

ORDINANCE O2019-XX

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANTECA, STATE OF CALIFORNIA, AMENDING TITLE 17 OF THE MANTECA MUNICIPAL CODE, SECTION 9.52.070 EXEMPTIONS, TO EXEMPT EMERGENCY GENERATORS FROM RESIDENTIAL NOISE REQUIREMENTS, AMENDING TITLE 17 OF THE MANTECA MUNICIPAL CODE, SECTION 17.44.060 ALLOWED ENCROACHMENTS, TO ALLOW EMERGENCY GENERATORS TO ENCROACH INTO SIDE YARD SETBACKS, AND AMENDING TITLE 17 OF THE MANTECA MUNICIPAL CODE, SECTION 17.58.050 NOISE STANDARDS, TO ESTABLISH REQUIREMENTS AND DEFINE EMERGENCY GENERATORS

WHEREAS, the Manteca City Council at its public hearing of September 3, 2019, considered Municipal Code Amendment No. MCA-19-105, filed by the City of Manteca, 1001 W. Center Street, Manteca, CA 95337; 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 Manteca Planning Commission approved resolution 1528 to forward a favorable recommendation to the Manteca City Council regarding the appropriateness of the Municipal Code Amendment No. MCA-18-132 at its public hearing of August 13, 2019; and

WHEREAS, the City Council has considered all information related to this matter as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

THE CITY COUNCIL OF THE CITY OF MANTECA DOES ORDAIN AS FOLLOWS:

SECTION 1: Amendment. Manteca Municipal Code Section 9.52.070, Exemptions, is hereby amended to exempt emergency generators from residential noise requirements of Chapter 9.52, Residential Noise, to read as follows:

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.

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- 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.

Manteca Municipal Code Section 17.44.060, Allowed Encroachments, is hereby amended to allow emergency generators to encroach into the side yard setbacks to read as follows:

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	Side Yard	Rear

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	Yard		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.

Manteca Municipal Code Section 17.58.050, Noise Standards, is hereby amended to establish requirements and define emergency generators to read as follows:

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.
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 en-

casement 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, si-

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ren, 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).

SECTION 2: Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 3: Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

City of Manteca, a municipal corporation

MAYOR: _____
BENJAMIN J. CANTU

ATTEST: _____
LISA BLACKMON, CITY CLERK

STATE OF CALIFORNIA }
COUNTY OF SAN JOAQUIN } SS:
CITY OF MANTECA }

I, Lisa Blackmon, City Clerk of the City of Manteca, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public meeting of the City Council on the 3rd day of September 2019, and had its second reading and was adopted and passed during the public meeting of the City Council on the ____ day of ____, 20__, by the following vote:

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AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
LISA BLACKMON
City Clerk