

CHAPTER 225

AN ACT concerning municipal zoning boards of adjustment, supplementing P.L.1975, c.291 (C.40:55D-1 et seq.), and amending P.L.2005, c.133 and P.L.1991, c.256.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.40:55D-69.2 Supplemental zoning boards of adjustment.

1. a. If the mayor of a municipality determines that the zoning board of adjustment is unable to process pending appeals and applications in a timely manner, the mayor may recommend the governing body of the municipality establish a supplemental zoning board of adjustment to address any backlog or influx of appeals and applications. 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). The recommendation shall be submitted, in writing, at an official meeting of the governing body of the municipality.

b. Upon receipt of the mayor's recommendation, the governing body of the municipality may establish, by ordinance, a supplemental zoning board of adjustment, except that no more than one supplemental zoning board of adjustment may exist at any given time. 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. 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). 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 created pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69). 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 and shall terminate upon the completion of all pending appeals and applications thereafter.

c. The supplemental zoning board of adjustment shall consist of seven regular members and may have not more than four alternate members. All members of the supplemental zoning board of adjustment shall be municipal residents and appointed in a manner set forth in the ordinance adopted pursuant to subsection b. of this section. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2," and, in the case of a municipality in which more than two alternates are appointed, "Alternate No. 1," "Alternate No. 2," "Alternate No. 3," and "Alternate No. 4," as appropriate. The terms of the members shall expire on the date of termination of the supplemental zoning board of adjustment. 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 (C.40:55D-23.3) and successfully completes the course within six months of assuming board membership. A member of the supplemental zoning board of adjustment may not hold any elective office or position under the municipality. A member also may not act on any matter in which the member has any direct or indirect personal or financial interest. A member may, after public hearing, if requested, be removed by the governing body for cause.

d. 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.

e. Alternate members may participate in all matters but may not vote except in the absence or disqualification of a regular member. 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. 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.

f. Notwithstanding the provisions of this section, a municipality that participates in a regional zoning board of adjustment, or a municipality in which the planning board exercises the powers of the zoning board of adjustment pursuant to subsection c. of section 16 of P.L.1975, c.291 (C.40:55D-25), may not establish a supplemental zoning board of adjustment.

2. Section 2 of P.L.2005, c.133 (C.40:55D-23.3) is amended to read as follows:

C.40:55D-23.3 Preparation, offering of basic course in land use law and planning; requirement.

2. a. The Commissioner of Community Affairs shall cause to be prepared and offered a basic course in land use law and planning within six months from the effective date of P.L.2005, c.133 (C.40:55D-23.3 et al.) for current and prospective members and alternate members of local planning boards pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) and section 13 of P.L.1979, c.216 (C.40:55D-23.1), zoning boards of adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69), and supplemental zoning boards of adjustment pursuant to section 1 of P.L.2019, c.225 (C.40:55D-69.2), and combined boards as authorized under law. The basic course to be prepared and offered pursuant to this section shall consist of no more than five hours of scheduled instruction and shall be structured so that a member may satisfy this requirement within one calendar day. The commissioner shall work in conjunction with the New Jersey Planning Officials in establishing standards for curriculum and administration of the course of study.

b. On or after the first date on which a course in land use law and planning is offered, except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), a person shall not be seated as a first-term member or alternate member of a local planning board pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23) or section 13 of P.L.1979, c.216 (C.40:55D-23.1), a zoning board of adjustment pursuant to section 56 of P.L.1975, c.291 (C.40:55D-69) or a combined board as authorized under law, unless the person agrees to take the basic course required to be offered under subsection a. of this section, which the person shall successfully complete within 18 months of assuming board membership in order to retain board membership. A person shall not be seated as a regular member of a supplemental zoning board of adjustment established pursuant to section 1 of P.L.2019, c.225 (C.40:55D-69.2) unless the person agrees to take the basic course offered under subsection a. of this section and successfully completes the course within six months of assuming board membership.

c. Except as otherwise provided in section 3 of P.L.2005, c.133 (C.40:55D-23.4), any person who is serving as a member or alternate member of a planning board or zoning board of adjustment or combined board as authorized under law on the first date on which a course in land use law and planning is offered shall be required to complete that course within 18 months of the date upon which the course is first offered in order to retain membership on that board.

d. A hearing or proceeding held, or decision or recommendation made, by a planning board or zoning board of adjustment shall not be invalidated if a member has participated in the hearing or proceeding or in the decision making or recommendation and that member is subsequently found not to have completed the basic course in land use law and planning required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et al.).

3. Section 20 of P.L.1991, c.256 (C.40:55D-69.1) is amended to read as follows:

C.40:55D-69.1 Planning board members may serve temporarily on board of adjustment, supplemental zoning board of adjustment.

20. If the zoning board of adjustment or supplemental zoning board of adjustment lacks a quorum because any of its regular or alternate members is prohibited by section 56 of P.L.1975, c.291 (C.40:55D-69) or section 1 of P.L.2019, c.225 (C.40:55D-69.2) from acting on a matter due to the member's personal or financial interest therein, Class IV members of the planning board shall be called upon to serve, for that matter only, as temporary members of the zoning board of adjustment or supplemental zoning board of adjustment. The Class IV members of the planning board shall be called upon to serve in order of seniority of continuous service to the planning board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the chairman of the planning board shall make the choice.

4. This act shall take effect immediately.

Approved August 9, 2019.