

ORDINANCE NO. 2021-09

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING SECTIONS 17.80.240 THROUGH 17.80.242 TO THE NEVADA CITY MUNICIPAL CODE REGULATING STATIONARY STANDBY GENERATORS

WHEREAS, the City of Nevada City, California ("City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

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

WHEREAS, on September 23, 2020, City Council adopted Ordinance 2020-17, establishing a permitting process to allow stationary generators during emergency electrical power interruptions for business or residential use throughout the City; and

WHEREAS, the City of Nevada City Planning Commission has issued approvals for stationary standby generator applications and has provided direction to staff to amend Ordinance 2020-17 to allow expanded administrative approvals when proposals are consistent with size, setback, and screening criteria; and

WHEREAS, the zoning ordinance of the City of Nevada City Municipal Code provides for measures to protect the aesthetics of neighborhoods and the community; and

WHEREAS, such generators can be an important safety element during a power outage by maintaining power for refrigeration systems and medical equipment.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES ORDAIN AS FOLLOWS:

Section 1. Section 17.80.240 is hereby added to the Nevada City Municipal Code to read as follows:

17.80.240 – Stationary Standby Generators—Purpose and definitions.

- A. Purpose. The City of Nevada City finds and declares that stationary standby generators can be an important safety feature during an electrical power outage by maintaining power for refrigeration systems and medical equipment. If unregulated, standby generators can be noise and aesthetic nuisances and can also compromise the safety and welfare of the community.

It is the intent of Nevada City to encourage use of stationary standby generators during temporary interruptions in electrical power and, additionally, to impose standards that will enhance the safety of the community without compromising aesthetics or the quiet enjoyment of neighborhoods

B. Findings.

(1) It is necessary to regulate the aesthetic impacts of stationary standby generators, because if stationary standby generators are located in areas without locational regulations or screening requirements they may be unsightly and therefore, detract from the aesthetic and design requirements of the Nevada City Municipal Code requirements thereby leading to a decline in property values within the City.

(2) Regulating air quality impacts of stationary standby generators is necessary to protect the health and safety of residents and visitors, because without air quality limits exhaust from individual or collective stationary standby generators may cause respiratory and health problems.

(3) Regulating noise levels and hours of operations of stationary standby generators is necessary to protect the health and safety of residents and visitors because exposure to excessive noise levels, especially for prolonged periods, causes hearing damage or loss and other health conditions.

C. Definitions.

(1) "Stationary standby generator" means a non-portable, hardwired generator intended for permanent installation.

17.80.241 – Stationary Standby Generators—General.

(A) A stationary standby generator may operate only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control with exception only for programmed automatic test cycles.

(B) Prior to installation of a stationary standby generator, the property owner shall obtain one of the following permits:

(1) A Minor Architectural Review approval for all stationary standby generators 24,000 watts or less, from the City Planning Department;

(2) An Architectural Review application for all stationary standby generators 24000 watts or less whereby the generator does not meet setback and screening standards outlined below under Section 17.80.242 (A.4); and

(3) A Conditional Use Permit for all stationary standby generators over 24,000 watts;

Applications for Architectural Review and Minor Architectural Review must meet the criteria set forth in Section 17.80.242.

17.80.242 – Stationary Standby Generators—Application for Stationary Standby Generator permit.

- A. An Architectural Review approval may be issued only for proposals that meet and continue to conform with all requirements below and as specified in the City of Nevada City Municipal Code.
- (1) Stationary standby generators that have a power output of 24,000 watts or less may be located in all zones within the City except for Open Space (OS). Any Generator with a power output in excess of 24,000 watts shall be reviewed through a Conditional Use Permit.
 - (2) Air Quality: An Authority to Construct/Permit to Operate issued by the Northern Sierra Air Quality Management District (NSAQMD) is required for any diesel-fired generator engine greater than 50 horsepower before such generator is placed into operation. Such permits shall be good for one year and renewed on an annual basis.
 - (3) Noise Standards:
 - a. Applicant shall demonstrate that the generator complies with noise standards outlined in Chapter 8.20 of the City Municipal Code.
 - b. Test cycles shall only run during day time hours of 7AM to 9PM.
 - (4) Aesthetics:
 - a. All stationary standby generators shall be located consistent with all building setbacks and they must be adequately screened by fencing, landscaping or other method as demonstrated on the site plan. Any generator proposal that demonstrates an inability or hardship for placement of the generator consistent with setback standards or is unable to provide adequate screening from public views, shall be required to obtain an Architectural Review permit to be permitted by the Nevada City Planning Commission, acting as the Architectural Review Committee.
 - b. All stationary standby generators proposed within the Historic District shall be located in such a manner so as not to be visible from public views.
 - (5) Location: Stationary standby generators shall not be allowed within a property easement unless the easement expressly permits the generator.
 - (6) Safety: Stationary standby generators shall be equipped with a disconnect pursuant to Section 15.08.045, Auxiliary Power Generator, of the City Municipal Code.
 - (7) Following the City's Architectural Review approval, the applicant shall obtain an electrical/plumbing permit from the Nevada County Building Department, acting on behalf of the City.
- B. An architectural review application shall be submitted by the owner of the parcel and shall be filed with the city planner on the city-approved application form and subject to the established fee and the following additional checklist:
- (1) A digital copy of the site plan or three (3) copies if hard copies are submitted;
 - (2) The brand, model, KW-output stationary standby generator to be installed;

- (3) The brand, model, and specifications of the transfer switch to be utilized;
- (4) Location of stationary standby generator, transfer switch, raceways, and fuel gas piping to/from unit, mounting surface of stationary standby generator;
- (5) Size dimensions of the stationary standby generator;
- (6) Type of fuel supply for the stationary standby generator; and
- (8) Signed "Stationary Standby Generator Declaration."

SECTION 2. CEQA. This Ordinance Amendment is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15301 because CEQA only applies to projects which have the potential to have a significant impact on the environment and because the installation of an emergency standby generator will serve an existing permitted commercial or residential use of the property and will not involve an expansion of that use, but rather allows for continuance of the permitted use during temporary interruptions of electrical power.


SECTION 3. Effective Date. This ordinance shall become effective on the 31st day after adoption.

SECTION 4. Severability. If any portion of this ordinance is found to be unenforceable, each such provision shall be severed, and all remaining portions of this ordinance shall be enforced to the maximum extent legally permissible.

SECTION 5. Certification. The City Clerk shall certify to the passage and adoption of this ordinance as required by law.

PASSED, APPROVED AND ADOPTED this 8th day of December 2021 by the following vote:

AYES: STRAWSER, FLEMING, MINETT, PETERSEN
NOES: :
ABSENT: : FERNÁNDEZ




Duane Strawser, Mayor

ATTEST:



Niel Locke, City Clerk

APPROVED AS TO FORM



Dean Pucci, City Attorney