

**TOWNSHIP OF ANDOVER
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE NO. 2018-04

**AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX,
AND STATE OF NEW JERSEY TO AMEND THE TOWNSHIP CODE TO
MERGE THE OPEN SPACE, RECREATION AND FARMLAND AND HISTORIC
PRESERVATION COMMITTEE WITH THE ENVIRONMENTAL COMMISSION**

WHEREAS, the Township Committee has reviewed and assessed the responsibilities, functions and purposes of the Open Space, Recreation and Farmland and Historic Preservation Committee and the Environmental Commission; and

WHEREAS, the Township Committee has determined that both bodies serve the Township and are dedicated to the preservation, conservation and development of the Township's natural resources, among other mutual goals; and

WHEREAS, the mutual interests and goals of the Open Space, Recreation and Farmland and Historic Preservation Committee and the Environmental Commission are such that the bodies can be merged with ease in order to function more cohesively; and

WHEREAS, the composition of both bodies is similar, facilitating the merge of the Open Space, Recreation and Farmland and Historic Preservation Committee into the Environmental Commission; and

WHEREAS, the Township Committee has determined that it is in the best interests of the Township for the Code to be amended to merge the Open Space, Recreation and Farmland and Historic Preservation Committee with the Environmental Commission.

NOW THEREFORE, BE IT ORDAINED, by the Township Committee of the Township of Andover, in the County of Sussex, and State of New Jersey as follows:

SECTION 1. Chapter 3 "Administration of Government", Article XXVII "Open Space, Recreation and Farmland and Historic Preservation Committee" is hereby repealed in its entirety.

SECTION 2. Chapter 3 "Administration of Government", Article XXVI "Environmental Commission" is amended as follows:

§ 3-84 Establishment; function.

The Township Committee hereby creates and establishes an Environmental Commission pursuant to the provisions of N.J.S.A. 40:56A-1 et seq. which Commission shall be concerned with the protection, development and use of the natural resources located in the territorial limits of the Township.

Said Commission shall also be responsible for effectuating and maintaining the Trust Fund described in Section 3-90 below and for making appropriate recommendations for the acquisition and/or preservation of land within the Township.

§ 3-85 Powers and Duties.

- A. The Commission shall have the following powers:
- (1) The promotion of the conservation and development of the natural resources of the Township.
 - (2) The planning, implementing and informing of the general public with respect to local conservation programs.
 - (3) The responsibility to compile and maintain an index of all open areas, publicly or privately owned, including marshlands, swamps and other wetlands.
 - (4) The conduct of all appropriate research into the possible use or uses of open spaces in the Township.
 - (5) The submission of recommendations to the Planning Board and Zoning Board of Adjustment, of appropriate plans and programs for inclusion in the Township Master Plan and for the general development and use of such areas.
 - (6) Preparation of advertisements, books, maps, charts and other appropriate material necessary to the discharge of its duties and the distribution of the same.
 - (7) To act as a coordinating agency in the community with respect to conservation matters and as a liaison between local conservation needs and the regional, state and federal agencies responsible for administering to those needs.
 - (8) Study, and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, marine resources and protection of flora and fauna, marshlands, swamps and wetlands recycling, and floodplain management.
 - (9) To identify all scenic, historic, park and recreation sites and make recommendations for their protection and improvement.
 - (10) To make recommendations as to legislation for control of excavation and soil erosion and other activities affecting the landscape.
 - (11) To review all proposed road locations and subdivisions for their environmental impact.
 - (12) To promote good architectural and landscape design for all developments with adequate provisions for park and green areas therein.
- B. Ancillary duties of the Commission shall include, from time to time, submittal of written recommendations to the Township Committee as to:
- (1) Which parcels of land should be acquired for recreation and conservation purposes and whether such parcels should be acquired in fee or only by acquisition of development rights;
 - (2) Which of the lands acquired for those purposes should be developed and/or maintained;
 - (3) Which farmland should be acquired for farmland preservation purposes and whether such farmland should be acquired in fee or only by acquisition of development rights; and
 - (4) Which historic properties, structures, facilities, sites, areas, or objects should be acquired for historic preservation purposes.
 - (5) The Commission shall submit to the Township Committee a prioritized list of properties:
 - (a) Which it recommends that the Municipality acquire; and/or
 - (b) From which it recommends that development rights should be acquired; and/or

(c) Which the municipality has acquired and which the Committee recommends be developed and/or maintained for recreation and conservation purposes; and/or

(d) That are historic properties, structures, facilities, sites, areas or objects that the Committee recommends be preserved or acquired for historic preservation purposes.

C. After selection of the properties to be acquired, developed, maintained or preserved referred to in Subsection **B** above, the municipality may proceed to acquire by gift, purchase or by eminent domain proceedings, pursuant to N.J.S.A. 20:3-1 et seq., or to develop, maintain or preserve, the identified parcels within the financial constraints established by the Township Committee.

D. The Commission shall act and discharge its duties within the limits of funds appropriated to it for such purpose by the Township Committee.

§ 3-86 Membership; term.

A. The Environmental Commission shall be composed of seven persons appointed by the Mayor, which persons shall be citizens and residents of the Township; one of whom shall also be a member of the Township Planning Board and one of whom shall be a member of the Township Recreation Committee. The Commissioners first appointed shall hold office for terms as follows: two members for one year; two members for two years; and three members for three years, respectively, from the date in the year in which the appointments are made until their successors are duly appointed and have qualified. Thereafter, all subsequent appointments shall be for the term of three years. Members shall receive no compensation for their services but may receive reimbursement for proper and authorized out-of-pocket expenses in accordance with existing Township regulations.

B. The Mayor, in addition to the regular members of the Commission appointed pursuant to Subsection **A**, shall appoint not more than two alternate members. Alternate members shall be designated at the terms of appointment as "Alternate No. 1" and "Alternate No. 2."

(1) The terms of the alternate members shall be for two years, except that the terms of the alternate members first appointed shall be two years for Alternate No. 1 and one year for Alternate No. 2 so that the term of not more than one alternate member shall expire in any one year. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

(2) An alternate member shall not be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

(3) An alternate member may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

C. The Mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the Environmental Commission in its duties, but such person or persons shall have no power to vote or take other action required of the Commission. Such person or persons shall serve at the pleasure of the Mayor.

§ 3-87 Vacancies; removal.

Vacancies shall be filled for the unexpired term only and in the same manner as the original appointment was made. The municipal governing body may remove any member of the Commission for cause on written charges served upon the member and after a hearing thereon at which the member shall be entitled to be heard in person or by counsel.

§ 3-88 Organization of Commission; records; meetings.

A. The Mayor shall designate one of the members to serve as Chairman and presiding officer of the Commission. The Commission is authorized to adopt bylaws governing its procedural operation.

B. The Commission shall meet once every two months in accordance with provisions of the Open Public Meeting Law and shall also meet at such times as may be requested by the Township Committee and shall keep a record of its meetings and activities.

C. The Committee shall provide written reports to the Township Committee and other boards as deemed necessary.

§ 3-89 Acquisitions by Commission.

The Commission, with the approval of the Township Committee may from time to time acquire property, both real and personal, in the name of the Township by gift, purchase, grant, bequest, devise or lease for any of its purposes including but not limited to use as living museums, sites for scientific study, areas for teaching of natural history and conservation, places of historic or prehistoric interest and scenic beauty and habitat for rare and endangered plants and animals and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement including conservation easement, covenant or other contractual right including conveyance on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces and other land water areas in the Township.

§ 3-90 Funding.

A. There is hereby established a reserve in the general capital fund, which shall be known and designated as the "Trust Fund". A separate bank account shall be opened and maintained for this purpose. Funds from the Trust Fund may, as directed by the Township Committee, be utilized to acquire vacant land, as well as land which has improvements upon it at the time of acquisition where the purpose of the acquisition is for recreation and conservation purposes, for farmland preservation or for historic preservation purposes. In the event that the Township Committee shall find it

appropriate to apportion the cost of acquisition between land and improvements, it may do so and charge the Trust Fund for the approximate value that it deems appropriate relative to land and the municipality's capital account for the value that it determines shall be attributed to improvements. Trust funds may also, as directed by the Township Committee, be used for the development and/or maintenance of lands acquired for recreation or conservation purposes, for the historic preservation or acquisition of historic properties, structures, facilities, sites, areas or objects and/or for the payment of debt service on indebtedness issued or incurred by the municipality for any of the above purposes.

B. The Trust Fund shall be funded through the dedication to the fund of an amount not to exceed \$0.01 per \$100 of assessed valuation for the year 2007 tax levy and not to exceed \$0.02 of assessed valuation for subsequent years. The Trust Fund shall also be permitted to accept donations and testamentary bequests. The funds accumulated within the Trust Fund may be utilized for the acquisition of land or development rights in land or as a down payment for the issuance of bonds for the same purpose or for any other purpose established herein at the discretion of the Township Committee. Any and all interest accruing shall remain in the Trust Fund and may be utilized for the above-described purposes.

§ 3-91 Sale of property.

No property acquired with funds from the Trust Fund shall be leased or sold until the sale or lease of the same has been authorized by an ordinance adopted by the Township Committee, and provided that the Township Committee shall replace any land conveyed under this section with land of at least equal fair market value and of reasonably equivalent usefulness, size, quality and location to the land conveyed. Any monies derived from the conveyance shall be deposited into the Trust Fund and used for the purposes authorized by this article. Any such conveyance shall be made in the manner prescribed by law.

The remainder of this Chapter remains as is.

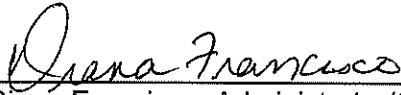
SECTION 3. All ordinances of the Township of Andover, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.


SECTION 6. This Ordinance may be renumbered for codification purposes.

ATTEST:



Diana Francisco, Administrator/Clerk

TOWNSHIP OF ANDOVER
COUNTY OF SUSSEX
STATE OF NEW JERSEY


By Janis McGovern
Janis McGovern, Mayor

Introduced: February 26, 2018
Adopted: March 12, 2018

Vote: Ayes- Bensley, Blackburn, Carafello, Walsh, McGovern
Nays-0