

ORDINANCE NO. NS-502.8

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA REPEALING
CHAPTER VII OF DIVISION B3 OF THE COUNTY OF SANTA CLARA
ORDINANCE CODE AND ENACTING A NEW CHAPTER VII
RELATING TO SPECIAL EVENTS ON COUNTY ROADS**

Summary

This ordinance repeals Chapter VII of Division B3 and enacts a new Chapter VII of Division B3 of the Ordinance Code of the County of Santa Clara to provide updates to the issuance of permits for special events on County roads in the unincorporated territory of Santa Clara County.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: Chapter VII of Division B3 of the Ordinance Code of the County of Santa Clara is hereby repealed in its entirety and a new Chapter VII of Division B3 is hereby added to read as follows:

**CHAPTER VII
SPECIAL EVENTS ON COUNTY ROADS**

Section B3-145. Purpose and intent.

It is the intent of the Board of Supervisors to establish standards for the issuance of a permit for special events to use County roads. The purpose of this chapter is to provide a coordinated process for managing special events to ensure the health and safety of event patrons, residents, motorized and non-motorized users of the roads, workers and other visitors, to prohibit illegal activities from occurring at the events, and to protect the rights of the special event permit holders. Examples of events include, but are not limited to, parades, street fairs, festivals, block parties, organized athletic or sporting events, and community celebrations and observances which involve the use of, or have an impact on, public rights of way. It is also the intent of the Board of Supervisors to protect the rights of people to engage in expressive activities in the County's public places and to establish reasonable time, place, and manner regulation of these activities. It is further intended to create mechanisms for cost recovery and use charges to the extent authorized by law, while not unduly impacting the viability of special events.

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Special Events on County Roads
Ordinance

Section B3-146. Definitions.

As used in this chapter, the following terms and phrases have the indicated meanings:

- (a) *Applicant* means any person, partnership, association, corporation or other entity that seeks a special event permit from the Director of Roads and Airports or designee to conduct or sponsor a special event governed by this chapter. An applicant must be 18 years of age or older.
- (b) *Block Party* means a festive gathering on a Road or area requiring a closure of a Road, or a portion thereof, to vehicular traffic or otherwise restricting the general public use of the Road right-of-way and use of the Road for the festivity.
- (c) *Director* means the Director of the County Roads and Airports Department or the Director's authorized representative.
- (d) *Expressive Activity* means conduct, the principal or sole object of which is the expression, dissemination, or communication by verbal, visual, literary, or auditory means of opinions, views, or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.
- (e) *Road* means any County street or highway, except those under the jurisdiction of the County Director of Parks and Recreation, as the term is defined in the California Vehicle Code, and includes the entire width of right-of-way including, but not limited to, the portion set apart by curbs, barriers, markings, or other delineation for pedestrian travel. A Road also includes any portion of an expressway located within unincorporated county.
- (f) *Permit Application Fee* means the fee to be paid by the special events permit applicant at the time the application is filed with the Roads and Airports Department, pursuant to the fee schedule established by resolution of the Board of Supervisors.
- (g) *Permittee* means any person or organization issued a special events permit by the Director.

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(h) *Special Event* means:

- (1) A parade, march, procession, demonstration, or assembly consisting of fifty or more persons, animals, motorized or non-motorized vehicles (including, but not limited to, cars, motorcycles, and bicycles), which is to assemble on a Road or travel in unison on a Road; or
- (2) Any activity or event on the Road which requires temporary closure of a Road or portion thereof, or does not comply with normal or usual traffic regulations or controls; or
- (3) Any activity or event on the Road which requires the placement of a tent, canopy, or other temporary structure, including, but not limited to, medical stations, rest-stops, and portable toilets, on the Road.

(i) *Major Special Event* that requires a special event permit means:

- (1) A Special Event which requires temporary closure of a Road or portion thereof; or
- (2) A Special Event on a Road involving 500 or more people.

(j) *Minor Special Event* that requires a special event permit means:

- (1) A Special Event on a Road involving fewer than 500 people that does not comply with normal or usual traffic regulations or controls; or
- (2) A Special Event on a Road involving fewer than 500 people that requires the placement of a tent, canopy, or other temporary structure including, but not limited to, medical stations, rest-stops, and portable toilets, on the Road.

(k) *Special Event Permit* means a permit issued pursuant to this chapter.

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Section B3-147. Permits required.

- (a) Any person intending to conduct, organize, or set up a major or minor special event or block party on a Road shall first obtain a special event permit from the Director. The following guidelines should be used to determine the type of special event permit required:
- (1) If the event is a festive gathering, which is stationary in nature and is usually characterized by a single neighborhood congregating to celebrate, and requires the closure of a Road or otherwise restricts the general public use of the Road then the procedures for obtaining a Special Event Permit for a block party shall be followed.
 - (2) If the event is a Major Special Event then the procedures for obtaining a Special Event Permit for a Major Special Event shall be followed.
 - (3) If the event is a Minor Special Event then the procedures for obtaining a Special Event Permit for a Minor Special Event shall be followed.
 - (4) If the event on the Road involves conduct that is protected by the First Amendment and is likely to require closure of a Road or does not comply with normal or usual traffic regulations or controls and includes, but is not limited to the expression, dissemination, or communication by verbal, visual literary, or auditory means of opinion, views, or ideas then the procedures for obtaining a Special Event Permit for Expressive Activity shall be followed.
 - (5) An activity or event involving more than 50 people and fewer than 500 people where the persons march, walk, run, ride, bike, skate, or drive on a Road and obey all traffic regulations and controls does not require a permit pursuant to Section B3-148(b).
- (b) Each permit shall state the date, time, and area for which it was issued, the name of the person(s) or organization to which it is issued and any conditions and limitations upon which the permit is issued.
- (c) Spontaneous events that are occasioned by news or affairs coming into public knowledge fewer than 48-hours prior to such events may be conducted at the James P. McEntee, Sr. Plaza at the County Government Center, 70 West Hedding Street, San Jose, California without organizers first having to obtain a Special Event Permit. If practicable, the organizers should give notice to the Office of the County Executive at least four hours prior to the event, informing the Office of the County Executive of the date and time of the event and

providing an estimate of the approximate number of persons who will be participating. Events that require advance planning, such as, recreation events, competition/spectator sports, fairs, festivals, carnivals, ticketed events or events that require a permit from the Planning Department or Santa Clara County Fire Department for the placement of structures shall not be considered to be spontaneous events.

- (d) The procedures or requirements of this chapter shall not affect or supersede the provisions of law or the permit requirements for the issuance of alcohol consumption, fireworks, sign, structural, electrical, or other permits required by this code or state law, when such permits are otherwise required because of a particular condition or requirement of the major or minor special event or block party.
- (e) A permit is required from the County when the event occurs on a Road, including an event that traverses a portion of any other jurisdiction and from which a valid and current permit is obtained.

Section B3-148. Exceptions from the permit requirement.

A special event permit shall not be required under this chapter for the following activities. These activities must comply with all applicable traffic regulations and controls, and laws and regulations governing public health and safety.

- (a) Funeral processions by a licensed mortuary or funeral home.
- (b) An activity or event involving more than 50 and fewer than 500 people where the persons march, walk, run, ride, bike, skate, or drive on a Road and obey all traffic regulations and controls. The organizers of such activities or events may issue a press release to local news organizations, and are encouraged to provide notice to the County Executive, or his or her designee, no later than 48 hours prior to the event. The notice should specify the date, time, and location of the proposed march, walk, run, ride, bike, skate, or drive.

Section B3-149. Application for special event permit.

- (a) Any person sponsoring a special event not exempted by this chapter must apply for a special event permit by filing a verified application with the Roads and Airports Department on a form supplied by the County.
- (b) Unless otherwise specified in Section B3-149(b)(1)-(3), the written application for a special event permit for a major special event shall be filed not less than sixty (60) calendar days prior to the event.

- (1) An application for a special event by an applicant engaging in expressive activity for which a permit is required will be filed not less than seven (7) calendar days prior to the event.
 - (2) An application for a minor special event will be filed not less than thirty (30) calendar days prior to the event.
 - (3) An application for a block party will be filed not less than fifteen (15) calendar days prior to the event.
- (c) An application fee for a permit to conduct a major or minor special event or block party will be accompanied by a non-refundable permit application fee in an amount established by resolution of the Board of Supervisors.

Section B3-150. San Antonio Valley “Good Neighbor” Standards.

- (a) The San Antonio Valley (“Valley”) is a remote and sparsely-populated area in eastern Santa Clara County and is the last significant expanse of open space between the San Francisco Bay Area and the Great Central Valley. It is home to a wide variety of natural communities including tule elk, rainbow trout, red-legged frogs, cougars, kit foxes, and native plants.
- (b) Access to the Valley is served by three two-lane County rural roads: San Antonio Valley Road, Mines Road, and Del Puerto Canyon Road (collectively referred to as “San Antonio Roads”). The San Antonio Roads are the only access roads available to San Antonio Valley residents and visitors, fire protection and law enforcement services, and emergency medical responders. The San Antonio Roads are characterized by steep inclines and embankments, sharp cut back curves, and narrow widths.
- (c) The remoteness and treacherous terrain of the Valley coupled with the limited and difficult access to the Valley for residents and visitors, fire protection and law enforcement services, and emergency medical responders support “Good Neighbor” Standards (“Standards”) for events occurring on San Antonio Roads and subject to this chapter, including those events governed by Section B3-148(b). In addition to complying with all other requirements of this Ordinance, events in the Valley should meet the following Standards, when applicable:
 - (1) All users of the road should be cautious of one another and operate motorized and non-motorized vehicles safely.

- (2) Unless the road is closed or special traffic controls are in effect participants in events in the San Antonio Valley, and all other road users, are expected to obey all traffic regulations and controls.
- (3) All users of the road should be aware of slow moving objects and make adjustments to travel speed. Slow moving objects usually travel 25 mph or less and include, but are not limited to, farm tractors, horse trailers, bicycles, and road maintenance vehicles.
- (4) Notice of the event will be posted at The Junction Bar & Grill prior to the event by the County.
- (5) Avoid trespassing on private property.
- (6) Clean up litter and debris from the event.
- (7) The Standards identified in B3-150(c)(1)-(6) are not intended to abrogate any rights, responsibilities, and duties that activities must follow on any County road.

Section B3-151. Permit review.

- (a) Subject also to Section B3-153, the Director must issue a special event permit for a minor or major special event or block party, if it is determined that all of the following criteria have been met:
 - (1) The proposed use of the Road is not governed by or subject to any other permit procedures provided elsewhere in this code or applicable laws, rules, or regulations.
 - (2) The preparation for or the conduct of the proposed event will not unreasonably or unfeasibly burden County resources necessary to preserve the public's use of the Road, the area contiguous to the Road, or other public property.
 - (3) The preparation for or the conduct of the proposed event will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the particular permit area or adversely affect the County's ability to perform County functions or furnish County services in the vicinity of the permit area.
 - (4) The proposed event does not otherwise present a substantial or unwarranted safety, noise, or traffic hazard.

- (5) For events that will result in a Road closure and traffic diversion, a Temporary Traffic Control Plan has been prepared addressing the proposed detour routes to the extent such a plan is required.
 - (6) The applicant has explained the manner of providing notice of permit conditions to businesses and residents who may be directly affected by the conduct of the event.
 - (7) The proposed event will not cause adverse impacts on health or safety to surrounding residential or commercial uses, which cannot be effectively mitigated.
- (b) Unless otherwise specified in Section B3-151(b)(1)-(3), the application for a major special event must be approved or conditionally approved in writing by the Director within thirty (30) calendar days of submission of the application.
- (1) An application for a special event by an applicant engaging in expressive activity for which a permit is required must be approved within two (2) business days of submission of the application.
 - (2) An application for a minor special event must be approved or conditionally approved within fifteen (15) calendar days of submission.
 - (3) An application for a block party must be approved or conditionally approved within seven (7) calendar days of submission.
- (c) In deciding whether to approve an application for any special event permit, no consideration may be given to the message of the event, the content of the speech, the identity of the associational relationships of the applicant or to any assumptions or predictions as to the amount of hostility which may be aroused in the public by the content of speech or message conveyed by the event.

Section B3-152. Denial/revocation of a special event permit.

- (a) The Director must deny a special event permit or revoke a special event permit if the Director determines from a consideration of the application and other pertinent information that one or more of the following exists:
- (1) One or more of the approval criteria specified in Section B3-151(a) is not met.

- (2) The applicant has knowingly or deliberately made a false, misleading, or fraudulent statement of a material fact in the application.
 - (3) The application does not contain the information to satisfy the requirements of this chapter.
 - (4) The applicant has failed to conduct a previously authorized major or minor special event or block party in accordance with the law, including the terms of the special event permit, or has failed to reimburse the County for property damage caused by the event, unless the applicant demonstrates changes to the operation of the event have been made to ensure compliance with the law and special event permit requirements for the event under consideration.
 - (5) The event is prohibited by any local or state law, statute, rule, ordinance or regulation.
 - (6) The applicant fails to comply with any permit conditions authorized by B3-153.
 - (7) The applicant fails to agree as a condition of permit issuance that if the Road, or portion thereof, is destroyed or damaged by reason of permittee's event and the damage or destruction is directly attributable to the permittee, the permittee must reimburse the County for the actual replacement or repair cost of the destroyed or damaged property.
- (b) When the grounds for denial of an application for a special event permit specified in Section B3-152(a) can be corrected by altering the date, time, duration, route, or location of the event, the Director must conditionally approve the application, instead of denying the application.
- (c) All decisions to deny or to conditionally approve a permit must be in writing and must set forth the reasons for the denial or conditional approval and reference to the appeal procedure in Section B3-154. Notification is deemed satisfied when the notice is placed, postage prepaid, in the United States mail, certified mail, return receipt requested, and addressed to the applicant at the address shown on the permit application. The written notice of denial or conditional approval must also be given by either electronic mail or facsimile.
- (d) Unless otherwise specified in Section B3-152(d)(1)-(3), the decision to deny a permit for a major special event must be in writing and must be made by the Director within (30) calendar days of submission of the application.

- (1) An application for a special event by an applicant engaging in expressive activity for which a permit is required must be denied in writing by the Director within two (2) business days of submission of the application. The Director must also promptly attempt to notify the applicant by telephone.
 - (2) An application for a minor special event must be denied in writing by the Director within fifteen (15) calendar days of submission.
 - (3) An application for a block party must be denied in writing by the Director within seven (7) calendar days of submission.
- (e) If a permit is revoked pursuant to this section, the Director must immediately notify in writing the permittee of the decision, the reasons for the revocation, and reference to the appeal procedure in Section B3-154. Notification is deemed satisfied when the notice is placed, postage prepaid, in the United States mail, certified mail, return receipt requested, and addressed to the applicant at the address shown on the permit application. Notification must also be given by electronic mail or facsimile.

Section B3-153. Permit conditions.

The Director may condition the issuance of a special event permit by imposing reasonable requirements concerning the time, place, or manner of holding such event as is necessary to coordinate multiple uses of Roads, which are necessary to protect the health, safety, and welfare of persons and property, and to provide for adequate control of vehicular, bicycle, and pedestrian traffic at and around the event, provided that such requirements must not be imposed in a manner that will unreasonably restrict expressive or other activity protected by the California or United States constitutions. Such conditions may include, but need not be limited, to the following:

- (a) Alteration of the date, time, and route or location of the event proposed on the application.
- (b) Conditions concerning the area of assembly and disbanding of the event.
- (c) Conditions concerning accommodation of pedestrian or vehicular traffic, including restricting the event on only a portion of the Road.
- (d) Requirements for use of temporary traffic control devices, including traffic cones, barricades, signs, pavement markings, and traffic control officers.

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- (e) Requirements for provision of first aid, sanitary or emergency facilities, including provisions for handicap accessible sanitary facilities.
- (f) Requirements for use of event monitors and some method for providing notice of permit conditions to event participants.
- (g) Requirements to notify businesses and residents who may be directly affected by the conduct of the event within a reasonable amount of time prior to the event.
- (h) Requirements for showing proof of consent by a private property owner to place a structure on private property.
- (i) Conditions concerning pre-event activities impacting the Road.
- (j) Restrictions on the number and type of vehicles, animals, or structures at the event and inspection and approval of structures for fire safety by the Santa Clara County Fire Department.
- (k) Compliance with animal protection ordinances and laws.
- (l) Compliance with the County's National Pollutant Discharge Elimination System stormwater compliance program.
- (m) Requirements for use of garbage containers, clean-up, and restoration of Roads and public property.
- (n) Restrictions on use of amplified sound or public address systems.
- (o) Compliance with all portions of this chapter, and any relevant ordinance or law in obtaining any legally required permits or licenses.
- (p) Requirements to obtain any necessary permits issued by the Santa Clara County Department of Environmental Health for the sale and/or distribution of food and/or beverages at the event.
- (q) The manner by which alcohol sales and services, if any, shall be conducted at the event and the obtaining of any necessary permits to sell and serve alcohol.

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Section B3-154. Notification of Decision and Appeals.

(a) For all events other than those engaging in expressive activity, the County shall notify the applicant of the Director's decision on the same day the decision is made. The Director's decision shall be accompanied by an appeal form that the applicant may complete and submit for an appeal of the Director's decision. The appeal must be filed with the Clerk of the Board of Supervisors within five (5) business days of the applicant's verification of receipt of the Director's decision. Verification of receipt shall occur when the County is notified by the United States Postal Service that the notice of the decision has been delivered to the applicant. The County Executive, or his or her designee in the event the County Executive is unavailable, will decide the appeal within one (1) business day of receipt of the appeal. The County Executive's decision must be in writing and must be final except for judicial review.

(1) All notices issued pursuant to Section B3-154(a) must be made by transmitting the notice through the United States Postal Service express mail overnight service on the same day the decision is made to the applicant at the mailing address listed on the permit application. Notice must also be given by electronic mail or facsimile, and by telephone, on the same day the decision is made.

(b) The County shall notify the applicant for a special event engaging in expressive activity of the Director's decision on the same day the decision is made. The decision must be accompanied by an appeal form. The applicant may appeal the Director's decision to the County Executive by filing written notice of such appeal to the Clerk of the Board of Supervisors within twenty-four (24) hours of the Director's decision. The County Executive, or his or her designee in the event the County Executive is unavailable, will decide the appeal within one business day of receipt. The County Executive's decision must be in writing and must be final except for judicial review.

(1) All notices issued pursuant to Section B3-154(b) must be made in a manner that will facilitate receipt of the decision on the day it is made. This includes electronic mail or facsimile, or both. Notification must also be made by a telephone call to the applicant on the day of the decision.

(c) The County Executive, or his or her designee, shall hear all appeals de novo and approve, disapprove, or modify the decision of the Director.

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Special Events on County Roads
Ordinance

Section B3-155. Insurance and indemnity.

- (a) Except as otherwise prohibited by law or when an exemption is obtained as provided by this chapter, the permittee should procure and maintain in full force and effect during the term of the permit a policy of insurance from a reliable insurance company authorized to do business in the state, which policy includes the County, its boards, officers, agents, employees and volunteers as named insureds or additional named insureds and which provides the coverage that the County's Department of Risk Management determines to be necessary and adequate under the circumstances. The insurance requirements must be reasonable and attainable for the applicant. Proof of insurance must be submitted to the County prior to issuance of the permit, and maintenance of this insurance must be a condition of the permit.
- (b) If the Department of Risk Management determines that a particular use, event, or activity that is for a permit period of no more than one day does not present a substantial or significant public liability or property damage exposure for the County or its officers, agents, employees or volunteers, the Department of Risk Management may give a written waiver of the insurance requirements of this section.
- (c) Except as otherwise prohibited by law, each permittee must execute a hold harmless agreement in a form approved by the County agreeing to defend, indemnify, and hold harmless the County against losses and liabilities incurred from the conduct of the permittee or its officers, employees, or agents.
- (d) The insurance and indemnity requirements in this section must not be construed to apply to special events under this chapter involving expressive activity that enjoys protection under the United States or California constitutions except that such parades or events must be required to either: (1) agree to indemnify, protect, defend and hold harmless the County, its officers and employees against all claims, damages, expenses, loss or liability of any kind or nature whatsoever arising out of, or resulting from, the alleged acts or omissions of applicant, its officers, agents or employees in connection with the permitted special event; or (2) agree to redesign or reschedule the permitted event to respond to specific risks, hazards, and dangers to the public health and safety identified by the Director as being reasonably foreseeable consequences of the permitted special event; or (3) provide insurance coverage as required by subsection (a) of this section.

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Section B3-156. Cleanup.

The permittee must keep the special event, the surrounding real property, and all other areas used for activities related to the special event free from and remove from such real property all debris, trash, garbage, refuse, vector and animal harboring or breeding sources or other waste. Within 72 hours after the termination of the special event, the permittee must clean up, remove from the special event location and surrounding real property and other areas used for special event activities, and properly dispose of all debris, trash, garbage, vector and animal harboring or breeding sources or other waste.

Section B3-157. Non-transferability of permit.

A permit granted under this chapter must be required for each and every separate special event. The permit must not be transferable either as to the permittee or location. Any attempt to transfer the permit will automatically render it invalid.

Section B3-158. Unlawful acts.

It shall be unlawful to:

- (a) Hold or conduct a special event without first obtaining a permit for the special event as required by this chapter.
- (b) Willfully violate the terms and conditions of the special event permit.
- (c) Conduct or hold a special event without complying with all of the conditions of the permit or provisions of this chapter.

Section B3-159. Penalty.

The violation of any provision of Section B3-158 is subject to an administrative fine or penalty in accordance with the procedures and requirements of Division A37 of the Santa Clara County Ordinance Code.

Section B3-160. County Executive administrative authority.

The County Executive, or his or her designee, is authorized to promulgate and amend administrative rules, regulations, and procedures that are consistent with and that further the terms and requirements set forth within this chapter and the provisions of law that pertain to the conduct and operation of an activity regulated by this chapter.

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Section B3-163. Sunset.

This chapter shall become inoperative on September 2, 2011, unless the Board of Supervisors takes action before September 2, 2011 to extend the operative date of this chapter.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California this _____ day of _____, 2010, by the following vote:

AYES: Supervisors
NOES: Supervisors
ABSENT: Supervisors
ABSTAIN: Supervisors

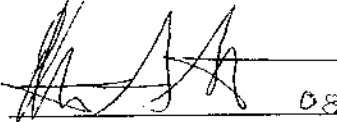
KEN YEAGER, President
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

ATTEST:

MARIA MARINOS
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



08/16/2010
ELIZABETH G. PIANCA
Deputy County Counsel