



# City of Larkspur

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## **CITY OF LARKSPUR POST ADOPTION SUMMARY ORDINANCE 1048**

**NOTICE IS HEREBY GIVEN** that on May 20, 2020, the City Council of the City of Larkspur adopted Ordinance 1048, entitled:

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR AMENDING CHAPTER 9.54 (NOISE CONTROL REGULATIONS) OF THE LARKSPUR MUNICIPAL CODE TO ADD AND AMEND DEFINITIONS, EXEMPT EMERGENCY GENERATORS, AND ADD A NEW SUBSECTION CLARIFYING THE EXCEPTION PERMIT PROCESS AND REQUIREMENTS**

This ordinance exempts emergency generators from the strict application of the noise standards, subject to specific limitations and standards, when operated during unexpected catastrophe or Public Safety Power Shutoff (PSPS) events by PG&E. Additional modifications include edits to improve readability, clean-up of certain noise regulations, and more detailed application requirements for an exception permit from the construction time limits.

The vote of the Council was as follows:

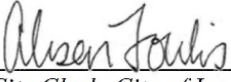
Ayes:	Councilmember:	Candell, Haroff, Hillmer, Paulson, and Mayor Way
Noes:	Councilmember:	None
Absent:	Councilmember:	None
Abstain:	Councilmember:	None

A certified copy of the full text of the adopted ordinance is available for public review at [www.cityoflarkspur.org](http://www.cityoflarkspur.org), or call (415) 927-5002.

POSTING DATE: May 28, 2020

ALISON FOULIS  
City Clerk

The within instrument is a true and correct copy of the original on file.

  
\_\_\_\_\_  
City Clerk, City of Larkspur

**CITY OF LARKSPUR  
ORDINANCE 1048**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR  
AMENDING CHAPTER 9.54 (NOISE CONTROL REGULATIONS) OF THE LARKSPUR  
MUNICIPAL CODE TO ADD AND AMEND DEFINITIONS, EXEMPT EMERGENCY  
GENERATORS, AND ADD A NEW SUBSECTION CLARIFYING THE EXCEPTION PERMIT  
PROCESS AND REQUIREMENTS**

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**WHEREAS**, the City Council of the City of Larkspur has determined it necessary to adopt an Ordinance amending the Noise Control Regulations of the Larkspur Municipal Code to allow emergency use of generators during a declared emergency or scheduled power outage by a utility provider, and to improve readability of this Code, due to the following facts;

**WHEREAS**, from 2017 through 2019, Northern California experienced multiple catastrophic and deadly wildfires that originated from failures in PG&E's electrical grid; and

**WHEREAS**, in February 2019, PG&E announced plans to proactively de-energize high voltage transmission lines and distribution lines in certain circumstances, such as high wind events, to prevent destructive wildland fires; and

**WHEREAS**, known as Public Safety Power Shutoffs (PSPS), these power outages are expected to last from 2 days to over a week and occur at regular intervals throughout the dry season; and

**WHEREAS**, during the 2019 Kincade Fire in Sonoma County, PG&E cut power to over 1,000,000 people including businesses and residents of Marin County and Larkspur; and

**WHEREAS**, the Larkspur community, including residents, critical service providers, health care facilities and utility providers, require a reliable source of electrical power for their daily needs and operations to provide items such as food and toiletries, life-saving health care, and to maintain utility service, and loss of power for any significant duration places the health and safety of residents, customers and patients at risk; and

**WHEREAS**, to support the Larkspur community's need for readily available emergency power during unexpected catastrophes or PSPS events, the Council has determined it is necessary to adopt amendments to Chapter 9.54, "Noise Control Regulations," to exempt emergency generators from the strict application of the noise standards.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LARKSPUR DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated herein by reference.

**Section 2. Amendment to Municipal Code (Noise Control Regulations).** The City Council hereby amends (with additions in underline and deletions in ~~strike through~~) Chapter 9.54, "Noise Control Regulations," of the Larkspur Municipal Code in Title 9, "Public Peace, Morals and Safety," to read as follows:

**Chapter 9.54  
NOISE CONTROL REGULATIONS**

Sections:

9.54.010	Definitions.
9.54.020	Sound Level Measurements (General).
9.54.030	General Noise Regulations.
9.54.040	Exterior Noise Limits.
9.54.050	Interior Noise Limits.
9.54.060	Exemptions.
9.54.070	Pre-Existing Facilities – Transition Period.
9.54.080	Extension of the Transition Period.
9.54.090	Violation – Penalty.
9.54.100	Violations – Additional Remedies – Injunctions.
9.54.110	Appeals.

#### 9.54.10 Definitions.

All terminology used in this chapter, not defined below, shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body.

- A. "A-weighted sound level" means the sound level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(a) or dBA.
- B. "Ambient noise level" means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.
- C. "City" means the incorporated area of the City of Larkspur.
- D. "Decibel" means a unit for measuring the amplitude of a sound, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.
- E. "Emergency or utility power outages" means any city, county or state declared emergency, and 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 their acts; or any event deemed to be an emergency by city officials to preserve and protect life and property.
- F. "Emergency work" means the use of any machinery, equipment, vehicle or manpower for the performance of an emergency activity response, or emergency repair, in an effort to protect, maintain, provide or restore safe conditions and/or public utilities in a community or for the citizenry, on either public or private property.
- G. "Fixed noise source" means a stationary device that creates sounds while fixed or motionless, including, but not limited to, machinery, equipment, pumps, fans, compressors, air conditioners, ~~and~~ refrigeration equipment and stationary generators, used for residential, agricultural, industrial or commercial purposes.
- H. "Hertz (Hz)" means a unit of measurement of frequency numerically equal to cycles per second.
- I. "Holidays" means those days designated or observed as federal holidays and the day after Thanksgiving.
- J. "Impulsive noise" means sounds of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop-forge impacts, the discharge of firearms, and dog barking.
- K. "Noise level" means the A-weighted sound pressure level in decibels obtained by using a sound level meter with a reference pressure of twenty (20) micropascals. The units of measurement shall be designated as dBA.
- L. "Person" means a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.
- M. "Portable generator" means any UL listed diesel or gas fired generator not connected to a building's electrical system and intended to provide power during emergency work.
- N. "Property line" means a line along the ground surface, and its vertical extension which separates the real property owned by one person from that owned by another person.
- O. "Pure tone" means any sound that can be judged as audible as a single pitch or a set of single pitches such as might be produced by a whistle or a musical instrument. For the purposes of this chapter, a pure tone shall exist if the one-third octave band sound pressure level in the band with the tone exceeds the arithmetic average of the sound for center frequencies of five hundred (500) Hz and above, and by eight (8) dB for center frequencies between one hundred sixty (160) and four hundred (400) Hz, and by fifteen (15) dB for center frequencies less than or equal to one hundred twenty-five (125) Hz.
- P. "Routine testing" means the required and routine testing per manufacturers' recommendations to maintain and keep ready stationary generators; usually on a weekly or

monthly schedule and for a time period not to exceed ninety (90) minutes and only between the hours of ten a.m. (10:00 a.m.) and four p.m. (4:00 p.m.).

**Q.** “Sound level meter” means an instrument meeting or exceeding American National Standard Institute’s Standard S1.4-1971 for Type 2 sound level meters, or an instrument and the associated recording and analyzing equipment that will provide equivalent data.

**R.** “Stationary generator – general use” means any UL 2200 listed natural gas and/or propane fired generator permanently installed and connected to the building’s electrical system with building permits issued by the city, and only intended to provide power during emergencies or utility power outages. Generators must not exceed sixty-five to seventy (65-70) dBA during full speed diagnostics and normal operations when measured in compliance with Section 9.54.020 and shall be setback a minimum of ten (10) feet from property lines.

**S.** “Stationary generator – public service buildings, health care providers, or utility provider” means any UL listed natural gas, diesel or propane fired generator permanently installed and connected to a building or a public utility’s electrical system to provide power during emergencies or utility power outages. Generators must not exceed sixty-five to seventy (65-70) dBA during full speed diagnostics and normal operations when measured in compliance with Section 9.54.020. Generators installed in a commercial or industrial district to power a health care building must be setback a minimum of ten (10) feet from property lines.

**9.54.020 Sound Level Measurements (General).**

- A. Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter as defined in Larkspur Municipal Code Section 9.54.010.
- B. The location selected for measuring exterior noise levels shall be at any appropriate point on the affected property. Where feasible the microphone shall be at a height of three (3) to five (5) feet above ground level and shall be at least four (4) feet from walls or similar reflecting surfaces. In the case of interior noise measurements, the windows shall be in normal seasonal configuration and the measurement shall be made at a point at least four (4) feet from the wall, ceiling or floor nearest the affected occupied area.

**9.54.030 General Noise Regulations.**

- A. Notwithstanding any other provision of this chapter and in addition thereto, it shall be unlawful for any person to make or cause to be made any sound that endangers or injures the safety or health of humans, or annoys or disturbs a reasonable person of normal sensitivities or endangers or injures personal or real property.
- B. The standards that shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

- 1. The sound level duration and character of the noise (sound level measured as per Larkspur Municipal Code Section 9.54.020).
- 2. The ambient noise level.
- 3. The proximity of the noise to sensitive areas of a receiving use. Such sensitive areas of a receiving use include, but are not limited to, sleeping facilities.
- 4. The nature and zoning of the area within which the noise emanates.
- 5. The time of day or night the noise occurs.
- 6. Whether the noise is continuous, recurrent or intermittent.

**9.54.040 Exterior Noise Limits.**

A. Unless otherwise specifically indicated in this chapter, it shall be unlawful for any person at any location within the City to create, or cause to be created, any noise that exceeds the applicable exterior noise limit as described below:

Receiving land use	Time	Noise level not to be exceeded for more than 30 minutes per hour (dBA)
Residential	7 AM – 10 PM	50
	10 PM – 7 AM	40
Commercial	Any time	60

B. The exterior noise limit shall be adjusted as follows:

Condition	Adjustment to exterior limit (dBA)
Noise contains a steady, <del>audible</del> discordant tone such as a whine <del>or</del> screech, <del>or</del> hum	-5
Noise is repetitive or impulsive (e.g., hammering, riveting)	-5
Noise consists of speech or music	-5
Noise occurs more than fifteen (15) but less than thirty (30) minutes per hour	+5
Noise occurs more than five (5) but less than fifteen (15) minutes per hour	+10
Noise occurs more than one but less than five (5) minutes per hour	+15
Noise occurs less than one minute per hour	+20

C. If the ambient noise level is less than that permitted by subsection (A) of this section, then the measured ambient noise level plus five (5) dBA shall be considered the “exterior noise limit,” but in no case shall the noise level exceed the maximum permitted by subsection (A) of this section.

D. If the ambient noise level exceeds that permitted by subsection (A) of this section, then the measured ambient level shall be considered the “exterior noise limit.”

E. For the purposes of this chapter, schools, hospitals and convalescent homes shall be considered residential land uses.

**9.54.050 Interior Noise Limits.**

A. It shall be unlawful for any tenant to create any noise from inside his unit that causes the noise level when measured in a neighboring apartment, condominium, townhouse or duplex in the same building to exceed thirty (30) dBA for more than thirty (30) minutes per hour.

B. The adjustments listed in Larkspur Municipal Code Section 9.54.040(B) shall be applied to the interior noise limit as appropriate.

C. If the ambient noise level is less than that permitted by subsection (A) of this section, then the measured ambient noise level plus five (5) dBA shall be considered the “interior noise limit,” but in no case shall the noise level exceed the maximum permitted by subsection (A) of this section.

D. If the ambient noise level exceeds that permitted by subsection (A) of this section, then the measured ambient level shall be considered the “interior noise limit.”

**9.54.060 Exemptions.**

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

A. School bands, school athletic and school entertainment events.

B. Outdoor gatherings, public dances, shows and sporting and entertainment events, provided said events are conducted pursuant to a license or permit by the City.

C. Activities conducted in parks, public playgrounds and school grounds, provided such parks, playgrounds and school grounds are owned and operated by a public entity or private school.

D. Any mechanical device, apparatus, machinery, ~~or~~ equipment, portable generator or manpower related to or connected with an emergency response activities or emergency work as defined in Larkspur Municipal Code Section 9.54.010(F).

E. A stationary generator as defined in Larkspur Municipal Code Section 9.54.010(R) and 9.54.010(S), installed and used during emergencies or utility power outages as defined in Larkspur Municipal Code Section 9.54.010(E), or for routine testing and maintenance as defined in Larkspur Municipal Code 9.54.010(P).

F. The sounding of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purposes or for their testing.

G. Devices used in conjunction with places of religious worship, such as bells, carillons, chimes and the like.

E.H. Noise sources exceeding the prescribed standards that are associated with construction, repair, remodeling, demolition, or paving of any real property, including noise from vehicles and equipment associated with these activities, occurring during the following time periods, except as otherwise provided in subsection (E.H)(3) of this section:

Monday – Friday (excluding holidays)	Seven a.m. to six p.m.
Saturday (excluding holidays)	Nine a.m. to five p.m.
Sunday/Holidays	No exemption from prescribed standards

1. This exemption is granted on the condition that all powered construction equipment is equipped with intake and exhaust mufflers recommended by the manufacturers thereof; pavement breakers and jackhammers shall also be equipped with acoustical attenuating shields or shrouds recommended by the manufacturers thereof.
2. In lieu of or in the absence of manufacturers' recommendations, the Public Works Director and/or the Planning Director or their designee shall have the authority to prescribe such means of accomplishing maximum noise attenuation as deemed necessary in the public interest, considering the available technology and economic feasibility.
3. The Planning Director or his designee may grant ~~special~~ exceptions to these time limitations for work performed on private property for:
  - ~~a. Emergency work as defined above in Larkspur Municipal Code Section 9.54.010, provided written notice is given to the Planning Director within forty eight (48) hours of commencing work.~~
  - ba. Resolution of unforeseen or unavoidable conditions occurring during a construction project and the nature of the project necessitates that work in progress be continued until a specific phase is completed.
  - eb. Work that the Planning Commission, City Council or Planning Director have determined should occur during certain hours because of special considerations, including, but not limited to, the existence of public safety concerns if the work was performed during daytime hours.
  - dc. When sufficient cause has been demonstrated to written permission of the Planning Director ~~has been obtained for showing of sufficient cause~~, for reasons other than those listed above.
4. The Public Works Director or his designee may grant ~~special~~ exceptions to ~~the these~~ time limitations for work performed on public facilities and/or within the public right-of-way for:
  - ~~a. Emergency work as defined above in Larkspur Municipal Code Section 9.54.010, provided written notice is given to the Public Works Director within forty eight (48) hours of commencing work.~~
  - ba. Construction projects of City, county, state, other public agency, or other public utility.
  - eb. When sufficient cause has been demonstrated to written permission of the Public Works Director ~~has been obtained for showing of sufficient cause~~, for reasons other than those listed above.
5. Requests for an exception permit from the time limitations as established in Section 9.54.060(H)(3) and 9.54.060(H)(4) are subject to the following requirements and procedures:
  - a. Payment of a fee in the amount set by Resolution of the City Council. This fee may be waived for emergency work.
  - b. A written description of the request. The written description shall include, but not necessarily be limited to:
    - i. Applicant's name;

- ii. Property owner's name (if different);
  - iii. Location of proposed work;
  - iv. Type of work proposed, and reason for the exception request;
  - v. A description of all equipment and manpower required to perform such work.
- c. Any additional documents as determined necessary, such as:
- i. Site plan with work location identified.
  - ii. Reports by consulting professionals that provides factual information to support the need for an exception permit.
  - iii. Application for building permit(s), if proposed work is not associated with a previously issued permit;
  - iv. Application for encroachment permit for any work, staging or storage of materials in the public right-of-way, if proposed work is not associated with a previously issued permit.
- d. Upon receipt of all required information, to the satisfaction of the Director of Public Works or Planning Director, a determination for approval or denial shall be issued in writing. If approved, the director may include conditions as determined necessary to protect the health, safety and welfare of residents and/or the general public, including requiring the applicant to provide notice to all properties within 300 feet of the subject site/location no less than three (3) days prior to beginning work. However, a longer noticing time period may be required by the Director if warranted by the scope of work and specific request.

~~F. The sounding of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device for emergency purposes or for their testing and the sounding of the fire whistle for time checks.~~

~~G. Devices used in conjunction with places of religious worship, such as bells, carillons, chimes, and the like.~~

**9.54.070 Pre-Existing Facilities – Transition Period.**

A. Any individual facility in existence prior to the effective date of this chapter, which violated and continues to violate the noise standards of this chapter, when the violation arises from a fixed noise source, shall be allowed one year commencing from the date of the notice of violation within which to comply with this chapter.

B. During said one-year period the owners of all such facilities shall make reasonable efforts to comply with the standards of this chapter and to reduce noise that exceeds the standards specified in this chapter. Commencing at the end of said one-year period, any such facility shall be subject to all applicable requirements of this chapter.

**9.54.080 Extension of the Transition Period.**

A. The owner or operator of a fixed noise source that violates the provisions of this chapter and the operation of which was in violation of this chapter prior to the effective date of the ordinance codified in this chapter may request from the Planning Commission an extension of the transition period provided for in Larkspur Municipal Code Section 9.54.070.

B. The Planning Commission may grant an extension to the transition provided it can make the following findings:

1. The applicant has reasonably endeavored to reduce the noise violation during the transition period.
2. Because of specific undue hardships the time extension is necessary for the applicant to alter his activity or operation to comply with this chapter.

3. The extension of time will not have a significant adverse impact on the health, safety, or welfare of the persons residing or working in the area affected by the noise source.

C. The time, place, and subject matter of the hearing on the extension shall be noticed in the following manner: notices shall be posted on the affected property, sent to all property owners listed in the current assessor's tax roll as owning property within three hundred (300) feet of the subject property, and posted at three (3) public noticing boards within the City..

D. The Planning Commission may prescribe any reasonable conditions or requirements it deems necessary to minimize adverse effects upon the community or the surrounding neighborhood.

E. The application shall be accompanied by a fee as established by the City Council.

F. At the request of either the Planning Director or the Planning Commission the applicant shall submit an acoustical study prepared by an acoustical engineer licensed by the State of California. The study shall include but not be limited to an assessment of the noise impacts of the subject noise violation, including establishing ambient sound levels as well as the sound level generated by the subject noise source; mitigation measures required to meet or better the City noise level standards, and estimates of the costs of implementing the mitigation measures. Further, the City may require the review of this noise study by another acoustical engineer of the City's choice, this review to be financed by the applicant.

G. An applicant for an extension shall remain subject to prosecution under the terms of this chapter until an extension is granted.

#### **9.54.090 Violation – Penalty.**

Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished as specified in Larkspur Municipal Code Section 4.04.1109.24.070.

#### **9.54.100 Violations – Additional Remedies – Injunctions.**

As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this chapter, that causes or creates sound levels exceeding the allowable limits as specified in this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement as provided by Larkspur Municipal Code Chapter 9.24.

#### **9.54.110 Appeals.**

Within fifteen (15) days following the decision of the Planning Commission on an application for any extension, any interested party may appeal the decision to the City Council by filing a notice of appeal with the City Clerk. The appeal shall be accompanied by a fee, as set by the City Council, and shall state clearly the reason for the appeal.

**Section 3. Environmental Clearance.** The amendments to the Chapter 9 Public Peace, Safety and Morals, amending Section 9.54 Noise Control Regulations to allow the operation of emergency generators for short durations is exempt from environmental review under the California Environmental Quality Act (CEQA) Guidelines per Section 15269 c., as this is a specific, short-term action or activity that is to be undertaken or deemed necessary to prevent or mitigate an emergency. The general revisions and reorganization of the language of this Section is exempt pursuant to CEQA Guidelines §15061 (b) (3) as these revisions, in and of themselves, do not have the potential for causing a significant effect on the environment as they do not allow for any new or expanded uses not otherwise permitted under existing federal, state and local regulations.

**Section 4. Severability.** If any section, subsection, sentence, clause or phrase or word of this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Larkspur hereby declares that it would have passed and adopted this Ordinance and each and all sections, subsections, sentences, clauses, phrases and words thereof irrespective of the fact that any one or more of said sections, subsections, sentences, clauses, phrases or words be declared unconstitutional, unlawful or otherwise invalid.

**Section 5. Effective Date of Publication.** This Ordinance of the City of Larkspur shall be effective thirty (30) after the date of its passage. Before expiration of fifteen (15) days after its passage, this Ordinance or a summary thereof as provided in California Government Code



Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Larkspur, along with the names of the members of the City Council voting for and against its passage.

**IT IS HEREBY CERTIFIED** that the foregoing Ordinance was duly introduced at a regular meeting of the Larkspur City Council held on the 6<sup>th</sup> day of May, 2020, and thereafter passed and adopted by the Larkspur City Council on the 20<sup>th</sup> day of May, 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS: Candell, Haroff, Hillmer, Paulson, and Mayor Way

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

ABSTAINING: COUNCILMEMBERS: None

/s/Catherine Way, Mayor

ATTEST:

/s/Alison Foulis, City Clerk