

ORDINANCE NO. 2017-11

AN ORDINANCE SUPPLEMENTING TO CHAPTER 2 OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF HARVEY CEDARS, 1975, ENTITLED "ADMINISTRATION" NEW SECTION 2-15 ENTITLED "OPEN SPACE"

BE IT ORDAINED by the Board of Commissioners of the Borough of Harvey Cedars, as follows:

SECTION 1. Chapter 2 of the Borough Code of the Borough of Harvey Cedars entitled "Administration" is hereby amended and supplemented so as to add a new Section 2-15, entitled "Open Space", which shall read as follows:

2-15 OPEN SPACE

2-15.1 Establishment of Open Space Trust Fund

There is hereby established a reserve in the General Trust Fund which shall be noted and designated as the Open Space Trust Fund ("Trust Fund" hereinafter). A separate bank account shall be established and maintained entitled "Harvey Cedars Open Space Trust Account".

A. Funding

Beginning in 2017, a special tax rate shall be added to the total Borough tax rate in the amount not to exceed one (\$0.01) cent per one hundred (\$100.00) dollars of the annual assessment valuations and tax rate, the revenue from which shall be deposited in the Trust Fund. The Borough may, in its discretion, deposit additional municipal monies into the Trust Fund, which deposits shall then be subject to all of the provisions governing the Trust Fund. The Trust Fund shall also be authorized to accept donations and testamentary bequests.

B. Purpose and Utilization of Funds

The funds from the Trust Fund shall be utilized for the purchase of property rights within the Borough of Harvey Cedars from willing sellers, including but not by way of limitation, fee simple acquisitions, easements, development rights, or any other lesser interest in real estate which will further the goal of property acquisitions of lands and property rights for recreation and/or conservation purposes, including all costs and expenses associated therewith.

In connection with such acquisitions, the funds may be utilized for appraisals, title fees, professional fees and other items of expense permitted by law in connection with the acquisition of real estate. Additionally, funds accumulated within the Trust Fund may be used as a down payment for the issuance of bonds or for debt service for the same purpose at the discretion of the Board of Commissioners.

The land acquired under the Trust Fund shall be utilized for all categories of open space, including parks, recreation areas, natural areas and such other uses consistent with the concept of open space.

C. Sale of Property

No real property or interest therein, acquired with funds from the Trust Fund shall be sold, conveyed, leased or otherwise disposed by the Borough unless it is needed for another public use or otherwise furthers the purposes of the Trust. If such a sale, lease or conveyance is made, the Borough shall be required to place the monies received into the Trust Fund as provided in NJSA 40:12-15.9.

2-15.2 Establishment of Open Space Advisory Committee

There is hereby established an Open Space Advisory Committee of the Borough of Harvey Cedars to review and recommend parcels of land and interests therein that could benefit from the Open Space Funds for the public good.

A. Membership.

The Open Space Advisory Committee shall consist of seven (7) regular members and one (1) alternate member as follows:

1. One (1) member of the Harvey Cedars Board of Commissioners.
2. One (1) member of the Harvey Cedars Taxpayers Association's Executive Board.
3. One (1) member of the Harvey Cedars Land Use Board.
4. Two (2) residents of the Borough of Harvey Cedars.
5. Two (2) property owners or residents of the Borough of Harvey Cedars.
6. One (1) alternate member who is a property owner in the Borough of Harvey Cedars.
7. All members shall serve without compensation.

B. Appointment; Term.

The term of office of all members shall be one (1) year which appointments shall be made annually by the Board of Commissioners.

C. Officers and Minutes.

The Open Space Advisory Committee shall annually select from among its regular members a chairperson to act as presiding officer and a vice chairperson to serve as presiding officer in the absence of the chair. The committee shall also designate from among its regular members a secretary whose function shall be to keep minutes of all meetings, showing the time, place, the members present, and the subjects considered. Copies of minutes shall be sent to the Municipal Clerk promptly after each meeting. The Municipal Clerk shall make the minutes available to the public upon request.

D. Public Meetings.

The Open Space Advisory Committee shall hold public meetings, which public meetings shall be held in accordance with the Open Public Meetings Act, and the Committee shall give appropriate notice of said meetings. The Committee shall meet regularly on dates as determined by the members, but at least twice annually.

E. Duties and functions.

The Open Space Advisory Committee shall:

1. Study and determine the existence of open space properties within the Borough.
2. Make recommendations to the Board of Commissioners as to those properties which it has determined meet the criteria for possible acquisition, whether in fee, by easement, by means of development rights, or by other means. The Board of Commissioners shall review the report of the committee and make a determination as to the properties, if any, to be acquired.
3. Prepare an open space plan which shall be submitted to the Board of Commissioners on an annual basis; the plan shall contain an updated inventory of open space properties, and shall include recommendations for the acquisition or preservation of certain lands within the Borough.
4. Obtain and review accounting reports from the Borough's Chief Finance Officer of the utilization and balance available in the Open Space Trust Fund.
5. Perform such other advisory duties as requested by the Board of Commissioners.

F. Budget.

The Board of Commissioners may, at its discretion, appropriate sufficient funding to assist the Open Space Advisory Committee in carrying out its duties and responsibilities.

2-15.3 Review of Open Space Trust Fund.

In the event that no property is acquired or financed under this chapter for a period of five (5) consecutive years, the Board of Commissioners shall conduct a review and issue a report with recommendations and conclusions concerning the continuation of the Open Space Trust Fund.

SECTION 2. All ordinances or parts of ordinances inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 3. If any word, phrase, clause, section or provision of this ordinance shall be found by any court of competent jurisdiction to be unenforceable, illegal or unconstitutional, such word, phrase, clause, section or provision shall be severable from the balance of the ordinance and the remainder of the ordinance shall remain in full force and effect.

SECTION 4. This ordinance shall take effect immediately upon publication in accordance with law.

ADOPTED ON: June 2, 2017