

ASSEMBLY, No. 2924

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 20, 2020

Sponsored by:
Assemblyman JAY WEBBER
District 26 (Essex, Morris and Passaic)

SYNOPSIS

Authorizes installation of automatic standby generators in certain residences without zoning or planning board approval.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning residential automatic standby generators and
2 amending and supplementing P.L.1975, c.291.

3

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

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7 1. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to
8 read as follows:

9 3. For the purposes of this act, unless the context clearly
10 indicates a different meaning:

11 The term "shall" indicates a mandatory requirement, and the term
12 "may" indicates a permissive action.

13 "Administrative officer" means the clerk of the municipality,
14 unless a different municipal official or officials are designated by
15 ordinance or statute.

16 "Agricultural restriction" means an "agricultural deed restriction
17 for farmland preservation purposes" as defined in section 3 of
18 P.L.1983, c.32 (C.4:1C-13).

19 "Agricultural land" means "farmland" as defined pursuant to
20 section 3 of P.L.1999, c.152 (C.13:8C-3).

21 "Applicant" means a developer submitting an application for
22 development.

23 "Application for development" means the application form and
24 all accompanying documents required by ordinance for approval of
25 a subdivision plat, site plan, planned development, cluster
26 development, conditional use, zoning variance or direction of the
27 issuance of a permit pursuant to section 25 or section 27 of
28 P.L.1975, c.291 (C.40:55D-34 or C.40:55D-36).

29 "Approving authority" means the planning board of the
30 municipality, unless a different agency is designated by ordinance
31 when acting pursuant to the authority of P.L.1975, c.291
32 (C.40:55D-1 et seq.).

33 "Automatic standby generator," as used in section 2 of
34 P.L. , c. (C.) (pending before the Legislature as this bill),
35 means a natural gas or liquid gas propane fuel powered generator
36 which is permanently connected to the electrical system of a one or
37 two-family residential structure and only operates in the event of a
38 power outage in order to provide backup power to the residential
39 structure.

40 "Board of adjustment" means the board established pursuant to
41 section 56 of P.L.1975, c.291 (C.40:55D-69).

42 "Building" means a combination of materials to form a
43 construction adapted to permanent, temporary, or continuous
44 occupancy and having a roof.

45 "Cable television company" means a cable television company as

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 defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

2 "Capital improvement" means a governmental acquisition of real
3 property or major construction project.

4 "Circulation" means systems, structures and physical
5 improvements for the movement of people, goods, water, air,
6 sewage or power by such means as streets, highways, railways,
7 waterways, towers, airways, pipes and conduits, and the handling of
8 people and goods by such means as terminals, stations, warehouses,
9 and other storage buildings or transshipment points.

10 "Cluster development" means a contiguous cluster or
11 noncontiguous cluster that is not a planned development.

12 "Common open space" means an open space area within or
13 related to a site designated as a development, and designed and
14 intended for the use or enjoyment of residents and owners of the
15 development. Common open space may contain such
16 complementary structures and improvements as are necessary and
17 appropriate for the use or enjoyment of residents and owners of the
18 development.

19 "Conditional use" means a use permitted in a particular zoning
20 district only upon a showing that such use in a specified location
21 will comply with the conditions and standards for the location or
22 operation of such use as contained in the zoning ordinance, and
23 upon the issuance of an authorization therefor by the planning
24 board.

25 "Conservation restriction" means a "conservation restriction" as
26 defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

27 "Contiguous cluster" means a contiguous area to be developed as
28 a single entity according to a plan containing a section or sections
29 to be developed for residential purposes, nonresidential purposes, or
30 a combination thereof, at a greater concentration of density or
31 intensity of land use than authorized within the section or sections
32 under conventional development, in exchange for the permanent
33 preservation of another section or other sections of the area as
34 common or public open space, or for historic or agricultural
35 purposes, or a combination thereof.

36 "Conventional" means development other than cluster
37 development or planned development.

38 "County agriculture development board" or "CADB" means a
39 county agriculture development board established by a county
40 pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-
41 14).

42 "County master plan" means a composite of the master plan for
43 the physical development of the county in which the municipality is
44 located, with the accompanying maps, plats, charts and descriptive
45 and explanatory matter adopted by the county planning board
46 pursuant to R.S.40:27-2 and R.S.40:27-4.

1 "County planning board" means the county planning board, as
2 defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county
3 in which the land or development is located.
4 (cf: P.L.2013, c.106, s.2)

5
6 2. (New section) Notwithstanding any provision of law or
7 local zoning ordinance to the contrary, the siting of an automatic
8 standby generator in compliance with the "State Uniform
9 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or
10 manufacturer clearance specifications, whichever requires a greater
11 distance from the residential structure, shall be deemed to be
12 essential to the continuation of an existing residential structure or
13 use of a residential property, or to the development of a residential
14 property, as authorized in the zoning ordinance of a municipality.
15 An automatic standby generator shall therefore be deemed to be an
16 accessory use or structure to any residential structure or use
17 authorized by the development regulations of a municipality; shall
18 be a permitted use in all residential zoning or use districts of a
19 municipality; and shall not require any variance pursuant to section
20 57 of P.L.1975, c.291 (C.40:55D-70). An automatic standby
21 generator shall be subject to the following requirements:

22 a. The siting of an automatic standby generator shall meet the
23 setback requirements for accessory structures and uses based on the
24 zoning district in which the property is located. If the installation
25 of an automatic standby generator cannot meet the setback
26 requirements applicable to such property based upon the zoning
27 district in which it is located and the "State Uniform Construction
28 Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) or manufacturer
29 clearance specifications, whichever requires a greater distance from
30 the residential structure, a minimum five foot side and five foot rear
31 yard setback shall be applied, upon the approval of the municipal
32 zoning officer, which approval shall not be unreasonably withheld.
33 The proposed siting of an automatic standby generator that satisfies
34 a minimum five foot side and five foot rear yard setback shall only
35 require approval of the municipal zoning officer and shall not
36 require any variance pursuant to section 57 of P.L.1975, c.291
37 (C.40:55D-70).

38 b. An automatic standby generator shall not be sited in the
39 front yard of a property without the express approval of the
40 appropriate local authority. An automatic standby generator sited in
41 the front yard of a property shall be installed in a manner that
42 minimizes the visual impact on adjacent properties through the use
43 of appropriate landscaping and architectural materials, which
44 otherwise comply with local zoning ordinances.

45 c. An automatic standby generator shall be used in compliance
46 with the "Noise Control Act of 1971," P.L.1971, c.418 (C.13:1G-1
47 et seq.) and any law or local ordinance regulating noise levels

1 except during a state of emergency declared by the President of the
2 United States or the Governor.

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4 3. This act shall take effect immediately.

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7 STATEMENT

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9 This bill would permit the installation of automatic standby
10 generators in certain residences without making an application to
11 the local planning or zoning board for a variance. This bill would
12 streamline the process by which an owner or occupant of a single or
13 two-family residential property may install an automatic standby
14 generator. The installation of such generators is beneficial to both
15 residents and communities.

16 For the purposes of this bill, an automatic standby generator is
17 defined as a natural gas or liquid gas propane fuel powered
18 generator which is permanently connected to the electrical system
19 of a one or two-family residential structure and only operates in the
20 event of a power outage in order to provide backup power to the
21 residential structure. The bill would classify such generator as an
22 accessory use or structure to any residential structure or use
23 authorized by the development regulations of a municipality, and as
24 a permitted use in all residential zoning or use districts of a
25 municipality. Such generator would hence not require a variance.

26 The bill would also require that local setback requirements be
27 followed, if possible, while still installing the generator in
28 compliance with the State Uniform Construction Code or
29 manufacturer clearance specifications, whichever requires a greater
30 distance from the residential structure. If the generator cannot be
31 sited to meet the local setback requirements, the bill requires the
32 approval of the municipal zoning officer subject to five foot side
33 and rear yard setback requirements. The municipal zoning officer
34 may not unreasonably withhold such approval.

35 The bill also prohibits siting an automatic standby generator in a
36 front yard without the approval of the appropriate local authority,
37 and requires that a front yard generator be sited in a manner that
38 minimizes the visual impact on adjacent properties through the use
39 of appropriate landscaping and architectural materials.

40 Lastly, the bill requires that the use of an automatic standby
41 generator comply with any law or local ordinance regulating noise
42 levels except during a state of emergency declared by the President
43 of the United States or the Governor.