

LEGISLATIVE HISTORY OF R.S.40:55-1.20
(Conditions to be required in acting upon Plats;
Reservation of location and extent of School sites,
Public parks and Playgrounds)

4

L.1953 - chap.433 - S22~~0~~⁴, 520
Mar.16 - Introduced by McCay.
Apr.13 - Passed Senate.
June 22 - Passed Assembly, amended.
June 25 - Assembly amendment passed in Senate.
Aug.17 - Returned to Senate by Governor for reconsideration
and amendment as recommended.
Sept.10 - Re-enacted with recommended amendment in both
Senate and Assembly.
Sept.18 - Approved, chapter 433.
Statement on Bill.

S223 is a companion bill to S224 (copy of S223 enclosed)
Sept.18 - S223 approved chap.434.

Hearings

No additional material on this act was located in
Hearings.

GVB/EH
Encl.

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1953

By Mr. McCAY

Referred to Committee on Counties and Municipalities

AN ACT concerning municipalities in relation to municipal planning, repealing sections 40:55-1 to 40:55-21, inclusive, and supplementing chapter fifty-five of Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Municipal Planning
2 Act (1953)."

1 2. As used in this act:

2 "Municipality" means any city, borough, town, township or village.

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

5 "Governing body" means the chief legislative body of the municipality.
6 In cities having a board of public works "governing body" means such
7 board.

8 "Plat" means the map of a subdivision.

9 "Subdivision" means the division of a lot, tract, or parcel of land into
10 two or more lots, sites or other divisions of land for the purpose, whether im-
11 mediate or future, of sale or building development; except that the follow-
12 ing divisions shall not be considered subdivisions within the meaning of
13 this act; *provided, however,* that no new streets or roads are involved:
14 divisions of land for agricultural purposes where the resulting parcels are

15 three acres or larger in size, divisions of property by testamentary or
16 intestate provisions, divisions of property upon court order or divisions of
17 property into no more than three lots among members of a family. Sub-
18 ~~division~~ also includes resubdivision, and where appropriate to the context,
19 relates to the process of subdividing or to the lands or territory divided.

20 "Performance guarantee" means any security which may be accepted
21 under section twenty-two of this act in lieu of a requirement that certain
22 improvements be made before the planning board or other approving body
23 approves a plat, including performance bonds, escrow agreements, and other
24 similar collateral or surety agreements.

25 "Street" means any street, avenue, boulevard, road, lane, parkway,
26 viaduct, alley or other way which is an existing State, county, or municipal
27 roadway, or a street or way shown upon a plat heretofore approved pursuant
28 to law or approved by official action as provided in section seventeen of
29 this act or a street or way on a plat duly filed and recorded in the office of
30 the county recording officer prior to the appointment of a planning board
31 and the grant to such board of the power to review plats, and includes the
32 land between the street lines, whether improved or unimproved, and may
33 comprise pavement, shoulders, gutters, sidewalks, parking areas and other
34 areas within the street lines.

35 "Official map" means a map adopted in accordance with the Official Map
36 and Building Permit Act (1953). Such a map shall be deemed to be con-
37 elusive with respect to the location and width of the streets, public parks and
38 playgrounds, and drainage rights-of-way shown thereon.

39 "Master plan" means a composite of the mapped and written proposals
40 recommending the physical development of the municipality which shall have
41 been duly adopted by the planning board under section ten of this act.

42 "Drainage right-of-way" means the lands required for the installation
43 of storm water sewers or drainage ditches, or required along a natural
44 stream or watercourse for preserving the channel and providing for the flow

45 of water therein to safeguard the public against flood damage in accordance
46 with chapter one of Title 58 of the Revised Statutes.

47 "Circulation" means provision for the movement of people, goods, water,
48 sewage, or power by means of streets, highways, railways, waterways, air-
49 ways, pipes, conduits, or other means, and including facilities for transit,
50 transportation and communication.

1 3. This act shall be construed most favorably to municipalities, its in-
2 tention being to give all municipalities the fullest and most complete powers
3 possible concerning the subject matter hereof.

4 Should any section or provision of this act be held to be unconstitu-
5 tional or invalid, such determination shall not affect the constitutionality or
6 validity of the remainder hereof.

7 The governing body may by ordinance grant any of the powers exercis-
8 able by a planning board to a planning board to be created under section
9 four of this act, but no particular power may be exercised until expressly
10 granted by ordinance and until compliance is made with the conditions, stand-
11 ards, procedures and regulations enumerated in the sections describing such
12 power.

1 4. The governing body may by ordinance create a planning board of not
2 less than five nor more than nine members. The members shall consist of,
3 and be divided into, for convenience in designating the manner of appoint-
4 ment, the four following classes:

5 Class I—mayor.

6 Class II—one of the officials of the municipality to be appointed
7 by the mayor.

8 Class III—a member of the governing body to be appointed by it.

9 Class IV—other citizens of the municipality to be appointed by the
10 mayor.

11 When the board consists of less than seven members Class II shall be
12 omitted. All members of the board shall serve without compensation, and the
13 members of Class IV shall hold no other municipal office, except that one of

14 such members may be a member of the zoning board of adjustment and one
15 may be a member of the board of education. The terms of the members
16 composing Classes I and III shall correspond to their respective official
17 tenures. The term of the member composing Class II shall terminate with
18 the term of the mayor appointing him. The term of one member of Class IV
19 first appointed shall expire at the end of each year beginning at the end of
20 the first year. Thereafter the term of each shall be the same number of years
21 as there are members of Class IV on the board. If a vacancy in any class
22 shall occur otherwise than by expiration of term, it shall be filled by appoint-
23 ment as above provided for the unexpired term. No member of the plan-
24 ning board shall be permitted to act on any matter in which he has, either
25 directly or indirectly, any personal or financial interest. Members may, after
26 a public hearing, be removed for inefficiency, neglect of duty, or malfeas-
27 ance in office by the officer or body appointing them.

1 5. The planning board shall elect a chairman from the members of Class
2 IV and create and fill such other offices as it may determine. It may em-
3 ploy experts and a staff, and pay for their services and for such other ex-
4 penses as may be necessary and proper, not exceeding in all, exclusive of
5 gifts, the amount appropriated by the governing body for its use.

1 6. The governing body of any municipality creating a planning board
2 shall appropriate in the same manner as other appropriations are made,
3 such money as in its discretion is necessary for the work of the planning
4 board for the year for which the appropriation is made. The amount so ap-
5 propriated shall be assessed, levied and collected in the same manner as
6 moneys appropriated for other current expenses in the municipality.

1 7. Whenever a hearing is required under any section of this chapter
2 before action by a planning board, notice of the hearing shall be published
3 in the official newspaper of the municipality or in a newspaper of general cir-
4 culation in the municipality at least ten days prior to the hearing. In cases
5 dealing with plat approval, notice of the hearing shall be mailed at least five

6 days prior thereto, addressed to the owners, as their names appear on the
7 municipal tax record, of adjoining property and property directly across the
8 street or streets from the property involved.

9 The notice of hearing shall contain a brief description of the property
10 involved, a statement as to its location, a list of the maps and other docu-
11 ments to be considered, and a summary statement of the matters to be heard.
12 Copies of the maps and other documents to be considered at the hearing shall
13 be filed in the office of the municipal clerk. Such copies shall be made avail-
14 able at such office for public inspection.

15 Minutes of every such hearing shall be kept and shall include the names
16 of the persons appearing and addressing the board, and of the persons who
17 appear by attorney, agent or other representative, the action taken by the
18 board, the findings, if any, made by it and the reasons therefor. The minutes
19 shall thereafter be made available for inspection at the office of the munici-
20 pal clerk. The failure of the planning board or the secretary thereof to
21 make a record of or file with the municipal clerk such minutes shall not be
22 a ground for setting aside the action of the planning board, provided such
23 action was duly recorded in the records of the planning board and such
24 record is made available upon request, to any person or persons desiring to
25 examine such record.

1 8. Wherever there is a planning board, such board shall have the addi-
2 tional authority and duty of acting as the zoning commission under article
3 three of chapter fifty-five of Title 40 of the Revised Statutes.

1 9. After the appointment of a planning board, the mayor may appoint
2 one or more persons as a citizens' advisory committee to assist or collabo-
3 rate with the planning board in its duties, but such person or persons shall
4 have no power to vote on the other action required of the board. Such per-
5 son or persons shall serve at the pleasure of the mayor.

1 10. The planning board may prepare, and after public hearing, adopt,
2 and from time to time amend, a master plan for the physical development of
3 the municipality which generally shall comprise land use, circulation, and a re-

4 port presenting the objectives, assumptions, standards and principals which
5 are embodied in the various interlocking portions of the master plan. The
6 master plan shall be a composite of the one or more mapped and written pro-
7 posals recommending the physical development of the municipality which
8 the planning board shall have adopted either as a whole or severally after
9 public hearing. Such master plan may include proposals for various stages
10 in the future development of the municipality.

1 11. In scope the master plan may cover proposals for: (a) the use of
2 land and buildings—residential, commercial, industrial, mining, agricultural,
3 park, and other like matters; (b) services—water supply, utilities, sewer-
4 age, and other like matters; (c) transportation—streets, parking, public
5 transit, freight facilities, airports, and other like matters; (d) housing—
6 residential standards, slum clearance and redevelopment, and other like mat-
7 ters; (e) conservation—water, forest, soil, flood control, and other like mat-
8 ters; (f) public and semipublic facilities—civic center, schools, libraries,
9 parks, playgrounds, fire houses, police structures, hospitals, and other like
10 matters; (g) the distribution and density of population; (h) other elements
11 of municipal growth and development.

12 The master plan may include in its scope areas outside the boundaries
13 of the municipality which the planning board deems to bear an essential re-
14 lation to the planning of the municipality. The studies in connection with the
15 master plan shall be conducted wherever possible with the co-operation of
16 adjacent planning agencies.

1 12. In the preparation of the master plan the planning board shall give
2 due consideration to the probable ability of the municipality to carry out,
3 over a period of years, the various public or quasi-public projects embraced
4 in the plan without the imposition of unreasonable financial burdens.

5 In such preparation, the planning board shall cause to be made careful
6 and comprehensive surveys and studies of present conditions and the pros-
7 pects for future growth of the municipality. The master plan shall be made
8 with the general purpose of guiding and accomplishing a co-ordinated, ad-

9 justed and harmonious development of the municipality and its environs
10 which will, in accordance with present and future needs, best promote health,
11 safety, morals, order, convenience, prosperity and general welfare, as well as
12 efficiency and economy in the process of development and the maintenance of
13 property values previously established. To such end, the master plan shall
14 also include adequate provision for traffic and recreation, the promotion of
15 safety from fire and other dangers, adequate provision for light and air,
16 the promotion of good civic design and arrangements, the wise and efficient
17 expenditure of public funds, and adequate provision for public utilities and
18 other public requirements.

1 13. Whenever the planning board after public hearing shall have adopted
2 any portion of the master plan, the governing body or other public agency
3 having jurisdiction over the subject matter, before taking action necessitat-
4 ing the expenditure of any public funds, incidental to the location, charac-
5 ter or extent of one or more projects thereof, shall refer action involving
6 such specific project or projects to the planning board for review and recom-
6a mendation, and shall not act thereon without such recommendation or until
7 forty-five days after such reference have elapsed without such recommenda-
8 tion. This requirement shall apply to action by a housing, parking, high-
9 way or other authority, redevelopment agency, school board, or other sim-
10 ilar public agency, Federal, State, county or municipal.

11 The governing body may by ordinance provide for the reference of any
12 other matter or class of matters to the planning board before final action
13 thereon by the public body or officer having final authority thereon, with or
14 without the provision that final action thereon shall not be taken until the
15 planning board has submitted its report, or until a specified period of time
16 has elapsed without such report having been made.

17 Whenever the planning board, pursuant to this act shall have made a
18 recommendation to another body, such recommendation may be overridden
19 only by a majority of the full membership of such other body.

20 The planning board shall have full power and authority to make such

21 investigations, maps and reports and recommendations in connection there-
22 with relating to the planning and physical development of the municipality
23 as it deems desirable.

1 14. The governing body may by ordinance provide for the regulation of
2 subdivisions within the municipality by requiring the approval of the govern-
3 ing body, by resolution, of all plats after favorable referral by the planning
4 board before such plats may be filed with the county recording officer and may
5 authorize and empower the planning board to review plats in accordance with
6 regulations, requirements and standards established by the governing body
7 and may further fix filing fees to be paid for by any applicant for subdivision
8 approval.

9 In any ordinance creating a planning board or in any amendment or
10 supplement thereto, provision may be made for the regulation of subdivisions
11 within the municipality by approval of the planning board acting in lieu of the
12 governing body of all plats before such plats may be filed with the county
13 recording officer, provided such ordinance regulating subdivisions establishes
14 regulations, requirements, and standards for plat approval by the planning
15 board. If such power of approval is granted to the planning board, the pro-
16 cedures of the planning board under this act shall be required in connection
17 with such approval, and the signature of the chairman of the planning board
18 shall have the same force as the signature of the mayor.

19 Any such ordinance may exempt from the requirement of local municipal
20 approval, subdivisions wherein the number of new lots is less than a desig-
21 nated number, or plats that do not involve new streets, or such other classes
22 of subdivisions as such ordinance shall designate. In all cases involving such
23 exempted subdivisions, the mayor or planning board chairman, as the case
24 may be, and the municipal clerk shall certify the exemption on the plat, deed,
25 or instrument to be filed with the county recording officer.

1 15. A planning board may be empowered by the subdivision ordinance to
2 waive full notice and hearing and favorable referral by a majority of the
3 board on a subdivision if no new street is shown and if a subdivision com-

4 mittee of the planning board appointed by the chairman with the approval of
5 the board unanimously find no cause for review by the entire board or for un-
6 favorable action upon the subdivision and such finding shall be deemed to be
7 favorable approval or referral by the planning board.

8 Before the planning board may take the action of favorable referral and
9 the governing body may approve subdivisions or before a planning board may
10 be authorized to grant final approval, the governing body shall adopt by ordi-
11 nance, standards for approving the design of subdivisions and the required
12 street improvements, requirements for the submission of subdivision plats,
13 and the procedure to be followed by subdividers. Where there is a municipal
14 zoning ordinance, the standards in the subdivision ordinance with respect to
15 minimum lot sizes and lot area requirements shall be identical with the pro-
16 visions of the zoning ordinance. Where a zoning ordinance contains no such
17 provisions or where there is no such ordinance, the standards including
18 minimum lot sizes and lot area requirements shall be specified in the sub-
19 division ordinance. Copies of the subdivision ordinance and regulations
20 shall be made available to the public and shall be filed with the county re-
21 cording officer. A reasonable charge may be made for such copies. A plat
22 shall be deemed to have been submitted when an application for approval has
23 been delivered to the municipal clerk in conformance with the printed require-
24 ments governing the submission of subdivision plats.

1 16. Plats shall conform with the standards prescribed by chapter twenty-
2 three of Title 46 of the Revised Statutes and any applicable ordinance not
3 inconsistent therewith.

1 17. No plat shall be accepted for filing by the county recording officer
2 until it has been approved by the governing body or the planning board, as
3 the case may be, if such approval is required by local ordinance, and such
4 approval has been endorsed on the instrument in such manner as the govern-
5 ing body may designate.

6 It shall be the duty of the county recording officer to notify the planning
7 board in writing within three days of the filing of any plat approved by the

8 governing body or planning board, identifying such plat by its title, date of
9 filing, and official number.

1 18. The planning board, after hearing, may approve the plat, if so au-
2 thorized, or may recommend approval by giving favorable referral to the
3 governing body or may disapprove such plat. If the planning board disap-
4 proves any plat, the findings and reasons for such disapproval shall be
5 stated upon the records of the planning board and the applicant shall be
6 given a copy. If the planning board requires any substantial amendment in
7 the layout of improvements proposed by the subdivider that have been the
8 subject of a hearing, an amended plat must be submitted, and proceeded
9 upon as in the case of the original plat.

10 Where approval of a plat, map or plan of land is required by any officer
11 or body of a municipality, including a board of health under the provisions of
12 any other law or ordinance, such approval shall be certified on the plat
13 before the final plat shall be approved as a prerequisite to its acceptance for
14 filing by the county recording officer.

15 The planning board shall take action under this section within forty-five
16 days after the submission of the final plat for approval, or within such
17 further time as the applying party may agree to. Otherwise such plat shall
18 be deemed to have been given favorable approval or referral to the govern-
19 ing body, and the certificate of the municipal clerk as to the date of the sub-
20 mission of the plat for approval or referral and as to the failure of the plan-
21 ning board to report action thereon within the aforesaid forty-five days or
22 such further time as agreed to by the applying party shall be issued on re-
23 quest of the owner or his agent and shall be sufficient, in lieu of the written
24 endorsement or other evidence of favorable approval or referral herein
25 required.

26 Following favorable referral by the planning board where referral is
27 required, the plat shall be submitted to the governing body for approval.
28 The governing body shall take action under this section not later than the

29 second regular meeting after the planning board submits the plat to the
30 municipal clerk for transmission to the governing body, or within such
31 further time as the applying party may agree to. Otherwise such plat shall
32 be deemed to have been approved, and the certificate of the municipal clerk
33 as to the date of the submission of the plat for approval by the governing
34 body, and as to the failure of the governing body to act thereon not later
35 than the second regular meeting or such further time as agreed to by the
36 applying party, shall be issued on request of the owner or his agent and
37 shall be sufficient, in lieu of the written endorsement or other evidence of
38 approval herein required. If the governing body disapproves any plat, the
39 findings and reasons for such action shall be stated upon the records of the
40 governing body, and the applicant shall be given a copy.

41 The governing body or the planning board, as the case may be, may
42 tentatively approve a plat showing new streets or roads or the resubdivision
43 of land along a mapped street. This tentative approval shall confer upon
44 the applicant the following rights for a three-year period from the date of
45 the tentative approval:

46 (1) that the general terms and conditions upon which the tentative
47 approval was granted will not be changed.

48 (2) that the said applicant may submit on or before the expiration
49 date the whole or part or parts of said plat for final approval.

50 The final approval by the governing body or the planning board, as the
51 case may be, of a plat showing a new street or the resubdivision of land
52 along a mapped street shall expire ninety days from the date of such ap-
53 proval, unless within the period such plat shall have been duly filed by the
54 owner or his agent with the county recording officer. The governing body
55 for good cause shown may extend the time for plat filing for a period not to
56 exceed ninety days.

1 19. If the owner of any land proposed to be subdivided shall be
2 aggrieved by the action of the planning board, appeal in writing to
3 the governing body may be taken within ten days after the date

4 of the action of the planning board. A hearing thereon shall be had on notice
5 to all parties in interest, who shall be afforded an opportunity to be heard.
6 After such hearing the governing body may affirm or reverse the action of
7 the planning board by a recorded vote of a majority of the total members
8 thereof. The findings and reasons for the disposition of the appeal shall be
9 stated on the records of the governing body, and the applying party shall
10 be given a copy.

11 Nothing in this act shall be construed to restrict the right of any party
12 to obtain a review by any court of competent jurisdiction according to law.

1 20. In acting upon plats the planning board shall require, among other
2 conditions in the public interest, that the tract shall be adequately drained,
3 and the streets shall be of sufficient width and suitable grade and suitably
4 located to accommodate the prospective traffic, to provide access for fire-
5 fighting equipment to buildings and to be co-ordinated so as to compose a
6 convenient system, conforming to the official map, or if there is no official
7 map, relating properly to the existing street system. Where the planning
8 board after hearing has adopted portions of the master plan with pro-
9 posals regarding the street system within the proposed subdivision, the
10 board may require that the street shown conform in design and in width to
11 the proposals shown on the master plan. No street of a width greater than
12 fifty feet within the right-of-way lines may be required unless said street
13 already has been shown on such master plan at the greater width, or already
14 has been shown in greater width on the official map.

15 The planning agency shall further require that all lots shown on the
16 plats shall be adaptable for the intended purposes without danger to health
17 or peril from flood, fire, erosion, or other menace.

18 If portions of the master plan contain proposals for drainage rights-of-
19 way, schools, parks, or playgrounds within the proposed subdivision or in its
20 vicinity, or if standards for the allocation of portions of subdivisions for
21 drainage rights-of-way, school sites, park and playground purposes have
22 been adopted, before approving subdivisions the planning board may further

23 require that such drainage rights-of-way, school sites, parks or playgrounds
24 be shown in locations and of sizes suitable to their intended uses. The gov-
25 erning body or the planning board shall be permitted to reserve the location
26 and extent of school sites, public parks and playgrounds shown on the
27 master plan or any part thereof for a period of one year after the approval
28 of the final plat or within such further time as agreed to by the applying
29 party. Unless during such one-year period or extension thereof the municipal-
30 ity shall have entered into a contract to purchase or instituted condemnation
31 proceedings according to law, for said school site, park or playground, the
32 subdivider shall not be bound by the proposals for such areas shown on the
33 master plan. This provision shall not apply to the streets and roads or
34 drainage rights-of-way required for final approval of any plat and deemed
35 essential to the public welfare.

1 21. Before final approval of plats the governing body may require, in
2 accordance with the standards adopted by ordinance, the installation, or the
3 furnishing of a performance guarantee in lieu thereof, of any or all of the
4 following improvements it may deem to be necessary or appropriate: street
5 grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees,
6 surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers
7 or other means of sewage disposal, drainage structures, and such other sub-
8 division improvements as the municipal governing body may find necessary
9 in the public interest.

1 22. The governing body may accept adequate performance guarantees
2 for the purpose of assuring improvements, as provided in section twenty-
3 one of this act and section three of the Official Map and Building Permit
4 Act (1953).

5 The amount of any performance guarantee may be reduced by the gov-
6 erning body by resolution when portions of the improvements have been
7 completed, and the time allowed for installation of the improvements for which
8 the performance guarantee has been provided may be extended by said body
9 by resolution.

10 If the required improvements shall not have been installed in accord-
11 ance with the performance guarantee, the obligor and surety, if any, shall be
12 liable thereon to the municipality for the reasonable cost of the improve-
13 ments not installed and upon the receipt of the proceeds thereof the munici-
14 pality shall install such improvements.

1 23. If, before approval or favorable referral and approval have been
2 obtained, any person transfers or sells or agrees to sell, as owner or agent, any
3 land which forms a part of a subdivision which, by ordinance, the planning
4 board or the planning board and the governing body are required to act, such
5 person shall be subject to a fine not to exceed two hundred dollars (\$200.00)
6 or to imprisonment for not more than thirty days and each parcel, plot or lot
7 so disposed of shall be deemed a separate violation.

8 In addition to the foregoing, if the streets in the subdivision are not such
9 that a structure on said land in the subdivision would meet the requirements
10 for a building permit under section three of the Official Map and Building
11 Permit Act (1953) the municipality may institute and maintain a civil action:

12 (1) For injunctive relief.

13 (2) To set aside and invalidate any conveyance made pursuant to such a
14 contract or sale if a certificate of compliance has not been issued in accordance
15 with section twenty-four of this act, but only if the municipality has a plan-
16 ning board or a committee thereof with power to act and which

17 (a) meets regularly on a monthly or more frequent basis, and

18 (b) whose governing body has adopted standards and procedures in
19 accordance with section twenty of this act.

20 In any such action the transferee, purchaser or grantee shall be entitled
21 to a lien upon the portion of the land from which the subdivision was made
22 that remains in the possession of the subdivider or his assigns or successors,
23 to secure the return of any deposit made or purchase price paid, and also a
24 reasonable search fee, survey expense and title closing expense, if any. Any
25 such action must be brought within two years after the date of the recording
26 of the instrument of transfer, sale or conveyance of said land, or within six
27 years if unrecorded.

1 24. The prospective purchaser, prospective mortgagee, or any other per-
2 son interested in any land which forms part of a subdivision, or which, since
3 the thirteenth day of June, one thousand nine hundred and fifty-one, formed
4 part of such a subdivision, may apply in writing to the proper official or, if
5 said official is unknown to the applicant, then to the clerk of the municipality,
6 for the issuance of a certificate certifying whether or not such subdivision has
7 been approved by the planning board or governing body. Such application
8 shall contain a diagram showing the location and dimension of the land to be
9 covered by the certificate, and the name of the owner thereof.

10 The governing body of the municipality shall, by resolution, designate
11 the municipal clerk, municipal engineer or some other official as the official
12 who shall make and issue such certificates, and the official so designated shall
13 issue such certificate within fifteen days after the receipt of such written
14 application and the fees therefor. Said officials shall keep a duplicate copy of
15 each certificate, consecutively numbered, including a statement of the fees
16 charged, in a binder as a permanent record of his office.

17 Each such certificate shall be designated a "certificate as to approval of
18 subdivision of land," and shall certify:

19 a. Whether there exists in said municipality a duly established planning
20 board which meets regularly on a monthly or more frequent basis and
21 whether there is an ordinance controlling subdivisions of land, adopted under
22 the authority of this act.

23 b. Whether the subdivision or resubdivision, as it relates to the land
24 shown in said application, has been approved by the planning board or gov-
25 erning body, and, if so, the date of such approval.

26 c. Whether such subdivision or resubdivision, if the same has not been
27 approved, is exempt from the requirement of approval as provided in this act.

28 The official designated shall be entitled to demand and receive for each
29 such certificate issued by him a reasonable fee, not in excess of those provided
30 in sections fourteen and fifteen of chapter five of Title 54 of the Revised
31 Statutes. The fees so collected by such official shall be paid by him to the
32 municipality.

1 25. Any person who shall acquire for a valuable consideration an in-
2 terest in the lands covered by any such certificate of approval of a sub-
3 division in reliance upon the information therein contained shall hold such
4 interest free of any right, remedy or action which could be prosecuted or
5 maintained by the municipality pursuant to the provisions of section twenty-
6 three of this act.

7 If the official designated to make and issue any such certificate fails to
8 issue the same within fifteen days after receipt of an application and the
9 fees therefor, any person acquiring an interest in the lands described in
10 such application shall hold such interest free of any right, remedy or action
11 which could be prosecuted or maintained by the municipality pursuant to
12 the provisions of section twenty-three of this act.

13 Any such application addressed to the municipal clerk of the municipality
14 shall be deemed to be addressed to the proper designated official and the mu-
15 nicipality shall be bound thereby to the same extent as though the same
16 was addressed to the designated official.

17 26. This act shall apply only to municipalities having a planning board
18 or that create such a board in accordance with the provisions as outlined
19 herein.

1 27. Any municipal planning board created under the authority of law
2 prior to the adoption of this act shall be continued by this act, and the mem-
3 bers appointed to said board shall continue in office until the completion of
4 their terms, unless sooner terminated, and any action previously taken by
5 said planning board shall be deemed to continue in full force and effect ex-
6 cept as hereinafter in this section provided.

7 All rules and regulations adopted by planning boards under the au-
8 thority of law regulating subdivision of lands shall continue in effect until
9 July first, one thousand nine hundred and fifty-four, unless prior thereto
10 the governing body of the municipality shall have adopted an ordinance pur-
11 suant to sections fourteen to twenty-three, inclusive, of this act, in which

12 event such rules and regulations shall cease to be in effect upon the date
13 such ordinance becomes effective.

1 28. Sections 40:55-1 to 40:55-21, both inclusive, of the Revised Statutes
2 are repealed.

1 29. This act shall take effect July first, one thousand nine hundred and
2 fifty-three.

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STATEMENT

This bill is a companion bill to 2162 and . It is a direct result of the Governor's veto message in connection with Assembly Bill No. 463 of 1952, wherein he suggested that the planning enabling act be revised comprehensively, This is a co-operative bill for that revision prepared by representatives of the New Jersey Municipal Attorneys Institute, New Jersey Municipal Engineers Association, New Jersey Home Builders Society, New Jersey Real Estate Association, New Jersey Society of Professional Engineers and Land Surveyors, New Jersey State Federation of Official Planning Boards, the State Department of Health and the State Department of Conservation and Economic Development.

This revision removes conflicting, vague and contradictory elements in present legislation and at the same time corrects procedures of questionable legality. It strengthens the planning statutes and clarifies the responsibility of planning boards. It adheres to the principle of home rule and provides an entirely permissive set of legislation. Together, this and the companion bills will give a closely related set of legislation for the equitable control of land development.

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1953

By Mr. McCAY

Referred to Committee on Counties and Municipalities

AN ACT concerning municipalities in relation to municipal planning, repealing sections 40:55-1 to 40:55-21, inclusive, and supplementing chapter fifty-five of Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Municipal Planning
2 Act (1953)."

1 2. As used in this act:

2 "Municipality" means any city, borough, town, township or village.

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

5 "Governing body" means the chief legislative body of the municipality.
6 In cities having a board of public works "governing body" means such
7 board.

8 "Plat" means the map of a subdivision.

9 "Subdivision" means the division of a lot, tract, or parcel of land into
10 two or more lots, sites or other divisions of land for the purpose, whether im-
11 mediate or future, of sale or building development; except that the follow-
12 ing divisions shall not be considered subdivisions within the meaning of
13 this act; *provided, however,* that no new streets or roads are involved:
14 divisions of land for agricultural purposes where the resulting parcels are

15 three acres or larger in size, divisions of property by testamentary or
16 intestate provisions, divisions of property upon court order or divisions of
17 property into no more than three lots among members of a family. Sub-
18 division also includes resubdivision, and where appropriate to the context,
19 relates to the process of subdividing or to the lands or territory divided.

20 "Performance guarantee" means any security which may be accepted
21 under section twenty-two of this act in lieu of a requirement that certain
22 improvements be made before the planning board or other approving body
23 approves a plat, including performance bonds, escrow agreements, and other
24 similar collateral or surety agreements.

25 "Street" means any street, avenue, boulevard, road, lane, parkway,
26 viaduct, alley or other way which is an existing State, county, or municipal
27 roadway, or a street or way shown upon a plat heretofore approved pursuant
28 to law or approved by official action as provided in section seventeen of
29 this act or a street or way on a plat duly filed and recorded in the office of
30 the county recording officer prior to the appointment of a planning board
31 and the grant to such board of the power to review plats, and includes the
32 land between the street lines, whether improved or unimproved, and may
33 comprise pavement, shoulders, gutters, sidewalks, parking areas and other
34 areas within the street lines.

35 "Official map" means a map adopted in accordance with the Official Map
36 and Building Permit Act (1953). Such a map shall be deemed to be con-
37 clusive with respect to the location and width of the streets, public parks and
38 playgrounds, and drainage rights-of-way shown thereon.

39 "Master plan" means a composite of the mapped and written proposals
40 recommending the physical development of the municipality which shall have
41 been duly adopted by the planning board under section ten of this act.

42 "Drainage right-of-way" means the lands required for the installation
43 of storm water sewers or drainage ditches, or required along a natural
44 stream or watercourse for preserving the channel and providing for the flow

45 of water therein to safeguard the public against flood damage in accordance
46 with chapter one of Title 58 of the Revised Statutes.

47 "Circulation" means provision for the movement of people, goods, water,
48 sewage, or power by means of streets, highways, railways, waterways, air-
49 ways, pipes, conduits, or other means, and including facilities for transit,
50 transportation and communication.

1 3. This act shall be construed most favorably to municipalities, its in-
2 tention being to give all municipalities the fullest and most complete powers
3 possible concerning the subject matter hereof.

4 Should any section or provision of this act be held to be unconstitu-
5 tional or invalid, such determination shall not affect the constitutionality or
6 validity of the remainder hereof.

7 The governing body may by ordinance grant any of the powers exercis-
8 able by a planning board to a planning board to be created under section
9 four of this act, but no particular power may be exercised until expressly
10 granted by ordinance and until compliance is made with the conditions, stand-
11 ards, procedures and regulations enumerated in the sections describing such
12 power.

1 4. The governing body may by ordinance create a planning board of not
2 less than five nor more than nine members. The members shall consist of,
3 and be divided into, for convenience in designating the manner of appoint-
4 ment, the four following classes:

5 Class I—mayor.

6 Class II—one of the officials of the municipality to be appointed
7 by the mayor.

8 Class III—a member of the governing body to be appointed by it.

9 Class IV—other citizens of the municipality to be appointed by the
10 mayor.

11 When the board consists of less than seven members Class II shall be
12 omitted. All members of the board shall serve without compensation, and the
13 members of Class IV shall hold no other municipal office, except that one of

14 such members may be a member of the zoning board of adjustment and one
15 may be a member of the board of education. The terms of the members
16 composing Classes I and III shall correspond to their respective official
17 tenures. The term of the member composing Class II shall terminate with
18 the term of the mayor appointing him. The term of one member of Class IV
19 first appointed shall expire at the end of each year beginning at the end of
20 the first year. Thereafter the term of each shall be the same number of years
21 as there are members of Class IV on the board. If a vacancy in any class
22 shall occur otherwise than by expiration of term, it shall be filled by appoint-
23 ment as above provided for the unexpired term. No member of the plan-
24 ning board shall be permitted to act on any matter in which he has, either
25 directly or indirectly, any personal or financial interest. Members may, after
26 a public hearing, be removed for inefficiency, neglect of duty, or malfeas-
27 ance in office by the officer or body appointing them.

1 5. The planning board shall elect a chairman from the members of Class
2 IV and create and fill such other offices as it may determine. It may em-
3 ploy experts and a staff, and pay for their services and for such other ex-
4 penses as may be necessary and proper, not exceeding in all, exclusive of
5 gifts, the amount appropriated by the governing body for its use.

1 6. The governing body of any municipality creating a planning board
2 shall appropriate in the same manner as other appropriations are made,
3 such money as in its discretion is necessary for the work of the planning
4 board for the year for which the appropriation is made. The amount so ap-
5 propriated shall be assessed, levied and collected in the same manner as
6 moneys appropriated for other current expenses in the municipality.

1 7. Whenever a hearing is required under any section of this chapter
2 before action by a planning board, notice of the hearing shall be published
3 in the official newspaper of the municipality or in a newspaper of general cir-
4 culation in the municipality at least ten days prior to the hearing. In cases
5 dealing with plat approval, notice of the hearing shall be mailed at least five

6 days prior thereto, addressed to the owners, as their names appear on the
7 municipal tax record, of adjoining property and property directly across the
8 street or streets from the property involved.

9 The notice of hearing shall contain a brief description of the property
10 involved, a statement as to its location, a list of the maps and other docu-
11 ments to be considered, and a summary statement of the matters to be heard.
12 Copies of the maps and other documents to be considered at the hearing shall
13 be filed in the office of the municipal clerk. Such copies shall be made avail-
14 able at such office for public inspection.

15 Minutes of every such hearing shall be kept and shall include the names
16 of the persons appearing and addressing the board, and of the persons who
17 appear by attorney, agent or other representative, the action taken by the
18 board, the findings, if any, made by it and the reasons therefor. The minutes
19 shall thereafter be made available for inspection at the office of the municipi-
20 pal clerk. The failure of the planning board or the secretary thereof to
21 make a record of or file with the municipal clerk such minutes shall not be
22 a ground for setting aside the action of the planning board, provided such
23 action was duly recorded in the records of the planning board and such
24 record is made available upon request, to any person or persons desiring to
25 examine such record.

1 8. Wherever there is a planning board, such board shall have the addi-
2 tional authority and duty of acting as the zoning commission under article
3 three of chapter fifty-five of Title 40 of the Revised Statutes.

1 9. After the appointment of a planning board, the mayor may appoint
2 one or more persons as a citizens' advisory committee to assist or collabo-
3 rate with the planning board in its duties, but such person or persons shall
4 have no power to vote or take other action required of the board. Such per-
5 son or persons shall serve at the pleasure of the mayor.

1 10. The planning board may prepare, and after public hearing, adopt,
2 and from time to time amend, a master plan for the physical development of
3 the municipality which generally shall comprise land use, circulation, and a re-

4 port presenting the objectives, assumptions, standards and principals which
5 are embodied in the various interlocking portions of the master plan. The
6 master plan shall be a composite of the one or more mapped and written pro-
7 posals recommending the physical development of the municipality which
8 the planning board shall have adopted either as a whole or severally after
9 public hearing. Such master plan may include proposals for various stages
10 in the future development of the municipality.

1 11. In scope the master plan may cover proposals for: (a) the use of
2 land and buildings—residential, commercial, industrial, mining, agricultural,
3 park, and other like matters; (b) services—water supply, utilities, sewer-
4 age, and other like matters; (c) transportation—streets, parking, public
5 transit, freight facilities, airports, and other like matters; (d) housing—
6 residential standards, slum clearance and redevelopment, and other like mat-
7 ters; (e) conservation—water, forest, soil, flood control, and other like mat-
8 ters; (f) public and semipublic facilities—civic center, schools, libraries,
9 parks, playgrounds, fire houses, police structures, hospitals, and other like
10 matters; (g) the distribution and density of population; (h) other elements
11 of municipal growth and development.

12 The master plan may include in its scope areas outside the boundaries
13 of the municipality which the planning board deems to bear an essential re-
14 lation to the planning of the municipality. The studies in connection with the
15 master plan shall be conducted wherever possible with the co-operation of
16 adjacent planning agencies.

1 12. In the preparation of the master plan the planning board shall give
2 due consideration to the probable ability of the municipality to carry out,
3 over a period of years, the various public or quasi-public projects embraced
4 in the plan without the imposition of unreasonable financial burdens.

5 In such preparation, the planning board shall cause to be made careful
6 and comprehensive surveys and studies of present conditions and the pros-
7 pects for future growth of the municipality. The master plan shall be made
8 with the general purpose of guiding and accomplishing a co-ordinated, ad-

9 justed and harmonious development of the municipality and its environs
10 which will, in accordance with present and future needs, best promote health,
11 safety, morals, order, convenience, prosperity and general welfare, as well as
12 efficiency and economy in the process of development and the maintenance of
13 property values previously established. To such end, the master plan shall
14 also include adequate provision for traffic and recreation, the promotion of
15 safety from fire and other dangers, adequate provision for light and air,
16 the promotion of good civic design and arrangements, the wise and efficient
17 expenditure of public funds, and adequate provision for public utilities and
18 other public requirements.

1 13. Whenever the planning board after public hearing shall have adopted
2 any portion of the master plan, the governing body or other public agency
3 having jurisdiction over the subject matter, before taking action necessitat-
4 ing the expenditure of any public funds, incidental to the location, charac-
5 ter or extent of one or more projects thereof, shall refer action involving
6 such specific project or projects to the planning board for review and recom-
6a mendation, and shall not act thereon without such recommendation or until
7 forty-five days after such reference have elapsed without such recommenda-
8 tion. This requirement shall apply to action by a housing, parking, high-
9 way or other authority, redevelopment agency, school board, or other sim-
10 ilar public agency, Federal, State, county or municipal.

11 The governing body may by ordinance provide for the reference of any
12 other matter or class of matters to the planning board before final action
13 thereon by the public body or officer having final authority thereon, with or
14 without the provision that final action thereon shall not be taken until the
15 planning board has submitted its report, or until a specified period of time
16 has elapsed without such report having been made.

17 Whenever the planning board, pursuant to this act shall have made a
18 recommendation to another body, such recommendation may be overridden
19 only by a majority of the full membership of such other body.

20 The planning board shall have full power and authority to make such

21 investigations, maps and reports and recommendations in connection there-
22 with relating to the planning and physical development of the municipality
23 as it deems desirable.

1 14. The governing body may by ordinance provide for the regulation of
2 subdivisions within the municipality by requiring the approval of the govern-
3 ing body, by resolution, of all plats after favorable referral by the planning
4 board before such plats may be filed with the county recording officer and may
5 authorize and empower the planning board to review plats in accordance with
6 regulations, requirements and standards established by the governing body
7 and may further fix filing fees to be paid for by any applicant for subdivision
8 approval.

9 In any ordinance creating a planning board or in any amendment or
10 supplement thereto, provision may be made for the regulation of subdivisions
11 within the municipality by approval of the planning board acting in lieu of the
12 governing body of all plats before such plats may be filed with the county
13 recording officer, provided such ordinance regulating subdivisions establishes
14 regulations, requirements, and standards for plat approval by the planning
15 board. If such power of approval is granted to the planning board, the pro-
16 cedures of the planning board under this act shall be required in connection
17 with such approval, and the signature of the chairman of the planning board
18 shall have the same force as the signature of the mayor.

19 Any such ordinance may exempt from the requirement of local municipal
20 approval, subdivisions wherein the number of new lots is less than a desig-
21 nated number, or plats that do not involve new streets, or such other classes
22 of subdivisions as such ordinance shall designate. In all cases involving such
23 exempted subdivisions, the mayor or planning board chairman, as the case
24 may be, and the municipal clerk shall certify the exemption on the plat, deed,
25 or instrument to be filed with the county recording officer.

1 15. A planning board may be empowered by the subdivision ordinance to
2 waive full notice and hearing and favorable referral by a majority of the
3 board on a subdivision if no new street is shown and if a subdivision com-

4 mittee of the planning board appointed by the chairman with the approval of
5 the board unanimously find no cause for review by the entire board or for un-
6 favorable action upon the subdivision and such finding shall be deemed to be
7 favorable approval or referral by the planning board.

8 Before the planning board may take the action of favorable referral and
9 the governing body may approve subdivisions or before a planning board may
10 be authorized to grant final approval, the governing body shall adopt by ordi-
11 nance, standards for approving the design of subdivisions and the required
12 street improvements, requirements for the submission of subdivision plats,
13 and the procedure to be followed by subdividers. Where there is a municipal
14 zoning ordinance, the standards in the subdivision ordinance with respect to
15 minimum lot sizes and lot area requirements shall be identical with the pro-
16 visions of the zoning ordinance. Where a zoning ordinance contains no such
17 provisions or where there is no such ordinance, the standards including
18 minimum lot sizes and lot area requirements shall be specified in the sub-
19 division ordinance. Copies of the subdivision ordinance and regulations
20 shall be made available to the public and shall be filed with the county re-
21 cording officer. A reasonable charge may be made for such copies. A plat
22 shall be deemed to have been submitted when an application for approval has
23 been delivered to the municipal clerk in conformance with the printed require-
24 ments governing the submission of subdivision plats.

1 16. Plats shall conform with the standards prescribed by chapter twenty-
2 three of Title 46 of the Revised Statutes and any applicable ordinance not
3 inconsistent therewith.

1 17. No plat shall be accepted for filing by the county recording officer
2 until it has been approved by the governing body or the planning board, as
3 the case may be, if such approval is required by local ordinance, and such
4 approval has been endorsed on the instrument in such manner as the govern-
5 ing body may designate.

6 It shall be the duty of the county recording officer to notify the planning
7 board in writing within three days of the filing of any plat approved by the

8 governing body or planning board, identifying such plat by its title, date of
9 filing, and official number.

1 18. The planning board, after hearing, may approve the plat, if so au-
2 thorized, or may recommend approval by giving favorable referral to the
3 governing body or may disapprove such plat. If the planning board disap-
4 proves any plat, the findings and reasons for such disapproval shall be
5 stated upon the records of the planning board and the applicant shall be
6 given a copy. If the planning board requires any substantial amendment in
7 the layout of improvements proposed by the subdivider that have been the
8 subject of a hearing, an amended plat must be submitted, and proceeded
9 upon as in the case of the original plat.

10 Where approval of a plat, map or plan of land is required by any officer
11 or body of a municipality, including a board of health under the provisions of
12 any other law or ordinance, such approval shall be certified on the plat
13 before the final plat shall be approved as a prerequisite to its acceptance for
14 filing by the county recording officer.

15 The planning board shall take action under this section within forty-five
16 days after the submission of the final plat for approval, or within such
17 further time as the applying party may agree to. Otherwise such plat shall
18 be deemed to have been given favorable approval or referral to the govern-
19 ing body, and the certificate of the municipal clerk as to the date of the sub-
20 mission of the plat for approval or referral and as to the failure of the plan-
21 ning board to report action thereon within the aforesaid forty-five days or
22 such further time as agreed to by the applying party shall be issued on re-
23 quest of the owner or his agent and shall be sufficient, in lieu of the written
24 endorsement or other evidence of favorable approval or referral herein
25 required.

26 Following favorable referral by the planning board where referral is
27 required, the plat shall be submitted to the governing body for approval.
28 The governing body shall take action under this section not later than the

29 second regular meeting after the planning board submits the plat to the
30 municipal clerk for transmission to the governing body, or within such
31 further time as the applying party may agree to. Otherwise such plat shall
32 be deemed to have been approved, and the certificate of the municipal clerk
33 as to the date of the submission of the plat for approval by the governing
34 body, and as to the failure of the governing body to act thereon not later
35 than the second regular meeting or such further time as agreed to by the
36 applying party, shall be issued on request of the owner or his agent and
37 shall be sufficient, in lieu of the written endorsement or other evidence of
38 approval herein required. If the governing body disapproves any plat, the
39 findings and reasons for such action shall be stated upon the records of the
40 governing body, and the applicant shall be given a copy.

41 The governing body or the planning board, as the case may be, may
42 tentatively approve a plat showing new streets or roads or the resubdivision
43 of land along a mapped street. This tentative approval shall confer upon
44 the applicant the following rights for a three-year period from the date of
45 the tentative approval:

46 (1) that the general terms and conditions upon which the tentative
47 approval was granted will not be changed.

48 (2) that the said applicant may submit on or before the expiration
49 date the whole or part or parts of said plat for final approval.

50 The final approval by the governing body or the planning board, as the
51 case may be, of a plat showing a new street or the resubdivision of land
52 along a mapped street shall expire ninety days from the date of such ap-
53 proval, unless within the period such plat shall have been duly filed by the
54 owner or his agent with the county recording officer. The governing body
55 for good cause shown may extend the time for plat filing for a period not to
56 exceed ninety days.

1 19. If the owner of any land proposed to be subdivided shall be
2 aggrieved by the action of the planning board, appeal in writing to
3 the governing body may be taken within ten days after the date

4 of the action of the planning board. A hearing thereon shall be had on notice
5 to all parties in interest, who shall be afforded an opportunity to be heard.
6 After such hearing the governing body may affirm or reverse the action of
7 the planning board by a recorded vote of a majority of the total members
8 thereof. The findings and reasons for the disposition of the appeal shall be
9 stated on the records of the governing body, and the applying party shall
10 be given a copy.

11 Nothing in this act shall be construed to restrict the right of any party
12 to obtain a review by any court of competent jurisdiction according to law.

1 20. In acting upon plats the planning board shall require, among other
2 conditions in the public interest, that the tract shall be adequately drained,
3 and the streets shall be of sufficient width and suitable grade and suitably
4 located to accommodate the prospective traffic, to provide access for fire-
5 fighting equipment to buildings and to be co-ordinated so as to compose a
6 convenient system, conforming to the official map, or if there is no official
7 map, relating properly to the existing street system. Where the planning
8 board after hearing has adopted portions of the master plan with pro-
9 posals regarding the street system within the proposed subdivision, the
10 board may require that the street shown conform in design and in width to
11 the proposals shown on the master plan. No street of a width greater than
12 fifty feet within the right-of-way lines may be required unless said street
13 already has been shown on such master plan at the greater width, or already
14 has been shown in greater width on the official map.

15 The planning agency shall further require that all lots shown on the
16 plats shall be adaptable for the intended purposes without danger to health
17 or peril from flood, fire, erosion, or other menace.

18 If portions of the master plan contain proposals for drainage rights-of-
19 way, schools, parks, or playgrounds within the proposed subdivision or in its
20 vicinity, or if standards for the allocation of portions of subdivisions for
21 drainage rights-of-way, school sites, park and playground purposes have
22 been adopted, before approving subdivisions the planning board may further

23 require that such drainage rights-of-way, school sites, parks or playgrounds
24 be shown in locations and of sizes suitable to their intended uses. The gov-
25 erning body or the planning board shall be permitted to reserve the location
26 and extent of school sites, public parks and playgrounds shown on the
27 master plan or any part thereof for a period of one year after the approval
28 of the final plat or within such further time as agreed to by the applying
29 party. Unless during such one-year period or extension thereof the municipal-
30 ity shall have entered into a contract to purchase or instituted condemnation
31 proceedings according to law, for said school site, park or playground, the
32 subdivider shall not be bound by the proposals for such areas shown on the
33 master plan. This provision shall not apply to the streets and roads or
34 drainage rights-of-way required for final approval of any plat and deemed
35 essential to the public welfare.

1 21. Before final approval of plats the governing body may require, in
2 accordance with the standards adopted by ordinance, the installation, or the
3 furnishing of a performance guarantee in lieu thereof, of any or all of the
4 following improvements it may deem to be necessary or appropriate: street
5 grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees,
6 surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers
7 or other means of sewage disposal, drainage structures, and such other sub-
8 division improvements as the municipal governing body may find necessary
9 in the public interest.

1 22. The governing body may accept adequate performance guarantees
2 for the purpose of assuring improvements, as provided in section twenty-
3 one of this act and section three of the Official Map and Building Permit
4 Act (1953).

5 The amount of any performance guarantee may be reduced by the gov-
6 erning body by resolution when portions of the improvements have been
7 completed, and the time allowed for installation of the improvements for which
8 the performance guarantee has been provided may be extended by said body
9 by resolution.

10 If the required improvements shall not have been installed in accord-
11 ance with the performance guarantee, the obligor and surety, if any, shall be
12 liable thereon to the municipality for the reasonable cost of the improve-
13 ments not installed and upon the receipt of the proceeds thereof the munici-
14 pality shall install such improvements.

1 23. If, before approval or favorable referral and approval have been
2 obtained, any person transfers or sells or agrees to sell, as owner or agent, any
3 land which forms a part of a subdivision which, by ordinance, the planning
4 board or the planning board and the governing body are required to act, such
5 person shall be subject to a fine not to exceed two hundred dollars (\$200.00)
6 or to imprisonment for not more than thirty days and each parcel, plot or lot
7 so disposed of shall be deemed a separate violation.

8 In addition to the foregoing, if the streets in the subdivision are not such
9 that a structure on said land in the subdivision would meet the requirements
10 for a building permit under section three of the Official Map and Building
11 Permit Act (1953) the municipality may institute and maintain a civil action:

12 (1) For injunctive relief.

13 (2) To set aside and invalidate any conveyance made pursuant to such a
14 contract or sale if a certificate of compliance has not been issued in accordance
15 with section twenty-four of this act, but only if the municipality has a plan-
16 ning board or a committee thereof with power to act and which

17 (a) meets regularly on a monthly or more frequent basis, and

18 (b) whose governing body has adopted standards and procedures in
19 accordance with section twenty of this act.

20 In any such action the transferee, purchaser or grantee shall be entitled
21 to a lien upon the portion of the land from which the subdivision was made
22 that remains in the possession of the subdivider or his assigns or successors,
23 to secure the return of any deposit made or purchase price paid, and also a
24 reasonable search fee, survey expense and title closing expense, if any. Any
25 such action must be brought within two years after the date of the recording
26 of the instrument of transfer, sale or conveyance of said land, or within six
27 years if unrecorded.

1 24. The prospective purchaser, prospective mortgagee, or any other per-
2 son interested in any land which forms part of a subdivision, or which, since
3 the thirteenth day of June, one thousand nine hundred and fifty-one, formed
4 part of such a subdivision, may apply in writing to the proper official or, if
5 said official is unknown to the applicant, then to the clerk of the municipality,
6 for the issuance of a certificate certifying whether or not such subdivision has
7 been approved by the planning board or governing body. Such application
8 shall contain a diagram showing the location and dimension of the land to be
9 covered by the certificate, and the name of the owner thereof.

10 The governing body of the municipality shall, by resolution, designate
11 the municipal clerk, municipal engineer or some other official as the official
12 who shall make and issue such certificates, and the official so designated shall
13 issue such certificate within fifteen days after the receipt of such written
14 application and the fees therefor. Said officials shall keep a duplicate copy of
15 each certificate, consecutively numbered, including a statement of the fees
16 charged, in a binder as a permanent record of his office.

17 Each such certificate shall be designated a "certificate as to approval of
18 subdivision of land," and shall certify:

19 a. Whether there exists in said municipality a duly established planning
20 board which meets regularly on a monthly or more frequent basis and
21 whether there is an ordinance controlling subdivisions of land, adopted under
22 the authority of this act.

23 b. Whether the subdivision or resubdivision, as it relates to the land
24 shown in said application, has been approved by the planning board or gov-
25 erning body, and, if so, the date of such approval.

26 c. Whether such subdivision or resubdivision, if the same has not been
27 approved, is exempt from the requirement of approval as provided in this act.

28 The official designated shall be entitled to demand and receive for each
29 such certificate issued by him a reasonable fee, not in excess of those provided
30 in sections fourteen and fifteen of chapter five of Title 54 of the Revised
31 Statutes. The fees so collected by such official shall be paid by him to the
32 municipality.

1 25. Any person who shall acquire for a valuable consideration an in-
2 terest in the lands covered by any such certificate of approval of a sub-
3 division in reliance upon the information therein contained shall hold such
4 interest free of any right, remedy or action which could be prosecuted or
5 maintained by the municipality pursuant to the provisions of section twenty-
6 three of this act.

7 If the official designated to make and issue any such certificate fails to
8 issue the same within fifteen days after receipt of an application and the
9 fees therefor, any person acquiring an interest in the lands described in
10 such application shall hold such interest free of any right, remedy or action
11 which could be prosecuted or maintained by the municipality pursuant to
12 the provisions of section twenty-three of this act.

13 Any such application addressed to the municipal clerk of the municipality
14 shall be deemed to be addressed to the proper designated official and the mu-
15 nicipality shall be bound thereby to the same extent as though the same
16 was addressed to the designated official.

17 26. This act shall apply only to municipalities having a planning board
18 or that create such a board in accordance with the provisions as outlined
19 herein.

1 27. Any municipal planning board created under the authority of law
2 prior to the adoption of this act shall be continued by this act, and the mem-
3 bers appointed to said board shall continue in office until the completion of
4 their terms, unless sooner terminated, and any action previously taken by
5 said planning board shall be deemed to continue in full force and effect ex-
6 cept as hereinafter in this section provided.

7 All rules and regulations adopted by planning boards under the au-
8 thority of law regulating subdivision of lands shall continue in effect until
9 July first, one thousand nine hundred and fifty-four, unless prior thereto
10 the governing body of the municipality shall have adopted an ordinance pur-
11 suant to sections fourteen to twenty-three, inclusive, of this act, in which

12 event such rules and regulations shall cease to be in effect upon the date
13 such ordinance becomes effective.

1 28. Sections 40:55-1 to 40:55-21, both inclusive, of the Revised Statutes
2 are repealed.

1 29. This act shall take effect July first, one thousand nine hundred and
2 fifty-three.

[OFFICIAL COPY REPRINT]
ASSEMBLY AMENDMENTS TO
SENATE, No. 224

STATE OF NEW JERSEY

ADOPTED JUNE 22, 1953

Amend page 2, section 2, line 16, after the comma and before the words "divisions of property upon court order" insert the word "or".

Amend page 2, section 2, lines 16 and 17, strike out after the words "upon court order" the following: "or divisions of property into no more than three lots among members of a family" and insert a period after the words "court order".

Amend page 7, section 13, line 19, add the following sentence: "Whenever such other body shall have overridden a recommendation of the Planning Board such action shall not become final until the governing body shall approve the said action by a majority vote of membership of the governing body."

Amend page 11, section 19, line 1, strike out the entire line and substitute in place thereof the following: "If any person shall be".

Amend page 13, section 22, line 3, strike out the word "three" and insert in place thereof the word "ten".

Amend page 17, section 29, line 1, strike out the word "July" and insert in place thereof the word "January".

Amend page 17, section 29, line 2, strike out the word "fifty-three" and insert in place thereof the word "fifty-four".

SENATE, No. 224

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1953

By Mr. McCAY

Referred to Committee on Counties and Municipalities

AN ACT concerning municipalities in relation to municipal planning, repealing sections 40:55-1 to 40:55-21, inclusive, and supplementing chapter fifty-five of Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Municipal Planning
2 Act (1953)."

1 2. As used in this act:

2 "Municipality" means any city, borough, town, township or village.

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

5 "Governing body" means the chief legislative body of the municipality.

6 In cities having a board of public works "governing body" means such
7 board.

8 "Plat" means the map of a subdivision.

9 "Subdivision" means the division of a lot, tract, or parcel of land into
10 two or more lots, sites or other divisions of land for the purpose, whether im-
11 mediate or future, of sale or building development; except that the follow-
12 ing divisions shall not be considered subdivisions within the meaning of
13 this act; *provided, however*, that no new streets or roads are involved:
14 divisions of land for agricultural purposes where the resulting parcels are

15 three acres or larger in size, divisions of property by testamentary or
16 intestate provisions, or divisions of property upon court order. Subdivision
17 also includes resubdivision, and where appropriate to the context, relates to
18-19 the process of subdividing or to the lands or territory divided.

20 "Performance guarantee" means any security which may be accepted
21 under section twenty-two of this act in lieu of a requirement that certain
22 improvements be made before the planning board or other approving body
23 approves a plat, including performance bonds, escrow agreements, and other
24 similar collateral or surety agreements.

25 "Street" means any street, avenue, boulevard, road, lane, parkway,
26 viaduct, alley or other way which is an existing State, county, or municipal
27 roadway, or a street or way shown upon a plat heretofore approved pursuant
28 to law or approved by official action as provided in section seventeen of
29 this act or a street or way on a plat duly filed and recorded in the office of
30 the county recording officer prior to the appointment of a planning board
31 and the grant to such board of the power to review plats, and includes the
32 land between the street lines, whether improved or unimproved, and may
33 comprise pavement, shoulders, gutters, sidewalks, parking areas and other
34 areas within the street lines.

35 "Official map" means a map adopted in accordance with the Official Map
36 and Building Permit Act (1953). Such a map shall be deemed to be con-
37 clusive with respect to the location and width of the streets, public parks and
38 playgrounds, and drainage rights-of-way shown thereon.

39 "Master plan" means a composite of the mapped and written proposals
40 recommending the physical development of the municipality which shall have
41 been duly adopted by the planning board under section ten of this act.

42 "Drainage right-of-way" means the lands required for the installation
43 of storm water sewers or drainage ditches, or required along a natural
44 stream or watercourse for preserving the channel and providing for the flow

45 of water therein to safeguard the public against flood damage in accordance
46 with chapter one of Title 58 of the Revised Statutes.

47 "Circulation" means provision for the movement of people, goods, water,
48 sewage, or power by means of streets, highways, railways, waterways, air-
49 ways, pipes, conduits, or other means, and including facilities for transit,
50 transportation and communication.

1 3. This act shall be construed most favorably to municipalities, its in-
2 tention being to give all municipalities the fullest and most complete powers
3 possible concerning the subject matter hereof.

4 Should any section or provision of this act be held to be unconstitu-
5 tional or invalid, such determination shall not affect the constitutionality or
6 validity of the remainder hereof.

7 The governing body may by ordinance grant any of the powers exercis-
8 able by a planning board to a planning board to be created under section
9 four of this act, but no particular power may be exercised until expressly
10 granted by ordinance and until compliance is made with the conditions, stand-
11 ards, procedures and regulations enumerated in the sections describing such
12 power.

1 4. The governing body may by ordinance create a planning board of not
2 less than five nor more than nine members. The members shall consist of,
3 and be divided into, for convenience in designating the manner of appoint-
4 ment, the four following classes:

5 Class I—mayor.

6 Class II—one of the officials of the municipality to be appointed
7 by the mayor.

8 Class III—a member of the governing body to be appointed by it.

9 Class IV—other citizens of the municipality to be appointed by the
10 mayor.

11 When the board consists of less than seven members Class II shall be
12 omitted. All members of the board shall serve without compensation, and the
13 members of Class IV shall hold no other municipal office, except that one of

14 such members may be a member of the zoning board of adjustment and one
15 may be a member of the board of education. The terms of the members
16 composing Classes I and III shall correspond to their respective official
17 tenures. The term of the member composing Class II shall terminate with
18 the term of the mayor appointing him. The term of one member of Class IV
19 first appointed shall expire at the end of each year beginning at the end of
20 the first year. Thereafter the term of each shall be the same number of years
21 as there are members of Class IV on the board. If a vacancy in any class
22 shall occur otherwise than by expiration of term, it shall be filled by appoint-
23 ment as above provided for the unexpired term. No member of the plan-
24 ning board shall be permitted to act on any matter in which he has, either
25 directly or indirectly, any personal or financial interest. Members may, after
26 a public hearing, be removed for inefficiency, neglect of duty, or malfeas-
27 ance in office by the officer or body appointing them.

1 5. The planning board shall elect a chairman from the members of Class
2 IV and create and fill such other offices as it may determine. It may em-
3 ploy experts and a staff, and pay for their services and for such other ex-
4 penses as may be necessary and proper, not exceeding in all, exclusive of
5 gifts, the amount appropriated by the governing body for its use.

1 6. The governing body of any municipality creating a planning board
2 shall appropriate in the same manner as other appropriations are made,
3 such money as in its discretion is necessary for the work of the planning
4 board for the year for which the appropriation is made. The amount so ap-
5 propriated shall be assessed, levied and collected in the same manner as
6 moneys appropriated for other current expenses in the municipality.

1 7. Whenever a hearing is required under any section of this chapter
2 before action by a planning board, notice of the hearing shall be published
3 in the official newspaper of the municipality or in a newspaper of general cir-
4 culation in the municipality at least ten days prior to the hearing. In cases
5 dealing with plat approval, notice of the hearing shall be mailed at least five

6 days prior thereto, addressed to the owners, as their names appear on the
7 municipal tax record, of adjoining property and property directly across the
8 street or streets from the property involved.

9 The notice of hearing shall contain a brief description of the property
10 involved, a statement as to its location, a list of the maps and other docu-
11 ments to be considered, and a summary statement of the matters to be heard.
12 Copies of the maps and other documents to be considered at the hearing shall
13 be filed in the office of the municipal clerk. Such copies shall be made avail-
14 able at such office for public inspection.

15 Minutes of every such hearing shall be kept and shall include the names
16 of the persons appearing and addressing the board, and of the persons who
17 appear by attorney, agent or other representative, the action taken by the
18 board, the findings, if any, made by it and the reasons therefor. The minutes
19 shall thereafter be made available for inspection at the office of the munici-
20 pal clerk. The failure of the planning board or the secretary thereof to
21 make a record of or file with the municipal clerk such minutes shall not be
22 a ground for setting aside the action of the planning board, provided such
23 action was duly recorded in the records of the planning board and such
24 record is made available upon request, to any person or persons desiring to
25 examine such record.

1 8. Wherever there is a planning board, such board shall have the addi-
2 tional authority and duty of acting as the zoning commission under article
3 three of chapter fifty-five of Title 40 of the Revised Statutes.

1 9. After the appointment of a planning board, the mayor may appoint
2 one or more persons as a citizens' advisory committee to assist or collabo-
3 rate with the planning board in its duties, but such person or persons shall
4 have no power to vote or take other action required of the board. Such per-
5 son or persons shall serve at the pleasure of the mayor.

1 10. The planning board may prepare, and after public hearing, adopt,
2 and from time to time amend, a master plan for the physical development of
3 the municipality which generally shall comprise land use, circulation, and a re-

4 port presenting the objectives, assumptions, standards and principals which
5 are embodied in the various interlocking portions of the master plan. The
6 master plan shall be a composite of the one or more mapped and written pro-
7 posals recommending the physical development of the municipality which
8 the planning board shall have adopted either as a whole or severally after
9 public hearing. Such master plan may include proposals for various stages
10 in the future development of the municipality.

1 11. In scope the master plan may cover proposals for: (a) the use of
2 land and buildings—residential, commercial, industrial, mining, agricultural,
3 park, and other like matters; (b) services—water supply, utilities, sewer-
4 age, and other like matters; (c) transportation—streets, parking, public
5 transit, freight facilities, airports, and other like matters; (d) housing—
6 residential standards, slum clearance and redevelopment, and other like mat-
7 ters; (e) conservation—water, forest, soil, flood control, and other like mat-
8 ters; (f) public and semipublic facilities—civic center, schools, libraries,
9 parks, playgrounds, fire houses, police structures, hospitals, and other like
10 matters; (g) the distribution and density of population; (h) other elements
11 of municipal growth and development.

12 The master plan may include in its scope areas outside the boundaries
13 of the municipality which the planning board deems to bear an essential re-
14 lation to the planning of the municipality. The studies in connection with the
15 master plan shall be conducted wherever possible with the co-operation of
16 adjacent planning agencies.

1 12. In the preparation of the master plan the planning board shall give
2 due consideration to the probable ability of the municipality to carry out,
3 over a period of years, the various public or quasi-public projects embraced
4 in the plan without the imposition of unreasonable financial burdens.

5 In such preparation, the planning board shall cause to be made careful
6 and comprehensive surveys and studies of present conditions and the pros-
7 pects for future growth of the municipality. The master plan shall be made
8 with the general purpose of guiding and accomplishing a co-ordinated, ad-

9 justed and harmonious development of the municipality and its environs
10 which will, in accordance with present and future needs, best promote health,
11 safety, morals, order, convenience, prosperity and general welfare, as well as
12 efficiency and economy in the process of development and the maintenance of
13 property values previously established. To such end, the master plan shall
14 also include adequate provision for traffic and recreation, the promotion of
15 safety from fire and other dangers, adequate provision for light and air,
16 the promotion of good civic design and arrangements, the wise and efficient
17 expenditure of public funds, and adequate provision for public utilities and
18 other public requirements.

1 13. Whenever the planning board after public hearing shall have adopted
2 any portion of the master plan, the governing body or other public agency
3 having jurisdiction over the subject matter, before taking action necessitat-
4 ing the expenditure of any public funds, incidental to the location, charac-
5 ter or extent of one or more projects thereof, shall refer action involving
6 such specific project or projects to the planning board for review and recom-
6A mendation, and shall not act thereon without such recommendation or until
7 forty-five days after such reference have elapsed without such recommenda-
8 tion. This requirement shall apply to action by a housing, parking, high-
9 way or other authority, redevelopment agency, school board, or other sim-
10 ilar public agency, Federal, State, county or municipal.

11 The governing body may by ordinance provide for the reference of any
12 other matter or class of matters to the planning board before final action
13 thereon by the public body or officer having final authority thereon, with or
14 without the provision that final action thereon shall not be taken until the
15 planning board has submitted its report, or until a specified period of time
16 has elapsed without such report having been made.

17 Whenever the planning board, pursuant to this act shall have made a
18 recommendation to another body, such recommendation may be overridden
19 only by a majority of the full membership of such other body. Whenever such
20 other body shall have overridden a recommendation of the Planning Board

21 such action shall not become final until the governing body shall approve the
22 said action by a majority vote of membership of the governing body.

23 The planning board shall have full power and authority to make such
24 investigations, maps and reports and recommendations in connection there-
25 with relating to the planning and physical development of the municipality
26 as it deems desirable.

1 14. The governing body may by ordinance provide for the regulation of
2 subdivisions within the municipality by requiring the approval of the govern-
3 ing body, by resolution, of all plats after favorable referral by the planning
4 board before such plats may be filed with the county recording officer and may
5 authorize and empower the planning board to review plats in accordance with
6 regulations, requirements and standards established by the governing body
7 and may further fix filing fees to be paid for by any applicant for subdivision
8 approval.

9 In any ordinance creating a planning board or in any amendment or
10 supplement thereto, provision may be made for the regulation of subdivisions
11 within the municipality by approval of the planning board acting in lieu of the
12 governing body of all plats before such plats may be filed with the county
13 recording officer, provided such ordinance regulating subdivisions establishes
14 regulations, requirements, and standards for plat approval by the planning
15 board. If such power of approval is granted to the planning board, the pro-
16 cedures of the planning board under this act shall be required in connection
17 with such approval, and the signature of the chairman of the planning board
18 shall have the same force as the signature of the mayor.

19 Any such ordinance may exempt from the requirement of local municipal
20 approval, subdivisions wherein the number of new lots is less than a desig-
21 nated number, or plats that do not involve new streets, or such other classes
22 of subdivisions as such ordinance shall designate. In all cases involving such
23 exempted subdivisions, the mayor or planning board chairman, as the case
24 may be, and the municipal clerk shall certify the exemption on the plat, deed,
25 or instrument to be filed with the county recording officer.

1 15. A planning board may be empowered by the subdivision ordinance to
2 waive full notice and hearing and favorable referral by a majority of the
3 board on a subdivision if no new street is shown and if a subdivision com-
4 mittee of the planning board appointed by the chairman with the approval of
5 the board unanimously find no cause for review by the entire board or for un-
6 favorable action upon the subdivision and such finding shall be deemed to be
7 favorable approval or referral by the planning board.

8 Before the planning board may take the action of favorable referral and
9 the governing body may approve subdivisions or before a planning board may
10 be authorized to grant final approval, the governing body shall adopt by ordi-
11 nance, standards for approving the design of subdivisions and the required
12 street improvements, requirements for the submission of subdivision plats,
13 and the procedure to be followed by subdividers. Where there is a municipal
14 zoning ordinance, the standards in the subdivision ordinance with respect to
15 minimum lot sizes and lot area requirements shall be identical with the pro-
16 visions of the zoning ordinance. Where a zoning ordinance contains no such
17 provisions or where there is no such ordinance, the standards including
18 minimum lot sizes and lot area requirements shall be specified in the sub-
19 division ordinance. Copies of the subdivision ordinance and regulations
20 shall be made available to the public and shall be filed with the county re-
21 cording officer. A reasonable charge may be made for such copies. A plat
22 shall be deemed to have been submitted when an application for approval has
23 been delivered to the municipal clerk in conformance with the printed require-
24 ments governing the submission of subdivision plats.

1 16. Plats shall conform with the standards prescribed by chapter twenty-
2 three of Title 46 of the Revised Statutes and any applicable ordinance not
3 inconsistent therewith.

1 17. No plat shall be accepted for filing by the county recording officer
2 until it has been approved by the governing body or the planning board, as
3 the case may be, if such approval is required by local ordinance, and such
4 approval has been endorsed on the instrument in such manner as the govern-
5 ing body may designate.

6 It shall be the duty of the county recording officer to notify the planning
7 board in writing within three days of the filing of any plat approved by the
8 governing body or planning board, identifying such plat by its title, date of
9 filing, and official number.

1 18. The planning board, after hearing, may approve the plat, if so au-
2 thorized, or may recommend approval by giving favorable referral to the
3 governing body or may disapprove such plat. If the planning board disap-
4 proves any plat, the findings and reasons for such disapproval shall be
5 stated upon the records of the planning board and the applicant shall be
6 given a copy. If the planning board requires any substantial amendment in
7 the layout of improvements proposed by the subdivider that have been the
8 subject of a hearing, an amended plat must be submitted, and proceeded
9 upon as in the case of the original plat.

10 Where approval of a plat, map or plan of land is required by any officer
11 or body of a municipality, including a board of health under the provisions of
12 any other law or ordinance, such approval shall be certified on the plat
13 before the final plat shall be approved as a prerequisite to its acceptance for
14 filing by the county recording officer.

15 The planning board shall take action under this section within forty-five
16 days after the submission of the final plat for approval, or within such
17 further time as the applying party may agree to. Otherwise such plat shall
18 be deemed to have been given favorable approval or referral to the govern-
19 ing body, and the certificate of the municipal clerk as to the date of the sub-
20 mission of the plat for approval or referral and as to the failure of the plan-
21 ning board to report action thereon within the aforesaid forty-five days or
22 such further time as agreed to by the applying party shall be issued on re-
23 quest of the owner or his agent and shall be sufficient, in lieu of the written
24 endorsement or other evidence of favorable approval or referral herein
25 required.

26 Following favorable referral by the planning board where referral is
27 required, the plat shall be submitted to the governing body for approval.
28 The governing body shall take action under this section not later than the

29 second regular meeting after the planning board submits the plat to the
30 municipal clerk for transmission to the governing body, or within such
31 further time as the applying party may agree to. Otherwise such plat shall
32 be deemed to have been approved, and the certificate of the municipal clerk
33 as to the date of the submission of the plat for approval by the governing
34 body, and as to the failure of the governing body to act thereon not later
35 than the second regular meeting or such further time as agreed to by the
36 applying party, shall be issued on request of the owner or his agent and
37 shall be sufficient, in lieu of the written endorsement or other evidence of
38 approval herein required. If the governing body disapproves any plat, the
39 findings and reasons for such action shall be stated upon the records of the
40 governing body, and the applicant shall be given a copy.

41 The governing body or the planning board, as the case may be, may
42 tentatively approve a plat showing new streets or roads or the resubdivision
43 of land along a mapped street. This tentative approval shall confer upon
44 the applicant the following rights for a three-year period from the date of
45 the tentative approval:

46 (1) that the general terms and conditions upon which the tentative
47 approval was granted will not be changed.

48 (2) that the said applicant may submit on or before the expiration
49 date the whole or part or parts of said plat for final approval.

50 The final approval by the governing body or the planning board, as the
51 case may be, of a plat showing a new street or the resubdivision of land
52 along a mapped street shall expire ninety days from the date of such ap-
53 proval, unless within the period such plat shall have been duly filed by the
54 owner or his agent with the county recording officer. The governing body
55 for good cause shown may extend the time for plat filing for a period not to
56 exceed ninety days.

1 19. If any person shall be aggrieved by the action of the planning board,
2 appeal in writing to the governing body may be taken within ten days after
3 the date of the action of the planning board. A hearing thereon shall be had
4 on notice to all parties in interest, who shall be afforded an opportunity to

5 be heard. After such hearing the governing body may affirm or reverse the
6 action of the planning board by a recorded vote of a majority of the total
7 members thereof. The findings and reasons for the disposition of the ap-
8 peal shall be stated on the records of the governing body, and the applying
9 party shall be given a copy.

10 Nothing in this act shall be construed to restrict the right of any party
11 to obtain a review by any court of competent jurisdiction according to law.

1 20. In acting upon plats the planning board shall require, among other
2 conditions in the public interest, that the tract shall be adequately drained,
3 and the streets shall be of sufficient width and suitable grade and suitably
4 located to accommodate the prospective traffic, to provide access for fire-
5 fighting equipment to buildings and to be co-ordinated so as to compose a
6 convenient system, conforming to the official map, or if there is no official
7 map, relating properly to the existing street system. Where the planning
8 board after hearing has adopted portions of the master plan with pro-
9 posals regarding the street system within the proposed subdivision, the
10 board may require that the street shown conform in design and in width to
11 the proposals shown on the master plan. No street of a width greater than
12 fifty feet within the right-of-way lines may be required unless said street
13 already has been shown on such master plan at the greater width, or already
14 has been shown in greater width on the official map.

15 The planning agency shall further require that all lots shown on the
16 plats shall be adaptable for the intended purposes without danger to health
17 or peril from flood, fire, erosion, or other menace.

18 If portions of the master plan contain proposals for drainage rights-of-
19 way, schools, parks, or playgrounds within the proposed subdivision or in its
20 vicinity, or if standards for the allocation of portions of subdivisions for
21 drainage rights-of-way, school sites, park and playground purposes have
22 been adopted, before approving subdivisions the planning board may further
23 require that such drainage rights-of-way, school sites, parks or playgrounds
24 be shown in locations and of sizes suitable to their intended uses. The gov-
25 erning body or the planning board shall be permitted to reserve the location

26 and extent of school sites, public parks and playgrounds shown on the
27 master plan or any part thereof for a period of one year after the approval
28 of the final plat or within such further time as agreed to by the applying
29 party. Unless during such one-year period or extension thereof the municipal-
30 ity shall have entered into a contract to purchase or instituted condemnation
31 proceedings according to law, for said school site, park or playground, the
32 subdivider shall not be bound by the proposals for such areas shown on the
33 master plan. This provision shall not apply to the streets and roads or
34 drainage rights-of-way required for final approval of any plat and deemed
35 essential to the public welfare.

1 21. Before final approval of plats the governing body may require, in
2 accordance with the standards adopted by ordinance, the installation, or the
3 furnishing of a performance guarantee in lieu thereof, of any or all of the
4 following improvements it may deem to be necessary or appropriate: street
5 grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees,
6 surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers
7 or other means of sewage disposal, drainage structures, and such other sub-
8 division improvements as the municipal governing body may find necessary
9 in the public interest.

1 22. The governing body may accept adequate performance guarantees
2 for the purpose of assuring improvements, as provided in section twenty-
3 one of this act and section ten of the Official Map and Building Permit Act
4 (1953).

5 The amount of any performance guarantee may be reduced by the gov-
6 erning body by resolution when portions of the improvements have been
7 completed, and the time allowed for installation of the improvements for which
8 the performance guarantee has been provided may be extended by said body
9 by resolution.

10 If the required improvements shall not have been installed in accord-
11 ance with the performance guarantee, the obligor and surety, if any, shall be
12 liable thereon to the municipality for the reasonable cost of the improve-

13 ments not installed and upon the receipt of the proceeds thereof the municipi-
14 pality shall install such improvements.

1 23. If, before approval or favorable referral and approval have been
2 obtained, any person transfers or sells or agrees to sell, as owner or agent, any
3 land which forms a part of a subdivision which, by ordinance, the planning
4 board or the planning board and the governing body are required to act, such
5 person shall be subject to a fine not to exceed two hundred dollars (\$200.00)
6 or to imprisonment for not more than thirty days and each parcel, plot or lot
7 so disposed of shall be deemed a separate violation.

8 In addition to the foregoing, if the streets in the subdivision are not such
9 that a structure on said land in the subdivision would meet the requirements
10 for a building permit under section three of the Official Map and Building
11 Permit Act (1953) the municipality may institute and maintain a civil action:

12 (1) For injunctive relief.

13 (2) To set aside and invalidate any conveyance made pursuant to such a
14 contract or sale if a certificate of compliance has not been issued in accordance
15 with section twenty-four of this act, but only if the municipality has a plan-
16 ning board or a committee thereof with power to act and which

17 (a) meets regularly on a monthly or more frequent basis, and

18 (b) whose governing body has adopted standards and procedures in
19 accordance with section twenty of this act.

20 In any such action the transferee, purchaser or grantee shall be entitled
21 to a lien upon the portion of the land from which the subdivision was made
22 that remains in the possession of the subdivider or his assigns or successors,
23 to secure the return of any deposit made or purchase price paid, and also a
24 reasonable search fee, survey expense and title closing expense, if any. Any
25 such action must be brought within two years after the date of the recording
26 of the instrument of transfer, sale or conveyance of said land, or within six
27 years if unrecorded.

1 24. The prospective purchaser, prospective mortgagee, or any other per-
2 son interested in any land which forms part of a subdivision, or which, since
3 the thirteenth day of June, one thousand nine hundred and fifty-one, formed

4 part of such a subdivision, may apply in writing to the proper official or, if
5 said official is unknown to the applicant, then to the clerk of the municipality,
6 for the issuance of a certificate certifying whether or not such subdivision has
7 been approved by the planning board or governing body. Such application
8 shall contain a diagram showing the location and dimension of the land to be
9 covered by the certificate, and the name of the owner thereof.

10 The governing body of the municipality shall, by resolution, designate
11 the municipal clerk, municipal engineer or some other official as the official
12 who shall make and issue such certificates, and the official so designated shall
13 issue such certificate within fifteen days after the receipt of such written
14 application and the fees therefor. Said officials shall keep a duplicate copy of
15 each certificate, consecutively numbered, including a statement of the fees
16 charged, in a binder as a permanent record of his office.

17 Each such certificate shall be designated a "certificate as to approval of
18 subdivision of land," and shall certify:

19 a. Whether there exists in said municipality a duly established planning
20 board which meets regularly on a monthly or more frequent basis and
21 whether there is an ordinance controlling subdivisions of land, adopted under
22 the authority of this act.

23 b. Whether the subdivision or resubdivision, as it relates to the land
24 shown in said application, has been approved by the planning board or gov-
25 erning body, and, if so, the date of such approval.

26 c. Whether such subdivision or resubdivision, if the same has not been
27 approved, is exempt from the requirement of approval as provided in this act.

28 The official designated shall be entitled to demand and receive for each
29 such certificate issued by him a reasonable fee, not in excess of those provided
30 in sections fourteen and fifteen of chapter five of Title 54 of the Revised
31 Statutes. The fees so collected by such official shall be paid by him to the
32 municipality.

1 25. Any person who shall acquire for a valuable consideration an in-
2 terest in the lands covered by any such certificate of approval of a sub-
3 division in reliance upon the information therein contained shall hold such

4 interest free of any right, remedy or action which could be prosecuted or
5 maintained by the municipality pursuant to the provisions of section twenty-
6 three of this act.

7 If the official designated to make and issue any such certificate fails to
8 issue the same within fifteen days after receipt of an application and the
9 fees therefor, any person acquiring an interest in the lands described in
10 such application shall hold such interest free of any right, remedy or action
11 which could be prosecuted or maintained by the municipality pursuant to
12 the provisions of section twenty-three of this act.

13 Any such application addressed to the municipal clerk of the municipality
14 shall be deemed to be addressed to the proper designated official and the mu-
15 nicipality shall be bound thereby to the same extent as though the same
16 was addressed to the designated official.

17 26. This act shall apply only to municipalities having a planning board
18 or that create such a board in accordance with the provisions as outlined
19 herein.

1 27. Any municipal planning board created under the authority of law
2 prior to the adoption of this act shall be continued by this act, and the mem-
3 bers appointed to said board shall continue in office until the completion of
4 their terms, unless sooner terminated, and any action previously taken by
5 said planning board shall be deemed to continue in full force and effect ex-
6 cent as hereinafter in this section provided.

7 All rules and regulations adopted by planning boards under the au-
8 thority of law regulating subdivision of lands shall continue in effect until
9 July first, one thousand nine hundred and fifty-four, unless prior thereto
10 the governing body of the municipality shall have adopted an ordinance pur-
11 suant to sections fourteen to twenty-three, inclusive, of this act, in which
12 event such rules and regulations shall cease to be in effect upon the date
13 such ordinance becomes effective.

1 28. Sections 40:55-1 to 40:55-21, both inclusive, of the Revised Statutes
2 are repealed.

1 29. This act shall take effect January first, one thousand nine hundred
2 and fifty-four.

SENATE, No. 224

STATE OF NEW JERSEY

INTRODUCED MARCH 16, 1953

By Mr. McCAY

Referred to Committee on Counties and Municipalities

AN Act concerning municipalities in relation to municipal planning, repealing sections 40:55-1 to 40:55-21, inclusive, and supplementing chapter fifty-five of Title 40 of the Revised Statutes.

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

1 1. This act shall be known and may be cited as the "Municipal Planning
2 Act (1953)."

1 2. As used in this act:

2 "Municipality" means any city, borough, town, township or village.

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

5 "Governing body" means the chief legislative body of the municipality.
6 In cities having a board of public works "governing body" means such
7 board.

8 "Plat" means the map of a subdivision.

9 "Subdivision" means the division of a lot, tract, or parcel of land into
10 two or more lots, sites or other divisions of land for the purpose, whether im-
11 mediate or future, of sale or building development; except that the follow-
12 ing divisions shall not be considered subdivisions within the meaning of
13 this act; *provided, however,* that no new streets or roads are involved:
14 divisions of land for agricultural purposes where the resulting parcels are

15 three acres or larger in size, divisions of property by testamentary or
16 intestate provisions, or divisions of property upon court order. Subdivision
17 also includes resubdivision, and where appropriate to the context, relates to
18-19 the process of subdividing or to the lands or territory divided.

20 "Performance guarantee" means any security which may be accepted
21 under section twenty-two of this act in lieu of a requirement that certain
22 improvements be made before the planning board or other approving body
23 approves a plat, including performance bonds, escrow agreements, and other
24 similar collateral or surety agreements.

25 "Street" means any street, avenue, boulevard, road, lane, parkway,
26 viaduct, alley or other way which is an existing State, county, or municipal
27 roadway, or a street or way shown upon a plat heretofore approved pursuant
28 to law or approved by official action as provided in section seventeen of
29 this act or a street or way on a plat duly filed and recorded in the office of
30 the county recording officer prior to the appointment of a planning board
31 and the grant to such board of the power to review plats, and includes the
32 land between the street lines, whether improved or unimproved, and may
33 comprise pavement, shoulders, gutters, sidewalks, parking areas and other
34 areas within the street lines.

35 "Official map" means a map adopted in accordance with the Official Map
36 and Building Permit Act (1953). Such a map shall be deemed to be con-
37 clusive with respect to the location and width of the streets, public parks and
38 playgrounds, and drainage rights-of-way shown thereon.

39 "Master plan" means a composite of the mapped and written proposals
40 recommending the physical development of the municipality which shall have
41 been duly adopted by the planning board under section ten of this act.

42 "Drainage right-of-way" means the lands required for the installation
43 of storm water sewers or drainage ditches, or required along a natural
44 stream or watercourse for preserving the channel and providing for the flow

45 of water therein to safeguard the public against flood damage in accordance
46 with chapter one of Title 58 of the Revised Statutes.

47 "Circulation" means provision for the movement of people, goods, water,
48 sewage, or power by means of streets, highways, railways, waterways, air-
49 ways, pipes, conduits, or other means, and including facilities for transit,
50 transportation and communication.

1 3. This act shall be construed most favorably to municipalities, its in-
2 tention being to give all municipalities the fullest and most complete powers
3 possible concerning the subject matter hereof.

4 Should any section or provision of this act be held to be unconstitu-
5 tional or invalid, such determination shall not affect the constitutionality or
6 validity of the remainder hereof.

7 The governing body may by ordinance grant any of the powers exercis-
8 able by a planning board to a planning board continued by section twenty-
9 seven of this act or to be created under section four of this act, but no par-
10 ticular power may be exercised until expressly granted by ordinance and
11 until compliance is made with the conditions, standards, procedures and
12 regulations enumerated in the sections describing such power.

1 4. The governing body may by ordinance create a planning board of not
2 less than five nor more than nine members. The members shall consist of,
3 and be divided into, for convenience in designating the manner of appoint-
4 ment, the four following classes:

5 Class I—mayor.

6 Class II—one of the officials of the municipality to be appointed
7 by the mayor.

8 Class III—a member of the governing body to be appointed by it.

9 Class IV—other citizens of the municipality to be appointed by the
10 mayor.

11 When the board consists of less than seven members Class II shall be
12 omitted. All members of the board shall serve without compensation, and the
13 members of Class IV shall hold no other municipal office, except that one of

14 such members may be a member of the zoning board of adjustment and one
15 may be a member of the board of education. The terms of the members
16 composing Classes I and III shall correspond to their respective official
17 tenures. The term of the member composing Class II shall terminate with
18 the term of the mayor appointing him. The term of one member of Class IV
19 first appointed shall expire at the end of each year beginning at the end of
20 the first year. Thereafter the term of each shall be the same number of years
21 as there are members of Class IV on the board. If a vacancy in any class
22 shall occur otherwise than by expiration of term, it shall be filled by appoint-
23 ment as above provided for the unexpired term. No member of the plan-
24 ning board shall be permitted to act on any matter in which he has, either
25 directly or indirectly, any personal or financial interest. Members may, after
26 a public hearing, be removed for inefficiency, neglect of duty, or malfeas-
27 ance in office by the officer or body appointing them.

1 5. The planning board shall elect a chairman from the members of Class
2 IV and create and fill such other offices as it may determine. It may em-
3 ploy experts and a staff, and pay for their services and for such other ex-
4 penses as may be necessary and proper, not exceeding in all, exclusive of
5 gifts, the amount appropriated by the governing body for its use.

1 6. The governing body of any municipality creating a planning board
2 shall appropriate in the same manner as other appropriations are made,
3 such money as in its discretion is necessary for the work of the planning
4 board for the year for which the appropriation is made. The amount so ap-
5 propriated shall be assessed, levied and collected in the same manner as
6 moneys appropriated for other current expenses in the municipality.

1 7. Whenever a hearing is required under any section of this chapter
2 before action by a planning board, notice of the hearing shall be published
3 in the official newspaper of the municipality or in a newspaper of general cir-
4 culation in the municipality at least ten days prior to the hearing. In cases
5 dealing with plat approval, notice of the hearing shall be mailed at least five

6 days prior thereto, addressed to the owners, as their names appear on the
7 municipal tax record, of adjoining property and property directly across the
8 street or streets from the property involved.

9 The notice of hearing shall contain a brief description of the property
10 involved, a statement as to its location, a list of the maps and other docu-
11 ments to be considered, and a summary statement of the matters to be heard.
12 Copies of the maps and other documents to be considered at the hearing shall
13 be filed in the office of the municipal clerk. Such copies shall be made avail-
14 able at such office for public inspection.

15 Minutes of every such hearing shall be kept and shall include the names
16 of the persons appearing and addressing the board, and of the persons who
17 appear by attorney, agent or other representative, the action taken by the
18 board, the findings, if any, made by it and the reasons therefor. The minutes
19 shall thereafter be made available for inspection at the office of the munici-
20 pal clerk. The failure of the planning board or the secretary thereof to
21 make a record of or file with the municipal clerk such minutes shall not be
22 a ground for setting aside the action of the planning board, provided such
23 action was duly recorded in the records of the planning board and such
24 record is made available upon request, to any person or persons desiring to
25 examine such record.

1 8. Wherever there is a planning board, such board shall have the addi-
2 tional authority and duty of acting as the zoning commission under article
3 three of chapter fifty-five of Title 40 of the Revised Statutes.

1 9. After the appointment of a planning board, the mayor may appoint
2 one or more persons as a citizens' advisory committee to assist or collabo-
3 rate with the planning board in its duties, but such person or persons shall
4 have no power to vote or take other action required of the board. Such per-
5 son or persons shall serve at the pleasure of the mayor.

1 10. The planning board may prepare, and after public hearing, adopt,
2 and from time to time amend, a master plan for the physical development of
3 the municipality which generally shall comprise land use, circulation, and a re-

4 port presenting the objectives, assumptions, standards and principals which
5 are embodied in the various interlocking portions of the master plan. The
6 master plan shall be a composite of the one or more mapped and written pro-
7 posals recommending the physical development of the municipality which
8 the planning board shall have adopted either as a whole or severally after
9 public hearing. Such master plan may include proposals for various stages
10 in the future development of the municipality.

1 11. In scope the master plan may cover proposals for: (a) the use of
2 land and buildings—residential, commercial, industrial, mining, agricultural,
3 park, and other like matters; (b) services—water supply, utilities, sewer-
4 age, and other like matters; (c) transportation—streets, parking, public
5 transit, freight facilities, airports, and other like matters; (d) housing—
6 residential standards, slum clearance and redevelopment, and other like mat-
7 ters; (e) conservation—water, forest, soil, flood control, and other like mat-
8 ters; (f) public and semipublic facilities—civic center, schools, libraries,
9 parks, playgrounds, fire houses, police structures, hospitals, and other like
10 matters; (g) the distribution and density of population; (h) other elements
11 of municipal growth and development.

12 The master plan may include in its scope areas outside the boundaries
13 of the municipality which the planning board deems to bear an essential re-
14 lation to the planning of the municipality. The studies in connection with the
15 master plan shall be conducted wherever possible with the co-operation of
16 adjacent planning agencies.

1 12. In the preparation of the master plan the planning board shall give
2 due consideration to the probable ability of the municipality to carry out,
3 over a period of years, the various public or quasi-public projects embraced
4 in the plan without the imposition of unreasonable financial burdens.

5 In such preparation, the planning board shall cause to be made careful
6 and comprehensive surveys and studies of present conditions and the pros-
7 pects for future growth of the municipality. The master plan shall be made
8 with the general purpose of guiding and accomplishing a co-ordinated, ad-

9 justed and harmonious development of the municipality and its environs
10 which will, in accordance with present and future needs, best promote health,
11 safety, morals, order, convenience, prosperity and general welfare, as well as
12 efficiency and economy in the process of development and the maintenance of
13 property values previously established. To such end, the master plan shall
14 also include adequate provision for traffic and recreation, the promotion of
15 safety from fire and other dangers, adequate provision for light and air,
16 the promotion of good civic design and arrangements, the wise and efficient
17 expenditure of public funds, and adequate provision for public utilities and
18 other public requirements.

1 13. Whenever the planning board after public hearing shall have adopted
2 any portion of the master plan, the governing body or other public agency
3 having jurisdiction over the subject matter, before taking action necessitat-
4 ing the expenditure of any public funds, incidental to the location, charac-
5 ter or extent of one or more projects thereof, shall refer action involving
6 such specific project or projects to the planning board for review and recom-
6A mendation, and shall not act thereon without such recommendation or until
7 forty-five days after such reference have elapsed without such recommenda-
8 tion. This requirement shall apply to action by a housing, parking, high-
9 way or other authority, redevelopment agency, school board, or other sim-
10 ilar public agency, Federal, State, county or municipal.

11 The governing body may by ordinance provide for the reference of any
12 other matter or class of matters to the planning board before final action
13 thereon by any municipal public body or municipal officer having final au-
14 thority thereon, with or without the provision that final action thereon shall
15 not be taken until the planning board has submitted its report, or until a
16 specified period of time has elapsed without such report having been made.

17 Whenever the planning board, pursuant to this act shall have made a
18 recommendation to another body, such recommendation may be overridden
19 only by a majority of the full membership of such other body. Where the body
20 which shall have overridden a recommendation of the planning board is a mu-

21 nicipal body or agency, the action of such body shall not become final until
22 the governing body of the municipality shall, by majority vote, approve its
23 action in overriding the recommendation of the planning board.

24 The planning board shall have full power and authority to make such
25 investigations, maps and reports and recommendations in connection there-
26 with relating to the planning and physical development of the municipality
27 as it deems desirable.

1 14. The governing body may by ordinance provide for the regulation of
2 subdivisions within the municipality by requiring the approval of the govern-
3 ing body, by resolution, of all plats after favorable referral by the planning
4 board before such plats may be filed with the county recording officer and may
5 authorize and empower the planning board to review plats in accordance with
6 regulations, requirements and standards established by the governing body
7 and may further fix filing fees to be paid for by any applicant for subdivision
8 approval.

9 In any ordinance creating a planning board or in any amendment or
10 supplement thereto, provision may be made for the regulation of subdivisions
11 within the municipality by approval of the planning board acting in lieu of the
12 governing body of all plats before such plats may be filed with the county
13 recording officer, provided such ordinance regulating subdivisions establishes
14 regulations, requirements, and standards for plat approval by the planning
15 board. If such power of approval is granted to the planning board, the pro-
16 cedures of the planning board under this act shall be required in connection
17 with such approval, and the signature of the chairman of the planning board
18 shall have the same force as the signature of the mayor.

19 Any such ordinance may exempt from the requirement of local municipal
20 approval, subdivisions wherein the number of new lots is less than a desig-
21 nated number, or plats that do not involve new streets, or such other classes
22 of subdivisions as such ordinance shall designate. In all cases involving such
23 exempted subdivisions, the mayor or planning board chairman, as the case
24 may be, and the municipal clerk shall certify the exemption on the plat, deed,
25 or instrument to be filed with the county recording officer.

1 15. A planning board may be empowered by the subdivision ordinance to
2 waive full notice and hearing and favorable referral by a majority of the
3 board on a subdivision if no new street is shown and if a subdivision com-
4 mittee of the planning board appointed by the chairman with the approval of
5 the board unanimously find no cause for review by the entire board or for un-
6 favorable action upon the subdivision and such finding shall be deemed to be
7 favorable approval or referral by the planning board.

8 Before the planning board may take the action of favorable referral and
9 the governing body may approve subdivisions or before a planning board may
10 be authorized to grant final approval, the governing body shall adopt by ordi-
11 nance, standards for approving the design of subdivisions and the required
12 street improvements, requirements for the submission of subdivision plats,
13 and the procedure to be followed by subdividers. Where there is a municipal
14 zoning ordinance, the standards in the subdivision ordinance with respect to
15 minimum lot sizes and lot area requirements shall be identical with the pro-
16 visions of the zoning ordinance. Where a zoning ordinance contains no such
17 provisions or where there is no such ordinance, the standards including
18 minimum lot sizes and lot area requirements shall be specified in the sub-
19 division ordinance. Copies of the subdivision ordinance and regulations
20 shall be made available to the public and shall be filed with the county re-
21 cording officer. A reasonable charge may be made for such copies. A plat
22 shall be deemed to have been submitted when an application for approval has
23 been delivered to the municipal clerk in conformance with the printed require-
24 ments governing the submission of subdivision plats.

1 16. Plats shall conform with the standards prescribed by chapter twenty-
2 three of Title 46 of the Revised Statutes, as amended or supplemented, and
3 any applicable ordinance not inconsistent therewith.

1 17. No plat shall be accepted for filing by the county recording officer
2 until it has been approved by the governing body or the planning board, as
3 the case may be, if such approval is required by local ordinance, and such
4 approval has been endorsed on the instrument in such manner as the govern-
5 ing body may designate.

6 It shall be the duty of the county recording officer to notify the planning
7 board in writing within three days of the filing of any plat approved by the
8 governing body or planning board, identifying such plat by its title, date of
9 filing, and official number.

1 18. The planning board, after hearing, may approve the plat, if so au-
2 thorized, or may recommend approval by giving favorable referral to the
3 governing body or may disapprove such plat. If the planning board disap-
4 proves any plat, the findings and reasons for such disapproval shall be
5 stated upon the records of the planning board and the applicant shall be
6 given a copy. If the planning board requires any substantial amendment in
7 the layout of improvements proposed by the subdivider that have been the
8 subject of a hearing, an amended plat must be submitted, and proceeded
9 upon as in the case of the original plat.

10 Where approval of a plat, map or plan of land is required by any officer
11 or body of a municipality, including a board of health under the provisions of
12 any other law or ordinance, such approval shall be certified on the plat
13 before the final plat shall be approved as a prerequisite to its acceptance for
14 filing by the county recording officer.

15 The planning board shall take action under this section within forty-five
16 days after the submission of the final plat for approval, or within such
17 further time as the applying party may agree to. Otherwise such plat shall
18 be deemed to have been given favorable approval or referral to the govern-
19 ing body, and the certificate of the municipal clerk as to the date of the sub-
20 mission of the plat for approval or referral and as to the failure of the plan-
21 ning board to report action thereon within the aforesaid forty-five days or
22 such further time as agreed to by the applying party shall be issued on re-
23 quest of the owner or his agent and shall be sufficient, in lieu of the written
24 endorsement or other evidence of favorable approval or referral herein
25 required.

26 Following favorable referral by the planning board where referral is
27 required, the plat shall be submitted to the governing body for approval.
28 The governing body shall take action under this section not later than the

29 second regular meeting after the planning board submits the plat to the
30 municipal clerk for transmission to the governing body, or within such
31 further time as the applying party may agree to. Otherwise such plat shall
32 be deemed to have been approved, and the certificate of the municipal clerk
33 as to the date of the submission of the plat for approval by the governing
34 body, and as to the failure of the governing body to act thereon not later
35 than the second regular meeting or such further time as agreed to by the
36 applying party, shall be issued on request of the owner or his agent and
37 shall be sufficient, in lieu of the written endorsement or other evidence of
38 approval herein required. If the governing body disapproves any plat, the
39 findings and reasons for such action shall be stated upon the records of the
40 governing body, and the applicant shall be given a copy.

41 The governing body or the planning board, as the case may be, may
42 tentatively approve a plat showing new streets or roads or the resubdivision
43 of land along a mapped street. This tentative approval shall confer upon
44 the applicant the following rights for a three-year period from the date of
45 the tentative approval:

46 (1) that the general terms and conditions upon which the tentative
47 approval was granted will not be changed.

48 (2) that the said applicant may submit on or before the expiration
49 date the whole or part or parts of said plat for final approval.

50 The final approval by the governing body or the planning board, as the
51 case may be, of a plat showing a new street or the resubdivision of land
52 along a mapped street shall expire ninety days from the date of such ap-
53 proval, unless within the period such plat shall have been duly filed by the
54 owner or his agent with the county recording officer. The governing body
55 for good cause shown may extend the time for plat filing for a period not to
56 exceed ninety days.

1 19. If any person shall be aggrieved by the action of the planning board,
2 appeal in writing to the governing body may be taken within ten days after
3 the date of the action of the planning board. A hearing thereon shall be had
4 on notice to all parties in interest, who shall be afforded an opportunity to

5 be heard. After such hearing the governing body may affirm or reverse the
6 action of the planning board by a recorded vote of a majority of the total
7 members thereof. The findings and reasons for the disposition of the ap-
8 peal shall be stated on the records of the governing body, and the applying
9 party shall be given a copy.

10 Nothing in this act shall be construed to restrict the right of any party
11 to obtain a review by any court of competent jurisdiction according to law.

1 20. In acting upon plats the planning board shall require, among other
2 conditions in the public interest, that the tract shall be adequately drained,
3 and the streets shall be of sufficient width and suitable grade and suitably
4 located to accommodate the prospective traffic, to provide access for fire-
5 fighting equipment to buildings and to be co-ordinated so as to compose a
6 convenient system, conforming to the official map, or if there is no official
7 map, relating properly to the existing street system. Where the planning
8 board after hearing has adopted portions of the master plan with pro-
9 posals regarding the street system within the proposed subdivision, the
10 board may require that the street shown conform in design and in width to
11 the proposals shown on the master plan. No street of a width greater than
12 fifty feet within the right-of-way lines may be required unless said street
13 already has been shown on such master plan at the greater width, or already
14 has been shown in greater width on the official map.

15 The planning agency shall further require that all lots shown on the
16 plats shall be adaptable for the intended purposes without danger to health
17 or peril from flood, fire, erosion, or other menace.

18 If portions of the master plan contain proposals for drainage rights-of-
19 way, schools, parks, or playgrounds within the proposed subdivision or in its
20 vicinity, or if standards for the allocation of portions of subdivisions for
21 drainage rights-of-way, school sites, park and playground purposes have
22 been adopted, before approving subdivisions the planning board may further
23 require that such drainage rights-of-way, school sites, parks or playgrounds
24 be shown in locations and of sizes suitable to their intended uses. The gov-
25 erning body or the planning board shall be permitted to reserve the location

26 and extent of school sites, public parks and playgrounds shown on the
27 master plan or any part thereof for a period of one year after the approval
28 of the final plat or within such further time as agreed to by the applying
29 party. Unless during such one-year period or extension thereof the municipal-
30 ity shall have entered into a contract to purchase or instituted condemnation
31 proceedings according to law, for said school site, park or playground, the
32 subdivider shall not be bound by the proposals for such areas shown on the
33 master plan. This provision shall not apply to the streets and roads or
34 drainage rights-of-way required for final approval of any plat and deemed
35 essential to the public welfare.

1 21. Before final approval of plats the governing body may require, in
2 accordance with the standards adopted by ordinance, the installation, or the
3 furnishing of a performance guarantee in lieu thereof, of any or all of the
4 following improvements it may deem to be necessary or appropriate: street
5 grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees,
6 surveyor's monuments, water mains, culverts, storm sewers, sanitary sewers
7 or other means of sewage disposal, drainage structures, and such other sub-
8 division improvements as the municipal governing body may find necessary
9 in the public interest.

1 22. The governing body may accept adequate performance guarantees
2 for the purpose of assuring improvements, as provided in section twenty-
3 one of this act and section ten of the Official Map and Building Permit Act
4 (1953).

5 The amount of any performance guarantee may be reduced by the gov-
6 erning body by resolution when portions of the improvements have been
7 completed, and the time allowed for installation of the improvements for which
8 the performance guarantee has been provided may be extended by said body
9 by resolution.

10 If the required improvements shall not have been installed in accord-
11 ance with the performance guarantee, the obligor and surety, if any, shall be
12 liable thereon to the municipality for the reasonable cost of the improve-

13 ments not installed and upon the receipt of the proceeds thereof the munici-
14 pality shall install such improvements.

1 23. If, before approval or favorable referral and approval have been
2 obtained, any person transfers or sells or agrees to sell, as owner or agent, any
3 land which forms a part of a subdivision which, by ordinance, the planning
4 board or the planning board and the governing body are required to act, such
5 person shall be subject to a fine not to exceed two hundred dollars (\$200.00)
6 or to imprisonment for not more than thirty days and each parcel, plot or lot
7 so disposed of shall be deemed a separate violation.

8 In addition to the foregoing, if the streets in the subdivision are not such
9 that a structure on said land in the subdivision would meet the requirements
10 for a building permit under section three of the Official Map and Building
11 Permit Act (1953) the municipality may institute and maintain a civil action:

12 (1) For injunctive relief.

13 (2) To set aside and invalidate any conveyance made pursuant to such a
14 contract or sale if a certificate of compliance has not been issued in accordance
15 with section twenty-four of this act, but only if the municipality has a plan-
16 ning board or a committee thereof with power to act and which

17 (a) meets regularly on a monthly or more frequent basis, and

18 (b) whose governing body has adopted standards and procedures in
19 accordance with section twenty of this act.

20 In any such action the transferee, purchaser or grantee shall be entitled
21 to a lien upon the portion of the land from which the subdivision was made
22 that remains in the possession of the subdivider or his assigns or successors,
23 to secure the return of any deposit made or purchase price paid, and also a
24 reasonable search fee, survey expense and title closing expense, if any. Any
25 such action must be brought within two years after the date of the recording
26 of the instrument of transfer, sale or conveyance of said land, or within six
27 years if unrecorded.

1 24. The prospective purchaser, prospective mortgagee, or any other per-
2 son interested in any land which forms part of a subdivision, or which, since
3 the thirteenth day of June, one thousand nine hundred and fifty-one, formed

4 part of such a subdivision, may apply in writing to the proper official or, if
5 said official is unknown to the applicant, then to the clerk of the municipality,
6 for the issuance of a certificate certifying whether or not such subdivision has
7 been approved by the planning board or governing body. Such application
8 shall contain a diagram showing the location and dimension of the land to be
9 covered by the certificate, and the name of the owner thereof.

10 The governing body of the municipality shall, by resolution, designate
11 the municipal clerk, municipal engineer or some other official as the official
12 who shall make and issue such certificates, and the official so designated shall
13 issue such certificate within fifteen days after the receipt of such written
14 application and the fees therefor. Said officials shall keep a duplicate copy of
15 each certificate, consecutively numbered, including a statement of the fees
16 charged, in a binder as a permanent record of his office.

17 Each such certificate shall be designated a "certificate as to approval of
18 subdivision of land," and shall certify:

19 a. Whether there exists in said municipality a duly established planning
20 board which meets regularly on a monthly or more frequent basis and
21 whether there is an ordinance controlling subdivisions of land, adopted under
22 the authority of this act.

23 b. Whether the subdivision or resubdivision, as it relates to the land
24 shown in said application, has been approved by the planning board or gov-
25 erning body, and, if so, the date of such approval.

26 c. Whether such subdivision or resubdivision, if the same has not been
27 approved, is exempt from the requirement of approval as provided in this act.

28 The official designated shall be entitled to demand and receive for each
29 such certificate issued by him a reasonable fee, not in excess of those provided
30 in sections fourteen and fifteen of chapter five of Title 54 of the Revised
31 Statutes. The fees so collected by such official shall be paid by him to the
32 municipality.

1 25. Any person who shall acquire for a valuable consideration an in-
2 terest in the lands covered by any such certificate of approval of a sub-
3 division in reliance upon the information therein contained shall hold such

4 interest free of any right, remedy or action which could be prosecuted or
5 maintained by the municipality pursuant to the provisions of section twenty-
6 three of this act.

7 If the official designated to make and issue any such certificate fails to
8 issue the same within fifteen days after receipt of an application and the
9 fees therefor, any person acquiring an interest in the lands described in
10 such application shall hold such interest free of any right, remedy or action
11 which could be prosecuted or maintained by the municipality pursuant to
12 the provisions of section twenty-three of this act.

13 Any such application addressed to the municipal clerk of the municipality
14 shall be deemed to be addressed to the proper designated official and the mu-
15 nicipality shall be bound thereby to the same extent as though the same
16 was addressed to the designated official.

17 26. This act shall apply only to municipalities having a planning board
18 heretofore created pursuant to chapter fifty-five of Title 40 of the Revised
19 Statutes or hereafter created under the provisions of this act.

1 27. Any municipal planning board created under the authority of law
2 prior to the adoption of this act shall be continued by this act, and the mem-
3 bers appointed to said board shall continue in office until the completion of
4 their terms, unless sooner terminated, and any action previously taken by
5 said planning board shall be deemed to continue in full force and effect ex-
6 cept as hereinafter in this section provided.

7 All rules and regulations adopted by planning boards under the au-
8 thority of law regulating subdivision of lands shall continue in effect until
9 July first, one thousand nine hundred and fifty-four, unless prior thereto
10 the governing body of the municipality shall have adopted an ordinance pur-
11 suant to this act for the regulation of subdivisions, in which event such
12 rules and regulations shall cease to be in effect upon the date such ordinance
13 becomes effective.

1 28. Sections 40:55-1 to 40:55-21, both inclusive, of the Revised Statutes
2 are repealed.

1 29. This act shall take effect January first, one thousand nine hundred
2 and fifty-four.

Amend page 4, section 10, line 3, after the word "map" where it first occurs by changing the comma to a semicolon and inserting a comma after the word "or" and after the word "map" at the end of the line.

Amend page 4, section 10, line 4, after the word "municipal" by inserting the words "street or".

Amend page 4, section 10, line 9, by changing the words "would require" to the word "required".

Amend page 5, section 12, line 4, by deleting the semicolon and inserting a comma.

Respectfully,

[SEAL] ALFRED E. DRISCOLL,
 Attest: Governor.
 RUSSELL E. WATSON, JR.,
 Secretary to the Governor.

Senate Bill No. 224, entitled "An act concerning municipalities in relation to municipal planning, repealing sections 40:55-1 to 40:55-21, inclusive, and supplementing chapter fifty-five of Title 40 of the Revised Statutes,"

STATE OF NEW JERSEY,
 EXECUTIVE DEPARTMENT,
 August 17, 1953. }

SENATE BILL NO. 224

To the Senate:

Pursuant to Article V, Section I, paragraph 14 (b) of the State Constitution, I am returning herewith, for reconsideration and with my objections, Senate Bill No. 224.

This bill and Senate Bill No. 223 are companion measures resulting from my veto message concerning Assembly Bill No. 463 of 1952. As one spokesman for local government in this State has said, last year's bill "would have set municipal planning back twenty-five years." Many organizations and individuals have made an outstanding contribution in the intervening year to provide New Jersey with completely modernized municipal planning statutes.

The present bills are the co-operative work of the following organizations of New Jersey: Municipal Attorneys Institute, Municipal Engineers Association, Home Builders Society, Real Estate Association, Society of Professional Engineers and Land Surveyors, State Federation of Official Planning Boards, and the State Departments of Health and Conservation and Economic Development. In the course of a large legislative problem such as this, it is to be expected that the varying views of many groups and individuals had to be reconciled, and that it is unlikely that the final draft as enacted by the Legislature will completely agree with the views of any one group. It is a real pleasure for me to acknowledge the valuable contribution to the public welfare which has been made by the special committee of individuals representing these organizations.

In the course of the give and take which the drafting of this type of legislation must imply, a few provisions have crept in which are susceptible of an interpretation which, I am sure, was not the intention of the sponsors. Section 13, for example, could be construed so as to become a source of conflict and discord between county, State and Federal agencies, which are concerned with county-wide, State-wide and even nation-wide planning problems, and the municipal planning board which should properly be empowered to make recommendations with respect to the projects of these other agencies. Other minor technical matters could also give trouble in the future.

Accordingly, I am returning Senate Bill No. 224 for reconsideration and with the recommendation that amendments be made to the bill (Second Official Copy Reprint) as follows:

Amend page 3, section 3, line 8, by inserting after "board" the words "continued by section 27 of this act or".

Amend page 7, section 13, line 13, by deleting before the word "public" the word "the" and inserting in lieu thereof the words "any municipal"; and before the word "officer" inserting the word "municipal".

Amend page 7, section 13, lines 19 and 20, by deleting the sentence beginning with the words "Whenever such" including all of line 20.

Amend page 8, section 13, by deleting lines 21 and 22, inclusive, in their entirety and inserting in lieu thereof the following:

“Where the body which shall have overridden a recommendation of the planning board is a municipal body or agency, the action of such body shall not become final until the governing body of the municipality shall, by majority vote, approve its action in overriding the recommendation of the planning board”.

Amend page 9, section 16, line 2, after the word “Statutes” insert “, as amended or supplemented,”.

Amend page 16, section 26, lines 18 and 19 by deleting all of said lines and inserting in lieu thereof the following:

“heretofore created pursuant to Chapter 55 of Title 40 of the Revised Statutes or hereafter created under the provisions of this act”.

Amend page 16, section 27, line 11, by deleting all of said line and inserting in lieu thereof the following:
“suant to this act for the regulation of subdivisions, in which”.

Respectfully,

[SEAL]
Attest:

RUSSELL E. WATSON, JR.,
Secretary to the Governor.

ALFRED E. DRISCOLL,
Governor.