

d. In a municipality having a population of 2,500 or less, the planning board, if so provided by ordinance, shall exercise, to the same extent and subject to the same restrictions, all of the powers of an historic preservation commission, provided that at least one planning board member meets the qualifications of a Class A member of an historic preservation commission and at least one member meets the qualifications of a Class B member of that commission.

e. In any municipality in which the planning board exercises the power of a zoning board of adjustment pursuant to subsection c. of this section, a zoning board of adjustment may be appointed pursuant to law, subject to voter referendum permitting reconstitution of the board. The public question shall be initiated through an ordinance adopted by the governing body.

Adopted. L. 1975, c. 291, §16. **Amended.** L. 1985, c. 516, §8; L. 1991, c. 199, §2, effective July 9, 1991; L. 1994, c. 186, §1, effective December 23, 1994; L. 1996, c. 113, §8, effective September 5, 1996; L. 1999, c. 27, §1, effective February 24, 1999.

40:55D-26. 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 identification of any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate. 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 recommendation. 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. Nothing in this section shall be construed as diminishing the application of the provisions of section 23 of P.L. 1975, c. 291 (C. 40:55D-32) to any official map or an amendment or revision thereto or of subsection a. of section 49 of P.L. 1975, c. 291 (C. 40:55D-62) to any zoning ordinance or any amendment or revision thereto.

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, except of any matter under the jurisdiction of the board of adjustment. Whenever the planning board shall have made a recommendation regarding a matter authorized by this act to another municipal body, such recommendation may be rejected only by a majority of the full authorized membership of such other body.

Adopted. L. 1975, c. 291, §17. **Amended.** L. 1984, c. 20, §7; L. 1985, c. 516, §10.

40:55D-27. Citizens advisory committee; environmental commission. a. After the appointment of a planning board, the mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or take other action required of the board. Such person or persons shall serve at the pleasure of the mayor.

b. Whenever the environmental commission has prepared and submitted to the planning board and the board of adjustment an index of the natural resources of the municipality, the planning board or the board of adjustment shall make available to the environmental commission an informational copy of every application for development submitted to either board. Failure of the planning board or board of adjustment to make such informational copy available to the environmental commission shall not invalidate any hearing or proceeding.

Adopted. L. 1975, c. 291, §18. **Amended.** L. 1977, c. 49, §1.

ARTICLE 3. MASTER PLAN.

40:55D-28. Preparation; contents; modification. a. The planning board may prepare and, after public hearing, adopt or amend a master plan or component parts thereof, to guide the use of lands within the municipality in a manner which protects public health and safety and promotes the general welfare.

b. The master plan shall generally comprise a report or statement and land use and development proposals, with maps, diagrams and text, presenting, at least the following elements (1) and (2) and, where appropriate, the following elements (3) through (17):

(1) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the municipality are based;

(2) A land use plan element

(a) taking into account and stating its relationship to the statement provided for in paragraph (1) hereof, and other master plan elements provided for in paragraphs (3) through (17) hereof and natural conditions, including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes, and woodlands;

(b) showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, open space, educational and other public and private purposes or combination of purposes including any provisions for cluster development; and stating the relationship thereof to the existing and any proposed zone plan and zoning ordinance;

(c) showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et al.);

(d) including a statement of the standards of population density and development intensity recommended for the municipality;

(e) showing the existing and proposed location of military facilities and incorporating strategies to minimize undue encroachment upon, and conflicts with, military facilities, including but not limited to: limiting heights of buildings and structures nearby flight paths or sight lines of aircraft; buffering residential areas from noise associated with a military facility; and allowing for the potential expansion of military facilities;

(f) including, for any land use plan element adopted after the effective date of P.L.2017, c.275, a statement of strategy concerning:

(i) smart growth which, in part, shall consider potential locations for the installation of electric vehicle charging stations,

(ii) storm resiliency with respect to energy supply, flood-prone areas, and environmental infrastructure, and

(iii) environmental sustainability;

(g) showing the existing and proposed location of public electric vehicle charging infrastructure; and

(h) including, for any land use plan element adopted after the effective date of P.L.2021, c.6, a climate change-related hazard vulnerability assessment which shall (i) analyze current and future threats to, and vulnerabilities of, the municipality associated with climate change-related natural hazards, including, but not limited to increased temperatures, drought, flooding, hurricanes, and sea-level rise; (ii) include a build-out analysis of future residential, commercial, industrial, and other development in the municipality, and an assessment of the threats and vulnerabilities identified in subparagraph (i) of this subparagraph related to that development; (iii) identify critical facilities, utilities, roadways, and other infrastructure that is necessary for evacuation purposes and for sustaining quality of life during a natural disaster, to be maintained at all times in an operational state; (iv) analyze the potential impact of natural hazards on relevant components and elements of the master plan; (v) provide strategies and design standards that may be implemented to reduce or avoid risks associated with natural hazards; (vi) include a specific policy statement on the consistency, coordination, and integration of the climate-change related hazard vulnerability assessment with any existing or proposed natural hazard mitigation plan, floodplain management plan, comprehensive emergency management plan, emergency response plan, post-disaster recovery plan, or capital improvement plan; and (vii) rely on the most recent natural hazard

projections and best available science provided by the New Jersey Department of Environmental Protection;

(3) A housing plan element pursuant to section 10 of P.L.1985, c.222 (C.52:27D-310), including, but not limited to, residential standards and proposals for the construction and improvement of housing;

(4) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about, and through the municipality, taking into account the functional highway classification system of the Federal Highway Administration, the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail, and identifying existing and proposed locations for public electric vehicle charging infrastructure;

(5) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L.1981, c.32 (C.40:55D-93 et al.). If a municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (C.40:55D-140), the plan element shall address the provision of utilities in the receiving zone as provided thereunder;

(6) A community facilities plan element showing the existing and proposed location and type of educational or cultural facilities, historic sites, libraries, hospitals, firehouses, police stations and other related facilities, including their relation to the surrounding areas;

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

(8) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other resources, and which systemically analyzes the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(9) An economic plan element considering all aspects of economic development and sustained economic vitality, including (a) a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and (b) an analysis of the stability and diversity of the economic development to be promoted;

(10) An historic preservation plan element: (a) indicating the location and significance of historic sites and historic districts; (b) identifying the standards used to assess worthiness for historic site or district identification; and (c) analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(11) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements;

(12) A recycling plan element which incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance, and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential housing or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(13) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging moneys made available by P.L.1999, c.152 (C.13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option

agreements, installment purchases, and encouraging donations of permanent development easements;

(14) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (C.40:55D-141);

(15) An educational facilities plan element which incorporates the purposes and goals of the “long-range facilities plan” required to be submitted to the Commissioner of Education by a school district pursuant to section 4 of P.L.2000, c.72 (C.18A:7G-4);

(16) A green buildings and environmental sustainability plan element, which shall provide for, encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider, encourage and promote the development of public electric vehicle charging infrastructure in locations appropriate for their development, including but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; consider the impact of buildings on the local, regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on-site; and optimize climatic conditions through site orientation and design; and

(17) A public access plan element that provides for, encourages, and promotes permanently protected public access to all tidal waters and adjacent shorelines consistent with the public trust doctrine, and which shall include a map and inventory of public access points, public facilities that support access, parking, boat ramps, and marinas; an assessment of the need for additional public access; a statement of goals and administrative mechanisms to ensure that access will be permanently protected; and a strategy that describes the forms of access to satisfy the need for such access with an implementation schedule and tools for implementation.

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

d. The master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan to (1) the master plans of contiguous municipalities, (2) the master plan of the county in which the municipality is located, (3) the State Development and Redevelopment Plan adopted pursuant to the “State Planning Act,” sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.) and (4) the district solid waste management plan required pursuant to the provisions of the “Solid Waste Management Act,” P.L.1970, c.39 (C.13:1E-1 et seq.) of the county in which the municipality is located.

In the case of a municipality situated within the Highlands Region, as defined in section 3 of P.L.2004, c.120 (C.13:20-3), the master plan shall include a specific policy statement indicating the relationship of the proposed development of the municipality, as developed in the master plan, to the Highlands regional master plan adopted pursuant to section 8 of P.L.2004, c.120 (C.13:20-8).

Adopted. L. 1975, c. 291, §19. **Amended.** L. 1980, c. 146, §2; L. 1983, c. 260, §10; L. 1985, c. 222, §29; L. 1985, c. 398, §16; L. 1985, c. 516, §11; L. 1987, c. 102, §26; L. 1991, c. 199, §3, effective July 9, 1991; L. 1991, c. 445, §7, effective July 16, 1992; L. 1999, c. 180, §2, effective August 12, 1999; L. 2004, c. 2, §37, effective September 25, 2004; L. 2004, c. 120, §60, effective August 10, 2004; L. 2007, c. 137, §59, effective August 6, 2007; L. 2008, c. 54, §1, effective August 5, 2008; L. 2013, c. 106, §6, effective August 7, 2013; L. 2016, c. 21, §4, effective August 1, 2016; L. 2017, c. 275, §1, effective January 8, 2018; L. 2019, c. 81, §7, effective July 2, 2019; L. 2019, c. 267, §1, effective November 6, 2019; L. 2021, c. 6, §1, effective February 4, 2021.

40:55D-28.1. Provision of technical assistance. Upon request by a planning board, the Department of Environmental Protection shall provide technical assistance, as practicable, to a municipality preparing a climate change related hazard vulnerability assessment pursuant to subparagraph (h) of paragraph (2) of subsection b. of section 19 of P.L.1975, c.291 (C.40:55D-28).

Adopted. L. 2021, c. 6, §2, effective February 4, 2021.

ARTICLE 4. CAPITAL IMPROVEMENTS PROGRAM AND PROJECT REVIEW.

40:55D-29. 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 projects 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

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

c. The extent to which there have been significant changes in the assumptions, policies, and objectives forming the basis for the master plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, collection, disposition, and recycling of designated recyclable materials, and changes in State, county and municipal policies and objectives.

d. The specific changes recommended for the master plan or development regulations, if any, including underlying objectives, policies and standards, or whether a new plan or regulations should be prepared.

e. The recommendations of the planning board concerning the incorporation of redevelopment plans adopted pursuant to the “Local Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1 et al.) into the land use plan element of the municipal master plan, and recommended changes, if any, in the local development regulations necessary to effectuate the redevelopment plans of the municipality.

f. The recommendations of the planning board concerning locations appropriate for the development of public electric vehicle infrastructure, including but not limited to, commercial districts, areas proximate to public transportation and transit facilities and transportation corridors, and public rest stops; and recommended changes, if any, in the local development regulations necessary or appropriate for the development of public electric vehicle infrastructure.

Adopted. L. 1975, c. 291, §76. **Amended.** L. 1980, c. 146, §6; L. 1985, c. 516, §18; L. 1987, c. 102, §29; L. 1992, c. 79, §50, effective August 5, 1992, and shall be retroactive to January 18, 1992; L. 2001, c. 342, §9, effective January 5, 2002; L. 2011, c. 65, §1, effective May 4, 2011; L. 2016, c. 21, §6, effective August 1, 2016; L. 2019, c. 267, §2, effective November 6, 2019.

40:55D-89.1. Absence of adoption of reexamination report. The absence of the adoption by the planning board of a reexamination report pursuant to section 76 of P.L. 1975, c. 291 (C. 40:55D-89) shall constitute a rebuttable presumption that the municipal development regulations are no longer reasonable.

Adopted. L. 1985, c. 516, §19.

40:55D-90. Moratoriums; interim zoning. a. The prohibition of development in order to prepare a master plan and development regulations is prohibited.

b. No moratoria on applications for development or interim zoning ordinances shall be permitted except in cases where the municipality demonstrates on the basis of a written opinion by a qualified health professional that a clear imminent danger to the health of the inhabitants of the municipality exists, and in no case shall the moratorium or interim ordinance exceed a six-month term.

Adopted. L. 1975, c. 291, §77. **Amended.** L. 1979, c. 7, §1; L. 1985, c. 516, §20.

ARTICLE 12. SEVERABILITY, CONSTRUCTION AND EFFECTIVE DATE.

40:55D-91. Severability of provisions. If the provisions of any article, section, subsection, paragraph, subdivision or clause or this act shall be judged invalid by a court of competent jurisdiction, such order or judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this act and, to this end, the provisions of each article, section, subsection, paragraph, subdivision or clause of this act are hereby declared to be severable.

Adopted. L. 1975, c. 291, §78.

40:55D-92. Construction. This act being necessary for the welfare of the State and its inhabitants shall be considered liberally to effect the purposes thereof.

Adopted. L. 1975, c. 291, §79.

ARTICLE 13. STORM WATER MANAGEMENT PLAN.

40:55D-93. Storm water management plan; adoption of ordinances. Every municipality in the State shall prepare a storm water management plan and a storm water control ordinance or ordinances to implement said plan. Such a storm water management plan shall be completed within 1 year from the date of promulgation of comprehensive storm water management regulations by the