

ASSEMBLY, No. 3357

STATE OF NEW JERSEY 221st LEGISLATURE

INTRODUCED JANUARY 29, 2024

Sponsored by:

Assemblyman MICHAEL INGANAMORT

District 24 (Morris, Sussex and Warren)

Assemblyman CHRISTIAN E. BARRANCO

District 25 (Morris and Passaic)

Co-Sponsored by:

Assemblywoman Fantasia, Assemblymen Auth, Webber and DiMaio

SYNOPSIS

Modifies method of calculating impervious surface percentage for municipal parks in Highland preservation area.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2024)

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1 AN ACT concerning the development of municipal parks in the
2 Highlands preservation area and amending P.L.2004, c.120.

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

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7 1. Section 34 of P.L.2004, c.120 (C.13:20-32) is amended to
8 read as follows:

9 34. The Department of Environmental Protection shall prepare
10 rules and regulations establishing the environmental standards for
11 the preservation area upon which the regional master plan adopted
12 by the council and the Highlands permitting review program
13 administered by the department pursuant to **[this act]** P.L.2004,
14 c.120 (C.13:20-1 et al.) shall be based. These rules and regulations
15 shall provide for at least the following:

16 a. a prohibition on major Highlands development within 300
17 feet of any Highlands open waters, and the establishment of a
18 300-foot buffer adjacent to all Highlands open waters; provided,
19 however, that this buffer shall not extend into the planning area.
20 For the purposes of this subsection, major Highlands development
21 does not include linear development for infrastructure, utilities, and
22 the rights-of-way therefor, provided that there is no other feasible
23 alternative, as determined by the department, for the linear
24 development outside of the buffer. Structures or land uses in the
25 buffer existing on the date of enactment of **[this act]** P.L.2004,
26 c.120 (C.13:20-1 et al.) may remain, provided that the area of
27 disturbance shall not be increased. This subsection shall not be
28 construed to limit any authority of the department to establish
29 buffers of any size or any other protections for category one waters
30 designated by the department pursuant to the "Water Pollution
31 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), or any other law,
32 or any rule or regulation adopted pursuant thereto, for major
33 Highlands development or for other development that does not
34 qualify as major Highlands development;

35 b. measures to ensure that existing water quality shall be
36 maintained, restored, or enhanced, as required pursuant to the
37 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.)
38 or the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et
39 seq.), or any rule or regulation adopted pursuant thereto, in all
40 Highlands open waters and waters of the Highlands, and to provide
41 that any new or expanded point source discharge, except discharges
42 from water supply facilities, shall not degrade existing water
43 quality. In the case of water supply facilities, all reasonable
44 measures shall be taken to eliminate or minimize water quality
45 impacts;

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.

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1 c. notwithstanding the provisions of section 23 of P.L.1987,
2 c.156 (C.13:9B-23), or any rule or regulation adopted pursuant
3 thereto, to the contrary, the criteria for the type of activity or
4 activities eligible for the use of a general permit for any portion of
5 an activity located within a freshwater wetland or freshwater
6 wetland transition area located in the preservation area, provided
7 that these criteria are at least as protective as those provided in
8 section 23 of P.L.1987, c.156 (C.13:9B-23);

9 d. notwithstanding the provisions of subsection a. of section 5
10 of P.L.1981, c.262 (C.58:1A-5), or any rule or regulation adopted
11 pursuant thereto, to the contrary, a system for the regulation of any
12 diversion of more than 50,000 gallons per day, and multiple
13 diversions by the same or related entities for the same or related
14 projects or developments of more than 50,000 gallons per day, of
15 waters of the Highlands pursuant to the "Water Supply Management
16 Act," P.L.1981, c.262 (C.58:1A-1 et seq.), and any permit issued
17 pursuant thereto shall be based on consideration of individual and
18 cumulative impacts of multiple diversions, maintenance of stream
19 base flows, minimization of depletive use, maintenance of existing
20 water quality, and protection of ecological uses. Any new or
21 increased diversion for nonpotable purposes that is more than
22 50【%】 percent consumptive shall require an equivalent reduction in
23 water demand within the same subdrainage area through such
24 means as groundwater recharge of stormwater or reuse. Existing
25 unused allocation or allocations used for nonpotable purposes may
26 be revoked by the department where measures to the maximum
27 extent practicable are not implemented to reduce demand. All new
28 or increased diversions shall be required to implement water
29 conservation measures to the maximum extent practicable;

30 e. a septic system density standard established at a level to
31 prevent the degradation of water quality, or to require the
32 restoration of water quality, and to protect ecological uses from
33 individual, secondary, and cumulative impacts, in consideration of
34 deep aquifer recharge available for dilution;

35 f. a zero net fill requirement for flood hazard areas pursuant to
36 the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50
37 et seq.);

38 g. the antidegradation provisions of the surface water quality
39 standards and the stormwater regulations applicable to category one
40 waters to be applied to Highlands open waters;

41 h. a prohibition on impervious surfaces of greater than three
42 percent of the land area, except that;

43 (1) Highlands open waters shall not be included in the
44 calculation of that land area【, and】;

45 (2) solar panels shall not be included in any calculation of
46 impervious surface; and

47 (3) the total, summed area of each of the municipal parks in a
48 municipality shall be considered a single lot, for the purposes of

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1 calculating the impervious surface percentage pursuant to this
2 subsection;

3 i. notwithstanding the provisions of the "Safe Drinking Water
4 Act," P.L.1977, c.224 (C.58:12A-1 et seq.), or any rule or
5 regulation adopted pursuant thereto, to the contrary, a limitation or
6 prohibition on the construction of new public water systems or the
7 extension of existing public water systems to serve development in
8 the preservation area, except in the case of a demonstrated need to
9 protect public health and safety;

10 j. a prohibition on development, except linear development for
11 infrastructure, utilities, and the rights-of-way therefor, provided that
12 no other feasible alternative, as determined by the department,
13 exists for the linear development, on steep slopes in the
14 preservation area with a grade of 20【%】 percent or greater, and
15 standards for development on slopes in the preservation area
16 exhibiting a grade of between 10【%】 percent and 20【%】 percent.
17 The standards shall assure that developments on slopes exhibiting a
18 grade of between 10【%】 percent and 20【%】 percent preserve and
19 protect steep slopes from the negative consequences of development
20 on the site and the cumulative impact in the Highlands Region. The
21 standards shall be developed to prevent soil erosion and
22 sedimentation, protect water quality, prevent stormwater runoff,
23 protect threatened and endangered animal and plant species sites
24 and designated habitats, provide for minimal practicable
25 degradation of unique or irreplaceable land types, historical or
26 archeological areas, and existing scenic attributes at the site and
27 within the surrounding area, protect upland forest, and restrict
28 impervious surface; and shall take into consideration differing soil
29 types, soil erodability, topography, hydrology, geology, and
30 vegetation types; and

31 k. a prohibition on development that disturbs upland forested
32 areas, in order to prevent soil erosion and sedimentation, protect
33 water quality, prevent stormwater runoff, and protect threatened and
34 endangered animal and plant species sites and designated habitats;
35 and standards to protect upland forested areas that require all
36 appropriate measures be taken to avoid impacts or disturbance to
37 upland forested areas, and where avoidance is not possible that all
38 appropriate measures have been taken to minimize and mitigate
39 impacts to upland forested areas and to prevent soil erosion and
40 sedimentation, protect water quality, prevent stormwater runoff, and
41 protect threatened and endangered animal and plant species sites
42 and designated habitats.

43 (cf: P.L.2010, c.4, s.7)

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45 2. This act shall take effect immediately.

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STATEMENT

This bill would allow municipalities to use the total, summed area of each of their municipal parks as a single lot, for the purposes of complying with the impervious surface restrictions of the "Highlands Water Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et seq.). Current law prohibits placing impervious surfaces on more than three percent of any lot in the Highlands preservation area. Under this bill, a municipality would be permitted to place impervious surfaces on greater than three percent of one municipal park, provided that the total area of impervious surface in all of the municipal parks in that municipality does not exceed three percent of the total area of the parks.