



City of Manteca

PLANNING COMMISSION RESOLUTION NO. 1528

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MANTECA
MAKING FINDINGS AND RECOMMENDING THE CITY COUNCIL APPROVES
MUNICIPAL CODE AMENDMENT NO. MCA-2019-105**

WHEREAS, the Manteca Planning Commission at their public hearing of August 13, 2019, considered Municipal Code Amendment No. MCA-2019-105, filed by the City of Manteca, 1001 W. Center Street, Manteca, CA 95337; and

WHEREAS, the project is Citywide and affect all parcels within the City of Manteca; and

WHEREAS, the City determined that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15183 – Projects Consistent with a Community Plan, General Plan or Zoning; and

WHEREAS, the City's adopted General Plan Public Facilities and Services Element Policy PF-P-29 states to, "Ensure that reliable, adequate electric service is available to all users in the City." The proposed zoning text amendment would allow for emergency generators within side yards, thereby increasing the reliability of electrical service to the residents and businesses of Manteca; and

WHEREAS, the City's adopted General Plan Public Facilities and Services Element Policy PF-P-30 states to, "Cooperate with and encourage efforts to expand the opportunities for electric power service in the City." The proposed zoning text amendment implements this policy in that by allowing emergency generators within the side yard setback area expands the opportunities for residents to install and expand electrical power service in Manteca; and

WHEREAS, the City's adopted General Plan Noise Element Goal N-1 states to, "Protect the residents of Manteca from the harmful and annoying effects of exposure to excessive noise." The proposed zoning text amendment implements this goal in that by requiring generator engines to be enclosed in a noise abating enclosure helps reduce the exposure to excessive noise; and

WHEREAS, the City's adopted General Plan Noise Element Goal N-4 states to, "Protect public health and welfare by eliminating existing noise problems where feasible, by establishing standards for acceptable indoor and outdoor noise, and by preventing significant increases in noise levels." The proposed zoning text amendment supports this goal in that setting standards for the appropriate time of use and testing of emergency generators eliminates noise problems to the extent feasible; and

WHEREAS, the City's adopted General Plan Economic Development Element Goal ED-11 states to, "Maintain and enhance the real and perceived safety in the community." The proposed zoning text amendment is consistent with this goal in that having a reliable source of emergency power is necessary to maintain the safety at Manteca businesses and residences by providing power to communications and security devices; and

WHEREAS, the Planning Commission determined a favorable recommendation to the Manteca City Council regarding the appropriateness of the Municipal Code Amendment No. MCA-2019-105; and

WHEREAS, section 17.08.060 of the Manteca Municipal Code mandates the transmittal of a recommendation to the City Council by resolution.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Manteca Planning Commission pursuant to Chapter 17.08 and Chapter 17.10 of the Manteca Municipal Code, upon evidence in the staff report and project file hereby submits a favorable recommendation of approval to the City Council for Municipal Code Amendment No. MCA-2019-105 based on the following findings:

1. The proposed Zoning Amendment is consistent with the General Plan and any applicable Specific Plan goals, policies, and implementation programs;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;
3. The amendment has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA);
4. The amendment is internally consistent with other applicable provisions of the Zoning Title.

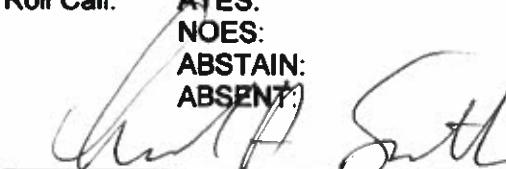
I hereby certify that Resolution No. 1528 was passed and adopted by the Planning Commission of the City of Manteca in a regular meeting held August 13, 2019, by the following vote:

Roll Call: AYES:

NOES:

ABSTAIN:

ABSENT:


Leonard Smith, Chairman

8/13/19
Date

Attachments:

Exhibit A Amendments to Sections 9.52.070 (Exemptions), 17.44.060 (Allowed Encroachments) and 17.58.050 (Noise Standards)

Exhibit A**Amendments to Section 9.52.070 (Exemptions)****9.52.070 Exemptions**

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

- A. Emergency Exemption. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work. For the purposes of this section, "emergency" means a condition that constitutes an immediate threat to public safety, health or welfare or to property.
- B. Warning Devices. Warning devices necessary for the protection of public safety, such as police, fire and ambulance sirens and train horns.
- C. Outdoor Activities. Activities conducted on public playgrounds, fully licensed and approved child day care facilities within residential areas as permitted by law, and public or private school grounds, including, but not limited to, school athletic and school entertainment events.
- D. Outdoor Gatherings, Public Dances, Shows and Sporting Events. Provided the events are conducted pursuant to a permit issued by the city manager.
- E. Operation of city vehicles, controls, and alarms.
- F. Public health and safety activities, including, but not limited to: all transportation, flood control, and utility company maintenance and construction operation at any time on public rights-of-way, public property and those situations that may occur on private property deemed necessary to serve the best interest of the public and to protect the public's health and well-being, including debris and limb removal, removal of damaged poles and vehicles, removal of downed wires, repair of traffic signals, repair of water hydrants and mains, gas lines, oil lines, and sewers, restoration of electrical service, street sweeping, unplugging sewers, vacuuming catch basins, municipal well borehole drilling, municipal well casing installation, etc. The regular testing of motorized equipment and pumps shall not be exempt.

G. Emergency generators when operated during power outages to restore electrical service due to a situation beyond the control of the owner/operator of the facility or residential home/development.

Amendments to Section 17.44.060 (Allowed Encroachments)**17.44.060 Allowed Encroachments**

The following encroachments shall be permitted in required yard areas, provided that all such features and structures do not extend into any public utility easement.

- A. Attached Structures. Accessory structures and architectural features attached to the main building(s) may project into the required yards as listed in Table 17.44.060-1 (Allowed Encroachment for Attached Structures Into Required Yard Areas).

TABLE 17.44.060-1

ALLOWED ENCROACHMENT FOR ATTACHED STRUCTURES INTO REQUIRED YARD AREAS

Attached Structures and Architectural Feature	Encroachment Distance into Required Yard		
	Front Yard	Side Yard	Rear Yard
Fireplaces, bay windows, porches, pergolas, awnings, trellis and decks and patios higher than 30 inches above grade	2 ft ^{1, 2}		
Canopies, cornices, eaves, canopies, and roof overhangs	2 ft ¹		
Stairways, fire escapes or landing places higher than 30 inches above grade	6 ft ¹	4 ft ¹	6 ft ¹

Notes:

1. All encroachments shall maintain a minimum 3-foot setback from all property lines and a minimum distance of 6 feet from any other structure.
2. The combined length of bay windows shall not account for more than one-third of the length of the wall surface on which the features are located.

B. Detached Structures. Detached accessory structures as regulated in Chapter 17.40 (Accessory Structures).

C. Air Conditioning Unit. No air conditioning unit shall be located within the required side yard setback.

D. Emergency Generators. Emergency generators are allowed to encroach into a required side yard provided emergency access is provided pursuant to the California Residential Code, as amended.

Amendments to Section 17.58.050 (Noise Standards)

17.58.050 Noise Standards

A. Purpose. The purpose of this section is to:

1. Establish standards to provide a high quality of life for all residents by ensuring a safe community, free from manmade and natural hazards;
2. Implement goals and policies of the General Plan Noise Element;
3. Provide community noise control regulation and standards that are consistent with or exceed the guidelines of the State Office of Noise Control and the standards adopted by the Federal Highway Administration (FHWA), California Department of Transportation (Caltrans), or other government or regulatory agencies.

B. Noise Standards. The maximum sound level generated by any use or activity as measured at the point of measurement as defined in Section 17.58.030 (Points of Measurement) shall not exceed the levels established in Table 17.58.050-1 (Maximum Permissible Sound Pressure Levels) based on the use that is receiving the noise (e.g., residential use receiving noise generated by an industrial use).

TABLE 17.58.050-1
MAXIMUM PERMISSIBLE SOUND PRESSURE LEVELS

Receiving Land Use Category	Time Period	Maximum Allowable Noise Levels (Ldn/CNEL, dB)
Single-Family and Limited Multiple-Family	10 pm – 7 am	50
	7 am – 10 pm	60
Multiple-Family, Public Institution, and Neighborhood Commercial	10 pm – 7 am	55
	7 am – 10 pm	60
Medium and Heavy Commercial	10 pm – 7 am	60
	7 am – 10 pm	65
Light Industrial	Anytime	70
Heavy Industrial	Anytime	75

C. Calculation. Exterior noise levels shall be measured with a sound level meter and associated octave band analyzer meeting the American National Standards Institute's standards S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment that will provide equivalent data. When measuring the noise level, the corrections provided in Table 17.58.050-2 (Noise Level Corrections) shall be applied.

TABLE 17.58.050-2
NOISE LEVEL CORRECTIONS

Category	Correction (decibels)
Daytime operation only (7 am – 7 pm)	+5
Noise source operates less than	
20% of any one-hour period	+5
5% of any one-hour period	+10
1% of any one-hour period	+15
Noise of impulsive character (e.g., hammering)	-5
Noise rising or falling in pitch or volume (e.g., hum, screech)	-5

D. Exempt Activities. The following are not subject to the noise limitations of this Chapter.

1. Emergency Exemption. The emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work. **The exemption does not include permanently installed emergency generators.**
2. Warning Device. Warning devices necessary for the protection of public safety (e.g., police, fire and ambulance sirens, properly operating home and car burglar alarms, and train horns).
3. Railroad Activities. The operation of locomotives, rail cars, and facilities by a railroad that is regulated by the California Public Utilities Commission.
4. State or Federal Preempted Activities. Any activity, to the extent the regulation of it has been preempted by state or federal law.
5. Public health and safety activities including, but not limited to: all transportation, flood control, and utility company maintenance and construction operation at any time on public rights-of-way, public property and those situations that may occur on private property deemed necessary to serve the best interest of the public and to protect the public's health and well-being, including debris and limb removal, removal of damaged poles and vehicles, removal of downed wires, repair of traffic signals, repair of water hydrants and mains, gas lines, oil lines, and sewers, restoration of electrical service, street sweeping, unplugging sewers, vacuuming catch basins, municipal well borehole drilling, municipal well casing installation. The regular testing of motorized equipment and pumps shall not be exempt.
6. Solid Waste Collection. Noise sources associated with the authorized collection of solid waste (e.g., refuse and garbage).
7. Maintenance of Residential Real Property. Noise sources associated with the minor maintenance of residential real property, provided the activities take place between the hours of 7:00 a.m. and 10:00 p.m.
8. Construction activities when conducted as part of an approved Building Permit, except as prohibited in Subsection 17.58.050(E)(1) (Prohibited Activities) below.
9. **Emergency Generators.** Sound resulting from the operation of any stationary emergency generator in any zoning district shall be considered restoration of electrical service and are exempt from the sound rating values set forth in Table 17.58.050-1 (Maximum Permissible Sound Pressure Levels). This exemption only applies when operated during power outages; provided however, the generator motor must be enclosed in a sound absorbing encasement and in no event shall the sound rating value of generators in any district exceed 76 dBA at twenty-three (23) feet or seven (7) meters. Stationary emergency generators operating in all districts may be operated for testing purposes one (1) time for a period not to exceed thirty (30) minutes in any seven-day period. Testing of stationary emergency generators in all districts is permitted between the hours of 11:00 a.m. through 8:00 p.m. Monday through Saturday.
 - i. For purposes of this sub-section, stationary emergency generator means any stationary or non-portable internal combustion engine located at a facility or residential home/development that serves solely as a secondary source of mechanical or electrical power when the primary source is disrupted or discontinued during a period of emergency due to a situation beyond the control of the owner/operator of the facility or residential home/development. A stationary emergency generator shall operate only during emergency

situations or for standard performance testing procedures as required by law or by the engine manufacturer. A stationary emergency generator that serves as an energy or power source in circumstances other than emergency situations or for standard testing, such as load shedding or peak shaving, shall not be considered a stationary emergency generator.

- ii. Emergency situation is defined as loss of primary power due to power outage, on site disaster, area-wide natural disaster, or circumstances beyond the control of the owner/operator. Emergency situation shall not include power interruptions pursuant to an interruptible power service agreement, engine testing or scheduled maintenance.

E. Prohibited Activities. The following acts shall be a violation of this Chapter.

1. Construction Noise. Operating or causing the operation of tools or equipment on private property used in alteration, construction, demolition, drilling, or repair work daily between the hours of 7:00 p.m. and 7:00 a.m., so that the sound creates a noise disturbance across a residential property line, except for emergency work of public service utilities.
2. Loading and Unloading Activities. Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, garbage cans, or similar objects on private property between the hours of 10:00 p.m. and 7:00 a.m. in a manner to cause a noise disturbance.
3. Sweepers and Associated Equipment. Operating or allowing the operation of sweepers or associated sweeping equipment (e.g., blowers) on private property between the hours of 10:00 p.m. and 7:00 a.m. the following day in, or adjacent to, a residential Zoning District.
4. Places of Public Entertainment. Operating or allowing to be operated, any loudspeaker, musical instrument, or other source of sound in any place of public entertainment that exceed 95 dBA at any point normally occupied by a customer.
5. Stationary Non-Emergency Signaling Devices. Sounding or allowing the sounding of an electronically amplified signal from a stationary bell, chime, siren, whistle, or similar device intended for non-emergency purposes, from a private property for more than 10 consecutive seconds in any hourly period.
6. Public Nuisance Noise. Public nuisance noise is noise that is generally not associated with a particular land use but creates a nuisance situation by reason of its being disturbing, excessive, or offensive. Examples would include excessively loud noise from alarms, animals, and fowl in nonagricultural districts, horns, musical instruments, stereos, tape or CD players, televisions, vehicle or motorboat repairs and testing, and similar noise as measured in Table 17.58.050-2 (Noise Level Corrections).