

40:55-1

November 3, 1961

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LEGISLATIVE HISTORY
of

R. S. 40:55-1. Planning; definitions
R. S. 40:55-3. Planning board; membership; vacancies

Laws 1930, Chapter 235, Assembly 169. Introduced by Mr. Wise, February 4, 1930.
This bill had the following

Statement

The purpose of this act is to enable municipalities to create planning boards, who with the aid of experts may make a master plan for the present and future needs of the municipality, which in turn, if adopted by the governing body either in whole or in part, constitutes the official map, the integrity of which is maintained under the police power. It repeals inconsistent acts, makes provision for appeals, and provides penalties for violation. It is sponsored by the New Jersey State League of Municipalities, and has had the expert supervision of the leading city planning experts, both engineering and legal, which the country affords.

The provisions of this bill are as follows:

1. Definitions

(c) "Mayor" means the chief executive of the municipality whether the official designation of his office by mayor, city manager or otherwise.

2. Planning Board - Creation and appointment ...

Class I - Mayor, ex-officio

Class II, III and IV - same as present law.

This bill was amended during passage. These provisions, however, were not changed.

Amended by Laws 1948, Chapter 464, Assembly 298. Introduced by Mr. Pike, February 16, 1948.
This bill had the following

Statement

The amendments proposed in this bill are designed to provide the municipalities of the State with the additional powers, which have been found necessary since the enactment of the original bill of 1930, to enable them to guide the development of their communities, according to generally accepted and up-to-date standards. Many communities of the State are now operating along these lines under a broad interpretation of the original bill. They will be strengthened and others encouraged to protect the interests of their

citizens and promote the best development of their communities through these specific sanctions provided by the State Legislature.

As originally introduced, this bill did not amend R. S. 40:55-1 at all. This new section first appears on April 7th, when it was offered as a Committee amendment. (Photostat of pages 524 and 525 of 1948 Assembly Minutes enclosed.) Once this definition of mayor became part of the bill, it was not later changed.

It may be noted that of the four definitions in R. S. 40:55-1, the only one altered by the 1948 amendments was the definition of "Mayor".

According to the magazine New Jersey Municipalities (May, 1948, p. 21) a Legislative Conference was sponsored by the Legislative Committee of the New Jersey League of Municipalities. It was held in Trenton on March 30, 1948 and discussed A-298, along with other pending bills. We have been unable to establish any connection between this Conference and the amendments added a week later (April 7, 1948). The proceedings of the above Conference are not available. Correspondence on file at the New Jersey State League of Municipalities indicates that the original bill was drafted by the Division of Planning and Engineering, Department of Economic Development to be introduced by Mr. Plke. However, as indicated in the Assembly Minutes, the amendment to 40:55-1 was introduced by the Assembly Committee on Municipalities.

To recapitulate, the definition of mayor in 40:55-1 from 1930 to 1948 was:

"Mayor" means the chief executive of the municipality whether the official designation of his office be mayor, city manager or otherwise.

From 1948 to 1953 it read:

"Mayor" means the chief executive of the municipality, whatever his official designation may be except that in the case of municipalities governed by municipal council and municipal manager the term "Mayor" shall not mean the "Municipal manager" but shall mean the mayor of such municipality.

And the 1953 act (40:55-1.4) reads:

"Mayor" means the elected official who serves as the chief executive of the municipality, whatever his official designation may be.

ASSEMBLY, No. 169

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1930

By Mr. WISE

Referred to Committee on Municipal Corporations

AN ACT enabling municipalities other than counties to authorize the preparation, adoption, regulation and enforcement of master plans, official maps and subdivision plats for municipal planning purposes; and to appoint planning boards with specified powers and duties; and providing penalties for violations of this act and repealing sundry planning laws.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1 1. Definitions. For the purpose of this act certain terms are defined as pro-
2 vided in this section:

3 (a) Wherever appropriate, the singular includes the plural and the plural
4 includes the singular.

5 (b) "Municipality" or "Municipal" includes or relates to cities, towns, town-
6 ships, villages, boroughs and other incorporated political subdivisions except counties.

7 (c) "Mayor" means the chief executive of the municipality, whether the official
8 designation of his office be mayor, city manager or otherwise.

9 (d) "Governing body" means the chief legislative body of the municipality.
10 In cities having a board of public works at the time of adoption of this act, such
11 board shall be considered the "Governing body" for the purposes of this act.

12 (e) The term "Streets" includes streets, avenues, boulevards, roads, lanes,
13 alleys, viaducts and other ways.

14 (f) "Subdivision" means the division of a lot, tract or parcel of land into two
15 or more lots, plats, sites or other divisions of land for the purpose, whether
16 immediate or future, of sale or of building development. It also includes resub-

7 The governing body of any municipality creating a planning board shall appro-
8 priate in the same manner as other appropriations are made, such money as in its
9 discretion is necessary for the work of the planning board for the year in which
10 such appropriation is made. The amount so appropriated shall be assessed, levied
11 and collected in the same manner as moneys appropriated for other current expenses
12 in such municipality are or shall be assessed, levied and collected.

1 4. Citizens' Advisory Committee. Following the organization of the planning
2 board, the mayor may appoint a citizens' advisory committee to represent the civic
3 and other organizations of the community and to collaborate with the planning board
4 in its studies, which committee shall elect its own officers and determine its pro-
5 cedure.

1 5. General Powers and Duties of the Planning Board. It shall be the function
2 and duty of the planning board to make and adopt a master plan for the physical
3 development of the municipality, including any areas outside of its boundaries which,
4 in the board's judgment, bear essential relation to the planning of such municipality.
5 Such plan, with the accompanying maps, charts, drawings and descriptive matter,
6 shall show the board's recommendations for the development of said territory,
7 including among other things the general location, character and extent of streets,
8 subways, bridges, waterways, water fronts, parkways, playgrounds, squares, parks,
9 aviation fields, and other ways, grounds and open spaces, the general location of
10 public buildings and other public property, and the general location and extent of
11 major public utility and terminal facilities, whether publicly or privately owned,
12 also general plans for the removal, relocation, widening, narrowing, vacating,
13 abandonment, change of use or extension of any of the foregoing ways, grounds,
14 open spaces, buildings, property, utilities or terminals. As the work of making the
15 whole master plan progresses, the board may from time to time adopt and publish
16 a part or parts thereof, any such part to cover one or more major sections or
17 divisions of the municipality or one or more of the aforesaid or other functional
18 matters to be included in the plan. The board may from time to time amend,
19 extend or add to the plan. In the preparation of the aforesaid master plan the
20 planning board shall give due consideration to the probable ability of the munic-
21 ipality to carry out, over a period of years, the various projects embraced in the

22 plan without the imposition of unreasonable financial burdens. The board may be
23 given the additional authority and duty of acting as the zoning commission under
24 the full authority of an act entitled "An act to enable municipalities to adopt zoning
25 ordinances limiting and restricting to specified districts and regulating therein
26 buildings and structures, according to their construction, and the nature and extent
27 of their use, and the repeal of sundry zoning laws," adopted April third, one thou-
28 sand nine hundred and twenty-eight.

1 6. Effect of Adoption of Master Plan. Whenever the planning board shall
2 have adopted the master plan, or any part thereof, no street, square, park or public
3 way, ground or open space, or public building or structure, or major public utility,
4 whether publicly or privately owned, shall be constructed or authorized in the
5 municipality, or in such part thereof as is shown in said master plan as adopted,
6 until the location, character and extent thereof has been submitted to the planning
7 board for approval. The planning board shall, as soon as conveniently possible,
8 report in writing to the governing body its action thereon, and in the case of dis-
9 approval its reasons therefor; whereupon the governing body shall have power to
10 overrule such disapproval by a recorded vote of not less than two-thirds of its
11 entire membership. The failure of the planning board to act on matters referred
12 to it pursuant to this section, within forty-five days from and after the date of
13 official submission of said matter to it, shall be deemed approval.

1 7. Powers and Duties of Governing Body. Any municipality may by ordinance
2 establish the master plan as created hereinunder, either in whole or in part, as the
3 official map of said municipality. Such official map or any part of it, as and when
4 established by ordinance, and subject to amendments as hereinafter provided, is to
5 be deemed official and conclusive with respect to the location and width of streets,
6 highways and parkways and the location and extent of public parks and playgrounds
7 shown thereon, and such official map is hereby declared to be established to conserve
8 and promote the public health, safety, morals and general welfare.

1 8. Official Map Changes. The governing body is authorized and empowered,
2 whenever and as often as it may deem it for the public interest, by ordinance to
3 change or add to the hereinbefore authorized official map of the municipality.
4 Before making such change or addition, the matter shall be referred to the planning

5 board for its recommendation thereon. If the planning board shall not make its
6 recommendation thereon within forty-five days after such reference, said planning
7 board shall be deemed to consent thereto. Upon the receipt of the recommendation
8 of the planning board, or upon the expiration of forty-five days after reference
9 thereto is made to said planning board, the governing body shall hold a public
10 hearing on the proposed change in or addition to the official map and shall cause
11 notice of such hearing to be published in the official newspaper of the municipality
12 or in a newspaper of general circulation in the municipality, at least ten days prior
13 to such hearing. At such public hearing, when held, all interested parties shall be
14 afforded an opportunity to present their views, prior to the final vote upon said
15 ordinance providing for such change in or addition to the official map. Said
16 ordinance, if contrary to the recommendation of the planning board, shall be
17 adopted only upon the affirmative vote of at least two-thirds of the members of the
18 governing body. Upon the final passage of such ordinance, such changes or addi-
19 tions shall become a part of the official map of the municipality and shall be deemed
20 to be final and conclusive with respect to the location and extent of streets, high-
21 ways, parkways, playgrounds and parks, except that further changes and additions
22 may later be made in the manner provided in this section. The approval by the
23 municipality under the provisions of laws, other than those contained in this section,
24 of the layout, widening or closing of any public way or area designated above as
25 part of the official map shall be deemed to be a change or addition to the official
26 map and shall be subject to all the provisions of this section.

1 9. Purposes in View. In the preparation of such plan and map the planning
2 board shall cause to be made careful and comprehensive surveys and studies of
3 present conditions and future growth of the municipality, due regard being taken
4 to its relation to neighboring territory. The plan and map shall be made with the
5 general purpose of guiding and accomplishing a co-ordinated, adjusted and
6 harmonious development of the municipality and its environs which will, in
7 accordance with present and future needs, best promote health, safety, morals,
8 order, convenience, prosperity and general welfare, as well as efficiency and economy
9 in the process of development; including, among other things, adequate provision
10 for traffic and recreation, the promotion of safety from fire and other dangers,

11 adequate provision for light and air, the promotion of the healthful and convenient
12 distribution of population, the promotion of good civic design and arrangement, wise
13 and efficient expenditure of public funds, and the adequate provision of public
14 utilities and other public requirements.

1 10. Planning Board Reports on Matters Referred to It. Such governing body
2 may by ordinance provide for the reference of any other matter or class of matters
3 to the planning board before final action thereon by the public body or officer of
4 said municipality having final authority thereon, with or without the provision that
5 final action thereon shall not be taken until said planning board has submitted its
6 report thereon or has had a reasonable time to submit its report, which time is to
7 be fixed by said ordinance.

1 11. Approval of Plats. The governing body may by ordinance authorize and
2 empower the planning board to adopt regulations governing the subdivision of land
3 within its jurisdiction and to approve plats showing new streets or highways and
4 to determine and fix the minimum sizes of lots and to establish building lines, except
5 when already established by the zoning ordinance. Before action is taken, a hear-
6 ing after notice shall be given by the planning board to all parties in interest. The
7 planning board may thereupon approve, modify and approve, or disapprove such
8 plat, taking due regard to its conformity with the official map. The planning board
9 shall take the action required by this section and report its action to the governing
10 body within thirty days from and after the date of the submission of the plat to it
11 for approval, or within such further time as may by resolution of the governing body
12 be granted; otherwise such plat shall be deemed to have been approved, and the
13 certificate of the clerk of such municipality as to the date of the submission of the
14 plat for approval to the planning board and of the failure of said board to report
15 action thereon within thirty days or such further time as allowed by the governing
16 body, shall be issued on demand of the owner or his agent and shall be sufficient,
17 in lieu of the written endorsement or other evidence of approval herein required.
18 The grounds of disapproval of any plat submitted to the planning board shall be
19 stated upon the records of such board.

1 12. Approval of Plats—Additional Requisites. Such plat submitted for the
2 approval of the planning board may also, in proper cases, show a park or parks

3 suitably located for playground or other recreation purposes. In approving such
4 plats, the planning board shall require that the streets, highways and parkways shall
5 be of sufficient width and suitably located to accommodate the prospective traffic and
6 to afford adequate light, air and access for fire-fighting equipment to buildings
7 and be co-ordinated so as to compose a convenient system; that the land shown
8 on such plats shall be so planned as to be capable of being provided with proper
9 sanitary and drainage conditions; and that the parks and playgrounds shall be of
10 reasonable size for neighborhood playgrounds or other recreational uses when deemed
11 necessary. In making such determination regarding streets, highways, parkways,
12 playgrounds, squares, parks and other ways, grounds and open spaces, the planning
13 board shall take into consideration the prospective character of the development,
14 whether residence, business or industrial.

1 13. Record of Plats. No plat of a subdivision of land showing a new street
2 or highway shall be accepted for filing by the county clerk or register of deeds,
3 wherever such office exists in any of the several counties of this State, until it has
4 been approved by the planning board, if it has been empowered to approve such
5 plats, or by the municipal governing body, and such approval be endorsed in writing
6 on the plat in such manner as the planning board or governing body may designate.
7 After such plat is approved and filed, the streets, highways, parkways, playgrounds
8 and parks shown on such plat shall be and become a part of the official map and
9 master plan of the municipality. The owner of the land or his agent who files the
10 plat may add on the plat a notation, if he so desires, to the effect that no offer of
11 dedication of such streets, highways, parkways, playgrounds or parks or any of them
12 is thereby made to the public.

13 In so far as provisions of law other than those contained in this act require the
14 approval of a plat, map or plan of land by any officer or body of a municipality
15 as a prerequisite to its acceptance for filing by the county clerk or register of deeds,
16 wherever such office exists, in any of the several counties of this State, said pro-
17 visions of such other laws shall not be in force in so far as they apply to plats, maps
18 or plans of land within the limits of any municipality which has established an
19 official map or master plan under this act.

1 14. Penalties for Transferring Lots in Unapproved Subdivisions. Whoever,
2 being the owner or agent of the owner of any land located within a subdivision
3 controlled under sections eleven and twelve of this act, transfers or sells any land
4 by reference to or exhibition of or by other use of a plat of a subdivision, before
5 such plat has been approved by the planning board and duly recorded or filed in
6 the office of the county clerk or register of deeds, if any, of the county where said
7 plat is located, shall forfeit and pay a penalty of not less than one hundred dollars
8 for each lot or parcel so transferred or sold, and the description of such lot or
9 parcel by metes and bounds in the instrument of transfer or other document used
10 in the process of selling or transferring shall not exempt the transaction from such
11 penalties or from the remedies herein provided. The municipal corporation may
12 enjoin such transfer or sale or agreement by action for injunction brought in any
13 court of equity jurisdiction or may recover the said penalty by a civil action in any
14 court of competent jurisdiction.

1 15. Permits for Buildings in the Bed of Mapped Streets. For the purpose of
2 preserving the integrity of the official map of a municipality, no permit shall here-
3 after be issued for any building in the bed of any street, shown or laid out on
4 such official map; *provided, however,* that if the property of the applicant of which
5 such reserved location forms a part, cannot yield a reasonable return to the owner
6 unless such permit be granted, the board of adjustment, in any municipality which
7 has established such a board, shall have power in a specific case by the vote of a
8 majority of its members to grant a permit for a building in such street, which will
9 as little as practicable increase the cost of opening such street, or tend to cause a
10 change of such official map, and such board shall impose reasonable requirements
11 as a condition of granting such permit which requirements shall be designed to pro-
12 mote the health, morals, safety and general welfare of the public and shall inure to
13 the benefit of the municipality. In any municipality in which there is no board of
14 adjustment, the municipal governing body shall have the same powers and be sub-
15 ject to the same restrictions as provided in this section. Before taking any action
16 authorized in this section, the board of adjustment or governing body shall give
17 a public hearing at which parties in interest and others shall have an opportunity to
18 be heard. At least ten days' notice of the time and place of such hearing shall be

19 published in an official publication of said municipality or in a newspaper of general
20 circulation therein.

1 16. Municipal Improvements in Streets. No public sewer, water mains or other
2 municipal street utility or improvement shall be constructed in or so as to serve any
3 street, highway, parkway, playground or park until such street, highway, parkway,
4 playground or park is duly placed on the official map or master plan.

1 17. Buildings Not on Mapped Streets. No permit for the erection of any
2 building shall be issued unless a street or highway giving access to such proposed
3 structure has been duly placed on the official map or master plan. Where the
4 enforcement of the provision of this section would entail practical difficulty or
5 unnecessary hardship, and where the circumstances of the case do not require the
6 structure to be related to existing or proposed streets or highways, the applicant
7 for such a permit may appeal from the decision of the administrative officer having
8 charge of the issuance of permits to the board of adjustment in any municipality
9 which has established such a board, or in municipalities where there is no board of
10 adjustment, the appeal may be made to the governing body, and the same pro-
11 visions are hereby applied to such appeals and to such board as are provided in
12 cases of appeals on zoning regulations. The board may, in passing on such appeal,
13 make any reasonable exception and issue the permit subject to conditions that will
14 protect any street or highway layout.

1 18. Planning Board—Changes in Zoning Regulations. Simultaneously with
2 the approval of any plat controlled under sections eleven and twelve of this act,
3 the planning board shall by resolution either confirm the zoning regulations of the
4 land so platted as shown on the official zoning maps of the municipality or make
5 recommendations for any reasonable change therein to the governing body. The
6 owner of the land shown on the plat may submit with the plat a proposed building
7 plan indicating lots where group houses for residence or apartment houses or local
8 stores and shops are proposed to be built. Such building plan shall indicate for
9 each lot or proposed building unit the maximum density of population that may exist
10 thereon or therein and the maximum height and the minimum yard and court
11 requirements. Such plan, if not conformable to the zoning regulations of the land
12 shown on the plat shall not receive final approval of the planning board unless

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13 and until the governing body has acted favorably on the recommended zoning
14 changes in the manner prescribed by law. Such building plan shall not be approved
15 by the planning board unless in its judgment the appropriate use of adjoining
16 land is reasonably safeguarded and such plan is consistent with the public welfare.

17 Simultaneously with placing on the official map any proposed new street, or
18 proposed change in an existing street, the planning board shall make recommenda-
19 tions to the governing body for any reasonable amendment to the zoning map or
20 ordinance of the municipality, to provide for proper setback lines and for other
21 restrictions and regulations of buildings and structures according to their con-
22 struction and the nature and extent of their use on property to be affected by said
23 street.

1 19. Court Review. No writ of certiorari to review any decision of the plan-
2 ning board shall issue unless application therefor be made within thirty days after
3 the filing of the decision in the office of the board. The allowance of the writ shall
4 not stay proceedings upon the decision unless so ordered by the court.

1 20. Invalidity of Any Section: Construction. In case, for any reason, any
2 section or provision of this act shall be questioned in any court, and shall be held
3 to be unconstitutional or invalid, the same shall not affect any section or pro-
4 vision of this act except so far as the section or provision so declared unconsti-
5 tutional or invalid shall be inseparable from the remainder or any portion thereof.
6 In construing the provisions of this act, all courts shall construe the same most
7 favorably to municipalities, it being the intention hereof to give all municipalities
8 the fullest and most complete powers possible concerning the matters provided for
9 under this act.

1 21. Repealer. The following acts are specifically repealed; *provided, however,*
2 that any act repealed by the following acts hereby repealed shall not hereby be
3 restored or made valid:

4 "An act to enable cities of the first class in this State to provide for a city
5 plan commission and provide funds for the same and defining the duties thereof,"
6 being Chapter 72, Laws of 1913, approved March 12, 1913.

7 "An act to enable cities of the second class in this State to provide for a city

8 plan commission and to provide funds for the same," being Chapter 170, Laws of
9 1913, approved April 1, 1913.

10 "An act to provide for municipal plan and art commissions in the third class
11 cities, fourth class cities, boroughs, towns, townships and incorporated villages of
12 this State, and defining the powers of such commissions and limiting the powers of
13 the local municipalities as to the matters properly acted upon by such commissions,"
14 being Chapter 188, Laws of 1915, approved April 6, 1915.

15 "A supplement to an act entitled 'An act to provide for municipal plan and
16 art commissions in the third class cities, fourth class cities, boroughs, towns, town-
17 ships and incorporated villages of this State, and defining the powers of such com-
18 missions and limiting the powers of the local municipalities as to the matters prop-
19 erly acted upon by such commissions,' approved April 6, 1915," which supplement
20 was approved March 17, 1916, being Chapter 175, of the Laws of 1916.

21 "An act to amend an act entitled 'An act to provide for municipal plan and art
22 commissions in the third class cities, fourth class cities, boroughs, towns, townships
23 and incorporated villages of this State, and defining the powers of such commissions
24 and limiting the powers of the local municipalities as to the matters properly acted
25 upon by such commissions,' approved April 6, 1915," being Chapter 216, of the Laws
26 of 1920.

27 "An act concerning city plan commissions in cities of the second class," being
28 Chapter 218 of the Laws of 1921, approved April 8, 1921.

1 22. Repealer—Time of Taking Effect. All acts or parts of acts inconsistent
2 with the provisions of this act are hereby repealed and this act shall take effect
3 immediately.

STATEMENT

The purpose of this act is to enable municipalities to create planning boards, who with the aid of experts may make a master plan for the present and future needs of the municipality, which in turn, if adopted by the governing body either in whole or in part, constitutes the official map, the integrity of which is maintained under the police power. It repeals inconsistent acts, makes provision for appeals, and provides

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4 Before making such change or addition, the matter shall be referred to the planning

5 board for its recommendation thereon. If the planning board shall not make its
6 recommendation thereon within forty-five days after such reference, said planning
7 board shall be deemed to consent thereto. Upon the receipt of the recommendation
8 of the planning board, or upon the expiration of forty-five days after reference
9 thereto is made to said planning board, the governing body shall hold a public
10 hearing on the proposed change in or addition to the official map and shall cause
11 notice of such hearing to be published in the official newspaper of the municipality
12 or in a newspaper of general circulation in the municipality, at least ten days prior
13 to such hearing. At such public hearing, when held, all interested parties shall be
14 afforded an opportunity to present their views, prior to the final vote upon said
15 ordinance providing for such change in or addition to the official map. Said
16 ordinance, if contrary to the recommendation of the planning board, shall be
17 adopted only upon the affirmative vote of at least two-thirds of the members of the
18 governing body. Upon the final passage of such ordinance, such changes or addi-
19 tions shall become a part of the official map of the municipality and shall be deemed
20 to be final and conclusive with respect to the location and extent of streets, high-
21 ways, parkways, playgrounds and parks, except that further changes and additions
22 may later be made in the manner provided in this section. The approval by the
23 municipality under the provisions of laws, other than those contained in this section,
24 of the layout, widening or closing of any public way or area designated above as
25 part of the official map shall be deemed to be a change or addition to the official
26 map and shall be subject to all the provisions of this section.

1 9. Purposes in View. In the preparation of such plan and map the planning
2 board shall cause to be made careful and comprehensive surveys and studies of
3 present conditions and future growth of the municipality, due regard being taken
4 to its relation to neighboring territory. The plan and map shall be made with the
5 general purpose of guiding and accomplishing a co-ordinated, adjusted and
6 harmonious development of the municipality and its environs which will, in
7 accordance with present and future needs, best promote health, safety, morals,
8 order, convenience, prosperity and general welfare, as well as efficiency and economy
9 in the process of development; including, among other things, adequate provision
10 for traffic and recreation, the promotion of safety from fire and other dangers,

11 adequate provision for light and air, the promotion of the healthful and convenient
12 distribution of population, the promotion of good civic design and arrangement, wise
13 and efficient expenditure of public funds, and the adequate provision of public
14 utilities and other public requirements.

1 10. Planning Board Reports on Matters Referred to It. Such governing body
2 may by ordinance provide for the reference of any other matter or class of matters
3 to the planning board before final action thereon by the public body or officer of
4 said municipality having final authority thereon, with or without the provision that
5 final action thereon shall not be taken until said planning board has submitted its
6 report thereon or has had a reasonable time to submit its report, which time is to
7 be fixed by said ordinance.

1 11. Approval of Plats. The governing body may by ordinance authorize and
2 empower the planning board to adopt regulations governing the subdivision of land
3 within its jurisdiction and to approve plats showing new streets or highways and
4 to determine and fix the minimum sizes of lots and to establish building lines, except
5 when already established by the zoning ordinance. Before action is taken, a hear-
6 ing after notice shall be given by the planning board to all parties in interest. The
7 planning board may thereupon approve, modify and approve, or disapprove such
8 plat, taking due regard to its conformity with the official map. The planning board
9 shall take the action required by this section and report its action to the governing
10 body within thirty days from and after the date of the submission of the plat to it
11 for approval, or within such further time as may by resolution of the governing body
12 be granted; otherwise such plat shall be deemed to have been approved, and the
13 certificate of the clerk of such municipality as to the date of the submission of the
14 plat for approval to the planning board and of the failure of said board to report
15 action thereon within thirty days or such further time as allowed by the governing
16 body, shall be issued on demand of the owner or his agent and shall be sufficient,
17 in lieu of the written endorsement or other evidence of approval herein required.
18 The grounds of disapproval of any plat submitted to the planning board shall be
19 stated upon the records of such board.

1 12. Approval of Plats—Additional Requisites. Such plat submitted for the
2 approval of the planning board may also, in proper cases, show a park or parks

3 suitably located for playground or other recreation purposes. In approving such
4 plats, the planning board shall require that the streets, highways and parkways shall
5 be of sufficient width and suitably located to accommodate the prospective traffic and
6 to afford adequate light, air and access for fire-fighting equipment to buildings
7 and be co-ordinated so as to compose a convenient system; that the land shown
8 on such plats shall be so planned as to be capable of being provided with proper
9 sanitary and drainage conditions; and that the parks and playgrounds shall be of
10 reasonable size for neighborhood playgrounds or other recreational uses when deemed
11 necessary. In making such determination regarding streets, highways, parkways,
12 playgrounds, squares, parks and other ways, grounds and open spaces, the planning
13 board shall take into consideration the prospective character of the development,
14 whether residence, business or industrial.

1 13. Record of Plats. No plat of a subdivision of land showing a new street
2 or highway shall be accepted for filing by the county clerk or register of deeds,
3 wherever such office exists in any of the several counties of this State, until it has
4 been approved by the planning board, if it has been empowered to approve such
5 plats, or by the municipal governing body, and such approval be endorsed in writing
6 on the plat in such manner as the planning board or governing body may designate.
7 After such plat is approved and filed, the streets, highways, parkways, playgrounds
8 and parks shown on such plat shall be and become a part of the official map and
9 master plan of the municipality. The owner of the land or his agent who files the
10 plat may add on the plat a notation, if he so desires, to the effect that no offer of
11 dedication of such streets, highways, parkways, playgrounds or parks or any of them
12 is thereby made to the public.

13 In so far as provisions of law other than those contained in this act require the
14 approval of a plat, map or plan of land by any officer or body of a municipality
15 as a prerequisite to its acceptance for filing by the county clerk or register of deeds,
16 wherever such office exists, in any of the several counties of this State, said pro-
17 visions of such other laws shall not be in force in so far as they apply to plats, maps
18 or plans of land within the limits of any municipality which has established an
19 official map or master plan under this act.

1 14. Penalties for Transferring Lots in Unapproved Subdivisions. Whoever,
2 being the owner or agent of the owner of any land located within a subdivision
3 controlled under sections eleven and twelve of this act, transfers or sells any land
4 by reference to or exhibition of or by other use of a plat of a subdivision, before
5 such plat has been approved by the planning board and duly recorded or filed in
6 the office of the county clerk or register of deeds, if any, of the county where said
7 plat is located, shall forfeit and pay a penalty of not less than one hundred dollars
8 for each lot or parcel so transferred or sold, and the description of such lot or
9 parcel by metes and bounds in the instrument of transfer or other document used
10 in the process of selling or transferring shall not exempt the transaction from such
11 penalties or from the remedies herein provided. The municipal corporation may
12 enjoin such transfer or sale or agreement by action for injunction brought in any
13 court of equity jurisdiction or may recover the said penalty by a civil action in any
14 court of competent jurisdiction.

1 15. Permits for Buildings in the Bed of Mapped Streets. For the purpose of
2 preserving the integrity of the official map of a municipality, no permit shall here-
3 after be issued for any building in the bed of any street, shown or laid out on
4 such official map; *provided, however,* that if the property of the applicant of which
5 such reserved location forms a part, cannot yield a reasonable return to the owner
6 unless such permit be granted, the board of adjustment, in any municipality which
7 has established such a board, shall have power in a specific case by the vote of a
8 majority of its members to grant a permit for a building in such street, which will
9 as little as practicable increase the cost of opening such street, or tend to cause a
10 change of such official map, and such board shall impose reasonable requirements
11 as a condition of granting such permit which requirements shall be designed to pro-
12 mote the health, morals, safety and general welfare of the public and shall inure to
13 the benefit of the municipality. In any municipality in which there is no board of
14 adjustment, the municipal governing body shall have the same powers and be sub-
15 ject to the same restrictions as provided in this section. Before taking any action
16 authorized in this section, the board of adjustment or governing body shall give
17 a public hearing at which parties in interest and others shall have an opportunity to
18 be heard. At least ten days' notice of the time and place of such hearing shall be

19 published in an official publication of said municipality or in a newspaper of general
20 circulation therein.

1 16. Municipal Improvements in Streets. No public sewer, water mains or other
2 municipal street utility or improvement shall be constructed in or so as to serve any
3 street, highway, parkway, playground or park until such street, highway, parkway,
4 playground or park is duly placed on the official map or master plan.

1 17. Buildings Not on Mapped Streets. No permit for the erection of any
2 building shall be issued unless a street or highway giving access to such proposed
3 structure has been duly placed on the official map or master plan. Where the
4 enforcement of the provision of this section would entail practical difficulty or
5 unnecessary hardship, and where the circumstances of the case do not require the
6 structure to be related to existing or proposed streets or highways, the applicant
7 for such a permit may appeal from the decision of the administrative officer having
8 charge of the issuance of permits to the board of adjustment in any municipality
9 which has established such a board, or in municipalities where there is no board of
10 adjustment, the appeal may be made to the governing body, and the same pro-
11 visions are hereby applied to such appeals and to such board as are provided in
12 cases of appeals on zoning regulations. The board may, in passing on such appeal,
13 make any reasonable exception and issue the permit subject to conditions that will
14 protect any street or highway layout.

1 18. Planning Board—Changes in Zoning Regulations. Simultaneously with
2 the approval of any plat controlled under sections eleven and twelve of this act,
3 the planning board shall by resolution either confirm the zoning regulations of the
4 land so platted as shown on the official zoning maps of the municipality or make
5 recommendations for any reasonable change therein to the governing body. The
6 owner of the land shown on the plat may submit with the plat a proposed building
7 plan indicating lots where group houses for residence or apartment houses or local
8 stores and shops are proposed to be built. Such building plan shall indicate for
9 each lot or proposed building unit the maximum density of population that may exist
10 thereon or therein and the maximum height and the minimum yard and court
11 requirements. Such plan, if not conformable to the zoning regulations of the land
12 shown on the plat shall not receive final approval of the planning board unless

13 and until the governing body has acted favorably on the recommended zoning
14 changes in the manner prescribed by law. Such building plan shall not be approved
15 by the planning board unless in its judgment the appropriate use of adjoining
16 land is reasonably safeguarded and such plan is consistent with the public welfare.

17 Simultaneously with placing on the official map any proposed new street, or
18 proposed change in an existing street, the planning board shall make recommenda-
19 tions to the governing body for any reasonable amendment to the zoning map or
20 ordinance of the municipality, to provide for proper setback lines and for other
21 restrictions and regulations of buildings and structures according to their con-
22 struction and the nature and extent of their use on property to be affected by said
23 street.

1 19. Court Review. No writ of certiorari to review any decision of the plan-
2 ning board shall issue unless application therefor be made within thirty days after
3 the filing of the decision in the office of the board. The allowance of the writ shall
4 not stay proceedings upon the decision unless so ordered by the court.

1 20. This act or any ordinance or regulation made under authority of this act,
2 shall not apply to existing property or to buildings or structures used or to be used
3 by public utilities in furnishing service, if upon a petition of the public utility, the
4 Board of Public Utility Commissioners shall after a hearing, of which the mu-
5 nicipality affected shall have notice, decide that the present or proposed situation
6 of the building or structure in question is reasonably necessary for the service, con-
7 venience or welfare of the public.

1 21. Invalidity of Any Section: Construction. In case, for any reason, any
2 section or provision of this act shall be questioned in any court, and shall be held
3 to be unconstitutional or invalid, the same shall not affect any section or pro-
4 vision of this act except so far as the section or provision so declared unconsti-
5 tutional or invalid shall be inseparable from the remainder or any portion thereof.
6 In construing the provisions of this act, all courts shall construe the same most
7 favorably to municipalities, it being the intention hereof to give all municipalities
8 the fullest and most complete powers possible concerning the matters provided for
9 under this act.

1 22. Repealer. The following acts are specifically repealed; *provided, however,*
2 that any act repealed by the following acts hereby repealed shall not hereby be
3 restored or made valid:

4 “An act to enable cities of the first class in this State to provide for a city
5 plan commission and provide funds for the same and defining the duties thereof,”
6 being Chapter 72, Laws of 1913, approved March 12, 1913.

7 “An act to enable cities of the second class in this State to provide for a city
8 plan commission and to provide funds for the same,” being Chapter 170, Laws of
9 1913, approved April 1, 1913.

10 “An act to provide for municipal plan and art commissions in the third class
11 cities, fourth class cities, boroughs, towns, townships and incorporated villages of
12 this State, and defining the powers of such commissions and limiting the powers of
13 the local municipalities as to the matters properly acted upon by such commissions,”
14 being Chapter 188, Laws of 1915, approved April 6, 1915.

15 “A supplement to an act entitled ‘An act to provide for municipal plan and
16 art commissions in the third class cities, fourth class cities, boroughs, towns, town-
17 ships and incorporated villages of this State, and defining the powers of such com-
18 missions and limiting the powers of the local municipalities as to the matters prop-
19 erly acted upon by such commissions,’ approved April 6, 1915,” which supplement
20 was approved March 17, 1916, being Chapter 175, of the Laws of 1916.

21 “An act to amend an act entitled ‘An act to provide for municipal plan and art
22 commissions in the third class cities, fourth class cities, boroughs, towns, townships
23 and incorporated villages of this State, and defining the powers of such commissions
24 and limiting the powers of the local municipalities as to the matters properly acted
25 upon by such commissions,’ approved April 6, 1915,” being Chapter 216, of the Laws
26 of 1920.

27 “An act concerning city plan commissions in cities of the second class,” being
28 Chapter 218 of the Laws of 1921, approved April 8, 1921.

1 23. Repealer—Time of Taking Effect. All acts or parts of acts inconsistent
2 with the provisions of this act are hereby repealed and this act shall take effect
3 immediately.