

Special Events/Filming on County Roads

January, 2017 Update Report

1. Background

In February, 2016, the Napa County Board of Supervisors adopted Ordinance No. 1411 (the “ordinance revisions”), amending Chapter 10.24 of the Napa County Code, which governs the conduct of special events and filming activities on public roads in Napa County. This followed a nearly year-long process to engage stakeholders and local community partners to arrive at a group of changes to these regulations in response to concerns expressed by Board members, staff and the public.

Key changes to the regulations included:

1. Frequency of events/impacts to arterial roadways

- a. Events are now limited to a maximum of two per month, and a maximum of one per weekend, on any arterial roadway. A second event may be permitted on the same date as another, if the two combine to a total of less than 3,000 participants.
- b. Full closure of any arterial roadway is only permitted for events with at least 1,000 participants.

2. Date reservation system

The ordinance revisions laid out the following basic sequence for applicants to obtain permits:

- a. Written request for date up to one year in advance
- b. Deposit six months in advance
- c. Complete application including remaining fee ninety days in advance

3. Notification requirements

Organizers must place message boards along the event course for all events (not just those with closures).

4. Fees

- a. Fees for special events are now configured with a “base fee” which is common to all events, and an “hourly fee” which encourages applicants to submit complete application packages.
- b. Waivers are only granted for events in which a minimum 25% of net revenue goes to a qualifying local organization.

5. Emergency Medical Services (EMS)

County EMS has clarified its requirements for the safe conduct of these events. These requirements have been made available to event applicants on the special events page on the website.

6. Route cleanup

Organizers are required to post a “cleaning deposit” to ensure the event course is left in good shape. Events qualifying for fee waivers are not exempt from posting this deposit.

7. Filming permits

Filming activity has been consolidated into the rules governing the conduct of Special Events.

8. Relay events

Relay events are no longer permitted on State Route 29 or Silverado Trail north of Trancas Street.

9. Impacts to agricultural activities

Applicants must commit to limit the impact of their events on agricultural activities.

2. Experiences During 2016

The provisions of Ordinance No. 1411 became effective in May, 2016, shortly after the beginning of the 2016 events' "season." During 2016 the following activities occurred:

1) Permit applications were processed for 26 events

- a) 2 of these were cancelled after applying.
- b) Staff was contacted by 7 organizers regarding new events:
 - i) 1 revised their event to avoid Napa County roads
 - ii) 1 did not pursue holding their event
 - iii) 2 did not require permits
- c) 3 new events were permitted in 2016:
 - i) 1 of these was a "car tour" which ended up being one of the cancelled events
- d) The total number of events was up from 2015 (24 events), but less than the 2014 peak (27 events).
- e) 3 prior events did not return:
 - i) The organizer of the Napa Valley Inline Marathon claimed our fees were \$25,000.

County special event fees for 2016 were \$1,143.11. Other costs incurred in conducting special events include contracts for CHP and emergency medical resources.

CHP contracts ranged from \$400 for the smallest events to over \$18,000 for the largest (Napa Valley Marathon and the HITS Triathlon Series). The Inline Marathon was charged \$2,900 in past years for CHP services.

Contracts with AMR, the local emergency medical resource provider, are typically in the range of \$500 to \$5,000 (Ragnar Relay). A specific figure for the Inline Marathon's AMR contract is not available.

- ii) The Zooma Napa Valley Half Marathon and 10K was a relatively new event (first held in 2014) which did not renew in 2016.
- iii) The Tour de Vine event, organized by the Napa County Bicycle Coalition, was determined to be exempt from permit requirements.
- f) This "exemption," based on the ordinance definition, was applied to 2 new events and 1 returning event (more on this topic in Section 4.3 below).
- g) One event changed its previously-traditional date to avoid exceeding the 2/month rule.
- h) The "one additional event on the same date" new rule was used once.
- i) Relays:
 - i) The last one north of Trancas Street, the Golden Gate Relay, was held on April 30 under the old rules. They have applied for a permit for 2017 which will comply with new rules.
 - ii) The first one under new rules, the Ragnar Relay, was held November 5, using a course which terminated at Skyline Park.

2) Improved public outreach

- a) The County has developed a new page on its website: www.countyofnapa.org/RoadEvents
 - i) The web page includes a new email contact for use by event organizers and the public: RoadEvents@countyofnapa.org
 - ii) Application materials are now available online.

- iii) The County has published a list of “blackout” dates.
- iv) The County has developed and disseminated new and improved EMS guidelines.
- v) The web page includes an online contact form for use by the public.
- vi) The County has linked special events to its GIS mapping application.
- b) The County has increased its use of Nixle notifications.
- c) Event organizers were required to increase advance posting of events on event courses.

3) New fee waiver requirements

- a) 2 past waiver recipients opted not to pursue waivers.
- b) Staff members have observed that those receiving a fee waiver do not have any incentive to be efficient with their application materials, which the hourly fee was designed to promote.

4) Date reservation system

- a) Staff identified a need to clarify the “first come, first served” vs. “priority by seniority” system. The result is a proposed system by which date requests for all dates in a calendar month one year out are collected during the first 7 days of the month, then dates are assigned by the seniority of the event. Any requests received after this request window are handled on a first come, first served basis.
- b) The ordinance revisions require a deposit of ½ the required fee 6 months in advance, but application materials 90 days in advance. Staff needs to receive an application in order to process payment of the fee deposit in the County’s financial system. Since the date reservation system has been working successfully, most events are reserving dates a year in advance, and thus there is no need to collect the deposit earlier than the timing of when the application is due. Staff proposes to simplify this so that the application and full fee are due 90 days ahead of the event.

3. How 2017 Is Shaping Up

Date reservations are starting out strongly for year 2017 so far. As of the end of October, 2016, 17 events have requested dates in 2017 already. One of these is a proposed new event.

4. Proposed Changes

During the first year of operations under Ordinance No. 1411, (the “ordinance revisions”), most things have run quite smoothly. It is recommended to retain all of the changes that were made in that action. Staff has also identified the following items which are recommended for additional improvement of the process, to improve customer service or further clarify requirements.

4.1 Application Process

4.1.1 Date Reservations

The ordinance revisions included a provision that applicants may submit a written request to reserve a date, up to one year in advance. The request must include the date requested, a map depicting the course of the event, and the expected number of participants.

The ordinance revisions also include new limitations on the frequency of events – no more than two per month, and no more than one per weekend, on any arterial roadway. During the outreach to stakeholders which led to the adoption of the ordinance revisions, there was a discussion that in the application of these frequency limitations, priority would be given to recurring events on the basis of their “seniority” (that is, the number of years the same event has been conducted). However, the application of this during the first year identified an unintended possibility. If new or less-senior events

reserve dates early in a given month, exactly one year ahead of the dates they are requesting, a more-senior event later in the month may not be able to comply with the frequency limitations if it has to wait until exactly one year in advance of its desired date.

It is proposed to resolve this by a slight revision to the date reservation system. Event organizers will be invited to submit requests for dates during the first seven days of each calendar month, for any dates during that month in the following year. At the end of this seven-day period, staff will evaluate all requests against the frequency limitations, giving priority by seniority. Any requests after that time will be evaluated on a first-come, first-served basis. To accomplish this, the ordinance would be revised as follows:

10.24.040 Permit - Application--Fee.

A. Any person desiring to conduct a special event shall file with the director a request to reserve a date ~~up to one year in advance of the requested date~~. This request shall include the date requested, a map depicting the course of the event, and the expected number of participants. **The request to reserve a date may be filed during the first seven (7) days of the calendar month being requested, during the calendar year prior to the date being requested. If at the end of this seven (7)-day period, there are more requests than can be approved consistent with the provisions of this chapter for a given date, priority shall be given based on the number of years the event has been conducted on similar dates in the past. Following this initial seven (7)-day period, dates shall be assigned consistent with the provisions of this chapter on a first-come, first-served basis.**

4.1.2 Application Sequence

Currently, the application process flows as follows:

- Up to 12 months in advance – written request to reserve a date
- 6 months in advance – pay ½ of the base fee
- 90 days in advance – submit complete application and balance of base fee

The date reservation system has proven to be quite effective in implementing the new frequency limitations (maximum of 2 per month, 1 per weekend on any arterial road). As noted above, we have received many requests to reserve dates in 2017 already. By contrast, separating the payment of the base fee into two payments has proven to be an additional administrative burden without significant benefit. It is proposed to eliminate the initial payment at the 6-month point and simply require a complete application and payment of the full fee no later than 90 days in advance of an event. The ordinance would be revised as follows:

10.24.040 Permit - Application--Fee.

~~B. A deposit equal to one half of the base fee established by resolution of the board of supervisors shall be submitted to the director no less than six months in advance of the event date.~~

D. A complete application for a special event permit, **including full payment of the base fee or approval of any request for waiver of the fee**, shall be submitted to the director not less than ninety calendar days, nor more than twelve months in advance of the proposed special event. ...

4.1.3 Fee Waivers

One of the changes made in the ordinance revisions dealt with the requirements for non-profit organizations to qualify for a waiver of the application fee. Section 10.24.070(C) states that a waiver

cannot be granted unless the applicant is a local 501(c)3 organization or designates a 501(c)3 local partner, and that a minimum of 25% of net revenues are designated for that local organization or local partner. It was observed that at least one longstanding event which has routinely qualified for a fee waiver is conducted by an organization which is a 501(c)4, not a 501(c)3.

The IRS defines these categories as follows:

- 501(c)3: Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations
- 501(c)4: Civic Leagues, Social Welfare Organizations, and Local Associations of Employees

There are a total of 29 categories of tax-exempt non-profit organizations listed under Section 501(c) of the Internal Revenue Code. Staff feels that it is consistent with the Board's action in 2016 to include any bona fide tax-exempt non-profit organization, as long as it is locally based, and proposes to revise the ordinance as follows:

C. Notwithstanding any other provision of the county code or policies, a waiver of the fee for special events shall not be approved by the director unless (1) the applicant is a local 501(c)~~(3)~~ organization or has designated a local 501(c)~~(3)~~ partner; and (2) a minimum of twenty-five percent of net revenues are designated for said local organization or local partner. **The deposit required in subsection (F) below shall not be waived.**

The deposit in subsection (F) which is referenced here, is a fully refundable "cleaning deposit," which is collected to ensure that all event organizers leave the course free of litter, debris or damage. Staff recommends that it is important that all event organizers be required to post this deposit and recommends this language to clarify that requirement.

4.1.4 Blackout Dates

County staff has worked together with the California Highway Patrol and other agency partners to identify a list of "blackout" dates – dates with significant regional-scale events which already pose a substantial burden on the workload of law enforcement, EMS and other essential services – on which no permits for special events or filming activity will be issued. The identified blackout dates for 2016 included

- Bottle Rock/Memorial Day
- Auction Napa Valley
- NASCAR (Sonoma Raceway)
- Independence Day
- NHRA (Sonoma Raceway)
- Labor Day

During the past year, staff has identified the need to add one additional regional event to this list: the Safeway Open PGA Golf Tournament. County staff will continue to work with CHP and agency partners to identify any needed modifications to the list of blackout dates in the future, and will keep them current on the County website. No ordinance revision is proposed.

4.2 Complaint Process

Based on the input received during preparation of the ordinance revisions, the Board of Supervisors directed staff to develop a proposed formal process for responding to complaints received regarding the conduct of special events and filming activities. A proposed process has been developed and reviewed with stakeholders, and is attached as Exhibit A to this report.

4.3 Ordinance Exemptions

Section 10.24.010 includes a series of definitions which are used throughout Chapter 10.24. During the ordinance revisions, new definitions were added for “Arterial Roadway,” “Filming Activity,” “Maximum Participant Load,” and “Relay Events.”

One of the definitions which was not changed in the ordinance revisions is that of “Special Event” itself, which reads as follows:

“Special event” means an organized procession or assemblage of more than fifty people on a highway which would significantly affect traffic or create a safety problem. Examples of special events include, but are not limited to, walkathons, runs, marathons, trail rides, bicycle events and races, fairs, celebrations, parades, and other similar activities. Bicycle events for which there are expected to be more than fifty participants, but for which participants are required to comply with the California Vehicle Code as it applies to persons riding a bicycle upon a highway, are subject only to Sections 10.24.050 and 10.24.060 of this chapter. Organizers of such bicycle events shall notify the director in writing at least thirty days before the event.

The final two sentences of this definition create an “exemption” for certain bicycling events. This section of the code long pre-dates current staff, but we can speculate that the premise of this exemption is that, as legal vehicles under the provisions of the California Vehicle Code, bicycles can travel on any public roads whether they are part of an event under a special event permit or not. In past years, no events requested consideration under this exemption, at least none that came to the attention of County staff.

However, during the past year, three event organizers notified staff that they intended their events to be considered eligible for processing under this exemption. As we proceeded to work on these requests, we identified that there is an internal conflict in the way the exemption is worded. On the surface, the definition appears to indicate that certain bicycling events are exempt from the permit process, although it retains the requirements for insurance and a hold harmless agreement. However, the conflict is that the way to implement these two requirements is through a permit process. These sections read as follows:

10.24.050 Permit - Insurance requirements.

Before issuing a special event permit, the director shall require the applicant to file with the director a certificate of insurance showing that the applicant has obtained insurance in the amount of one million dollars to cover the liability of the applicant for property damage and/or injuries, including death, to any persons in connection with the activities conducted in accordance with the permit. The county and its respective officers, employees, and agents shall be named as additional insured on said certificate which shall further provide that it shall not be cancelled without thirty days prior written notice to county. It is a specific condition of each special event permit that the applicant shall maintain at least this level of coverage in full force and effect during the life of the license and thereafter as to activities which occurred during the life of the license.

10.24.060 Permit - Hold harmless agreement.

As a condition to the issuance of a permit, the applicant shall defend, indemnify and hold harmless the county and each and all of its officers, agents and employees from any and all claims, actions, damages, costs and expenses, including attorneys fees, to the extent they are caused by the negligent acts or omissions of the applicant or authorized participants in the special event.

In addition to the logistics of administering these requirements without a permit process, there is a more-fundamental concern about such bicycling events being conducted without obtaining a permit. The permitting process includes a mechanism in which all of our agency partners, such as CHP and EMS, are aware of the activities in their service areas and ensure the safety of the public and all participants. There were occasions during the past year when events occurred under this exemption on the same date as other, permitted events. Without going through a permit process, it was not possible to keep all stakeholders informed and thereby be able to coordinate how the events would interact with each other. It is proposed to modify the ordinance as follows, to delete the exemption from the definition:

10.24.010 Definitions.

“Special event” means an organized procession or assemblage of more than fifty people on a highway which would significantly affect traffic or create a safety problem. Examples of special events include, but are not limited to, walkathons, runs, marathons, trail rides, bicycle events and races, fairs, celebrations, parades, and other similar activities. ~~Bicycle events for which there are expected to be more than fifty participants, but for which participants are required to comply with the California Vehicle Code as it applies to persons riding a bicycle upon a highway, are subject only to Sections 10.24.050 and 10.24.060 of this chapter. Organizers of such bicycle events shall notify the director in writing at least thirty days before the event.~~

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Complaint Process

1. Complaint received

Sources: website comment form, "Roadevents" email address, phone, through Supervisors, CHP, route cleanup review by staff, other

2. Review by staff

Do we agree that this happened?

Did it violate ordinance requirements or terms of the event permit?

If so, it is considered a valid complaint.

3. Valid complaints are referred to event applicant

Applicant must respond in writing with specific written proposal to address:

a. current occurrence (what happened and what they will do, e.g. pay for damages)

b. how they propose to avoid this happening in the future

4. Event is "on probation" for one year

If the problem recurs, the event will be banned for 5 years

If there is no problem, the event is off probation

If there is a new/different problem, repeat steps 1-3 above -> continue on probation. A committee comprised of agency partners (CHP, EMS, local cities' staff) will review the problems and decide how long the probation should be extended.

5. Completion of process

Once an event has passed probation, or has served a 5-year ban, its status is clear. Past issues are not "cumulative." New incidents are evaluated independently of past occurrences.

Note: different events organized by the same applicant are evaluated independently of each other.