

ORDINANCE NO. _____

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX
AMENDING AND RESTATING SECTION 8.20.070 (EXEMPTIONS) OF CHAPTER 8.20
(NOISE CONTROL) OF TITLE 8 OF THE FAIRFAX MUNICIPAL CODE TO REGULATE
BACKUP, EMERGENCY GENERATORS**

WHEREAS, the utility Pacific Gas & Electric (“PG&E”) has implemented a Public Safety Power Shutoff program (“PSPS”) whereby all customers in any given area could have their power shut off for multiple days; and

WHEREAS, Chapter 8.20 of the Fairfax Municipal Code provides for measures to protect the peace and quiet of neighborhoods and community solitude and does not anticipate the possibility of extended PG&E power shutoffs and resulting interest in and/or need for backup generators for homes and businesses; and

WHEREAS, such backup generators serve as an important safety element during a prolonged power outage by maintaining power for refrigeration systems and medical equipment; and

WHEREAS, the Town Council wishes to establish regulations governing the use of backup generators in order to more fully protect the public health, safety, and welfare during the prolonged power shut offs that will occur as part of the PSPS program.

NOW, THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

SECTION 1. Section 8.20.070 “EXEMPTIONS” is hereby amended and restated as follows:

“The provisions of this chapter do not apply to:

“(A) The emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work.

“(B) Warning devices necessary for the protection of public safety, as, for example, burglar alarms, police, fire and ambulance sirens and the fire horn, are exempted from the provisions of this chapter.

“(C) Occasional outdoor gatherings, public dances, shows and sporting and entertainment events, provided the events are conducted pursuant to a permit or license issued by the town relative to the staging of the events.

“(D) Operating or permitting the operation of any mechanically powered tools or equipment for construction, demolition or property maintenance work between 8:00 a.m. and 6:00 p.m. Monday through Friday, and 9:00 a.m. to 4:00 p.m. on weekends and holidays are exempt.

“(E) Anyone operating mechanically powered tools during permitted hours shall use best practices to minimize flying dust and debris and to protect neighbors, pedestrians and others nearby from disturbed particulate matter.

“(F) The use of backup, emergency generators during a prolonged power outage or emergency, as declared by the Town of Fairfax, state or local government agency, or power utility, provided that the generator’s owner has a building permit and the generator complies with current fire and building codes. For the purpose of this section a “prolonged power outage” means a power outage that is no less than 4 hours in duration.

“Backup, emergency generators can either be permanently installed or portable. During a prolonged power outage period, generators for commercial uses may be operational 24 hours per day but should be shut off when not critically needed to minimize the disturbance of neighbors. Generators supporting residential uses shall not be operated during the hours of 11:45 p.m. to 5:00 a.m., except as required for a bonafide health or medical need. Testing of emergency generators shall be limited to the hours between 9:00 a.m. and 8:00 p.m. on any day and shall be limited in duration to that specified by manufactures specifications.

“Permanent generator installations require a building permit from the Town’s Building Division and shall comply with setback standards of the underlying zoning district. Portable generators do not require building permits. Portable generator means any UL listed diesel or gas fired generator not connected to a structure’s electrical system and only intended to provide power during emergencies or utility power outages. Portable generators must not exceed 69dBa when measured at the property line during full speed diagnostics and normal operations with no load and must be a minimum of 10 feet from the property line or placed in an area that is reasonably practical for the homeowner that is least disruptive to neighbors. Fuel storage must meet requirements provided in the California Fire Code.”

All other provisions and definitions contained Chapter 8.20 of the Fairfax Municipal Code shall remain in full force and effect.

SECTION 2. Compliance with CEQA. 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.

SECTION 3. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 4. Effective Date and Posting. This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 5th day of February 2020, and duly adopted at the next regular meeting of the Town Council on the ___ day of _____ 2020, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

RENEE GODDARD, Mayor

Attest: _____
Michele Gardner, Town Clerk Date _____