

ORDINANCE 35-2022

AN ORDINANCE AMENDING CHAPTER 166, LAND USE AND DEVELOPMENT, IN ORDER TO REQUIRE, AUTHORIZE AND ENCOURAGE ELECTRIC VEHICLE SUPPLY/SERVICE EQUIPMENT (EVSE) AND MAKE-READY PARKING SPACES FOR CERTAIN DEVELOPMENTS, TO AMEND SECTION 166-110, BUILDING PERMITS AND PLANS, AND TO AMEND THE ZONE CLASSIFICATION OF A PORTION OF BLOCK 2903, LOT 22 FROM THE R-25 RESIDENTIAL DISTRICT TO THE B-10 HIGHWAY BUSINESS ZONE DISTRICT

WHEREAS, P.L. 2021, c.171, signed into law on July 9, 2021, requires electric vehicle supply/service equipment and make-ready parking spaces be designated as a permitted accessory use in all zoning or use districts and establishes associated installation and parking requirements; and

WHEREAS, pursuant to P.L. 2021, c.171 the New Jersey Department of Community Affairs published a "model ordinance" on its website, which ordinance took effect throughout the State on September 1, 2021; and

WHEREAS, municipalities are authorized to adopt the aforesaid "model ordinance" and to make limited revisions thereto; and

WHEREAS, the Township of Hanover encourages greater ownership and use of electric vehicles, and the increased installation of EVSE and make ready parking spaces; and

WHEREAS, installation of EVSE and make-ready parking spaces encourages electric vehicle adoption; and

WHEREAS, supporting the transition to electric vehicles contributes to the Township's commitment to sustainability and is in the best interest of public welfare; and

WHEREAS, adoption of this ordinance supports the State of New Jersey's goals to reduce air pollutants and greenhouse gas emissions from the transportation sector as outlined and supported by various programs related to NJ's 2019 Energy Master Plan, Global Warming Response Act (P.L.2007, c.112 (C.26:2C-37 et al.)), and EV Law (P.L. 2019, c. 362); and

WHEREAS, Block 2903, Lot 22 is currently located in the R-25 Single Family Residence zone district, which is designed for the development of single-family detached dwellings; and

WHEREAS, the eastern portion of Lot 22 is located at the intersection of Ukraine Road and South Jefferson Road; and

WHEREAS, the location of the eastern portion of Lot 22 is not appropriate for the development of single-family residential development, since that location faces an existing convenience/gas store in the B-10 zone across Ukraine Road to the north and faces other nonresidential uses in the B-10 zone across South Jefferson Road to the

east, and since the traffic volumes on South Jefferson Road in this location would impact the quality of life of the any residents that would live there; and

WHEREAS, for the reasons stated above, a change in the zone classification for that portion of Block 2903, Lot 22 located at the intersection of South Jefferson Road from the R-25 Single Family Residence zone district to the B-10 Highway Business zone district is appropriate and in the public interest;

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

Section 1. Subsection D of Section 166-58, *Filing procedures; developments exempt from review*, in Article IX, *Filing and Review Procedures*, is hereby amended by adding and inserting a new Paragraph (11) to read as follows:

- (11) An application for development solely for the installation of electric vehicle supply/service equipment (EVSE) or make-ready spaces as part of an existing or proposed development for another use or uses in accordance with P.L. 2021, C. 171.

Section 2. The zoning map referenced in Subsection A of Section 166-108, "*Zoning map*," in Article XVIII, "*Districts and Zoning Map*," shall be amended to revise the boundary between the B-10 and R-25 zone districts to include a portion of Block 2903, Lot 22, as identified on the Township's tax maps, in the B-10 zone district, along with the adjacent street rights-of-way of South Jefferson Road and Ukraine Road. The boundaries of the area to be changed from the R-25 zone to the B-10 zone are described as follows:

- (1) Beginning at the intersection of the center lines of the rights-of-way of South Jefferson Road and Ukraine Road; thence
- (2) 230 feet along the center line of the right-of-way of South Jefferson Road in a generally southwesterly direction; thence
- (3) 315 feet along a line parallel to and at a distance of 230 feet from the center line of the right-of-way of Ukraine Road in a generally northwesterly direction; thence
- (4) 230 feet along a line parallel to and at a distance of 315 feet from the center line of the right-of-way of South Jefferson Road in a generally northeasterly direction; thence
- (5) along the center line of the right-of-way of Ukraine Road in a generally southeasterly direction to the point of beginning set forth above.

Section 3. Section 166-110, *Building permits and plans*, in Article XIX, *General Provisions*, is amended by the addition and insertion of a new Subsection C, to read as follows:

- C. Permits for electric vehicle supply/service equipment (EVSE) or make-ready parking spaces. In accordance with P.L. 2021, C. 171 and the subsequent

model ordinance promulgated by the New Jersey Department of Community Affairs, permits for electric vehicle supply/service equipment (EVSE) or make-ready parking spaces, as defined in Subsection O of §166-153, shall be required and administered as follows:

- (1) All EVSE and make-ready parking spaces shall be subject to applicable local and/or Department of Community Affairs permit and inspection requirements.
- (2) An application for development for the installation of EVSE or make-ready spaces at an existing gasoline service station, an existing retail establishment, or any other existing building shall not be subject to site plan or other land use board review, shall not require variance relief pursuant to N.J.S.A. 40:55D-1 et seq. or any other law, rule, or regulation, and shall be approved through the issuance of a zoning permit by the Zoning Officer, provided the application meets the following requirements:
 - (a) the proposed installation does not violate any of the zoning requirements applicable to the property or the conditions of any site plan or other approvals for the existing gasoline service station, retail establishment, or other existing building in effect at the time of the permit;
 - (b) all other conditions of prior approvals for the gasoline service station, the existing retail establishment, or any other existing building continue to be met; and
 - (c) the proposed installation complies with the construction codes adopted in or promulgated pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), any safety standards concerning the installation, and any State rule or regulation concerning electric vehicle charging stations.
- (3) An application for a zoning permit for the installation of EVSE or make-ready spaces pursuant to Paragraph C(2) above shall be deemed complete if:
 - (a) the application, including the permit fee and all necessary documentation, is determined to be complete,
 - (b) a notice of incompleteness is not provided within 20 days after the filing of the application, or
 - (c) a one-time written correction notice is not issued by the Zoning Officer/Construction Official within 20 days after filing of the application detailing all deficiencies in the application and identifying any additional information explicitly necessary to complete a review of the permit application.

- (4) A permit application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on requirements for the number of parking spaces.

Section 4. Article XIX, *General Provisions*, in Part 5, *Zoning*, is hereby amended by adding and inserting a new Section 166-138.6, to be entitled "Public electric vehicle charging facilities as a principal use," to read as follows:

§ 166-138.6. Publicly-accessible electric vehicle charging facilities as a principal use.

Notwithstanding anything in this chapter to the contrary, public electric vehicle charging facilities shall be a permitted principal use in the locations set forth below and shall be subject to the following requirements:

- A. **Definition.** For purposes of administering and interpreting this section, a "publicly-accessible electric vehicle charging facility" is defined as a paved area available and accessible to the general public and which contains designated parking spaces for electric vehicles served by electric vehicle supply/service equipment (EVSE) as defined in § 166-153O.
- B. **Locations where permitted.** When located as part of an existing or proposed development for another use, publicly-accessible electric vehicle charging facilities shall be permitted where specified by § 166-153O. When a publicly-accessible electric vehicle charging facility is the sole or principal use of the property, the facility shall only be permitted in those locations that comply with all of the following conditions:
 - (1) The property containing the facility is in a nonresidential zone district intended primarily or solely for the development and use by nonresidential uses.
 - (2) The location shall be such that the traveling public is not required or encouraged to travel through residential neighborhoods to use the facility.
 - (3) The facility is located within one half mile of an exit or entrance ramp for Routes 24 or 287. The half mile distance shall be measured along the line of travel from the location where the ramp intersects the pavement of the roadway to which the ramp connects, i.e., not the pavement of Route 24 or Route 287, to the location where the nearest entrance/exit driveway for the facility intersects a public street.
- C. **Regulations.** When located as part of an existing or proposed development for another use, publicly-accessible electric vehicle charging facilities shall be subject to the requirements for such facilities in § 166-153O. When a publicly-accessible electric vehicle charging facility is the sole or principal use of the property, the facility shall be developed and used in accordance with the following requirements:

- (1) The facility shall be subject to the same regulations that apply to parking areas in the zone district in which the facility is located, including but not limited to setbacks, improvement coverage, parking space and access aisle dimensions, pavement, curbing, striping, lighting, landscaping, buffers of residential properties, and stormwater drainage.
- (2) A freestanding sign shall be permitted to identify the facility to the traveling public. Such sign shall not exceed an area of 30 square feet or a height of six feet, and shall be subject to the same setback requirements as the facility. Other signage shall be permitted, required, and regulated as set forth in § 166-153O.
- (3) The facility shall be required to obtain site plan approval or, if eligible, site plan exemption as required for other development by this chapter.
- (4) The facility shall be subject to the requirements of § 166-153O(6) and (7).

Section 5. Section 166-153, *General provisions*, in Article XXIII, *Off-Street Parking and Loading*, is hereby amended by adding and inserting a new Subsection O, to read as follows:

O. Electric vehicle supply/service equipment and make-ready parking spaces.

- (1) Purpose. The purpose of this subsection is to promote and encourage the use of electric vehicles by requiring the safe and efficient installation of electric vehicle supply/service equipment (EVSE) and make-ready parking spaces. EVSE and make-ready parking spaces will support the State's transition to an electric transportation sector, reducing automobile air pollution, greenhouse gas emissions, and storm water runoff contaminants. The goals are to:
 - (a) Provide adequate and convenient EVSE and make-ready parking spaces to serve the needs of the traveling public.
 - (b) Provide opportunities for residents to have safe and efficient personal EVSE located at or near their place of residence.
 - (c) Provide the opportunity for non-residential uses to supply EVSE to their customers and employees.
 - (d) Create standard criteria to encourage and promote safe, efficient, and cost-effective electric vehicle charging opportunities in all zones and settings for convenience of service to those that use electric vehicles.
- (2) Definitions. For the purposes of this subsection, the following definitions shall apply:
 - (a) Charging Level: The amount of voltage provided to charge an electric vehicle varies depending on the type of EVSE as follows:

Level 1 operates on a fifteen (15) to twenty (20) amp breaker on a one hundred twenty (120) volt AC circuit.

Level 2 operates on a forty (40) to one hundred (100) amp breaker on a two hundred eight (208) or two hundred forty (240) volt AC circuit.

Direct-current fast charger (DCFC) operates on a sixty (60) amp or higher breaker on a four hundred eighty (480) volt or higher three phase circuit with special grounding equipment. DCFC stations can also be referred to as rapid charging stations that are typically characterized by industrial grade electrical outlets that allow for faster recharging of electric vehicles.

- (b) Electric vehicle: Any vehicle that is licensed and registered for operation on public and private highways, roads, and streets; and operates either partially or exclusively using an electric motor powered by an externally charged on-board battery.
 - (c) Electric Vehicle Supply/Service Equipment or (EVSE): The equipment, including the cables, cords, conductors, connectors, couplers, enclosures, attachment plugs, power outlets, power electronics, transformer, switchgear, switches and controls, network interfaces, point of sale equipment, and associated apparatus designed and used for the purpose of transferring energy from the electric supply system to a plug-in electric vehicle. "EVSE" may deliver either alternating current or, consistent with fast charging equipment standards, direct current electricity. "EVSE" is synonymous with "electric vehicle charging station."
 - (d) Make-ready Parking Space: means the pre-wiring of electrical infrastructure at a parking space, or set of parking spaces, to facilitate easy and cost-efficient future installation of Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment, including, but not limited to, Level Two EVSE and direct current fast chargers. Make ready includes expenses related to service panels, junction boxes, conduit, wiring, and other components necessary to make a particular location able to accommodate Electric Vehicle Supply Equipment or Electric Vehicle Service Equipment on a "plug and play" basis. "Make-ready" is synonymous with the term "charger ready," as used in P.L.2019, c.362 (C.48:25-1 et al.).
 - (e) Private EVSE: EVSE that has restricted access to specific users (e.g., single and two-family homes, executive parking fleet parking with no access to the general public).
 - (f) Publicly-accessible EVSE: EVSE that is publicly available (e.g., park & ride, public parking lots and garages, on-street parking, shopping center parking, non-reserved parking in multi-family parking lots, etc.).
- (3) Permitted accessory use and scope of review.

- (a) An application for development submitted solely for the installation of EVSE or make-ready parking spaces shall be considered a permitted accessory use and permitted accessory structure in all zoning or use districts and shall not require a variance pursuant to C.40:55D-70d.
 - (b) EVSE and make-ready parking spaces installed pursuant to Paragraph (4) below in development applications that are subject to site plan approval are considered a permitted accessory use as described in Paragraph (3)(a) above.
 - (c) A permit application solely for the installation of electric vehicle supply equipment permitted as an accessory use shall not be subject to review based on requirements for the number of parking spaces.
- (4) Minimum required installation of EVSE and make-ready parking spaces.
- (a) As a condition of preliminary site plan approval, for each application involving a multiple dwelling with five or more units of dwelling space, which shall include a multiple dwelling that is held under a condominium or cooperative form of ownership, a mutual housing corporation, or a mixed-use development, the developer or owner, as applicable, shall:
 - [1] prepare as make-ready parking spaces at least 15 percent of the required off-street parking spaces, and install EVSE in at least one-third of the 15 percent of make-ready parking spaces;
 - [2] within three years following the date of the issuance of the certificate of occupancy, install EVSE in an additional one-third of the original 15 percent of make-ready parking spaces; and
 - [3] within six years following the date of the issuance of the certificate of occupancy, install EVSE in the final one-third of the original 15 percent of make-ready parking spaces.
 - [4] Throughout the installation of EVSE in the make-ready parking spaces, at least five percent of the electric vehicle supply equipment shall be accessible for people with disabilities.
 - [5] Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or make-ready parking spaces at a faster or more expansive rate than as required above.
 - (b) As a condition of preliminary site plan approval, or approval of a site plan exemption involving the creation of new parking spaces, each application involving a parking lot or garage not covered in Paragraph (4)(a) above shall:
 - [1] Install at least one make-ready parking space if there will be 50 or fewer off-street parking spaces.

- [2] Install at least two make-ready parking spaces if there will be 51 to 75 off-street parking spaces.
 - [3] Install at least three make-ready parking spaces if there will be 76 to 100 off-street parking spaces.
 - [4] Install at least four make-ready parking spaces, at least one of which shall be accessible for people with disabilities, if there will be 101 to 150 off-street parking spaces.
 - [5] Install at least four percent of the total parking spaces as make-ready parking spaces, at least five percent of which shall be accessible for people with disabilities, if there will be more than 150 off-street parking spaces.
 - [6] In lieu of installing make-ready parking spaces, a parking lot or garage may install EVSE to satisfy the requirements of this subsection.
 - [7] Nothing in this subsection shall be construed to restrict the ability to install electric vehicle supply equipment or make-ready parking spaces at a faster or more expansive rate than as required above.
 - [8] Notwithstanding the provisions of this subsection, a retailer that provides 25 or fewer off-street parking spaces or the developer or owner of a single-family home shall not be required to provide or install any electric vehicle supply equipment or make-ready parking spaces.
- (5) Applicability to minimum number of parking space requirements.
- (a) All parking spaces with EVSE and make-ready equipment shall be included in the calculation of parking spaces used to comply with the minimum number of required parking spaces, pursuant to and subject to the provisions of this Chapter.
 - (b) A parking space prepared with EVSE or make-ready equipment shall count as at least two parking spaces for the purpose of complying with the required minimum number of parking spaces, provided that this shall result in a reduction of not more than 10 percent of the total number of parking spaces that would otherwise be required.
 - (c) All parking space calculations for EVSE and make-ready equipment shall be rounded up to the next full parking space.
 - (d) Additional installation of EVSE and make-ready parking spaces above what is required in Paragraphs (4)(a) and (4)(b) above are encouraged, but not required in development projects.
- (6) Design standards for all new EVSE and make-ready parking spaces.

(a) Location and layout.

- [1] The location and layout of EVSE and make-ready parking spaces shall be subject to the same requirements as other parking spaces.
- [2] In any consideration of relief from the location and layout requirements of this chapter, the reviewing agency shall balance the benefits and detriments of compliance against the benefits and detriments of violations that use alternative locations and layouts, but that better achieve the purposes of this Subsection.

(b) Installation requirements.

- [1] Installation of EVSE and make-ready parking spaces shall meet the electrical subcode of the Uniform Construction Code, N.J.A.C. 5:23-3.16.
- [2] Each EVSE or make-ready parking space shall be subject to the dimensional requirements applicable to other parking spaces.
- [3] To the extent practical, the location of accessible parking spaces for people with disabilities with EVSE and make ready equipment shall comply with the general accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- [4] Each EVSE or make-ready parking space that is accessible for people with disabilities shall comply with the sizing of accessible parking space requirements in the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.

(c) Safety and maintenance.

- [1] Not less than the minimum number of publicly-accessible EVSE shall be located at parking spaces that are designated for electric vehicles only and identified by green painted pavement and/or curb markings, a green painted charging pictograph symbol, and appropriate signage pursuant to Paragraph (6)(d) below.
- [2] Where EVSE is installed, adequate site lighting and landscaping shall be provided in accordance with this Chapter.
- [3] Adequate EVSE protection such as concrete-filled steel bollards shall be used for publicly-accessible EVSE. Non-mountable curbing may be used in lieu of bollards if the EVSE is setback a minimum of 24 inches from the face of the curb. Any stand-alone EVSE bollards should be 3 to 4-feet high with concrete footings placed to protect the EVSE from accidental impact and to prevent damage from equipment used for snow removal.

- [4] EVSE outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the ground or pavement surface where mounted, and shall contain a cord management system as described in e. below. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designated and located as to not impede pedestrian travel, create trip hazards on sidewalks, or impede snow removal.
- [5] Each EVSE shall incorporate a cord management system or method to minimize the potential for cable entanglement, user injury, or connector damage. Cords shall be retractable or have a place to hang the connector and cord a safe and sufficient distance above the ground or pavement surface. Any cords connecting the charger to a vehicle shall be configured so that they do not cross a driveway, sidewalk, or passenger unloading area.
- [6] Where EVSE is provided within a pedestrian circulation area, such as a sidewalk or other accessible route to a building entrance, the EVSE shall be located so as not to interfere with accessibility requirements of the Uniform Construction Code, N.J.A.C. 5:23, and other applicable accessibility standards.
- [7] Publicly-accessible EVSEs shall be maintained in all respects, including the functioning of the equipment. A 24-hour on-call contact shall be provided on the equipment for reporting problems with the equipment or access to it. To allow for maintenance and notification, the owners/designee of publicly-accessible EVSE shall provide information on the equipment concerning the EVSE's geographic location, date of installation, equipment type and model, and owner contact information.

(d) Signs.

- [1] The minimum number of required publicly-accessible EVSE shall have posted regulatory signs, as identified in this subsection, allowing only charging electric vehicles to park in such spaces. For purposes of this section, "charging" means that an electric vehicle is parked at an EVSE and is connected to the EVSE. If time limits or vehicle removal provisions are to be enforced, regulatory signs including parking restrictions shall be installed immediately adjacent to, and visible from the EVSE. For private EVSE, installation of signs and sign text is at the discretion of the owner.
- [2] All regulatory signs shall comply with visibility, legibility, size, shape, color, and reflectivity requirements contained within the Federal Manual on Uniform Traffic Control Devices as published by the Federal Highway Administration.

- [3] Wayfinding or directional signs, if necessary, shall be permitted at appropriate decision points to effectively guide motorists to the EVSE parking space(s). Wayfinding or directional signage shall be placed in a manner that shall not interfere with any parking space, drive lane, or exit and shall comply with Paragraph (d)[2] above.
 - [4] In addition to the signage described above, the following information shall be available on the EVSE or posted at or adjacent to all regulated publicly-accessible EVSE parking spaces:
 - [a] Hour of operations and/or time limits if time limits or tow-away provisions are to be enforced by the Township or owner/designee;
 - [b] Usage fees and parking fees, if applicable; and
 - [c] Contact information (telephone number) for reporting when the equipment is not operating or other problems.
- (7) Use restrictions and fees; enforcement.
- (a) EVSE parking use restrictions and fees.
 - [1] Publicly-accessible EVSE. Not less than the minimum required number of publicly-accessible EVSE shall be reserved for parking and charging electric vehicles only. Electric vehicles shall be connected to the EVSE. The use of time limits is optional and shall be determined by the owner. Any vehicle parked in such a space shall make the appropriate payment for the space and observe the time limit for the underlying parking area, if applicable.
 - [2] Private EVSE: Nothing in this ordinance shall be deemed to preclude a private owner/designee of an EVSE from collecting a fee for the use of the EVSE, in accordance with applicable State and Federal regulations. Fees shall be available on the EVSE or posted at or adjacent to the EVSE parking space.
 - [3] Electric vehicles may be parked in any parking space designated for parking, subject to the restrictions that would apply to any other vehicle that would park in that space.
 - (b) Enforcement.
 - [1] Public Parking. Pursuant to N.J.S.A. 40:48-2, publicly-accessible EVSE parking spaces shall be monitored by the Township's Police Department and enforced in the same manner as any other parking spaces.

- [a] It shall be a violation of this Subsection to park or stand a non-electric vehicle in a regulated publicly-accessible EVSE parking space, or to park an electric vehicle in such a space when it is not connected to the EVSE.
 - [b] Any non-electric vehicle parked or standing in a EVSE parking space or any electric vehicle parked and not connected to the EVSE shall be subject to fine and/or impoundment of the offending vehicle in the same manner as barrier-free restricted parking spaces as described in N.J.S.A. 39:4-197(3)c.
 - [c] Signage indicating the penalties for violations shall comply with Paragraph 6(d) above.
- [2] Private Parking. The use of EVSE shall be monitored by the property owner or designee.

Section 6. If any article, 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 and they shall remain in full force and effect.

Section 7. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Township of Hanover, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Township of Hanover are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 8. The Township Clerk is hereby directed to give notice at least ten days prior to hearing on the adoption of this Ordinance to the County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, N.J.S.A. 40:55D-62.1, and N.J.S.A. 40:55D-63. 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 Morris County Planning Board as required by N.J.S.A. 40:55D-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.

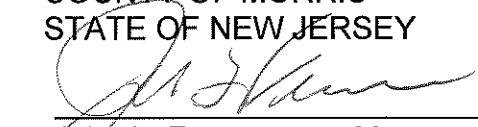
Section 9. This ordinance shall take effect upon publication and in accordance with the law.

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

ATTEST:



Krista M. DiGiorgio, Township Clerk



John L. Ferramosca, Mayor

DATE OF INTRODUCTION: November 21, 2022
DATE OF ADOPTION: December 19, 2022

CERTIFICATION

I, Krista M. DiGiorgio, Township Clerk of the Township of Hanover, County of Morris and State of New Jersey, do hereby certify the foregoing to be a true copy of an Ordinance adopted by the Township Committee of said Township on the 19th day of December, 2022, at a meeting duly convened, of said Body.



Krista M. DiGiorgio, Township Clerk