

LEGISLATIVE HISTORY

of

R.S. 40:55-30. Zoning - General Purposes and Powers

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Laws 1928, Chapter 274 - S.65 - Introduced January 16, 1928 by Mr. Mackay.
This bill had no statement. It was amended several times.

Laws 1948, Chapter 305, Section 1 - A.307 - Introduced February 16, 1948 by Mr. Pike.
The statement on the original bill was:

Certain of the amendments proposed in this bill will provide the municipalities with the additional power to zone the use of land as granted under the new constitution. Other proposed amendments are designed to eliminate certain conditions which permitted and even encouraged municipalities to set up zoning without due regard for its effect upon their possible and desirable development. In other respects, the proposed revisions give the zoning boards of adjustment a more exact definition of their powers and duties; the lack of which specifications under the former act have resulted in confusion and occasionally emasculation of the ordinances, as originally enacted. These proposed revisions are a result of experience since the enactment of the original law, both in New Jersey and throughout the United States.

The wording added to this section by the 1948 act appears to follow the wording in the 1947 Constitution (underlining shows added words):

New Jersey Constitution of 1947, Art. IV, Sect. VI, par. 2.

2. The Legislature may enact general laws under which municipalities, other than counties, may adopt zoning ordinances limiting and restricting to specified districts and regulating therein, buildings and structures, according to their construction, and the nature and extent of their use, and the nature and extent of the uses of land, and the exercise of such authority shall be deemed to be within the police power of the State. Such laws shall be subject to repeal or alteration by the Legislature

The following pages in New Jersey Constitutional Convention, 1947. Proceedings. 3 volumes, refer to this provision.

Vol. 1, page 142.

Mr. Edward F. O'Mara (reporting for Committee on the Legislature:

We have broadened the zoning provision, so as to make it apply not only to the regulation of structures and buildings but also to the regulation of the use of land itself.

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Vol. II, page 1528 to 1531.
Zoning monograph by Francis W. Hopkins.

Vol. III - Proceedings of the Committee on the Legislative,
and Appendix.

We found the following references to this provision:
p. 538-539; p. 736-737; p. 860-863; p. 880-882.

The proposed 1944 Constitution had the same wording as the 1947 Constitution,
although there are minor differences in punctuation.

This provision in the 1944 Constitution is discussed in:

974.90	New Jersey Joint Legislative Committee to
C758	Formulate a Draft of a Proposed Revised
1944h	Constitution...
Vol. 1	Public hearing...February 9, 1944, p. 16

The proposed 1942 Constitution did not make any changes in this paragraph
from the 1844 Constitution as amended.

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LEGISLATIVE HISTORY
of
R.S. 40:55-33 and 40:55-35
Zoning Commissions - changes in zoning plan

Laws 1928, Chapter 274, sec. 6 and 8. S-65, Introduced January 16, 1928 by Mr. Mackay. This bill had no statement. It was amended several times.

Laws 1948, Chapter 305, sec. 3 and 4. A-307, Introduced February 16, 1948 by Mr. Pike. The statement on the original bill was:

Statement

Certain of the amendments proposed in this bill will provide the municipalities with the additional power to zone the use of land as granted under the new constitution. Other proposed amendments are designed to eliminate certain conditions which permitted and even encouraged municipalities to set up zoning without due regard for its effect upon their possible and desirable development. In other respects, the proposed revisions give the zoning boards of adjustment a more exact definition of their powers and duties; the lack of which specifications under the former act have resulted in confusion and occasionally emasculation of the ordinances, as originally enacted. These proposed revisions are a result of experience since the enactment of the original law, both in New Jersey and throughout the United States.

The following sections of the bill as introduced show the changes intended from the 1928 Law:

3. Section 40:55-33 of the Revised Statutes is amended to read as follows:

40:55-33. Hereafter, prior to the adoption of any zoning ordinance the governing body or board of public works shall appoint a commission of citizens of the municipality, to be known as the zoning commission, and empower a planning board in accordance with sections 40:55-3, 40:55-4 and 40:55-6 of the Revised Statutes to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commissions/The planning board thus empowered shall make a preliminary report and thereafter hold public hearings thereon before submitting its final report, and the governing body or board of public works shall not hold public hearing or public hearings, or adopt such zoning ordinance, until it has received the

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final report of such commission planning board. The provisions of this section shall not apply to an amendment or repeal of any zoning ordinance.

4. Section 40:55-35 of the Revised Statutes is amended to read as follows:

40:55-35. Such regulations, limitations and restrictions may be amended, changed, modified, or repealed, and the boundaries of such districts may be changed, by ordinance, but no amendment or change shall become effective unless the ordinance proposing such amendment or change shall first have been submitted to the planning board, when such board exists, for approval, disapproval or suggestions, and the planning board shall have a reasonable time, not less than thirty days, for consideration and report, and in the case of an unfavorable report by the planning board such amendment shall not become effective except by a favorable vote of two-thirds of the governing body.

In the case of a protest against such proposed change signed by the owners of twenty per centum (20%) or more either of the area of the lots or land included in such proposed change, or of those immediately adjacent the lots or land in the rear thereof extending one hundred feet therefrom, or of those the lots or land on either side thereof or directly opposite thereto extending one hundred feet from the street frontage of such opposite lots, therefrom (exclusive of street space), such amendment or change shall not become effective except by the favorable vote of three-fourths two thirds of all the members of the governing body or board of public works of such municipality.

This provision shall not apply to the repeal of zoning ordinances in effect prior to April third, one thousand nine hundred and twenty-eight.

First Official Copy Reprint - Section 3 changed:

3. Section 40:55-33 of the Revised Statutes is amended to read as follows:

40:55-33. Hereafter, prior to the adoption of any zoning ordinance the governing body or board of public works shall appoint a commission of citizens of the municipality, to be known as the zoning commission, or a planning board in accordance with sections 40:53-3, 40:53-4 and 40:53-6 of the Revised Statutes, and empower such commission or planning board to recommend the boundaries of the various districts and appropriate regulations to be enforced therein.

Such commission or planning board thus empowered shall make a preliminary report and thereafter hold public hearings thereon before submitting its final report, and the governing body or board of public works shall not hold public hearing or public hearings or adopt such zoning ordinance, until it has received the final report of such commission or planning board. The provisions of this section shall not apply to an amendment or repeal of any zoning ordinance.

Section 4 is unchanged.

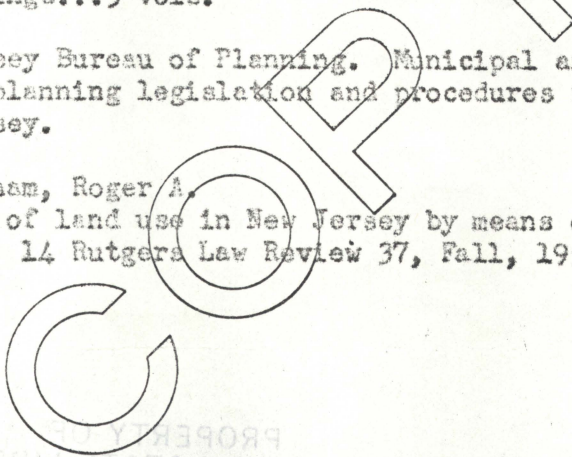
Second Official Copy Reprint: Section 3 and 4 unchanged.

For discussions of zoning legislation in New Jersey, the following may be consulted:

New Jersey Constitutional Convention, 1947.
Proceedings...5 vols.

New Jersey Bureau of Planning. Municipal and county planning legislation and procedures in New Jersey.

Cunningham, Roger A.
Control of land use in New Jersey by means of zoning. 14 Rutgers Law Review 37, Fall, 1959.



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