

**ORDINANCE NO. 2021-002**

**AN ORDINANCE AMENDING AND SUPPLEMENTING THE GENERAL ORDINANCES OF THE BOROUGH OF SOUTH BOUND BROOK, CHAPTER 30 LAND USE PROCEDURES, SECTION 30-1 PLANNING BOARD IN SUBSECTION 30.1-1 ESTABLISHMENT, SUBSECTION 30-1.2 TERMS, SUBSECTION 30-1.4 ORGANIZATION OF THE BOARD, SUBSECTION 30-1.5 PLANNING BOARD ATTORNEY; SECTION 30-3 PROVISIONS APPLICABLE TO BOTH THE PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT, SUBSECTION 30-3.1 CONFLICTS OF INTEREST; SECTION 30-4 APPEALS IN SUBSECTION 30-4.1 APPEALS TO ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, in accordance with the Municipal Land Use Law, pursuant to N.J.S.A. 40:55D-8, a municipal agency shall adopt and may amend reasonable rules and regulations, not inconsistent with the Municipal Land Use Law or with any applicable ordinance, for the administration of its functions, powers and duties; and

**WHEREAS**, the Borough Council has reviewed its General Ordinance, Chapter 30, Land Use Procedure, and determined that it is in the best interests of the Borough and the public to update, amend and supplement its General Ordinance for Land Use Procedure to meet the current needs of the Joint Planning Board/Zoning Board of Adjustment, to ensure the efficient administration of the Joint Board’s duties and responsibilities and to comply with the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

**WHEREAS**, pursuant to N.J.S.A. 40:55D-25(c), the Borough created a Joint Planning Board/Zoning Board of Adjustment;

**WHEREAS**, the Borough Council has reviewed and determined that is in the Borough’s and the public’s best interest to permit the appointment of alternate members to the Joint Planning Board/Zoning Board of Adjustment to avoid the potential of conflicts of interest and to be consistent with N.J.S.A. 40:55D-23.1, which provides for the appointment of alternate members of a consolidated Planning Board/Zoning Board of Adjustment;

**WHEREAS**, the Borough Council has determined that it is in the best interest of the Borough and the public to ensure the efficient administration of the duties and responsibilities of the Joint Planning Board/Zoning Board of Adjustment by amending and supplementing its General Ordinances for Land Use Procedure so that it incorporates the relevant language set forth in N.J.S.A. 40:55D-23, N.J.S.A. 40:55D-23.1, N.J.S.A. 40:55D-24 and N.J.S.A. 40:55D-71 related to the establishment, organization and terms of the Joint Board;

**WHEREAS**, the Borough Council has determined that it is in the best interest of the Borough and the public to limit the time for appeals to the Zoning Board of Adjustment and to incorporate additional procedural requirements related to such appeals, in compliance with N.J.S.A. 40:55D-72.

**WHEREAS**, pursuant to N.J.S.A. 40:55D-26 et seq., the Borough Council hereby refers this Ordinance and proposed amendments to the Joint Planning/Zoning Board for review prior to final adoption of the same.

**NOW THEREFORE, BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF SOUTH BOUND BROOK, NEW JERSEY AS FOLLOWS:**

**Section 1.** The aforementioned recitals are incorporated herein as though fully set forth at length.

**Section 2.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-1.1 Establishment, is hereby amended and supplemented, as follows (**Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through}**)

30-1.1 Establishment.

Pursuant to N.J.S.A. 40:55D-25(c), the Borough of South Bound Brook hereby creates a nine (9) member Planning Board which Planning Board shall have the right to exercise, to the same extent and subject to the same restrictions, all of the powers of the Zoning Board of Adjustment.

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 Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members **\*\*or alternate members\*\***

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

Class IV. Six (6) other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one (1) member may be a member of the Zoning Board of Adjustment and one (1) may be a member of the Board of Education **\*\*or historic preservation commission\*\***. 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 unless there be among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board

**\*\*Alternate members. Not more than four municipal residents may be appointed by the appointing authority for Class IV members. Alternate members shall meet the qualifications of Class IV members of nine-member planning boards. 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.” Alternate members may**

participate in all matters but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the planning board established by ordinance of the borough council, pursuant to section 14 of P.L.1975, c.291 (C.40:55D-23). 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 3.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-1.2 Terms, is hereby amended and supplemented, as follows (**Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through}**)

30-1.2 Terms.

The term of the member composing Class I shall correspond ~~{with his}~~ to the **\*\*the Mayor's\*\*** official tenure. The terms of the members composing Class II and Class III shall be for one (1) 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 (3) 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 Adjustment or 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 (4) years after their appointment as determined by resolution of the Borough Council, provided however that no term of any member shall exceed four (4) 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 term for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four (4) years except as otherwise herein provided. All terms shall run from January 1 of the year in which the appointment was made. **\*\*If a vacancy in any class shall occur otherwise than by expiration of the planning board term, it shall be filled by appointment, as above provided in Section 30-1.1, for the unexpired term.\*\***

**\*\*The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year. However, if four alternates have been appointed, the term of not more than two alternate members shall expire in any one year 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.\*\***

**Section 4.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-1.4 Organization of Board, is hereby amended and supplemented, as follows (**Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through}**)

30-1.4 Organization of Board.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary ~~{who may be either a member of the Planning Board or municipal employee designated by it}~~ **\*\*who may or may not be a member or alternate member of the planning board or a municipal employee, and create and fill such other offices as established by ordinance. An alternate member shall not serve as chairman or vice chairman of the planning board.\*\***

**Section 5.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-1.5 Planning Board Attorney, is hereby amended and supplemented, as follows **(Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through})**

30-1.5 Planning Board Attorney. There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, **\*\*employ or contract for\*\***, and fix the compensation of or agree upon the rate of compensation of the Planning Board Attorney who shall be an attorney other than the Municipal Attorney.

**Section 6.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-3.1 Conflicts of Interest, is hereby amended and supplemented, as follows **(Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through})**

30-3.1 Conflicts of Interest. No member **\*\*and/or alternate member\*\*** of the Planning Board or Zoning Board of Adjustment shall act on any matter in which ~~{he}~~ **\*\*they\*\*** have either directly or indirectly any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter nor participate in any discussion or decision relating thereto.

**Section 7.** That the Revised General Ordinances of the Borough of South Bound Brook, Chapter 30, Land Use Procedures, Section 30-4.1 Appeals to Zoning Board of Adjustment, is hereby amended and supplemented, as follows **(Additions \*\*between asterisks and/or in bold\*\* and deletions {within brackets and/or struck through})**

30-4.1 Appeals to Zoning Board of Adjustment. An appeal to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of the administrative officer of the municipality based on or made in the enforcement of the Zoning Chapter or official map. Such appeal shall be taken within ~~{sixty five (65)}~~ **\*\*twenty (20)\*\*** days by filing a notice of appeal ~~{in the manner set forth in subsection 302.7a, and in accordance with the provisions of Article 9 of the Municipal Land Use Law of 1975. (Ord. 12/14/76, Art. IV, § 1)}~~ **\*\*with the officer from whom the appeal is taken, specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the board all the papers constituting the record upon which the action appealed from was taken. A developer may file an application for development with the board of adjustment for action under any of its powers without prior application to an administrative officer, pursuant to N.J.S.A. 40:55D-72.\*\***

**Section 8.** Any and all prior Land Use Procedures of the Borough that are inconsistent with this Ordinance are superseded by the Land Use Procedures adopted by this Ordinance.

**Section 9.** If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

**Section 10.** A copy of this Ordinance shall be available for public inspection at the office of the Borough Clerk during regular business hours.

**Section 11.** This Ordinance shall take effect in accordance with all applicable laws.