

**LAFAYETTE TOWNSHIP  
SUSSEX COUNTY, NEW JERSEY**

**ORDINANCE 2020-13**

**AN ORDINANCE OF THE TOWNSHIP OF LAFAYETTE, SUSSEX COUNTY,  
NEW JERSEY AUTHORIZING A REFERENDUM BALLOT QUESTION  
REGARDING AN ADDITIONAL USE OF THE LAFAYETTE TOWNSHIP  
OPEN SPACE, RECREATION, AND FARMLAND, AND HISTORIC PRESERVATION  
TRUST FUND**

WHEREAS, Lafayette Township has previously approved the formation of an Open Space Advisory Committee that recommended Lafayette Township consider establishing a local Open Space Tax; and

WHEREAS, the following public question was placed on the ballot for referendum at the general election on November 8, 2005 pursuant to N.J.S.A. 40:12-15.7:

Shall the Township of Lafayette, County of Sussex adopt an Ordinance establishing a "Municipal Open Space, Recreation, and Farmland, and Historic Preservation Trust Fund" which shall have, without limitation, the following provisions:

1. The Municipal Open Space, Recreation, and Farmland and Historic Preservation Trust Fund shall be funded through the imposition and collection of a tax, independent of the Township's budget. The Open Space Trust Fund will be financed by an annual levy of between one (\$0.01) and three (\$0.03) cents per \$100 of assessed valuation. The amount of the tax to be collected each year will rest within the discretion of the Township Committee. The Trust Fund revenue may be used for any or all of the following purposes:
  - a. Acquisition of lands for conservation purposes;
  - b. Acquisition of lands for recreation purposes;
  - c. Acquisition of farmland for farmland preservation;
  - d. Acquisition of historic properties and structures;
  - e. Maintenance of lands for conservation purposes;
  - f. Payment of debt service on indebtedness issued or incurred by the Township of Lafayette for any of the purposes set forth in subparagraphs (a) through (e) above.
2. Lands acquired by the Township of Lafayette using revenue raised pursuant to this tax authorization shall be held in trust and shall be used exclusively for the purposes authorized under N.J.S.A. 40:12-15.1 et seq.
3. A "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" shall be created by the Township of Lafayette and shall be administered in accordance with N.J.S.A. 40:12-15.1 et seq.
4. Expenditures from the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" will remain in the discretion of the governing body of the Township of Lafayette after at least one public hearing is conducted thereon and projects selected shall be in accordance with the "Lafayette Open Space and Recreation Plan." and

WHEREAS, a majority of the registered voters voting in the election affirmatively answered the aforesaid question; and

WHEREAS, the Township Committee passed an Ordinance 2005-19 creating the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund." for acquisition of lands and other purposes outlined in the referendum question pursuant to N.J.S.A. 40:12-15.7 as follows:

## SECTION ONE

## TRUST FUND FOR OPEN SPACE ACQUISITION

A special bank account shall be opened and maintained by the Township of Lafayette known and designated as the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund." Funds collected by the Township as authorized by this referendum shall be deposited into this account. The said Fund shall be established and maintained as authorized by N.J.S.A. 40:12-15.7. Any funds so deposited shall be used exclusively for the purposes authorized by the voters of Lafayette. Any interest or other income earned on monies deposited into this account shall be credited to the fund to be used for the same purposes as the principal.

## SECTION TWO

## FUNDING OF THE OPEN SPACE TRUST FUND

The reserve for Open Space Acquisition shall be funded through the dedication to the fund of an amount of between .01 and .03 per \$100.00 of assessed valuation of each annual tax levy commencing the year 2006. Discretion for the collection of this tax in accordance with these guidelines will remain within the discretion of the Township Committee. Intervivos gifts and testamentary bequests of funds paid to the Township of Lafayette and dedicated to the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" shall be added to the said fund and such funds expended in accordance with this Ordinance. Interest earned upon funds deposited within this account shall be added to the funds within this Trust Fund and are to be used exclusively for the same purpose as the principal. Said funds in this dedicated account may be utilized for any purpose set forth in the approved referendum as authorized by the Township Committee following the completion of at least one public hearing.

## SECTION THREE

## SALE OF PROPERTY

Property which is acquired with the funds from this trust fund shall not be used for a purpose inconsistent with this Ordinance and shall not be leased or sold except upon authorization by the Township Committee and then only after the question of the sale or lease of such property has been acted upon by referendum of the registered voters of Lafayette Township in the manner set forth in N.J.S.A. 40:12-15.9. Where property is acquired in accordance with this Ordinance, restrictions upon the use, sale, or lease of such property shall be stated in a Deed to be recorded upon the title of such property setting forth in addition that the property was acquired with funds from the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" and;

WHEREAS, the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" was established where the principal purpose was to acquire and preserve open space, recreation, farmland, and/or historic properties, and is currently codified at Lafayette Ordinance 2-14.1 et. seq.; and

WHEREAS, N.J.S.A. 40:12-15.7 (d) allows the governing body to submit to voters in a general or special election a proposition amending or supplementing a previously approved proposition regarding open space conservation, including adding purposes for which Open Space Funds may be expended; and

WHEREAS, N.J.S.A. 19:37-1 permits governing bodies to ascertain the sentiment of legal voters upon a question by submission of such question to a vote of the electors in the municipality at any election held therein, by adopting at a regular meeting an ordinance or resolution requesting that the County Clerk to print upon official ballots to be used at the next ensuing general election a proposition to be formulated and expressed in the Ordinance in concise form; provided the request shall be filed with the County Clerk not later than eight-one (81) days previous to the election.

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

**Section 1.** The Lafayette Township Committee does hereby request that the following referendum question be forwarded to the Sussex County Clerk to be placed on the November 2020 General Election Ballot:

**OPEN SPACE TRUST REFERENDUM**

Shall the Lafayette Township Committee adopt an Ordinance revising the permitted uses of the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund", currently codified as Section 2-14.1 et. seq. of the Lafayette Township Code, to allow the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" to be used not only for land acquisition, but also allow up to a maximum of 30% of the total "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" (as of January 1 of each year) to be utilized for development of land acquired for recreation and conservation purposes as permitted at N.J.S.A. 40:12-15.7 (1)(b). "Development" is defined at N.J.S.A. 40:12-15.1 as "any improvement to land acquired for recreation and conservation purposes designed to expand and enhance its utilization for those purposes."

[ ] Yes  
[ ] No

**INTERPRETIVE STATEMENT**

This proposal will revise the Township's current Open Space Ordinance, Section 2-14.1 et. seq. by allowing up to 30% of the balance of the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" monies each year to be utilized for development of Open Space properties. Currently, the Township Code allows for "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" monies to be utilized to acquire properties where the principal purpose of the acquisition is for preservation of open space, recreation, farmland, and/or historic properties.

A "Yes" vote on this referendum question will mean that the voters desire that up to 30% of the "Lafayette Township Open Space, Recreation, and Farmland and Historic Preservation Trust Fund" may also be utilized for the development costs on Township preserved properties.

**Section 2.** The Sussex County Clerk is hereby requested to print the Referendum and Interpretive Statement on the Official Ballot for the next General Election held in November 2020.

**Section 3. Severability.** If any provision of this Ordinance or the application of this Ordinance to any provision or circumstance is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**Section 4. Repealer.** All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**Section 5. Effective Date.** This Ordinance shall take effect after the final passage and publication as required by law.

**NOTICE**

TAKE NOTICE that the above entitled ordinance was introduced at a regular meeting of the Township Committee of the Township of Lafayette, Sussex County, New Jersey, held on June 2, 2020 and will be considered for final passage after public hearing at a regular meeting of the Township Committee to be held on July 8, 2020 at 7:30 p.m. in the Municipal Building, 33 Morris Farm Road, Lafayette, New Jersey.

ANNAROSE FEDISH, RMC  
Municipal Clerk