary Retail Distribution licenses for the year commencing July 1, 2017 and terminating June 30, 2018;  
WHEREAS, no complaints or objections have been filed with the Borough Clerk against said persons or corporations; and  
WHEREAS, the Police Department of the Borough of Ho-Ho-Kus has not received any complaints of violations of Alcoholic Beverage Control regulations by any of the applicants hereinafter named; and  
WHEREAS, the said applicants have filed the necessary forms and have paid the required fees for said licenses;  
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Ho-Ho-Kus that the following Plenary Retail Distribution licenses be issued.

Garbo's Italian Deli Inc.

(0228-44-001-005)

- #17-67 Chapter 159- Clean Communities

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of

any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough received \$9,173.35 from the Clean Communities Program and wishes to amend its 2017 Budget to the entire portion of this amount as a revenue.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Ho-Ho-Kus, in the County of Bergen, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the year 2017 in the sum of \$9,173.35 which is now available as a revenue from the Clean Communities Program.

Miscellaneous Revenues

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:

Public and Private Revenues Offset with Appropriations (continued)  
Clean Communities Program, and;

BE IT FURTHER RESOLVED that a like sum of \$9,173.35 be and the same is hereby appropriated under the caption of:

General Appropriations

(a) Operations Excluded from Caps

Public and Private Programs Offset by Revenues: Clean Communities Program.

Other Expenses

BE IT FURTHER RESOLVED, that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

• # 17-68 Chapter 159-Alcohol Rehabilitation

WHEREAS, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

WHEREAS, the Borough will receive \$321.70 from the Alcohol Ed. Rehab. Fund and wishes to amend its 2017 Budget to the entire portion of this amount as a revenue.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and Council of the Borough of Ho-Ho-Kus, in the County of Bergen, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the Budget of the year 2017 in the sum of \$321.70 which is now available as a revenue from the State of New Jersey

Miscellaneous Revenues

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:

Public and Private Revenues Offset with Appropriations  
Alcohol Ed. Rehab. Enforcement Fund

BE IT FURTHER RESOLVED that a like sum of \$321.70 be and the same is hereby appropriated under the caption of:

General Appropriations

(a) Operations Excluded from Caps

Public and Private Programs Offset by Revenues: Alcohol Ed. Rehab. Enforcement Fund

Other Expenses

BE IT FURTHER RESOLVED, that the Borough Clerk forward two copies of this resolution to the Director of Local Government Services.

- # 17-69 Cooperative Purchasing-NJPA

WHEREAS, N.J.S.A. 52:34-6.2 authorizes contracting units to purchase goods, or to contract for services, may make purchases and contract for services through the use of a nationally-recognized and accepted cooperative purchasing agreement that has been developed utilizing a competitive bidding process by another contracting unit within the State of New Jersey, or within any other state, when available; and

WHEREAS, the nationally-recognized National Joint Powers Alliance Cooperative pricing System, hereafter referred to as NJPA Cooperative Purchasing System, has offered voluntary participation in the national cooperative purchasing agreement for the purchase of goods and services; and

WHEREAS, it is the desire of the Borough of Ho-Ho-Kus to join the NJPA Cooperative Purchasing System to purchase goods and services, to make the procurement process more efficient and to provide cost savings to the borough,

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Ho-Ho-Kus, County of Bergen, State of New Jersey as follows:

1. That the governing body of the Borough of Ho-Ho-Kus hereby authorizes the Mayor and Municipal Clerk to enter into a member participation agreement and to participate in the NJPA Cooperative Pricing System for Calendar Year 2017.
2. The Township shall be responsible to ensure that the goods and or services procured through the NJPA Cooperative Purchasing System comply with all applicable laws of the State of New Jersey, Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes of the State of New Jersey

- # 17-70 Professional Services

WHEREAS, the Planning Board of the Borough of Ho-Ho-Kus ("Board") is in need of the services of a professional planning consultant to provide planning services in connection with the preparation of a Periodic Re-examination Report ("Report") with respect to the 2013 Master Plan pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-89; and

WHEREAS, the Board adopted a resolution authorizing such services by Edward Snieckus, Jr. P.P. of the firm of Burgis Associates, Inc.; and

WHEREAS, a copy of the Board Resolution is attached hereto and incorporated herein by reference; and

WHEREAS, the Chief Financial Officer has attached hereto a Certification that adequate funds are available and budgeted to pay for the planning services set forth in said Resolution at a cost not to exceed \$5,000.00;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body, that: 1. It does hereby ratify the Resolution of the Board; 2. The appropriate Borough officials are hereby authorized to allocate sufficient funds for payment of such professional planning services set forth herein;

- # 17-71 Payment of Vouchers

WHEREAS, claims have been submitted to the Borough of Ho-Ho-Kus in the amount of \$2,533,358.20

WHEREAS, such claims have been listed according to Department and account number with corresponding vouchers to be reviewed and approved by the Mayor and Council; and,

WHEREAS, the CFO has determined that the funds have been properly appropriated for such purposes and are available, in the Borough of Ho-Ho-Kus and that the claims specified on the schedule attached hereto, following examination and approval by the Mayor and Council, be paid and checks issued accordingly; and,

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Ho-Ho-Kus that the claims totaling \$2,533,358.20 be approved and ratified respectively

Motion: Councilmember Troast  
Second: Councilmember Rorty  
Absent: Councilmember Iannelli

### OLD BUSINESS

A. Liaison Reports:

1. Recreation

None

2. Board of Education

None

3. Other

a. Ambulance

Councilmember Crossley: Attended ambulance Corps meeting. The Corps responded to 189 calls for the month June. Three (3) new members joined, Two (2) more possible members attending school. Four current members will be away to college in the fall. We need more daytime members. The Corps is looking to purchase an automatic CPR machine (LUCAS)

b. Fire

None

c. Library

None

B. Shade Tree

None

C. Chamber of Commerce

Councilmember Shell: Taste of Ho-Ho-Kus was a success. 236 tickets were sold. The Garden club is looking to acquire a grant for the upkeep of the park and the Gazebo. Discussions the closing of the street by the train station and how it will affect the merchants. Mayor Randall commented that it is the decision of DOT and that the borough has no say in the matter. The borough mentioned our concerns to the DOT. Mr. Jones stated that he reached out to the Ridgewood manager to have a joint discussion with the DOT.

### NEW BUSINESS

Chief Minchin: Radio systems should be up and running shortly. All radios installed in the police vehicles.

### MAYOR'S REMARKS

Mayor Randall: Attended the ECLC graduation it was very rewarding. Good group of volunteers. He also attended the Eagle ceremony and the HHK School award ceremony.

### CLOSED SESSION

Contract and Personnel

### ADJOURNMENT

With no further discussion to come before the Council Mayor Randall adjourned the meeting at 8:10 PM.

Motion: Councilmember Rorty

Second: Councilmember Troast

Absent Councilmember Iannelli.

Respectfully Submitted,

Laura Borchers, RMC/CMR  
Borough Clerk.