

LEGISLATIVE HISTORY CHECKLIST

NJSA: 40: 55D-38 et al

(Zoning ordinances--require provisions for protection of potable water supplies)

LAWS OF: 1989

CHAPTER: 208

Bill No: S72

Sponsor(s): Van Wagner

Date Introduced: Pre-filed

Committee: Assembly: Municipal Government

Senate: County & Municipal Government

Amended during passage: Yes Amendments during passage denoted by asterisks.

Date of Passage: Assembly: September 28, 1989

Senate: March 3, 1989

Date of Approval: December 29, 1989

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

Senate: Yes

Fiscal Note: No

Veto Message: No

Message on signing: No

Following were printed:

Reports: No

Hearings: No

[FIRST REPRINT]

SENATE, No. 72

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1988 SESSION

By Senator VAN WAGNER

1 AN ACT to amend the "Municipal Land Use Law," approved  
January 14, 1976 (P.L.1975, c.291).

3

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

1. Section 29 of P.L.1975, c.291 (C.40:55D-38) is amended to  
7 read as follows:

29. Contents of ordinance. An ordinance requiring approval by  
9 the planning board of either subdivisions or site plans, or both,  
shall include the following:

11 a. Provisions, not inconsistent with other provisions of this  
act, for submission and processing of applications for  
13 development, including standards for preliminary and final  
approval and provisions for processing of final approval by stages  
15 or sections of development;

b. Provisions ensuring:

17 (1) Consistency of the layout or arrangement of the subdivision  
or land development with the requirements of the zoning  
19 ordinance;

(2) Streets in the subdivision or land development of sufficient  
21 width and suitable grade and suitably located to accommodate  
prospective traffic and to provide access for firefighting and  
23 emergency equipment to buildings and coordinated so as to  
compose a convenient system consistent with the official map, if  
25 any, and the circulation element of the master plan, if any, and  
so oriented as to permit, consistent with the reasonable  
27 utilization of land, the buildings constructed thereon to maximize  
solar gain; provided that no street of a width greater than 50 feet  
29 within the right-of-way lines shall be required unless said street  
constitutes an extension of an existing street of the greater  
31 width, or already has been shown on the master plan at the  
greater width, or already has been shown in greater width on the  
33 official map;

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:  
Assembly AMG committee amendments adopted May 15, 1989.

1 (3) Adequate water supply, drainage, shade trees, sewerage  
facilities and other utilities necessary for essential services to  
3 residents and occupants;

5 (4) Suitable size, shape and location for any area reserved for  
public use pursuant to section 32 of this act;

7 (5) Reservation pursuant to section 31 of this act of any open  
space to be set aside for use and benefit of the residents of  
planned development, resulting from the application of standards  
9 of density or intensity of land use, contained in the zoning  
ordinance, pursuant to subsection 52 c. of this act;

11 (6) Regulation of land designated as subject to flooding,  
pursuant to subsection 52 e., to avoid danger to life or property;

13 (7) Protection and conservation of soil from erosion by wind or  
water or from excavation or grading;

15 (8) Conformity with standards promulgated by the  
Commissioner of Transportation, pursuant to the "Air Safety and  
17 Hazardous Zoning Act of 1983," P.L.1983, c.260 (C.6:1-80 et  
seq.), for any airport hazard areas delineated under that act; [and]

19 (9) Conformity with a municipal recycling ordinance required  
pursuant to section 6 of P.L.1987, c.102 (C.13:1E-99.16); <sup>1</sup>[and]<sup>1</sup>

21 (10) <sup>1</sup>Conformity with the State highway access management  
code adopted by the Commissioner of Transportation under  
23 section 3 of the "State Highway Access Management Act,"  
P.L.1989, c.32 (C.27:7-91), with respect to any State highways  
25 within the municipality;

27 (11) Conformity with any access management code adopted by  
the county under R.S.27:16-1, with respect to any county roads  
within the municipality;

29 (12) Conformity with any municipal access management code  
adopted under R.S.40:67-1, with respect to municipal streets; and

31 (13)<sup>1</sup> Protection of potable water supply reservoirs from  
pollution or other degradation of water quality resulting from the  
33 development or other uses of surrounding land areas, which  
provisions shall be in accordance with any siting, performance, or  
35 other standards or guidelines adopted therefor by the Department  
of Environmental Protection.

37 c. Provisions governing the standards for grading,  
improvement and construction of streets or drives and for any  
39 required walkways, curbs, gutters, streetlights, shade trees, fire

1 hydrants and water, and drainage and sewerage facilities and  
2 other improvements as shall be found necessary, and provisions  
3 ensuring that such facilities shall be completed either prior to or  
4 subsequent to final approval of the subdivision or site plan by  
5 allowing the posting of performance bonds by the developer;

6 d. Provisions ensuring that when a municipal zoning ordinance  
7 is in effect, a subdivision or site plan shall conform to the  
8 applicable provisions of the zoning ordinance, and where there is  
9 no zoning ordinance, appropriate standards shall be specified in  
10 an ordinance pursuant to this article; and

11 e. Provisions ensuring performance in substantial accordance  
12 with the final development plan; provided that the planning board  
13 may permit a deviation from the final plan, if caused by change  
14 of conditions beyond the control of the developer since the date  
15 of final approval, and the deviation would not substantially alter  
16 the character of the development or substantially impair the  
17 intent and purpose of the master plan and zoning ordinance.

(cf: P.L.1989, c.32, s.24)

18 2. This act shall take effect immediately, but shall remain  
19 inoperative until the Department of Environmental Protection  
20 has adopted the required standards and guidelines, and shall not  
21 apply to any subdivision or site plan application that has received  
22 final approval as of that date.  
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## LAND USE AND PLANNING

27

### Water Supply

29 Requires municipalities to make provision in zoning ordinances  
for the protection of potable water supplies.

1 e. Provisions ensuring performance in substantial accordance  
with the final development plan; provided that the planning  
3 board may permit a deviation from the final plan, if caused by  
change of conditions beyond the control of the developer since  
5 the date of final approval, and the deviation would not  
substantially alter the character of the development or  
7 substantially impair the intent and purpose of the master plan  
and zoning ordinance.

9 2. This act shall take effect immediately, but shall remain  
inoperative until the Department of Environmental Protection  
11 has adopted the required standards and guidelines, and shall not  
apply to any subdivision or site plan application that has  
13 received final approval as of that date.

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#### STATEMENT

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This bill amends that section of the "Municipal Land Use  
19 Law" P.L. 1975, c. 291 (C. 40:55D-1 et seq.), which prescribes  
what shall be included in a municipality's zoning ordinance. It  
21 requires a municipality to include a provision in its zoning  
ordinance insuring the protection of potable water supply  
23 reservoirs from pollution or other degradation of water quality.  
The municipality's provisions shall be in accordance with siting,  
25 performance, or other standards and guidelines adopted by the  
Department of Environmental Protection.

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#### LAND USE AND PLANNING

##### Water Supply

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Requires municipalities to make provision in zoning ordinances  
33 for the protection of potable water supplies.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

**SENATE, No. 72**

with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: MAY 15, 1989

The Assembly Municipal Government Committee favorably reports Senate Bill No. 72 with committee amendments.

Senate Bill No. 72, as amended by the committee, requires municipalities to provide for the protection of potable water supply reservoirs in certain ordinances concerning subdivisions or site plans.

Currently, section 29 of P.L.1975, c.291 (C.40:55D-38) requires that municipal subdivision or site plan ordinances needing planning board approval must include provisions ensuring that: the development is consistent with zoning ordinances; the soil is protected from erosion; the water supply, drainage, shade trees, sewerage facilities and other utilities are adequate; and the streets are of sufficient width and suitably located to accommodate prospective traffic, among others.

This bill adds to the list of provisions necessary in such ordinances, a provision ensuring the protection of potable water supply reservoirs from pollution or other degradation resulting from the development. In addition, the bill provides that such protection shall be in accordance with any siting, performance or other standards or guidelines adopted by the Department of Environmental Protection.

The committee adopted technical amendments to conform the bill to current law, section 24 of P.L.1989, c.32.

As amended by the committee, this bill is identical to Assembly Bill No. 3132 with Assembly committee amendments adopted May 15, 1989.

SENATE COUNTY AND MUNICIPAL GOVERNMENT  
COMMITTEE

STATEMENT TO

SENATE, No. 72

STATE OF NEW JERSEY

DATED: FEBRUARY 18, 1988

The Senate County and Municipal Government Committee reports favorably Senate Bill No. 72.

Senate Bill No. 72 requires municipalities to provide for the protection of potable water supply reservoirs in certain ordinances concerning subdivisions or site plans.

Currently, section 29 of P.L. 1975, c. 291 (C. 40:55D-38) requires that municipal subdivision or site plan ordinances needing planning board approval must include provisions ensuring that: the development is consistent with zoning ordinances; the soil is protected from erosion; the water supply, drainage, shade trees, sewerage facilities and other utilities are adequate; and the streets are of sufficient width and suitably located to accommodate prospective traffic; among other provisions.

Senate Bill No. 72 adds to the list of provisions necessary in such ordinances a provision ensuring the protection of potable water supply reservoirs from pollution or other degradation resulting from the development. In addition, the bill provides that such protection shall be in accordance with any siting, performance or other standards or guidelines adopted by the Department of Environmental Protection.

This bill was pre-filed for introduction in the 1988 session pending technical review. As reported the bill includes the changes required by technical review which has been performed.