

ASSEMBLY, No. 5308

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 27, 2021

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

SYNOPSIS

Provides that sterile syringe access programs are inherently beneficial uses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/22/2021)

1 **AN ACT** concerning the zoning of sterile syringe access programs
2 and amending P.L.1975, c.291.

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
45 established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158)
46 or the State TDR 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 "Drainage" means the removal of surface water or groundwater
2 from land by drains, grading or other means and includes control of
3 runoff during and after construction or development to minimize
4 erosion and sedimentation, to assure the adequacy of existing and
5 proposed culverts and bridges, to induce water recharge into the
6 ground where practical, to lessen nonpoint pollution, to maintain
7 the integrity of stream channels for their biological functions as
8 well as for drainage, and the means necessary for water supply
9 preservation or prevention or alleviation of flooding.

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

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

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

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

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

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

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

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

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

40 "Inherently beneficial use" means a use which is universally
41 considered of value to the community because it fundamentally
42 serves the public good and promotes the general welfare. Such a
43 use includes, but is not limited to, a hospital, school, child care
44 center, group home, **[or]** a wind, solar or photovoltaic energy
45 facility or structure , or a sterile syringe access program, as
46 established pursuant to section 3 of P.L.2006, c.99 (C.26:5C-27).

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

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

14 "Land" includes improvements and fixtures on, above or below
15 the surface.

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

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

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

29
30 2. This act shall take effect immediately.

31 32 33 STATEMENT

34
35 This bill would revise the definition of "inherently beneficial use
36 in the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et
37 seq.) (MLUL) to include a sterile syringe access program. Under the
38 MLUL, if a use is deemed inherently beneficial it presumptively
39 satisfies the positive criteria for the grant of a use variance under
40 subsection d. of section 57 of P.L.1975, c.291 (C.40:55-70).

41 Sterile syringe access programs are designed to prevent the
42 spread of HIV, hepatitis C, and other blood borne pathogens, and
43 have been proven effective in reducing the spread of these
44 pathogens without adverse social impacts or an increase in drug
45 abuse. Additionally, the programs provide drug users with a bridge
46 to treatment and other social services. This bill would make it easier
47 for the programs to be established, providing more individuals with
48 access to the program benefits.