



Legislation Text

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AN ORDINANCE AMENDING TITLE XLI, ZONING AND LAND USE REGULATIONS, CHAPTER 12, ZONING BOARD OF ADJUSTMENT, TO AUTHORIZE THE ESTABLISHMENT OF A SUPPLEMENTAL ZONING BOARD OF ADJUSTMENT FOR A TEMPORARY PERIOD OF ONE (1) YEAR IN ORDER TO ADDRESS A BACKLOG OF APPLICATIONS AND APPEALS.

No Action Taken 6PSF-c 111323

WHEREAS, the Municipal Council, pursuant to N.J.S.A. 40:55D-62, may adopt or amend a Zoning Ordinance relating to the nature and extent of the uses of land and of buildings and structures thereon; and

WHEREAS, the Municipal Council adopted Title 41 (Newark Zoning and Land Use Regulations) by Ordinance 6PSF-c, adopted on February 4, 2015; and

WHEREAS, pursuant to N.J.S.A. 40:55D-69, Ordinance 6PSF-c adopted on February 4, 2015, created a Zoning Board of Adjustment (the "Zoning Board") by appointing seven (7) members and two (2) alternate members ("Alternates"); and

WHEREAS, thereafter the Municipal Council adopted Resolution 7R2-c(AS) on January 9, 2019, pursuant to N.J.S.A. 55D-64, referring a proposed ordinance, amending Title 41, Newark Zoning and Land Use Regulation, authorizing: (1) the appointment of two (2) additional alternate members to the Zoning Board; and (2) an annual schedule of thirty (30) regular meetings and ten (10) special meetings to be held by the Zoning Board, to the Central Planning Board for formal review and to transmit a report, including identification of any provisions in the Proposed Ordinance which are inconsistent with the master plan and make recommendations concerning any inconsistencies in accordance with N.J.S.A. 55D-26; and

WHEREAS, on March 6, 2019, the Municipal Council adopted Ordinance 6PSF-d, adopting the amendments to Title 41, Newark Zoning and Land Use Regulation, authorizing the appointment of two (2) additional alternate members of the Newark Zoning Board, fixing the number of annual meetings, and providing a stipend to the zoning board members, pursuant to the Central Planning Board's determination and recommendation that the amendments therein are consistent with the Master Plan; and

WHEREAS, the Mayor of the City of Newark determined that the Zoning Board is unable to process pending appeals and applications in a timely manner; and

WHEREAS, as a result, the Municipal Council, pursuant to N.J.S.A. 40:55D-64, adopted resolution 7R2-c(AS) on October 4, 2023, referring a Proposed Ordinance Amending Title 41, establishing a Supplemental Zoning Board of Adjustment, to the Central Planning Board for formal review, report, and recommendation as required by N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64; and

WHEREAS, the Central Planning Board reviewed the Proposed Ordinance, amending Title 41, to establish a Supplemental Zoning Board of Adjustment, at its regular hearing on October 16, 2023, and transmitted its recommendation that the Proposed Ordinance is consistent with the City's goals and objective and is not inconsistent with the City of Newark's Master Plan, to the Municipal Council in its Memorialized Resolution, also dated October 16, 2023; and

WHEREAS, the Municipal Council finds it in the best interest of the City of Newark to adopt an amend Title 41, to establish a Supplemental Zoning Board of Adjustment.

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

[Deletions are indicated by ~~strikethrough~~, additions are indicated by **bold and underline**.]

SECTION 1. Title XLI, Zoning and Land Use Regulations, Chapter 12, Zoning Board of Adjustment, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, is amended and supplemented, to read as follows:

41:12-7. Supplemental Zoning Board of Adjustment

This Section shall create a Supplemental Zoning Board of Adjustment, pursuant to N.J.S.A. 40:55D-69.2. The Supplemental Zoning Board of Adjustment shall have all the powers and responsibilities conferred to the Zoning Board of Adjustment pursuant to N.J.S.A. 40:55D-69.2 and R.O. 41:12-1 et seq. If not specified in this section the Supplemental Zoning Board of Adjustment shall abide by all laws and regulations pursuant to N.J.S.A. 40:55D-69 et seq., and R.O. 41:12-1 et seq.

41:12-7.1. Members.

The Supplemental Zoning Board of Adjustment shall consist of seven (7) members and four (4) alternates.

1. Requirements.

- a. **All members shall be residents of the City of Newark;**
- b. **Shall be appointed by the Municipal Council;**
- c. **Shall not hold any elective office or positions under the municipality; and**
- d. **A person shall not be seated as a member unless the person agrees to take the basic course in land use law offered under Subsection a. of Section 2 of P.L. 2005, c. 133 (N.J.S.A. 40:55D-23.3) and successfully completes the course within six months of assuming board membership.**

2. A member also may not act on any matter in which the member has any direct or indirect personal or financial interest.

41:12-7.2. Alternate Members.

1. **The Four (4) Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4," as appropriate.**
2. **Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member.**
 - a. **Participation of alternate members shall not be deemed to increase the size of the supplemental zoning board of adjustment established by ordinance of the Governing Body pursuant to this Section. A vote shall not be delayed in order that a regular member may vote instead of an alternate member.**
 - b. **In the event that a choice shall be made as to which alternate member is to vote, alternate members shall vote in the order of their numerical designations.**

41:12-7.3. Powers and Duties.

1. **The Supplemental Zoning Board of adjustment shall share jurisdiction with the Zoning Board of Adjustment created pursuant to Section 56 of P.L. 1975, c.291 (C.40:55D-69) over all new and pending appeals and applications before the Zoning Board of Adjustment.**
2. **The Supplemental Zoning Board of Adjustment shall have all the powers and responsibilities conferred by law to The Zoning Board of Adjustment created pursuant to Section 56 of P.L. 1975, c.291 (C.40:55D-69).**
3. **The Supplemental Zoning Board of Adjustment shall receive any new or pending appeals or applications referred by the Chairperson of The Zoning Board of Adjustment.**

41:12-7.4. Organization of the Board.

The Supplemental Zoning Board of Adjustment shall elect a Chairperson and Vice Chairperson from its regular members and select a Secretary, who may or may not be a member of the Supplemental Zoning Board of Adjustment or a municipal employee.

41:12-7.5. Term.

The Supplemental Zoning Board of Adjustment shall be temporary in nature and exist in addition to the Zoning Board of Adjustment created pursuant to section 56 of P.L. 1975, c.291 (C.40:55D-69). No more than one Supplemental Zoning Board of Adjustment may exist at any given time.

1. **The Supplemental Zoning Board of Adjustment shall cease to receive new appeals and applications on the first day of the second year after the appointment of its full regular**

membership;

- 2. The Supplemental Zoning Board of Adjustment shall terminate upon the completion of all pending appeals and applications thereafter; and**
- 3. The terms of the members shall expire on the date of termination of the Supplemental Zoning Board of Adjustment.**

41:12-7.6. Removal.

SECTION 2: Severability. If any provision of this Ordinance or application thereof to any person(s) or circumstance is judged invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the Ordinance that can be given effect without the invalidated provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION 3: All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies.

SECTION 4: This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

SECTION 5. Codification. This Ordinance shall be a part of the Code of the City of Newark as though codified and fully set forth therein. The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code. The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Newark in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

STATEMENT

This Ordinance amends Title 41 of the Municipal Code of the City of Newark (Zoning and Land Use Regulations) to authorize the establishment of a Supplemental Zoning Board of Adjustment for a temporary period to address a backlog of applications and appeals, pursuant to N.J.S.A. 40:55D-69.2.