

**40:27-1. Planning board; members; appointment and term; expenses**

The board of chosen freeholders may create a county planning board of not less than five nor more than nine members. The members of such planning board shall be the director of the board of chosen freeholders, one member of the board of chosen freeholders, to be appointed by the director, the county engineer, if the board exceed six in number, and other citizens who may not hold any other county office and who shall be appointed by such director of the board of chosen freeholders with the approval of that body. One of the remaining members shall be appointed for two years, two shall be appointed for three years, and all additional remaining members shall be appointed for four years, and thereafter their successors shall be appointed for the term of three years from and after the expiration of the terms of their predecessors in office. All members of the county planning board shall serve as such without compensation, but may be paid expenses incurred in the performance of duties.

**40:27-1.1. Alternate members; appointment; resolution**

The board of chosen freeholders may, by resolution, provide for the appointment of alternate members to the county planning board in accordance with the following:

a. Where the county planning board consists of six members or less, the director of the board of chosen freeholders, with the approval of a majority of the board of freeholders, may appoint one alternate citizen member;

b. Where the county planning board consists of more than six members, the director of the board of chosen freeholders, with the approval of a majority of the board of freeholders, may appoint two alternate citizen members. These members shall be designated by the director as "Alternate No. 1" and "Alternate No. 2" and shall participate in the planning board's decision in rotation during the absence or disqualification of any citizen member;

c. Where the county engineer is a member of the planning board, the director of the board of chosen freeholders, with the approval of a majority of the board of freeholders, may appoint the assistant or deputy county engineer to serve as an alternate to the county engineer;

d. The director of the board of chosen freeholders, with the approval of a majority of the board of freeholders, may appoint a member of the board of chosen freeholders to serve as an alternate to the two freeholder members.

Alternate members shall be appointed for terms to expire at the same time as the terms of the regular members for whom they are alternates. An alternate member shall be entitled to sit with and participate as a member in any hearing before the board. Any alternate member who has attended the full hearing or hearings may participate in the board's decision during the absence or disqualification of any regular member for whom he is an alternate.

#### **40:27-2. Duties of board; master plan; municipal co-operation**

The county planning board shall make and adopt a master plan for the physical development of the county. The master plan of a county, with the accompanying maps, plats, charts, and descriptive and explanatory matter, shall show the county planning board's recommendations for the development of the territory covered by the plan, and may include, among other things, the general location, character, and extent of streets or roads, viaducts, bridges, waterway and waterfront developments, parkways, playgrounds, forests, reservations, parks, airports, and other public ways, grounds, places and spaces; the general location and extent of forests, agricultural areas, and open-development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, or the protection of urban development, and such other features as may be important to the development of the county.

The county planning board shall encourage the co-operation of the local municipalities within the county in any matters whatsoever which may concern the integrity of the county master plan and to advise the board of chosen freeholders with respect to the formulation of development programs and budgets for capital expenditures.

#### **40:27-3. Employees; experts; master plan part of improvement; bonds**

The county planning board may employ experts and pay for their and such other expenses as may be deemed necessary for the making of the master plan and for the carrying out of such other duties as are herein prescribed, except that such board may expend only such sums as may be appropriated by the board of chosen freeholders or be placed at its disposal through gift. The making of the master plan shall be regarded as essential preliminary studies incidental to the later carrying out of capital improvement projects over an indefinite period of years and may be funded by serial notes or bonds to be issued by the county, the terms of which shall not exceed five years.

#### **40:27-4. Hearing before plan adopted; notice of hearing; resolution; vote required; municipal master plan, official map or ordinance**

a. Before adopting the master plan or any part thereof or any amendment thereof the board shall hold at least one public hearing thereon, notice of the time and place of which shall be given by one publication in a newspaper of general circulation in the county and by the transmission by delivery or by certified mail, at least 20 days prior to such hearing, of a notice of such hearing and a copy of the proposed master plan, or part thereof or any proposed amendment thereof to the municipal clerk and secretary of the planning board of each municipality in the county. The adoption of the plan or part or amendment thereof shall be by resolution of the board carried by the affirmative vote of not less than  $\frac{2}{3}$  of the members of the board. The resolution shall refer especially to the maps and descriptive and other matter intended by the board to form the whole or part of the plan or amendment and the action taken shall be recorded on the map and plan and descriptive matter by the identifying signature of the secretary of the board. An attested copy of the master plan or any amendments thereof shall be certified to the board of chosen freeholders, to the county park commission, if such exists, and to the legislative body of every municipality within the county.

b. In order to maximize the degree of co-ordination between municipal and county plans and official maps, the county planning board shall be notified in regard to the adoption or amendment of any municipal master plan, official map or ordinance under the "Municipal Planned Unit Development Act (1967)." A copy of any such proposed plan, map or amendment shall be forwarded to the county planning board for review and report at least 20 days prior to the date of public hearing thereon.

c. Within 30 days after the adoption of a zoning ordinance, subdivision ordinance, master plan, official map, capital improvement program, or amendments thereto, a copy of said document shall be transmitted to the county planning board for its information and files.

Amended by L.1968, c. 285, s. 2, eff. July 1, 1969.

**40:27-5. Adding to county map; changes submitted to board; map considered binding**

The board of chosen freeholders in any county after receiving the advice of the county planning board is hereby empowered to adopt and establish and thereafter as often as the board may deem it for the public interest, to change or to add to an official county map, showing the highways, roadways, parks, parkways, and sites for public buildings or works, under county jurisdiction, or in the acquisition, financing or construction of which the county has participated or may be called upon to participate. Such map shall be deemed to have been established to conserve and promote the public health, safety, convenience, and welfare. Before acting thereon in the first instance and before adopting any amendments thereto such board of chosen freeholders, after notice of time and place has been given by one publication for each of 3 successive weeks in a newspaper of general circulation in the county and after written notice to the county engineer, county planning board, county park commission, if such exists, and such other county officers and departments as the board shall designate and to the municipal clerk and secretary of the planning board of each municipality in the county, shall hold a public hearing or hearings thereon at which such representatives entitled to notice and such property owners and others interested therein as shall so desire shall be heard.

Before holding any such public hearing such board of chosen freeholders shall submit such proposed change or addition to the county planning board for its consideration and advice and shall fix a reasonable time within which such county planning board may report thereon, not, however, less than 20 days; upon receipt of such report from the county planning board or upon the failure of such board to report within the time limit so fixed such board of chosen freeholders may thereupon act upon the proposed change, but any action adverse to the report of the county planning board shall require the affirmative vote of the majority of all the members of such board of chosen freeholders.

When approved in whole or part by the board of chosen freeholders in any county, such county official map or part thereof shall be deemed to be binding upon the board of chosen freeholders of the county and the several county departments thereof, and upon

other county boards heretofore or hereafter created under special laws, and no expenditure of public funds by such county for construction work or the acquisition of land for any purpose enumerated in section 40:27-2 of this Title shall be made except in accordance with such official map.

Nothing herein prescribed shall be construed as restricting or limiting the powers of boards of chosen freeholders from repairing, maintaining and improving any existing street, road, viaduct, bridge or parkway not shown on such official maps, which does not involve the acquisition of additional land or of park commissions as otherwise provided by law.

Amended by L.1964, c. 239, s. 1, eff. Dec. 23, 1964; L.1968, c. 285, s. 3, eff. July 1, 1969.

**40:27-6. Buildings and highways; permits; hearing; penalty; enjoining construction**

No building shall be erected in the bed of any highway adopted and shown as a part of the official county map unless a permit therefore is issued by the board of chosen freeholders. For such purpose such board is hereby created a discretionary administrative body, and shall when so acting be deemed an independent statutory body and all its transactions when so acting shall be separately recorded in minutes independent of the minutes of the board of chosen freeholders when acting as a legislative body. When so acting it shall have power by a vote of a majority of all its members to grant or withhold such a permit.

In such a meeting the board shall have power in considering the application for a permit for a specific building, by a vote of a majority of all its members, to grant a permit for a building in such a highway, which will as little as practicable increase the cost of opening such highway, or tend to cause a change of such official map, and such board shall impose reasonable requirements as a condition of granting such permit, which requirements shall be designed to promote the health, convenience, safety and general welfare of the public and shall inure to the benefit of the county. Before taking such action the board shall give a public hearing at which parties in interest and others shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the county. The board shall refuse a permit where the land of the applicant within the mapped highway is already earning a fair return, or where he is in no way injured by placing his building outside of the mapped highway.

Whoever shall construct or begin the construction of such a building without a permit shall forfeit and pay a penalty of not more than one hundred dollars (\$100.00) for each day that work on such structure continues. The county may bring an action to enjoin such construction and may also recover the penalty by a civil action in any court of competent jurisdiction.

Amended by L.1953, c. 37, p. 646, s. 53, eff. March 19, 1953.

#### **40:27-6.1. Definitions**

As used in this act and in chapter 27 of Title 40 of the Revised Statutes, unless the context otherwise requires:

"County master plan" and "master plan" means a composite of the master plan for the physical development of the county, with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the county planning board pursuant to Revised Statutes 40:27-2;

"County planning board" means a county planning board established by a county pursuant to R.S. 40:27-1 to exercise the duties set forth in such chapter, and means, in any county having adopted the provisions of the "Optional County Charter Law" (P.L.1972, c. 154; C. 40:41A-1 et seq.), any department, division, board or agency established pursuant to the administrative code of such county to exercise such duties, but only to the degree and extent that the requirements specified in such chapter for county planning boards do not conflict with the organization and structure of such department, division, agency or board as set forth in the administrative code of such county;

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

"Site plan" means a plan of an existing lot or plot or a subdivided lot on which is shown topography, location of all existing and proposed buildings, structures, drainage facilities, roads, rights-of-way, easements, parking areas, together with any other information required by and at a scale specified by a site plan review and approval resolution adopted by the board of chosen freeholders pursuant to this act;

"Subdivision" means the division of a lot, tract, or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this act, if no new streets are created: (1) divisions of land found by the planning board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are 5 acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order, including but not limited to judgments of foreclosure, (4) consolidation of existing lots by deed or other recorded instrument and (5) the conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map or atlas of the municipality. The term "subdivision" shall also include the term "resubdivision."

"Subdivision applications" means the application for approval of a subdivision pursuant to the "Municipal Land Use Law" (P.L.1975, c. 291; C. 40:55D-1 et seq.) or an

application for approval of a planned unit development pursuant to the "Municipal Land Use Law" (P.L.1975, c. 291; C. 40:55D-1 et seq.).

L.1968, c. 285, s. 1, eff. July 1, 1969. Amended by L.1979, c. 216, s. 27.

**40:27-6.2. Review and approval of all subdivisions of land; procedures; engineering and planning standards**

The board of freeholders of any county having a county planning board shall provide for the review of all subdivisions of land within the county by said county planning board and for the approval of those subdivisions affecting county road or drainage facilities as set forth and limited hereinafter in this section. Such review or approval shall be in accordance with procedures and engineering and planning standards adopted by resolution of the board of chosen freeholders. These standards shall be limited to:

a. The requirement of adequate drainage facilities and easements when, as determined by the county engineer in accordance with county-wide standards, the proposed subdivision will cause storm water to drain either directly or indirectly to a county road, or through any drainageway, structure, pipe, culvert, or facility for which the county is responsible for the construction, maintenance, or proper functioning;

b. The requirement of dedicating rights-of-way for any roads or drainageways shown on a duly adopted county master plan or official county map;

c. Where a proposed subdivision abuts a county road, or where additional rights-of-way and physical improvements are required by the county planning board, such improvements shall be subject to recommendations of the county engineer relating to the safety and convenience of the traveling public and may include additional pavement widths, marginal access streets, reverse frontage and other county highway and traffic design features necessitated by an increase in traffic volumes, potential safety hazards or impediments to traffic flows caused by the subdivision;

d. The requirement of performance guarantees and procedures for the release of same, maintenance bonds for not more than 2 years duration from date of acceptance of improvements and agreements specifying minimum standards of construction for required improvements. The amount of any performance guarantee or maintenance bond shall be set by the planning board upon the advice of the county engineer and shall not exceed the full cost of the facility and installation costs or the developer's proportionate share thereof, computed on the basis of his acreage related to the acreage of the total drainage basin involved plus 10% for contingencies. In lieu of providing any required drainage easement a cash contribution may be deposited with the county to cover the cost or the proportionate share thereof for securing said easement. In lieu of installing any such required facilities exterior to the proposed plat a cash contribution may be deposited with the county to cover the cost of proportionate share thereof for the future installation of such facilities. Any and all moneys received by the county to insure performance under the provisions of this act shall be paid to the county treasurer who shall provide a suitable depository therefore. Such funds shall be used only for county

drainage projects or improvement for which they are deposited unless such projects are not initiated for a period of 10 years, at which time said funds shall be transferred to the general fund of the county, provided that no assessment of benefits for such facilities as a local improvement shall thereafter be levied against the owners of the lands upon which the developer's prior contribution had been based. Any moneys or guarantees received by the county under this paragraph shall not duplicate bonds or other guarantees required by municipalities for municipal purposes.

e. Provision may be made for waiving or adjusting requirements under the subdivision resolution to alleviate hardships, which would result from strict compliance with the subdivision standards. Where provision is made for waiving or adjusting requirements criteria shall be included in the standards adopted by the board of chosen freeholders to guide actions of the county planning board.

Notice of the public hearing on a proposed resolution of the board of chosen freeholders establishing procedures and engineering standards to govern land subdivision within the county, and a copy of such resolution, shall be given by delivery or by certified mail to the municipal clerk and secretary of the planning board of each municipality in the county at least 10 days prior to such hearing.

L.1968, c. 285, s. 4, eff. July 1, 1969.

#### **40:27-6.3. Submission of subdivision application to board for review and approval; report to municipal authority**

Each subdivision application shall be submitted to the county planning board for review and, where required, approval prior to approval by the local municipal approving authority. County approval of any subdivision application affecting county road or drainage facilities shall be limited by and based upon the rules, regulations and standards established by and duly set forth in a resolution adopted by the board of chosen freeholders. The municipal approval authority shall either defer taking final action on a subdivision application until receipt of the county planning board report thereon or approve the subdivision application subject to its timely receipt of a favorable report thereon by the county planning board. The county planning board shall report to the municipal authority within 30 days from the date of receipt of the application. If the county planning board fails to report to the municipal approving authority within the 30-day period, said subdivision application shall be deemed to have been approved by the county planning board unless, by mutual agreement between the county planning board and municipal approving authority, with approval of the applicant, the 30-day period shall be extended for an additional 30-day period, and any such extension shall so extend the time within which a municipal approving authority shall be required by law to act thereon.

L.1968, c. 285, s. 5, eff. July 1, 1969. Amended by L.1971, c. 371, s. 1, eff. July 1, 1971.

#### **40:27-6.4. Review of subdivision application; withholding of approval**

The county planning board shall review each subdivision application and withhold approval if said proposed subdivision does not meet the subdivision approval standards previously adopted by the board of chosen freeholders, in accordance with section 4 of this act. In the event of the withholding of approval, or the disapproval of, a subdivision application, the reasons for such action shall be set forth in writing and a copy thereof shall be transmitted to the applicant.

L.1968, c. 285, s. 6, eff. July 1, 1969.

**40:27-6.5. Certification of subdivision plat; acceptance for filing**

The county recording officer shall not accept for filing any subdivision plat unless it bears the certification of either approval or of review and exemption of the authorized county planning board officer or staff member indicating compliance with the provisions of this act and standards adopted pursuant thereto, in addition to all other requirements for filing a subdivision plat including compliance with the provisions of "The Map Filing Law" (P.L.1960, c. 141). In the event the county planning board shall have waived its right to review, approve or disapprove a subdivision by failing to report to the municipal approval authority within the 30-day period or the mutually agreed upon 30-day extension period, as outlined in section 5 above, the subdivision shall be deemed to have county planning board approval, and at the request of the applicant, the secretary of the county planning board shall attest on the plat to the failure of the county planning board to report within the required time period, which shall be sufficient authorization for further action by the municipal planning board and acceptance thereof for filing by the county recording officer.

L.1968, c. 285, s. 7, eff. July 1, 1969.

**40:27-6.6. Review and approval of site plans for land development along county roads or affecting county drainage facilities**

The governing body of any county having a county planning board may provide for the review of site plans for land development along county roads or affecting county drainage facilities as provided in subsection e. of this section and for the approval of such development as hereinafter set forth and limited for the purpose of assuring a safe and efficient county road system. Such review and approval shall be in conformance with procedures and standards adopted by resolution or ordinance as appropriate of the governing body. Notice of the public hearing on a proposed resolution or ordinance of the governing body establishing procedures and standards to govern the review and regulation of land development along county roads or affecting county drainage facilities as provided in subsection e. of this section, and a copy of such resolution or ordinance, shall be given by delivery or by certified mail to the municipal clerk, secretary of the planning board and secretary of the board of adjustment of each municipality in the county at least 10 days prior to such hearing. These procedures and standards shall be limited to:

- a. The submission of a site plan, prior to the issuance of a municipal building permit, drawn in accordance with standards in the resolution or ordinance for any proposed land



development, excluding single family residential development but including proposed commercial, industrial, multifamily structures containing five or more units, or any other land development requiring off-street parking area or producing surface runoff in excess of standards set forth in the site plan review and approval resolution or ordinance of the governing body.

b. The requirement of dedication of additional right-of-way in accordance with the county master plan adopted by the county planning board or an official county map adopted by the governing body. Where by reason of special or unusual conditions said total additional right-of-way is to be secured from just one side of an existing road, only one-half of the additional right-of-way may be required to be dedicated.

c. The requirement of physical improvements subject to recommendations of the county engineer relating to the safety and convenience of the traveling public, including drainage facilities, or other highway and traffic design features as may be deemed necessary on such county road or roads in accordance with the engineering and planning standards established in the site plan review and approval resolution or ordinance of the governing body.

d. The requirement of performance and payment guarantees and procedures for the release of same, maintenance bonds of not more than 2 years' duration from the date of acceptance of improvements, cash contributions, and agreements specifying minimum standards of construction for required improvements. Procedures for, and limitations on the requirement of such guarantees or cash contributions shall be governed by the provisions of this act.

e. The requirement of adequate drainage facilities and easements when, as determined by the county engineer in accordance with county-wide standards, the proposed site plan will cause storm water to drain either directly or indirectly to a county road or through any drainage-way, structure, pipe, culvert or facility for which the county is responsible for the construction, maintenance or proper functioning.

Site plans for land development not along a county road that include less than 1 acre of impervious surfaces are exempt from county site plan review.

L.1968, c. 285, s. 8, eff. July 1, 1969. Amended by L.1981, c. 50, s. 1, eff. Feb. 25, 1981.

#### **40:27-6.7. Report of approval or disapproval to local authority; time limit; extension**

The municipal or other local agency or individual with authority to approve the site plan or issue a building permit shall defer action on any application requiring county approval pursuant to section 7 of this act until the same shall have been submitted to the county planning board for its approval of the site plan. The county planning board shall have 30 days from the receipt of a site plan to report to the appropriate local authority. In the event of disapproval, such report shall state the specific reasons therefore. If the

county planning board fails to report to the municipal approving or issuing authority within the 30-day period, said site plan shall be deemed to have been approved by the county planning board. Upon mutual agreement between the county planning board and the municipal approving authority, with approval of the applicant, the 30-day period may be extended for an additional 30-day period.

L.1968, c. 285, s. 9, eff. July 1, 1969.

**40:27-6.8. Resolution vesting power to review and approve subdivisions and site plans with director**

The county planning board may by resolution vest its power to review and approve subdivisions, pursuant to the provisions of sections 4 through 6 of this act, and the power to review and approve site plans pursuant to the provisions of sections 8 and 9 of this act with the county planning director and a designated committee of members of said county planning board.

L.1968, c. 285, s. 10, eff. July 1, 1969.

**40:27-6.9. Appeal by aggrieved persons; hearing; decision**

If said action is taken by the planning director and a committee of the board, said applicant may file an appeal in writing to the county planning board within 10 days after the date of notice by certified mail of the said action. Any person aggrieved by the action of the county planning board in regard to subdivision review and approval or site plan review and approval may file an appeal in writing to the board of chosen freeholders within 10 days after the date of notice by certified mail of said action. The county planning board or the board of chosen freeholders to which an appeal is taken shall consider such appeal at a regular or special public meeting within 45 days from the date of its filing. Notice of said hearing shall be made by certified mail at least 10 days prior to the hearing to the applicant and to such of the following officials as deemed appropriate for each specific case: the municipal clerk, municipal planning board, board of adjustment, building inspector, zoning officer, board of chosen freeholders and the county planning board. The board to which appeal is taken shall render a decision within 30 days from the date of the hearing.

L.1968, c. 285, s. 11, eff. July 1, 1969.

**40:27-6.10. Filing copy of planning and zoning ordinances with boards; notice of proposed revision of ordinance**

In order that county planning boards shall have a complete file of the planning and zoning ordinances of all municipalities in the county, each municipal clerk shall file with the county planning board a copy of the planning and zoning ordinances of the municipality in effect on the effective date of this act and shall notify the county planning board of the introduction of any revision or amendment of such an ordinance which affects lands adjoining county roads or other county lands, or lands lying within 200 feet of a municipal boundary, or proposed facilities or public lands shown on the county master plan or official county map. Such notice shall be given to the county planning

board at least 10 days prior to the public hearing thereon by personal delivery or by certified mail of a copy of the official notice of the public hearing together with a copy of the proposed ordinance.

L.1968, c. 285, s. 12, eff. July 1, 1968.

**40:27-6.11. Application to board of adjustment involving land fronting county road, adjoins other county lands or is within 200 feet of municipal boundary; notice**

The county planning board shall be notified of any application to the board of adjustment under Revised Statute 40:55-39 in such cases where the land involved fronts upon an existing county road or proposed road shown on the official county map or on the county master plan, adjoins the other county land or is situated within 200 feet of a municipal boundary. Notice of hearings on such applications shall be furnished by the appellant in accordance with P.L.1965, c. 162 (C. 40:55-53).

L.1968, c. 285, s. 13, eff. July 1, 1969.

**40:27-6.12. Continuation of board's authority to review and approve land subdivision**

Any county planning board exercising the authority of review and approval of land subdivision pursuant to the provisions of chapter 27 of Title 40 of the Revised Statutes and chapter 412 of the laws of 1948 supplementary thereto is authorized to continue to exercise such authority thereunder for the period of 1 year after the effective date of this act or until the board of chosen freeholders of the county adopts a resolution governing land subdivision pursuant to this act, whichever occurs first.

L.1968, c. 285, s. 14, eff. July 1, 1969.

**40:27-6.13. Notice of hearing on granting variance or establishing or amending official municipal map; contents**

Whenever a hearing is required before a zoning board of adjustment or the governing body of a municipality in respect to the granting of a variance or establishing or amending an official municipal map involving property adjoining a county road or within 200 feet of an adjoining municipality, and notice of said hearing is required to be given, the person giving such notice shall also, at least 10 days prior to the hearing, give notice thereof in writing by certified mail to the county planning board. The notice shall contain a brief description of the property involved, its location, a concise statement of the matters to be heard and the date, time and place of such hearing.

L.1968, c. 285, s. 15, eff. July 1, 1969.

**40:27-8. Existing boards continued in conformity with this chapter**

County planning boards lawfully in existence on June eighth, one thousand nine hundred and thirty-five, if continued after January first, one thousand nine hundred and thirty-six, shall be reconstituted in accordance with the provisions of this chapter.