

40:55D-1 to 40:55D-92

LEGISLATIVE HISTORY CHECKLIST

("Municipal Land Use Law")

NJSA 40:55D-1 to 40:55D-92

LAWS 1975

CHAPTER 291

Bill No. S3054

Sponsor(s) Greenberg and others

Date Introduced February 13, 1975

Committee: Assembly Municipal Government

Senate County and Municipal Government

Amended during passage Yes ~~XXX~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly Dec. 15, 1975

Senate June 5, 1975

Date of approval Jan. 14, 1976

Following statements are attached if available:

Sponsor statement Yes ~~XX~~

Committee Statement: Assembly ~~XXX~~ No

Senate Yes ~~XX~~

Fiscal Note ~~XXX~~ No

Veto Message ~~XXX~~ No

Message on signing Yes ~~XX~~

Following were printed:

Reports ~~XXX~~ No

Hearings Yes ~~XX~~

974.90 New Jersey. Legislature. Senate. County and Municipal  
R336 Government Committee  
1975d Public hearing held 4-3-75. Trenton, 1975

See also:  
99 NJLJ. 81 (Jan. 29, 1976) "The New Municipal Land Use Law" by Stephen Sussna  
53 New Jersey Municipalities, No. 3 "The Municipal Land Use Law" (March, 1976)  
53 NJ Municipalities, No. 2 "League Land Use Bill signed into law in January"  
(Feb. 1976, p. 20).

CHAPTER 291 LAWS OF N. J. 1975

APPROVED 1-14-76

[SECOND OFFICIAL COPY REPRINT]

SENATE, No. 3054

# STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1975

By Senators GREENBERG, MARTINDELL, MUSTO, IMPERIALE  
and McGAHN

(Without reference)

AN ACT relating to the planning and regulation of land uses, and  
revising parts of the statutory law.

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

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ARTICLE I  
GENERAL PROVISIONS

1. Short title. This act may be cited and referred to as the "Municipal Land Use Law."  
Source: New.

2. Purpose of the act. It is the intent and purpose of this act:

a. To encourage municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare;

b. To secure safety from fire, flood, panic and other natural and man-made disasters;

c. To provide adequate light, air and open space;

d. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the State as a whole;

e. To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and preservation of the environment;

f. To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;

g. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;

h. To encourage the location and design of transportation routes which will promote the free flow of traffic while discouraging location of such facilities and routes which result in congestion or blight;

i. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;

j. To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

32 k. To encourage planned unit developments which incorporate  
 33 the best features of design and relate the type, design and layout  
 34 of residential, commercial, industrial and recreational developments  
 35 to the particular site; and  
 36 *\*\*l. To encourage senior citizen community housing construction  
 37 consistent with provisions permitting other residential uses of a  
 38 similar density in the same zoning district.\*\**  
 39 *\*\*[l.]\*\* \*m.\*\** To encourage coordination of the various public  
 40 and private procedures and activities shaping land development  
 41 with a view of lessening the cost of such development and to the  
 42 more efficient use of land.  
 43 Source: New.

1 3. **[Definitions.]** For the purposes of this act, unless the  
 2 context clearly indicates a different meaning:  
 3 The term "shall" indicates a mandatory requirement, and the  
 4 term "may" indicates a permissive action.  
 5 "Administrative officer" means the clerk of the municipality  
 6 unless a different municipal official or officials, are designated by  
 7 ordinance or statute.  
 8 "Applicant" means a developer submitting an application for  
 9 development.  
 10 "Application for development" means the application form and  
 11 all accompanying documents required by ordinance for approval  
 12 of a subdivision plat, site plan, planned **[unit]** development,  
 13 **[planned unit residential development, residential cluster,]**  
 14 conditional use, zoning variance or direction of the issuance of a  
 15 permit pursuant to section 25 or section 27 of this act.  
 16 "Approving authority" means the planning board of the municipi-  
 17 pality unless a different agency is designated by ordinance when  
 18 acting pursuant to the authority of this act.  
 19 "Board of adjustment" means the board established pursuant to  
 20 section 56 of this act.  
 21 "Building" means a combination of materials to form a con-  
 22 struction adapted to permanent, temporary, or continuous occu-  
 23 pancy and having a roof.  
 24 "Capital improvement" means a governmental acquisition of  
 25 real property or major construction project.  
 26 "Circulation" means systems, structures and physical improve-  
 27 ments for the movement of people, goods, water, air, sewage or  
 28 power by such means as streets, highways, railways, waterways,  
 29 towers, airways, pipes and conduits, and the handling of people

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and goods by such means as terminals, stations, warehouses, and other storage buildings or transshipment points.

"Common open space" means an open space area within or related to a site designated as a development, and designed and intended for the use or enjoyment of residents and owners of the development. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the use or enjoyment of residents and owners of the development.

"Conditional use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in the zoning ordinance, and upon the issuance of an authorization therefor by the planning board.

"Conventional" means development other than planned development.

"County master plan" means a composite of the master plan for the physical development of the county in which the municipality is located, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to R. S. 40:27-2 and R. S. 40:27-4.

"County planning board" means the planning board of the county in which the land or development is located.

\*3.1.\* "Days" means calendar days.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission may be required pursuant to this act.

"Development regulation" means a zoning ordinance, subdivision ordinance, site plan ordinance, official map ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to this act.

"Division" means the Division of State and Regional Planning in the Department of Community Affairs.



73 "Drainage" means the removal of surface water or ground  
74 water from land by drains, grading or other means and includ  
75 control of runoff to minimize erosion and sedimentation during and  
76 after construction or development and means necessary for water  
77 supply preservation or prevention or alleviation of flooding.  
78 "Environmental commission" means a municipal advisory body  
79 created pursuant to P. L. 1968, c. 245 (C. 40:56A-1 et seq.).  
80 "Erosion" means the detachment and movement of soil or rock  
81 fragments by water, wind, ice and gravity.  
82 "Final approval" means the official action of the planning board  
83 taken on a preliminary approved major subdivision or site plan  
84 after all conditions, engineering plans and other requirements have  
85 been completed or fulfilled and the required improvements have  
86 been installed or guarantees properly posted for their completion  
87 or approval conditioned upon the posting of such guarantees.  
88 "Governing body" means the chief legislative body of the mu-  
89 nicipality. In municipalities having a board of public works, "gov-  
90 erning body" means such board.  
91 "Historic site" means any building, structure, area or property  
92 that is significant in the history, architecture, archeology or culture  
93 of this State, its communities or the Nation and has been so desig-  
94 nated pursuant to this act.  
95 "Interested party" means (a) in a criminal or quasicriminal  
96 proceeding, any citizen of the State of New Jersey; and (b) in the  
97 case of a civil proceeding in any court or in an administratve pro-  
98 ceeding before a municipal agency, any person, whether residing  
99 within or without the municipality, whose right to use, acquire, or  
100 enjoy property is or may be \***[effected]**\* \*affected\* by any action  
101 taken under this act, or whose rights to use, acquire, or enjoy  
102 property under this act, or under any other law of this State or  
103 of the United States have been denied, violated or infringed by  
104 an action or a failure to act under this act.  
105 "Land" includes improvements and fixtures on, above or below  
106 the surface.  
107 "Lot" means a designated parcel, tract or area of land estab-  
108 lished by a plat or otherwise as permitted by law and to be used,  
109 developed or built upon as a unit.  
110 \*3.2.\* "Maintenance guarantee" means any security, other than  
111 cash, which may be accepted by a municipality for the maintenance  
112 of any improvements required by this act.  
113 "Major subdivision" means any subdivision not classified as  
114 a minor subdivision.

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115 "Master plan" means a composite of one or more written or  
116 graphic proposals for the development of the municipality as set  
117 forth in and adopted pursuant to section 19 of this act.

118 "Mayor" means the chief executive of the municipality, what-  
119 ever his official designation may be, except that in the case of  
120 municipalities governed by municipal council and municipal man-  
121 ager the term "mayor" shall not mean the "municipal manager"  
122 but shall mean the mayor of such municipality.

123 "Minor subdivision" means a subdivision of land that does not  
124 involve (1) the creation of more than the maximum number of  
125 lots specifically permitted by ordinance as a minor subdivision,  
126 (2) "[residential cluster, planned unit residential development or]"  
127 planned "[unit]" development "[or]\*\*," (3) any new street "or  
127A (4) extension of any off-tract improvement\*.

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

130 "Municipal agency" means a municipal planning board or board  
131 of adjustment, or a governing body of a municipality when acting  
132 pursuant to this act and any agency which is created by or responsi-  
133 ble to one or more municipalities when such agency is acting pur-  
134 suant to this act.

135 "Nonconforming lot" means a lot the area, dimension or location  
136 of which was lawful prior to the adoption, revision or amendment  
137 of a zoning ordinance, but fails to conform to the requirements of  
138 the zoning district in which it is located by reason of such adoption,  
139 revision or amendment.

140 "Nonconforming structure" means a structure the size, dimen-  
141 sion or location of which was lawful prior to the adoption, revision  
142 or amendment of a zoning ordinance, but which fails to conform to  
143 the requirements of the zoning district in which it is located by  
144 reasons of such adoption, revision or amendment.

145 "Nonconforming use" means a use or activity which was lawful  
146 prior to the adoption, revision or amendment of a zoning ordinance,  
147 but which fails to conform to the requirements of the zoning dis-  
148 trict in which it is located by reasons of such adoption, revision  
149 or amendment.

150 "Official county map" means the map, with changes and additions  
151 thereto, adopted and established, from time to time, by resolution  
152 of the board of chosen freeholders of the county pursuant to R. S.  
153 40:27-5.

154 "Official map" means a map adopted by ordinance pursuant to  
155 article 5.

156 "Offsite" means located outside the lot lines of the lot in ques-  
 157 tion but within the property (of which the lot is a part) which is  
 158 the subject of a development application or contiguous portion  
 159 of a street or right-of-way.  
 160 "Off-tract" means not located on the property which is the sub-  
 161 ject of a development application nor on a contiguous portion of  
 162 a street or right-of-way.  
 163 "Onsite" means located on the lot in question.  
 164 "On-tract" means located on the property which is the subject  
 165 of a development application or on a contiguous portion of a street  
 166 or right-of-way.  
 167 "Open-space" means any parcel or area of land or water essen-  
 168 tially unimproved and set aside, dedicated, designated or reserved  
 169 for public or private use or enjoyment or for the use and enjoy-  
 170 ment of owners and occupants of land adjoining or neighboring  
 171 such open space; provided that such areas may be improved with  
 172 only those buildings, structures, streets and offstreet parking and  
 173 other improvements that are designed to be incidental to the na-  
 174 tural openness of the land.  
 175 \*3.3.\* "Party immediately concerned" means for purposes of  
 176 notice any applicant for development, the owners of the subject  
 177 property and all owners of property and government agencies  
 178 entitled to notice under section 7.  
 179 "Performance guarantee" means any security, which may be  
 180 accepted by a municipality, including cash; provided that a mu-  
 181 nicipality shall not require more than 10% of the total performance  
 182 guarantee in cash.  
 182A \*"Planned commercial development" means an area of a  
 182B minimum contiguous size as specified by ordinance to be developed  
 182C according to a plan as a single entity containing one or more  
 182D structures with appurtenant common areas to accommodate com-  
 182E mercial or office uses or both and any residential and other uses  
 182F incidental to the predominant use as may be permitted by  
 182G ordinance.\*  
 183 "Planned development" means planned unit development,  
 184 planned unit residential development \*["or"]\* residential  
 184A cluster\*, planned commercial development or planned industrial  
 184B development\*.  
 184C \*"Planned industrial development" means an area of a  
 184D minimum contiguous size as specified by ordinance to be developed  
 184E according to a plan as a single entity containing one or more  
 184F structures with appurtenant common areas to accommodate

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180 industrial uses and any other uses incidental to the predominant  
181 use as may be permitted by ordinance.\*

182 "Planned unit development" means an area with a specified  
183 minimum contiguous acreage of 10 acres or more to be developed  
184 as a single entity according to a plan, containing one or more resi-  
185 dential clusters or planned unit residential developments and one  
186 or more public, quasi-public, commercial or industrial areas in such  
187 ranges of ratios of nonresidential uses to residential uses as shall  
188 be specified in the zoning ordinance.

189 "Planned unit residential development" means an area with a  
190 specified minimum contiguous acreage of 5 acres or more to be  
191 developed as a single entity according to a plan containing one or  
192 more residential clusters, which may include appropriate commer-  
193 cial, or public or quasi-public uses all primarily for the benefit of  
194 the residential development.

195 "Planning board" means the municipal planning board estab-  
196 lished pursuant to section 14 of this act.

197 "Plat" means a map or maps of a subdivision or site plan.

198 "Preliminary approval" means the conferral of certain rights  
199 pursuant to sections 34, 36 and 37 of this act prior to final approval  
200 after specific elements of a development plan have been agreed  
201 upon by the planning board and the applicant.

202 "Preliminary floor plans and elevations" means architectural  
203 drawings prepared during early and introductory stages of the  
204 design of a project illustrating in a schematic form, its scope,  
205 scale and relationship to its site and immediate environs.

206 "Public areas" means (1) public parks, playgrounds, trails,  
207 paths and other recreational areas; (2) other public open spaces;  
208 (3) scenic and historic sites; and (4) sites for schools and other  
209 public buildings and structures.

210 "Public development proposal" means a master plan, capital  
211 improvement program or other proposal for land development  
212 adopted by the appropriate public body, or any amendment thereto.

213 "Public drainage way" means the land reserved or dedicated  
214 for the installation of storm water sewers or drainage ditches, or  
215 required along a natural stream or watercourse for preserving the  
216 channel and providing for the flow of water to safeguard the public  
217 against flood damage, sedimentation, and erosion.

218 "Public open space" means an open space area conveyed or  
219 otherwise dedicated to a municipality, municipal agency, board of  
220 education, State or county agency, or other public body for recrea-  
221 tional or conservational uses.

225 "Quorum" means the majority of the full authorized member.  
 226 ship of a **\*[board or body]\*** \*municipal agency\*.  
 227 "Residential cluster" means an area to be developed as a single  
 228 entity according to a plan containing residential housing units  
 229 **\*[in]\*** which **\*[the individual lots]\*** have a common or public open  
 230 space area as an appurtenance.  
 231 "Residential density" means the number of dwelling units per  
 232 gross acre of residential land area including streets, easements and  
 233 open space portions of a development.  
 234 "Resubdivision" means (1) the further division or relocation  
 235 of lot lines of any lot or lots within a subdivision previously made  
 236 and approved or recorded according to law or (2) the alteration  
 237 of any streets or the establishment of any new streets within any  
 238 subdivision previously made and approved or recorded according  
 239 to law, but does not include conveyances so as to combine existing  
 240 lots by deed or other instrument.  
 241 *\*3.4.\** "Sedimentation" means the deposition of soil that has  
 242 been transported from its site of origin by water, *\*ice,\** wind,  
 243 gravity or other natural means as a product of erosion.  
 244 "Site plan" means a development plan of one or more lots on  
 245 which is shown (1) the existing and proposed conditions of the lot,  
 246 including but not necessarily limited to topography, vegetation,  
 247 drainage, flood plains, marshes and waterways, (2) the location  
 248 of all existing and proposed buildings, drives, parking spaces, walk-  
 249 ways, means of ingress and egress, drainage facilities, utility ser-  
 250 vices, landscaping, structures and signs, lighting, screening devices,  
 251 and (3) any other information that may be reasonably required in  
 252 order to make an informed determination pursuant to an ordinance  
 253 requiring review and approval of site plans by the planning board  
 254 adopted pursuant to article 6 of this act.  
 255 "Standards of performance" means standards (1) adopted by  
 256 ordinance pursuant to subsection 52 d. regulating noise levels,  
 257 glare, earthborne or sonic vibrations, heat, electronic or atomic  
 258 radiation, noxious odors, toxic matters, explosive and inflammable  
 259 matters, smoke and airborne particles, waste discharge, screening  
 260 of unsightly objects or conditions and such other similar matters  
 261 as may be reasonably required by the municipality or (2) required  
 262 by applicable Federal or State laws or municipal ordinances.  
 263 "Street" means any street, avenue, boulevard, road, parkway,  
 264 viaduct, drive or other way (1) which is an existing State, county  
 265 or municipal roadway, or (2) which is shown upon a plat hereto-

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266 fore approved pursuant to law, or (3) which is approved by official  
267 action as provided by this act, or (4) which is shown on a plat duly  
268 filed and recorded in the office of the county recording officer prior  
269 to the appointment of a planning board and the grant to such board  
270 of the power to review plats; and includes the land between the  
271 street lines, whether improved or unimproved, and may comprise  
272 pavement, shoulders, gutters, curbs, sidewalks, parking areas and  
273 other areas within the street lines.

274 "Structure" means a combination of materials to form a con-  
275 struction for occupancy, use or ornamentation whether installed  
276 on, above, or below the surface of a parcel of land.

277 "Subdivision" means the division of a lot, tract or parcel of  
278 land into two or more lots, tracts, parcels or other divisions of land  
279 for sale or development. The following shall not be considered  
280 subdivisions within the meaning of this act, if no new streets are  
281 created: (1) divisions of land found by the planning board or sub-  
282 division committee thereof appointed by the chairman to be for  
283 agricultural purposes where all resulting parcels are 5 acres or  
284 larger in size, (2) divisions of property by testamentary or in-  
285 testate provisions, (3) divisions of property upon court order and  
286 (4) conveyances so as to combine existing lots by deed or other  
287 instrument. The term "subdivision" shall also include the term  
288 "resubdivision."

289 "Variance" means permission to depart from the literal re-  
290 quirements of a zoning ordinance pursuant to section 47 and sub-  
291 sections 29 b. (2), 57 c. and 57 d. of this act.

292 "Zoning permit" means a document signed by the administrative  
293 officer (1) which is required by ordinance as a condition precedent  
294 to the commencement of a use or the erection, construction, re-  
295 construction, alteration, conversion or installation of a structure  
296 or building and (2) which acknowledges that such use, structure  
297 or building complies with the provisions of the municipal zoning  
298 ordinance or variance therefrom duly authorized by a municipal  
299 agency pursuant to sections 47 and 57 of this act.

300 Source: C. 40:55-1.2 (1953, c. 433, s. 2 as amended); C. 40:55-1.15  
301 (1953, c. 433, s. 15); C. 40:55-1.31 (1953, c. 434, s. 2); R. S.  
302 40:55-22; C. 40:55-47.1 (1969, c. 277, s. 2); C. 40:55-65 (1967,  
303 c. 61, s. 11).

1 4. Administrative procedures; fees. a. Every municipal agency  
2 shall adopt, and may amend reasonable rules and regulations, not  
3 inconsistent with this act or with any applicable ordinance, for the  
4 administration of its functions, powers and duties, and shall fur-

5 nish a copy thereof to any person upon request and may charge  
6 reasonable fee for such copy. Copies of all such rules and regula-  
7 tions and amendments thereto shall be maintained in the office of  
8 the administrative officer.

9 b. A municipality may by ordinance provide for reasonable fees  
10 to be charged (1) an applicant for review of an application for  
11 development by a municipal agency, and (2) an appellant pursuant  
12 to section 8 of this act.

13 Source: New.

1 5. Meetings; municipal agency. a. Every municipal agency shall  
2 by its rules fix the time and place for holding its regular meetings  
3 for business authorized to be conducted by such agency. Regular  
4 meetings of the municipal agency shall be scheduled not less than  
5 once a month and shall be held as scheduled unless canceled for  
6 lack of applications for development to process. The municipal  
7 agency may provide for special meetings, at the call of the chair-  
8 man, or on the request of any two of its members, which shall be  
9 held on notice to its members and the public in accordance with  
10 municipal regulations. No action shall be taken at any meeting  
11 without a quorum being present. All actions shall be taken by a  
12 majority vote of a quorum except as otherwise required by sec-  
13 tions 23, 25, 49, 50, and subsections 8 e., 17 a., 17 b. and 57 d. of  
14 this act. Nothing herein shall be construed to contravene any act  
15 providing for procedures for governing bodies.

16 b. All regular meetings and all special meetings shall be open  
17 to the public. Notice of all such meetings shall be given in accord-  
18 ance with municipal regulations. An executive session for the  
19 purpose of discussing and studying any matters to come before  
20 the agency shall not be deemed a regular or special meeting within  
21 the meaning of this act.

22 c. Minutes of every regular or special meeting shall be kept  
23 and shall include the names of the persons appearing and address-  
24 ing the municipal agency and of the persons appearing by attorney,  
25 the action taken by the municipal agency, the findings, if any, made  
26 by it and reasons therefor. The minutes shall thereafter be made  
27 available for public inspection during normal business hours at  
28 the office of the administrative officer. Any interested party shall  
29 have the right to compel production of the minutes for use as  
30 evidence in any legal proceedings concerning the subject matter  
31 of such minutes. Such interested party may be charged a reason-  
32 able fee for reproduction of the minutes for his use.

33 Source: R. S. 40:55-38.

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1 6. Hearings. a. The municipal agency shall hold a hearing on  
2 each application for development, or adoption, revision or amend-  
3 ment of *\*[a development regulation or public development pro-*  
4 *posal]\* \*the master plan\**.  
5 b. The municipal agency shall make the rules governing such  
6 hearings. Any maps and documents for which approval is sought at  
7 a hearing shall be on file and available for public inspection at  
8 least 10 days before the date of the hearing during normal business  
9 hours in the office of the administrative officer. The applicant  
10 may produce other documents, records, or testimony at the hearing  
11 and documents.  
12 c. The officer presiding at the hearing or such person as he  
13 may designate shall have power to administer oaths and issue  
14 subpoenas to compel the attendance of witnesses and the production  
15 of relevant evidence, including witnesses and documents presented  
16 by the parties, and the provisions of the "County and Municipal  
17 Investigations Law," P. L. 1953, c. 38 (C. 2A:67A-1 et seq.) shall  
18 apply.  
19 d. The testimony of all witnesses relating to an application for  
20 development shall be taken under oath or affirmation by the pre-  
21 siding officer, and the right of cross-examination shall be permitted  
22 to all interested parties through their attorneys, if represented,  
23 or directly, if not represented, subject to the discretion of the  
24 presiding officer and to reasonable limitations as to time and num-  
25 ber of witnesses.  
26 e. Technical rules of evidence shall not be applicable to the  
27 hearing, but the agency may exclude irrelevant, immaterial or  
28 unduly repetitious evidence.  
29 f. The municipal agency shall provide for the verbatim recording  
30 of the proceedings by either stenographer, mechanical or electronic  
31 means. The municipal agency shall furnish a transcript, or dupli-  
32 cate recording in lieu thereof, on request to any *\*[person]\**  
33 *\*interested party\** at his expense<sup>\*\*</sup>; *provided that the governing*  
33A *body may provide by ordinance for the municipality to assume the*  
33B *expense of any transcripts necessary for appeal to the governing*  
33C *body pursuant to section 8 of this act of decisions by the zoning*  
33D *board of adjustment pursuant to subsection 57d. of this act, up to*  
33E *a maximum amount as specified by the ordinance\*\*.*  
34 g. Each decision on any application for development shall be in  
35 writing and shall include findings of facts and conclusions based  
36 thereon.



37 h. **\*[Notice]** *\*A copy\** of the decision shall be mailed by the  
38 municipal agency within 10 days of the date of decision to the  
39 applicant, or if represented then to his attorney, without separate  
40 charge, and to all who request **\*[such notice]** *\*a copy of the deci-*  
41 *sion\** for a reasonable fee. A copy of the decision shall *\*also\** be  
42 filed by the municipal agency in the office of the administrative  
43 officer. The administrative officer shall make a copy of such filed  
44 decision available to **\*[members of the public]** *\*any interested*  
45 *party\** for a reasonable fee and available for public inspection at  
45A his office during reasonable hours.

46 i. A brief notice of the decision shall be published in the official  
47 newspaper of the municipality, if there be one, or in a newspaper  
48 of general circulation in the municipality. Such publication shall  
49 be arranged by the applicant unless a particular municipal officer  
50 is so designated by ordinance; provided that nothing contained in  
51 this act shall be construed as preventing the applicant from arrang-  
52 ing such publication if he so desires. The municipality may make a  
53 reasonable charge for its publication. The period of time in which  
54 an appeal of the decision may be made shall run from the first  
55 publication of the decision, whether arranged by the municipality  
56 or the applicant.

57 Source: C. 40:55-1.7 (1953, c. 433, s. 7); C. 40:55-1.40 (1953, c. 434,  
58 s. 11); R. S. 40:55-25; R. S. 40:55-37 (as amended); R. S.  
59 40:55-42.

1 7. **\*[Notice]** *\*Contents of notice\** of hearing **\*[; filing ordi-**  
2 **nances]** *\*on application for development or adoption of master*  
3 *plan\**. Notices **\*[of hearings held by a municipal agency]** pursuant  
4 to section 7.1 and 7.2 of this act shall state the date, time and place  
5 of the hearing, the nature of the matters to be considered and  
6 **\*[if the matter involves particular property or properties]**  
7 *\*in the case of notices pursuant to subsection 7.1 of this act\**, an  
8 identification **\*[thereof]** *\*of the property proposed for develop-*  
9 *ment\** by street address, if any, or by reference to lot and block  
9A numbers as shown on the current tax duplicate in the municipal tax  
9B assessor's office, and the location and times at which any maps  
9C and documents for which approval is sought are available pursuant  
9D to subsection 6 b.

10 *\*7.1. Notice of applications.\** Notice pursuant to subsections a,  
11 b., d., e., f. and g. of this section shall be given by the applicant  
12 unless a particular municipal officer is so designated by ordinance;  
13 provided that nothing contained herein shall prevent the applicant  
14 from giving such notice if he so desires. Notice pursuant to sub-

15 section  
16 days  
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sections a., b., d., e., f. and g. of this section shall be given at least 10 days prior to the date of the hearing.

a. Public notice of a hearing on an application for development shall be given except for (1) conventional site plan review pursuant to section 34 of this act, (2) minor subdivisions pursuant to section 35 of this act or (3) final approval pursuant to section 38 of this act; provided that the governing body may by ordinance require public notice for **\*[all of]\*** such categories of site plan review as may be specified by ordinance; and further provided that public notice shall be given in the event that relief is requested pursuant to section 47 of this act as part of an application for development otherwise excepted herein from public notice. Public notice shall be given by publication in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

b. **\*[Personal notice]\*** *\*Notice\** of a hearing requiring public notice pursuant to subsection a. of this section shall be given to the owners of all real **\*[property]\*** *\*property\** as shown on the current tax duplicate, located within 200 feet in all directions of the property *\*which is\** the subject of such hearing. **\*[Personal notice]\*** *\*Notice\** shall be given by: (1) serving a copy thereof on the property owner as shown on the said current tax duplicate, or his **\*[agency]\*** *\*agent\** in charge of the property, or (2) mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate.

**\*[Personal notice]\*** *\*Notice\** to a partnership owner may be made by service upon any partner. **\*[Personal notice]\*** *\*Notice\** to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized *\*by appointment or by law\** to accept service on behalf of the corporation.

c. Upon the written request of an applicant, the administrative officer of a municipality shall, within 7 days, make and certify a list from said current tax duplicates of **\*[persons]\*** *\*names and addresses of owners\** to whom the applicant is required to give **\*[personal]\*** notice *\*pursuant to subsection b. of this section\**. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any **\*[person]\*** *\*owner\** not on the list shall not invalidate any hearing or proceeding. A sum not to exceed \$10.00 may be charged for such list.

d. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality.

56 e. Notice shall be given by personal service or certified mail to  
 57 the county planning board of a hearing on an application for  
 58 development of property adjacent to an existing county road or  
 59 proposed road shown on the official county map or on the county  
 60 master plan, adjoining other county land or situated within 200  
 61 feet of a municipal boundary.  
 62 f. Notice shall be given by personal service or certified mail to  
 63 the Commissioner of Transportation of a hearing on an applica-  
 64 tion for development of property adjacent to a State highway.  
 65 g. Notice shall be given by personal service or certified mail to  
 66 the director of the division of a hearing on an application for  
 67 development of property which exceeds 150 acres or 500 dwelling  
 68 units. Such notice shall include a copy of any maps or documents  
 69 required to be on file with the municipal clerk pursuant to sub-  
 70 section 6 b. of this act.  
 71 h. The applicant shall file an affidavit of proof of service with  
 72 the municipal agency holding the hearing on the application for  
 73 development in the event that the applicant is required to give  
 74 notice pursuant to this section.  
 75 \***[i. The municipal agency]**\* \*7.2. Notice concerning master  
 75A plan. The planning board\* shall give:  
 76 (1) Public notice of a hearing on adoption, revision or amend-  
 77 ment of \***[a development regulation or public development pro-**  
 78 **posal]**\* \*the master plan\*; such notice shall be given by publication  
 79 in the official newspaper of the municipality, if there be  
 80 one, or in a newspaper of general circulation in the municipality  
 81 at least 10 days prior to the date of the hearing;  
 82 (2) Notice by personal service or certified mail to the clerk of  
 83 an adjoining municipality of all hearings on adoption, revision or  
 84 amendment of a master plan \***[or development regulation]**\*  
 85 involving property situated within 200 feet of such adjoining  
 86 municipality at least 10 days prior to the date of any such hearing;  
 87 (3) Notice by personal service or certified mail to the county  
 88 planning board of (a) all hearings on the adoption, revision or  
 89 amendment of the municipal master plan \***[or any development**  
 90 **regulation]**\* at least 10 days prior to the date of the hearing; such  
 91 notice shall include a copy of any such proposed master plan\*, or  
 92 \***[development regulation,]**\* \*any\* revision or amendment  
 93 \*thereto\*; and (b) the adoption, revision or amendment of \***[a**  
 94 public development proposal or municipal official map]\* \*the  
 95 master plan\* not more than 30 days after the date of such adoption,  
 96 revision or amendment; such notice shall include a copy of \***[such**

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97 public development proposal or municipal official map]\* \*the  
97A master plan\* or revision or amendment thereto.

97B \*7.3. Effect of mailing notice. Any notice made by certified mail  
97C pursuant to sections 7.1 and 7.2 of this act shall be deemed complete  
97D upon mailing.

97E 7.4. Notice of hearing on ordinance or capital improvement pro-  
97F gram: notice of action on capital improvement or official map.

97G a. Notice by personal service or certified mail shall be made to  
97H the clerk of an adjoining municipality of all hearings on the adop-  
97I tion, revision or amendment of a development regulation involving  
97J property situated within 200 feet of such adjoining municipality  
97K at least 10 days prior to the date of any such hearing.

97L b. Notice by personal service or certified mail shall be made to  
97M the county planning board of (1) all hearings on the adoption,  
97N revision or amendment of any development regulation at least 10  
97O days prior to the date of the hearing, and (2) the adoption, revision  
97P or amendment of the municipal capital improvement program or  
97Q municipal official map not more than 30 days after the date of such  
97R adoption, revision or amendment. Any notice provided hereunder  
97S shall include a copy of the proposed development regulation, the  
97T municipal official map or the municipal capital program, or any  
97U proposed revision or amendment thereto, as the case may be.

97V Notice of hearings to be held pursuant to this section shall state  
97W the date, time and place of the hearing and the nature of the matters  
97X to be considered. Any notice by certified mail pursuant to this  
97Y section shall be deemed complete upon mailing.\*

98 \***[i.]**\* \*7.5. Filing of ordinances.\* The zoning, subdivision, site  
99 plan review ordinances or any revision or amendment thereto shall  
100 not take effect until a copy thereof shall be filed with the county  
101 planning board. The secretary of the county planning board shall  
102 within 10 days of the date of receipt of a written request for copies  
103 of any such ordinance make such available to the party so request-  
104 ing with said secretary's certification that said copies are true  
105 copies and that all filed amendments are included. A reasonable  
106 charge may be made by the county planning board for said copies.

107 The official map of the municipality shall not take effect until  
108 \***[recorded]**\* \*filed\* with the county recording officer.

109 Copies of all development regulations and any revisions or  
110 amendments thereto shall be filed and maintained in the office  
111 of the municipal clerk.

112 \* [k. Any notice by certified mail pursuant to this section shall  
113 be deemed complete upon mailing.]\*

114 Source: C. 40:55-1.7 (1953, c. 433, s. 7); C. 40:55-1.36 (1953, c. 433,  
115 s. 7 as amended); R. S. 40:55-34 (as amended); R. S.  
116 40:55-42; R. S. 40:55-44 (as amended); C. 40:55-53 (1968,  
117 c. 162 as amended); C. 40:55-53.1 (1968, c. 70).

1 S. Appeal to the governing body; time; notice; modification;  
2 stay of proceedings.

3 a. Any interested party \*\* [who entered an appearance below and  
4 stated his position which was subject to cross-examination]\*\* may  
5 appeal to the governing body (1) any final decision of a board of  
6 adjustment approving an application for development pursuant to  
7 subsection 57 d. of this act, and (2) if so permitted by ordinance  
8 any other final decision of a board of adjustment or planning board  
9 on any other class of applications for development. Such appeal  
10 shall be made within 10 days of the date of publication of such  
11 final decision pursuant to subsection 6i. In the case of any board  
12 established pursuant to article 10 of this act, the governing body  
13 of the municipality in which the land is situated shall be the  
14 "governing body" for purposes of this section. The appeal to the  
15 governing body shall be made by serving the municipal clerk in  
16 person or by certified mail with a notice of appeal specifying the  
17 grounds thereof and the name and address of the appellant and  
18 name and address of his attorney, if represented. Such appeal  
19 shall be decided by the governing body only upon the record  
20 established before the planning board or board of adjustment.

21 b. Notice of the meeting to review the record below shall be  
22 given by the governing body by personal service or certified mail  
23 to the appellant, to those entitled to notice of a decision pursuant  
24 to subsection 6 h. and to the board from which the appeal is  
25 taken at least 10 days prior to the date of the meeting. The  
26 parties may submit oral and written argument on the record at such  
27 meeting, and the governing body shall provide for verbatim record-  
28 ing and transcripts of such meeting pursuant to subsection 6 f.

29 c. The governing body shall conclude a review of the record  
30 below not later than 45 days from the date of receipt of the tran-  
31 script of the hearing unless the appellant consents in writing to  
32 an extension of such period. The appellant shall arrange for a  
33 transcript pursuant to subsection 6 f., or otherwise, for use by  
34 the governing body. Failure of the governing body to hold a  
35 hearing and conclude a review of the record below and to render

36 a decision within such specified period, without such written consent  
37 of the appellant, shall constitute a decision affirming the action  
38 of the board.

39 d. The governing body may reverse, remand or affirm, wholly  
40 or in part, or may modify the final decision of the planning board  
41 or board of adjustment, as the case may be.

42 e. The affirmative vote of a majority of the full authorized  
43 membership of the governing body shall be necessary to reverse,  
44 remand or modify any final action of either board.

45 f. An appeal to the governing body shall stay all proceedings  
46 in furtherance of the action in respect to which the decision  
47 appealed from was made unless the board from whose action the  
48 appeal is taken certifies to the governing body, after the notice  
49 of appeal shall have been filed with such board, that by reasons  
50 of facts stated in the certificate a stay would, in its opinion, cause  
51 imminent peril to life or property. In such case, proceedings shall  
52 not be stayed other than by an order of the Superior Court on  
53 application upon notice to the board from whom the appeal is  
54 taken and on good cause shown.

55 g. The governing body shall mail a copy of the decision to  
56 the appellant or if represented then to his attorney, without  
57 separate charge, and for a reasonable charge to any \***[person**  
58 **or persons]**\* *interested party*\* who **\*[have]**\* *has*\* requested it,  
59 not later than 10 days after the date of the decision. A brief  
60 notice of the decision shall be published in the official newspaper  
61 of the municipality, if there be one, or in a newspaper of general  
62 circulation in the municipality. Such publication shall be arranged  
63 by the applicant unless a particular municipal officer is so desig-  
64 nated by ordinance; provided that nothing contained herein shall  
65 be construed as preventing the applicant from arranging such  
66 publication if he so desires. The governing body may make a  
67 reasonable charge for its publication. The period of time in  
68 which an appeal to a court of competent jurisdiction may be made  
69 shall run from the first publication, whether arranged by the mu-  
69A nicipality or the applicant.

70 h. Nothing in this act shall be construed to restrict the right  
71 of any party to obtain a review by any court of competent juris-  
72 diction according to law.

73 Source: C. 40:55-1.19 (1953, c. 433, s. 19 as amended); C. 40:55-1.39  
74 (1953, c. 434, s. 10); R. S. 40:55-40; R. S. 40:55-41; R. S. 40:55-43  
75 (as amended); R. S. 40:55-45 (as amended).

1     9. Enforcement. The governing body of a municipality shall  
 2     enforce this act and any ordinance or regulation made and adopted  
 3     hereunder. To that end, the governing body may require the issuance  
 4     of specified permits, certificates or authorizations as a condition  
 5     precedent to (1) the erection, construction, alteration, repair,  
 6     remodeling, conversion, removal or destruction of any building, structure  
 7     or structure, (2) the use or occupancy of any building, structure or  
 8     land, and (3) the subdivision or resubdivision of any land; and  
 9     shall establish an administrative officer and offices for the purpose  
 10    of issuing such permits, certificates or authorizations; and may  
 11    condition the issuance of such permits, certificates and authorizations  
 12    upon the submission of such data, materials, plans, plats and  
 13    information as is authorized hereunder and upon the express  
 14    approval of the appropriate State, county or municipal agency  
 15    and may establish reasonable fees to cover administrative costs  
 16    for the issuance of such permits, certificates and authorizations.  
 17    In case any building or structure is erected, constructed, altered,  
 18    repaired, converted, or maintained, or any building, structure or  
 19    land is used in violation of this act or of any ordinance or other  
 20    regulation made under authority conferred hereby, the proper  
 21    local authorities of the municipality or an interested party, in  
 22    addition to other remedies, may institute any appropriate action  
 23    or proceedings to prevent such unlawful erection, construction,  
 24    reconstruction, alteration, repair, conversion, maintenance or use  
 25    to restrain, correct or abate such violation, to prevent the occupancy  
 26    of said building, structure or land, or to prevent any illegal activity  
 27    conduct, business or use in or about such premises.  
 28    Source: R. S. 40:55-47 (as amended); R. S. 40:55-58.

1     10. Appeal *\*\*or petition\*\** in certain cases to the Board of Public  
 2     Utility Commissioners. If a public utility, as defined in R. S.  
 3     48:2-13, is aggrieved by the action of a municipal agency through  
 4     said agency's exercise of its powers under this act, with respect to  
 5     any action in which the public utility has an interest, an appeal to  
 6     the Board of Public Utility Commissioners of the State of New  
 7     Jersey may be taken within 35 days after such action without appeal  
 8     to the municipal governing body pursuant to section 8 of this act  
 9     unless such public utility so chooses. In such case appeal to the  
 10    Public Utility Commissioners may be taken within 35 days after  
 11    action by the governing body. A hearing on the appeal of a public  
 12    utility to the Public Utility Commissioners shall be had on notice to  
 13    the agency from which the appeal is taken and to all parties primarily  
 14    concerned, all of whom shall be afforded an opportunity to be

13 heard. If, after such hearing, the Board of Public Utility Commis-  
14 sioners shall find that the present or proposed use by the public  
15 utility of the land described in the petition is necessary for the  
16 service, convenience or welfare of the public, the public utility may  
17 proceed in accordance with such decision of the Board of Public  
18 Utility Commissioners, any ordinance or regulation made under  
19 the authority of this act notwithstanding.

20a *\*\*This act or any ordinance or regulation made under authority  
21 thereof, shall not apply to a development proposed by a public  
22 utility for installation in more than one municipality for the  
23 furnishing of service, if upon a petition of the public utility, the  
24 Board of Public Utility Commissioners shall after hearing, of which  
25 any municipalities affected shall have notice, decide the proposed  
26 installation of the development in question is reasonably necessary  
27 for the service, convenience or welfare of the public.\*\**

28 Nothing in this act shall be construed to restrict the right of any  
29 interested *\*[person]\* \*party\** to obtain a review of the action of  
30 the municipal agency or of the Board of Public Utility Commis-  
31 sioners by any court of competent jurisdiction according to law.  
32 Source: C. 40:55-1.19 (1953, c. 433, s. 19 as amended); R. S.  
33 40:55-50.

34 11. Exclusive authority of planning board and board of adjust-  
35 ment. Any power expressly authorized by this act to be exercised  
36 by (1) planning board or (2) board of adjustment shall not be  
37 exercised by any other body\*, *except as otherwise provided in this  
38 act\*.*

39 Source: New.

40 12. Tolling of running of period of approval. In the event that,  
41 during the period of approval heretofore or hereafter granted to  
42 an application for development, the developer is barred or pre-  
43 vented, directly or indirectly, from proceeding with the develop-  
44 ment otherwise permitted under such approval by a legal action  
45 instituted by any State agency, political subdivision or other party  
46 to protect the public health and welfare or by a directive or order  
47 issued by any State agency, political subdivision or court of compe-  
48 tent jurisdiction to protect the public health or welfare and the  
49 developer is otherwise ready, willing and able to proceed with  
50 said development, the running of the period of approval under this  
51 act or under any act repealed by this act, as the case may be, shall  
52 be suspended for the period of time said legal action is pending or  
53 such directive or order is in effect.

54 Source: C. 40:55-1.18a (1970, c. 64).



1 13. Conditional approvals. a. In the event that a developer  
 2 submits an application for development proposing a development  
 3 that is barred or prevented, directly or indirectly, by a legal action  
 4 instituted by any State agency, political subdivision or other party  
 5 to protect the public health and welfare or by a directive or order  
 6 issued by any State agency, political subdivision or court of com-  
 7 petent jurisdiction to protect the public health and welfare, the  
 8 municipal agency shall process such application for development  
 9 in accordance with this act and municipal development regulations,  
 10 and, if such application for development complies with municipal  
 11 development regulations, the municipal agency shall approve such  
 12 application conditioned on removal of such legal barrier to  
 13 development.  
 14 b. In the event that development proposed by an application for  
 15 development requires an approval by a governmental agency other  
 16 than the municipal agency, the municipal agency shall, in appro-  
 17 priate instances, condition its approval upon the subsequent ap-  
 18 proval of such governmental agency; provided that the municipal  
 19 ity shall make a decision on any application for development within  
 20 the time period provided in this act or within an extension of such  
 21 period as has been agreed to by the applicant unless the municipal  
 22 agency is prevented or relieved from so acting by the operation  
 23 of law.  
 24 Source: C. 40:55-1.18a (1970, c. 64).

ARTICLE 2  
 MUNICIPAL PLANNING BOARD

1 14. Planning board membership. a. The governing body may,  
 2 by ordinance, create a planning board of seven or nine members.  
 3 The membership shall consist of, for convenience in designating  
 4 the manner of appointment, the four following classes:  
 5 Class I—the mayor *\*\* or, in the case of the council-manager form*  
 5A *of government pursuant to the "Optional Municipal Charter Law,"*  
 5B *P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or "The Municipal Manager*  
 5C *Form of Government Law" (Subtitle 5 of Title 40 of the Revised*  
 5D *Statutes), the manager, if so provided by the aforesaid ordinance\*\*.*  
 6 Class II—one of the officials of the municipality other than a  
 7 member of the governing body, to be appointed by the mayor;  
 8 provided that if there be an environmental commission, the member  
 9 of the environmental commission who is also a member of the  
 10 planning board as required by section 1 of P. L. 1968, c. 245

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11 (C. 40:56A-1), shall be deemed to be the Class II planning board  
12 member for purposes of this act *\*\*in the event that there be among*  
12A *the Class IV members of the planning board both a member of the*  
12B *zoning board of adjustment and a member of the board of educa-*  
12C *tion\*\*.*

13 Class III—a member of the governing body to be appointed  
14 by it, except that no member for Class III shall be appointed to  
15 the planning board if the governing body consists of only three  
16 members.

17 Class IV—other citizens of the municipality<sup>\*\*</sup> to be appointed  
18 by the mayor *\*\*or, in the case of the council-manager form of*  
18A *government pursuant to the "Optional Municipal Charter Law,"*  
18B *P. L. 1950, c. 210 (C. 40:69A-1 et seq.) or "The Municipal Manager*  
18C *Form of Government Law" (Subtitle 5 of Title 40 of the Revised*  
18D *Statutes), by the council, if so provided by the aforesaid ordi-*  
18E *nance\*\*.*

19 The members of Class IV shall hold no other municipal office,  
20 except that in the case of nine-member boards, one such member  
21 may be a member of the zoning board of adjustment. No member of  
22 the board of education may be a Class IV member of the planning  
23 board, except that in the case of a nine-member board, one Class  
24 IV member may be a member of the board of education. *\*\*If there*  
24A *be a municipal environmental commission, the member of the en-*  
24B *vironmental commission who is also a member of the planning board,*  
24C *as required by section 1 of P. L. 1968, c. 245 (C. 40:56A-1), shall be*  
24D *a Class IV planning board member, unless there be among the Class*  
24E *IV members of the planning board both a member of the zoning*  
24F *board of adjustment and a member of the board of education, in*  
24G *which case the member common to the planning board and municipi-*  
24H *pal environmental commission shall be deemed a Class II member*  
24I *of the planning board.\*\**

25 b. The term of the member composing Class I shall correspond  
26 to his official tenure. The terms of the members composing Class  
27 II and Class III shall be for 1 year or terminate at the completion  
28 of their respective terms of office, whichever occurs first except  
29 for a Class II member who is also a member of the environmental  
30 commission. The term of a Class II *\*\*or Class IV\*\** member who  
31 is also a member of the environmental commission shall be for 3  
32 years or terminate at the completion of his term of office as a mem-  
33 ber of the environmental commission, whichever occurs first. The  
34 term of a Class IV member who is also a member of the board of

35 adjustment, or board of education shall terminate whenever he  
36 no longer a member of such other body or at the completion of his  
37 Class IV term, whichever occurs first. The terms of all Class IV  
38 members first appointed under this act shall be so determined that  
39 to the greatest practicable extent the expiration of such terms shall  
40 be distributed evenly over the first 4 years after their appointment  
41 provided that the initial Class IV term of no member shall exceed  
42 4 years. Thereafter, the Class IV term of each such member shall  
43 be 4 years. If a vacancy in any class shall occur otherwise than by  
44 expiration of the planning board term, it shall be filled by appoint-  
45 ment, as above provided, for the unexpired term. \*No member  
46 of the planning board shall be permitted to act on any matter in  
47 which he has, either directly or indirectly, any personal or financial  
47A interest.\* Any member \*other than a Class I member\*, after a  
47B public hearing if he requests one, may be removed by the govern-  
47C ing body for cause.

48 c. When any hearing before a planning board shall carry over  
49 two or more meetings, a member of the board who was absent for  
50 one or more of the meetings, shall be eligible to vote on the matter  
51 upon which the hearing was conducted, notwithstanding his absence  
52 from one or more of the meetings; provided, however, that such  
53 board member has available to him a transcript or recording of  
54 the meeting from which he was absent, and certifies in writing to  
55 the board that he has read such transcript or listened to such  
56 recording.

57 Source: C. 40:55-1.4 (1953, c. 433, s. 4 as amended).

1 15. Organization of planning board. The planning board shall  
2 elect a chairman and vice chairman from the members of Class IV,  
3 select a secretary who may or may not be a member of the planning  
4 board or a municipal employee, and create and fill such other  
5 offices as established by ordinance. It may employ, or contract for,  
6 and fix the compensation of legal counsel, other than the municipal  
7 attorney, and experts, and other staff and services as it may deem  
8 necessary, not exceeding, exclusive of gifts or grants, the amount  
9 appropriated by the governing body for its use.

10 Source: C. 40:55-1.5 (1953, c. 433, s. 5); C. 40:55-1.6 (1953, c. 433,  
11 s. 6).

1 16. Powers of planning board. a. The planning board shall  
2 follow the provisions of this act and shall accordingly exercise its  
3 power in regard to:

4 (1) The master plan pursuant to article 3;

(2) Subdivision control and site plan review pursuant to article

6: (3) The official map pursuant to article 5;

(4) The zoning ordinance including conditional uses pursuant to article 8;

(5) The capital improvements program pursuant to article 4;

(6) Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to article 7.

b. The planning board may:

(1) Participate in the preparation and review of programs or plans required by State or Federal law or regulation;

(2) Assemble data on a continuing basis as part of a continuous planning process; and

(3) Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

Source: C. 40:55-1.10 (1953, c. 433, s. 10 as amended); C. 40:55-1.13

(1953, c. 433, s. 13); C. 40:55-1.14 (1953, c. 433, s. 14 as amended);

C. 40:55-1.18 (1953, c. 433, s. 18 as amended); C. 40:55-1.35

(1953, c. 434, s. 6); R. S. 40:55-35 (as amended).

17. Referral powers. a. Prior to the adoption of a development regulation, revision, or amendment thereto, the planning board shall make and transmit to the governing body, within 35 days after referral a report including recommendations concerning the proposed development regulation, revision or amendment. The governing body, when considering the adoption of a development regulation, revision or amendment thereto, shall review the report of the planning board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following such recommendations. Failure of the planning board to transmit its report within the 35-day period provided herein shall relieve the governing body from the requirements of this subsection in regard to the proposed development regulation, revision or amendment thereto referred to the planning board.

b. The governing body may by ordinance provide for the reference of any matter or class of matters to the planning board before final action thereon by a municipal body or municipal officer having final authority thereon. Such reference shall not extend the time for action by the referring body, whether or not the planning board has submitted its report. Whenever the planning board

22 shall have made a recommendation regarding a matter authorized  
23 by this act to another municipal body, such recommendation  
24 be rejected only by a majority of the full authorized members  
25 of such other body.

26 Source: C. 40:55-1.13 (1953, c. 433, s. 13).

1 18. Citizens advisory committee; environmental commission  
2 a. After the appointment of a planning board, the mayor may  
3 appoint one or more persons as a citizens' advisory committee  
4 assist or collaborate with the planning board in its duties, but  
5 such person or persons shall have no power to vote or take other  
6 action required of the board. Such person or persons shall serve  
7 at the pleasure of the mayor.

8 b. Whenever the environmental commission has prepared a  
9 submitted to the planning board an index of the natural resources  
10 of the municipality, the planning board shall make available to  
11 the environmental commission an informational copy of every  
12 application for development submitted to the planning board.  
13 Failure of the planning board to make such informational copy  
14 available to the environmental commission shall not invalidate any  
15 hearing or proceeding.

16 Source: C. 40:55-1.9 (1953, c. 433, s. 9).

### ARTICLE 3

#### MASTER PLAN

1 19. Preparation; contents; modification. a. The planning board  
2 may prepare and, after public hearing adopt or amend a master  
3 plan, or component parts thereof, to guide the use of lands within  
4 the municipality in a manner which protects public health and  
5 safety and promotes the general welfare.

6 b. The master plan shall generally comprise a report or state-  
7 ment and land use and development proposals, with maps, dia-  
8 grams and text, presenting where appropriate, the following  
9 elements:

10 (1) A statement of objectives, principles, assumptions, policies  
11 and standards upon which the constituent proposals for the physi-  
12 cal, economic and social development of the municipality are based.

13 (2) A land use plan element (a) taking into account the other  
14 master plan elements and natural conditions, including, but not  
15 necessarily limited to, topography, soil conditions, water supply,  
16 drainage, flood plain areas, marshes, and woodlands. (b) showing  
17 the existing and proposed location, extent and intensity of develop-

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18 ment of land to be used in the future for varying types of resi-  
19 dential, commercial, industrial, agricultural, recreational, educa-  
20 tional and other public and private purposes or combination of  
21 purposes, and (c) including a statement of the standards of popula-  
22 tion density and development intensity recommended for the  
23 municipality.

24 (3) A housing plan element, including but not limited to, residen-  
25 tial standards and proposals for the construction and improvement  
26 of housing;

27 (4) A circulation plan element showing the location and types  
28 of facilities for all modes of transportation required for the efficient  
29 movement of people and goods into, about, and through the  
30 municipality;

31 (5) A utility service plan element analyzing the need for and  
32 showing the future general location of water supply and distribu-  
33 tion facilities, drainage and flood control facilities, sewerage and  
34 waste treatment, solid waste disposal and provision for other  
35 related utilities;

36 (6) A community facilities plan element showing the location  
37 and type of educational or cultural facilities, historic sites, libraries,  
38 hospitals, fire houses, police stations and other related facilities,  
39 including their relation to the surrounding areas;

40 (7) A recreation plan element showing a comprehensive system  
41 of areas and public sites for recreation; and

42 (8) A conservation plan element providing for the preservation,  
43 conservation, and utilization of natural resources, including, to  
44 the extent appropriate, open space, water, forests, soil, marshes,  
45 wetlands, harbors, rivers and other waters, fisheries, wildlife and  
46 other natural resources; and

47 (9) Appendices or separate reports containing the technical  
48 foundation for the master plan and its constituent elements.

49 c. The master plan and its plan elements may be divided into  
50 subplans and subplan elements projected according to periods of  
51 time or staging sequences.

52 d. The master plan shall include a specific policy statement indi-  
53 cating the relationship of the proposed development of the munici-  
54 pality as developed in the master plan to (1) the master plans of  
55 contiguous municipalities, (2) the master plan of the county in  
56 which the municipality is located and (3) any comprehensive guide  
57 plan pursuant to section 15 of P. L. 1961, c. 47 (C. 13:1B-15.52).

58 Source: C. 40:55-1.10 (1953, c. 433, s. 10 as amended); C. 40:55-1.11  
59 (1953, c. 433, s. 11 as amended); C. 40:55-1.12 (1953,  
60 c. 433, s. 12).

ARTICLE 4

CAPITAL IMPROVEMENTS PROGRAM AND PROJECT REVIEW

1 20. Preparation of capital improvement program. a. The governing body may authorize the planning board from time to time to prepare a program of municipal capital improvement projected over a term of at least 6 years, and amendments thereto. Such program may encompass major projects being currently undertaken or future projects to be undertaken, with Federal, State, county and other public funds or under Federal, State or county supervision. The first year of such program shall, upon adoption by the governing body, constitute the capital budget of the municipality as required by N. J. S. 40A:4-43 et seq. The program shall classify projects in regard to the urgency and need for realization, and shall recommend a time sequence for their implementation. The program may also contain the estimated cost of each project and indicate probable operating and maintenance costs and probable revenues, if any, as well as existing sources of funds or the need for additional sources of funds for the implementation and operation of each project. The program shall, as far as possible, be based on existing information in the possession of the departments and agencies of the municipality and shall take into account public facility needs indicated by the prospective development shown in the master plan of the municipality or as permitted by other municipal land use controls.

23 In preparing the program, the planning board shall confer, in a manner deemed appropriate by the board, with the mayor, the chief fiscal officer, other municipal officials and agencies, and the school board or boards.

27 Any such program shall include an estimate of the displacement of persons and establishments caused by each recommended project.

29 b. In addition to any of the requirements in subsection a. of this section, whenever the planning board is authorized and directed to prepare a capital improvements program, every municipal department, authority or agency shall, upon request of the planning board, transmit to said board a statement of all capital projects proposed to be undertaken by such municipal department, authority or agency, during the term of the program, for study and advice and recommendation by the planning board.

37 Source: C. 40:55-1.13 (1953, c. 433, s. 13).

1 21. Adoption of capital improvement program. Whenever the planning board has prepared a capital improvement program

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suant to section 20 of this act, it shall recommend such program to the governing body which may adopt such program with any modification approved by affirmative vote of a majority of the full authorized membership of the governing body and with the reasons for said modification recorded in the minutes.  
Source: New.

22. Review of capital projects. Whenever the planning board shall have adopted any portion of the master plan, the governing body or other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds, incidental to the location, character or extent of such project, shall refer the action involving such specific project to the planning board for review and recommendation in conjunction with such master plan and shall not act thereon, without such recommendation or until 45 days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district, or other authority, redevelopment agency, school board or other similar public agency, State, county or municipal.

Source: C. 40:55-1.13 (1953, c. 433, s. 13).

## ARTICLE 5

### THE OFFICIAL MAP

23. Establish an official map. The governing body may by ordinance adopt or amend an official map of the municipality, which shall reflect the appropriate provisions of any municipal master plan; \***[subject to modifications by]**\* *\*provided that\** the governing body *\*may adopt an official map or an amendment or revision thereto which, in whole or in part, is inconsistent with the appropriate designations in the subplan elements of the master plan, but only\** by the affirmative vote of a majority of its full authorized membership with *\*the\** reasons for **[said modifications]** *\*so acting\** recorded in the minutes when adopting the official map. Prior to the hearing on the adoption of any official map or any amendment thereto, the governing body shall refer the proposed official map or amendment to the planning board pursuant to subsection 17 a. of this act.

The official map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence. Upon receiving an



16 application for development, the municipality may reserve for  
17 future public use, the aforesaid streets, ways, basins, and areas  
18 in the manner provided in section 32.

19 Source: C. 40:55-1.32 (1953, c. 434, s. 3 as amended); C. 40:55-1.33  
20 (1953, c. 434, s. 5); C. 40:55-1.35 (1953, c. 434, s. 6).

1 24. Change or addition to map. The approval by the municipality  
2 by ordinance under the provisions of any law other than a  
3 contained in this **[act]** *article* of the layout, widening, changing  
4 the course of or closing of any street, or the widening, changing  
5 the course of any public drainage way or changing the  
6 boundaries of a flood control basin or public area **[shall be in the**  
7 form of an amendment to the official map and **]** *shall be subject*  
7A to **[all the]** *relevant* provisions of this act.

8 Source: C. 40:55-1.34 (1953, c. 434, s. 5); C. 40:55-1.37 (1953,  
9 c. 434, s. 8).

1 25. Issuance of permits for buildings or structures. For purpose  
2 of preserving the integrity of the official map of a municipality,  
3 no permit shall be issued for any building or structure in the bed  
4 of any street or public drainage way, flood control basin or public  
5 area reserved pursuant to section 23 hereof as shown on the official  
6 map, or shown on a plat filed pursuant to this act before adoption  
7 of the official map, except as herein provided. Whenever one or  
8 more parcels of land, upon which is located the bed of such a  
9 mapped street or public drainage way, flood control basin or  
10 public area reserved pursuant to section 23 hereof, cannot yield  
11 a reasonable return to the owner unless a building permit is  
12 granted, the board of adjustment, in any municipality which has  
13 established such a board, may, in a specific case, by an affirmative  
14 vote of a majority of the full authorized membership of the board,  
15 direct the issuance of a permit for a building or structure in the  
16 bed of such mapped street or public drainage way or flood control  
17 basin or public area reserved pursuant to section 23 hereof, which  
18 will as little as practicable increase the cost of opening such street,  
19 or tend to cause a minimum change of the official map and the  
20 board shall impose reasonable requirements as a condition of granting  
21 the permit so as to promote the health, morals, safety and general  
22 welfare of the public. Sections 59 through 62 of this act shall  
23 apply to applications or appeals pursuant to this section. In any  
24 municipality in which there is no board of adjustment, the planning  
25 board shall have the same powers and be subject to the same  
26 restrictions as provided in this section.

27 Source: C. 40:55-1.38 (1953, c. 434, s. 9 as amended).

26. Building lot to abut street. No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall have been duly placed on the official map or shall be (1) an existing State, county or municipal street or highway, or (2) a street shown upon a plat approved by the planning board, or (3) a street on a plat duly filed in the office of the county recording officer prior to the passage of an ordinance under this act or any prior law which required prior approval of plats by the governing body or other authorized body. Before any such permit shall be issued, such street shall have been certified to be suitably improved to the satisfaction of the governing body, or such suitable improvement shall have been assured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the governing body, as adequate in respect to the public health, safety and general welfare of the special circumstance of the particular street.

Source: C. 40:55-1.39 (1953, c. 434, s. 10).

27. Appeals. Where the enforcement of section 26 hereof would entail practical difficulty or unnecessary hardship, or where the circumstances of the case do not require the building or structure to be related to a street, the board of adjustment may upon application or appeal, vary the application of section 26 of this act and direct the issuance of a permit subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the official map or on a general circulation plan element of the municipal master plan pursuant to paragraph (4) of subsection 19 b.

Sections 59 through 62 of this act shall apply to applications or appeals pursuant to this section. In any municipality in which there is no board of adjustment, the planning board shall have the same powers and be subject to the same restrictions as provided in this section.

Source: C. 40:55-1.40 (1953, c. 434, s. 11).

## ARTICLE 6

### SUBDIVISION AND SITE PLAN REVIEW AND APPROVAL

28. Grant of power; referral of proposed ordinance; county planning board approval. a. The governing body may by ordi-

3 nance require approval of subdivision plats by resolution of the  
 4 planning board as a condition **\*[precedent]\*** for the filing of such  
 5 plats with the county recording officer and approval of site plans  
 6 by resolution of the planning board as *\*a condition for the issuance*  
 7 *of\** a permit for any development\*,\* except **\*[for]\*** *\*that\** sub-  
 8 division or individual lot applications for *\*detached\** one or two  
 8A dwelling-unit buildings **\*[which]\*** shall be exempt from such site  
 9 plan review and approval; provided that the resolution of the board  
 10 of adjustment shall substitute for that of the planning board  
 11 whenever the board of adjustment has jurisdiction over a sub-  
 12 division or site plan pursuant to subsection 63 b. of this act. 25  
 13 b. Prior to the hearing on adoption of an ordinance providing  
 14 for planning board approval of either subdivisions or site plans  
 15 or both or any amendment thereto, the governing body shall refer  
 16 any such proposed ordinance or amendment thereto to the plan-  
 17 ning board pursuant to subsection 17 a. of this act. 30  
 18 c. Each application for subdivision approval, where required  
 19 pursuant to section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), and each  
 20 application for site plan approval, where required pursuant to  
 21 section 8 of P. L. 1968, c. 285 (C. 40:27-6.6) shall be submitted by  
 22 the applicant to the county planning board for review or approval  
 23 as required by the aforesaid sections, and the municipal planning  
 24 board shall condition any approval that it grants upon timely  
 25 receipt of a favorable report on the application by the county  
 26 planning board or approval by the county planning board by its  
 27 failure to report thereon within the required time period. 40  
 28 Source: C. 40:55-1.13 (1953, c. 433, s. 13); C. 40:55-1.14 (1953,  
 29 e. 433, s. 14 as amended); C. 40:55-1.17 (1953, c. 433, s. 17). 42  
 1 29. Contents of ordinance. **\*[a.]\*** An ordinance requiring ap- 43  
 2 proval by the planning board of either subdivisions or site plans 44  
 3 or both shall include **\*[pursuant to paragraphs (1) through (5)]\*** 45  
 4 of this subsection and may include pursuant to paragraphs (6) 46  
 5 through (9) of this subsection,**]**\* the following: 47  
 6 **\*[(1)]\*** *\*a.\** Provisions, not inconsistent with other provisions 48  
 7 of this act, for submission and processing of applications for de- 49  
 8 velopment, including standards for preliminary and final approval 50  
 9 and provisions for processing of final approval by stages or sec- 51  
 10 tions of development; 52  
 11 **\*[(2)]\*** *\*b.\** Provisions ensuring: 53  
 12 **\*[(a)]\*** *\* (1) \** Consistency of the layout or arrangement of 54  
 13 the subdivision or land development with the requirements of 55  
 14 the zoning ordinance; 56  
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\*[(b)]\* \*(2)\* Streets in the subdivision or land develop-  
ment of sufficient width and suitable grade and suitably  
located to accommodate prospective traffic and to provide  
access for firefighting and emergency equipment to buildings  
and coordinated so as to compose a convenient system con-  
sistent with the official map, if any, and the circulation element  
of the master plan, if any; provided that no street of a width  
greater than 50 feet within the right-of-way lines shall be  
required unless said street constitutes an extension of an  
existing street of the greater width or already has been shown  
on the master plan at the greater width, or already has been  
shown in greater width on the official map;

\*[(c)]\* \*(3)\* Adequate water supply, drainage, shade  
trees, sewerage facilities and other utilities necessary for  
essential services to residents *and occupants*;

\*[(d)]\* \*(4)\* Suitable size, shape and location for any area  
reserved for public use pursuant to section 32 of this act;

\*[(e)]\* \*(5)\* Reservation pursuant to section 31 of this act  
of any open space to be set aside for use and benefit of the  
residents of planned development resulting from the applica-  
tion of standards of density or intensity of land used contained  
in the zoning ordinance pursuant to subsection 52 e. of this act;

\*[(f)]\* \*(6)\* Regulation of land designated as subject to  
flooding pursuant to subsection 52 e. to avoid danger to life or  
property; and

\*[(g)]\* \*(7)\* Protection and conservation of soils from  
erosion by wind or water or from excavation or grading;

\*[(3)]\* \*c.\* Provisions governing the standards for grading,  
improvement and construction of streets or drives and for any  
required walkways, curbs, gutters, street lights, shade trees, fire  
hydrants and water, and drainage and sewerage facilities and other  
improvements as shall be found necessary and provisions ensur-  
ing that such facilities shall be completed either prior to or sub-  
sequent to final approval of the subdivision or site plan;

\*[(4)]\* \*d.\* Provisions ensuring that when a municipal zoning  
ordinance is in effect, a subdivision or site plan shall conform to the  
applicable provisions of the zoning ordinance, and where there  
is no zoning ordinance, appropriate standards shall be specified  
in an ordinance pursuant to this article; *and*\*

\*[(5)]\* \*e.\* Provisions ensuring performance in substantial  
accordance with the final development plan; provided that the  
planning board may permit a deviation from the final plan if caused  
by change of conditions beyond the control of the developer since

58 the date of final approval, and the deviation would not substantially  
59 alter the character of the development or substantially impair  
60 intent and purpose of the master plan and zoning ordinance.  
60A nance\***[( )]**\* \* \* \* \*

60B \*29.1. Discretionary contents of ordinance. An ordinance  
60C requiring approval by the planning board of either subdivisions  
60D site plans or both may include the following:\*

61 \***[(6)]**\* \*a.\* Provisions for off-tract water, sewer, drainage,  
62 street improvements which are necessitated by a subdivision  
63 land development, subject to the provisions of section 30;

64 \***[(7)]**\* \*b.\* Provisions for standards encouraging and promoting  
65 flexibility, and economy in layout and design through the use of  
66 planned unit development, planned unit residential development  
67 and residential cluster; provided that such standards shall be  
68 appropriate to the type of development permitted; and provided  
69 further that the ordinance shall set forth the limits and extent of  
70 any special provisions applicable to such planned developments  
71 so that the manner in which such special provisions differ from the  
72 standards otherwise applicable to subdivisions or site plans can  
73 be determined;

74 \***[(8)]**\* \*c.\* Provisions for planned \***[(unit)]**\* development  
75 planned unit residential development and residential cluster\*:

76 \***[(a)]**\* \*(1)\* Setting forth any variations from the ordinary  
77 nary standards for preliminary and final approval to provide  
78 the increased flexibility desirable to promote mutual agree-  
79 ment between the applicant and the planning board on the  
80 basic scheme of a planned development at the stage of pre-  
81 liminary approval;

82 \***[(b)]**\* \*(2)\* Requiring that any common open space  
83 resulting from the application of standards for density, or  
84 intensity of land use, be set aside for the use and benefit of the  
85 owners or residents in such development subject to section 31  
85A of this act;

86 \***[(c)]**\* \*(3)\* Setting forth how the amount and location of  
87 any common open space shall be determined and how its im-  
88 provement and maintenance for common open space use shall  
89 be secured subject to section 31 of this act;

90 \***[(d)]**\* \*(4)\* Authorizing the planning board to allow for a  
91 greater concentration of density, or intensity of land use  
92 within a section or sections of development, whether it be  
93 earlier, later or simultaneous in the development, than in  
93A others;

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\*[(e)]\* \*(5)\* Setting forth any requirement that the approval by the planning board of a greater concentration of density or intensity of land use for any section to be developed be offset by a smaller concentration in any completed prior stage or by an appropriate reservation of common open space on the remaining land by grant of easement or by covenant in favor of the municipality; provided that such reservation shall, as far as practicable, defer the precise location of common open space until an application for final approval is filed, so that flexibility of development can be maintained;

\*[(f)]\* \*(6)\* Setting forth any requirements for timing of development among the various types of uses and subgroups thereunder and, in the case of planned unit development and planned unit residential development, whether some nonresidential uses are required to be built before, after or at the same time as the residential uses.

\*[(9)]\* \*d.\* Provisions ensuring in the case of a development which proposes construction over a period of years, the protection of the interests of the public and of the residents\*, occupants\* and owners of the proposed development in the total completion of the development.

\*\*e. Provisions that require as a condition for local municipal approval the submission of proof that no taxes or assessments for local improvements are due or delinquent on the property for which any subdivision, site plan, or planned development application is made.

f. Provisions for the creation of a Site Plan Review Advisory Board for the purpose of reviewing all site plan applications and making recommendations to the planning board in regard thereto.\*\*

\*[b.]\* \*29.2. Discretionary contents of subdivision ordinance.\* An ordinance requiring subdivision approval by the planning board pursuant to this article may *also* include:

\*[(1)]\* \*a.\* Provisions for minor subdivision approval pursuant to section 35 of this act; and

\*[(2)]\* \*b.\* Standards encouraging and promoting flexibility, economy and environmental soundness in layout and design in accordance with which the planning board may approve the varying, within a conventional subdivision, of lot areas and dimensions, and yards and setbacks otherwise required by municipal development regulations in such a way that the average lot areas and dimensions, yards and setbacks within the subdivision conform to the conventional norms of the municipal development regulations; pro-

126 vided that such standards shall be appropriate to the type of de  
127 velopment permitted.

128 \***[c.]**\* \*29.3. Contents of site plan ordinance.\* An ordinance  
129 requiring site plan review and approval pursuant to this article  
130 shall include and shall be limited to, except as provided in \***[s]**  
131 section a. of this section]\*, \*sections 29 and 29.1 of this act  
131A standards and requirements relating to:

132 \***[(1)]**\* \*a.\* Preservation of existing natural resources on the  
132A site;

133 \***[(2)]**\* \*b.\* Safe and efficient vehicular and pedestrian circula  
134 tion, parking and loading;

135 \***[(3)]**\* \*c.\* Screening, landscaping and location of structures  
135A and

136 \***[(4)]**\* \*d.\* Exterior lighting needed for safety reasons in ad  
137 dition to any requirements for street lighting.

138 Source: C. 40:55-1.15 (1953, c. 433, s. 15); C. 40:55-1.20 (1953,  
139 c. 433, s. 20); C. 40:55-1.21 (1953, c. 433, s. 21 as amended);  
140 C. 40:55-1.32 (1953, c. 434, s. 3 as amended); C. 40:55-55 (1967,  
141 c. 61, s. 1); C. 40:55-56 (1967, c. 61, s. 2); C. 40:55-57 (1967, c. 61,  
142 s. 3 as amended); C. 40:55-58 (1967, c. 61, s. 3); (C. 40:55-59  
143 (1967, c. 61, s. 4).

1 30. Contribution for off-tract water, sewer, drainage, and street  
2 improvements. The governing body may by ordinance adopt  
3 regulations requiring a developer, as a condition for approval  
4 of a subdivision or site plan, to pay his pro-rata share of the  
5 cost of providing only reasonable and necessary street improve-  
6 ments and water, sewerage and drainage facilities, and easements  
7 therefor, located outside the property limits of the subdivision  
8 or development but necessitated or required by construction or  
9 improvements within such subdivision or development. Such  
10 regulations shall be based on circulation and comprehensive utility  
11 service plans pursuant to subsections 19 b. (4) and 19 b. (5) of  
12 this act, respectively, and shall establish fair and reasonable  
13 standards to determine the proportionate or pro-rata amount of  
14 the cost of such facilities that shall be borne by each developer  
15 or owner within a related and common area, which standards  
16 shall not be altered subsequent to preliminary approval. Where  
17 a developer pays the amount determined as his pro-rata share  
18 under protest he shall institute legal action within 1 year of such  
19 payment in order to preserve the right to a judicial determination  
20 as to the fairness and reasonableness of such amount.

21 \***[Source: C. 40:55-1.21 (1953, c. 433, s. 21 as amended); R. S.  
22 40:55-27.]**\* \*New.\*

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31. Standards for the establishment of open space organization.  
a. An ordinance pursuant to this article permitting planned unit development, planned unit residential development or residential cluster may provide that the municipality or other governmental agency may, at any time and from time to time, accept the dedication of land or any interest therein for public use and maintenance, but the ordinance shall not require, as a condition of the approval of a planned development, that land proposed to be set aside for common open space be dedicated or made available to public use.

An ordinance pursuant to this article providing for planned unit development, planned unit residential development, or residential cluster shall require that the developer provide for an organization for the ownership and maintenance of any open space for the benefit of owners or residents of the development, if said open space is not dedicated to the municipality or other governmental agency. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space for the benefit of such development, and thereafter such organization shall not be dissolved or dispose of any of its open space without first offering to dedicate the same to the municipality or municipalities wherein the land is located.

b. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the municipal body or officer designated by ordinance to administer this subsection may serve written notice upon such organization or upon the owners of the development setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof, and shall state the date and place of a hearing thereon which shall be held within 15 days of the notice. At such hearing, the designated municipal body or officer, as the case may be, may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time not to exceed 65 days within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 35 days or any permitted extension thereof, the municipality, in order to preserve the open space and maintain the same for a period of 1 year may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year,



44 the designated municipal body or officer, as the case may be, shall  
45 upon its initiative or upon the request of the organization there-  
46 fore responsible for the maintenance of the open space, call  
47 public hearing upon 15 days written notice to such organization  
48 and to the owners of the development, to be held by such organiza-  
49 body or officer, at which hearing such organization and the owner  
50 of the development shall show cause why such maintenance by the  
51 municipality shall not, at the election of the municipality, continue  
52 for a succeeding year. If the designated municipal body or officer,  
53 as the case may be, shall determine that such organization is ready  
54 and able to maintain said open space in reasonable condition, the  
55 municipality shall cease to maintain said open space at the end  
56 of said year. If the municipal body or officer, as the case may be,  
57 shall determine such organization is not ready and able to maintain  
58 said open space in a reasonable condition, the municipality may  
59 in its discretion, continue to maintain said open space during the  
60 next succeeding year, subject to a similar hearing and determination  
61 tion, in each year thereafter. The decision of the municipal body  
62 or officer in any such case shall constitute a final administrative  
63 decision subject to judicial review.

64 If a municipal body or officer is not designated by ordinance to  
65 administer this subsection, the governing body shall have the same  
66 powers and be subject to the same restrictions as provided in this  
67 subsection.

68 c. The cost of such maintenance by the municipality shall be  
69 assessed pro rata against the properties within the development  
70 that have a right of enjoyment of the open space in accordance  
71 with assessed value at the time of imposition of the lien, and shall  
72 become a lien and tax on said properties and be added to and be  
73 a part of the taxes to be levied and assessed thereon, and enforced  
74 and collected with interest by the same officers and in the same  
75 manner as other taxes.

76 Source: C. 40:55-57(c) (1967, c. 61, s. 3(c) as amended).

1 32. Reservation of public areas. If the master plan or the official  
2 map provides for the reservation of designated streets, public  
3 drainageways, flood control basins, or public areas within the  
4 proposed development, before approving a subdivision or site plan  
5 the planning board may further require that such streets, ways,  
6 basins or areas be shown \***[or]**\* \*on\* the plat in locations and sizes  
7 suitable to their intended uses. The planning board may reserve  
8 the location and extent of such streets, ways, basins or areas shown  
9 on the plat for a period of 1 year after the approval of the final

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10 plat or within such further time as may be agreed to by the  
11 developer. Unless during such period or extension thereof the  
12 municipality shall have entered into a contract to purchase or  
13 institute condemnation proceedings according to law for the fee  
14 or a lesser interest in the land comprising such streets, ways, basins  
15 or areas, the developer shall not be bound by such reservations  
16 shown on the plat and may proceed to use such land for private  
17 use in accordance with applicable development regulations.  
18 **[This]** \*The\* **[provision]** \*provisions of this section\* shall not  
19 apply to the streets and roads, flood control basins or public drain-  
20 ageways necessitated by the subdivision or land development and  
21 required for final approval.

22 The developer shall be entitled to just compensation for actual  
23 loss found to be caused by such temporary reservation and  
24 deprivation of use. In such instance, unless a lesser amount has  
25 previously been mutually agreed upon, just compensation shall  
26 be deemed to be the fair market value of an option to purchase  
27 the land reserved for the period of reservation; provided that  
28 determination of such fair market value shall include, but not be  
29 limited to, consideration of the real property taxes apportioned  
30 to the land reserved and prorated for the period of reservation.  
31 The developer shall be compensated for the reasonable increased  
32 cost of legal, engineering, or other professional services incurred  
33 in connection with obtaining subdivision approval or site plan  
34 approval, as the case may be, caused by the reservation. The  
35 municipality shall provide by ordinance for a procedure for the  
36 payment of all compensation payable under this section.

36 Source: C. 40:55-1.20 (1953, c. 433, s. 20); C. 40:55-1.32 (1953,  
37 c. 434, s. 3 as amended).

1 33. Findings for planned developments. Every ordinance  
2 pursuant to this article that provides for planned **[unit]** develop-  
3 ments **[**, planned unit residential developments or residential  
4 clusters **]** shall require that prior to approval of such planned  
5 developments the planning board shall find the following facts  
6 and conclusions:

7 a. That departures by the proposed development from zoning  
8 regulations otherwise applicable to the subject property conform  
9 to the zoning ordinance standards pursuant to subsection 52 c. of  
10 this act;

11 b. That the proposals for maintenance and-conservation of the  
12 common open space *\*are reliable\**, and **[the adequacy of]** the

13 amount, location and purpose of the common open space as  
 13A **\*[reliable and]\*** adequate;  
 14 e. That provision through the physical design of the proposed  
 15 development for public services, control over vehicular and  
 16 pedestrian traffic, and the amenities of light and air, recreation  
 17 and visual enjoyment are adequate;  
 18 d. That the proposed planned development will not have  
 19 unreasonably adverse impact upon the area in which it is proposed  
 20 to be established;  
 21 e. In the case of a proposed development which contemplates  
 22 construction over a period of years, that the terms and conditions  
 23 intended to protect the interests of the public and of the residents  
 24 *occupants*\* and owners of the proposed development in the future  
 25 completion of the development are adequate.  
 26 Source: C. 40:55-61 (1967, c. 61, s. 7).

1 34. Procedure for preliminary site plan approval. a. An ordinance  
 2 nance requiring site plan review and approval shall require that  
 3 the developer submit to the administrative officer a site plan and  
 4 such other information as is reasonably necessary to make an  
 5 informed decision as to whether the requirements necessary for  
 6 preliminary site plan approval have been met. The site plan and  
 7 any **\*[other]\*** *engineering*\* documents to be submitted shall  
 8 **\*[not]\*** be required **[**, as a condition of preliminary approval, to  
 9 meet customary record or engineering standards**]** *in tentative*  
 10 *form for discussion purposes for preliminary approval*\*. If *any*  
 11 architectural plans are required *to be submitted for site plan*  
 12 *approval*\*, the **\*[ordinance may only require]\*** preliminary plans  
 13 and elevations *shall be sufficient*\*. If an application for develop-  
 13A ment is found to be incomplete, the developer shall be notified  
 13B thereof within 45 days of the submission of such application or  
 13C shall be deemed to be properly submitted.  
 14 b. If the planning board required any substantial amendment to  
 15 the layout of improvements proposed by the developer that have  
 16 been the subject of a hearing, an amended application for develop-  
 17 ment shall be submitted and proceeded upon, as in the case of the  
 18 original application for development. The planning board shall  
 19 if the proposed development complies with the ordinance and this  
 20 act, grant preliminary site plan approval.  
 21 c. Upon the submission to the administrative officer of a  
 22 complete application for a site plan for 10 acres of land or less,  
 23 the planning board shall grant or deny preliminary approval  
 24 within 45 days of the date of such submission or within such further

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time as may be consented to by the developer. Upon the submission of a complete application for a site plan of more than 10 acres, the planning board shall grant or deny preliminary approval within 95 days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the planning board shall be deemed to have granted preliminary approval of the site plan.

Source: C. 40:55-59 (1967, c. 61, s. 5); C. 40:55-60 (1967, c. 61, s. 6); C. 40:55-62 (1967, c. 61, s. 8); C. 40:55-63 (1967, c. 61, s. 9).

35. Minor subdivision. An ordinance requiring approval of subdivisions by the planning board may authorize the planning board to waive notice and public hearing for an application for development if the planning board or subdivision committee of the board appointed by the chairman find that the application for development conforms to the definition of "minor subdivision" in section \*~~3~~\* \*3.2\* of this act. Minor subdivision approval shall be deemed to be final approval of the subdivision by the board; provided that the board or said subcommittee may condition such approval on terms ensuing the provision of improvements pursuant to sections 29\*~~1~~, 30\*\* and 41 of this act \*~~and contribution for off-tract improvements pursuant to sections 29 and 31 of this act~~\*.

Minor subdivision approval shall be granted or denied within 45 days of the date of submission of a complete application to the administrative officer, or within such further time as may be consented to by the applicant. Failure of the planning board to act within the period prescribed shall constitute minor subdivision approval and a certificate of the administrative officer as to the failure of the planning board to act shall be issued on request of the applicant; and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the county recording officer for purposes of filing subdivision plats.

Whenever review or approval of the application by the county planning board is required by section 5 of P. L. 1968, c. 285 (C. 40:27-6.3), the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.

Approval of a minor subdivision shall expire 190 days from the date of municipal approval unless within such period a plat in conformity with such approval and the provisions of the "Map

34 Filing Law," P. L. 1960, c. 141 (C. 46:23-9.9 et seq.), or a deed  
35 clearly describing the approved minor subdivision is filed by the  
36 developer with the county recording officer, the municipal engineer  
37 and the municipal tax assessor. Any such plat or deed accepted  
38 for such filing shall have been signed by the chairman and the secre-  
39 tary of the planning board. In reviewing the application for  
40 development for a proposed minor subdivision the planning board  
41 may be permitted by ordinance to accept a plat not in conformity  
42 with the "Map Filing Act," P. L. 1960, c. 141 (C. 46:23-9.9 et seq.)  
43 provided that if the developer chooses to file the minor subdivision  
44 as provided herein by plat rather than deed such plat shall conform  
45 with the provisions of said act.

46 The zoning requirements and general terms and conditions  
47 whether conditional or otherwise, upon which minor subdivision  
48 approval was granted, shall not be changed for a period of 2 years  
49 after the date of minor subdivision approval; provided that the  
50 approved minor subdivision shall have been duly recorded as pro-  
51 vided in this section.

52 Source: C. 40:55-1.14 (1953, c. 433, s. 14 as amended); C. 40:55-1.1  
53 (1953, c. 433, s. 15)\* [; C. 40:55-14.1 (1953, c. 377, s. 2)]\*.

1 36. Procedure for preliminary major subdivision approval.  
2 An ordinance requiring subdivision approval by the planning board  
3 shall require that the developer submit to the administrative officer  
4 a plat and such other information as is reasonably necessary to  
5 make an informed decision as to whether the requirements neces-  
6 sary for preliminary approval have been met; provided that minor  
7 subdivisions pursuant to section 35 of this act shall not be subject  
8 to this section. The plat and any other *engineering* documents  
9 to be submitted shall **\*[not]\*** be required **\*[**, as a condition of pre-  
10 liminary approval, to meet customary record or engineering  
11 standards**]\*** *in tentative form for discussion purposes for pre-*  
12 *liminary approval*\*. If the application for development is found  
13 to be incomplete, the developer shall be notified thereof within 45  
13A days of submission of such application or it shall be deemed to be  
13B properly submitted.

14 b. If the planning board required any substantial amendment  
15 in the layout of improvements proposed by the developer that  
16 have been the subject of a hearing, an amended application shall be  
17 submitted and proceeded upon, as in the case of the original  
18 application for development. The planning board shall, if the  
19 proposed subdivision complies with the ordinance and this act,  
20 grant preliminary approval to the subdivision.

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21 c. Upon the submission to the administrative officer of a complete  
22 application for a subdivision of 10 or fewer lots, the planning board  
23 shall grant or deny preliminary approval within 45 days of the  
24 date of such submission or within such further time as may be  
25 consented to by the developer. Upon the submission of a complete  
26 application for a subdivision of more than 10 lots, the planning  
27 board shall grant or deny preliminary approval within 95 days  
28 of the date of such submission or within such further time as may  
29 be consented to by the developer. Otherwise, the planning board  
30 shall be deemed to have granted preliminary approval to the  
31 subdivision.

32 Source: C. 40:55-1.14 (1953, c. 433, s. 14 as amended).

1 37. Effect of preliminary approval. Preliminary approval of a  
2 major subdivision pursuant to section 36 of this act or of a site  
3 plan pursuant to section 34 of this act shall, except as provided  
4 in subsection d. of this section, confer upon the applicant the fol-  
5 lowing rights for a 3-year period from the date of the preliminary  
6 approval:

7 a. That the general terms and conditions on which preliminary  
8 approval was granted shall not be changed, including but not  
9 limited to use requirements; layout and design standards for  
10 streets, curbs and sidewalks; lot size; yard dimensions and off-  
11 tract improvements; and, in the case of a site plan, any require-  
12 ments peculiar to site plan approval pursuant to subsection 29 c.  
13 of this act; except that nothing herein shall be construed to prevent  
14 the municipality from modifying by ordinance such general terms  
15 and conditions of preliminary approval as relate to public health  
16 and safety;

17 b. That the applicant may submit for final approval on or before  
18 the expiration date of preliminary approval the whole or a section  
19 or sections of the preliminary subdivision plat or site plan, as the  
20 case may be; and

21 c. That the applicant may apply for and the planning board may  
22 grant extensions on such preliminary approval for additional  
23 periods of at least 1 year but not to exceed a total extension of 2  
24 years, provided that if the design standards have been revised by  
25 ordinance, such revised standards may govern.

26 d. In the case of a subdivision of or site plan for an area of 50  
27 acres or more, the planning board may grant the rights referred  
28 to in subsections a., b., and c. above for such period of time, longer  
29 than 3 years, as shall be determined by the planning board to be

30 reasonable taking into consideration (1) the number of dwelling  
31 units and nonresidential floor area permissible under preliminary  
32 approval, (2) economic conditions, and (3) the comprehensiveness  
33 of the development. The applicant may apply for thereafter and  
34 the planning board may thereafter grant an extension to preliminary  
35 nary approval for such additional period of time as shall be de-  
36 termined by the planning board to be reasonable taking into  
37 consideration (1) the number of dwelling units and nonresidential  
38 floor area permissible under preliminary approval, and (2) the  
39 potential number of dwelling units and nonresidential floor area  
40 of the section or sections awaiting final approval, (3) economic  
41 conditions and (4) the comprehensiveness of the development,  
42 provided that if the design standards have been revised, such  
43 revised standards may govern.

44 Source: C. 40:55-1.18 (1953, c. 433, s. 18 as amended).

1 38. Final approval of site plans and major subdivisions. a. The  
2 planning board shall grant final approval if the detailed drawings  
3 specifications and estimates of the application for final approval  
4 conform to the standards established by ordinance for final approval,  
5 proval, the conditions of preliminary approval and, in the case of  
6 a major subdivision, the standards prescribed by the "Map Filings  
7 Law," P. L. 1960, c. 141 (C. 46:23-9.9 et seq.); provided that in  
8 the case of a planned unit development, planned unit residential  
9 development or residential cluster, the planning board may permit  
10 minimal deviations from the conditions of preliminary approval  
11 necessitated by change of conditions beyond the control of the  
12 developer since the date of preliminary approval without the de-  
13 veloper being required to submit another application for develop-  
14 ment for preliminary approval.

15 b. Final approval shall be granted or denied within 45 days  
16 after submission of a complete application to the administrative  
17 officer, or within such further time as may be consented to by the  
18 applicant. Failure of the planning board to act within the period  
19 prescribed shall constitute final approval and a certificate of the  
20 administrative officer as to the failure of the planning board to  
21 act shall be issued on request of the applicant, and it shall be sub-  
22 stituted in lieu of the written endorsement or other evidence of  
23 approval, herein required, and shall be so accepted by the county  
24 recording officer for purposes of filing subdivision plats.

25 Whenever review or approval of the application by the county  
26 planning board is required by section 5 of P. L. 1968, c. 28  
27 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L.

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1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.  
Source: C. 40:55-1.18 (1953, c. 433, s. 18 as amended); C. 40:55-57 (f) (1967, c. 61, s. 3 (f) as amended); C. 40:55-61 (1967, c. 61, s. 7).

39. Exception in application of subdivision or site plan regulation; simultaneous review and approval. a. The planning board when acting upon applications for preliminary or minor subdivision approval shall have the power to grant such exceptions from the requirements for subdivision approval as may be reasonable and within the general purpose and intent of the provisions for subdivision review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

b. The planning board when acting upon applications for preliminary site plan approval shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of the provisions for site plan review and approval of an ordinance adopted pursuant to this article, if the literal enforcement of one or more provisions of the ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

c. The planning board shall have the power to review and approve or deny conditional uses or site plans simultaneously with review for subdivision approval without the developer being required to make further application to the planning board, or the planning board being required to hold further hearings. The longest time period for action by the planning board, whether it be for subdivision, conditional use or site plan approval, shall apply. Whenever approval of a conditional use is requested by the developer pursuant to this subsection, notice of the hearing on the plat shall include reference to the request for such conditional use.

Source: New.

40. Effect of final approval of a site plan or major subdivision.  
a. The zoning requirements applicable to the preliminary approval



3 first granted and all other rights conferred upon the developer  
4 pursuant to section 37 of this act, whether conditionally or otherwise  
5 wise, shall not be changed for a period of 2 years after the date  
6 of final approval; provided that in the case of major subdivisions  
7 the rights conferred by this section shall expire if the plat has  
8 not been duly recorded within the time period provided in section  
9 42 of this act. If the developer has followed the standards  
10 prescribed for final approval, and, in the case of a subdivision, has  
11 duly recorded the plat as required in section 42 of this act, the planning  
12 board may extend such period of protection for extensions of  
13 1 year but not to exceed three extensions. Notwithstanding any  
14 other provisions of this act, the granting of final approval termi-  
15 nates the time period of preliminary approval pursuant to section  
16 37 of this act for the section granted final approval.

17 b. In the case of a subdivision or site plan for a planned unit  
18 development or planned unit residential development or residential  
19 cluster of 50 acres or more or conventional subdivision or site plan  
20 for 150 acres or more, the planning board may grant the rights  
21 referred to in subsection a. of this section for such period of time  
22 longer than 2 years, as shall be determined by the planning board to  
23 be reasonable taking into consideration (1) the number of dwelling  
24 units and nonresidential floor area permissible under final approval,  
25 (2) economic conditions and (3) the comprehensiveness of the de-  
26 velopment. The developer may apply for thereafter, and the  
27 planning board may thereafter grant, an extension of final approval  
28 for such additional period of time as shall be determined by the  
29 planning board to be reasonable taking into consideration (1) the  
30 number of dwelling units and nonresidential floor area permissible  
31 under final approval, (2) the number of dwelling units and non-  
32 residential floor area remaining to be developed, (3) economic  
33 conditions and (4) the comprehensiveness of the development.  
34 Source: New.

1 41. Guarantees required: surety; release. a. Before recording  
2 of final subdivision plats or as a condition of final site plan approval  
3 or as a condition to the issuance of a zoning permit pursuant to  
4 subsection 52 d. of this act, the approving authority may require  
5 and shall accept in accordance with the standards adopted by  
6 ordinance for the purpose of assuring the installation and main-  
7 tenance of \*on-tract\* improvements:

8 (1) The furnishing of a performance guarantee in favor of the  
9 municipality in an amount not to exceed 120% of the cost of

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upon the developer conditionally or otherwise after the date of major subdivision of the plat has expired if the plat has provided in section 10 of this act, the plan for extensions notwithstanding any final approval pursuant to section 11 for a planned unit development or residential subdivision or site plan grant the rights for each period of time, the planning board to determine the number of dwelling units, the final approval, the reasonableness of the developer's plan, and the reasonableness of the developer's plan of final approval determined by the board. (1) the area permissible for units and non-residential units, (3) economic development.

before recording the plan approval unit pursuant to the provisions of the act may require the provisions adopted by the board for installation and maintenance of the improvements.

in favor of the developer or the cost of the improvements.

10 installation for improvements it may deem necessary or appropriate  
11 including: streets, grading, pavement, gutters, curbs, sidewalks,  
12 street lighting, shade trees, surveyor's monuments, as shown on  
13 the final map and required by the "Map Filing Law," P. L. 1960,  
14 c. 141 (C. 46:23-9.9 et seq.), water mains, culverts, storm sewers,  
15 sanitary sewers or other means of sewage disposal, drainage  
16 structures, erosion control and sedimentation control devices,  
17 public improvements of open space and, in the case of site plans  
18 only, other on-site improvements and landscaping.

19 (2) Provision for a maintenance guarantee to be posted with the  
20 governing body for a period not to exceed 2 years after final  
21 acceptance of the improvement, in an amount not to exceed 15% of  
22 the cost of the improvement. In the event that other governmental  
23 agencies or public utilities automatically will own the utilities to be  
24 installed or the improvements are covered by a performance or  
25 maintenance guarantee to another governmental agency, no per-  
26 formance or maintenance guarantee, as the case may be, shall be  
27 required by the municipality for such utilities or improvements.

28 b. The amount of any performance guarantee may be reduced by  
29 the governing body, by resolution, when portions of the improve-  
30 ments have been certified by the municipal engineer to have been  
31 completed. The time allowed for installation of the improvements  
32 for which the performance guarantee has been provided may be  
33 extended by said body by resolution.

34 c. If the required improvements are not completed or corrected  
35 in accordance with the performance guarantee, the obligor and  
36 surety, if any, shall be liable thereon to the municipality for the  
37 reasonable cost of the improvements not completed or corrected and  
38 the municipality may either prior to or after the receipt of the  
39 proceeds thereof complete such improvements.

40 d. When all of the required improvements have been completed,  
41 the obligor shall notify the governing body in writing, by certified  
42 mail addressed in care of the municipal clerk of the completion of  
43 said improvements and shall send a copy thereof to the municipal  
44 engineer. Thereupon the municipal engineer shall inspect all of the  
45 improvements and shall file a detailed report, in writing, with the  
46 governing body, indicating either approval, partial approval or  
47 rejection of the improvements with a statement of reasons for any  
48 rejection. If partial approval is indicated, the cost of the improve-  
49 ments rejected shall be set forth.

50 e. The governing body shall either approve, partially approve  
51 or reject the improvements, on the basis of the report of the

52 municipal engineer and shall notify the obligor in writing,  
53 certified mail, of the contents of said report and the action of  
54 approving authority with relation thereto, not later than 65 days  
55 after receipt of the notice from the obligor of the completion  
56 the improvements. Where partial approval is granted, the obligor  
57 shall be released from all liability pursuant to its performance  
58 guarantee, except for that portion adequately sufficient to secure  
59 provision of the improvements not yet approved. Failure of the  
60 governing body to send or provide such notification to the obligor  
61 within 65 days shall be deemed to constitute approval of the im-  
62 provements and the obligor and surety, if any, shall be released  
63 from all liability, pursuant to such performance guarantee.

64 f. If any portion of the required improvements are rejected, the  
65 approving authority may require the obligor to complete such im-  
66 provements and, upon completion, the same procedure of notifica-  
67 tion, as set forth in this section shall be followed.

68 g. Nothing herein, however, shall be construed to limit the right  
69 of the obligor to contest by legal proceedings any determination  
70 of the governing body or the municipal engineer.

71 h. The obligor shall reimburse the municipality for all reasonable  
72 inspection fees paid to the municipal engineer for the foregoing  
73 inspection of improvements.

74 Source: C. 40:55-1.21 (1953, c. 433, s. 21 as amended); C. 40:55-1.22  
75 (1953, c. 433, s. 22 as amended).

1 42. Recording of final approval of major subdivision; filing of all  
2 subdivision plats. a. Final approval of a major subdivision shall  
3 expire 95 days from the date of signing of the plat unless within  
4 such period the plat shall have been duly filed by the developer  
5 with the county recording officer. The planning board may for  
6 good cause shown extend the period for recording for an additional  
7 period not to exceed 190 days from the date of signing of the plat.  
8 b. No subdivision plat shall be accepted for filing by the county  
9 recording officer until it has been approved by the planning board as  
10 indicated on the instrument by the signature of the chairman and  
11 secretary of the planning board or a certificate has been issued  
12 pursuant to sections 35, 38, 44, 48, 54 or 63 of this act. The signa-  
13 tures of the chairman and secretary of the planning board shall  
14 be affixed until the developer has posted the guarantees required  
15 pursuant to section 41 of this act. If the county recording officer  
16 records any plat without such approval, such recording shall be

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17 deemed null and void, and upon request of the municipality, the  
18 plat shall be expunged from the official records.

19 e. It shall be the duty of the county recording officer to notify  
20 the planning board in writing within 7 days of the filing of any  
21 plat, identifying such instrument by its title, date of filing, and  
22 official number.

23 Source: C. 40:55-1.17 (1953, c. 433, s. 17).

1 43. Selling before approval; penalty; suits by municipalities.

2 If, before final subdivision approval has been granted, any person  
3 transfers or sells or agrees to transfer or sell, except pursuant to  
4 an agreement expressly conditioned on final subdivision approval,  
5 as owner or agent, any land which forms a part of a subdivision  
6 for which municipal approval is required by ordinance pursuant to  
7 this act, such person shall be subject to a penalty not to exceed  
8 \$1,000.00, and each lot disposition so made may be deemed a  
9 separate violation.

10 In addition to the foregoing, the municipality may institute and  
11 maintain a civil action:

- 12 a. For injunctive relief; and
- 13 b. To set aside and invalidate any conveyance made pursuant to  
14 such a contract of sale if a certificate of compliance has not been  
15 issued in accordance with section 44 of this act, but only if the  
16 municipality (1) has a planning board and (2) has adopted by  
17 ordinance standards and procedures in accordance with subsection  
18 29 b. of this act.

19 In any such action, the transferee, purchaser or grantee shall be  
20 entitled to a lien upon the portion of the land, from which the  
21 subdivision was made that remains in the possession of the de-  
22 veloper or his assigns or successors, to secure the return of any  
23 deposits made or purchase price paid, and also, a reasonable search  
24 fee, survey expense and title closing expense, if any. Any such  
25 action must be brought within 2 years after the date of the record-  
26 ing of the instrument of transfer, sale or conveyance of said land  
27 or within 6 years, if unrecorded.

28 Source: C. 40:55-1.23 (1953, c. 433, s. 23).

1 44. Certificates showing approval; contents. The prospective  
2 purchaser, prospective mortgagee, or any other person interested  
3 in any land which forms part of a subdivision, or which formed  
4 part of such a subdivision 3 years preceding the effective date of  
5 this act, may apply in writing to the administrative officer of the

6 municipality, for the issuance of a certificate certifying whether  
7 not such subdivision has been approved by the planning board  
8 governing body]. Such application shall contain a diagram show-  
9 ing the location and dimension of the land to be covered by  
10 certificate and the name of the owner thereof.

11 The administrative officer shall make and issue such certificate  
12 within 15 days after the receipt of such written application and  
13 fees therefor. Said officer shall keep a duplicate copy of each  
14 certificate, consecutively numbered, including a statement of the  
15 fee charged, in a binder as a permanent record of his office.

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

18 a. Whether there exists in said municipality a duly established  
19 planning board and whether there is an ordinance controlling the  
20 division of land adopted under the authority of this act.

21 b. Whether the subdivision, as it relates to the land shown  
22 said application, has been approved by the planning board, and  
23 so, the date of such approval and any extensions and terms thereof,  
24 showing that subdivision of which the lands are a part is a valid  
25 existing subdivision.

26 The administrative officer shall be entitled to demand and receive  
27 for such certificate issued by him a reasonable fee not in excess of  
28 those provided in R. S. 54:5-14 and 54:5-15. The fees so collected  
29 by such official shall be paid by him to the municipality.

30 Source: C. 40:55-1.24 (1953, c. 433, s. 24).

1 45. Right of owner of land covered by certificate. Any person  
2 who shall acquire for a valuable consideration an interest in the  
3 lands covered by any such certificate of approval of a subdivision  
4 in reliance upon the information therein contained shall hold such  
5 interest free of any right, remedy or action which could be prosecuted  
6 or maintained by the municipality pursuant to the provisions  
7 of section 43 of this act.

8 If the administrative officer designated to issue any such certificate  
9 fails to issue the same within 15 days after receipt of such  
10 application and the fees therefor, any person acquiring an interest  
11 in the lands described in such application shall hold such interest  
12 free of any right, remedy or action which could be prosecuted or  
13 maintained by the municipality pursuant to section 43 of this act.

14 Any such application addressed to the clerk of the municipality  
15 shall be deemed to be addressed to the proper designated officer.

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and the municipality shall be bound thereby to the same extent as though the same was addressed to the designated official.  
Source: C. 40:55-1.25 (1953, c. 433, s. 25).

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46. Condominiums and cooperative structures and uses. This act and all development regulations pursuant thereto shall be construed and applied with reference to the nature and use of a condominium or cooperative structures or uses without regard to the form of ownership. No development regulation shall establish any requirement concerning the use, location, placement or construction of buildings or other improvements for condominiums or cooperative structures or uses unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then or thereafter under the condominium or cooperative corporate form of ownership. No approval pursuant to this act shall be required as a condition precedent to the recording of a condominium master deed or the sale of any unit therein unless such approval shall also be required for the use or development of the lands described in the master deed in the same manner had such lands not been under the condominium form of ownership.  
Source: New.

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*\*\* (C. 54:4-23.8 and 23.9) 46.1. Valuation, assessment and taxation of land receiving preliminary subdivision, site plan, or planned development approval or extended tentative planned unit development approval.*

*a. Any parcel of land receiving preliminary subdivision, site plan or planned development approval for a use other than agriculture or horticulture, notwithstanding its valuation, assessment, and taxation as an agricultural or horticultural use pursuant to the provisions of the "Farmland Assessment Act of 1964," (P. L. 1964, c. 48, C. 54:4-23.1 et seq.), shall be valued, assessed and taxed as of January 1 of the year following such preliminary approval as other land in the taxing district, such value and assessment to be established and taxes paid in accordance with the provisions of sections 8 and 9 of the "Farmland Assessment Act of 1964," (P. L. 1964, c. 48, C. 54:4-23.1 et seq.); provided that the provisions hereof shall apply serially to any development whose preliminary approval proposes construction in stages and separate application for final approval for each stage and only that stage of the development designated for the earliest application for final approval shall be valued, assessed and taxed as provided herein until certificates of occupancy for 50 percent of the building permits in such stage have been issued, at which time the second stage shall be valued, assessed*

23 and taxed as provided herein and so on until qualification for  
 24 tion, assessment and taxation pursuant to the provisions of  
 25 "Farmland Assessment Act of 1964," (P. L. 1964, c. 48, C. 54:4-23.1  
 26 et seq.) lapses for the last stage of such development.  
 27 b. Any parcel of land, otherwise qualifying as an agricultural  
 28 horticultural use pursuant to the provisions of the "Farmland  
 29 Assessment Act of 1964" (P. L. 1964, c. 48, C. 54:4-23.1 et  
 30 for which preliminary approval shall have lapsed pursuant to  
 31 or for which the owner thereof shall have made request in writing  
 32 to the approving Municipal Body for rescinding of such preliminary  
 33 and all subsequent approvals, shall be assessed, valued and taxed  
 34 in the manner provided in the "Farmland Assessment Act of 1964"  
 35 (P. L. 1964, c. 48, C. 54:4-23.1 et seq.), as of January 1 of the year  
 36 following such lapse or rescission.  
 37 c. Any parcel of land to which the provisions of subsection  
 38 hereof are applicable but which cannot be developed because of  
 39 lack of available sanitary sewerage or water supply capacity  
 40 necessary to serve such development shall be exempt from the  
 41 operation of the provisions of subsection a. herein for the period  
 42 from January 1 of the year following the calendar year in which  
 43 such development becomes impracticable because of such lack  
 44 capacity to January 1 of the year following the calendar year  
 45 which such capacity becomes available.  
 46 d. The provisions of this section shall apply to any parcel of land  
 47 designated as an agricultural or horticultural use, pursuant to the  
 48 provisions of the "Farmland Assessment Act of 1964" (P. L.  
 49 1964, c. 48, C. 54:4-23.1 et seq.) which has tentative or subsequent  
 50 planned unit development approval or site plan approval on the  
 51 effective date of this act which approval is thereafter extended  
 52 duration of time beyond the period approved therefor before the  
 53 effective date of this act.\*\*

## ARTICLE 7

### ANCILLARY POWERS OF PLANNING BOARD

1 47. Planning board review in lieu of board of adjustment. The  
 2 planning board when reviewing applications for approval of sub-  
 3 division plats, site plans or conditional uses shall have the power  
 4 grant to the same extent and subject to the same restrictions as  
 5 the board of adjustment:  
 6 a. Variances pursuant to subsection 57 c. of this act from lot  
 7 area, lot dimensional, setback and yard requirements; provided  
 8 that relief pursuant to this subsection from lot area requirements  
 9 shall not be granted for more than one lot.

10 b. Direction pursuant to section 25 of this act for issuance of a  
11 permit for a building or structure in the bed of a mapped street or  
12 public drainage way, flood control basin or public area reserved  
13 pursuant to section 23 of this act;

14 c. Direction pursuant to section 27 of this act for issuance of a  
15 permit for a building or structure not related to a street.

16 Whenever relief is requested pursuant to this section, notice of  
17 the hearing on the application for development shall include  
18 reference to the request for a variance, or direction for issuance of  
19 a permit, as the case may be.

20 Source: C. 40:55-1.8 (1953, c. 433, s. 8); C. 40:55-1.40 (1953, c. 434,  
21 s. 11).

1 48. Time periods. Whenever an application for approval of a  
2 subdivision plat, site plan or conditional use includes a request  
3 for relief pursuant to section 47 of this act, the planning board  
4 shall grant or deny approval of the application within 95 days  
5 after submission by a developer of a complete application to the  
6 administrative officer or within such further time as may be  
7 consented to by the applicant. Failure of the planning board to  
8 act within the period prescribed shall constitute approval of the  
9 application and a certificate of the administrative officer as to  
10 the failure of the planning board to act shall be issued on request  
11 of the applicant, and it shall be sufficient in lieu of the written  
12 endorsement or other evidence of approval, herein required, and  
13 shall be so accepted by the county recording officer for purposes  
14 of filing subdivision plats.

15 Whenever review or approval of the application by the county  
16 planning board is required by section 5 of P. L. 1968, c. 285  
17 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L.  
18 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal  
19 planning board shall condition any approval that it grants upon  
20 timely receipt of a favorable report on the application by the county  
21 planning board or approval by the county planning board by its  
22 failure to report thereon within the required time period.

23 Source: C. 40:55-1.18 (1953, c. 433, s. 18 as amended).

## ARTICLE 8

### ZONING

1 49. Power to zone. a. The governing body may adopt or amend  
2 a zoning ordinance relating to the nature and extent of the uses  
3 of land and of buildings and structures thereon. Such ordinance



4 shall be adopted after the planning board has adopted the  
5 use plan element of a master plan and all of the provisions  
6 such zoning ordinance or any amendment or revision thereto  
7 either be substantially consistent with the land use plan  
8 of the master plan or designed to effectuate such plan  
9 provided that the governing body may adopt a zoning  
10 or amendment or revision thereto which in whole or part  
11 consistent with or not designed to effectuate the land use  
12 element, but only by affirmative vote of a majority of the  
13 authorized membership of the governing body with the  
14 of the governing body for so acting recorded in its minutes  
15 adopting such a zoning ordinance; and provided further that  
16 withstanding anything aforesaid, the governing body may  
17 an interim zoning ordinance pursuant to subsection 77 b. of this  
18

19 The zoning ordinance shall be drawn with reasonable consid-  
20 tion to the character of each district and its peculiar suitability  
21 particular uses and to encourage the most appropriate use of  
22 The regulations in the zoning ordinance shall be uniform through-  
23 each district for each class or kind of buildings or other structures  
24 or uses of land, including planned unit development, planned  
25 residential development and residential cluster, but the regulations  
26 in one district may differ from those in other districts.

27 b. No zoning ordinance and no amendment or revision to a  
28 zoning ordinance shall be submitted to or adopted by initiative  
29 referendum.

30 Source: R. S. 40:55-30 (as amended); R. S. 40:55-31 (as amended)  
R. S. 40:55-32 (as amended).

1 50. Protest. A protest against any proposed amendment or  
2 revision of a zoning ordinance may be filed with the municipal  
3 clerk, signed by the owners of 20% or more either of the area  
4 the lots or land included in such proposed change, or of the lot  
5 or land extending 200 feet in all directions therefrom includ-  
6 of street space, whether within or without the municipality. Such  
7 amendment or revision shall not become effective following the  
8 filing of such protest except by the favorable vote of two-thirds  
9 all the members of the governing body of the municipality.

10 Source: R. S. 40:55-35 (as amended).

1 51. Referral to planning board. Prior to the hearing on adoption  
2 of a zoning ordinance, or any amendments thereto, the governing  
3 body shall refer any such proposed ordinance or amendment  
4 thereto to the planning board pursuant to subsection 17 a. of this act.

5 Source: R. S. 40:55-35 (as amended).

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52. Contents of zoning ordinance. A zoning ordinance may:

1 a. Limit and restrict buildings and structures to specified districts  
2 and regulate buildings and structures according to their type and  
3 the nature and extent of their use, and regulate the nature and  
4 extent of the use of land for trade, industry, residence, open space  
5 or other purposes.

6 b. Regulate the bulk, height, number of stories, and size of  
7 buildings and the other structures; the percentage of lot or develop-  
8 ment area that may be occupied by structures; lot sizes and  
9 dimensions; and for these purposes may specify floor area ratios  
10 and other ratios and regulatory techniques governing the intensity  
11 of land use and the provision of adequate light and air.

12 c. Provide districts for \***[**residential cluster, planned unit resi-  
13 dential development and planned unit development and commercial  
14 cluster and industrial cluster**]**\* *\*planned developments\**; provided  
15 that an ordinance providing for approval of subdivisions and site  
16 plans by the planning board has been adopted and incorporates  
17 therein the provisions for such planned developments\***[**, com-  
18 mercial clusters and industrial clusters,**]**\* in a manner consistent  
19 with article 6 of this act. The zoning ordinance shall establish  
20 standards governing the type and density, or intensity of land  
21 use, in a planned development\***[**, commercial cluster and industrial  
22 cluster**]**\*. Said standards shall take into account that the density,  
23 or intensity of land use, otherwise allowable may not be appro-  
24 priate for a planned development\***[**, commercial cluster or in-  
25 dustrial cluster**]**\*. The standards may vary the type and density,  
26 or intensity of land use, otherwise applicable to the land within  
27 a planned development in consideration of the amount, location  
28 and proposed use of common open space; the location and physical  
29 characteristics of the site of the proposed planned development;  
30 and the location, design and type of dwelling units and other uses.  
31 Such standards may, in order to encourage the flexibility of hous-  
32 ing density, design and type, authorize a deviation in various  
33 residential clusters from the density, or intensity of use, estab-  
34 lished for an entire planned development. The standards and  
35-36 criteria by which the design, bulk and location of buildings are to  
37 be evaluated, shall be set forth in the zoning ordinance and all  
38 standards and criteria for any feature of a planned development\***[**,  
39 commercial cluster or industrial cluster**]**\* shall be set forth in such  
40 ordinance with sufficient certainty to provide reasonable criteria  
41 by which specific proposals for a planned development can be  
41A evaluated.  
42B

42 d. Establish, for particular uses or classes of uses, reasonable  
43 standards of performance and standards for the provision  
44 adequate physical improvements including, but not limited  
45 off-street parking and loading areas, marginal access roads  
46 roadways, other circulation facilities and water, sewerage  
47 drainage facilities; provided that section 41 of this act shall apply  
48 to such improvements.

49 e. Designate and regulate areas subject to flooding (1) pursuant  
50 to P. L. 1972, c. 185 (C. 58:16A-55 et seq.) or (2) as otherwise  
51 necessary in the absence of appropriate flood hazard area designa-  
52 tions pursuant to P. L. 1962, c. 19 (C. 58:16A-50 et seq.) or flood  
53 regulations pursuant to P. L. 1972, c. 185 or minimum standards  
54 for local flood fringe area regulation pursuant to P. L. 1972, c. 185.

55 f. Provide for conditional uses pursuant to section 54 of this act.  
56 Source: R. S. 40:55-30 (as amended); R. S. 40:55-31 (as amended);  
57 R. S. 40:55-32 (as amended); C. 40:55-55 (1967, c. 61, s. 3);  
58 C. 40:55-57 (1967, c. 61, s. 3 as amended).

59 *\*\*g. Provide for senior citizen community housing consistent  
60 with provisions permitting other residential uses of a similar  
61 density in the same zoning district.\*\**

62 *\*\*h. Require that as a condition for any approval by the zoning  
63 board of adjustment that no taxes or assessments for local improve-  
64 ments are due or delinquent on the property for which any applica-  
65 tion is made.\*\**

1 53. Miscellaneous provisions; model homes; public and private  
2 day schools; placement of foster children in single family dwellings

3 a. For purposes of this act, model homes or sales offices within  
4 a subdivision and only during the period necessary for the sale of  
5 new homes within such subdivision shall not be considered a busi-  
6 ness use.

7 b. No zoning ordinance governing the use of land by or for  
8 schools shall, by any of its provisions or by any regulation adopted  
9 in accordance therewith, discriminate between public and private  
10 nonprofit day schools of elementary or high school grade accredited  
11 by the State Department of Education.

12 c. No zoning ordinance shall, by any of its provisions or by any  
13 regulation adopted in accordance therewith, discriminate between  
14 children who are members of families by reason of their relation-  
15 ship by blood, marriage or adoption, and foster children placed  
16 with such families in a dwelling by the Division of Youth and  
17 Family Services in the Department of Institutions and Agencies  
18 or a duly incorporated child care agency *\*\*and children placed*

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19 pursuant to law in single family dwellings known as group homes.  
20 As used in this section, the term "group home" means and includes  
21 any single family dwelling used in the placement of children pur-  
22 suant to law recognized as a group home by the Department of  
23 Institutions and Agencies in accordance with rules and regulations  
24 adopted by the Commissioner of Institutions and Agencies pro-  
25 vided, however, that no group home shall contain more than 12  
26 children\*\*.

27 Source: C. 40:55-33.1 (1961, c. 138); C. 40:55-33.2 (1962, c. 177).

1 54. Conditional uses; site plan review. a. A zoning ordinance  
2 may provide for conditional uses to be granted by the planning  
3 board according to definite specifications and standards which shall  
4 be clearly set forth with sufficient certainty and definiteness to  
5 enable the developer to know their limit and extent. The planning  
6 board shall grant or deny an application for a conditional use within  
7 95 days of submission of a complete application by a developer to  
8 the administrative officer, or within such further time as may be  
9 consented to by the applicant.

10 b. The review by the planning board of a conditional use shall  
11 include any required site plan review pursuant to article 6 of this  
12 act. The time period for action by the planning board on condi-  
13 tional uses pursuant to subsection a. of this section shall apply to  
14 such site plan review. Failure of the planning board to act within  
15 the period prescribed shall constitute approval of the application  
16 and a certificate of the administrative officer as to the failure of  
17 the planning board to act shall be issued on request of the appli-  
18 cant, and it shall be sufficient in lieu of the written endorsement or  
19 other evidence of approval, herein required, and shall be so ac-  
20 cepted by the county recording officer for purposes of filing sub-  
21 division plats.

22 Whenever review or approval of the application by the county  
23 planning board is required by section 5 of P. L. 1968, c. 285  
24 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L.  
25 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal  
26 planning board shall condition any approval that it grants upon  
27 timely receipt of a favorable report on the application by the  
28 county planning board or approval by the county planning board  
29 by its failure to report thereon within the required time period.

30 Source: R. S. 40:55-30 (as amended).

1 55. Nonconforming structures and uses. Any nonconforming use  
2 \* [of a] \* \*or\* structure existing at the time of the passage of an

3 ordinance may be continued upon the lot or in the structure  
4 occupied and any such structure may be restored or repaired  
5 event of partial destruction thereof.  
6 Source: R. S. 40:55-48.

### ARTICLE 9

#### ZONING BOARD OF ADJUSTMENT

1 56. Zoning board of adjustment. Upon the adoption of a  
2 ordinance, the governing body shall create, by ordinance, a  
3 board of adjustment which shall consist of seven members,  
4 withstanding the provisions of any other law or charter heretofore  
5 adopted, such ordinance shall provide the method of appointment  
6 of such members. The terms of the members first appointed  
7 this act shall be so determined that to the greatest practical  
8 extent, the expiration of such terms shall be distributed  
9 over the first 4 years after their appointment; provided the  
10 term of no member shall exceed 4 years. Thereafter, the term  
11 each such member shall be 4 years. No member may hold  
12 elective office or position under the municipality. \*No member  
13 of the board of adjustment shall be permitted to act on any matter  
14 in which he has, either directly or indirectly, any personal  
15 financial interest.\* A member may, after public hearing if  
15a requests it, be removed by the governing body for cause. A  
15b vacancy occurring otherwise than by expiration of term shall  
15c be filled for the unexpired term only.  
16 The board of adjustment shall elect a chairman and vice-chair-  
17 man from its members and select a secretary who may or may not  
18 be a member of the board of adjustment or a municipal employee.  
19 Source: R. S. 40:55-36 (as amended).

1 57. Powers. The board of adjustment shall have the power to  
2 a. Hear and decide appeals where it is alleged by the applicant  
3 that there is error in any order, requirement, decision or refusal  
4 made by an administrative officer based on or made in the enforce-  
5 ment of the zoning ordinance;  
6 b. Hear and decide in accordance with the provisions of any  
7 such ordinance, requests for interpretation of the zoning map or  
8 ordinance or for decisions upon other special questions upon which  
9 such board is authorized to pass by any zoning or official map ordi-  
10 nance in accordance with this act;  
11 c. Where by reason of exceptional narrowness, shallowness or  
12 shape of a specific piece of property, or by reason of exceptional

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13 topographic conditions, or by reason of other extraordinary and  
14 exceptional situation or condition of such piece of property the  
15 strict application of any regulation pursuant to article 8 of this  
16 act would result in peculiar and exceptional practical difficulties to,  
17 or exceptional and undue hardship upon the developer of such  
18 property, grant, upon an application or an appeal relating to such  
19 property, a variance from such strict application of such regulation  
20 so as to relieve such difficulties or hardship; provided, however,  
21 that no variance shall be granted under this subsection to allow a  
22 structure or use in a district restricted against such structure or  
23 use; and provided further that the proposed development does not  
24 require approval by the planning board of a subdivision, site plan  
25 or conditional use in conjunction with which the planning board  
26 shall review a request for a variance pursuant to subsection 47 a.  
27 of this act.

28 d. Grant a variance to allow a structure or use in a district  
29 restricted against such structure or use in particular cases and for  
30 special reasons, but only by affirmative vote of \***[five members]**\*  
31 \*at least two-thirds of the full authorized membership\* of the  
31A board.

32 No variance \*or other relief\* may be granted under the terms of  
33 this section unless such variance \*or other relief\* can be granted  
34 without substantial detriment to the public good and will not sub-  
35 stantially impair the intent and purpose of the zone plan and  
36 zoning ordinance. An application under this section may be re-  
37 ferred to any appropriate person or agency, including the planning  
38 board pursuant to section 17 of this act, for its report; provided  
39 that such reference shall not extend the period of time within  
40 which the zoning board of adjustment shall act.

41 Source: R. S. 40:55-39 (as amended).

1 58. Expenses and costs. a. The governing body shall make pro-  
2 vision in its budget and appropriate funds for the expenses of the  
3 board of adjustment.

4 b. The board of adjustment may employ, or contract for, and  
5 fix the compensation of legal counsel, other than the municipal  
6 attorney, and experts and other staff and services as it shall deem  
7 necessary, not exceeding, exclusive of gifts or grants, the amount  
8 appropriated by the governing body for its use.

9 Source: C. 40:55-36.1 (1955, c. 126, s. 1 as amended); C. 40:55-36.2  
10 (1955, c. 126, s. 2 as amended).

1 59. Appeals and applications to board of adjustment. a. Appeals  
2 to the board of adjustment may be taken by any interested party

3 affected by any decision of an administrative officer of the  
4 pality based on or made in the enforcement of the zoning ordinance  
5 or official map. Such appeal shall be taken within 65 days by  
6 a notice of appeal with the officer from whom the appeal is taken  
7 specifying the grounds of such appeal. The officer from whom  
8 appeal is taken shall immediately transmit to the board all  
9 papers constituting the record upon which the action appealed  
10 was taken.

11 b. A developer may file an application for development with  
12 board of adjustment for action under any of its powers without  
13 prior application to an administrative officer.

14 Source: R. S. 40:55-42.

1 60. Time for decision. a. The board of adjustment shall render  
2 a decision not later than 120 days after the date (1) an appeal  
3 taken from the decision of an administrative officer or (2) the  
4 mission of a complete application for development to the board  
5 adjustment pursuant to section 59 b. of this act.

6 b. Failure of the board to render a decision within such 120-day  
7 period or within such further time as may be consented to by  
8 applicant, shall constitute a decision favorable to the applicant.

9 Source: C. 40:55-39.1 (1969, c. 293); R. S. 40:55-45 (as amended)

1 61. Modification on appeal. The board of adjustment shall  
2 reverse or affirm, wholly or in part, or may modify the action  
3 order, requirement, decision, interpretation or determination  
4 appealed from and to that end have all the powers of the admini-  
5 strative officer from whom the appeal is taken.

6 Source: R. S. 40:55-40.

1 62. Stay of proceedings by appeal; exception. An appeal to  
2 board of adjustment shall stay all proceedings in furtherance  
3 the action in respect to which the decision appealed from was made  
4 unless the officer from whose action the appeal is taken certifies  
5 the board of adjustment, after the notice of appeal shall have been  
6 filed with him, that by reason of facts stated in the certificate  
7 stay would, in his opinion, cause imminent peril to life or property.  
8 In such case, proceedings shall not be stayed other than by an order  
9 of the Superior Court upon notice to the officer from whom  
10 appeal is taken and on due cause shown.

11 Source: R. S. 40:55-43 (as amended).

1 63. Other powers. a. Sections 59 through 62 of this article shall  
2 apply to the power of the board of adjustment to:

3 (1) Direct issuance of a permit pursuant to section 25 of this  
4 act for a building or structure in the bed of a mapped street or  
5 public drainage way, flood control basin or public area reserved  
6 pursuant to section 23 of this act; or

7 (2) Direct issuance of a permit pursuant to section 27 of this  
8 act for a building or structure not related to a street.

9 b. The board of adjustment shall have the power to grant to  
10 the same extent and subject to the same restrictions as the planning  
11 board subdivision or site plan approval pursuant to article 6 of  
12 this act or conditional use approval pursuant to section 54 of this  
13 act whenever the board of adjustment is reviewing an application  
14 for approval of a variance pursuant to subsection 57 d. of this act.

15 c. Whenever an application for development requests relief  
16 pursuant to subsection b. of this section, the board of adjustment  
17 shall grant or deny approval of the application within 120 days  
18 after submission by a developer of a complete application to the  
19 administrative officer or within such further time as may be con-  
20 sented to by the applicant. Failure of the board of adjustment  
21 to act within the period prescribed shall constitute approval of the  
22 application and a certificate of the administrative officer as to the  
23 failure of the board of adjustment to act shall be issued on request  
24 of the applicant, and it shall be sufficient in lieu of the written  
25 endorsement or other evidence of approval, herein required, and  
26 shall be so accepted by the county recording officer for purposes of  
27 filing subdivision plats.

28 Whenever review or approval of the application by the county  
29 planning board is required by section 5 of P. L. 1968, c. 285  
30 (C. 40:27-6.3), in the case of a subdivision, or section 8 of P. L.  
31 1968, c. 285 (C. 40:27-6.6), in the case of a site plan, the municipal  
32 board of adjustment shall condition any approval that it grants  
33 upon timely receipt of a favorable report on the application by the  
34 county planning board or approval by the county planning board  
35 by its failure to report thereon within the required time.

36 An application under this section may be referred to any appro-  
37 priate person or agency, including the planning board pursuant  
38 to section 17 of this act, for its report; provided that such reference  
39 shall not extend the period of time within which the zoning board  
40 of adjustment shall act.

41 Source: C. 40:55-1.38 (1953, c. 434, s. 9 as amended); C. 40:55-1.39  
42 (1953, c. 434, s. 10); C. 40:55-1.40 (1953, c. 434, s. 11).



ARTICLE 10

JOINT EXERCISE OF POWERS OF PLANNING AND LAND USE CONTROL

1 64. Generally. The governing bodies of two or more municipalities, independently or with the board or boards of freeholders of any county or counties in which such municipalities are located or of any adjoining county or counties or the governing body of any municipality and the board of chosen freeholders in which such municipality is located, or the boards of chosen freeholders of any two or more adjoining counties, may, by substantially similar ordinances or resolutions, as the case may be, duly adopted by each of such governing bodies within six months after the adoption of the first such ordinance or resolution after notice and hearing as herein required, enter into a joint agreement providing for the joint administration of any or all of the powers conferred upon each of the municipalities or counties pursuant to this act. Such ordinance may also provide for the establishment and appointment of a regional planning board, a regional board of adjustment, or a joint building official, zoning officer or other officials responsible for performance of administrative duties in connection with any power exercised pursuant to this act.

20 Source: R. S. 40:27-9.

1 65. Terms of joint agreement. The ordinance shall, subject to this article, set forth the specific duties to be exercised jointly, the composition, membership and manner of appointment of any regional board including the representation of each municipality or county; the qualifications and manner of appointment of any joint building official, joint zoning officer or other joint administrative officer; the term of office, the manner of financing, the expenses of such joint exercise of powers, the share of financing to be borne by each county and municipality joining therein, the duration of such agreement and the manner in which such agreement may be terminated or extended.

12 Source: R. S. 40:27-9.

1 66. Membership of regional boards. Every joint agreement creating a regional board under this article shall provide for at least one representative member on such board for each constituent municipality or county and may provide for additional representative members for any such constituent municipality or county.

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6 representative member or members on a regional board for a  
7 constituent municipality shall be appointed by the mayor.

8 Any such member, after a public hearing if he requests one, may  
9 be removed for cause by the governing body of such constituent  
10 municipality. The representative member or members of a regional  
11 board for a constituent county shall be appointed by the board of  
12 chosen freeholders of such county. Any such member, after public  
13 hearing if he requests one, may be removed for cause by the board  
14 of chosen freeholders of such constituent county.  
15 Source: R. S. 40:27-9.

1 67. Organization of regional boards; rules and procedures. Each  
2 regional board shall elect a chairman and a vice chairman from  
3 among its members, with a term of 1 year and eligibility for  
4 reelection, and select a secretary, who may or may not be a member  
5 or employee of the board, and may create and fill such other offices  
6 as it may determine.

7 Each regional board shall adopt rules for the transaction of  
8 its business and keep a record of its resolutions, transactions, find-  
9 ings and determinations, which record shall be a public record.  
10 Each regional board shall be subject to the provisions of article 1  
11 of this act relating to rules of procedures, meetings, hearings and  
12 notices.

13 Source: R. S. 40:27-9.

1 68. Expenses; staff and consultants. The regional board or  
2 agency may employ, or contract for and fix the compensation of  
3 legal counsel, other than an attorney for a constituent munici-  
4 pality or county, and experts and other staff and services, as it  
5 may deem necessary, not exceeding, exclusive of gifts or grants,  
6 the amounts agreed upon and appropriated for its use.

7 Source: R. S. 40:27-9.

1 69. Sharing of costs and expenses. The apportionment of costs  
2 and expenses under any joint agreement may be based upon  
3 apportionment valuations determined under R. S. 54:4-49, or  
4 upon population, budgets and such other factor or factors, or any  
5 combination thereof as provided in the agreement.

6 Source: R. S. 40:27-9.

1 70. Termination of agreement. Termination of a joint agree-  
2 ment pursuant to section 65 of this act shall not be made effective  
3 earlier than June 30 next succeeding the expiration of 12 full

4 calendar months following the decision to terminate;  
5 that such termination may occur at an earlier date if the  
6 to the joint agreement unanimously agree to such earlier  
7 or after the date of the decision to terminate as provided  
8 joint agreement.  
9 Source: New.

1 71. Regional planning board; powers. A regional  
2 board shall prepare a master plan for the physical, econom  
3 social development of the region, as created pursuant to the  
4 ment, with elements similar to those mentioned in section 12  
5 may make such additional surveys and studies as may be need  
6 to carry out its duties. The governing body of any const  
7 municipality, by ordinance, or the board of any const  
8 of any constituent county, by resolution, may delegate to  
9 regional planning board, any or all of the powers and duties  
10 municipal planning board, in the case of a municipality, and  
11 the case of a county, any or all of the powers and duties of a  
12 planning board.

13 Notwithstanding any other provision of this act, no appl  
14 for development shall be required to be reviewed and app  
15 by both a regional planning board and the planning board  
16 constituent municipality.  
17 Source: R. S. 40:27-10; R. S. 40:27-11.

1 72. Regional board of adjustment. A regional board of  
2 justment shall consist of at least seven members. Each mem  
3 shall be appointed for a term of 4 years, except that of the  
4 members to be appointed, the term of at least one member  
5 expire at the end of every year. A regional board of adjust  
6 shall have all the powers of a municipal board of adjustme  
7 each of the constituent municipalities and, unless other  
8 specified herein, shall be subject to the provisions of this ac  
9 relating to municipal boards of adjustment. Except for determ  
10 tion of matters pending before them at the time of creation  
11 regional board of adjustment, the jurisdiction of all munic  
12 boards of adjustment in the constituent municipalities shall  
13 terminated by the regional board.  
14 Source: New.

1 73. Appointment of joint building officials, zoning officers  
2 planning administrative officers. The governing bodies of  
3 or more constituent municipalities may provide by agree  
4 pursuant to procedures set forth herein, for the appointment

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5 joint building official, zoning officer, planning administrative  
6 officer or any thereof, and any other personnel necessary for the  
7 enforcement of the provisions of this act.

8 Source: New.

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1 74. Joint administrative functions. The building official, zoning  
2 office and planning administration functions, or any thereof, or a  
3 joint office shall be exercised in the same manner, to the same  
4 extent and with the same obligation to attend and report to the  
5 governing bodies, boards, communities and officials of each of the  
6 several municipalities as though such functions were exercised in  
7 each municipality separately, and all records for each of the  
8 municipalities shall be maintained separately and shall be avail-  
9 able for public inspection pursuant to law.

10 Except as otherwise provided by joint agreement, any person or  
11 persons who may hereafter be appointed as a joint building  
12 official, zoning officer or planning administrative officer shall serve  
13 at the pleasure of the regional planning board.

14 Source: New.

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1 75. Delegation to county, regional and interstate bodies. The  
2 governing body of any municipality may, by ordinance pursuant  
3 to a written agreement, provide for the joint administration of  
4 any or all of the powers conferred upon the municipality by this  
5 act with a county, regional or interstate body authorized to act  
6 in the region of which the municipality is part. The ordinance  
7 shall set forth the membership of the joint body, the specific  
8 administrative duties to be exercised, in the manner of financing,  
9 the share of financing to be borne by the bodies involved, the dura-  
10 tion of the agreement and the manner in which the agreement may  
11 be terminated or extended.

12 Source: R. S. 40:27-11.

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## ARTICLE 11

### PERIODIC REEXAMINATION OF MUNICIPAL PLANS AND REGULATIONS

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1 76. Periodic reexamination. The governing body shall, at least  
2 every 6 years, provide for a general reexamination of its master  
3 plan and development regulations by the planning board which  
4 shall prepare a report on the findings of such reexamination, a  
5 copy of which shall be sent to the county planning board and the

6 municipal clerks of each adjoining municipality. The 6-  
7 period shall commence with the adoption or termination of  
8 last general reexamination of such plan and regulations.  
9 first such reexamination shall be completed within 6 years  
10 the effective date of this act.

11 Such report shall state:

12 a. The major problems and objectives relating to land devel-  
13 opment in the municipality at the time of such adoption, last revision  
14 or reexamination, if any.

15 b. The extent to which such problems and objectives have  
16 reduced or have increased subsequent to such date.

17 c. The extent to which there have been significant changes  
18 the assumptions, policies and objectives forming the basis  
19 such plan or regulations as last revised, with particular regard  
20 the density and distribution of population and land uses, home-  
21 conditions, circulation, conservation of natural resources and  
22 changes in State, county and municipal policies and objectives.

23 d. The specific changes recommended for such plan or regula-  
24 tions, if any, including underlying objectives, policies and  
25 standards, or whether a new plan or regulations should be pre-  
26 pared.

27 Source: New.

1 77. Moratoriums; interim zoning. a. The prohibition of  
2 development in order to prepare a master plan and developmen-  
3 regulations is prohibited.

4 b. A municipality may adopt a reasonable interim zoning ordi-  
5 nance not related to the land use plan element of the municipal  
6 master plan without special vote as required pursuant to section  
7 section 49 a. of this act, pending the adoption of a new or sub-  
8 stantially revised master plan or new or substantially revised  
9 development regulations. Such interim zoning ordinance shall  
10 be valid for a period longer than 1 year unless extended by ordi-  
11 nance for a period no longer than an additional year for good  
12 cause and upon the exercise of diligence in the preparation of  
13 master plan, development regulations or substantial revision  
14 thereto, as the case may be.

15 Source: New.

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1 78. Sec  
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ARTICLE 12

SEVERABILITY, CONSTRUCTION AND EFFECTIVE DATE

1 78. Severability of provisions. If the provisions of any article,  
2 section, subsection, paragraph, subdivision or clause or this act  
3 shall be judged invalid by a court of competent jurisdiction, such  
4 order or judgment shall not affect or invalidate the remainder of  
5 any article, section, subsection, paragraph, subdivision or clause  
6 of this act and, to this end, the provisions of each article, section,  
7 subsection, paragraph, subdivision or clause of this act are hereby  
8 declared to be severable.

9 Source: C. 40:55-1.3 (1953, c. 433, s. 3); C. 40:55-67 (1967, c. 61,  
10 s. 13).

1 79. Construction. This act being necessary for the welfare of  
2 the State and its inhabitants shall be considered liberally to effect  
3 the purposes thereof.

4 Source: C. 40:55-1.3 (1953, c. 433, s. 3); C. 40:55-67 (1967, c. 61,  
5 s. 13).

1 80. Acts repealed. The following acts and parts of acts are  
2 hereby repealed:

3 Sections 40:27-9 to 40:27-11, inclusive, of the Revised Statutes;  
4 Sections 40:55-22 to 40:55-45 and 40:55-47 to 40:55-51, inclusive,  
5 of the Revised Statutes;

6 P. L. 1953, c. 377 (C. 40:55-14.1);

7 P. L. 1953, c. 433 (C. 40:55-1.1 to C. 40:55-1.29, inclusive);

8 P. L. 1953, c. 434 (C. 40:55-1.30 to C. 40:55-1.42, inclusive);

9 P. L. 1955, c. 126 (C. 40:55-36.1, C. 40:55-36.2);

10 P. L. 1961, c. 138 (C. 40:55-33.1);

11 P. L. 1962, c. 177 (C. 40:55-33.2);

12 P. L. 1965, c. 162 (C. 40:55-53);

13 P. L. 1967, c. 61 (C. 40:55-54 to C. 40:55-67, inclusive);

14 P. L. 1968, c. 70 (C. 40:55-53.1);

15 P. L. 1969, c. 277 (C. 40:55-47.1);

16 P. L. 1969, c. 293 (C. 40:55-39.1);

17 P. L. 1970, c. 55 (C. 40:55-1.2a); and

18 P. L. 1970, c. 64 (C. 40:55-1.18a).

1 81. Continuance. a. Notwithstanding any other provision of  
2 this act, any municipality regulating development prior to the  
3 effective date of this act pursuant to the acts repealed by this  
4 act is authorized to continue to exercise such authority thereunder

5 for a period of 6 months after the effective date of this act  
6 until the municipality exercises the authority delegated by this act  
7 to regulate development, whichever occurs first.

8 b. Members of municipal planning boards and zoning boards  
9 adjustment on the effective date of this act shall continue in office  
10 until the completion of their terms as provided by law immediately  
11 prior to the effective date of this act. Any new appointments  
12 reappointments to said board shall be governed by the provisions  
13 of this act.

14 c. All applications for development made pursuant to law  
15 authority preceding the effective date of this act may be continued.

16 Source: C. 40:55-1.27 (1953, c. 433, s. 27); R. S. 40:55-51.

1 82. Effective date. This act shall take effect on the first day  
2 the month immediately following 6 full calendar months after  
3 date of approval thereof.

*Land Use*

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**MUNICIPAL LAND USE LAW**  
 Schedule of Allocations of Source Material

*Land Use Law Sections*

*Source Sections*

1	.....	New
2	.....	New
3	.....	C. 40:55-1.2 (1953, c. 433, s. 2 as am.); C. 40:55-1.15 (1953, c. 433, s. 15); C. 40:55-1.31 (1953, c. 434, s. 2); R. S. 40:55-22; C. 40:55-47.1 (1969, c. 277, s. 2); C. 40:55-65 (1967, c. 61, s. 11)
4	.....	New
5	.....	R. S. 40:55-38
6	.....	C. 40:55-1.7 (1953, c. 433, s. 7); C. 40:55-1.40 (1953, c. 434, s. 11); R. S. 40:55-25; R. S. 40:55-37 (as am.); R. S. 40:55-42
7	.....	C. 40:55-1.7 (1953, c. 433, s. 7); C. 40:55-1.36 (1953, c. 434, s. 7 as am.); R. S. 40:55-34 (as am.); R. S. 40:55-42; R. S. 40:55-44 (as am.); C. 40:55-53 (1965, c. 162 as am.); C. 40:55-53.1 (1968, c. 70)
8	.....	C. 40:55-1.19 (1953, c. 433, s. 19 as am.); C. 40:55-1.39 (1953, c. 434, s. 10); R. S. 40:55-40; R. S. 40:55-41; R. S. 40:55-43 (as am.); R. S. 40:55-45 (as am.); R. S. 40:55-47 (as am.); R. S. 40:55-58
9	.....	R. S. 40:55-58
10	.....	C. 40:55-1.19 (1953, c. 433, s. 19 as am.); R. S. 40:55-50
11	.....	New
12	.....	C. 40:55-1.18a (1970, c. 64)
13	.....	C. 40:55-1.18a (1970, c. 64)
14	.....	C. 40:55-1.4 (1953, c. 433, s. 4 as am.)
15	.....	C. 40:55-1.5 (1953, c. 433, s. 5); C. 40:55-1.6 (1953, c. 433, s. 6)

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*Land Use Law Sections*

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16	C. 40:55-1.10 (1953, c. 433, s. 10 as am.) C. 40:55-1.13 (1953, c. 433, s. 14 as am.) C. 40:55-1.14 (1953, c. 433, s. 18 as am.) C. 40:55-1.18 (1953, c. 433, s. 18 as am.) C. 40:55-1.35 (1953, c. 434, s. 3 as am.) R. S. 40:55-35 (as am.)	34
17	C. 40:55-1.13 (1953, c. 433, s. 14 as am.)	35
18	C. 40:55-1.9 (1953, c. 433, s. 11 as am.)	
19	C. 40:55-1.10 (1953, c. 433, s. 10 as am.) C. 40:55-1.11 (1953, c. 433, s. 11 as am.) C. 40:55-1.12 (1953, c. 433, s. 11 as am.) C. 40:55-1.13 (1953, c. 433, s. 11 as am.)	36 37 38
20		
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23	C. 40:55-1.13 (1953, c. 433, s. 11 as am.) C. 40:55-1.32 (1953, c. 434, s. 3 as am.) C. 40:55-1.34 (1953, c. 434, s. 3 as am.) C. 40:55-1.35 (1953, c. 434, s. 3 as am.)	39 40 41
24	C. 40:55-1.34 (1953, c. 434, s. 3 as am.) C. 40:55-1.37 (1953, c. 434, s. 3 as am.)	42 43
25	C. 40:55-1.38 (1953, c. 434, s. 9 as am.)	44
26	C. 40:55-1.39 (1953, c. 434, s. 11 as am.)	45
27	C. 40:55-1.40 (1953, c. 434, s. 11 as am.)	46
28	C. 40:55-1.13 (1953, c. 433, s. 11 as am.) C. 40:55-1.14 (1953, c. 433, s. 14 as am.) C. 40:55-1.17 (1953, c. 433, s. 17 as am.) C. 40:55-1.15 (1953, c. 433, s. 17 as am.) C. 40:55-1.20 (1953, c. 433, s. 21 as am.)	47 48 49
29	C. 40:55-1.21 (1953, c. 433, s. 21 as am.) C. 40:55-1.32 (1953, c. 434, s. 3 as am.) C. 40:55-55 (1967, c. 61, s. 1 as am.) C. 40:55-56 (1967, c. 61, s. 1 as am.) C. 40:55-57 (1967, c. 61, s. 3 as am.) C. 40:55-58 (1967, c. 61, s. 3 as am.) C. 40:55-59 (1967, c. 61, s. 3 as am.)	50 51 52
30	C. 40:55-1.21 (1953, c. 433, s. 21 as am.) R. S. 40:55-57	53
31		
32	C. 40:55-57(e) (1967, c. 61, s. 3(e) as am.) C. 40:55-1.20 (1953, c. 433, s. 21 as am.)	54 55
33	C. 40:55-1.32 (1953, c. 434, s. 3 as am.) C. 40:55-61 (1967, c. 61, s. 1 as am.)	56 57

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*Land Use Law Sections*

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34	C. 40:55-59 (1967, c. 61, s. 5); C. 40:55-60 (1967, c. 61, s. 6); C. 40:55-62 (1967, c. 61, s. 8); C. 40:55-63 (1967, c. 61, s. 9)
35	C. 40:55-1.14 (1953, c. 433, s. 14 as am.); C. 40:55-1.15 (1953, c. 433, s. 15); C. 40:55-14.1 (1953, c. 377, s. 2)
36	C. 40:55-1.14 (1953, c. 433, s. 14 as am.)
37	C. 40:55-1.18 (1953, c. 433, s. 18 as am.)
38	C. 40:55-1.18 (1953, c. 433, s. 18 as am.); C. 40:55-57(f) (1967, c. 61, s. 3(f) as am.); C. 40:55-61 (1967, c. 61, s. 7)
39	New
40	New
41	C. 40:55-1.21 (1953, c. 433, s. 21 as am.); C. 40:55-1.22 (1953, c. 433, s. 22 as am.)
42	C. 40:55-1.17 (1953, c. 433, s. 17)
43	C. 40:55-1.23 (1953, c. 433, s. 23)
44	C. 40:55-1.24 (1953, c. 433, s. 24)
45	C. 40:55-1.25 (1953, c. 433, s. 25)
46	New
47	C. 40:55-1.8 (1953, c. 433, s. 8); C. 40:55-1.40 (1953, c. 434, s. 11)
48	C. 40:55-1.18 (1953, c. 433, s. 18 as am.)
49	R. S. 40:55-30 (as am.); R. S. 40:55-31 (as am.); R. S. 40:55-32 (as am.)
50	R. S. 40:55-35 (as am.)
51	R. S. 40:55-35 (as am.)
52	R. S. 40:55-30 (as am.); R. S. 40:55-31 (as am.); R. S. 40:55-32 (as am.); C. 40:55-55 (1967, c. 61, s. 1); C. 40:55-57 (1967, c. 61, s. 3 as am.)
53	C. 40:55-33.1 (1961, c. 138); C. 40:55-33.2 (1962, c. 177)
54	R. S. 40:55-30 (as am.)
55	R. S. 40:55-48
56	R. S. 40:55-36 (as am.)
57	R. S. 40:55-39 (as am.)

<i>Land Use Law Sections</i>	<i>Source Sections</i>
58	C. 40:55-36.1 (1955, c. 126, s. 1 as am.) C. 40:55-36.2 (1955, c. 126, s. 2 as am.)
59	R. S. 40:55-43
60	C. 40:55-39.1 (1969, c. 293) R. S. 40:55-45 (as am.)
61	R. S. 40:55-43
62	R. S. 40:55-43 (as am.)
63	C. 40:55-1.38 (1953, c. 434, s. 9 as am.) C. 40:55-1.39 (1953, c. 434, s. 10) C. 40:55-1.40 (1953, c. 434, s. 11)
64	R. S. 40:27-11
65	R. S. 40:27-11
66	R. S. 40:27-11
67	R. S. 40:27-11
68	R. S. 40:27-11
69	R. S. 40:27-11
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71	R. S. 40:27-11 R. S. 40:27-11
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73	New
74	New
75	R. S. 40:27-11
76	New
77	New
78	C. 40:55-1.3 (1953, c. 433, s. 3) C. 40:55-67 (1967, c. 61, s. 13)
79	C. 40:55-1.3 (1953, c. 433, s. 3) C. 40:55-67 (1967, c. 61, s. 13)
80	Repealer
81	C. 40:55-1.27 (1953, c. 433, s. 27)
82	R. S. 40:55-51 Effective date

Source Sections

- s. 1 as am.);
- s. 2 as am.)
- S. 40:55-42
- 1969, c. 293);
- 45 (as am.)
- S. 40:55-40
- 43 (as am.)
- s. 9 as am.);
- c. 434, s. 10);
- c. 434, s. 11)
- l. S. 40:27-9
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- 7, c. 61, s. 13)
- ), c. 433, s. 3);
- 7, c. 61, s. 13)
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- c. 433, s. 27);
- l. S. 40:55-51
- Effective date.

Sponsors' STATEMENT

The "Municipal Land Use Law" updates and coordinates the regulation of land development in New Jersey. It has been prepared by the New Jersey State League of Municipalities after several years of effort and meetings with interested groups and parties.

It is a comprehensive strictly municipal land use enabling act, incorporating into one law—zoning, planning, PUD, site plan approval, master plan and official map legislation. It retains all of the present powers of municipalities in these fields but builds onto and incorporates into these powers, the modern concepts of PUD, site plan review and standardizes the procedures to be employed by the various administrative agencies such as boards of adjustment, planning boards, environmental commissions and governing bodies.

Representatives of the New Jersey Institute of Municipal Attorneys and the New Jersey Federation of Planning Officials joined with the league in preparing the bill. Among the highlights of the proposed municipal land use act are the following:

1. Broadening the statutory municipal purposes of zoning, planning and land use control.
2. Increasing and enlarging more than 50 fold the number and scope of definition of the terminology employed.
3. Spelling out in detail and unifying the procedures to be followed before the board of adjustment, planning board, etc.
4. Removing the governing body from the necessity to participate in granting use variances and subdivisions and giving it appellate power to pass upon, when requested.
5. Granting planning boards the statutory power of site plan review, which they do not now have.
6. Incorporating the powers of the PUD Act into the overall Municipal Land Use Enabling Legislation along with zoning, planning, site plan review, subdivision control and official map so that all means of exercising these important municipal functions will be in one act and in one place.
7. Making provisions for off-site improvements.

8. Providing for design control districts for areas containing buildings of historical, architectural or cultural merit.

9. Permitting planning boards to attach conditions to minor subdivision approval.

10. Permitting planning boards, instead of boards of adjustment, to act on conditional uses.

11. Eliminating the needs in most cases, of appearing before two boards to obtain land use approval.

12. Outlining specific standards for all municipal agencies to observe when exercising land use control.

Drafts of this bill have been discussed by numerous officials and private organizations throughout New Jersey. Copies were mailed out in the fall of 1974 and a league conference session was devoted exclusively to discussion of the bill. Amendments of the original draft were completed by the drafting committee in January of 1975.

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 3054**

with Senate committee amendments

**STATE OF NEW JERSEY**

ADOPTED MAY 8, 1975

Senate Bill No. 3054 is a comprehensive codification and substantial revision of the several separate State statutes on municipal land use and building regulation. The bill was prepared by the Land Use Study Committee of the New Jersey State League of Municipalities.

The bill's primary overall objectives are as follows:

1. to simplify and, where possible, standardize existing requirement and procedures for land use regulation;
2. provide a clearer statement of the objectives of and standards for land use planning and regulation;
3. to achieve a better coordination of land use planning and regulation;
4. to provide (a) a clearer delineation of the respective responsibilities of municipal bodies or officials and developers in the regulatory process and (b) a more precise timetable therefor;
5. to eliminate some of the procedural confusion resulting from existing jurisdictional overlaps, especially relating to the exercise of concurrent jurisdiction;
6. to clarify several ambiguities in the present law, relating to substantive and procedural law, by incorporating pertinent judicials thereon.

The principal changes in present law, many of which merely involve the incorporation of case law into the planning statutes, effectuated by Senate Bill No. 3054 are as follows:

*ARTICLE 1* (General Provisions)

1. Provides (see section 2 and Article 3 section 19) a clearer articulation of objectives of the municipal land use law and each of its component subsystems, including (a) some recognition of a municipality's obligation to consider the development patterns and welfare of neighboring municipalities, the county and the State (see also subsection 19d., discussed below), and (b) the provision of clearer standards for evaluating municipal land use regulations—of particular importance being the requirement for a stricter conformity between the master plan, official map and zoning ordinances).

2. Codifies and, to the maximum extent possible, standardizes procedural requirements for meetings, hearings, and public notices on, or appeals from and enforcement of land use regulations or decisions.

3. More clearly delineates the respective responsibilities of developers and municipal bodies or agents by:

(a) requiring, except as otherwise provided by law, a hearing on all development applications, and a statement for any actions taken thereon by the regulatory body;

(b) setting forth a more precise schedule for the development review process;

(c) requiring the better retention of and public access to public records on land use decisions, including minutes of all regular meetings and verbatim records of all hearings; and

(d) providing clearer definition of "interested party", for purposes of taking an appeal to the governing body (subsection 8a);

4. broadens the review powers of the governing body (section 8);

5. requires the conditional granting, contingent upon appropriate action by other administrative or judicial bodies, of approval to any development application which otherwise conforms with a municipality's land use regulations (section 13).

*ARTICLE 2*

1. Eliminates small (5-member) boards, makes certain changes in membership and terms of office, and eliminates alternate members.

2. Alters voting requirements (see subsection 14c on absences).

3. Grants additional powers to planning boards (section 16):

(a) site plan review and, when authorized, conditional use approval (section 54), except when "d" or use variances are involved;

(b) issuance of division plat also section 4 27, or where

(c) preparation of governing body and expenditure of municipal agency

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*ARTICLE*

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(b) issuance of (i) hardship or "c" variances when part of subdivision plat (including PUD), site plan or conditional use review (see also section 47), and (ii) building permits pursuant to sections 25 and 27, or where no board of adjustment exists (see Article 5);

(c) prepare capital improvements programs, when authorized by governing body, and, on its own initiative, review all capital projects and expenditures thereon, whether involving a State, county or municipal agency (section 22);

4. Requires planning board to make a copy of each development application available to the environmental commission, when said commission has completed and submitted for approval an index of natural resources of municipality.

*ARTICLE 3 (Master Plan)*

1. Contains more detailed specifications of contents, objectives and standards for master plan and for each subplan elements and authorizes phased or staged implementation of the various subplan elements.

2. Requires master plan to indicate relationship of said plan to master plans of contiguous municipalities and counties, and to any comprehensive guides adopted for development and improvement of State's physical assets, including capital programs therefor (section 19).

*ARTICLE 4 (Capital Improvements Program)*

See discussion of Article 2.

*ARTICLE 5 (Official Map)*

See discussion on building permits in Article 2.

*ARTICLE 6 (Subdivision Approvals)*

1. Eliminates necessity of governing body's approval of subdivision plans—power to be solely exercised by planning boards (see section 28), although governing body may, on appeal, affirm, reverse, remand or modify final decision of board (section 8);

2. Grants board of adjustment jurisdiction over subdivision applications, site plan or conditional approval when "d" or use variances are involved (section 28);

3. Grants planning board power to review all proposed subdivision and site plan ordinances or any amendments thereto (section 28);

4. Sets standards for site plan review (section 29);

5. Outlines mandatory and discretionary contents of subdivision plats or site plans (section 29), and PUD applications which in section 29 and elsewhere are treated as a particularized form of subdivision;



6. Authorizes planning boards (i) to deviate, in certain prescribed circumstances, from the conditions of preliminary subdivision approval in granting final approval (section 29), and (ii) to grant exceptions from subdivision regulations for preliminary and minor subdivision and site plan applications (section 39);

7. Allows greater flexibility of design of conventional subdivisions (section 29).

8. Differentiates cluster developments and planned unit residential developments from planned unit developments and allows for adoption of appropriate ordinances for each, but maintains same statutory requirements for three types of planned developments (sections 29, 31 and 33).

9. Authorizes off-tract dedications for water, sewerage, drainage and street improvements and provides standards for such requirements (section 30);

10. Requires developer of PUD (including residential and cluster developments) to provide, when open spaces are not dedicated to public agency, resident association for ownership and maintenance of open spaces in development (subsection 31a.).

11. Makes developer eligible for compensation for actual loss found to be caused by temporary (1 year) reservation of lands designated as public areas—that is, other than dedicated areas or areas otherwise required as condition of final subdivision approval within subdivision (section 32);

12. Provides for (a) preliminary site plan approvals and specifies the nature and terms of such approvals (section 34), and (b) the simultaneous approval of conditional uses and site plans when part of subdivision review application (subsection 39c.);

13. Creates new category of minor subdivisions (10 acres or less) and provides one step review and approval of such applications, without necessity of preliminary plat or site plan review proceedings (section 35), though planning board may require on-tract improvements;

14. Increases from 1 to 2 years the extension time on a preliminary approval of a major subdivision (sections 36 and 37);

15. Extends similar requirements for preliminary and final subdivision approvals to all major subdivisions (including PUDs)—except that subdivisions over 50 acres (and PUDs of over 150 acres in instance of final approval) granted additional time, at discretion of planning board, for filing plans (sections 37 and 40), and continues allowance for deviation between preliminary and final plan in case of PUDs (section 38);

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16. Prescribes the maximum value or amount of a performance guarantee for subdivision improvements (subsection 41a.(1));

17. Allows subdivision improvements or installations to be completed or corrected by municipality prior to receipt of moneys from performance guarantee (subsection 41c.);

18. Requires that development regulations for use, location or construction of condominiums and cooperative structures be the same as for all other buildings and improvements (section 46).

#### ARTICLE 8 (Zoning)

1. Requires zoning ordinances to be adopted only after planning board has adopted land use element of master plan, and all zoning ordinances to be substantially in conformance therewith; except in case of (a) interim zoning ordinances section 77b.) and when (b) majority of authorized members of governing body adopt ordinance inconsistent therewith, and state the reasons therefor (subsection 49a.);

2. Prohibits zoning by initiative or referendum (49b.), although protest referendums, on proposed amendment or revision of zoning ordinances, are retained (section 50);

3. Allows governing body to pass zoning ordinances over objections or otherwise to change recommendations, of planning board, by majority (rather than the current two-thirds) vote of the authorized members (sections 17 and 51);

4. Authorizes governing body by zoning ordinance, (a) to designate and regulate flood plain and flood fringe areas, and (b) to allow conditional uses to be granted by planning board (sections 52 and 54).

#### ARTICLE 9 (Zoning Board of Adjustment)

1. Increases number of board members and eliminates alternate members (section 56);

2. Eliminates "special exception" or "b" variances, substitutes therefor the principle of conditional uses over which the governing body is granted discretionary authority;

3. Requires application for "c" variances be made directly to planning board, when subdivision, site plan or conditional use approval by planning board is necessary (section 57);

4. Empowers the board of adjustment to grant "d" or use variance rather than making recommendations to governing body, but latter body retains right to hear appeals (see also section 8);

5. Allows developer to file application directly with board of adjustment without necessity of first applying to administrative officer (subsection 59b.);

6. Establishes presumption of approval of application whenever board of adjustment fails to render decision within prescribed time (sections 61 and 63)—at present, inaction constitutes a rejection of an application;

7. Authorizes board of adjustment to grant, pursuant to any limitations placed on planning board, subdivision, site plan or conditional use approvals whenever "d" or use variance is involved (subsection 63b.).

*ARTICLE 10* (Joint agreements for exercise of planning and land use control powers)

1. Widens the range of joint undertakings by municipalities and counties to include agreement for establishment and appointment of regional planning board, regional board of adjustment, joint building official, joint zoning officer or other administrative officials (sections 64 and 65)—(Law presently only permits transfer of planning board powers);

2. Provides that regional bodies have at least one representative member from each constituent municipality or county;

3. Provides timetable for termination of joint agreements (section 70);

4. Prohibits requiring development application approval by both a regional and municipal planning board (section 71);

5. Requires that, (a) unless otherwise specified in joint agreement, the joint building official, zoning officer or planning administrative officer shall serve at pleasure of regional planning board, with said officials or officers required to "attend and report" to governing bodies or other agencies of the several participant municipalities, and (b) all records for each of the municipalities be separately maintained and available for public inspection (section 74);

6. Authorizes municipality to enter into agreements with county, regional or interstate body for joint administration of any or all of the powers conferred on municipality by this act (section 75).

*ARTICLE 11* (Periodic Reexaminations)

1. At least every 6 years, governing body to provide for a critical examination of master plan and development regulations by planning board with report to be submitted to county planning board and adjoining municipalities (section 76);

2. Authorizes adoption of interim zoning and prohibits moratoria (section 77).

*ARTICLE 12 (Miscellanea)*

Transitional period—continuance and application of new provisions of law.

The Senate Committee amendments are a distillation of comments received by the Committee at the public hearing on Senate Bill No. 3054 and at other times. They were compiled after discussions with representatives of the League's Land Use Study Committee.

Although the amendments are largely of a technical and stylistic nature, they include, as well, the following substantive elements:

1. Minor subdivisions are redefined so as to exclude any development requiring the extension of off-tract improvements; all such subdivisions shall be treated, for purposes of application review, as major subdivisions;

2. Definitions of planned commercial developments and planned industrial developments are added, and appropriate changes are made in other related sections extending to such developments all the application requirements of other planned developments;

3. Conflict of interest provisions are added to the sections on the composition of planning boards and zoning boards of adjustment;

4. Engineering and architectural documents, for purposes of site plan review and for preliminary approval of minor and major subdivisions, shall be submitted in draft form adequate for discussion purposes.

FROM THE OFFICE OF THE GOVERNOR

JANUARY 14, 1976

FOR FURTHER INFORMATION

FOR IMMEDIATE RELEASE

DICK CAMPBELL

Governor Brendan Byrne signed into law today a bill designed to reform the procedures for the planning and regulations of land uses.

The measure, S-3054, sponsored by Senator Martin L. Greenberg, D-Essex, is intended to streamline the administrative process in acting on subdivisions and other land use decisions.

Among other things, the bill gives local planning boards the power to grant non-use variances as part of its review of site plans and subdivisions.

The measure also empowers local boards of adjustments to grant use variances, instead of the present practice of requiring an additional approval by the municipal governing body. At the same time it grants a use variance, the board would have the authority to approve site plans, subdivisions and conditional uses.

The bill establishes specific time periods in which local agencies must act on applications.

"This measure should reduce costs, cut red tape and promote needed construction," said Byrne.

He said one of the purposes of the bill is to establish a "one-stop shopping" approach by eliminating the need to obtain approvals from several local agencies.

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FROM THE OFFICE OF THE GOVERNOR

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