

ORDINANCE NO. 1977

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING CHAPTER 8.13 OF THE SAN RAFAEL MUNICIPAL CODE ENTITLED "NOISE" TO ADD AN EXEMPTION FROM NOISE REGULATIONS FOR THE USE OF GENERATORS FOR EMERGENCIES AND UTILITY POWER OUTAGES

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. FINDINGS

WHEREAS, the City Council of the City of San Rafael deems it necessary to adopt an ordinance to add exemptions to the Noise regulations of the San Rafael Municipal Code to allow emergency use of portable generators not connected to a building's electrical system and placement of stationary generators permanently installed and connected to a building's electrical system, finding the need to do so based upon the following facts:

1. In February 2019, PG&E announced plans to proactively de-energize high voltage transmission lines and distribution lines in certain circumstances to prevent destructive wildland fires. Power outages could last over a week. PG&E has suggested that customers prepare for outages lasting longer than two days, particularly those who live in high-risk fire areas. Before shutting off power, PG&E says it will attempt to notify affected customers, with up to 48 hours notice.
2. Of the 18 Northern California fires in October 2017, all but the Tubbs fire were caused by PG&E's electrical grid, according to state fire investigators. Last year's devastating Camp fire in Butte County, the deadliest and most destructive wildfire in state history, was also traced back to a PG&E transmission tower.
3. The massive and destructive wildfires from the past few years are the new normal in California. In 2017, Northern California wildfires killed 44 people and destroyed 6,412 homes. In 2018, the Woolsey Fire and Camp Fire killed at least 85 people and destroyed more than 18,000 structures. As of May 2019, insurance claims for these fires reached \$12 billion.
4. Many residents in San Rafael depend on reliable electrical power for daily needs as well as medical needs including medical equipment and care in their homes. Loss of power for any significant duration places their safety and lives at risk.

WHEREAS, adoption of this Ordinance is consistent with the City's General Plan policies; and

WHEREAS, the Council finds this Ordinance is defined as an emergency project under the California Environmental Quality Act (CEQA) Guidelines Section 15269c and is therefore exempt from environmental review. This exemption applies to specific, short-term actions or

activities that are undertaken or deemed necessary to prevent or mitigate an emergency. Short-term use of a generator during a power outage would fall in this category; and

WHEREAS, for all the foregoing reasons, the City Council finds and declares that adoption of this Ordinance is necessary for the preservation of the public health, safety and welfare and is hereby declared.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 2. MUNICIPAL CODE AMENDMENTS.

Chapter 8.13 of the San Rafael Municipal Code, entitled "Noise" is hereby amended as follows:

1. Section 8.13.020 is hereby amended to add a new definitions to read in its entirety as follows **(as shown below by strikethroughs for deletions and underline/italics for insertions)**:

8.13.020 - Definitions.

For the purposes of this chapter, certain terms are defined as follows:

- A. " 'A'-Weighted Sound Level (dBA)" means a decibel scale that approximates the way the human ear responds to various acoustic frequencies.
- B. "Commercial property" means property zoned for commercial, office, marine, marine commercial, or water uses, as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned as planned development where the principal use is commercial, marine, marine commercial, or water use.
- C. "Constant" noise means a continuous noise produced where there is no noticeable change in the level of the noise source. Examples would include such noises as those associated with air conditioners and pool equipment.
- D. "Daytime" for purposes of this chapter means the period between seven a.m. (7:00 a.m.) and nine p.m. (9:00 p.m.) Sunday through Thursday and between seven a.m. (7:00 a.m.) and ten p.m. (10:00 p.m.) on Friday and Saturday.
- E. *"Emergencies or utility power outages" means: Any city, county, or state declared emergencies; any interruption of utility power due to preventive utility shut-off measures or due to damage to utility infrastructure from accidents, earthquakes, fires, floods, storms, winds, or other acts; or any event deemed to be an emergency by city officials to preserve and protect life or property.*
- F. "Decibel" means the measurement unit used for the level of sound/noise.
- G. "Holidays" mean those holidays designated as federal holidays and the day after Thanksgiving.
- H. "Industrial property" means property zoned for industrial or light industrial use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned as planned development where the principal use is industrial or light industrial.

- I. "Intermittent" noise means repetitive noises where there is a distinction between the onset and decay of the sound. Examples would include hammering and dog barking.
- J. "Mixed use property" means property zoned for both residential and for office and/or commercial use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14.
- K. "Multi-family residential structure" means any dwelling structure where two or more dwellings are separated by a common wall, floor, or ceiling, including but not limited to apartments, condominiums and townhouses.
- L. "Nighttime" for purposes of this chapter means the period between nine p.m. (9:00 p.m.) and seven a.m. (7:00 a.m.) Sunday through Thursday and between ten p.m. (10:00 p.m.) and seven a.m. (7:00 a.m.) on Friday and Saturday.
- M. "Noise level" means the maximum constant or intermittent sound level produced by a source or group of sources as measured with a sound level meter using fast response and "A"-weighting. In order to measure a noise level, the controls of the sound level meter should be arranged to the setting appropriate to the type of noise being measured.
- N. "Portable generator" means any UL listed diesel or gas fired generator not connected to a building's electrical system and only intended to provide power during emergencies or utility power outages. Generators must not exceed 69 dBA during full speed diagnostics and normal operations when measured at 7 meters with no loads, must meet setback requirements for mechanical equipment provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14 and must meet all fuel storage requirements provided in the California Fire Code." "Sound level meter" means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, "Specification for Sound Level Meters."
- O. "Property plane" means a vertical plane including the property line that determines the property boundaries in space.
- P. "Public property" means property zoned for public/quasi-public or parks/open space use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or the San Rafael City Plaza, or any public street, right-of-way, or easement.
- Q. "Residential power equipment" means any mechanically powered saw, sander, drill, grinder, leaf blower, lawnmower, hedge trimmer, edger, or any other similar tool or device, when used in or on any residential property.
- R. "Residential property" means property zoned for residential use as provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14, or properties zoned for mixed use or as planned development where the principal use is residential.
- S. "Routine testing" means the required and routine testing per manufacturer's recommendations to maintain and keep ready stationary generators; usually on a weekly or monthly schedule.
- T. "Sound level meter" means a device for measuring sound level in decibel units within the performance specifications in the American National Standards Institute Standard S1.4, "Specification for Sound Level Meters."

U. "Stationary generator" means any UL 2200 listed natural gas and/or propane fired generator permanently connected to the building's electrical system and only intended to provide power during emergencies or utility power outages. Generators must not exceed 69 dBA during full speed diagnostics and normal operations when measured at 7 meters with no loads and must meet setback requirements for mechanical equipment provided in the City of San Rafael Zoning Ordinance, San Rafael Municipal Code Title 14.

2. Section 8.13.070 is hereby amended to read in its entirety as follows (as shown below by **strikethroughs** for deletions and **underline/italics** for insertions):

8.13.070 - Exemptions.

The following shall be exempt from the provisions of this chapter:

- A. Aerial warning devices which are required by law to protect the health, safety and welfare of the community;
- B. Emergency vehicle responses and all necessary equipment utilized for the purpose of responding to an emergency, or necessary to restore, preserve, protect or save lives or property from imminent danger of loss or harm;
- C. Aviation, railroad, and public transit operations;
- D. The operation of any municipal or public utility vehicles;
- E. Public safety training exercises conducted between the hours of eight a.m. (8:00 a.m.) and eight p.m. (8:00 p.m.);
- F. Uses established through any applicable discretionary review process containing specific noise conditions of approval and/or mitigation measures;
- G. Work on capital improvements, or repairs on public property by employees or contractors of the city;
- H. Vehicle noise subject to regulation under the California Vehicle Code;
- I. Emergency repair work performed by, or at the request of, a property owner on his or her private property, where the delay required to obtain an exception permit under this chapter would result in substantial damage, personal injuries, or property loss to the owner, provided that such emergency work shall be subject to such reasonable conditions as may be imposed by authorized city employees to mitigate the noise level of the activity.
- J. *Portable Generator used during emergencies or utility power outages per manufacturer's recommendations.*
- K. *Stationary Generator installed and used during emergencies, utility power outages or routine testing per manufacturer's recommendations. Routine testing for stationary generators shall be conducted between the hours of ten a.m. (10:00 a.m.) and four p.m. (4:00 p.m.).*

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Ordinance is exempt from the California Environmental Quality Act ("CEQA") since it is an emergency project under the California Environmental Quality Act (CEQA) Guidelines Section

15269c, which applies to specific, short-term actions or activities that are undertaken or deemed necessary to prevent or mitigate an emergency.

DIVISION 4. SEVERABILITY

If any provision of this Ordinance or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Ordinance, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Ordinance are severable.

DIVISION 5. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.



GARY O. PHILLIPS, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No.1977 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the fourth day of November 2019 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Colin, Gamblin, McCullough & Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the eighteenth day of November 2019.



LINDSAY LARA, City Clerk