

ORDINANCE NO. 2021-618

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WOODSIDE AMENDING WOODSIDE MUNICIPAL CODE CHAPTER 153, ZONING, PERTAINING TO GENERATORS AND OTHER ALTERNATIVE POWER SOURCES FOR EMERGENCY OR MEDICAL PURPOSES IN THE REQUIRED SETBACKS (ZOAM2020-0004).

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;

WHEREAS, the Town of Woodside has received recent inquiries from residents about the use of emergency generators and other alternative power sources for their property;

WHEREAS, the Town of Woodside's General Plan calls for specific maximum ambient noise limitations to protect the peace and quiet of neighborhoods and community solitude, but the Town of Woodside currently has no implementing Noise Ordinance;

WHEREAS, the Town of Woodside's General Plan, Noise Element, did not anticipate the possibility of PG&E power shutoffs and the resulting interest in and need for backup generators and alternate power sources;

WHEREAS, the Town of Woodside seeks to ensure the continuation of utility services as essential and works with community in planning, identifying, and mitigating impacts from the PSPS events;

WHEREAS, such emergency generators and other alternative power sources serve as an important safety element during a prolonged power outage by maintaining power for essential uses, such as refrigeration systems and medical equipment;

WHEREAS, Municipal Code Chapter 153 provides regulations related to setbacks;

WHEREAS, property owners have had, in some instances, issues with emergency generators and other alternative power sources not meeting the minimum setback requirements for each zoning district. This results in not moving forward with the project and/or submitting an application for a Setback Exception or Variance, both of which are subject to Planning Commission approval, expensive and time-consuming;

WHEREAS, the Planning Commission explored possible amendments to the setback regulations related to emergency generators and other alternative power sources;

WHEREAS, the Town of Woodside is committed to inclusive public participation and involvement in matters pertaining to the General Plan and its Elements, and the Zoning Code;

WHEREAS, on December 2, 2020, the Planning Commission requested staff to explore a

more streamlined process for Setback Variance for generators and report on the difficulties with permitting generators and Tesla batteries;

WHEREAS, on December 16, 2020, the Planning Commission briefly discussed the concerns and provided a recommendation to hold a Study Session at the next Planning Commission meeting to discuss a simplified planning review process for emergency generators in the required setbacks and permitting challenges for energy storage systems;

WHEREAS, on January 6, 2021, the Planning Commission conducted a duly noticed public hearing at which time all oral and written comments and a Council recommendation were presented to the Planning Commission for their review and consideration; and the Planning Commission directed staff to return with draft code language;

WHEREAS, on January 20, 2021, the Planning Commission conducted a second duly noticed public hearing at which oral and written comments and a staff recommendation was presented to the Planning Commission for its review and consideration; and the Planning Commission considered draft code language responsive to its direction of January 6, 2021;

WHEREAS, the Planning Commission finds that the proposed amendments to Chapter 153, Zoning, implement the following Goals, Policies and Strategies of the 2012 General Plan:

- Goal NH1: Minimize Risks Posed by Hazards;
- Policy NH1.1: Regulate Land Use and Development to Protect Lives and Property;
- Policy NH1.9: Require Assessment and Mitigation of Fire Hazards;
- Strategy NH1.9.b: Update Regulations to Ensure Consistency with Current Fire Regulations;
- Strategy NH1.9.e: Promote Fire Safety and Planning Efforts;
- Policy PU1.1: Ensure Adequate Utilities;
- Policy PU1.3: Ensure Continuity of Utility Services;
- Policy PU2.2: Encourage the Installation of Alternative Power Sources; and,
- Policy PU2.3: Promote Safe and Site Sensitive Gas and Electric, and Alternative Power Sources.

WHEREAS, the intent of this Ordinance is to establish regulations governing the use of emergency generators and other alternative power sources which more fully protect the public health, safety, and welfare during prolonged power shut offs that will occur as part of the PSPS program;

WHEREAS, the Planning Commission finds that adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Section 151269(c) covering specific actions necessary to prevent or mitigate an emergency;

WHEREAS, the Planning Commission recommends that the Town Council find that the adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Section 151269(c) covering specific actions necessary to prevent or mitigate an emergency;

WHEREAS, on January 20, 2021, the Planning Commission adopted a Resolution of Intention and recommendation to the Town Council (Resolution No. 2021-002) to amend Chapter 153 (Zoning) of the Woodside Municipal Code (WMC) to codify an exception process to the minimum setback requirements for generators and other alternative power sources for emergency or medical purposes;

WHEREAS, on February 9, 2021, the Town Council conducted a duly noticed public hearing at which time all oral and written comments and a staff recommendation were presented to the Town Council for its review and consideration, and provided a first reading and introduction of this ordinance;

WHEREAS, on February 23, 2021, the Town Council conducted a public meeting, and provided a second reading of this ordinance; and,

WHEREAS, the Town Council finds that the adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Section 151269(c) covering specific actions necessary to prevent or mitigate an emergency.

NOW THEREFORE, IT IS HEREBY ORDAINED by the Town Council of the Town of Woodside to amend the Woodside Municipal Code as follows:

SECTION ONE: The Town Council finds that the Municipal Code amendments set forth herein is consistent with the General Plan of the Town of Woodside and is required for the public convenience and to achieve the health, safety, and welfare of the Town of Woodside.

SECTION TWO: Chapters 153, Zoning, of the Woodside Municipal Code is hereby amended pursuant to **Exhibit A**.

SECTION THREE: In the event that any provision of this ordinance is in conflict with any other ordinances of the Town of Woodside or the Woodside Municipal Code, the provisions of this ordinance shall prevail.

SECTION FOUR: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION FIVE: Pursuant to Section 36937 of the Government Code of the State of California, the Ordinance shall take effect and be in full force and effect thirty (30) days after its final passage.

SECTION SIX: The Town Clerk shall cause this Ordinance to be published in

accordance with the requirements of Section 36933 of the Government Code of the State of California.

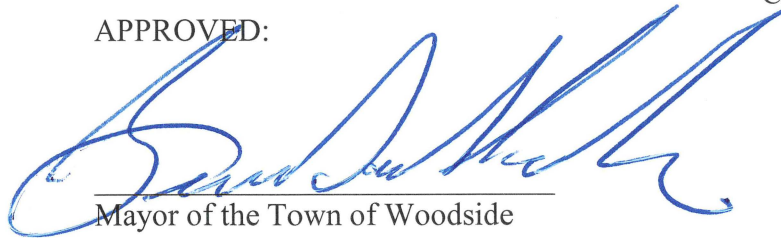
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I, the undersigned, hereby certify that the foregoing Ordinance is a full, true and correct copy of Ordinance No. 2021- 618 of the Town of Woodside entitled as above; that it was introduced on the 9th of February, 2021, and was passed and adopted by the Town Council on the 23rd of February, 2021, by the following vote:

AYES, Councilmembers: Brown, Carvell, Fluet, Scott, Shaw, Wall, and Mayor Dombkowski
NOES, Councilmembers:
ABSENT, Councilmembers:
ABSTAIN, Councilmembers:


Clerk of the Town of Woodside

APPROVED:


Mayor of the Town of Woodside

Attachment
Exhibit A

153.207 - SETBACKS

(A) - Setback requirements.

(1) Table H sets forth the basic *setback* requirements which apply to all zoning districts. *Setback* exceptions for *accessory dwelling units* within Residential Zoning Districts are set forth in Section 153.211. Such basic regulations are further defined and supplemented by the additional requirements and exceptions set forth in this section.

TABLE H: Setback Requirements in Zone Districts ^{1, 2}							
Zone District	Height	Basic Setbacks in Feet			Minimum Setbacks with Exceptions ⁶ in Feet		
		Front	Rear	Side	Front	Rear	Side
R-1	<17 feet 17-28 feet	30 30	25 25	15 22.5	20 25	17 20	10 17.5
R-1 ^{8, 9} (Glens Only) Lots <5,000 sq. ft.	<17 feet 17—28 feet	12.5 12.5	12.5 12.5	10 14	Additionally, one <i>setback</i> (front, rear or side) may be 5 feet. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
R-1 ^{8, 9} (Glens Only) Lots 5,000 sq. ft. to 15,000 sq. ft.	<17 feet	54.6 (lot size in acres - .115) + 12.5 [The range is 12.5 to 25]	54.6 (lot size in acres - .115) + 12.5 [The range is 12.5 to 25]	22 (lot size in acres - .115) + 10 [The range is 10 to 15]	Additionally, one <i>setback</i> (front, rear or side) may be 5 feet. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
	17—28 feet	54.6 (lot size in acres - .115) + 12.5	54.6 (lot size in acres - .115) + 12.5	>17 feet ht. = side <i>setback</i> above + 4 feet			
R-1 ^{8, 9} (Glens Only) Lots >15,000 sq. ft.	<17 feet	25	25	15	20 N/A	17 20	10 17.5
	17—28 feet	25	25	19	Additionally, one <i>setback</i> (front, rear or side) may be 5 feet for <i>lots</i> up to 20,000 sq. ft. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
SR	<17 feet	50	25	20	30	20	15

	17-30 feet	*	30	30	*	30	20
RR	<17 feet 17-30 feet	50 *	50 50	50 50	30 *	30 30	30 30
SCP	<17 feet 17-30 feet	50 *	50 50	50 50	30 *	30 30	30 30
OS ³	N/A	75	75	50	N/A	N/A	N/A
CC	N/A	— ⁴	25 ⁷	— ⁵	N/A	N/A	N/A

1 Refer to § 153.207(A)(9) for special *setbacks* applicable for *parcels* located on Moore Road, Valley Road, Valley Court, Lawler Ranch Road, and Cañada College.

2 Refer to § 153.211 for *setback* provisions related to *accessory dwelling units*.

3 OS refers to OSH, OSN OSRL, OSN and OSM

4 See § 153.208(A)(2)

5 See § 153.207(A)(8)(a)

6 Refer to §§ 153.207(D)(1) and 153.207(D)(2), which requires Discretionary Review. Discretionary Review shall not be required for the one small *setback* allowance for *parcels* located in the Glens which are <20,000 sq. ft.

7 Refer to § 153.207(A)(8)(b)

8 Refer to § 153.207(D)(2)(b)(1) for additional special *setbacks* for sheds and *garages* in the Glens.

9 Noticing requirements for special Glens *setbacks* for construction of new square footage outside of the existing footprint*:
 ≤ 500 sq. ft.: No notice.

>500 sq. ft. to 2,000 sq. ft.: Notice immediately adjacent neighbors.

>2,000 sq. ft.: Regular 300 feet radius notice.

*No special noticing required if adhering to standard R-1 *setbacks*.

* Any portion of a *structure* having a *height* in excess of 17 feet above the ground elevation at the *front setback* line shall be set back an additional two feet from the property line for each foot of *height* in excess of 17 feet, except in the R-1 District. *Height* shall be measured from the existing or *finished grade*, whichever presents the lower *building* profile.

- (2) No *setback* space provided for any *structure* in compliance with the regulations for the district in which the *setback* space is located shall be deemed to provide a *setback* space for any other *structure*, and no *setback* on one *lot* shall be deemed to provide a *setback* space for a *structure* on any other *lot*.
- (3) *Accessory buildings* and *structures* used for sheltering *livestock* shall conform to the following requirements in addition to conforming with all other applicable code provisions:
 - (a) *Pasture* or *corral fences* for maintaining or concentrating *livestock* shall conform with the location requirements of Chapter 115 of this *Code*.
 - (b) *Structures*, other than *fences* for housing, maintaining or concentrating *livestock*, fowl and small animals, shall be located as follows:
 1. Not less than 80 feet from any *main dwelling* existing on an adjoining *lot* in an SR and R-1 District, and 100 feet from any *main dwelling*, on an adjoining *lot*, in an OS, SCP and RR District at the time such *structure* is erected;
 2. Not less than 50 feet from any neighboring property line, when either the *parcel* upon which the *structure* is located or the adjoining *parcel* is in the OS, SCP or RR District; and not less than 40 feet from any neighboring property line, when either the *parcel* upon which the *structure* is located or the adjoining *parcel* is in the SR or R-1 District; and
 3. Not less than 50 feet from any front property line or a property line adjoining a street.
 - (c) Fenced enclosures, other than those included in division (a) of this division (3), for the concentration of fowl and other small animals shall not be less than 25 feet from any property line.
- (4) *Structures* housing fowl, rabbits, or other small animals shall be kept a minimum of 50 feet from *dwellings* on neighboring properties, and all required *setbacks* shall apply.
- (5) No part of a *constructed equestrian riding arena* shall be located within ten feet of any property line or ingress/egress easement pursuant to Section 153.207(B)(1).
- (6) Tennis courts, including *fences*, shall be set back at least 15 feet from the side and rear property lines. *Front setbacks* shall conform to those required for the zone district.
- (7) *Swimming pools* shall conform to the same *setback* requirements as the principal *structure* within each zoning district.
- (8) The following *setback* requirements shall apply to *parcels* in the CC District:
 - (a) No *side setback* shall be required for a *parcel* in the CC District, except where the side parcel line of the property in the CC District abuts directly on property in any residential district or on a public street, in which case the minimum width of the *side setback* for such *parcel* shall be 15 feet.
 - (b) No *rear setback* shall be required in the CC District for *structures* on *parcels* located entirely within the boundaries of the *Town Center* Parking Assessment District where a portion of the original *parcel* has been acquired by the *Town* for use in the same *Town Center* Parking Assessment District, consistent with the *Town Center Site Plan*, dated March 8, 1989, and with the engineer's report for the Woodside Road - Whiskey Hill Road Parking Assessment District, adopted October 5, 1989 by the *Town*.
- (9) Notwithstanding the other requirements of this chapter, the following special *setback* lines shall prevail where applicable for *parcels* located on Moore Road, Valley Road, Valley Court, Lawler Ranch Road, and Cañada College: no *building* or *structure* shall be constructed closer than 200 feet from the right-of-way of I-280.

(B) - Measurement of setbacks.

- (1) Required *setbacks* shall be measured horizontally from the front, side, or rear property line and from the interior boundaries of easements for ingress and egress, as appropriate to the measurement, to a line parallel thereto at the nearest point of a *structure* on the *lot*.
- (2) Where a *lot* abuts on a *road* having only a portion of its required width dedicated or reserved for *road* purposes, the required *setback* shall be measured from the line establishing the additional width required for *road* purposes abutting the *lot*.
- (3) On a *lot* which is not rectangular or approximately rectangular in shape, required *setbacks* shall be measured in the manner prescribed by the *Planning Director*.
- (4) For *lots* with frontage on more than one roadway, the *Planning Director* shall determine the *road* from which the *building site* would be most visible and apply *front setback* regulations to that roadway frontage of the *lot*.

(C) - Exceptions to setback requirements: Ministerial.

- (1) Chimneys; fire escapes; *bay windows*; *eaves*; cornices; canopies; stairway landings; uncovered balconies; *decks*; porches; stairs from the ground to an uncovered balcony; *deck*; or, accessible ramp or lift on *buildings* that are not open to the general public that comply with all applicable requirements in the Federal Americans with Disabilities Act or equivalent requirements in the California Code, whichever are applicable, may extend into a required *side setback* a distance of not more than three feet and into a required *front* or *rear setback* a distance of not more than six feet.
- (2) *Walls*; hedges; walks; *driveways*; *garage* aprons; uncovered decks three feet or less above the ground; landscape features, such as patios, and water features, other than *swimming pools*; or, accessible ramp or lift on *buildings* that are open to the general public that comply with all applicable requirements in the Federal Americans with Disabilities Act or equivalent requirements in the California Code, whichever are applicable, may be located in any required *setback*.
- (3) Utility meters may be located in any required *setback*, at the discretion of the *Planning Director*.
- (4) Electrical vehicle charging stations and natural gas fueling dispensers may be located in any required *setback* if it is determined that the proposed installation will not have a specific, adverse impact upon the public health or safety.
- (5) Waterline backflow preventer devices.
 - (a) Waterline backflow preventer devices may encroach into any required *setback* if all of the following criteria are met:
 1. Devices for waterlines that are two inches in diameter or smaller shall be located at least ten feet from the edge of the driving surface of adjacent *roads*, and from the edge of the trail tread, defined as the travel surface of any trail. Devices for waterlines that are over two inches in diameter shall be located at least 25 feet from the edge of the driving surface of adjacent *roads*, and from the edge of the trail tread, defined as the travel surface of any trail.
 2. The bottom of the horizontal portion of the device, or the point where two angled pipes intersect on the device, must not be more than 12 inches above *grade* as measured from the *grade* to the lowest part of the device, and not more than 30 inches above *grade* as measured from the *grade* to the tallest part of the device, unless an exception is obtained pursuant to division (C)(5)(b) below. The intent is to install the device as low as possible.
 3. Devices on residential properties shall be painted to blend into the surrounding area. Devices on commercial properties shall be painted to blend into the surrounding area, unless painting the device is prohibited by the most recently adopted fire protection regulations. Bronze, brass, copper, and stainless steel devices may be left unpainted.

4. The devices shall be screened by planting, and/or *fencing* approved by *Town* staff, so that they are not visible from the *road* or adjacent properties, unless prohibited by the most recently adopted fire protection regulations. All approved screening shall remain in place as long as the devices are located within any required *setbacks*.
5. The location of the devices shall not create a health and safety hazard.
- (b) The *Planning Director* may allow an exception to the requirements in divisions (C)(5)(a)1. through (C)(5)(a)3. if there are natural or manmade physical limitations existing on the site that prohibit meeting one or more of the requirements in divisions (C)(5)(a)1. through (C)(5)(a)3. of this section.
- (6) Where a *building wall* is not parallel to a *parcel* line, a portion of the *building* may project into the required *setback* provided:
 - (a) The average depth or width of the *setback* is at least equal to the required least depth or width otherwise required; and
 - (b) The *setback* is not less in depth or width at any point than 90 percent of the least width or depth otherwise required in the zoning district in which the *lot* is located.
- (7) *Setback* encroachments for nonconforming main residences and *additions* to *nonconforming building* features, listed in division (C)(1), are permitted, pursuant to Subsections 153.236(B)(2) and 153.236(B)(3).
- (8) Where a *lot* is situated between two *lots*, each of which has a main *building* located within 25 feet of the side lines of the *lot* in question, and such *buildings* are located nearer the street line than the depth of the *front setback* required for the district in which they are situated, the least depth of the *front setback* required for such *parcel* shall be equal to the greater depth of the *front setbacks* of such existing *buildings*.
- (D) - Exceptions to setback requirements: Discretionary.

(1) **Setback exceptions for residential zones**

(a) **Purpose.**

1. To allow for the granting of exceptions to the *setback* regulations in the *Town's* four residential zones, the *Town* has determined that in certain *lot*, site, and neighborhood situations, in the R-1, SR, RR, and SCP Districts, exceptions to *setback* regulations shall be considered;
2. To establish a procedure allowing for flexible design of all residential zoned properties, in hillside areas or elsewhere, so that development may be concentrated in those areas with the greatest environmental carrying capacity and limited in areas with low environmental carrying capacity;
3. To establish a procedure or eliminate the rigidity, delays, and inequities that otherwise would result from the application of conventional residential *setback* regulations designed primarily for larger *parcels* or more level sites;
4. To establish a procedure whereby the *Town* may authorize desirable residential developments consistent with the spirit and intent of the General Plan and the zoning ordinance without requiring numerous and difficult variance applications;
5. To encourage variety, avoid monotony, and maintain natural features of residential areas by allowing property owners greater freedom in selecting the means to provide access, light, *open space* and amenities.

- (b) **Exception procedures.** Residential *setback* exception may be granted by the *Planning Commission*. An application and a brief but adequate site plan and elevations are required, as prescribed by the *Planning Director*. The *Planning Director* shall provide public notice of the

exception as prescribed in Section 153.963(B)(2). A public hearing shall be held before any exception shall be granted. Exceptions may be granted subject to the following restrictions:

1. *Setback* exceptions may be granted for the main residence, and, except in the R-1 zone, for *accessory structures*;
2. Except where the findings under division (D)(1)(c) can be made, an exception to a *setback* may only be allowed if the *setback* on the opposite side of the property is increased by a like amount, e.g., side to side, front to rear, and the like. Prior to issuance of any *building permit*, a restrictive covenant running with the property shall be recorded reflecting the revised *setbacks*, and shall be accompanied by a site map reflecting the same;
3. The *Planning Commission* may grant exceptions subject to conditions in order to assure privacy of the applicant or adjacent neighbors. Measures required to protect privacy, may include, but are not limited to, additional second *story setbacks*, deletion of windows on certain *walls* or revising their location or size or design to minimize viewing opportunities, landscaping, fencing, or other appropriate screening, restricting outdoor living space and activities or equipment which generates excessive noise in the reduced *setback*, and other measures deemed necessary to prevent visual intrusion, noise impacts, or obstruction of view corridors or light.
4. Exceptions shall not be granted to permit encroachment greater than the limits prescribed in Table H, in Section 153.207.

(c) **Findings.** The *Planning Commission* shall make all of the following findings as a condition to granting a *setback* exception:

1. a. There are no alternatives available to the owner which would conform with zoning regulations; or
b. The available conforming alternatives would cause greater adverse impact on natural features or adjacent residents than the proposed exception; or
c. The applicant demonstrates that the proposed exception will conform to the *setback* pattern of development in the surrounding area (if finding (C)(1) shall be made pursuant to division (c), the applicable *setback* provided in the table may be reduced accordingly provided that no *setback* be reduced to less than that allowed by Section 153.207, Table H); and
2. The proposed exception will cause no significant negative environmental impacts to the applicant's property, adjacent properties, or to the surrounding neighborhood and *Town*;
3. The proposed exception will cause no significant adverse impact on the privacy of the applicants or the adjacent neighbors;
4. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting *setback* exceptions, and regulations as adopted in this title; and
5. The proposed exception is consistent in spirit and intent with the goals and objectives of the *Town's* General Plan.

(2) **Setback exceptions for the Glens—Ministerial and Discretionary**

(a) **Purpose.**

1. To allow for the granting of exceptions to the *setback* regulations, in addition to the ministerial and discretionary exceptions in Sections 153.207(C) and (D), in the Glens residential neighborhood, the *Town* has determined that in certain *lot*, site, and neighborhood pattern situations, in this R-1 District, exceptions to *setback* regulations shall be granted;
2. To establish a procedure allowing for flexible design of the Glens properties, affected by hillside and other constraints, so that development may be concentrated in those areas

with the greatest environmental carrying capacity and limited in areas with low environmental carrying capacity;

3. To establish a procedure or eliminate the rigidity, delays, and inequities that otherwise would result from the application of conventional residential *setback* regulations designed primarily for larger *parcels* or more level sites;
 4. To establish a procedure whereby the *Town* may authorize desirable residential developments consistent with the spirit and intent of the General Plan and the zoning ordinance without requiring numerous and difficult variance applications; and
 5. To encourage variety, avoid monotony, and maintain neighborhood pattern and natural features of the Glens by allowing property owners greater freedom in selecting the means to provide access, light, *open space* and amenities.
- (b) **Exception procedures.** A residential *setback* exception shall be reviewed by the *Planning Director*. Exceptions shall be granted, subject to the following restrictions and conditions:
1. **Ministerial.** *Setback* exceptions shall not reduce any *setback* below five feet; with the exception of: one non-habitable shed not to exceed 120 square feet, with a maximum plate height of eight feet and maximum ridge height of ten feet, which may be placed within three feet of a side or rear property line and which shall only have windows on an elevation located five feet or more from the property line; and a parking *garage*, *carport* or parking platform, which may be placed within zero feet of a front yard *setback*. All *structures* shall also abide by any other required *setbacks* required in this Chapter or by an outside agency, including, but not limited to a riparian *setback*; and
 2. **Discretionary.** The *Planning Director* may grant exceptions for *parcels* > 20,000 square feet as listed in Table H, subject to conditions in order to assure privacy of the applicant or adjacent neighbors. Measures required to protect privacy, may include, but are not limited to, continuation of a nonconforming *setback* only along one yard with an existing nonconforming *setback* to maintain neighborhood pattern, additional second *story setbacks*, deletion of windows on certain *walls* or revising their location or size or design to minimize viewing opportunities, landscaping, fencing, or other appropriate screening, restricting outdoor living space and activities or equipment which generates excessive noise in the reduced *setback*, and other measures deemed necessary to prevent visual intrusion, noise impacts, or obstruction of view corridors or light.
- (c) **Findings.** The *Planning Director* shall make all of the following findings as a condition to granting a *setback* exception:
1. a. There are no alternatives available to the owner which would conform with zoning regulations; or
 - b. The available conforming alternatives would cause greater adverse impact on natural features or adjacent residents than the proposed exception; or
 - c. The applicant demonstrates that the proposed exception will conform to the *setback* pattern of development of the adjacent properties;
 2. The proposed exception will cause no significant negative environmental impacts to the applicant's property, adjacent properties, or to the surrounding neighborhood and *Town*;
 3. The proposed exception has considered and mitigated any significant adverse impact on the privacy of the applicants or the adjacent neighbors;
 4. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting *setback* exceptions, and regulations as adopted in this title; and
 5. The proposed exception is consistent in spirit and intent with the goals and objectives of the *Town's* General Plan.

(3) Setback exceptions for generators and other alternative power sources for emergency or medical purposes.

(a) **Findings.** An exception may be granted by the Planning Director to the minimum setback requirements for generators and other alternative power sources for emergency or medical purposes, pursuant to the following findings:

1. The setback encroachment shall not exceed the minimum setback prescribed by the setback exceptions for each zoning district as listed in WMC Section 153.207(A)(1)(Table H);
2. There are no alternatives available to the property owner which would conform with zoning regulations;
3. The proposed setback encroachment minimizes impacts on natural features and adjacent residents;
4. The proposed exception is necessary to accommodate generators and other alternative power sources, for emergency purposes or medical purposes, where power outages due to both natural occurrences, as well as PG&E Public Safety Power Shutoffs (PSPSs), have become increasingly frequent;
5. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting setback exceptions, and regulations as adopted in this title; and,
6. The proposed exception is consistent in spirit and intent with the goals and objectives of the Town's General Plan.

(b) **Operational Conditions.**

1. The sound output of the emergency generator(s) and/or other alternative power source(s) shall not exceed 70 dB(A) at 23 feet per the manufacturer's specifications; and,
2. Periodic equipment testing for emergency generator(s) and/or other alternative power source(s) shall be performed only during the hours of operation listed in Section 151.55(B).

(c) **Noticing.** The Planning Director shall notice the owner(s) of the property(ies) adjacent to the property line for which the exception is being sought for the proposed emergency generators and/or other alternative power sources at least 10 days prior to the decision.

(Ord. 2017-589, effective 8-24-17; Am. Ord. [2019-602](#), § 2(Exh. A), effective 12-12-19; Am. Ord. [2020-604](#), § 2(Exh. A), effective 2-27-20)

153.207 - SETBACKS

(A) - Setback requirements.

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R-1	<17 feet 17-28 feet	30 30	25 25	15 22.5	20 25	17 20	10 17.5
R-1 ^{8,9} (Glens Only) Lots <5,000 sq. ft.	<17 feet 17—28 feet	12.5 12.5	12.5 12.5	10 14	Additionally, one <i>setback</i> (front, rear or side) may be 5 feet. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
R-1 ^{8,9} (Glens Only) Lots 5,000 sq. ft. to 15,000 sq. ft.	<17 feet	54.6 (lot size in acres - .115) + 12.5 [The range is 12.5 to 25]	54.6 (lot size in acres - .115) + 12.5 [The range is 12.5 to 25]	22 (lot size in acres - .115) + 10 [The range is 10 to 15]	Additionally, one <i>setback</i> (front, rear or side) may be 5 feet. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
	17—28 feet	54.6 (lot size in acres - .115) + 12.5	54.6 (lot size in acres - .115) + 12.5	>17 feet ht. = side <i>setback</i> above + 4 feet			
R-1 ^{8,9} (Glens Only) Lots >15,000 sq. ft.	<17 feet 17—28 feet	25 25	25 25	15 19	20	17	10
					N/A	20	17.5
					Additionally, one <i>setback</i> (front, rear or side) may be 5 feet for <i>lots</i> up to 20,000 sq. ft. This one <i>setback</i> shall be the <i>setback</i> to which the existing <i>structure</i> is the closest.		
SR	<17 feet 17-30 feet	50 *	25 30	20 30	30 *	20 30	15 20

RR	<17 feet 17-30 feet	50 *	50 50	50 50	30 *	30 30	30 30
SCP	<17 feet 17-30 feet	50 *	50 50	50 50	30 *	30 30	30 30
OS ³	N/A	75	75	50	N/A	N/A	N/A
CC	N/A	— ⁴	25 ⁷	— ⁵	N/A	N/A	N/A

1 Refer to § 153.207(A)(9) for special *setbacks* applicable for *parcels* located on Moore Road, Valley Road, Valley Court, Lawler Ranch Road, and Cañada College.

2 Refer to § 153.211 for *setback* provisions related to *accessory dwelling units*.

3 OS refers to OSH, OSN OSRL, OSN and OSM

4 See § 153.208(A)(2)

5 See § 153.207(A)(8)(a)

6 Refer to §§ 153.207(D)(1) and 153.207(D)(2), which requires Discretionary Review. Discretionary Review shall not be required for the one small *setback* allowance for *parcels* located in the Glens which are <20,000 sq. ft.

7 Refer to § 153.207(A)(8)(b)

8 Refer to § 153.207(D)(2)(b)(1) for additional special *setbacks* for sheds and *garages* in the Glens.

9 Noticing requirements for special Glens *setbacks* for construction of new square footage outside of the existing footprint*:
 ≤ 500 sq. ft.: No notice.
 >500 sq. ft. to 2,000 sq. ft.: Notice immediately adjacent neighbors.
 >2,000 sq. ft.: Regular 300 feet radius notice.

*No special noticing required if adhering to standard R-1 *setbacks*.

* Any portion of a *structure* having a *height* in excess of 17 feet above the ground elevation at the *front setback* line shall be set back an additional two feet from the property line for each foot of *height* in excess of 17 feet, except in the R-1 District. *Height* shall be measured from the existing or *finished grade*, whichever presents the lower *building* profile.

- (2) No *setback* space provided for any *structure* in compliance with the regulations for the district in which the *setback* space is located shall be deemed to provide a *setback* space for any other *structure*, and no *setback* on one *lot* shall be deemed to provide a *setback* space for a *structure* on any other *lot*.

- (3) *Accessory buildings and structures* used for sheltering *livestock* shall conform to the following requirements in addition to conforming with all other applicable code provisions:
- (a) *Pasture or corral fences* for maintaining or concentrating *livestock* shall conform with the location requirements of Chapter 115 of this *Code*.
 - (b) *Structures*, other than *fences* for housing, maintaining or concentrating *livestock*, fowl and small animals, shall be located as follows:
 - 1. Not less than 80 feet from any *main dwelling* existing on an adjoining *lot* in an SR and R-1 District, and 100 feet from any *main dwelling*, on an adjoining *lot*, in an OS, SCP and RR District at the time such *structure* is erected;
 - 2. Not less than 50 feet from any neighboring property line, when either the *parcel* upon which the *structure* is located or the adjoining *parcel* is in the OS, SCP or RR District; and not less than 40 feet from any neighboring property line, when either the *parcel* upon which the *structure* is located or the adjoining *parcel* is in the SR or R-1 District; and
 - 3. Not less than 50 feet from any front property line or a property line adjoining a street.
 - (c) Fenced enclosures, other than those included in division (a) of this division (3), for the concentration of fowl and other small animals shall not be less than 25 feet from any property line.
- (4) *Structures* housing fowl, rabbits, or other small animals shall be kept a minimum of 50 feet from *dwellings* on neighboring properties, and all required *setbacks* shall apply.
- (5) No part of a *constructed equestrian riding arena* shall be located within ten feet of any property line or ingress/egress easement pursuant to Section 153.207(B)(1).
- (6) Tennis courts, including *fences*, shall be set back at least 15 feet from the side and rear property lines. *Front setbacks* shall conform to those required for the zone district.
- (7) *Swimming pools* shall conform to the same *setback* requirements as the principal *structure* within each zoning district.
- (8) The following *setback* requirements shall apply to *parcels* in the CC District:
- (a) No *side setback* shall be required for a *parcel* in the CC District, except where the side parcel line of the property in the CC District abuts directly on property in any residential district or on a public street, in which case the minimum width of the *side setback* for such *parcel* shall be 15 feet.
 - (b) No *rear setback* shall be required in the CC District for *structures* on *parcels* located entirely within the boundaries of the *Town Center Parking Assessment District* where a portion of the original *parcel* has been acquired by the *Town* for use in the same *Town Center Parking Assessment District*, consistent with the *Town Center Site Plan*, dated March 8, 1989, and with the engineer's report for the Woodside Road - Whiskey Hill Road Parking Assessment District, adopted October 5, 1989 by the *Town*.
- (9) Notwithstanding the other requirements of this chapter, the following special *setback* lines shall prevail where applicable for *parcels* located on Moore Road, Valley Road, Valley Court, Lawler Ranch Road, and Cañada College: no *building* or *structure* shall be constructed closer than 200 feet from the right-of-way of I-280.

(B) - Measurement of setbacks.

- (1) Required *setbacks* shall be measured horizontally from the front, side, or rear property line and from the interior boundaries of easements for ingress and egress, as appropriate to the measurement, to a line parallel thereto at the nearest point of a *structure* on the *lot*.

- (2) Where a *lot* abuts on a *road* having only a portion of its required width dedicated or reserved for *road* purposes, the required *setback* shall be measured from the line establishing the additional width required for *road* purposes abutting the *lot*.
 - (3) On a *lot* which is not rectangular or approximately rectangular in shape, required *setbacks* shall be measured in the manner prescribed by the *Planning Director*.
 - (4) For *lots* with frontage on more than one roadway, the *Planning Director* shall determine the *road* from which the *building site* would be most visible and apply *front setback* regulations to that roadway frontage of the *lot*.
- (C) - Exceptions to setback requirements: Ministerial.

- (1) Chimneys; fire escapes; *bay windows*; *eaves*; cornices; canopies; stairway landings; uncovered balconies; *decks*; porches; stairs from the ground to an uncovered balcony; *deck*; or, accessible ramp or lift on *buildings* that are not open to the general public that comply with all applicable requirements in the Federal Americans with Disabilities Act or equivalent requirements in the California Code, whichever are applicable, may extend into a required *side setback* a distance of not more than three feet and into a required *front* or *rear setback* a distance of not more than six feet.
- (2) *Walls*; hedges; walks; *driveways*; *garage* aprons; uncovered decks three feet or less above the ground; landscape features, such as patios, and water features, other than *swimming pools*; or, accessible ramp or lift on *buildings* that are open to the general public that comply with all applicable requirements in the Federal Americans with Disabilities Act or equivalent requirements in the California Code, whichever are applicable, may be located in any required *setback*.
- (3) Utility meters may be located in any required *setback*, at the discretion of the *Planning Director*.
- (4) Electrical vehicle charging stations and natural gas fueling dispensers may be located in any required *setback* if it is determined that the proposed installation will not have a specific, adverse impact upon the public health or safety.
- (5) Waterline backflow preventer devices.
 - (a) Waterline backflow preventer devices may encroach into any required *setback* if all of the following criteria are met:
 1. Devices for waterlines that are two inches in diameter or smaller shall be located at least ten feet from the edge of the driving surface of adjacent *roads*, and from the edge of the trail tread, defined as the travel surface of any trail. Devices for waterlines that are over two inches in diameter shall be located at least 25 feet from the edge of the driving surface of adjacent *roads*, and from the edge of the trail tread, defined as the travel surface of any trail.
 2. The bottom of the horizontal portion of the device, or the point where two angled pipes intersect on the device, must not be more than 12 inches above *grade* as measured from the *grade* to the lowest part of the device, and not more than 30 inches above *grade* as measured from the *grade* to the tallest part of the device, unless an exception is obtained pursuant to division (C)(5)(b) below. The intent is to install the device as low as possible.
 3. Devices on residential properties shall be painted to blend into the surrounding area. Devices on commercial properties shall be painted to blend into the surrounding area, unless painting the device is prohibited by the most recently adopted fire protection regulations. Bronze, brass, copper, and stainless steel devices may be left unpainted.
 4. The devices shall be screened by planting, and/or *fencing* approved by *Town* staff, so that they are not visible from the *road* or adjacent properties, unless prohibited by the most recently adopted fire protection regulations. All approved screening shall remain in place as long as the devices are located within any required *setbacks*.
 5. The location of the devices shall not create a health and safety hazard.

- (b) The *Planning Director* may allow an exception to the requirements in divisions (C)(5)(a)1. through (C)(5)(a)3. if there are natural or manmade physical limitations existing on the site that prohibit meeting one or more of the requirements in divisions (C)(5)(a)1. through (C)(5)(a)3. of this section.
 - (6) Where a *building wall* is not parallel to a *parcel* line, a portion of the *building* may project into the required *setback* provided:
 - (a) The average depth or width of the *setback* is at least equal to the required least depth or width otherwise required; and
 - (b) The *setback* is not less in depth or width at any point than 90 percent of the least width or depth otherwise required in the zoning district in which the *lot* is located.
 - (7) *Setback* encroachments for nonconforming main residences and *additions* to *nonconforming building* features, listed in division (C)(1), are permitted, pursuant to Subsections 153.236(B)(2) and 153.236(B)(3).
 - (8) Where a *lot* is situated between two *lots*, each of which has a main *building* located within 25 feet of the side lines of the *lot* in question, and such *buildings* are located nearer the street line than the depth of the *front setback* required for the district in which they are situated, the least depth of the *front setback* required for such *parcel* shall be equal to the greater depth of the *front setbacks* of such existing *buildings*.
- (D) - Exceptions to setback requirements: Discretionary.

(1) **Setback exceptions for residential zones**

(a) **Purpose.**

1. To allow for the granting of exceptions to the *setback* regulations in the *Town's* four residential zones, the *Town* has determined that in certain *lot*, site, and neighborhood situations, in the R-1, SR, RR, and SCP Districts, exceptions to *setback* regulations shall be considered;
2. To establish a procedure allowing for flexible design of all residential zoned properties, in hillside areas or elsewhere, so that development may be concentrated in those areas with the greatest environmental carrying capacity and limited in areas with low environmental carrying capacity;
3. To establish a procedure or eliminate the rigidity, delays, and inequities that otherwise would result from the application of conventional residential *setback* regulations designed primarily for larger *parcels* or more level sites;
4. To establish a procedure whereby the *Town* may authorize desirable residential developments consistent with the spirit and intent of the General Plan and the zoning ordinance without requiring numerous and difficult variance applications;
5. To encourage variety, avoid monotony, and maintain natural features of residential areas by allowing property owners greater freedom in selecting the means to provide access, light, *open space* and amenities.

(b) **Exception procedures.** Residential *setback* exception may be granted by the *Planning Commission*. An application and a brief but adequate site plan and elevations are required, as prescribed by the *Planning Director*. The *Planning Director* shall provide public notice of the exception as prescribed in Section 153.963(B)(2). A public hearing shall be held before any exception shall be granted. Exceptions may be granted subject to the following restrictions:

1. *Setback* exceptions may be granted for the main residence, and, except in the R-1 zone, for *accessory structures*;
2. Except where the findings under division (D)(1)(c) can be made, an exception to a *setback* may only be allowed if the *setback* on the opposite side of the property is increased by a

like amount, e.g., side to side, front to rear, and the like. Prior to issuance of any *building permit*, a restrictive covenant running with the property shall be recorded reflecting the revised *setbacks*, and shall be accompanied by a site map reflecting the same;

3. The *Planning Commission* may grant exceptions subject to conditions in order to assure privacy of the applicant or adjacent neighbors. Measures required to protect privacy, may include, but are not limited to, additional second *story setbacks*, deletion of windows on certain *walls* or revising their location or size or design to minimize viewing opportunities, landscaping, fencing, or other appropriate screening, restricting outdoor living space and activities or equipment which generates excessive noise in the reduced *setback*, and other measures deemed necessary to prevent visual intrusion, noise impacts, or obstruction of view corridors or light.
4. Exceptions shall not be granted to permit encroachment greater than the limits prescribed in Table H, in Section 153.207.

(c) **Findings.** The *Planning Commission* shall make all of the following findings as a condition to granting a *setback* exception:

1. a. There are no alternatives available to the owner which would conform with zoning regulations; or
- b. The available conforming alternatives would cause greater adverse impact on natural features or adjacent residents than the proposed exception; or
- c. The applicant demonstrates that the proposed exception will conform to the *setback* pattern of development in the surrounding area (if finding (C)(1) shall be made pursuant to division (c), the applicable *setback* provided in the table may be reduced accordingly provided that no *setback* be reduced to less than that allowed by Section 153.207, Table H); and
2. The proposed exception will cause no significant negative environmental impacts to the applicant's property, adjacent properties, or to the surrounding neighborhood and *Town*;
3. The proposed exception will cause no significant adverse impact on the privacy of the applicants or the adjacent neighbors;
4. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting *setback* exceptions, and regulations as adopted in this title; and
5. The proposed exception is consistent in spirit and intent with the goals and objectives of the *Town's* General Plan.

(2) **Setback exceptions for the Glens—Ministerial and Discretionary**

(a) **Purpose.**

1. To allow for the granting of exceptions to the *setback* regulations, in addition to the ministerial and discretionary exceptions in Sections 153.207(C) and (D), in the Glens residential neighborhood, the *Town* has determined that in certain *lot*, site, and neighborhood pattern situations, in this R-1 District, exceptions to *setback* regulations shall be granted;
2. To establish a procedure allowing for flexible design of the Glens properties, affected by hillside and other constraints, so that development may be concentrated in those areas with the greatest environmental carrying capacity and limited in areas with low environmental carrying capacity;
3. To establish a procedure or eliminate the rigidity, delays, and inequities that otherwise would result from the application of conventional residential *setback* regulations designed primarily for larger *parcels* or more level sites;

4. To establish a procedure whereby the *Town* may authorize desirable residential developments consistent with the spirit and intent of the General Plan and the zoning ordinance without requiring numerous and difficult variance applications; and
 5. To encourage variety, avoid monotony, and maintain neighborhood pattern and natural features of the Glens by allowing property owners greater freedom in selecting the means to provide access, light, *open space* and amenities.
- (b) **Exception procedures.** A residential *setback* exception shall be reviewed by the *Planning Director*. Exceptions shall be granted, subject to the following restrictions and conditions:
1. **Ministerial.** *Setback* exceptions shall not reduce any *setback* below five feet; with the exception of: one non-habitable shed not to exceed 120 square feet, with a maximum plate height of eight feet and maximum ridge height of ten feet, which may be placed within three feet of a side or rear property line and which shall only have windows on an elevation located five feet or more from the property line; and a parking *garage*, *carport* or parking platform, which may be placed within zero feet of a front yard *setback*. All *structures* shall also abide by any other required *setbacks* required in this Chapter or by an outside agency, including, but not limited to a riparian *setback*; and
 2. **Discretionary.** The *Planning Director* may grant exceptions for *parcels* > 20,000 square feet as listed in Table H, subject to conditions in order to assure privacy of the applicant or adjacent neighbors. Measures required to protect privacy, may include, but are not limited to, continuation of a nonconforming *setback* only along one yard with an existing nonconforming *setback* to maintain neighborhood pattern, additional second *story setbacks*, deletion of windows on certain *walls* or revising their location or size or design to minimize viewing opportunities, landscaping, fencing, or other appropriate screening, restricting outdoor living space and activities or equipment which generates excessive noise in the reduced *setback*, and other measures deemed necessary to prevent visual intrusion, noise impacts, or obstruction of view corridors or light.
- (c) **Findings.** The *Planning Director* shall make all of the following findings as a condition to granting a *setback* exception:
1. a. There are no alternatives available to the owner which would conform with zoning regulations; or
 - b. The available conforming alternatives would cause greater adverse impact on natural features or adjacent residents than the proposed exception; or
 - c. The applicant demonstrates that the proposed exception will conform to the *setback* pattern of development of the adjacent properties;
 2. The proposed exception will cause no significant negative environmental impacts to the applicant's property, adjacent properties, or to the surrounding neighborhood and *Town*;
 3. The proposed exception has considered and mitigated any significant adverse impact on the privacy of the applicants or the adjacent neighbors;
 4. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting *setback* exceptions, and regulations as adopted in this title; and
 5. The proposed exception is consistent in spirit and intent with the goals and objectives of the *Town's* General Plan.

(3) Setback exceptions for generators and other alternative power sources for emergency or medical purposes.

(a) **Findings.** An exception may be granted by the Planning Director to the minimum setback requirements for generators and other alternative power sources for emergency or medical purposes, pursuant to the following findings:

1. The setback encroachment shall not exceed the minimum setback prescribed by the setback exceptions for each zoning district as listed in WMC Section 153.207(A)(1)(Table H);
2. There are no alternatives available to the property owner which would conform with zoning regulations;
3. The proposed setback encroachment minimizes impacts on natural features and adjacent residents;
4. The proposed exception is necessary to accommodate generators and other alternative power sources, for emergency purposes or medical purposes, where power outages due to both natural occurrences, as well as PG&E Public Safety Power Shutoffs (PSPSs), have become increasingly frequent;
5. The proposed exception is consistent in spirit and intent with residential zoning district purposes, including the purposes for granting setback exceptions, and regulations as adopted in this title; and,
6. The proposed exception is consistent in spirit and intent with the goals and objectives of the Town's General Plan.

(b) **Operational Conditions.**

1. The sound output of the emergency generator(s) and/or other alternative power source(s) shall not exceed 70 dB(A) at 23 feet per the manufacturer's specifications; and,
2. Periodic equipment testing for emergency generator(s) and/or other alternative power source(s) shall be performed only during the hours of operation listed in Section 151.55(B).

(c) **Noticing.** The Planning Director shall notice the owner(s) of the property(ies) adjacent to the property line for which the exception is being sought for the proposed emergency generators and/or other alternative power sources at least 10 days prior to the decision.

(Ord. 2017-589, effective 8-24-17; Am. Ord. [2019-602](#), § 2(Exh. A), effective 12-12-19; Am. Ord. [2020-604](#), § 2(Exh. A), effective 2-27-20)