

**BOROUGH OF MIDDLESEX
ORDINANCE NO. 1983-20**

**AN ORDINANCE AMENDING CHAPTER 68 (OFFICERS AND EMPLOYEES),
CHAPTER 93 (RECREATION COMMITTEE) AND CHAPTER 301 (PARKS
AND RECREATION AREAS) OF THE MUNICIPAL CODE OF THE BOROUGH
OF MIDDLESEX SO AS TO UPDATE AND CLARIFY CERTAIN PROVISIONS
RELATED THERETO**

STATEMENT OF PURPOSE

The purpose of this Ordinance is to (a) reconstitute the Middlesex Borough Planning Board as a nine-member board; (b) providing that the Borough Planning Board shall now assume all of the powers previously exercised by the Middlesex Borough Zoning Board of Adjustment as authorized by N.J.S.A. 40:55D-25(c); and (c) by abolishing the previously existing separate Borough Zoning Board of Adjustment.

WHEREAS, N.J.S.A. 40:44d-23.1 provides that the governing body of a New Jersey municipality may, at its option, create either a nine (9) member or a seven (7) member Planning Board; and

WHEREAS, the Borough of Middlesex, pursuant to the Municipal Land Use Law, established its Planning Board by ordinance and codified in Section 56-1 of the Ordinances of the Borough of Middlesex; and

WHEREAS, the Borough of Middlesex, pursuant to the Municipal Land Use Law, established its Zoning Board of Adjustment by ordinance and codified in Section 56-12 of the Ordinances of the Borough of Middlesex; and

WHEREAS, the provisions of N.J.S.A. 40:55D-25(c)(1) provide that in a municipality, having a population of 15,000 or less, a nine member Planning Board, if so provided by Ordinance, shall exercise to the same extent and subject to the same restrictions, all of the powers of a Board of Adjustment; but the Class I and Class III members shall not participate in the consideration of applications which involve relief pursuant to subsection d of N.J.S.A. 40A:55D-70; and

WHEREAS, the Borough of Middlesex has a population of less than 15,000 as established by the 2010 United States National Census; and

WHEREAS, the governing body of the Borough of Middlesex has determined that it is in the best interests of the Borough of Middlesex to have the Planning Board hereafter act as a joint land use board, exercising all powers of the Board of Adjustment, and the functions of both boards to be merged into a Joint Land Use Board pursuant to N.J.S.A. 40:55D-25(c),

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of

Middlesex, in the County of Somerset, State of New Jersey, as follows:

1. There is hereby established, pursuant to N.J.S.A. 40:55D-1 et seq. generally and N.J.S.A. 40:55D-23 and 40:55D-23.1 specifically, in the Borough of Middlesex, a new Joint Land Use Board consisting of nine (9) members and up to four (4) alternates as set forth in the statute. The composition of the member by class and terms shall be as set forth in the statute.
2. As of the Effective Date of this Ordinance, the Powers of the Middlesex Borough Planning Board, in accord with N.J.S.A. 40:552-25(c)(1) shall be conferred to and exercised by the Joint Land Use Board of the Borough of Middlesex, with said board to exercise, to the same extent and subject to the same restrictions, all powers of a Board of Adjustment under applicable New Jersey law;
3. Pursuant to N.J.S.A. 40:55D-25(c)(1), the Joint Land Use Board of the Borough of Middlesex shall be a planning board exercising, where applicable and appropriate, the statutory powers of a Zoning Board of Adjustment.
4. Provided, however, that the Class I and the Class III members of the Middlesex Borough Planning Board shall not participate in consideration of applications for development which involve relief pursuant to subsection d of N.J.S.A. 40A:55D-70.
5. All prior ordinances inconsistent with this Ordinance, including but not limited to any prior ordinance creating a Middlesex Borough Zoning Board of Adjustment, are hereby repealed to the extent of such inconsistency, and the Middlesex Borough Zoning Board of Adjustment is hereby abolished. Where appropriate, all appropriate powers and authority granted to the Middlesex Borough Zoning Board of Adjustment in the Borough code of the Borough Middlesex shall now be granted to the Middlesex Borough Planning Board.
6. Severability: In the event that any provision of this ordinance, or the application thereof to any person or circumstance is declared invalid by a court of competent jurisdiction, such declaration of invalidity shall not affect any other provision or application of this ordinance which may be given effect, and, to realize this intent, the provisions and applications of this ordinance are declared to be severable.
7. Effective Date: This Ordinance shall take effect as of January 7, 2020, after its passage and publication as required by law.

ATTEST

Gretchen McCarthy, Municipal Clerk

Ronald J. DiMura, Mayor

INTRODUCED: November 26, 2019

ADOPTED: December 17, 2019