



PATRICIA JUNE SCOVA
Town Clerk

EXTRACT OF THE MINUTES
OF THE REGULAR MEETING
OF THE TOWN BOARD
TOWN OF MOUNT PLEASANT
WESTCHESTER COUNTY, NY
HELD FEBRUARY 23, 2016

LOCAL LAW NO. 2 AMEND CHAPTERS 218-12F WALLS AND
FENCES, ADD CHAPTER 218-21, GENERATORS RESIDENTIAL
AND AMEND 218-24 GENERATORS COMMERCIAL
- RESOLUTION 124-16

Upon motion of Mr. DiPaolo, seconded by Mrs. Smalley and carried,
it was

RESOLVED: That authorization is granted to amend Town
Code Chapter 218-12F, Walls and Fences add 218-21
Generators Residential and amend Chapter 218-24
Generators Commercial

218-12F Walls and Fences.

- (1) Height. The yard requirements of this chapter shall not be deemed to prohibit any necessary retaining wall nor to prohibit any fence or wall, provided that, in any residence district except an R-40 District, no fence or wall shall exceed four feet in height in any front or side yard or six feet in height in any rear yard, or any other area of a lot, outside of the required yards, measured six inches above the natural grade. In an R-40 District no wall or fence shall exceed six feet in height, measured above the natural grade, when located in a required yard. In instances where authorized by the Town Engineer, staggered retaining walls shall be permitted, provided the walls meet the height restrictions noted above, and that each wall segment is separated by a distance equal to the height of the wall.

(2) A Building Permit shall be required for all walls and fences, which shall be accompanied by a survey depicting the location of the wall or fence in relation to the property line. The requirement for a survey may be waived by the Building Inspector in instances when the location of the wall or fence is not in question.

(3) Wall design. All walls in excess of 4 feet in height or lower walls surcharged above 4 feet within the height of the wall, shall be designed by a Professional Engineer licensed in the State of New York, and shall be reviewed and approved by the Town Engineer, and constructed with the approved plan.

(4) Prohibited materials. The following fences and fencing materials are specifically prohibited in any location on the lot upon which a dwelling or structure is situated: barbed-wire fences, sharp-pointed fences, canvas, cloth, electrically charged fences, poultry netting, temporary fences, such

1 See Section 218-3 - Definitions

Add to Section 218-3 the following new definition: Necessary Retaining Wall - Any existing retaining wall that if removed would be a detriment to the use of the property or create an unsafe condition.

as snow fences, expendable fences and collapsible fences.

(5) Temporary construction fencing, erosion control fencing, snow fencing, crowd control fencing or other similar temporary fencing shall be exempt from these regulations, and shall be allowed pursuant to the direction and requirements of, and/or the issuance of a permit by the Building Inspector, Town Engineer, Highway Superintendent or Chief of Police, and shall be removed immediately upon completion of its prescribed task or function.

(6) In instances where a fence has a "good side," the "good side" shall face the neighboring property. The support side of the fence shall face the owner or installer of the fence.

(7) Maintenance standards. Every fence and wall shall be maintained in a safe, sound, upright condition. Fences shall be setback a minimum of 8" off the property line to allow for maintenance of the outside side of the fence. The Building Inspector is hereby authorized to reduce this setback to a distance that in his discretion is appropriate given the individual circumstances of the property in question. Under no circumstances shall the fence or its foundation be installed as to disturb or encroach on an adjoining property.

- (8) Location. All fences and walls must be erected within the property lines, and no fences or walls shall be erected so as to encroach upon an adjacent property or a public right-of-way.
- (9) Maintenance Enforcement. If the Building Inspector, upon inspection, determines that any fence or portion of any fence is not being maintained in a safe, sound, and upright condition, he shall notify the owner of such fence, in writing, of his findings and shall state briefly the reasons for such findings and order such fence or portion of such fence repaired or removed within 30 days of the date of the written notice. Each day the person fails to obey the order referred to above shall constitute a separate violation of this chapter
- (10) Amortization. minor repair of less than 25% of the linear feet of a legal non-conforming fence or wall does not trigger compliance with the requirements set forth in this section; however, the cumulative repair of 100% of a fence or wall within a two-year period or less shall trigger the necessity for compliance.
- (11) All walls or fences constructed as of the date of the adoption of this ordinance shall comply with the provisions outlined herein. Those walls or fences legally constructed prior to the adoption of this ordinance shall be considered legally preexisting. Illegal pre-existing walls or fences shall be required to comply with the provisions of this ordinance.

Article II

New §218-21 - Emergency electrical generators (Residential)

- (1) An emergency electrical generator that is not permanently mounted to a foundation, slab, or other permanent supporting fixture, is movable and is stored when not in use, does not require permits or approvals from the Town of Mount Pleasant, unless considered nuisance as determined by the Building Inspector in regard to periodic use, emissions and/or noise levels.
- (2) Residential Districts - In all Residential Districts, a permanently mounted emergency electrical generator shall be permitted, subject to the issuance of a Building Permit and Electrical Permit from the Town of Mount Pleasant Building Department, provided that the generator does not exceed 48 kW, is sound attenuated, and is setback in accordance with the accessory building setback provisions for the zoning district within which the generator is located, with the exception of the R-10 District, where the side and rear yard setbacks shall be 10 feet.

In instances where an emergency electrical generator in a residential district fails to comply with any of the provisions stated above, the installation of said generator shall require site plan approval from the Planning Board, which shall have the discretion to modify any of the provisions stated above, if found to allow for the proper installation of the emergency electrical generator, and is consistent with the health, safety and general welfare of the community.

New § 218-24-Emergency electrical generators (Commercial)

- (1) Non-Residential Districts - The installation of a permanent emergency electrical generator at a non-residential property shall require site plan approval from the Planning Board.
 - a. The emergency electrical generator shall comply with all applicable accessory structure dimensional requirements for the zoning district within which the site is located.
 - b. All emergency electrical generators shall be enclosed, fenced and screened by appropriate landscaping.
 - c. Emergency electrical generators shall meet all requirements for emissions, noise, efficiency, etc. from the Environmental Protection Agency (EPA), New York State Department of Health (NYS DOH), New York State Building and Fire Prevention Codes, the National Fire Protection Association Life Safety Code (NFPA 101), the Occupational Safety and Health Administration (OSHA), the National Electric Code (NEC), the American National Standards Institute (ANSI) and Consolidated Edison (ConEd).
 - d. Once approved, all emergency electrical generators shall remain compliant with any and all revisions to the standards set forth above. Upgrades to comply with new standards shall be made immediately, upon notice to the Building Inspector. Failure to immediately upgrade the generators to maintain compliance with new standards shall result in a violation of site plan approval. No upgrade required to comply with the operational standards shall be undertaken that increases the operating capacity of the generator, increases noise levels or emissions, without prior approval of the Planning Board.
 - e. Emergency electrical generators shall be enclosed within a noise attenuation structure, and the generators shall be equipped with a critical grade muffler.

In instances where an emergency electrical generator in a residential district fails to comply with any of the provisions stated above, the installation of said generator shall require site plan approval from the Planning Board, which shall have the discretion to modify any of the provisions stated above, if found to allow for the proper installation of the emergency electrical generator, and is consistent with the health, safety and general welfare of the community.

New § 218-24-Emergency electrical generators (Commercial)

- (1) Non-Residential Districts - The installation of a permanent emergency electrical generator at a non-residential property shall require site plan approval from the Planning Board.
 - a. The emergency electrical generator shall comply with all applicable accessory structure dimensional requirements for the zoning district within which the site is located.
 - b. All emergency electrical generators shall be enclosed, fenced and screened by appropriate landscaping.
 - c. Emergency electrical generators shall meet all requirements for emissions, noise, efficiency, etc. from the Environmental Protection Agency (EPA), New York State Department of Health (NYS DOH), New York State Building and Fire Prevention Codes, the National Fire Protection Association Life Safety Code (NFPA 101), the Occupational Safety and Health Administration (OSHA), the National Electric Code (NEC), the American National Standards Institute (ANSI) and Consolidated Edison (ConEd).
 - d. Once approved, all emergency electrical generators shall remain compliant with any and all revisions to the standards set forth above. Upgrades to comply with new standards shall be made immediately, upon notice to the Building Inspector. Failure to immediately upgrade the generators to maintain compliance with new standards shall result in a violation of site plan approval. No upgrade required to comply with the operational standards shall be undertaken that increases the operating capacity of the generator, increases noise levels or emissions, without prior approval of the Planning Board.
 - e. Emergency electrical generators shall be enclosed within a noise attenuation structure, and the generators shall be equipped with a critical grade muffler.

- f. The noise level resulting from the operation of the generators at any property line, or within any adjacent building shall, not exceed 60 dBA.
 - g. The emergency electrical generators shall be run for testing and maintenance only during daytime hours, or at a time prescribed by the Planning Board or Building Inspector.
 - h. The fuel supply for emergency electrical generators shall comply with all applicable requirements of the NYSDEC Petroleum Bulk Storage regulations.
 - i. In instances when the emergency electrical generators are powered by a liquid fuel supply stored on-site (i.e. such as diesel fuel), a fuel spill prevention kit, of adequate capacity to accommodate the fuel stored in the generators, shall be required. The fuel spill prevention kit shall be located on-site at all times, and shall be maintained in accordance with all applicable standards and specifications.
 - j. The location of an emergency electrical generator shall not interfere or eliminate any other required element of the original site plan approval, such as required off-street loading areas, parking spaces, or open space or buffer yards.
- (4) Emergency Electrical Generator Site Master Plan - It is the goal of the Town of Mount Pleasant to minimize the unplanned and disorganized placement of emergency electrical generators on non-residential properties. Individual building tenant needs should be coordinated so that the number and placement of generators can be well planned and efficiently sited.

To encourage site planning to optimize appropriately sited emergency electrical generators, property owners of multi-tenant sites are encouraged to file and obtain approval of an Emergency Electrical Generators Site Master Plan. This plan will establish the appropriate location and necessary associated improvements for current and future generators accommodating all of the tenants and users of property.

- a. An Emergency Electrical Generator Site Master Plan shall be approved by the Planning Board, and shall include all items listed in Section 3. a. - j. noted above.

- b. Once an emergency Electrical Generator Site Master Plan is approved by the Planning Board, the installation of additional generators in accordance with the Master Plan shall not require site plan approval from the Planning Board, and may directly file for a Building Permit, Electrical or other required Permit. No other discretionary approvals are required.

Patricia June Scova
PATRICIA JUNE SCOVA, RMC
TOWN CLERK
TOWN OF MOUNT PLEASANT