

ORDINANCE NO. 2023-0997

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, AMENDING CHAPTER 30, ENTITLED "ENVIRONMENT," ARTICLE III, ENTITLED "NOISE," BY AMENDING SECTION 30-66, ENTITLED "AIR CONDITIONERS AND GENERATORS" REGARDING PLACEMENT OF GENERATORS ON PROPERTY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission requested the City's Planning and Zoning Board review the regulations in the City Code for placement of generators on property after receiving information from City Administration and the City's Planning Consultant and Building Official concerning current industry standards for such; and,

WHEREAS, at its March 7, 2023, meeting, the City's Planning and Zoning Board considered revisions to Section 30-66, "Air Conditioners and Generators," and recommended revisions to the City's Code relating to the placement of generators on property; and,

WHEREAS, the City Commission hereby finds it is in the best interest of the residents and citizens of the City to amend the City Code of Ordinances relating to the placement of generators on property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA:

Section 1: That the foregoing recitals are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: Chapter 30, entitled "Environment," Article III, entitled "Noise," Section 30-66, entitled "Air Conditioners and Generators," is amended as set forth below:

Sec. 30-66. – Air Conditioners and Generators

(a) *Air conditioners.* An air conditioner shall be deemed to emit an excessive and unusually loud noise when the sound pressure level measured at the property line or boundary nearest the unit exceeds 65 dBA, day or night.

(b) *Generators.* Emergency power generators may be allowed, subject to the following restrictions:

(1) The property owner must obtain a building permit from the city for the installation of a permanent unit. The city shall review all such permit applications to ensure such installations minimize the visual and acoustic impact on adjacent properties.

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(2) Special attention shall be paid to the placement of the generator, the use of sound attenuating materials and the reasonable containment of sounds and exhausts which will be created by the operation of any emergency use generator. A permanent generator ~~must~~ shall be placed in the side yard of a building with a minimum setback of ~~five~~ three feet from the side property line and a minimum 18" building separation clearance. ~~If an emergency power generator cannot meet the five foot setback requirement, the generator must be placed against the side of the building lengthwise no more than one foot away from the building.~~ A temporary generator shall be located on the property to minimize visual, noise, vibration and exhaust impacts on adjacent properties.

(3) The generators maintenance cycle run shall be permitted a maximum of once a week between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday only, and shall continue for no more than the manufacturer's recommended duration, but not to exceed 30 minutes per cycle.

(4) Permanent and temporary generators may only be operated for nonmaintenance purposes when a state of emergency is declared by the city or whenever there is a power outage. Generators may not be used as a substitute for electrical power.

Emergency power generators shall be deemed to emit an excessive and unusually loud noise when the sound pressure level measured at the property line or boundary nearest the unit exceeds 85 dBA, day or night.

Section 3: All Ordinances and Resolutions or parts of Ordinances and Resolutions in conflict herewith, be and the same are hereby repealed, to the extent of such conflict.

Section 4: If any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

Section 5: It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City's Land Development Code and Ordinances of the City of Lighthouse Point, Florida.

Section 6: This Ordinance shall become effective upon passage and adoption.

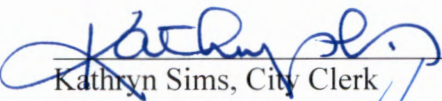
PASSED AND ADOPTED ON FIRST READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA, THIS 14th DAY OF MARCH, 2023.

ORDINANCE NO. 2023-0997


PASSED AND ADOPTED ON SECOND AND FINAL READING BY THE CITY COMMISSION OF THE CITY OF LIGHTHOUSE POINT, FLORIDA THIS 26 DAY OF MARCH, 2023.


Sandy Johnson Commission President

ATTEST:


Kathryn Sims, City Clerk

APPROVED AS TO FORM:


Office of the City Attorney

Commissioner Jason D. Joffe
Commissioner Sandy Johnson
Commissioner Michael S. Long
Commissioner Everett Marshall III
Commissioner Patty Petrone

Yes	No	Absent
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Attachment A – Analysis from Other Municipalities

	Lighthouse Point	Deerfield Beach	Hallandale Beach	Lauderdale by the Sea	Palm Coast	Pompano Beach
Setback Requirement	5' from side P.L. (if 5' cannot be met the generator must be placed lengthwise no more than 12" away from home)	3' side/rear setback	Minimum of 3' side, rear and front setback	In the front yard or at least 5' from the side or rear property lines.	Min. 3' side setback Min. 10' rear setback	3' side/rear setback
Separation Requirement	12" max. if 5' setback cannot be met					

CITY OF POMPANO BEACH:

Code Section:

155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

Link:

https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568

Code Language:

Definition: Exterior mechanical equipment and similar features, whether mounted on a building or on the ground, include electrical and gas-powered mechanical equipment and power systems equipment (e.g., permanent electrical generators, refrigeration equipment and ductwork, swimming pool pumps, back-flow prevention devices), heating, ventilating, and air conditioning equipment, tanks, and ductwork (e.g., air conditioning condensers and compressors, heat pump condensers and evaporators). Roof or wall-mounted antennas, vent openings, tower and blades, bottled gas tanks, a small wind energy system, or the solar panels or modules of a solar energy collection system shall not be considered exterior mechanical equipment for purposes of these screening standards.

Setback: Mechanical Equipment and similar features may be located within an interior side yard setback or a rear yard setback, but shall be located at least three feet from a side or rear lot line.

CITY OF DEERFIELD BEACH:

Code Section:

Sec. 98-73. - Minimum yard regulations for accessory structures.

Link:

https://library.municode.com/fl/deerfield_beach/codes/land_development_code?nodeId=SPBLADECO_CH98LADERE_ARTIVSURE_S98-73MIYAREACST

Code Language:

Yard encroachments such as, air conditioning units, pool circulation pumps and similar mechanical equipment may be located within a required rear, side or waterfront yard, provided there are no encroachments closer than three feet from the adjacent lot line and are screened from public view.

Attachment A – Analysis from Other Municipalities

CITY OF LAUDERDALE-BY-THE-SEA:

Code Section:

Sec. 30-313. General provisions

Link:

https://library.municode.com/fl/deerfield_beach/codes/land_development_code?nodeId=SPBLADECO_CH98LADERE_ARTIVSURE_S98-73MIYAREACST

Code Language:

Generator and fuel storage tank regulations. Generators and related fuel storage tanks are allowed within the Town subject to the following requirements:

(1) *Temporary generators.* No more than two temporary emergency power generators or one construction generator may be utilized by each single dwelling unit subject to the following:

a. Temporary emergency power generators shall:

1. Be located:

(i) On the ground.

(ii) In such a way that the exhaust is, as much as practically feasible, vented upwards and directed away from neighboring properties.

(iii) In the front yard or at least five feet from the side or rear property lines.

(iv) On the property in such a way as to have the least noise impact to the neighbors.

(v) In an area completely screened from the public right-of-way and adjacent properties when not in use.

CITY OF HALLANDALE BEACH:

Code Section:

Sec. 32-552 - Extensions into required setbacks.

Link:

https://library.municode.com/fl/hallandale_beach/codes/code_of_ordinances?nodeId=PTIICOOR_CH32ZOLADECO_ARTIVDEST_DIV15SEEN_S32-552EXINRESE

Code Language:

Accessory mechanical equipment such as air conditioning, pool filters/pump or water sprinkler units may project up to four feet into a required front, side or rear yard setback, provided a minimum of three feet of setback remains beyond the projection in RS or RD zones and a minimum of three feet of clear passage remains at all times. Window air conditioning units may project up to 18 inches into any required yard setback area.

Attachment A – Analysis from Other Municipalities

- (1) All ground-mounted mechanical equipment must be screened from the public view by landscaping, fence, or other buffering. All ground-mounted mechanical equipment installed before October 28, 2001, is considered nonconforming and exempt from the screening and buffering requirements of this subsection.

PALM COAST:

Code Section:

4.01.04. Generators, permanently installed.

Link:

https://library.municode.com/fl/palm_coast/codes/land_development_code?nodeId=PACOUNLAD_ECO_CH4COLISPUSAC_S4.01ACST

Code Language:

4.01.04. *Generators, permanently installed.* The following standards shall apply to all permanently installed generators:

A. Generators are prohibited in the required front and street side yard and prohibited in front of the front building line of the principal structure.

B. Generators may be operated for testing purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. and 6:00 p.m.

C. A maximum of one generator is allowed per single-family, duplex, or townhouse residential dwelling unit and one generator is allowed per multiple family building.

D. Generators shall be set back a minimum of ten feet from the rear property line in all zoning districts.

E. Generators shall be set back a minimum of three feet from the side interior property line(s) in all zoning districts, but shall not be located within an easement

CITY OF LIGHTHOUSE POINT, FLORIDA
CITY COMMISSION AGENDA ITEM REPORT
DATE OF COMMISSION MEETING – March 28, 2023

AGENDA ITEM NO. - 5

PREPARED BY – Michael D. Cirullo, Jr., City Attorney

DIRECTOR APPROVAL - _____
ADMINISTRATOR APPROVAL - [Signature]

SUBJECT: Second Reading and Public Hearing of Ordinance 2023-0997, amending Chapter 30 – Environment, Article III – Noise, Section 30-66. - Air conditioners and generators to amend the location of permanent generators.

1. BACKGROUND/HISTORY

On January 18, 2023, City Staff provided an analysis on the current code requirements for permanent generators, specifically, the placement, setbacks and required location of permanent generators. This analysis was spurred due to ongoing conflicts between the language within the City of Lighthouse Point Code of Ordinances (Code) and Florida Building Code (FBC) requirements based on manufacturers' specification for installation of permanent generators.

At the City's January 24, 2023, City Commission Meeting, the Commission discussed the item and directed staff to draft an ordinance regarding the setback and separation standards in the City Code. Specifically, the desire to move forward with a minimum 3' setback and a minimum 18" building separation. The City Commission, seeking policy direction and recommendations, directed staff to draft changes and present the item to the Planning and Zoning Board at the March 7 meeting.

At the March 7, 2023, Planning and Zoning Board Meeting, the Board considered the matter and recommended unanimous approval of the proposed amendment with two minor changes. Those changes are reflected in the proposed language within this report and are highlighted in the excerpt from the code shown below:

Within Sec. 30-66(b)(2):

- (2) Special attention shall be paid to the placement of the generator, the use of sound attenuating materials and the reasonable containment of sounds and exhausts which will be created by the operation of any emergency use generator. A permanent generator **must shall** be placed **lengthwise** in the side yard of a building with a minimum setback of **five three** feet from the side property line **and a minimum 18" building separation clearance**. ~~If an emergency power generator cannot meet the five foot setback requirement, the generator must be placed against the side of the building lengthwise no more than one foot away from the building.~~ A temporary generator shall be located on the property to minimize visual, noise, vibration and exhaust impacts on adjacent properties.

The proposed ordinance attached to this agenda item report includes the recommended language approved by the Planning and Zoning Board.

The ordinance passed on first reading at the March 14, 2023 meeting of the City Commission.

2. FINDINGS/CURRENT ACTIVITY

Currently, the Code requires a generator to be placed in the side yard of a building with a minimum five-foot setback from the side property line. If an emergency power generator cannot meet the five-foot setback requirement, the generator must be placed against the side of the building lengthwise no more than one foot away from the building.

Based on the history of generator permits submitted, the majority of submittals are unable to accommodate the five-foot side setback requirement due to the limited side yard width. Therefore, in most cases, the homeowner is required to position the generator lengthwise against the building no more than 12 inches away from the building.

This Code requirement conflicts with the current manufacturer's specifications which are enforced through the FBC. Per the Fuel Gas, 7th edition of the FBC, Section 301.3 states, "Appliances regulated by this code shall be listed and labeled for the application in which they are used unless otherwise approved in accordance with Section 104 of the Florida Building Code, Building." Therefore, with respect to placement of generators, the FBC dictates the placement of the generators to be consistent with the manufacture's specifications.

Generator manufacturers' specifications now require a minimum of 18-inch separation from the home. For example: Generac generators (manufacturer) now require a minimum of 18-inch separation from a structure, which conflicts with the City's 12-inch requirement. The 18-inch separation has become an industry standard as other major generator manufacturers require this separation.

Below is a summary of Generac, Briggs & Stratton and Kohler generators with their applicable product specifications:

GENERAC GENERATOR PRODUCT ANALYSIS

	Guardian Series (air cooled)		Protector Series (liquid cooled)	
	Generac 20, 22 and 24KW	Generac 26KW	Generac 22KW	Generac 60KW
Generator Length	48.5" (4')	48.5" (4')	62.2" (5.1')	62.2" (5.1')
Generator Width	25.5" (2.1')	25.5" (2.1')	30.6" (2.6')	30.6" (2.6')
Generator Separation Requirements	18" minimum	18" minimum	18" minimum	18" minimum

BRIGGS & STRATTON and KOHLER PRODUCT ANALYSIS

	Briggs & Stratton		KOHLER	
	20 KW Generator	26KW	20RCA	48RCL
Generator Length	48.1" (4')	46.5" (3.8')	47" (3.9')	89.8" (7.4')
Generator Width	29.6" (2.4')	26.8" (2.2')	26" (2.1')	32.9" (2.7')
Generator Separation Requirements	18" minimum	18" minimum	18" minimum	18" minimum

During a building permit plan review for a permanent generator, the mechanical plan reviewer cannot approve the generator unless there is 18-inch separation between the building and the generator per the FBC. The zoning plan reviewer cannot approve the permit if the generator is more

than 12-inch separation from the building per the City Code which has led to conflicts for a number of homeowners in the City.

In conjunction with the study of product specifications, City Staff conducted an analysis of municipal standards for generators. The review focused on placement of generators including setbacks and separation standards (if regulated). Below is a summary of other municipalities' requirements. The full analysis is provided in Attachment A.

MUNICIPAL STUDY OF GENERATOR SETBACKS/SEPARATION

	Lighthouse Point	Deerfield Beach	Hallandale Beach	Lauderdale by the Sea	Palm Coast	Pompano Beach
Setback Requirement	5' from side P.L. (if 5' cannot be met the generator must be placed lengthwise no more than 12" away from home)	3' side, rear setback	Minimum of 3' side, rear and front setback	In the front yard or at least 5' from the side or rear property lines.	Min. 3' side setback Min. 10' rear setback	3' side/rear setback
Separation Requirement	12" max. if 5' setback cannot be met					

Based on staff's analysis, most municipalities mandate a minimum setback requirement of 3-feet from applicable property lines with no requirements regarding separation distance.

Based on these requirements, the City's Consultant Planner is suggesting amending the City Code of Ordinances to require a minimum 3-foot side setback for generators. Based on a minimum required setback of 8 feet, a generator could be placed in the side setback to allow for an 18-inch separation between the generator and the exterior wall of the home provided the generator is placed lengthwise with the longest side of the generator located parallel to the structure.

Based on an 8-foot setback, a 3-foot setback would allow for a generator to be placed in the setback and would allow for an additional foot of space.

3 feet minimum setback	+	2½ feet generator width	+	1½ feet separation from building	+	1-foot additional space	=	8 feet total
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Based on a 7½-foot setback, a 3-foot setback would allow for a generator to be placed in the setback and would allow for an additional ½ foot or (six inches) of additional space.

3 feet minimum setback	+	2 ½ feet generator width	+	1½ feet separation from building	+	½ -foot additional space	=	7½feet total
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3. ATTACHMENTS

Ordinance No. 2023-0997
Attachment A – Analysis from Other Municipalities

4. FINANCIAL IMPACT

None

5. ACTION OPTIONS/RECOMMENDATION

Request that the City Commission conduct the public hearing and consider adoption of Ordinance No. 2023-0997 on second and final reading amending Chapter 30 – Environment, Article III – Noise, Section 30-66. - Air conditioners and generators to amend the location of permanent generators.