

**HARDING TOWNSHIP  
ORDINANCE NO. 12-2019  
AN ORDINANCE OF THE TOWNSHIP OF HARDING AMENDING CHAPTER 7 OF THE  
CODE OF THE TOWNSHIP OF HARDING, SPECIFICALLY §7-37.1 ENTITLED “OPEN  
SPACE TRUST COMMITTEE”**

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**WHEREAS**, Section §7-37.1 of the Township Code identifies five uses for the Township open space tax: acquisition of open space, acquisition of farmland, maintenance of open space properties, service of open space debt and for historic preservation; and

**WHEREAS**, the only limitation in the ordinance is that a maximum of 10% of the fund’s annual tax collection may be used for historic preservation; and

**WHEREAS**, the section also directs the Township Committee to determine the allocation of funds among these purposes following at least one public hearing; and

**WHEREAS**, the emphasis of the open space activity in the Township to date has been regarding acquisition; and

**WHEREAS**, maintenance and stewardship are imperative; and

**WHEREAS**, in instances where management plans have been prepared, they should focus and direct the maintenance and stewardship activities required for the properties; and

**WHEREAS**, the goal is to maintain environmentally healthy properties that contribute to the ecological fabric of the township; and

**WHEREAS**, one reason for this result is a lack of committed funding for the execution of management plans that reach beyond mere maintenance thereby causing the implementation of such plans to be minimal in their objectives; and

**WHEREAS**, a strong stewardship policy of the Township Committee that will improve maintenance efforts; and

**WHEREAS**, the Township Committee desires to amend §7-37.1 to establish a policy of encouraging active stewardship of open space properties, to require the creation of management plans that will improve the properties and seek to determine the best ~~and highest~~ uses of the properties and to provide a stable funding stream for the implementation of the plans; and

**WHEREAS**, the amendments further modify the appointment process, makes clear that donations of land, easements, and development rights are encouraged, and revises the process for disposing of open space properties acquired by open space tax proceeds,

**NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF HARDING IN THE COUNTY OF MORRIS AND STATE OF NEW JERSEY AS  
FOLLOWS:**

SECTION 1. §7-37.1 of the Code of the Township of Harding is hereby amended to read as follows (bolded and underlined text is new, text with strikethrough is deleted):

**§ 7-37.1 Open Space Trust Committee.**

- A. Establishment of Open Space Trust Committee. There is hereby established an Open Space Trust Committee.
- B. Membership. The Open Space Trust Committee shall consist of a minimum of nine members as follows:
- ~~(1)~~ ~~Mayor or his/her designee.~~
  - ~~(2)~~ 1 Township Administrative Officer.
  - ~~(3)~~ 2 ~~One~~ **Two** members of the Township Committee of the Township of Harding, ~~in addition to the Mayor,~~ appointed by the Township Committee.
  - ~~(4)~~ 3 One representative from each of the Planning Board, the Environmental Commission and the Shade Tree Commission, to be appointed by the Mayor **Township Committee.**
  - ~~(5)~~ 4 A minimum of three citizens **and no more than five citizens** of the Township to be appointed by the Mayor **Township Committee to serve at large.**
- C. Terms of office.
- ~~(1)~~ ~~The Mayor shall serve for so long as he or she holds such position.~~
  - ~~(2)~~ 1 The Administrative Officer shall serve as a member of the Open Space Trust Committee as long as he or she is employed by the Township in the capacity of Township Administrative Officer.
  - ~~(3)~~ 2 The members of the Township Committee appointed to the Open Space Trust Committee shall have a term of one year.
  - ~~(4)~~ 3 The representatives of the Planning Board, Environmental Commission and Shade Tree Commission shall serve for a term of one year.
  - ~~(5)~~ 4 ~~One of the~~ **The** citizens of the Township appointed by the Mayor ~~and so designated by the Mayor at the time of appointment~~ **Township Committee** shall have a term of three years.
  - ~~(6)~~ ~~One of the citizens of the Township appointed by the Mayor and so designated by the Mayor at the time of appointment shall have a term of two years.~~
  - ~~(7)~~ ~~One of the citizens of the Township appointed by the Mayor and so designated by the Mayor at the time of appointment shall have a term of one year.~~
- D. Powers and operating procedures.
- (1) Officers. The Open Space Trust Committee shall select from among its members a Chairman and a Vice Chairman to serve as the presiding officer in the absence of the Chairman. The Committee shall also select a Secretary whose function shall be to maintain minutes of the Committee's meetings and records of its proceedings.



- (2) Initial organization meeting. The Open Space Trust Committee shall hold its initial organization meeting within 60 days after the final adoption of this section.
- (3) Meetings. The Open Space Trust Committee shall hold public meetings, which public meetings shall be held in accordance with the Open Public Meetings Act.
- (4) Procedures. The Open Space Trust Committee shall determine the criteria which are to be used in analyzing properties for possible acquisition or receipt by gift by the Township whether in fee, by easement or by means of development rights. From time to time, the Committee is to advise the Township Committee of properties which it has determined meet the criteria and might be suitable for acquisition. The Township Committee shall determine which properties, easements or development rights should be acquired or received by gift. After selection of the lands, easements or development rights as hereinabove provided, the Township may proceed to acquire by gift, purchase or by eminent domain proceedings pursuant to N.J.S.A. 20:3-1 et seq. the identified lands, easements or development rights within the financial constraints established by the Township Committee.
- (5) The Open Space Trust Committee shall prepare or direct to be prepared a management plan for each property owned by the Township and identified on the Recreation and Open Space Inventory. Such plan shall describe the management goal(s) for each property and the method(s) to achieve each of the identified goal(s). For properties jointly owned with another entity the management plan shall be prepared jointly by all owners. The Township Committee shall review and approve each plan, including making such amendments or revisions as the Township Committee deems necessary at the time of approval.
  - (a) The Open Space Trust Committee shall prepare and submit to the Township Committee, by October 15 of each year, the goals and objectives for the following year beginning January 1. The Township Committee shall review the proposed goals and objectives and if necessary, revise and then return the final goals and objectives to the Open Space Trust Committee by December 31 for implementation.
  - (b) The Open Space Trust Committee shall prepare and submit to the Township Committee semi-annual goal achievement progress reports.
  - (c) The Open Space Trust Committee shall, before April 1 each year, prepare and submit to the Township Committee the prior year's goals and objectives achievement report.
  - (d) For purposes of this § 7-37.1, maintenance of lands acquired for conservation and recreation purposes is also intended to include stewardship of lands acquired for conservation and recreation purposes. In that regard, based on the approval of the annual goals and objectives referenced herein, the apportionment of the annual levy for such purposes as provided in paragraph E (1) (b) and (2) below, shall be determined by the Township Committee.

E. Funding.

- (1) There is hereby established a reserve in the Township's general capital fund which shall be known and designated as the "Open Space Trust Fund." A separate bank account shall be opened and maintained for this purpose. The Open Space Trust Fund shall be funded through the dedication to the fund of an amount not to exceed \$0.05 per \$100 of assessed valuation of each annual tax levy. The fund shall also be permitted to accept donations and testamentary bequests. The monies accumulated within the fund may be used for the following purposes, or any combination thereof:
- (a) Acquisition of lands for conservation and recreation purposes.
  - (b) Maintenance of lands acquired for conservation and recreation purposes.
  - (c) Acquisition of farmland for farmland preservation purposes.
  - (d) Payment of debt service on indebtedness issued or incurred by the Township of Harding for the acquisition of lands for conservation and recreation purposes.
  - (e) Historic preservation and the acquisition of historic properties, structures, facilities, sites or areas, to the extent of up to 10% of annual open space tax levies. Such amounts may be accumulated for this purpose or redirected to the other purposes authorized by Subsection E(1)(a) through (d) above.
- (2) The Township Committee shall determine the appropriate amount to be allocated to each purpose after conducting at least one public hearing thereon. Any and all interest or other income earned on monies in the fund shall be credited to the fund to be used for the above-described purposes.
- F. Disposition of property or other interest in land. No property or interest in land acquired with funds from the Open Space Trust Fund shall be sold or otherwise disposed of by the Township until the disposition has been authorized by the Township Committee ~~after and~~ in accordance with ~~a public referendum~~ N.J.S.A. 40:12-15.9 or any successor statute thereto.
- G. Review. ~~In the event that no property is acquired for a period of three consecutive years, then~~ Every three years the Township Committee shall review the activities of the Open Space Trust Committee and issue a report with recommendations and conclusions relating to the achievement of the goals and objectives identified.

SECTION 2. At least three copies of said full Ordinance are on file in the Office of the Municipal Clerk for public examination and acquisition. Copies are available for inspection or acquisition during regular weekday working hours and arrangements have been made for the publication of said proposed Ordinance in pamphlet or other similar form which will be available for purchase from the Township Clerk.

SECTION 3. This ordinance shall take effect upon final passage and publication according to law.

SECTION 4. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.



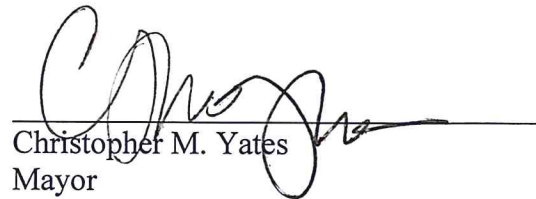
SECTION 5. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions.

**ATTEST**



Lisa A. Sharp, RMC  
Municipal Clerk

**TOWNSHIP OF HARDING**



Christopher M. Yates  
Mayor

**INTRODUCED:** April 15, 2019

**ADVERTISED:** April 18, 2019

**PUBLIC HEARING:** May 13, 2019

**ADOPTED:** May 13, 2019

**ADVERTISED:** May 16, 2019

**Vote on Adoption:**

	MOTION	FOR APPROVAL	AGAINST APPROVAL	ABSTAIN
Ms. DiTosto		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mr. Jones	1st	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Modi		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Platt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Yates	2nd	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>