

ORDINANCE NO. 3572-21

**AN ORDINANCE TO AMEND AND REVISE CHAPTER 109 "STREETS AND SIDEWALKS"
MORE SPECIFICALLY §109-9 THEREIN ENTITLED "MAINTENANCE REQUIRED" OF THE
BOROUGH CODE OF THE BOROUGH OF RUTHERFORD**

WHEREAS the Governing Body of the Borough of Rutherford believes it is in the best interest of the Borough to Amend and Revise §109-9 entitled "Maintenance Required" of the Borough Code.

BE IT ORDAINED by the Mayor and Council of Rutherford, County of Bergen, State of New Jersey, as follows:

SECTION 1. §109-9 of the Borough Code of the Borough of Rutherford, entitled "Maintenance required" is hereby amended to read as follows:

§ 109-9 Maintenance required.

A. Every owner, occupant or person having charge and control of property in the Borough of Rutherford on any street that is opened shall maintain and be responsible for the proper upkeep of that part of the street between the property line and the curb which abuts the property, including corner areas adjacent to corner lots, whether within or without the property line, and such upkeep shall include the proper maintenance and repair of the sidewalk.

- 1) Exception. If a municipally owned street tree is determined to be a contributing factor to a lifted or heaved sidewalk, prior to conducting the repair, the abutting property owner may submit a request to the Borough for contribution to the cost of repair of those sidewalk panels impacted. By separate resolution, the Borough will establish a per-panel contribution reimbursement intended to represent 50% of the cost of replacing a sidewalk panel, which resolution may be amended from time to time to reflect changes in costs. For purposes of this section, a panel shall be a four linear foot section of sidewalk. Requests for reimbursement shall identify the physical location of the tree and the affected sidewalk, the name and contact information for the owner of the abutting property who is responsible for the affected sidewalk, and repair cost estimates. Requests for reimbursement shall be administered on a first come – first served basis, subject to funding being available.**
- 2) Determination. Upon proper notice given by an abutting property owner, the Borough's designated enforcement officer shall decide as to whether the shade tree is a contributing factor and, if so, the number of sidewalk panels impacted.**

The Borough's designated enforcement officer may consult with the Borough Engineer in making this determination.

3) In no event shall the Borough be obligated to make any contribution if the Borough does not have funds that have been set aside for this purpose.


SECTION 2. All ordinances of the Borough of Rutherford, which are inconsistent with the provisions of this ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this ordinance.

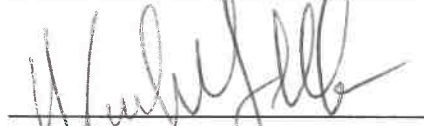
SECTION 4. All other provisions of §109 of the Code of the Borough of Rutherford are not further amended and remain in full force and effect.

The ordinance shall take effect immediately upon final passage.

ATTEST:


Margaret M. Scanlon, Borough Clerk

BOROUGH OF RUTHERFORD


Mark Goldsack, Acting Mayor