

ASSEMBLY, No. 17

STATE OF NEW JERSEY

INTRODUCED OCTOBER 21, 1996

By Assemblymen GREGG, BLEE, Kelly, Bucco and Felice

1 AN ACT promoting citizen friendly local government practices
2 concerning municipal review of certain minor subdivision
3 applications and amending and supplementing P.L.1975, c.291
4 (C.40:55D-1 et seq.).

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

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9 1. This act shall be known and may be cited as the "Local
10 Government Citizen Friendly Practices Act."

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12 2. Section 3.2 of P.L.1975, c.291 (C.40:55D-5) is amended to read
13 as follows:

14 3.2. "Maintenance guarantee" means any security which may be
15 accepted by a municipality for the maintenance of any improvements
16 required by this act, including but not limited to surety bonds, letters
17 of credit under the circumstances specified in section 16 of P.L.1991,
18 c.256 (C.40:55D-53.5), and cash.

19 "Major subdivision" means any subdivision not classified as a minor
20 subdivision.

21 "Master plan" means a composite of one or more written or graphic
22 proposals for the development of the municipality as set forth in and
23 adopted pursuant to section 19 of P.L.1975, c.291 (C.40:55D-28).

24 "Mayor" means the chief executive of the municipality, whatever his
25 official designation may be, except that in the case of municipalities
26 governed by municipal council and municipal manager the term
27 "mayor" shall not mean the "municipal manager" but shall mean the
28 mayor of such municipality.

29 "Minor property line adjustment" means the shifting of a property
30 boundary line between no more than two contiguous parcels of land,
31 which shift will affect less than 10 percent of the total square footage
32 of either parcel, and will not involve any improvements or
33 development to either parcel.

34 "Minor site plan" means a development plan of one or more lots

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 which (1) proposes new development within the scope of development
2 specifically permitted by ordinance as a minor site plan; (2) does not
3 involve planned development, any new street or extension of any
4 off-tract improvement which is to be prorated pursuant to section 30
5 of P.L.1975, c.291 (C.40:55D-42); and (3) contains the information
6 reasonably required in order to make an informed determination as to
7 whether the requirements established by ordinance for approval of a
8 minor site plan have been met.

9 "Minor subdivision" means a subdivision of land for the creation of
10 a number of lots specifically permitted by ordinance as a minor
11 subdivision; provided that such subdivision does not involve (1) a
12 planned development, (2) any new street or (3) the extension of any
13 off-tract improvement, the cost of which is to be prorated pursuant to
14 section 30 of P.L.1975, c.291 (C.40:55D-42). "Minor subdivision"
15 shall include a "minor property line adjustment."

16 "Municipality" means any city, borough, town, township or village.

17 "Municipal agency" means a municipal planning board or board of
18 adjustment, or a governing body of a municipality when acting
19 pursuant to this act and any agency which is created by or responsible
20 to one or more municipalities when such agency is acting pursuant to
21 this act.

22 "Nonconforming lot" means a lot, the area, dimension or location
23 of which was lawful prior to the adoption, revision or amendment of
24 a zoning ordinance, but fails to conform to the requirements of the
25 zoning district in which it is located by reason of such adoption,
26 revision or amendment.

27 "Nonconforming structure" means a structure the size, dimension
28 or location of which was lawful prior to the adoption, revision or
29 amendment of a zoning ordinance, but which fails to conform to the
30 requirements of the zoning district in which it is located by reasons of
31 such adoption, revision or amendment.

32 "Nonconforming use" means a use or activity which was lawful
33 prior to the adoption, revision or amendment of a zoning ordinance,
34 but which fails to conform to the requirements of the zoning district
35 in which it is located by reasons of such adoption, revision or
36 amendment.

37 "Official county map" means the map, with changes and additions
38 thereto, adopted and established, from time to time, by resolution of
39 the board of chosen freeholders of the county pursuant to R.S.40:27-5.

40 "Official map" means a map adopted by ordinance pursuant to
41 article 5 of P.L.1975, c.291.

42 "Offsite" means located outside the lot lines of the lot in question
43 but within the property (of which the lot is a part) which is the subject
44 of a development application or contiguous portion of a street or
45 right-of-way.

46 "Off-tract" means not located on the property which is the subject

1 of a development application nor on a contiguous portion of a street
2 or right-of-way.

3 "Onsite" means located on the lot in question.

4 "On-tract" means located on the property which is the subject of a
5 development application or on a contiguous portion of a street or
6 right-of-way.

7 "Open-space" means any parcel or area of land or water essentially
8 unimproved and set aside, dedicated, designated or reserved for public
9 or private use or enjoyment or for the use and enjoyment of owners
10 and occupants of land adjoining or neighboring such open space;
11 provided that such areas may be improved with only those buildings,
12 structures, streets and offstreet parking and other improvements that
13 are designed to be incidental to the natural openness of the land.

14 (cf: P.L.1991,c.256,s.1)

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16 3. Section 4 of P.L.1975, c.291 (40:55D-8) is amended to read as
17 follows:

18 4. a. Every municipal agency shall adopt and may amend
19 reasonable rules and regulations, not inconsistent with this act or with
20 any applicable ordinance, for the administration of its functions,
21 powers and duties, and shall furnish a copy thereof to any person upon
22 request and may charge a reasonable fee for such copy. Copies of all
23 such rules and regulations and amendments thereto shall be maintained
24 in the office of the administrative officer.

25 b. Fees to be charged (1) an applicant for review of an application
26 for development by a municipal agency, and (2) an appellant pursuant
27 to section 8 of this act shall be reasonable and shall be established by
28 ordinance.

29 c. A municipality may by ordinance exempt, according to uniform
30 standards, charitable, philanthropic, fraternal and religious nonprofit
31 organizations holding a tax exempt status under the Federal Internal
32 Revenue Code of 1954 (26 U.S.C.501(c) or (d)) from the payment of
33 any fee charged under this act.

34 d. A municipality shall exempt a board of education from the
35 payment of any fee charged under this act.

36 e. A municipality may by ordinance exempt, according to uniform
37 standards, a disabled person, or a parent or sibling of a disabled
38 person, from the payment of any fee charged under this act in
39 connection with any application for development which promotes
40 accessibility to his own living unit.

41 For the purposes of this subsection, "disabled person" means a
42 person who has the total and permanent inability to engage in any
43 substantial gainful activity by reason of any medically determinable
44 physical or mental impairment, including blindness, and shall include,
45 but not be limited to, any resident of this State who is disabled
46 pursuant to the federal Social Security Act (42 U.S.C.416), or the

1 federal Railroad Retirement Act of 1974 (45 U.S.C.231 et seq.), or is
2 rated as having a 60% disability or higher pursuant to any federal law
3 administered by the United States Veterans' Act. For purposes of this
4 paragraph "blindness" means central visual acuity of 20/200 or less in
5 the better eye with the use of a correcting lens. An eye which is
6 accompanied by a limitation in the fields of vision such that the widest
7 diameter of the visual field subtends an angle no greater than 20
8 degrees shall be considered as having a central visual acuity of 20/200
9 or less.

10 f. Fees to be charged for the review of an application for a minor
11 property line adjustment as defined in section 3.2 of P.L.1975, c.291
12 (C.40:55D-5) shall be no more than \$50. No other fee shall be
13 charged to a person seeking approval of a minor property line
14 adjustment.

15 (cf: P.L.1996, c.92, s.2)

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17 4. (New section) Approval of an application for development in
18 which the applicant seeks a minor property line adjustment as defined
19 in section 3.2 of P.L.1975, c.291 (C.40:55D-5) shall be governed by
20 the provisions of section 35 of P.L.1975, c.291 (40:55D-47); except
21 that any approval of a minor property line adjustment shall not be
22 conditioned on the provision by the applicant of improvements
23 pursuant to sections 29, 29.1, 29.2 and 41 of P.L.1975, c.291
24 (C.40:55D-38, C.40:55D-39, C.40:55D-40, and C.40:55D-53).

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26 5. This act shall take effect 90 days next following enactment.

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STATEMENT

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31 This bill, entitled the "Local Government Citizen Friendly Practices
32 Act," would require a municipality to routinely grant certain
33 applications for minor property line adjustments without conditioning
34 the approval upon the provisions of certain improvements as is
35 required of bigger developments. The bill also specifies that a
36 maximum fee amount of \$50 may be charged by a municipality in its
37 review of such an application.

38 "Minor property line adjustment" is defined in the bill to mean a
39 shifting of a property boundary line between no more than two
40 contiguous parcels of land, which change will affect less than 10
41 percent of the total square footage of either parcel, and will not
42 involve any improvements or development to either parcel. An
43 example of a minor property line adjustment would be the purchase by
44 one neighbor of another neighbor's garden which is contiguous to the
45 first neighbor's property.

46 The bill is intended to prevent overcharging and inflated costs for

1 routine, minor land use changes involving no construction or
2 alteration. Such land use applications currently are considered "minor
3 subdivisions" under the law, and are required to comply with rules
4 pertaining to larger developers of housing, including the payment of
5 application review fees and in some cases, development fees. A
6 municipality currently has the discretion, through its ordinance, to
7 charge whatever it determines is a reasonable fee to the applicant. The
8 bill would set a reasonable limit concerning these very minor land use
9 applications.

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14 Promotes citizen-friendly practices by local governments concerning
15 certain minor subdivision applications.