

ORDINANCE NO. 2022-23

AN URGENCY ORDINANCE REGULATING COMMERCIAL TEMPORARY EVENTS

The Contra Costa County Board of Supervisors ordains as follows:

Section 1. Findings.

- A. The County regulates short-term activities and events that are conducted on private property and generate or invite considerable public participation, invitees, or spectators under Ordinance Code Chapter 82-44, the Temporary Events Ordinance of Contra Costa County.
- B. Chapter 82-44 establishes procedures for evaluating, permitting, and regulating temporary events. These procedures authorize the zoning administrator to approve permits for temporary events and to require permit conditions, or deny permits when necessary. These procedures are necessary to protect and promote the health, safety, and welfare of the public, temporary event participants, and nearby residents.
- C. Under Chapter 82-44, commercial events held on private property without a permit, and commercial events that violate the noise or amplified sound restrictions set forth in Chapter 82-44, are illegal.
- D. On April 26, 2022, the Board of Supervisors adopted Ordinance No. 2022-16, which increased fine amounts for violations of Chapter 82-44, including illegal commercial events. Ordinance No. 2022-16 establishes the following fine amounts for these violations: \$150 for the first violation, \$700 for a second violation occurring within three years of the first violation, and \$2,500 for each additional violation occurring within three years of the first violation.
- E. Over the past year and especially within the last month, the number of unpermitted commercial events held on private property has increased. These unpermitted commercial events typically are widely advertised, or require paid admission, or charge for parking, or are otherwise open to the public. Because they are unpermitted, these commercial events are not subject to any conditions, such as noise restrictions, parking requirements, on-site restroom requirements, and other requirements designed to minimize the impacts of these events on the normal free flow of vehicular and pedestrian traffic, minimize the impacts of noise from temporary events, protect the safety of property, and minimize disturbance and inconvenience to neighbors, neighboring properties, and neighborhoods.
- F. The Department of Conservation and Development is preparing amendments to Chapter 82-44 that will hold commercial event organizers, in addition to property owners, liable for illegal commercial events; authorize Sheriff's deputies, in addition to code enforcement officers, to enforce Chapter 82-44; and ensure that commercial event organizers do not evade the requirements of Chapter 82-44 by characterizing these commercial events as non-commercial events exempt from the Temporary Events Ordinance's permit requirements.

- G. The proposed amendments to Chapter 82-44 must be considered by the Planning Commission before being considered for adoption by the Board of Supervisors, and will not go into effect until 30 days after adoption by the Board.
- H. Since the number of unpermitted commercial events held on private property has increased, and additional unpermitted events are likely to occur before the proposed amendments to Chapter 82-44 become effective, this urgency ordinance is necessary to protect the public health, safety, and welfare by implementing these new commercial event regulations immediately.

Section 2. Definitions. For purposes of this ordinance, the following words and phrases have the following meanings:

- (a) “Event” means an occasion on private property organized for a particular and limited purpose and time and is an organized outdoor assemblage that: exceeds 75 persons at a venue in a residential zoning district or at a residence in any other zoning district or on a vacant lot; or exceeds 150 persons at any other venue or location. “At a residence” means located wholly or in part on a parcel that includes a residence. “Events” include athletic events, arts and crafts shows, garden parties, carnivals, circuses, fairs, festivals, musical concerts and other cultural or live entertainment events, and swap meets. An outdoor assemblage of 75 or fewer persons at a venue in a residential zoning district or at a residence in any other zoning district or on a vacant lot, or 150 or fewer persons at any other venue or location, is not an “event” for purposes of this ordinance.
- (b) “Commercial event” means an event intended to generate financial gain for the sponsors of the event, or to advertise products, goods or services. An event that requires paid admission or charges for parking or that is open or advertised to the general public is presumed to be a commercial event. An event sponsored by or intended to benefit any organization that is exempt from taxation under Section 501(c)(3) or Section 501(c)(4) of the United States Internal Revenue Code is not a commercial event.
- (c) “Outdoor assemblage” means any assemblage that is not wholly contained within the interior of a residence. An “outdoor assemblage” includes any assemblage in an accessory structure, including but not limited to a barn or tent.
- (d) “Persons at a venue” means the total of all attendees, invitees, caterers, event monitors, security, and all other persons who are at an event venue.
- (e) “Vacant lot” means a lot or parcel that is unimproved.
- (f) “Venue” means the site, lot, parcel, contiguous lots or parcels under common ownership, location, area, or facility where an event is held or is proposed to be held.

Section 3. Unpermitted Commercial Events Prohibited.

No commercial event may be held on private property without a permit issued under Chapter 82-44.

Section 4. Noise Restrictions.

No event may exceed the noise levels specified in Section 82-44.410.

Section 5. Responsible Party Liability.

- (a) A person violates this ordinance or Chapter 82-44 if an event that violates this ordinance or Chapter 82-44 is held on property that the person owns, rents, leases, or otherwise has possession of, regardless of whether the person is present when the violation occurs.
- (b) A person violates this ordinance or Chapter 82-44 if an event that the person organizes, supervises, sponsors, conducts, allows, or controls violates this ordinance or Chapter 82-44.

Section 6. Enforcement.

- (a) This ordinance may be enforced by any remedy allowed under the Contra Costa County Ordinance Code or any other remedy allowed by law. These remedies include, but are not limited to, administrative fines, infraction citations, and cease and desist (abatement) orders.
- (b) The following officials and their designees are authorized to enforce this ordinance and Chapter 82-44:
 - (1) Director of Conservation and Development.
 - (2) Sheriff.
- (c) Nothing in this ordinance is intended to preclude the enforcement by any Sheriff's deputy of Penal Code section 415, the disturbing the peace statute.
- (d) In the event of a conflict between this ordinance and any conditions or requirements of a land use permit issued by the County, the conditions or requirements of the land use permit will govern.

Section 7. Reports. In accordance with subdivision (d) of Government Code section 65858, ten days before this ordinance and any extension of it expires, the Conservation and Development Department shall file with the Clerk of the Board a written report describing the measures taken to alleviate the conditions that led to the adoption of this urgency interim ordinance.

Section 8. Severability. If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect other ordinance provisions or clauses or applications thereof that can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses are declared to be severable. The Board of Supervisors declares that it would have adopted this ordinance and each provision thereof

irrespective of whether any one or more provisions are found invalid, unconstitutional, or otherwise unenforceable.

Section 9. Declaration of Urgency. This ordinance is hereby declared to be an urgency ordinance necessary for the immediate preservation of the public peace, health, and safety of the County. The facts constituting the urgency of this ordinance’s adoption are set forth in Section 1.

Section 10. Effective Date. This ordinance becomes effective immediately upon passage by four-fifths vote of the Board of Supervisors and shall continue in effect for a period of 45 days, pursuant to Government Code section 65858.

Section 11. Publication. Within 15 days after passage, this ordinance shall be published once with the names of the supervisors voting for and against it in the East Bay Times, a newspaper published in this County.

PASSED ON June 7, 2022, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST: MONICA NINO,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]

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