

BOROUGH OF NORTH HALEDON

ORDINANCE #9-2023

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 70, LAND USE PROCEDURES, ARTICLE I, PLANNING BOARD, AND ARTICLE II, ZONING BOARD OF ADJUSTMENT, SO AS TO ABOLISH THE ZONING BOARD OF ADJUSTMENT AND CREATE A SINGLE LAND USE BOARD TO EXERCISE ALL SUCH POWER AND AUTHORITY

BE IT ORDAINED by the Mayor and Council of the Borough of North Haledon, in the County of Passaic and State of New Jersey, that:

Section One. Chapter 70 Land Use Procedures, Article I, Planning Board, and Article II, Zoning Board of Adjustment, are hereby repealed and replaced, with the said Articles to read as follows:

Chapter 70. Land Use Procedures

Article I. Planning Board

Sec. 70-1. Establishment; Membership

The Planning Board previously established pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) is hereby continued in the Borough and shall consist of nine members consisting of the following four classes:

CLASS I – The Mayor, or the Mayor’s designee in the absence of the Mayor.

CLASS II – One of the officials of the municipality other than a member of the Governing Body to be appointed by the Mayor.

CLASS III – A member of the Governing Body to be appointed by it.

CLASS IV – Six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no municipal office, position or appointment 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 Planning Board, as required by N.J.S.A. 40:56A-1, shall be a Class IV Planning Board member.

Sec. 70-2. Terms of Office

- a. 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. The term of the 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 occurs first.
- b. 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 Board or at the completion of his Class IV term, whichever occurs first.
- c. 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 terms shall be distributed evenly over the first four years after their appointment as determined by resolution of the Governing Body; 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 Planning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter, all Class IV members shall be provided. All terms shall run from January 1 of the year in which the appointment is made, unless an appointment is made to fill an unexpired term.

Sec. 70-3. Vacancies:

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.

Sec. 70-4. Organization.

The Planning Board shall elect a chairman and vice-chairman from the members of Class IV, select a secretary who may or may not be a member of the Planning Board or a municipal employee.

Sec. 70-5. Planning Board Attorney.

There is hereby created the position of Planning Board Attorney. The Planning Board may annually appoint the Planning Board Attorney, who shall be an attorney other than the Municipal Attorney.

Sec. 70-6. Experts and staff.

The 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 governing body of its use.

Sec. 70-7. Powers and Duties.

The Planning Board shall have the following powers:

- 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 exercise all powers granted to a Planning Board by the provisions of N.J.S.A. 40:55D-26a.
- c. To administer the provisions of this Chapter in accordance with the provisions of said ordinances and the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.)
- d. To participate in the preparation and review of programs or plans required of the Planning Board by state or federal law or regulations.
- e. To assemble data on a continuing basis as part of a continuous planning process.
- f. Upon request, to assist the Governing Body in preparation of a program of municipal capital improvement projects and amendments thereto.
- g. To consider and make reports to the Governing Body 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-26a, and also pass upon other matters specifically referred to the Planning Board by the Mayor and Borough Council, pursuant to the provisions of N.J.S.A. 40:55D-26b.
- h. To review applications for conditional use approval.
- i. To exercise, to the same extent and subject to the same restrictions, all the powers granted by law to a Zoning Board of Adjustment.
- j. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Governing Body for the aid and assistance of the Governing Body or other agencies or officers.
- k. To annually prepare and adopt by resolution a report of its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any, be sent to the Governing Body.

Sec. 70-8. Alternate Members.

- a. There may be four alternate members of the Planning Board appointed by the Mayor and meeting the qualifications of Class IV members. Alternate members shall be designated at the time of appointment by the Mayor as “Alternate No. 1”, “Alternate No. 2”, “Alternate No. 3”, and “Alternate No. 4”. The terms of the alternate members shall be for two years, except that the term of not more than two alternate members shall expire in any one year; and provided further that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.
- b. No alternate member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the Mayor and Council for cause.
- c. The 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 No. 1 shall vote.

Section. 70-9 – Restrictions on Class I and Class III Members of the Planning Board.

Class I and Class III members of the Planning Board shall not participate in the consideration of any application for development which involves relief pursuant to N.J.S.A. 40:55D-70d.

Sec. 70-10. Filing of applications.

Applications for development within the jurisdiction of the Planning Board pursuant to the provisions of P.L. 1975, c. 291[1] shall be filed with the Secretary of the Planning Board. The applicant shall file, at least 14 days before the date of the monthly meeting of the Board, 10 copies of a sketch plat, 10 copies of applications for minor subdivision approval, 10 copies of applications for major subdivision approval, or 10 copies of an application for site plan review, conditional use approval or planned development. At the time of filing the application, but in no event less than 10 days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provisions of this chapter or any rule of the Planning Board. The applicant shall obtain all necessary forms from the Secretary of the Planning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

[1] Editor’s Note: See N.J.S.A. 40:5D-1 et seq.

Sec. 70-11. Advisory Committee.

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.

Article II. Zoning Board of Adjustment Abolished.

Sec. 70-12. Findings.

The Zoning Board of Adjustment was created by ordinance pursuant to the terms of N.J.S.A. 40:55D-69. The aforementioned statute mandates the creation of a Zoning Board of Adjustment upon the adoption of a zoning ordinance unless the municipality is eligible for, and exercises, the option of creating a nine member Planning Board to exercise all of the powers and duties of the Board of Adjustment as provided by N.J.S.A. 40:55D-25c. The Borough meets the criteria established in N.J.S.A. 40:55D-25c and has determined that it is in the public’s interest to abolish the Zoning Board of Adjustment and allow the Planning Board to exercise its powers and duties.

Sec. 70-13. Abolishment of Zoning Board of Adjustment; Discharge of Members.

a. The Zoning Board of Adjustment is hereby abolished and all of the powers and duties granted by law to the Board are hereby transferred to the Planning Board pursuant to the authority established in N.J.S.A. 40:55D-25c.

b. All members, officers and employees of the Zoning Board of Adjustment as of the effective date of this Chapter shall be discharged from their positions, offices or employment.

Sec. 70-14. Reference to Board of Adjustment.

All reference to “Board of Adjustment” contained in this Chapter shall be deemed to be deleted or to refer to the “Planning Board” or “Board” as the case may be.

Sec. 70-15. Expiration of Variance.

Any variance from the terms of the Zoning Ordinance hereafter granted by the Planning Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variances, or unless such permitted use has actually been commenced, within 24 months from the date of publication of the notice of the judgment or determination of the Planning Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Planning Board to a court of competent jurisdiction until the termination in any manner of such appeal or proceeding.

Section 2. Each section, subsection, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase, and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this Ordinance.

Section 3. This Ordinance shall be in full force and effect from and after its adoption and any publication as required by law.

NOTICE

Notice is hereby given that the above ordinance was introduced and passed first reading at the Regular Meeting of the Mayor and Council of the Borough of North Haledon on February 15, 2023, and will be considered for final passage after public hearing at the Regular Meeting of the Mayor and Council to be held on March 15, 2023 at the Municipal Bldg., 103 Overlook Ave., North Haledon, NJ at 7:30 p.m., or shortly thereafter at which time anyone interested therein or affected thereby will be given an opportunity to be heard

Notice is hereby given that the above ordinance passed its second and final reading at the Regular Meeting of the Mayor and Board of Council of the Borough of North Haledon which was held on March 15, 2023 at 103 Overlook Avenue, North Haledon, NJ 07508, and is hereby declared a passed ordinance in accordance with law.

Randy George, Mayor

Passed first reading on
February 15, 2023

Passed second and final reading
March 15, 2023

Renate Elatab
Municipal Clerk

Renate Elatab
Municipal Clerk