

Chapter 11. Central Planning Board

40:11-1. Establishment; Membership

There is hereby established, pursuant to the provisions of NJSA 40:55D-1 et seq., in the City of Newark, the Central Planning Board of nine (9) members and two (2) alternates, who shall all be residents of the City of Newark and consist of the following four (4) classes:

40:11-1-1. Class I

The mayor or the Planning Director in the absence of the mayor.

40:11-1-2. Class II

One (1) of the officials of the municipality, other than a member of the governing body, to be appointed by the mayor; provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by NJSA 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.

40:11-1-3. Class III

A member of the governing body to be appointed by it.

40:11-1-4. Class IV

Six (6) other citizens of the municipality, to be appointed by the mayor. The members of Class IV shall hold no other municipal office, position or employment except that one (1) member may be a member of the Zoning Board of Adjustment and one (1) member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Central Planning Board as required by NJSA 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV members of the Central Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board. For the purpose of this Section, membership on a City board or commission whose function is advisory in nature, the establishment of which is discretionary and not required by statute, shall not be considered the holding of City office.

40:11-1-5. Alternate Members

There shall be appointed two (2) alternate members of the Central Planning Board. Alternate members shall be appointed by the mayor and shall meet the qualifications of Class IV members of a nine (9) member Planning Board. Alternate members shall be designated at the time of appointment by the mayor as "Alternate No. 1" and "Alternate No. 2." Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

40:11-2. Terms of Office; Vacancies

40:11-2-1. The term of the member composing Class I shall correspond to the mayor's official tenure or if the member is the mayor's designee in the absence of the mayor, the designee shall serve at the pleasure of the mayor during his or her official tenure.

40:11-2-2. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his or her term of office as a member of the Environmental Commission, whichever first occurs.

40:11-2-3. The term of a Class IV member who is also a member of the Zoning Board of Adjustment shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

40:11-2-4. The terms of all Class IV members first appointed pursuant to this Chapter shall be so determined that, to the greatest practicable extent, the expiration of such term shall be distributed evenly

over the first four (4) years after their appointments, provided that the initial Class IV term of no member shall exceed four (4) years. Thereafter, all Class IV members shall be appointed for terms of four (4) years. If a vacancy in any class shall occur otherwise than by the expiration of the Central Planning Board term, it shall be filled by appointment, as provided above, for the unexpired term.

40:11-2-5. All terms shall run from January 1 of the year in which the appointment is made.

40:11-2-6. The terms of the alternate members shall be for two (2) years, except that the terms of the alternate members shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two (2) years.

40:11-2-7. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

40:11-2-8. Any member other than a Class 1 member, after a public hearing, if requested, may be removed by the Municipal Council for cause.

40:11-2-9. No member of the Central Planning Board shall be permitted to act on any matter in which he or she has any personal or financial interest, either directly or indirectly.

40:11-2-10. If the Central Planning Board lacks a quorum because any of its members are prohibited by this Chapter below from acting on a matter due to the member's personal or financial interest, regular members of the Zoning Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Central Planning Board in order of seniority of continuous service to the Zoning Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest. If a choice has to be made between regular members with equal seniority, the Chairperson of the

Zoning Board of Adjustment shall make the choice.

40:11-2-11. Organization of Board

The Central Planning Board shall elect a Chairperson and Vice Chairperson from the members of Class IV and select a Secretary who may or may not be a member or alternate member of the Board or a City employee.

40:11-3. Appointment of Attorney

40:11-3-1. The Central Planning Board shall have and exercise the power and authority conferred by the Municipal Land Use Law, NJSA 40:55D-24, to appoint an attorney on a part-time basis, other than a municipal attorney, to the Board. The appointee shall be member of the New Jersey Bar in good standing.

40:11-3-2. The term of the appointment shall be for a period of not more than one (1) year; which commences after January 1st of each year and expires December 31st of the same year. Any appointment which commences after January 1st of any year shall be for the remaining period of the year; thereby expiring on December 31st of the same year. The appointment of an attorney to the Central Planning Board shall in no way obligate the City of Newark to finance the position of Attorney within the City Budget in any particular fiscal year.

40:11-3-3. The attorney shall receive a salary to be ordained by the Municipal Council.

40:11-3-4. It shall be the duty and responsibility of the attorney to advise and counsel the Central Planning Board on all matters and functions of the Board. The attorney shall appear on behalf of and before the Newark Central Planning Board at its scheduled meetings.

40:11-3-5. No provisions of this Section shall be construed to confer upon the attorney, the authority or right to vote on any matters which come before the Board.

40:11-4. Experts and Staff

The Central Planning Board may employ or contract

for the services of experts and other staff and services as it may deem necessary. The Board shall not however exceed, exclusive of gifts or grants, the amount appropriated by the Municipal Council for its use.

40:11-5. Powers and Duties

The Central Planning Board shall have the following powers and duties:

40:11-5-1. Mandatory Powers

The Central Planning Board shall exercise its powers in accordance with the Municipal Land Use Law in regard to:

1. The City Master Plan pursuant to NJSA 40:55D-28. Subdivision ordinance and site plan review pursuant to the provisions of the Ordinance of the City of Newark and the Municipal Land Use Law, NJSA 40:55D-1 et seq.
2. The Official Map in accordance with the provisions of the ordinances and NJSA 40:55D-32 et seq.
3. The zoning ordinance, including conditional uses, pursuant to this Chapter.
4. Municipal capital improvement projects projected over a term of six (6) years, and amendments thereto, and recommend same to the Municipal Council, pursuant to NJSA 40:55D-29 et seq.
5. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to the Board's ancillary powers.

40:11-5-2. Other Powers

The Central Planning Board may:

1. Participate in the preparation and review of programs or plans required by State or Federal law or regulations.
2. Assemble data on a continuing basis as part of a continuous planning process.
3. Perform other such advisory duties as are assigned to it by ordinance or resolution of the Municipal Council.

40:11-5-3. Ancillary Powers

1. Central Planning Board review in Lieu of Board of Adjustment. Whenever the proposed development requires approval of a subdivision, site plan or conditional use, but not a use variance, the Central Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment:

- a. Bulk and dimensional variances pursuant to this Chapter.
- b. Direction pursuant to NJSA 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to NJSA 55D-32.
- c. Direction pursuant to NJSA 40:55D-36 for issuance of a permit for a building or structure not related to a street.

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

4. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of a variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Central Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial impairment of the intent and purpose of the Zone Plan and Zoning Ordinance.

40:11-5-4. Referral Powers

1. Prior to the adoption of a development regulation, revision or amendment thereto, the Central Planning Board shall make and transmit to the Municipal Council, within thirty-five (35) days after referral, a report including identification of any provisions in the proposed development regulation which are inconsistent with the Master Plan and recommendations concerning these inconsistencies and other matters as the Board deems appropriate. The Municipal Council, when considering the adoption of a development regulation, revision or amendment

thereto, shall review the report of the Central 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 Central Planning Board to transmit its report within the thirty-five day period provided herein shall relieve the Municipal Council from the requirements of this Subsection in regard to the proposed development regulation, revision or amendment referred to the Central Planning Board. Nothing in this Section shall be construed as diminishing the application of the provisions of NJSA 40:55D-32 to any official map or an amendment or revision thereto or of NJSA 40:55D-62 to any zoning ordinance or any amendment or revision thereto.

40:11-6. County Approval

Whenever review or approval of an application by the County Planning Board is required pursuant to NJSA 40:27-6.3 or NJSA 40:27-6.6, the Central 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. Whenever County Planning Board review or approval is required, the applicant shall be responsible for filing all necessary applications, plans, reports and other documents directly with the County Planning Board.