

ORDINANCE NO. 17-14

AN ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HANOVER AMENDING AND SUPPLEMENTING CHAPTER 166 OF THE CODE OF THE TOWNSHIP ENTITLED LAND USE AND DEVELOPMENT LEGISLATION, BY ADDING AND AMENDING PROVISIONS CONCERNING THE ADMINISTRATIVE OFFICER

WHEREAS, Chapter 166 of the Code of the Township entitled Land Use and Development Legislation currently references an official of the Township identified as the “administrative officer;” and

WHEREAS, Chapter 166 currently defines the “administrative officer” as the Township Engineer under the direction of the Township Clerk; and

WHEREAS, the New Jersey Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq. refers in numerous instances to the “administrative officer,” which the statute defines as “the clerk of the municipality, unless a different municipal official or officials are designated by ordinance or statute;” and

WHEREAS, the Township Committee believes that the functions of the “administrative officer” as referenced in the New Jersey Municipal Land Use Law and in Chapter 166 include more individuals than are included in the current definition, and that the current definition and use of the term should be amended in Chapter 166;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Hanover in the County of Morris in the State of New Jersey, as follows:

Section 1. Subsection A. in Section 166-4., *Definitions and word usage*, is hereby amended and supplemented by revising the definition of “administrative officer” to read as follows:

ADMINISTRATIVE OFFICER -Where the Municipal Land Use Law at N.J.S.A. 40:55D-1 et seq shall reference the “administrative officer,” said term shall refer to the following officials in the circumstances indicated, unless a different municipal official or officials are designated by ordinance or statute:

Statutory Reference	Function	Township Official
N.J.S.A. 40:55D-7	Certification of conforming lots	Zoning Officer
N.J.S.A. 40:55D-7	Zoning permits	Zoning Officer

Statutory Reference	Function	Township Official
N.J.S.A. 40:55D-8	Repository of current agency rules and regulations	Township Committee: Township Clerk
		Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-9c	Repository of meeting minutes	Township Committee: Township Clerk
		Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-10b	Repository of maps and documents for development applications and appeals	Township Committee: Township Clerk
		Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-10h	Repository of resolutions setting forth agency decisions on development applications or appeals	Township Committee: Township Clerk
		Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-10.4c	Repository of proof of service regarding failure of agency to act within statutory time limits	Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-12c	Preparation of certified list of property owners for notice purposes	Deputy Township Clerk
N.J.S.A. 40:55D-12.1b	Registrar and repository of list of public utilities, cable television companies and local utilities for notice purposes	Tax Assessor
N.J.S.A. 40:55D-12.2	Notification of local utilities concerning registration requirement for notice	Tax Assessor

Statutory Reference	Function	Township Official
N.J.S.A. 40:55D-18	Zoning permits and other permits for development activity	General: Zoning Officer
		Tree permits: Township Engineer
		Grading permits: Township Engineer
		Flood hazard area permits: Township Engineer
N.J.S.A. 40:55D-45.3b N.J.S.A. 40:55D-46a, c N.J.S.A. 40:55D-46.1a N.J.S.A. 40:55D-47b N.J.S.A. 40:55D-48a, c N.J.S.A. 40:55D-50b N.J.S.A. 40:55D-61 N.J.S.A. 40:55D-67 N.J.S.A. 40:55D-76c	Submission of development applications; certification of failure of board to act within statutory period	Planning Board: Board Secretary Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-45.7a	Notification of completion of section of general development plan	Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-56, 57	Certification of subdivision approval	Planning Board: Board Secretary
		Board of Adjustment: Board Secretary
N.J.S.A. 40:55D-68	Request for and issuance of certification of nonconforming use or structure	Within one year of ordinance rendering use or structure nonconforming: Zoning Officer
		Any time: Board of Adjustment Secretary (submission) or Board of Adjustment (certification)

Statutory Reference	Function	Township Official
N.J.S.A. 40:55D-70a	Appeal of administrative officer decision regarding zoning regulations or official map regulation	General: Zoning Officer
N.J.S.A. 40:55D-70.2		
N.J.S.A. 40:55D-72		
N.J.S.A. 40:55D-73a		
N.J.S.A. 40:55D-74		Tree permits: Township Engineer

Section 2. Subsection A. in Section 166-4., *Definitions and word usage*, is hereby amended and supplemented by revising the definition of "subdivision" to read as follows:

SUBDIVISION -

- (1) The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter if no new streets are created:
 - (a) Divisions of land found by the Planning Board or Subdivision Committee to be for agricultural purposes, where all resulting parcels are five acres or larger in size.
 - (b) Divisions of property by testamentary or intestate provisions.
 - (c) Divisions of property by court order, including but not limited to judgments of foreclosure.
 - (d) Consolidation of existing lots by deed or other recorded instrument.
 - (e) The conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Zoning Officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the Tax Map or Atlas of the Township.

- (2) The term "subdivision" shall also include the term "re-subdivision."

Section 3. Subsection A. in Section 166-4., *Definitions and word usage*, in Article II, *Definitions*, is hereby amended and supplemented by revising the definition of "subdivision exemption" to read as follows:

SUBDIVISION EXEMPTION - An exemption granted by the Planning Board from the procedures established for subdivisions in Part 4 of this Chapter for an alteration, diminution, creation or elimination of any lot line which does not constitute a subdivision under the definition of a subdivision pursuant to this chapter, such as divisions of land

found by the Planning Board or Subdivision Committee to be for agricultural purposes, where all resulting parcels are five acres or larger in size; divisions of property by testamentary or intestate provisions; divisions of property by court order, including but not limited to judgments of foreclosure; consolidation of existing lots by deed or other recorded instrument and the conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the Zoning Officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the Tax Maps or Atlas of the Township.

Section 4. Section 166-13., *Time periods*, in Article III, *Planning Board*, is hereby amended and supplemented to read as follows:

§ 166-13. Time periods.

Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to § 166-9.E. of this Article, the Planning Board shall grant or deny approval of the application within 120 days after the submission by a developer of a complete application to the Planning Board Secretary or within such further time as may be consented to by the applicant. In the event that the developer elects to submit separate consecutive applications, the aforesaid provision shall apply to the application for approval of the variances or direction for the issuance of a permit. The period for granting or denying and subsequent approval shall be as otherwise provided in the Municipal Land Use Law. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the Planning Board Secretary as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

Section 5. Section 166-21., *Appeals and applications*, in Article IV, *Zoning Board of Adjustment*, is hereby amended and supplemented to read as follows:

§ 166-21. Appeals and applications.

- A. Appeals to the Board of Adjustment may be taken by any interested party affected by any decision of the Zoning Officer or Township Engineer of the Township based on or made in enforcement of the Zoning Ordinance or Official Map. Such appeal shall be taken within 20 days by filing a notice of appeal with the officer from whom the appeal is taken, specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.
- B. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to the Zoning Officer or Township Engineer.

Section 6. Subsection A in Section 166-35., *Rules: filing of documents; complete application*, in Article VI, *Hearings*, is hereby amended and supplemented to read as follows:

- A. The Township Planning Board or Board of Adjustment or Township Committee, as the case may be, shall make the rules governing such hearings. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection, at least 10 days before the date of the hearing, during normal business hours in the office of the Board Secretary, in the case of the Planning Board or Board of Adjustment, or the Township Clerk, in the case of the Township Committee. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.

Section 7. Section 166-39., *Copies of decisions*, in Article VI, *Hearings*, is hereby amended and supplemented to read as follows:

§ 166-39. Copies of decisions.

A copy of the decision shall be mailed by the municipal agency within 10 days of the date of decision to the applicant or, if represented, then to his attorney, without separate charge, and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the Board Secretary, in the case of the Planning Board or Board of Adjustment, or the Township Clerk, in the case of the Township Committee. The Board Secretary, in the case of the Planning Board or Board of Adjustment, or the Township Clerk, in the case of the Township Committee shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at his office during the hours from 9:00 a.m. to 4:00 p.m.

Section 8. Subsection C. in Section 166-42., *Notice of application for development*, in Article VI, *Hearings*, is hereby amended and supplemented to read as follows:

- C. Upon written request of an applicant, the Deputy Township Clerk shall, within seven days, make and certify a list from the current tax duplicates of the names and addresses of owners to whom the applicant is required to give notice pursuant to Subsection A(1) above. In addition, the Deputy Township Clerk shall include on the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice as a public utility, cable television company or local utility. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner or to any public utility, cable television company or local utility not on the list shall not invalidate any hearing or proceeding. A fee pursuant to Article VII shall be charged for such list.

Section 9. Subsection C. in Section 166-45., *Notice of hearing on ordinance, capital improvement, Official Map*, in Article VI, *Hearings*, is hereby amended and supplemented to read as follows:

- C. Notice of hearings pursuant to this Section shall state the date, time and place of the hearing, the nature of the matters to be considered and the location and times at which any maps and documents which are the subject of the hearing are available for inspection in the office of the Township Clerk. In the case of zone district classification or boundary changes with enhanced notice requirements pursuant to Subsection D. below, the notice shall also provide an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks and by reference to lot and block numbers as shown on the current tax duplicates in the Township's Tax Assessor's office. Any notice made by certified mail as stipulated above shall be deemed complete upon mailing.

Section 10. Section 166-47., *Fees payable prior to approval*, in Article VII, *Fees*, is hereby amended and supplemented to read as follows:

§ 166-47. Fees payable prior to approval.

All fees as hereinafter required shall be payable to

- A. the Secretary of the Planning Board or Board of Adjustment in the case of an application to either board;
- B. the Zoning Officer in the case of an application for a zoning permit or a site plan exemption;
- C. the Township Engineer in the case of an application for a tree permit; or
- D. the Township Clerk in the case of an application or appeal to the Township Committee.

All fees shall be payable at the time of filing any application for development. All permits, determinations, resolutions or certificates of approval are subject to the payment of all fees provided for in this Chapter, and no approval shall be given by the approving authority until proof has been submitted to them that the requisite fees have, in fact, been paid. Furthermore, the applicant must submit proof that no taxes or assessments for local improvements are due or delinquent on the property before the approving authority may act on his application.

Section 11. Paragraph (l) in Subsection A. of Section 166-48., *Schedule of fees and deposits*, in Article VII, *Fees*, is hereby amended and supplemented to read as follows:

- (l) Appeal of Zoning Officer or Township Engineer decision based on or made in the enforcement of the zoning regulations, Part 5 of this Chapter (§§ 166-19.A., 166-21.A.): \$300.

Section 12. Paragraph (3) in Subsection D. of Section 166-59., *Review procedures*, in Article IX, *Filing and Review Procedures*, is hereby amended and supplemented to read as follows:

- (3) File an affidavit of proof of service and publication with the Board Secretary.

Section 13. Paragraphs (1) and (2) in Subsection H. of Section 166-59., *Review procedures*, in Article IX, *Filing and Review Procedures*, are hereby amended and supplemented to read as follows:

- (1) The prospective purchaser, prospective mortgagee or any other person interested in any land which forms part of a subdivision, or which formed part of such a subdivision three years preceding the effective date of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.), may apply, in writing, to the Board Secretary for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
- (2) The Board Secretary shall make and issue such certificate within 15 days after the receipt of such written application and the fees therefor. The Board Secretary shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his office.

Section 14. Paragraph (3)(c) in Subsection H. of Section 166-59., *Review procedures*, in Article IX, *Filing and Review Procedures*, is hereby amended and supplemented to read as follows:

- (c) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in this Chapter and the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.). The Board Secretary shall receive for such certificate issued a fee not in excess of those provided in N.J.S.A. 54:5-14 and 54:5-15, pursuant to § 166-48 of this Chapter. The fees so collected by such official shall be paid to the Township of Hanover.

Section 15. Subsection H. of Section 166-151., *Continuance of nonconforming uses or structures*, in Article XXII, *Nonconforming Uses and Structures*, is hereby amended and supplemented to read as follows:

- H. The prospective purchaser, prospective mortgagee or any other person interested in any land upon which a nonconforming use or structure exists may apply in writing for the issuance of a certificate certifying that the use or structure existed

before the adoption of the ordinance which rendered the use or structure nonconforming. The applicant shall have the burden of proof. Application pursuant hereto may be made to the Zoning Officer within one year of the adoption of the ordinance which rendered the use or structure nonconforming or at any time to the Board of Adjustment. The Zoning Officer shall be entitled to demand and receive for such certificate issued a reasonable fee not in excess of those provided in N.J.S.A. 54:5-14 and 54:5-15. The fees collected by the official shall be paid to the Township. Denial by the Zoning Officer shall be appealable to the Board of Adjustment. Sections 59 through 62 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-72 through 40:55D-75), shall apply to applications or appeals to the Board of Adjustment.

Section 16. In case, for any reason, any section or provision of this Ordinance shall be held to be unconstitutional or invalid, the same shall not affect any other section or provision of this Ordinance, except so far as the section or provision so declared unconstitutional or invalid shall be severed from the remainder or any portion thereof.

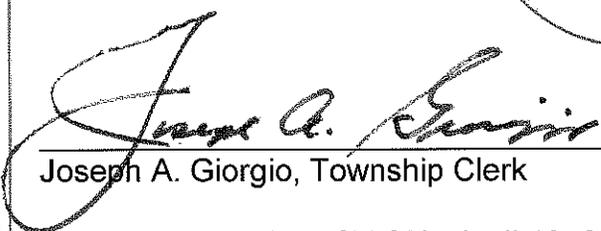
Section 17. All ordinances or parts of ordinances inconsistent with the provisions of this ordinance are, to the extent of such inconsistency, hereby repealed.

Section 18. This ordinance shall take effect in accordance with the law.

TOWNSHIP COMMITTEE
TOWNSHIP OF HANOVER
COUNTY OF MORRIS
STATE OF NEW JERSEY


Ronald F. Francioli, Mayor

ATTEST:


Joseph A. Giorgio, Township Clerk

DATE OF INTRODUCTION: April 10, 2014

DATE OF ADOPTION: May 8, 2014

I hereby certify the foregoing to be a true copy of a Resolution/Ordinance adopted by the Township Committee of the Township of Hanover at a Regular/Special Meeting held on the 8th day of May, 2014.


Joseph A. Giorgio, Township Clerk, R.M.C. 9