

**ASSEMBLY, No. 3401**

**STATE OF NEW JERSEY**

**221st LEGISLATURE**

INTRODUCED FEBRUARY 1, 2024

**Sponsored by:**

**Assemblyman JAY WEBBER**

**District 26 (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.



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2

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

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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.

**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.**

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1 "Cable television company" means a cable television company as  
2 defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

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

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

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

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

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

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

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

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

39 "County agriculture development board" or "CADB" means a  
40 county agriculture development board established by a county  
41 pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-  
42 14).

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

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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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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.