

ASSEMBLY, No. 5119

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED MARCH 5, 2019

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Provides that certain affordable manufactured home communities are inherently beneficial uses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the zoning of manufactured home communities
2 and amending P.L.1975, c.291 and P.L.1983, c.386.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to
8 read as follows:

9 3.1. "Days" means calendar days.

10 "Density" means the permitted number of dwelling units per
11 gross area of land that is the subject of an application for
12 development, including noncontiguous land, if authorized by
13 municipal ordinance or by a planned development.

14 "Developer" means the legal or beneficial owner or owners of a
15 lot or of any land proposed to be included in a proposed
16 development, including the holder of an option or contract to
17 purchase, or other person having an enforceable proprietary interest
18 in such land.

19 "Development" means the division of a parcel of land into two or
20 more parcels, the construction, reconstruction, conversion,
21 structural alteration, relocation or enlargement of any building or
22 other structure, or of any mining excavation or landfill, and any use
23 or change in the use of any building or other structure, or land or
24 extension of use of land, for which permission may be required
25 pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

26 "Development potential" means the maximum number of
27 dwelling units or square feet of nonresidential floor area that may
28 be constructed on a specified lot or in a specified zone under the
29 master plan and land use regulations in effect on the date of the
30 adoption of the development transfer ordinance or on the date of the
31 adoption of the ordinance authorizing noncontiguous cluster, and in
32 accordance with recognized environmental constraints.

33 "Development regulation" means a zoning ordinance,
34 subdivision ordinance, site plan ordinance, official map ordinance
35 or other municipal regulation of the use and development of land, or
36 amendment thereto adopted and filed pursuant to P.L.1975, c.291
37 (C.40:55D-1 et seq.).

38 "Development restriction" means an agricultural restriction, a
39 conservation restriction, or a historic preservation restriction.

40 "Development transfer" or "development potential transfer"
41 means the conveyance of development potential, or the permission
42 for development, from one or more lots to one or more other lots by
43 deed, easement, or other means as authorized by ordinance.

44 "Development transfer bank" means a development transfer bank

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.

1 established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158)
2 or the State TDR Bank.

3 "Drainage" means the removal of surface water or groundwater
4 from land by drains, grading or other means and includes control of
5 runoff during and after construction or development to minimize
6 erosion and sedimentation, to assure the adequacy of existing and
7 proposed culverts and bridges, to induce water recharge into the
8 ground where practical, to lessen nonpoint pollution, to maintain
9 the integrity of stream channels for their biological functions as
10 well as for drainage, and the means necessary for water supply
11 preservation or prevention or alleviation of flooding.

12 "Environmental commission" means a municipal advisory body
13 created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

14 "Erosion" means the detachment and movement of soil or rock
15 fragments by water, wind, ice and gravity.

16 "Final approval" means the official action of the planning board
17 taken on a preliminarily approved major subdivision or site plan,
18 after all conditions, engineering plans and other requirements have
19 been completed or fulfilled and the required improvements have
20 been installed or guarantees properly posted for their completion, or
21 approval conditioned upon the posting of such guarantees.

22 "Floor area ratio" means the sum of the area of all floors of
23 buildings or structures compared to the total area of land that is the
24 subject of an application for development, including noncontiguous
25 land, if authorized by municipal ordinance or by a planned
26 development.

27 "General development plan" means a comprehensive plan for the
28 development of a planned development, as provided in section 4 of
29 P.L.1987, c.129 (C.40:55D-45.2).

30 "Governing body" means the chief legislative body of the
31 municipality. In municipalities having a board of public works,
32 "governing body" means such board.

33 "Historic district" means one or more historic sites and
34 intervening or surrounding property significantly affecting or
35 affected by the quality and character of the historic site or sites.

36 "Historic preservation restriction" means a "historic preservation
37 restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

38 "Historic site" means any real property, man-made structure,
39 natural object or configuration or any portion or group of the
40 foregoing of historical, archeological, cultural, scenic or
41 architectural significance.

42 "Inherently beneficial use" means a use which is universally
43 considered of value to the community because it fundamentally
44 serves the public good and promotes the general welfare. Such a
45 use includes, but is not limited to, a hospital, school, child care
46 center, group home, **[or]** a wind, solar or photovoltaic energy
47 facility or structure, or a manufactured home community as defined

1 in section 3 of P.L.1983, c.386 (C.40:55D-102) that is dedicated to
2 providing workforce housing for a period of not less than 15 years.

3 "Instrument" means the easement, credit, or other deed
4 restriction used to record a development transfer.

5 "Interested party" means: (a) in a criminal or quasi-criminal
6 proceeding, any citizen of the State of New Jersey; and (b) in the
7 case of a civil proceeding in any court or in an administrative
8 proceeding before a municipal agency, any person, whether residing
9 within or without the municipality, whose right to use, acquire, or
10 enjoy property is or may be affected by any action taken under
11 P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use,
12 acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et
13 seq.), or under any other law of this State or of the United States
14 have been denied, violated or infringed by an action or a failure to
15 act under P.L.1975, c.291 (C.40:55D-1 et seq.).

16 "Land" includes improvements and fixtures on, above or below
17 the surface.

18 "Local utility" means any sewerage authority created pursuant to
19 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et
20 seq.); any utilities authority created pursuant to the "municipal and
21 county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et
22 seq.); or any utility, authority, commission, special district or other
23 corporate entity not regulated by the Board of Regulatory
24 Commissioners under Title 48 of the Revised Statutes that provides
25 gas, electricity, heat, power, water or sewer service to a
26 municipality or the residents thereof.

27 "Lot" means a designated parcel, tract or area of land established
28 by a plat or otherwise, as permitted by law and to be used,
29 developed or built upon as a unit.

30 (cf: P.L.2013, c.106, s.3)

31
32 2. Section 3.4 of PL.1975, c.291 (C.40:55D-7) is amended to
33 read as follows:

34 3.4. "Sedimentation" means the deposition of soil that has been
35 transported from its site of origin by water, ice, wind, gravity or
36 other natural means as a product of erosion.

37 "Sending zone" means an area or areas designated in a master
38 plan and zoning ordinance, adopted pursuant to P.L.1975, c.291
39 (C.40:55D-1 et seq.), within which development may be restricted
40 and which is otherwise consistent with the provisions of section 8
41 of P.L.2004, c.2 (C.40:55D-144).

42 "Site plan" means a development plan of one or more lots on
43 which is shown (1) the existing and proposed conditions of the lot,
44 including but not necessarily limited to topography, vegetation,
45 drainage, flood plains, marshes and waterways, (2) the location of
46 all existing and proposed buildings, drives, parking spaces,
47 walkways, means of ingress and egress, drainage facilities, utility
48 services, landscaping, structures and signs, lighting, screening

1 devices, and (3) any other information that may be reasonably
2 required in order to make an informed determination pursuant to an
3 ordinance requiring review and approval of site plans by the
4 planning board adopted pursuant to article 6 of this act.

5 "Standards of performance" means standards (1) adopted by
6 ordinance pursuant to subsection 52d. regulating noise levels, glare,
7 earthborn or sonic vibrations, heat, electronic or atomic radiation,
8 noxious odors, toxic matters, explosive and inflammable matters,
9 smoke and airborne particles, waste discharge, screening of
10 unsightly objects or conditions and such other similar matters as
11 may be reasonably required by the municipality or (2) required by
12 applicable federal or State laws or municipal ordinances.

13 "State Transfer of Development Rights Bank," or "State TDR
14 Bank," means the bank established pursuant to section 3 of
15 P.L.1993, c.339 (C.4:1C-51).

16 "Street" means any street, avenue, boulevard, road, parkway,
17 viaduct, drive or other way (1) which is an existing State, county or
18 municipal roadway, or (2) which is shown upon a plat heretofore
19 approved pursuant to law, or (3) which is approved by official
20 action as provided by this act, or (4) which is shown on a plat duly
21 filed and recorded in the office of the county recording officer prior
22 to the appointment of a planning board and the grant to such board
23 of the power to review plats; and includes the land between the
24 street lines, whether improved or unimproved, and may comprise
25 pavement, shoulders, gutters, curbs, sidewalks, parking areas and
26 other areas within the street lines.

27 "Structure" means a combination of materials to form a
28 construction for occupancy, use or ornamentation whether installed
29 on, above, or below the surface of a parcel of land.

30 "Subdivision" means the division of a lot, tract or parcel of land
31 into two or more lots, tracts, parcels or other divisions of land for
32 sale or development. The following shall not be considered
33 subdivisions within the meaning of this act, if no new streets are
34 created: (1) divisions of land found by the planning board or
35 subdivision committee thereof appointed by the chairman to be for
36 agricultural purposes where all resulting parcels are 5 acres or
37 larger in size, (2) divisions of property by testamentary or intestate
38 provisions, (3) divisions of property upon court order, including but
39 not limited to judgments of foreclosure, (4) consolidation of
40 existing lots by deed or other recorded instrument and (5) the
41 conveyance of one or more adjoining lots, tracts or parcels of land,
42 owned by the same person or persons and all of which are found
43 and certified by the administrative officer to conform to the
44 requirements of the municipal development regulations and are
45 shown and designated as separate lots, tracts or parcels on the tax
46 map or atlas of the municipality. The term "subdivision" shall also
47 include the term "resubdivision."

1 "Transcript" means a typed or printed verbatim record of the
2 proceedings or reproduction thereof.

3 "Variance" means permission to depart from the literal
4 requirements of a zoning ordinance pursuant to sections 47 and
5 subsections 29.2b., 57c. and 57d. of this act.

6 "Wind, solar or photovoltaic energy facility or structure" means a
7 facility or structure for the purpose of supplying electrical energy
8 produced from wind, solar, or photovoltaic technologies, whether
9 such facility or structure is a principal use, a part of the principal
10 use, or an accessory use or structure.

11 "Workforce housing" means housing affordable to, according to
12 the federal Department of Housing and Urban Development or other
13 recognized standards for home ownership and rental costs, and
14 occupied or reserved for occupancy by a household with gross
15 household income not exceeding 120 percent of the median gross
16 household income for households of the same size in the same
17 housing region.

18 "Zoning permit" means a document signed by the administrative
19 officer (1) which is required by ordinance as a condition precedent
20 to the commencement of a use or the erection, construction,
21 reconstruction, alteration, conversion or installation of a structure or
22 building and (2) which acknowledges that such use, structure or
23 building complies with the provisions of the municipal zoning
24 ordinance or variance therefrom duly authorized by a municipal
25 agency pursuant to sections 47 and 57 of this act.

26 (cf: P.L.2009, c.146, s.2)

27

28 3. Section 3 of P.L.1983, c.386 (C.40:55D-102) is amended to
29 read as follows:

30 3. As used in **【this act】** P.L.1983, c.386 (C.40:55D-100 et
31 seq.):

32 a. "Commissioner" means the Commissioner of the
33 Department of Community Affairs;

34 b. "Grade" means a reference plane consisting of the average
35 finished ground level adjacent to a structure, building, or facility at
36 all visible exterior walls;

37 c. "Manufactured home" means a unit of housing which:

38 (1) Consists of one or more transportable sections which are
39 substantially constructed off site and, if more than one section, are
40 joined together on site;

41 (2) Is built on a permanent chassis;

42 (3) Is designed to be used, when connected to utilities, as a
43 dwelling on a permanent or nonpermanent foundation; and

44 (4) Is manufactured in accordance with the standards
45 promulgated for a manufactured home by the secretary pursuant to
46 the "National Manufactured Housing Construction and Safety
47 Standards Act of 1974," Pub.L. 93-383 (42 U.S.C. **【s. 5401】** s.5401
48 et seq.) and the standards promulgated for a manufactured or mobile

home by the commissioner pursuant to the "State Uniform Construction Code Act," P.L.1975, c. 217 (C. 52:27D-119 et seq.);

d. **["Mobile home park"]** "Manufactured home community" means a parcel of land, or two or more parcels of land, containing no fewer than 10 sites equipped for the installation of manufactured homes, where these sites are under common ownership and control for the purpose of leasing each site to the owner of a manufactured home for the installation thereof, and where the owner or owners provide services, which are provided by the municipality in which the park is located for property owners outside the park, which services may include but shall not be limited to:

(1) The construction and maintenance of streets;

(2) Lighting of streets and other common areas;

(3) Garbage removal;

(4) Snow removal; and

(5) Provisions for the drainage of surface water from home sites and common areas.

A parcel, or any contiguous parcels, of land which contain, on the effective date of **[this act]** P.L.1983, c.386 (C.40:55D-100 et seq.), no fewer than three sites equipped for the installation of manufactured homes, and which otherwise conform to the provisions of this subsection, shall qualify as a **[mobile home park]** manufactured home community for the purposes of **[this act]** P.L.1983, c.386 (C.40:55D-100 et seq.);

e. "Nonpermanent foundation" means any foundation consisting of nonmortared blocks, wheels, concrete slab, runners, or any combination thereof, or any other system approved by the commissioner for the installation and anchorage of a manufactured home on other than a permanent foundation;

f. "Off site construction of a manufactured home" or section thereof means the construction of that home or section at a location other than the location at which the home is to be installed;

g. "On site joining of sections of a manufactured home" means the joining of those sections at the location at which the home is to be installed;

h. "Permanent foundation" means a system of support installed either partially or entirely below grade, which is:

(1) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure;

(2) Placed at an adequate depth below grade to prevent frost damage; and

(3) Constructed of material approved by the commissioner;

i. "Runners" means a system of support consisting of poured concrete strips running the length of the chassis of a manufactured home under the lengthwise walls of that home;

j. "Secretary" means the Secretary of the United States Department of Housing and Urban Development; and

k. "Trailer" means a recreational vehicle, travel trailer, camper or other transportable, temporary dwelling unit, with or without its own motor power, designed and constructed for travel and recreational purposes to be installed on a nonpermanent foundation if installation is required.

(cf: P.L.1983, c.386, s.3)

4. Section 6 of P.L.1983, c.386 (C.40:55D-105) is amended to read as follows:

6. When reviewing and approving development regulations pertaining to residential development, a municipal agency is to be encouraged to review those regulations to determine whether or not **【mobile home parks】** manufactured home communities are a practicable means of providing affordable housing in the municipality.

(cf: P.L.1983, c.386, s.6)

5. This act shall take effect immediately.

STATEMENT

This bill amends the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) to provide that certain affordable manufactured home communities are considered an inherently beneficial use.

Under the "Municipal Land Use Law," land uses that are deemed to be inherently beneficial presumptively satisfy the positive criteria for the grant of a use variance under subsection d. of section 57 of P.L.1975, c.291 (C.40:55-70). The law currently defines "inherently beneficial use" as a use that is universally considered of value to the community because it fundamentally serves the public good and promotes the general welfare. This definition also explicitly includes hospitals, schools, child care centers, group homes, and certain renewable energy facilities.

Specifically, the bill provides that any manufactured home community that is dedicated to providing workforce housing for a period of not less than 15 years would be considered an inherently beneficial use. Under the bill, workforce housing is defined as housing that is affordable to and occupied, or reserved for occupancy, by a household with gross household income not exceeding 120 percent of the median gross household income for households of the same size in the same housing region.

Additionally, the bill revises the "The Affordable Housing Act of 1983," P.L.1983, c.386 (C.40:55D-100 et seq.) to replace the term "mobile home park" with "manufactured home community."

In recent decades, significant improvements have been made in the construction of manufactured homes. More importantly,

1 manufactured homes provide a uniquely affordable form of housing
2 for certain income-constrained households that do not qualify for
3 housing assistance. By designating these communities as an
4 inherently beneficial use under the “Municipal Land Use Law,” it is
5 the intent of the sponsor to encourage the development of quality,
6 affordable housing in the State.