

TOWNSHIP OF MONTCLAIR, NEW JERSEY
BY-LAWS OF THE ENVIRONMENTAL COMMISSION

Final

Pursuant to N.J.S.A. 40:56A-1 to 40:56A-12, an Environmental Commission (“Commission”) in the Township of Montclair, New Jersey is established for the protection, development or use of natural resources, including water resources, located within territorial limits of the municipality of Montclair. The following By-Laws of the Environmental Commission of the Township of Montclair (“By-Laws”) are intended to supplement—but not supplant or otherwise contradict—State law and Chapter 202 of the Ordinances of the Township of Montclair, as amended (“Ordinances”). Wherever a conflict occurs between the By-Laws and State law/Ordinances, the latter shall control.

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PART 1: INTERNAL AFFAIRS

1.1. Membership

1.1.1. Regular Members

The Commission shall consist of seven members appointed by the Mayor, one of whom shall also be a member of the Planning Board and all of whom shall be residents of the municipality of Montclair. Members shall serve without compensation, but, within budgetary limitations, they may receive reimbursement for actual expenses incurred in the performance of their duties. Commissioners shall be appointed for terms of three years and until the appointment and qualification of their successors. Regular members may be reappointed by the Mayor.

1.1.2. Alternate Members

The Township Council may appoint not more than two alternate members to the Commission who shall be residents of the municipality of Montclair. Alternate members shall be designated at the time of appointment by the Township Council as "Alternate No. 1" and "Alternate No. 2." An alternate member may participate in discussions of the proceedings, but may not vote, except in the absence or disqualification of a regular member.

The term of the alternate members shall be for two years and may be reappointed by the Township Council.

1.1.3. Associate Members

Associate members are a nonvoting membership who assist the Commission with their duties, and participate in meetings and activities of the Commission. Associate members may be designated by vote of the Commission.

1.1.4. Removal of Members

The Township Council may remove any regular member or alternate member of the Commission for cause, on written charges served upon the member and after the hearing thereon, at which the member shall be entitled to be heard in person or by counsel. Failure to attend meetings for two consecutive months or two consecutive regular meetings without being excused by the majority of the voting membership shall result in forfeiture of office by such member. It is the responsibility of the Chairperson or the absent member to call for a vote to excuse the absent member at the next regular meeting. The Commission shall decide what excuses are acceptable.

Associate members may be dismissed by the vote of the Commission.

1.1.5. By-Laws Violations

Where the Commission determines that a violation(s) of these By-Laws is of sufficient magnitude, it may admonish a member or recommend termination from the Commission by employing the procedure discussed in § 1.1.4.

1.1.6. Vacancies

A vacancy of a regular or alternate member occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment.

1.2. Meetings

1.2.1. Open Public Meetings Act Compliance

All meetings and conduct of business shall be subject to the Open Public Meetings Act, N.J.S.A. 10:4-1 et seq and shall be open to the public. The public may be afforded the opportunity to comment on Commission matters at the discretion of the Commission.

Executive sessions of the Commission, when authorized by the Open Public Meetings Act, may be closed to the public.

A violation of the Open Public Meetings Act occurs when a quorum engages in verbal, email or other written communication or on so-called social media with other Commission members or with members of the public in which the substance or merits of the Commission's work is discussed. All such communications, whether expressed over/on/through the Township's communications systems or over/on/through a Commission member's private communications capabilities, may be subject to disclosure in judicial or other quasi-judicial proceedings.

1.2.2. Regular Meetings

Regular meetings of the Commission are generally held in the Council Chambers of the Municipal Building at 7:30 p.m. on the second Wednesday of each month. The Commission meetings generally will end by 9:00 p.m.

The time and place of any or all meetings may be changed, if necessary, subject to the Open Public Meetings Act requirements, by direction of the Chairperson. Notice of meetings that are canceled due to exigent circumstances or the lack of a quorum shall be published by the

Secretary (or designee) in a conspicuous place stating the reason for the cancellation and providing the next meeting's date, time and place.

1.2.3. Reorganization Meeting

The first regular meeting after January 1st of each year will constitute the annual reorganization meeting of the Commission. The reorganization meeting shall occur on or before January 15 of any given year. At the reorganization meeting, the Commission shall consider and vote upon a meeting schedule for the year which (a) shall be published in accordance with the Open Public Meetings Act as soon thereafter as is practicable and (b) shall state that formal action may be taken at any or all such meetings. Committee appointments (or re-appointments) may be made at the reorganization meeting.

1.2.4. Special Meetings

Special meetings, as permitted by law, may be called by the Chairperson or, in his/her absence, by the Co-Chairperson, at any time or upon the written request, which may be by electronic means, of two members, provided that notice of the special meeting shall be subject to the Open Public Meetings Act requirements and shall be given to the public as required. The need for a special meeting may arise when an issue becomes urgent or in need of action by the Commission prior to its next regular meeting.

1.2.5. Order of Business

The intent of the Commission's meetings is to take advantage of the presence of its membership to discuss issues relevant to the Township, either through the Commission's own initiatives or through referral from the Township Council. The order of business should reflect current issues at hand and reports should focus on areas where Commissioners need input from the Commission or where action is required to move forward. Presentations from Commissioners or outside sources may take place, if appropriate, and if relevant to current areas of work.

Subject to the requirements by the Open Public Meetings Act, final agendas for meetings shall be posted by the Chairperson or Secretary, in a conspicuous place, no later than 24 hours prior to the scheduled meeting. No later than 48 hours prior to a meeting, a draft agenda is to be shared electronically with the Commissioners for comment.

The order of business of all regular meetings will be as follows:

■ Call to order

■ Statement of compliance with the Open Public Meetings Act

- Welcome and introductions
- Approval of minutes of previous meetings
- Presentations, if applicable
- Reports/updates, if applicable
- Other business
- Adjournment

The Commission may alter this sequence by public announcement at a meeting.

1.2.6. Absent Members

With the exception of an exigent circumstance that prevents it, a member has the affirmative obligation to notify the Chairperson and Secretary by email, text, or phone call of an anticipated absence at the earliest practicable time.

1.3. Officers, Employees

1.3.1. Designated Officers

In accordance with § 202-11(B)(1) of the Ordinances, the Mayor shall designate one of the regular members to serve as Chairperson and presiding officer of the Commission.

1.3.2. Election of Officers

The Commission shall elect a Co-Chairperson and Secretary from its regular members.

1.3.3. Appropriations

The Commission may appoint such clerks and other employees and incur such expenses as it may from time to time require, providing the same shall be within the limits of funds appropriated to it by the governing body or otherwise available to it.

1.4. Committees

1.4.1. Standing Committees

Standing committees are those that address ongoing areas of need in the community. There shall be the following standing committees of the Commission:

- Communication.
- Energy Conservation & Transportation.
- Green Development & Site Plan Review.
- Recycling & Waste Reduction.
- Trees & Natural Resources.

1.4.2. Committee Composition

The standing committees shall not comprise more than an effective majority or quorum of the Commission. The Commission shall annually appoint or reappoint the members of each committee for a one-year term. Vacancies shall be filled at or by the next regular meeting of the Commission. Not more than one alternate member may serve on any standing committee.

1.4.3. Special Committees

Special committees may be established, and the membership comprising the same, by a vote of the Commission. Special committees may be requested by Commissioners when a new topic arises that requires dedicated effort, such as research, outreach, coordination or analysis. Members of such committee shall serve for a term to be determined by the Commission when it acts to establish such committee. Special committees shall be comprised of at least two Commissioners and no more than an effective majority or quorum of the Commission.

1.4.4. By-Law Amendments

The Commission may, from time to time, amend any part or parts of these By-Laws at any meeting, provided notice of such amendment has been given in writing to each member of the Commission at least one week prior to such meeting. In no case, however, shall any By-Law, as amended, be applicable to any action commenced prior to the adoption of such amendment, where the application thereof would result in surprise, hardship or injustice to any interested persons.

PART 2: DECISION MAKING

2.1. Quorum

At all meetings of the Commission, a quorum for the conduct of any business shall consist of four (4) members. In the absence of a quorum, the members present shall adjourn all Commission business requiring a quorum to the next date in the Commission's schedule. The Commission may still proceed with its meeting, but may not take official action.

2.2. Voting

A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote first.

When voting on matters (except in the case of a motion for adjournment when a quorum is not present), actions shall be authorized by a majority of the members present at the meeting.

Abstentions are disfavored except for good cause. An abstention shall be deemed as an assent to the vote of the majority. Abstentions shall not be construed to create a tie.

A vote by 2/3rds of the voting members present may overturn a decision of the Co-Chairpersons.

2.3. Potential Conflicts of Interest

No member shall be permitted to act on any matter either directly or indirectly, in which he/she has any personal or financial interest. A member has the affirmative duty and obligation to notify the Chairperson of the potential for a conflict before the potentially-conflicting matter is heard by the Commission. Conflict of interest determinations will be made in accordance with the common law, the Local Government Ethics Law (N.J.S.A. 40A:9-22.1, et seq.) and the Ordinances. Whenever reasonably possible, the reason for a disqualification shall be stated.

PART 3: POWERS AND DUTIES

3.1. Powers

The Commission shall have the power to conduct research into the use and possible use of the open land areas of the municipality and may coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print, and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its purposes, within budgetary limitations.

The Commission shall have the power to study and make recommendations concerning open space preservation, water resources management, air pollution control, solid waste management, noise control, soil and landscape protection, environmental appearance, and protection of flora and fauna as well as any other appropriate topic upon which the Township Council seeks advice and study.

The Commission shall have the power to research, make application for and promote grants and other financial assistance programs which can provide funding to the Commission or the Township to fulfill the Commission's duties as set forth herein.

The Commission shall have the power to review an informational copy of every application for development to the Planning Board.

3.2. Property Acquisitions.

The Environmental Commission may, subject to the prior written approval of the governing body, acquire property, both real and personal, in the name of the municipality by gift, purchase, grant, bequest, devise or lease for any of its purposes and shall administer the same for such purposes subject to the terms of the conveyance or gift. Such an acquisition may be to acquire the fee or any lesser interest, development right, easement (including conservation easement), covenant or other contractual right (including a conveyance on conditions or with limitations or reversions) as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly utilize open spaces and other land and water areas in the municipality.

3.3. Duties of the Commission

3.3.1. Open Space Index

The Commission shall keep an index of all open areas, publicly or privately owned, including open marshland, swamps and other wetlands, 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 the Master Plan and the development and use of such areas.

3.3.2. Records and annual reports

The Commission shall keep records of its meetings and activities and make an annual report to the governing body.

3.4. Officer Duties

3.4.1. Chairperson

The Chairperson shall preside at all meetings of the Commission, decide all points of order and matters of procedure governing meetings or hearings, and perform all the duties normally appertaining to the office as required by the Ordinance, these By-Laws, or by vote of the Commission. The Chairperson shall be known as “Co-Chairperson” when conducting the business of the Commission.

3.4.2. Co-Chairperson

The Co-Chairperson shall preside at all Commission meetings and hearings as determined by the Chairperson and Co-Chairperson and shall have all powers of the Chairperson including in the absence or disqualification of the Chairperson.

3.4.3 Secretary

The Secretary, under the direction of the Co-Chairpersons, shall generally perform the secretarial work of the Commission, including, but not limited to the following:

- Compile the required records; keep and maintain, in order, the necessary files and indices with respect to the operation of the Commission; give all notice of meetings required to be given by the Open Public Meetings Act or any other applicable law or ordinance.

- Have custody and take care of all records, documents, maps, plans and papers of the Commission; provide for the care and custody of items for which no provision is made otherwise by statute; take roll call votes and note on the official record the yea, nay or abstention of each member as they vote.
- Keep minutes of the proceedings of each meeting held by the Commission.
- Cause to be transmitted electronically to each member of the Commission a true copy of the minutes of meetings at least one week prior to adoption.
- Track membership terms and expiration dates, and verify this information with the Township Clerk annually.
- Perform such other duties as usually appertain to this office.

Should the Secretary be absent from a meeting, the Co-Chairpersons shall appoint a Secretary *pro tem*.