

No. 6FB 1st Reading

NOV 13 2019

Ordinance of the

JAN 09 2020

No. Public Hearing

Date to Mayor

JAN 13 2020

No. 6PSFA JAN 09 2020
2nd Rdg. and Final Passage

City of Newark, N.J.

Date Returned

Date Resubmitted
to Council

Date Advertised
1st Reading

11-22-2019

No. Reconsidered

Approved as to Form and Legality on Basis of Facts Set Forth

Final Reading

Factual contents certified to by

Corporation Counsel

Title

Council member Ramona presents the following Ordinance:

AN ORDINANCE TO AMEND THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, 2000, AS AMENDED AND SUPPLEMENTED, BY MOVING THE ESTABLISHMENT, TERMS, AND COMPENSATION OF THE CENTRAL PLANNING BOARD FROM TITLE 41, CHAPTER 11, SECTIONS 1 THROUGH 2-10 AND CHAPTER 12, SECTION 1 AND ADDING IT TO TITLE 2, ADMINISTRATION, CHAPTER 2, OFFICE OF THE MAYOR AND AGENCIES, ARTICLE 5, OFFICES, BOARDS, COMMISSIONS AND AUTHORITIES TO RE-ESTABLISH THE MEMBERSHIP, TERMS AND COMPENSATION OF THE MEMBERS OF THE CENTRAL PLANNING BOARD OF THE CITY OF NEWARK; AND AMENDING TITLE 41, CHAPTER 12, ZONING BOARD OF ADJUSTMENT, TO ADJUST THE COMPENSATION OF THE ZONING BOARD OF ADJUSTMENT MEMBERS TO BE COMMENSURATE TO THAT OF THE MEMBERS OF THE CENTRAL PLANNING BOARD.

WHEREAS, the Municipal Council of the City of Newark (the "City") adopted Ordinance 6PSF-c on February 4, 2015, to repeal Titles 37 (Land Use Procedures), 38 (Subdivision/Site Plan Ordinance), and 40 (Zoning Ordinance) and established a new Title 41, entitled "Newark Zoning and Land Use Regulations", within the Municipal Code; and

WHEREAS, during the process of integrating the essential portions of the repealed Sections into Title 41, language concerning the Central Planning Board was inadvertently dropped from the City's Code and the City now seeks to correct that error.

Note: Additions are shown as underlined and bold. Deletions are shown as ~~strikethroughs~~.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. Title 41:11-1 Establishment; Membership through 41:11-4 is hereby removed in its entirety.

2. The Revised General Ordinances of the City of Newark, New Jersey, 2000, shall be amended and supplemented to add a new Sub-section to Title II, Administration, Chapter 2, Office of the Mayor and Agencies, Article 5, Offices, Boards, Commissions and Authorities:

2:2- . CENTRAL PLANNING BOARD - ESTABLISHMENT; MEMBERSHIP

There is hereby established, pursuant to the provisions of N.J.S.A. 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:

Class I

The Mayor or the Central Planning Board Director in the absence of the Mayor.

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

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Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Central 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.

Class III

A member of the Governing Body to be appointed by it.

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 N.J.S.A. 40:56A-1 shall be a Class IV Central 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.

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 Central 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.

2:2- TERMS OF OFFICE; VACANCIES

2:2- 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.

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 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, which ever first occurs.

2:2- . 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 first occurs.

2:2- . 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

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by the expiration of the Central Planning Board term, it shall be filled by appointment, as provided above, for the unexpired term.

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

2:2- . 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) year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two (2) years.

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

2:2- . Any member other than a Class 1 member, after a Public Hearing, if requested, may be removed by the Municipal Council for cause.

2:2- . 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.

2:2- . 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, then 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.

2:3- . ORGANIZATION OF BOARD

2:3- . 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.

2:4- . COMPENSATION

2:4- . Each Class IV member and alternate member of the Central Planning Board shall receive a salary of \$166.00 per meeting (up to 24 meetings per year) not more than \$5,000.00 per annum for attending board meetings, for each meeting thereafter, each member or alternate shall receive \$250.00 per meeting. Such salaries shall be paid quarterly and in proportion to the number of meetings attended by the member each quarter. No member other than Class IV members and alternate members shall be paid for attending board meetings.

2:5- . APPOINTMENT OF ATTORNEY

2:5- . The Central Planning Board shall have and exercise the power and authority conferred by the Municipal Land Use Law, N.J.S.A. 40:55D-24, to appoint an attorney on a part-time basis, other than a municipal attorney, to the Board. The appointee shall be a member of the New Jersey Bar in good standing.

2:5- . 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 on 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.

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2:5- . The attorney shall receive a salary to be ordained by the Municipal Council.

2:5- . 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.

2:5- . No provisions of this Section shall be construed to confer upon the attorney the authority or the right to vote on any matters which come before the Board.

2:6- . 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.

3. The Revised General Ordinances of the City of Newark, New Jersey, 2000, Title 41:12-1, Establishment; Membership, Subsection 1, shall be amended and supplemented as follows:

41:12-1. ESTABLISHMENT; MEMBERSHIP

41:12-1-1. There is hereby established, pursuant to the provisions of N.J.S.A. 40:55D-1 et seq., in the City of Newark, the Zoning Board of Adjustment of seven (7) members and four (4) alternates who shall be residents of the City of Newark, shall be appointed by the Municipal Council and who shall not hold any elective office or positions under the municipality. The members and alternate members of the Board shall receive a salary of ~~not more than \$5000.00 per annum~~ **\$166.00 per meeting** for attending each of thirty (30) regular board meetings and \$250.00 for each of the ten (10) special meetings which may be scheduled annually to address all applications which have not been placed on the Board's agenda within a two (2) month time frame. Such salaries shall be paid quarterly and in proportion to the number of meetings attended during each quarter. It is mandatory that all applications which have not been placed on the agenda of a special meeting be scheduled as needed. It is mandatory that all application which have not appeared on the Board's agenda in the described period must be placed on the agenda of a special meeting to be scheduled as needed.

4. To the extent that any previous ordinance(s) ~~is are~~ inconsistent with or contradictory hereto, said ordinance(s) ~~is~~ **are** hereby repealed or amended to the extent necessary to make it consistent herewith.

5. The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of the Ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

6. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

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STATEMENT

This Ordinance amends the Revised General Ordinances of the City of Newark, 2000, as amended and supplemented, by moving the Establishment, Terms, and Compensation of the Central Planning Board from Title 41, Chapter 11, Sections 1 through 2-10 and Chapter 12, Section 1, to Title 2, Administration, Chapter 2, Office of the Mayor and Agencies, Article 5, Offices, Boards, Commissions and Authorities, to re-establish the membership, terms and compensation of the members of the Central Planning Board; and amending title 41, Chapter 12, Zoning Board Of Adjustment, to adjust the compensation of the Zoning Board of Adjustment members to be commensurate to that of the members of the Central Planning Board.

CERTIFIED TO BY ME THIS
JAN 13 2020

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE					RECORD OF COUNCIL VOTE FOR RECONSIDERATION				
Council Member	AYE	NAY	NV	AB	Council Member	AYE	NAY	NV	AB
Amador	✓				Osborne	✓			
Gonzalez <u>S</u>	✓				Quintana <small>Vice President</small>	✓			
James	✓				Ramos, Jr. <u>M</u>	✓			
McCallum, Jr.	✓				Crump President	✓			
Mclver	✓								
✓ - Indicates Vote					AB - Absent				
					NV - Not Voting				

Adopted on first reading at a meeting of the Council of the City of Newark, N.J., on NOV 13 2019
Adopted on second and final reading after hearing on JAN 03 2020

Approved _____ Mayor
Rejected By _____ Council President _____ City Clerk

This Ordinance when adopted must remain in the custody of the City Clerk. Certified one copies are available.