



Borough of Manville
Ordinance # 2022-1276

**An Ordinance By The Mayor & Council Of The Borough Of Manville
Creating A New Section 30-310 With Applicable Subsections Entitled "Effect And Duration Of
Final Approval" In The Borough Of Manville's Land Development Ordinance**

Statement of Purpose

The purpose of this ordinance is to establish time limits for the duration of
Land Use Approvals in the Borough of Manville.

WHEREAS, the Borough of Manville Planning Board ("Joint Land Use Board") considers applications for final site plan and final subdivision approval as part of its responsibility under the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq.; and

WHEREAS, the Borough currently does not have a section in its Land Development Ordinance (Chapter 30) addressing the duration, effect, and expiration period of the Joint Land Use Board) granting final site plan or final subdivision approval to an applicant; and

WHEREAS, the Borough wishes to ensure that when the Land Use Board grants an applicant final site plan or final subdivision approval, construction of the approved project commences in a timely fashion; and

WHEREAS, without an ordinance specifying the duration and effect of the Joint Land Use Board granting final site plan or final subdivision approval, the Borough risks indefinite delay in development of an approved project and also the inability to ensure that modern regulations are factored into the construction of an approved project; and

WHEREAS, the Municipal Land Use Law contains no prohibition on a municipality passing an ordinance providing for the expiration of final site plan or final subdivision approval after an appropriate amount of time following the memorialized decision of the Joint Land Use Board, as provided by law, if construction of the project has not yet commenced; and

WHEREAS, the legality of such an ordinance has been looked at favorably by the Borough Attorney and the Joint Land Use Board's Attorney;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Manville, County of Somerset, State of New Jersey, that a new Section 30-310 with applicable Subsections entitled "Effect and Duration of Final Approval" be inserted into the Municipal Code of the Borough of Manville and shall read as follows:

SECTION 1:

Section 30-310 is hereby created and entitled "Effect and Duration of Final Approval" and shall read as follows:

§ 30-310: This series of Sections concerns the Effect and Duration of Final Approval of a Site Plan or Major Subdivision.

SECTION 2:

Section 30-310.1 is hereby created and entitled "Effect of Final Approval" and shall read as follows:

§ 30-310.1 Final approval shall terminate the time period of preliminary approval for the applicant granted final approval and shall guarantee the applicant that the zoning requirements applicable to the preliminary approval and all other rights conferred upon the applicant as part of preliminary approval shall not be changed for a period of two years after the date of final approval.

SECTION 3:

Section 30-310.2 is hereby created and entitled "Time Limit for Final Approval and Extensions" and shall read as follows:

§ 30-310.2 Final approval shall expire two years from the date of final approval unless the applicant has secured a building permit to commence construction. The Land Use Board may extend final approval, and the protections offered under N.J.S.A 40:55D-52, for one year but not to exceed three extensions, upon request of the applicant. The applicant shall present testimony to the Land Use Board as to the reason for any delays in securing a building permit and commencing construction. Expiration of final approval voids any rights previously granted an applicant by the Land Use Board.

SECTION 4:

Section 30-310.3 is hereby created and entitled "Final Approval of a Site Plan or Subdivision" and shall read as follows:

§ 30-310.3:

A.

Pursuant to N.J.S.A. 40:55D-52, the zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to section 37 of P.L.1975, c.291 (C.40:55D-49), whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted; provided that in the case of a major subdivision the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in section 42 of P.L.1975, c.291 (C.40:55D-54). If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly recorded the plat as required in section 42 of P.L.1975, c.291 (C.40:55D-54), the Land Use Board (hereinafter "planning board") may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this act, the granting of final approval terminates the time period of preliminary approval pursuant to section 37 of P.L.1975, c.291 (C.40:55D-49) for the section granted final approval.

B. In the case of a subdivision or site plan for a planned development of 50 acres or more, conventional subdivision or site plan for 150 acres or more, or site plan for development of a nonresidential floor area of 200,000 square feet or more, the planning board (Land Use Board) may grant the rights referred to in subsection A. of this section for such period of time, longer than two years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions and (3) the

comprehensiveness of the development. The developer may apply for thereafter, and the planning board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions and (4) the comprehensiveness of the development.

- C. Whenever the planning board grants an extension of final approval pursuant to subsection A., B., or E. of this section and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- D. The planning board shall grant an extension of final approval for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued these approvals. A developer shall apply for the extension before (1) what would otherwise be the expiration date of final approval or (2) the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the planning board from granting an extension pursuant to subsection A., B., or E. of this section.
- E. In the case of a site plan for a development consisting of not less than 150,000 square feet of nonresidential floor area or not less than 100 residential dwelling units, or consisting of a combination of square feet of nonresidential floor area and residential dwelling units, which when proportionately aggregated at a rate of 1,500 square feet of nonresidential floor area to one residential dwelling unit, are equivalent to at least 150,000 square feet of nonresidential floor area or 100 residential dwelling units, the planning board may grant the rights referred to in subsection a. of this section for such period of time beyond two years, as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) economic conditions, and (3) the comprehensiveness of the development. The developer may apply for thereafter, and the planning board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the planning board to be reasonable taking into consideration (1) the number of dwelling units and nonresidential floor area permissible under final approval, (2) the number of dwelling units and nonresidential floor area remaining to be developed, (3) economic conditions, and (4) the comprehensiveness of the development.

SECTION 5:

Section 30-310.4 is hereby created and entitled "Conditions" and shall read as follows:

- § 30-310.4 Nothing in this section shall prohibit the Land Use Board from imposing an expiration period for final site plan or final subdivision approval as a condition of approval.

SECTION 6:

All other Ordinances or other local requirements that are inconsistent or in conflict with this ordinance are hereby repealed to the extent of any inconsistency or conflict, and the provisions of this ordinance shall apply.

SECTION 7:

In the event that any provision of this Ordinance, or the application of thereof to any person or circumstance is adjudged invalid, such adjudication of invalidity shall not affect the validity of the remaining provisions which shall be deemed severable therefrom, and shall remain valid and effective.


SECTION 8.

The Borough intends and acknowledges that this ordinance shall be prospective only.

SECTION 9.

Effective Date: This ordinance shall take effect upon adoption and publication in the manner required by New Jersey law but, in no event, less than 20 days after its final passage by the Borough Council and approved by the Mayor, where such approval is required by law.

Borough of Manville,

A handwritten signature in cursive script that reads "Richard M. Onderko".

Richard M. Onderko, Mayor

ORDINANCE #2022-1276

**FIRST READING:
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
		Lukac	✓			
	✓	Agans	✓			
		Madak	✓			
		Maeder	✓			
		Petrock				✓
✓		Szabo	✓			
		Onderko				

Attest:



Wendy Barras, Borough Clerk

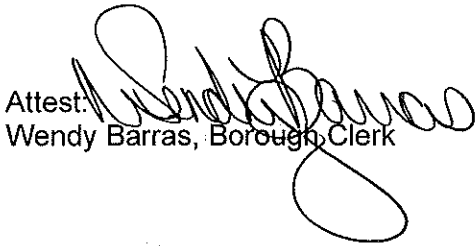
INTRODUCED this 25th day of April, 2022

**SECOND READING AND FINAL ADOPTION:
ROLL CALL**

Introduced	Seconded	Council	Yes	No	Abstain	Absent
✓	✓	Lukac	✓			
		Agans	✓			
		Madak	✓			
		Maeder				✓
		Petrock	✓			
		Szabo	✓			
		Onderko				

Attest:

Wendy Barras, Borough Clerk



[ADOPTED] [DEFEATED] this 9th day of May, 2022