

**Borough of Matawan**  
**Code Book**  
**Chapter 30 – Land Use Procedures**  
**Section 30-1 – Unified Planning/Zoning Board of Adjustment**

§ 30-1.1 Establishment.

[1971 Code § 20-1.1; Ord. No. 00-03; New]

There is hereby established pursuant to N.J.S.A. 40:55D-23 in the Borough of Matawan a Unified Planning Board/Zoning Board of Adjustment (referred to as the "Unified Planning Board") of nine members consisting of the following four classes:

Class I. The Mayor.

Class II. One of the officials of the Borough other than a member of the Borough Council 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 Unified Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the class II Unified Planning Board member.

Class III. A member of the Borough Council to be appointed by it.

Class IV. Six other citizens of the Borough to be appointed by the Mayor. The members of Class IV shall hold no other Borough office, except that one member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Unified Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Unified Planning Board member.

History: Ordinance No. 95-42, adopted November 8, 1995, established a nine member Planning Board which exercised the powers of the Zoning Board of Adjustment. Subsequently Ordinance No. 99-21, adopted October 5, 1999, rescinded Ordinance No. 95-42 and reinstated a separate Zoning Board of Adjustment and revoked the powers of the Zoning Board from the Planning Board. Ordinance No. 99-22, adopted October 5, 1999, provided for the establishment, powers and duties of the Board of Adjustment. Thereafter, Ordinance No. 00-02, adopted February 1, 2000, rescinded Ordinance No. 99-21 and reinstated a Unified Planning Board/Zoning Board of Adjustment and Ordinance No. 00-03 also re-established the Unified Planning Board/Zoning Board of Adjustment and repealed Ordinance No. 99-22.

§ 30-1.2 Alternate Members.

[1971 Code § 20-1.1A; Ord. No. 95-45; Ord. No. 2016-02]

- a. In addition to the regular members of the Unified Planning Board appointed pursuant to this section, there shall be appointed four alternate members appointed by the Mayor. They shall be designated Alternate Number One, Alternate Number Two, Alternate Number Three, and Alternate Number Four.
- b. Alternate members shall serve in the absence or disqualification of the regular member of the Board.

c. Terms.

Alternates: a term of two years beginning on January 1 of the year in which such alternate is appointed, however, the terms of the alternate members shall be such that the term of not more than two alternate members shall expire in any one year; provided that in no instance shall a term of alternate members first appointed exceed two years.

- d. Vacancy. A vacancy which occurs otherwise than by expiration of term shall be filled by appointment as above provided for the unexpired term only.
- e. No alternate member shall be permitted to act on any matter in which he or she has either directly or indirectly any personal or financial interest. An alternate member may be removed by the Governing Body for cause. Removal can be made only upon a hearing which shall be public if the alternate member so requests.
- f. 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 Number One" shall vote succeeded by Alternate Number Two, Alternate Number Three, and Alternate Number Four in order of precedence, if eligible to vote.

**§ 30-1.3 Terms.**

[1971 Code § 20-1.2]

The term of the member composing class I shall correspond with his official tenure. The terms of the members composing class II and class III shall be for one 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 years or terminate at the completion of his term of office as a member of the Environmental Commission whichever comes first.

The term of a class IV member who is also a member of the Board of Education 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.

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 evenly distributed over the first four years after their appointments as determined by resolution of the Borough Council, provided however that no term of any member shall exceed four years and further provided that nothing herein shall affect the term of any present member of the Unified Planning Board, all of whom shall continue in office until the completion of the term for which they were appointed. Thereafter all class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made.

**§ 30-1.4 Vacancies.**

[1971 Code § 20-1.3]

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

**§ 30-1.5 Organization of Board.**

[1971 Code § 20-1.4]

The Unified Planning Board shall elect a Chairman and Vice Chairman from the members of class IV and select a Secretary.

**§ 30-1.6 Unified Planning Board Attorney.**

[1971 Code § 20-1.5]

There is hereby created the Office of Unified Planning Board Attorney. The Unified Planning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Unified Planning Board Attorney who shall be an attorney other than the Borough Attorney.

**§ 30-1.7 Experts and Staff.**

[1971 Code § 20-1.6]

The Unified Planning Board may also 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 Borough Council for its use.

**§ 30-1.8 Powers and Duties Generally.**

[1971 Code § 20-1.7; Ord. No. 95-42 § 1]

The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A-1 et seq.) shall apply. It shall also have the following powers and duties:

- a. To make and adopt and from time to time amend a master plan for the physical development of the Borough including any areas outside its boundaries, which in the Board's judgment bear essential relation to the planning of the Borough, in accordance with the provisions of N.J.S.A. 40:55D-28.
- b. To administer the provisions of the Land Subdivision ordinance and Site Plan Review ordinance of the Borough (codified in Chapter **34**, Development Regulations) in accordance with the provisions of said ordinances and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.
- c. To approve conditional use applications in accordance with the provisions of Chapter **34**, Development Regulations pursuant to N.J.S.A. 40:55D-67.
- d. To participate in the preparation and review of programs or plans required by State or Federal law or regulations.
- e. To assemble data on a continuing basis as part of a continuous planning process.

- f. To annually prepare a program of Borough capital improvement projects projected over a term of six years, and amendments thereto, and recommend same to the Borough Council.
- g. To consider and make report to the Borough Council within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26(a), and also pass upon other matters specifically referred to the Unified Planning Board by the Borough Council, pursuant to the provisions of N.J.S.A. 40:55D-26(b).
- h. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant, to the same extent and subject to the same restrictions as the Zoning Board of Adjustment;
  - 1. Variances pursuant to N.J.S.A. 40:55D-70.
  - 2. Direction pursuant to N.J.S.A. 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 N.J.S.A. 40:55D-32.
- i. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Borough Council for the aid and assistance of the Borough Council or other agencies or officers.
- j. To exercise to the same extent and subject to the same restrictions, all the powers of a Zoning Board; but the Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection **(d)** 10:55D-70 of P.L. 1975, c. 291 as follows:
  - 1. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the Zoning Ordinance.
  - 2. Hear and decide requests for interpretation of Zoning Map or Zoning Ordinance or for decisions upon other special questions upon which such Board is authorized by the Zoning Ordinance to pass.
  - 3. (1)Where, (a) by reason of exceptional narrowness, shallowness or shape of a specific place of property, or (b) by reason of exceptional topographic conditions, or physical features uniquely effecting a specific piece of property. (c) by reason of an extraordinary and exceptional situation uniquely effecting a specific piece of property or structures lawfully existing thereon, the strict application of any regulation pursuant to N.J.S.A. 40:55D-62 et seq. would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship; (2) wherein an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations of N.J.S.A. 40:55D-62; provided however that no variation from those departures enumerated in subsection D. of this section shall

be 40:55D-62; provided however that no variation from those departures enumerated in subsection D. of this section shall be granted under this subsection.

4. In particular cases and for special reasons, grant a variance to allow departure from regulations pursuant to N.J.S.A. 40:5D-62 to permit (a) A use or principal structure in a district restricted against such use or principal structure, (b) an expansion of a nonconforming use (c) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use for an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4, (d) an increase in permitted density as defined by N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one or two dwelling units, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision or (e) a height of a principal structure which exceeds by 10 feet or by 10% the maximum height permitted in the district for a principal structure. A variance under this section shall be granted only by affirmative vote of 2/3 of the full authorized membership of the Board.
5. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Any application under this section may be referred to any appropriate person or agency, for its report, provided that such reference shall not extend the period of time within which the Board shall act.
- k. All other powers conveyed upon the Unified Planning Board by Chapter **30** of the Revised General Ordinances and the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., subsequent amendments thereto, and all procedures, practices, requirements, and time periods shall continue to be in effect as specified therein.

Please access the Borough Code Chapter 30-Land Use Procedures for further information.