

Explanation: This Ordinance amends Chapter II entitled “Administration” of *The Revised General Ordinances of the Township of Warren* by revising Section 2-35 entitled “Open Space, Recreation, and Farmland and Historic Preservation Trust Fund/Open Space Site Acquisition Advisory Committee” to terminate the Open Space Site Acquisition Advisory Committee and by revising Subsection 2-11.2 entitled “Duties of Commission” of Section 2-11 entitled “Environmental Commission” to add the duties of the Open Space Site Acquisition Advisory Committee to the duties of the Environmental Commission.

## TOWNSHIP OF WARREN

### ORDINANCE 19-02

**AN ORDINANCE OF THE TOWNSHIP OF WARREN IN THE COUNTY OF SOMERSET, STATE OF NEW JERSEY, TO AMEND THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WARREN BY REVISING SECTION 2-35 ENTITLED “OPEN SPACE, RECREATION, AND FARMLAND AND HISTORIC PRESERVATION TRUST FUND/OPEN SPACE SITE ACQUISITION ADVISORY COMMITTEE”, AND BY REVISING SUBSECTION 2-11.2 ENTITLED “DUTIES OF COMMISSION” OF SECTION 2-11 ENTITLED “ENVIRONMENTAL COMMISSION” TO ADD THE DUTIES OF ~~THE VEHICULAR AND PEDESTRIAN TRAFFIC ADVISORY COMMITTEE AND~~ THE OPEN SPACE SITE ACQUISITION ADVISORY COMMITTEE TO THE DUTIES OF THE ENVIRONMENTAL COMMISSION.**

**BE IT ORDAINED** by the Township Committee of the Township of Warren, in the County of Somerset, State of New Jersey, as follows:

**SECTION 1.** Section 2-35 entitled “Open Space, Recreation, and Farmland and Historic Preservation Trust Fund/Open Space Site Acquisition Advisory Committee” of Chapter II entitled “Administration” of *The Revised General Ordinances of the Township of Warren* is hereby amended to read as follows:

#### **2-35 Open Space, Recreation, and Farmland and Historic Preservation Trust Fund[/Open Space Site Acquisition Advisory Committee]**

2-35.1 *Purposes.* The purposes for which the Open Space, Recreation, and Farmland and Historic Preservation Trust Fund (“Trust Fund” hereinafter) may be used are:

- a. Acquisition of lands for conservation and recreation purposes;
- b. Acquisition of farmland for farmland preservation purposes;
- c. Development of lands acquired for conservation and recreation purposes;
- d. Maintenance of lands acquired for conservation and recreation purposes;

e. Historic preservation of historic properties, structures, facilities, sites, areas and acquisition of such properties, structures, facilities, sites and areas for historic preservation purposes;

f. Payment of debt service on indebtedness issued or incurred for any of the above purposes.

2-35.2 *Use of Trust Fund.* The Warren Township Committee shall, in its sole discretion, upon the advice of the [open space site acquisition advisory committee] environmental commission, or other board, commission or committee, decide how to utilize all trust funds and so utilize same.

2-35.3 *Trust Fund.* There is hereby established a [reserve in the General Capital Fund] trust fund which shall be noted and designated as the “Open Space, Recreation, and Farmland and Historic Preservation Trust Fund” (the “Trust Fund”). A separate bank account shall be established and maintained therefor entitled “Warren Township Open Space, Recreation, and Farmland and Historic Preservation Trust Account.” As directed by the township committee, funds from the Trust Fund may be utilized to acquire all types of interests in real property, including, not by limitation, fee simple acquisitions, easements, development rights, or any other lesser interests in real estate which will further the purposes set forth herein and for the development and maintenance of the above for recreation, historical and conservation purposes or for the payment of debt service on indebtedness issued or incurred for the said purposes. The lands in which such interests may be acquired shall include undeveloped land as well as land containing improvements at the time of acquisition. The township committee shall have the option of paying for land acquisitions with improvements upon them either solely through the Trust Fund or by apportioning the cost thereof by charging the Trust Fund for the land portion and its capital account for the improved portion. It is understood that such acquisition may occur via gift, purchase or by eminent domain proceedings pursuant to N.J.S.A. 20:3-1 et seq. In addition, the township committee may authorize the disbursement of monies from the Trust Fund to assist any recognized public or private charitable conservancy in acquiring interest in real property, located within the township, for the purposes stated herein, provided that the charitable conservancy shall:

a. Demonstrate to the township committee that it qualifies as a charitable conservancy;

b. Agree to use the monies only in connection with lands located in the township and for the purposes authorized by this ordinance;

c. Agree to make and keep the lands accessible to the public, unless the township committee determines that public accessibility would be detrimental to the lands or to any natural or historic resources associated therewith;

d. Agree not to sell, lease, exchange, transfer, or donate the lands for which the monies received were allocated for use pursuant to this ordinance, except upon approval of the township committee under such conditions as the township committee may establish; and

e. Agree to execute and donate to the township at no charge (i) a conservation restriction or historic preservation restriction, as the case may be, pursuant to P.L. 1979, c. 378 (C. 13:8B-1, et seq.), or (ii) a development easement, as defined pursuant to section 3 of P.L. 1983, c. 32 (C. 4:1C-13), as appropriate, on the lands for which the monies received were allocated for use pursuant to this section.

*2-35.4 Funding of the Trust Fund.* Beginning with the 2002 tax bill, a special tax rate shall be added to the total township tax rate in the amount of two (\$0.02) cents per one hundred (\$100.00) dollars of the annual assessed valuations and tax rate, the revenue from which shall be deposited into the Trust Fund. The Trust Fund shall also be permitted to accept donations and testamentary bequests. The funds accumulated within the Trust Fund shall be utilized for the acquisition of real estate, interests in real estate and other purposes more fully delineated in subsection 2-35.1 hereinabove. In connection with such acquisitions and other purposes, the funds may be utilized for appraisals, legal expenses and other items of expense permitted by law in connection with the acquisition or as a down payment for the issuance of bonds or for debt service for the same purpose at the discretion of the township committee. Any and all interest accruing or other income earned shall remain in the Trust Fund and may be utilized for the above described purposes. In no eventuality shall the township pay more than fair market value for the land to be acquired. The township shall contain a minimum of one appraisal from a certified appraiser, plus the appraisal of the tax assessor, as a guide to the fair market value. The cost of such appraisal may be paid out of the Trust Fund.

*2-35.5 Utilization of the Land Acquired Through the Trust Fund.* The land acquired under the Trust Fund shall be utilized exclusively for, but not limited to: parks, open space, conservation, recreation areas, natural areas, green ways, wildlife habitats, preservation of farm land, preservation of areas of scenic, historic and cultural value and such other uses consistent with the purposes of this ordinance.

*2-35.6 Sale of Property.* No real property or interest therein acquired with funds from the Trust Fund shall be sold, conveyed, leased or otherwise alienated unless in accordance herewith. After conducting at least one public hearing thereon and upon a finding that the purposes of this section might otherwise be better served, which finding shall be set forth in an ordinance adopted by the township committee, the township may convey, through sale, exchange, transfer or other disposition, title to, or a lesser interest in, that land, provided that the township committee shall replace any land conveyed by this section by land of at least equal fair market value and of reasonably equivalent usefulness, size, quality, and location to the land conveyed, and any monies derived from the conveyance shall be deposited into the Trust Fund. Any such conveyance shall be in accordance with the "Local Lands and Buildings Law," P.L. 1971, c. 199 (C. 40A:12-1 et

seq.). In the event of conveyance by exchange, the land or improvements thereon to be transferred to the trust shall be at least equal in fair market value and of reasonably equivalent usefulness, size, quality, and location to the land or improvements transferred from the trust.

**SECTION 2.** Subsection 2-35.7 entitled “Open Space Site Acquisition Advisory Committee” of Section 2-35 entitled “Open Space, Recreation, and Farmland and Historic Preservation Trust Fund/Open Space Site Acquisition Advisory Committee” of Chapter II entitled “Administration” of *The Revised General Ordinances of the Township of Warren* is hereby repealed in its entirety and shall be replaced with new Subsection 2-35.7 entitled “Open Space Policy” to read as follows:

*2-35.7 Open Space Policy*

a. The policy of Warren with respect to the acquisition of open space recognizes that preservation of a reasonable amount of undeveloped land is necessary if Warren is to maintain its current desirable ambiance.

b. The residents of the township have a high stake in the acquisition of open space and have demonstrated their support through authorizing the institution of a tax dedicated for this purpose.

c. Acquisition needs to be undertaken as quickly and continuously as possible. This is necessary because the availability of appropriate sites will decrease as development continues within the township and because the costs of acquisition may increase as open space decreases. Thus, the policy of the township shall be to leverage township resources through accessing county, state and federal funds, through the use of grants and/or loans which may be serviced through existing revenues and other appropriate sources and gifts and bequests.

d. Open space acquisitions when taken as a whole need to meet the needs of all the residents of the township. Thus, acquisitions need to include parklands and green zones, outdoor recreational facilities, farmlands, ecologically sensitive zones, and sites of historical, cultural or scenic value. The policy of the township shall require that sites considered for acquisition be judged within the context of the Township Open Space Plan. Generally, township ownership and/or control are considered desirable for public lands.

e. The acquisition of open space cannot be addressed in isolation from other public activities within the township or without regard to the status and plans of contiguous municipalities. Thus, it is the policy of the township that the Environmental Commission is charged with (1) preparing a prioritized listing of desirable properties which identifies probable uses and unique or highly desirable features, (2) developing an overall Open Space Plan in collaboration with other township committees, (3) identifying sources of county, state, federal and private funding that may be used to leverage acquisition, and (4) researching financial vehicles that could support early acquisition.

**SECTION 3.** Subsection 2-11.2 entitled “Duties of Commission” of Section 2.11 entitled “Environmental Commission” of Chapter II entitled “Administration” of *The Revised General Ordinances of the Township of Warren* is hereby deleted in its entirety and replaced with the following:

2-11.2 *Duties of Commission.* The environmental commission shall have the following powers :

1. To conduct research into the use and possible use of the open land areas of the township and to coordinate the activities of unofficial bodies organized for similar purposes, and to advertise, prepare, print and distribute books, maps, charts, plans and pamphlets, which in its judgment it deems necessary for that purpose. It shall keep an index of all open areas, publicly or privately owned, including open marsh lands, swamps and other wet lands, in order to obtain information on the proper use of such areas, and may from time to time recommend to the planning board plans and programs for inclusion in a municipal master plan and the development and use of such areas.

2. To develop strategies to utilize the Open Space, Recreation, and Farmland and Historic Preservation Trust Fund (the “Trust Fund”) in accordance with the policy set forth in Subsection 2-35.7 of this Chapter in an efficient and economical manner in order to maximize opportunities to provide all the residents of Warren Township with parklands and green zones, to protect ecologically sensitive areas, to preserve flora and wildlife, to preserve farmland and to protect land of scenic, historical and cultural value while simultaneously creating public outdoor recreational opportunities for Warren Township residents.

3. To establish and publish procedures for the donation of gifts and testamentary bequests of land to Warren Township. A packet of materials shall be made available by the environmental commission to the public detailing the benefits of gifts and/or bequests of land or an interest therein to the Township of Warren.

4. To prepare and keep current the following plans for adoption by the township committee in the event that Trust Fund monies will be used in the areas indicated:

(a) Plan for selection of lands for acquisition for recreation and conservation purposes.

(b) Plan for selection of farmland for acquisition for farmland preservation pursuant to the provisions of the “Agriculture Retention and Development Act” (N.J.S.A. 4:1C-11) or any other law enacted for the purpose of preserving farmland.

(c) Plan for selection of historic preservation projects.

(d) Plan for projects to develop or maintain lands acquired for recreation and conservation purposes.

(e) Trust Fund monies may be used to pay the cost of preparing and adopting the plans referenced above.

5. To recommend to the Township Committee sites to be utilized for open space purposes.

6. The environmental commission shall work in conjunction with the recreation advisory committee with regard to the acquisition of open space for recreational purposes, and the historical sites committee for matters pertaining to historic sites. Before any recommendation as to the purchase of open space involving recreation or historic property is made to the township committee, they will be presented to the recreation advisory committee and/or the historic sites committee for comment, which comments shall be forwarded to the township committee with the environmental commission recommendation. The environmental commission will also consult with any other committee, commission or other body it deems appropriate.

**SECTION 4.** If any section, subsection, paragraph, sentence or any other part of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of the Ordinance.

**SECTION 5.** All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**SECTION 6.** This Ordinance shall take effect after final adoption and publication according to law.

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Note to Codifier: Deleted provisions indicated by brackets [ ].  
New provision indicated in underline \_\_\_\_\_.

**The title was amended to delete a clerical error to conform to the substance of the ordinance**

**ATTEST:**

**TOWNSHIP OF WARREN**

\_\_\_\_\_  
Cathy Reese, RMC  
Township Clerk

By: \_\_\_\_\_  
Gary P. DiNardo, Mayor

INTRODUCED: January 4, 2019

ADOPTED: February 7, 2019

EFFECTIVE: February 14, 2019