

TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX, STATE OF NEW JERSEY

ORDINANCE NO. 2014-03

AN ORDINANCE OF THE TOWNSHIP OF ANDOVER, COUNTY OF SUSSEX AND STATE OF NEW JERSEY TO ADD AND SUPPLEMENT CHAPTER 190 "ZONING" OF THE TOWNSHIP CODE BY CREATING ARTICLE XVI "WIND AND SOLAR ENERGY SYSTEMS"

SECTION 1. GENERAL PROVISIONS

WHEREAS, The primary purpose of a wind or solar energy system will be to provide power for the principal use of the property whereon said system is to be located and shall not be for the generation of power for commercial sale purposes, although this provision shall not be interpreted to prohibit the sale of excess power generated from time to time from a wind or solar energy system designed to meet the energy needs of the principal use on the property. For the purposes of this chapter, the sale of excess power shall be limited so that in no event an energy system is generating more energy for sale than what is otherwise necessary to power the principal use on the property.

WHEREAS, Wind and solar energy system shall only be permitted as an accessory use on the same lot as the principal use. Wind energy systems shall require a site plan approval from the Land Use Board. All applications shall demonstrate that the wind velocity and conditions at the proposed location will be suitable for the generation of electricity. All energy systems require approval from the Zoning Officer and Construction Official prior to installation. All applications for an energy system shall include appropriate information demonstrating compliance with this chapter, including a record of the electric usage for the principal use on the property for the previous year. In the event that the Zoning Officer or Construction Official does not agree that the provisions of this chapter will be satisfied, an applicant may apply to the Land Use Board for an interpretation or variance as necessary.

SECTION 2. DEFINITIONS

Solar Energy System – means solar panels and all associated equipment that collect, store and distribute solar energy for heating, cooling or electricity generating.

Solar Panel – means a structure containing one or more receptive cells, the purpose of which is to convert solar energy into useable electrical energy through the use of solar panels.

Tower – means a monopole, freestanding or guyed structure that supports a wind generator.

Wind Energy System – means a wind turbine and all associated equipment, including a base, blade, foundation, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries, or other components necessary to fully utilize the wind generator.

Wind Turbine – means equipment that converts energy from the wind into electricity. This term includes rotor, blades and associated mechanical and electrical conversion components necessary to generate, store and/or transfer energy.

### SECTION 3. WIND ENERGY SYSTEMS

- A. Residential Zones – Wind turbines are permitted in all residential zone districts subject to the following:
  - 1. Minimum lot size shall be 10 acres. No more than one wind turbine per lot. Lot averaging shall not be permitted for installation of more than one wind turbine.
  - 2. Minimum setbacks: All wind turbines shall be set back from all property lines a minimum distance equal to 100% of the height of the structure, including blades. Guy lines used to support the tower may not encroach into any setbacks.
  - 3. Wind turbines, support equipment and/or guy wires shall not be permitted in the front yard.
  - 4. Mechanical equipment and buildings provided for storage of materials and equipment shall conform to the standards for an accessory structure within the applicable zone.
  - 5. Maximum height for a wind turbine shall not exceed a height of 80 feet, including the height of the blades at their highest point.
  - 6. Wind turbines shall not be permitted as rooftop installations.
  - 7. Wind turbines on residential properties shall have a nameplate capacity of 100 kilowatts or less.
  
- B. Non-residential Zones – Wind turbines are permitted in all non-residential zone districts, subject to the bulk requirements of the district and the following:
  - 1. Minimum lot size shall 10 acres. No more than one wind turbine shall be permitted per lot. Lot averaging shall not be permitted for installation of more than one wind turbines.
  - 2. The maximum height for a wind turbine shall not exceed 120 feet, including the height of the blades at their highest point.
  - 3. Minimum setbacks: All wind turbines shall be set back from all property lines a distance equal to 100% of the height of the turbine, including the blades. Guy wires used to support the tower may not encroach into any setbacks.
  - 4. If there is a principal structure on the lot, no wind turbines, support equipment and/or guy wires shall be permitted in the front area of the principal structure.
  - 5. Mechanical equipment and buildings provided for storages of materials and equipment shall conform to the standards for an accessory structure within the applicable zone.
  - 6. Wind turbines shall not be permitted as a rooftop installation.
  - 7. Wind turbines on non-residential properties shall have a nameplate capacity of 100 kilowatts or less.
  
- C. All wind energy systems shall comply with the following requirements:
  - 1. Sound levels of the wind energy system shall not exceed 55 DBA at a common property line. These levels may be exceeded during short-term events such as utility outages and/or severe storms.
  - 2. Wind turbines shall be designated with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
  - 3. Wind energy systems shall not be artificially lighted except to the extent required by the FAA or other applicable authority.
  - 4. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  - 5. Wind energy systems shall be designed to prevent interference with any television, radio, or electronic reception or transmission and shall be in compliance with any federal, state or county regulations.
  - 6. The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower for a minimum of 10 feet above the ground level.

7. All moving parts of the wind energy system shall be a minimum of 25 feet above the ground level.
8. The blades of the wind energy system shall be constructed of a corrosive-resistant material.
9. A clearly marked manual shut-off switch for the electricity from the wind energy system shall be installed in close proximity to the meter on the exterior of the principal structure.
10. New Jersey Department of Transportation, Division of Aeronautics and/or FAA approval or jurisdictional determination for the monopole shall be obtained by applicant.

#### SECTION 4. SOLAR ENERGY SYSTEMS

##### A. Rooftop Solar Systems

1. Solar panels shall be permitted as a rooftop installation in any zoning district. The solar panels shall not exceed a height of 12 inches from the rooftop. The height of the solar panels shall not be included in any calculations for total building height.
2. Panels installed in a rooftop configuration must be installed not more than one foot beyond the actual boundaries or edges of the roof.
3. A clearly marked manual shut-off switch for the electricity from the solar panels shall be installed in close proximity to the meter on the exterior of the principal structure.
4. An official National Electric Code (N.E.C.) placard, stating there are solar panels on the principal structure, shall be placed near the front entrance of the structure.

##### B. Ground-mount Solar Panel Systems

1. Ground arrays shall not be permitted in the front yard.
2. Ground arrays shall be set back a minimum of 20 feet from side or rear property lines in all residential zones or in conformance with the required setbacks for accessory structures in non-residential zones.
3. Ground arrays shall be located to minimize any glare towards an adjoining property.
4. Ground arrays shall not exceed a height of 15 feet.
5. Ground arrays shall not be permitted in the R-0.5 Zone or on any lot that is 0.5 acres or less.
6. A ground array system shall not add, contribute to or be calculated to cause an increase in impervious coverage for the purposes of conforming to zone standards.
7. A clearly marked shut-off switch for the electricity from the solar panels shall be installed in close proximity to the meter on the exterior of the principal structure.
8. Ground arrays shall be screened and or landscaped to shield the system when viewed from the street and/or adjacent properties.
  - a. The recommended distance and planting material is identified in Figure A attached.
  - b. Where natural evergreen or dense deciduous screening is already in existence, no additional screening shall be required between the property line(s) and the ground arrays.
  - c. Screening is not required between the ground array and the principal structure located on the same lot as the array if it is completely shielded from the front, rear and side property lines.

- C. The provisions in this chapter do not apply to the installation of decorative solar pathway lights that do not provide power for another use or structure.

- D. All solar energy systems shall meet all National Electric Code (N.E.C.) requirements.

#### SECTION 5. REQUIREMENTS FOR ALL WIND AND SOLAR ENERGY SYSTEMS

- A. Wind and solar energy systems shall not be used for displaying or advertising except for the labeling information noted in Section F below.
- B. The design of wind or solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- C. The wind or solar energy system shall be located so that tree removal is not required to the extent reasonably possible.
- D. All electric lines and utility wires shall be installed underground.
- E. The installation of a wind or solar energy system shall conform to the requirements of the electric utility company for interconnection as the case may dictate.
- F. A minimum of one sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition, the following information shall be posted on a label or labels installed at the site:
  - 1. The maximum power output of the system.
  - 2. Nominal voltage and maximum current.
  - 3. Manufacturer's or installer's name, address and telephone number, and the serial number and model number of the equipment.
  - 4. Emergency and normal shutdown procedures.
- G. Systems that connect to the electric utility shall comply with the New Jersey net metering and interconnection standards for Class I Renewable Energy Systems at N.J.A.C. 14:4-9. Systems shall not be installed to generate more electricity than needed for the principal use on the property.
- H. A wind or solar energy system that is out of service for a continuous twelve-month period shall be deemed to have been abandoned.
  - 1. The Zoning Officer may issue a notice of abandonment to the owner. The notice shall be sent via regular mail and certified mail, return receipt requested, to the owner of record.
  - 2. Any abandoned system shall be removed at the owner's sole expense within six months of the date on the notice of abandonment from the Zoning Officer. Prior to removal, the owner shall obtain a demolition permit from the Construction Official. Upon removal, the site shall be cleaned, restored and landscaped to blend with the existing surrounding vegetation at the time of the removal.
  - 3. The Zoning Officer may issue a summons to the owner for failure to remove the abandoned system as requested in the notice of abandonment.
  - 4. When the owner of the wind or solar energy system had been notified to remove same and has not removed the system within six months after receiving the notice, the Township may pursue legal action to have the system removed at the owner's expense.
  - 5. Solar panels removed from the site shall be deposited at a recognized solar panel recycling center. Panels that are not recycled must be disposed of in accordance with the New Jersey Department of Environmental Protection or U.S. Environmental Protection Agency requirements.

- I. A zoning permit and building permit shall be required for the installation of a wind or solar energy system. Site Plan approval shall also be required for a wind energy system installation. Documents required for a zoning permit shall include the following:
  1. Property Survey.
  2. Location, dimensions (including height) of existing major structures on the property.
  3. Location, dimensions and type of proposed energy system, including all structures accessory to the system.
  4. Manufacturer's energy system specifications, including make and model.
  5. Proof of notification to the electric utility company for interconnection purposes.
  6. Certification from a professional engineer and/or the installation company that the proposed installation is in compliance with manufacturer's guidelines.
  7. Other documents and plans containing enough information concerning installation of the system for the Zoning Officer to make a formal decision concerning conformance with the ordinance standards. The amount and accuracy of information provided shall be in the judgment of the Zoning Officer.
  8. Statement from applicant that installation will comply with all environmental guidelines.
  9. Application shall include a current photograph of the site where the proposed system is to be installed.
- J. No wind or solar energy system shall be permitted on any government designated historical zone or structure.
- K. If a section, paragraph, subdivision, clause or provision of the chapter shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this chapter shall be deemed valid and effective.

#### SECTION 6. VIOLATIONS

It is unlawful for any person to construct, install or operate a wind or solar energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance.

- A. Maximum Penalty. For violation of any provision of this Ordinance, the maximum penalty, upon conviction, shall be one or more of the following: a fine not exceeding \$2,000 or imprisonment for a period not exceeding 90 days or a period of community service not exceeding 90 days, at the discretion of the Municipal Court Judge.
- B. Separate Violations. Except as otherwise provided, each and every day in which a violation of any provision of this Ordinance exists shall constitute a separate violation.
- C. Lesser Penalty. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.
- D. Minimum Penalty. The Township Committee may prescribe that at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.

Solar energy systems installed prior to the adoption of the ordinance are exempt.

SECTION 7. All Ordinances of the Township of Andover, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 9. The Township Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the Sussex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Sussex County Planning Board as required by N.J.S.A. 40:55-D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 10. This Ordinance may be renumbered for codification purposes.

TOWNSHIP OF ANDOVER  
COUNTY OF SUSSEX  
STATE OF NEW JERSEY

ATTEST:

\_\_\_\_\_  
Vita Thompson, Clerk

By: \_\_\_\_\_  
Phil Boyce, Mayor

INTRODUCED: April 14, 2014  
ADOPTED: June 23, 2014  
CERTIFIED: July 01, 2014

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SECTION 3. WIND ENERGY SYSTEMS

- B. Residential Zones – Wind turbines are permitted in all residential zone districts subject to the following:
8. Minimum lot size shall be 10 acres. No more than one wind turbine per lot. Lot averaging shall not be permitted for installation of more than one wind turbine.
  9. Minimum setbacks: All wind turbines shall be set back from all property lines a minimum distance equal to 100% of the height of the structure, including blades. Guy lines used to support the tower may not encroach into any setbacks.
  10. Wind turbines, support equipment and/or guy wires shall not be permitted in the front yard.
  11. Mechanical equipment and buildings provided for storage of materials and equipment shall conform to the standards for an accessory structure within the applicable zone.
  12. Maximum height for a wind turbine shall not exceed a height of 80 feet, including the height of the blades at their highest point.
  13. Wind turbines shall not be permitted as rooftop installations.
  14. Wind turbines on residential properties shall have a nameplate capacity of 100 kilowatts or less.
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11. Sound levels of the wind energy system shall not exceed 55 DBA at a common property line. These levels may be exceeded during short-term events such as utility outages and/or severe storms.
  12. Wind turbines shall be designated with an automatic brake or other similar device to prevent over-speeding and excessive pressure on the tower structure.
  13. Wind energy systems shall not be artificially lighted except to the extent required by the FAA or other applicable authority.
  14. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
  15. Wind energy systems shall be designed to prevent interference with any television, radio, or electronic reception or transmission and shall be in compliance with any federal, state or county regulations.
  16. The tower shall be designed and installed so as not to provide step bolts, a ladder, or other publicly accessible means of climbing the tower for a minimum of 10 feet above the ground level.



17. All moving parts of the wind energy system shall be a minimum of 25 feet above the ground level.
18. The blades of the wind energy system shall be constructed of a corrosive-resistant material.
19. A clearly marked manual shut-off switch for the electricity from the wind energy system shall be installed in close proximity to the meter on the exterior of the principal structure.
20. New Jersey Department of Transportation, Division of Aeronautics and/or FAA approval or jurisdictional determination for the monopole shall be obtained by applicant.

#### SECTION 4. SOLAR ENERGY SYSTEMS

##### E. Rooftop Solar Systems

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6. Panels installed in a rooftop configuration must be installed not more than one foot beyond the actual boundaries or edges of the roof.
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8. An official National Electric Code (N.E.C.) placard, stating there are solar panels on the principal structure, shall be placed near the front entrance of the structure.

##### F. Ground-mount Solar Panel Systems

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11. Ground arrays shall be located to minimize any glare towards an adjoining property.
12. Ground arrays shall not exceed a height of 15 feet.
13. Ground arrays shall not be permitted in the R-0.5 Zone or on any lot that is 0.5 acres or less.
14. A ground array system shall not add, contribute to or be calculated to cause an increase in impervious coverage for the purposes of conforming to zone standards.
15. A clearly marked shut-off switch for the electricity from the solar panels shall be installed in close proximity to the meter on the exterior of the principal structure.
16. Ground arrays shall be screened and or landscaped to shield the system when viewed from the street and/or adjacent properties.
  - a. The recommended distance and planting material is identified in Figure A attached.
  - b. Where natural evergreen or dense deciduous screening is already in existence, no additional screening shall be required between the property line(s) and the ground arrays.
  - c. Screening is not required between the ground array and the principal structure located on the same lot as the array if it is completely shielded from the front, rear and side property lines.

G. The provisions in this chapter do not apply to the installation of decorative solar pathway lights that do not provide power for another use or structure.

H. All solar energy systems shall meet all National Electric Code (N.E.C.) requirements.

#### SECTION 5. REQUIREMENTS FOR ALL WIND AND SOLAR ENERGY SYSTEMS

- L. Wind and solar energy systems shall not be used for displaying or advertising except for the labeling information noted in Section F below.
- M. The design of wind or solar energy systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
- N. The wind or solar energy system shall be located so that tree removal is not required to the extent reasonably possible.
- O. All electric lines and utility wires shall be installed underground.
- P. The installation of a wind or solar energy system shall conform to the requirements of the electric utility company for interconnection as the case may dictate.
- Q. A minimum of one sign shall be posted near ground level on the interconnection cabinet warning of high voltage. In addition, the following information shall be posted on a label or labels installed at the site:
  - 5. The maximum power output of the system.
  - 6. Nominal voltage and maximum current.
  - 7. Manufacturer's or installer's name, address and telephone number, and the serial number and model number of the equipment.
  - 8. Emergency and normal shutdown procedures.
- R. Systems that connect to the electric utility shall comply with the New Jersey net metering and interconnection standards for Class I Renewable Energy Systems at N.J.A.C. 14:4-9. Systems shall not be installed to generate more electricity than needed for the principal use on the property.
- S. A wind or solar energy system that is out of service for a continuous twelve-month period shall be deemed to have been abandoned.
  - 6. The Zoning Officer may issue a notice of abandonment to the owner. The notice shall be sent via regular mail and certified mail, return receipt requested, to the owner of record.
  - 7. Any abandoned system shall be removed at the owner's sole expense within six months of the date on the notice of abandonment from the Zoning Officer. Prior to removal, the owner shall obtain a demolition permit from the Construction Official. Upon removal, the site shall be cleaned, restored and landscaped to blend with the existing surrounding vegetation at the time of the removal.
  - 8. The Zoning Officer may issue a summons to the owner for failure to remove the abandoned system as requested in the notice of abandonment.
  - 9. When the owner of the wind or solar energy system had been notified to remove same and has not removed the system within six months after receiving the notice, the Township may pursue legal action to have the system removed at the owner's expense.
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10. Property Survey.
  11. Location, dimensions (including height) of existing major structures on the property.
  12. Location, dimensions and type of proposed energy system, including all structures accessory to the system.
  13. Manufacturer's energy system specifications, including make and model.
  14. Proof of notification to the electric utility company for interconnection purposes.
  15. Certification from a professional engineer and/or the installation company that the proposed installation is in compliance with manufacturer's guidelines.
  16. Other documents and plans containing enough information concerning installation of the system for the Zoning Officer to make a formal decision concerning conformance with the ordinance standards. The amount and accuracy of information provided shall be in the judgment of the Zoning Officer.
  17. Statement from applicant that installation will comply with all environmental guidelines.
  18. Application shall include a current photograph of the site where the proposed system is to be installed.
- U. No wind or solar energy system shall be permitted on any government designated historical zone or structure.
- V. If a section, paragraph, subdivision, clause or provision of the chapter shall be judged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision, and the remainder of this chapter shall be deemed valid and effective.

#### SECTION 6. VIOLATIONS

It is unlawful for any person to construct, install or operate a wind or solar energy system that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance.

- A. Maximum Penalty. For violation of any provision of this Ordinance, the maximum penalty, upon conviction, shall be one or more of the following: a fine not exceeding \$2,000 or imprisonment for a period not exceeding 90 days or a period of community service not exceeding 90 days, at the discretion of the Municipal Court Judge.
- B. Separate Violations. Except as otherwise provided, each and every day in which a violation of any provision of this Ordinance exists shall constitute a separate violation.
- C. Lesser Penalty. The maximum penalty stated in this section is not intended to state an appropriate penalty for each and every violation. Any lesser penalty, including a nominal penalty or no penalty at all, may be appropriate for a particular case or violation.
- D. Minimum Penalty. The Township Committee may prescribe that at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.

Solar energy systems installed prior to the adoption of the ordinance are exempt.

SECTION 7. All Ordinances of the Township of Andover, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 9. The Township Clerk is hereby directed to give notice at least ten (10) days prior to the hearing on the adoption of this Ordinance to the Sussex County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15 and N.J.S.A. 40:55D-63 (if required). Upon the adoption of this Ordinance after public hearing thereon, the Township Clerk is further directed to publish notice of the passage thereof and to file a copy of the Ordinance as finally adopted with the Sussex County Planning Board as required by N.J.S.A. 40:55-D-16. The Clerk shall also forthwith transmit a copy of this Ordinance after final passage to the Township Tax Assessor as required by N.J.S.A. 40:49-2.1.

This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

SECTION 10. This Ordinance may be renumbered for codification purposes.

#### NOTICE OF PENDING ORDINANCE

PUBLIC NOTICE is hereby given that the foregoing Ordinance was introduced and passed at first reading at a Regular Meeting of the Township Committee of the Township of Andover held on April 14, 2014. A public hearing regarding same has been scheduled for May 12, 2014 beginning at 7:30 P.M., at the Municipal Building, 134 Newton-Sparta Road, Andover Township, NJ, at which time all persons interested both for and against said ordinance shall be given an opportunity to be heard concerning same.

Vita Thompson, R.M.C.  
Clerk/Administrator

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"WIND AND SOLAR ENERGY SYSTEMS"

NOTICE OF PUBLIC HEARING OF ORDINANCE ADOPTION

PUBLIC NOTICE is hereby given that the above entitled Ordinance was introduced and passed on first reading at a meeting of the Township Committee of the Township of Andover, held at the Municipal Building on the 14<sup>th</sup> day of April 2014. The same was scheduled for public hearing and final consideration and adoption at the meeting of the Township Committee scheduled for the 12<sup>th</sup> day of May 2014, at which time a public hearing was held. Following the public hearing this matter was tabled in order to re-submit the pending ordinance to the Land Use Board for issuance of a resolution certifying consistency with the Master Plan. The public hearing of this ordinance is rescheduled for the meeting of the Township Committee on the 23<sup>rd</sup> day of June 2014.

Vita Thompson, R.M.C.  
Municipal Clerk/Administrator

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NOTICE OF FINAL ADOPTION

NOTICE is hereby given that the above entitled ordinance was introduced and passed on first reading at a meeting of the Township Committee of the Township of Andover held at the Municipal Building on the 14<sup>th</sup> day of April 2014. The same came up for final adoption at a meeting of the Township Committee of the Township of Andover held at the Municipal Building on the 23<sup>rd</sup> day of June 2014, and, after all persons present were given an opportunity to be heard concerning same, it was finally passed and adopted and will be in full force in the Township according to law.

Vita Thompson, R.M.C.  
Clerk/Administrator