

ORDINANCE NO. NS-502.11

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ADDING A NEW CHAPTER VIII OF DIVISION B3 OF THE COUNTY OF SANTA CLARA ORDINANCE CODE RELATING TO THE USE OF OUTDOOR AMPLIFIED SOUND AT EVENTS

SUMMARY

This ordinance enacts a new Chapter VIII of Division B3 to provide for the issuance of permits for commercial, industrial, or institutional facilities utilizing outdoor amplified sound and not otherwise conducted pursuant to a permit or license issued by the County.

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

SECTION 1: Chapter VIII of Division B3 of the Ordinance Code of the County of Santa Clara is hereby added to read as follows:

**CHAPTER VIII
OUTDOOR AMPLIFIED SOUND PERMIT**

Section B3-164. Purpose and intent.

It is the intent of the Board of Supervisors in enacting this chapter to secure and promote public health, comfort, safety and welfare of residents and protect them from the public nuisance of loud and unnecessary noise by reasonably regulating the use of outdoor amplified sound at events and activities incidental to commercial, industrial, or institutional facilities, which are not otherwise conducted pursuant to a permit or license issued by the County.

Section B3-165. Definitions.

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

(a) *A-weighted sound level* means the sound pressure level in decibels as measured on a sound level meter using the A-weighted network. The level so read is designated dB(A) or dBA.

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(b) *Amplified sound* means any sound amplified with a machine or device that magnifies the human voice, music or any other sound. This definition includes amplified sound associated with live bands, spoken voice, DJs, and stereo equipment; and includes brass instruments that are not played with mutes. This definition does not include string instruments that produce sound through entirely acoustic means.

(c) *Applicant* means any person, partnership, association, corporation or other entity that seeks an amplified sound permit from the Zoning Administrator to conduct or sponsor events governed by this chapter.

(d) *Decibel* means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure of 20 micropascals.

(e) *Equivalent continuous sound level (Leq)* means a noise parameter describing a sound level with the same energy content as the varying acoustic signal measured over a given period of time.

(f) *Event* means any activity or gathering open to the public. Examples of events include, but are not limited to, receptions, ceremonies, competitions, performances, festivals, parties.

(g) *Outdoor amplified sound permit* means a permit issued pursuant to this chapter.

(h) *Permit application fee* means the fee to be paid by the applicant at the time the application is filed, pursuant to the fee schedule established by resolution of the Board of Supervisors.

(i) *Permittee* means any person or organization issued an amplified sound permit by the Zoning Administrator.

Section B3-166. Permit required.

Any person intending to conduct, organize, or set up an event at a commercial, industrial or institutional facility, where the use of outdoor amplified sound is proposed, shall first obtain an outdoor amplified sound permit. An outdoor amplified sound permit is also required where the amplified sound source is within an enclosed building and the sound permeating the building from windows, doors, or walls exceeds 55 dB(A) Leq, measured 20 feet from any portion of the building from which the sound is emanating.

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Section B3-167. Exceptions from the permit requirement.

An outdoor amplified sound permit shall not be required under this chapter for the following:

(a) Outdoor amplified sound where the maximum A-weighted sound level, measured 20 feet from the speaker or sound source, is less than or equal to 55 dB(A) Leq between the hours of 7:00am and 10:00 pm and 45 dB(A) Leq between the hours of 10:00 pm and 7:00 am.

(b) Outdoor amplified sound conducted pursuant to a permit or license issued by the County, including, but not limited to, a use permit, special permit, architecture and site approval, public dance permit, or entertainment permit.

Section B3-168. Application for outdoor amplified sound permit.

A written application for a outdoor amplified sound permit shall be filed with Zoning Administrator in the Department of Planning and Development at least 90 days prior to the proposed date of the first event. The application shall be accompanied by an application fee in an amount established by resolution of the Board of Supervisors. The application shall include the following information:

(a) The name, present address, and telephone number of the applicant, and if the applicant is a partnership or other association, the names, addresses, and telephone numbers of the managing partners thereof, and if the applicant is a corporation, the names, addresses, and telephone numbers of the officers and directors thereof. The address and telephone number of the principal place of business of the applicant shall also be included in the application.

(b) The address and assessor's parcel number for the real property where the events are proposed to be conducted. The applicant shall also furnish proof of ownership of the real property or the written consent of the property owners.

(c) A general description of the sound to be amplified (speech, music, or both), the sound amplifying equipment which is to be used, and the proposed hours of operation when the sound will occur.

(d) Site plan showing the property boundaries, buildings, structures, patios, proposed location of sound amplifying equipment and speakers on the property, and direction of speakers.

(e) Acoustical evaluation conducted in accordance with the *Guidelines and Standards—Acoustical Evaluation of Outdoor Amplified Sound* prepared by the Department of Planning and Development.

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Section B3-169. Review, notice and hearing.

(a) Within 30 days after the application is submitted, the Zoning Administrator shall inform the applicant in writing if the application is complete and acceptable for processing, or that the application is incomplete and that additional information, as specified in the letter, shall be provided. After an application has been deemed complete, the Planning Office may require submittal of additional information to determine the sound exposure of the project. If the application has been deemed incomplete, the requested materials must be submitted and the application deemed complete within six months of the Zoning Administrator's letter. If the application is not deemed complete within six months then the application will be deemed abandoned, and the application fees shall not be refunded.

(b) The Zoning Administrator shall prepare a notice of the proposed amplified sound permit that shall be mailed to owners of all real property located within 300 feet of the subject property boundaries at their addresses as shown on the most current property tax roll of Santa Clara County, or of a neighboring county. If there are fewer than 24 properties within 300 feet, the notification radius shall be extended to include the 24 closest properties. The notice shall include a summary project description, available means of obtaining more detailed information, and the proposed action date by the Zoning Administrator. The notice shall also state that the application for outdoor amplified sound will be placed on a public hearing agenda if requested by the notice recipient, or by any other member of the public, within a specified time period. The Zoning Administrator shall take an action on a outdoor amplified sound permit no sooner than 20 days following the mailing of the notice described in this section.

(c) If the applicant, any member of the public, the Planning Director, or Director of the Department of Environmental Health, requests that a public hearing be held, the application shall be placed on a Zoning Administration agenda. Notice of the public hearing shall be provided ten days prior to the scheduled hearing, in accordance with all applicable state laws. The notice shall include the date, time and place of the hearing, the identity of the hearing officer, a general explanation of the matter to be considered, and a general description of the property location. Notice is required to be mailed or delivered to the following individuals and agencies:

(1) The applicant at the address shown on the application;

(2) The owners of all real property located within 300 feet of the subject property boundaries at their addresses shown on the most current property tax roll of Santa Clara County, or of a neighboring county. If there are fewer than 24 properties within 300 feet, the notification radius shall be extended to include the 24 closest properties.

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Section B3-170. Action by Zoning Administrator.

(a) The Zoning Administrator shall issue an outdoor amplified sound permit if all of the following findings are made:

(1) The proposed use of outdoor amplified sound complies with the thresholds and requirements of the County Noise Ordinance (Division B11, Chapter VIII).

(2) The proposed use of outdoor amplified sound complies with the County's General Plan.

(3) The proposed use of outdoor amplified sound will not be detrimental to the adjacent area because of excessive noise.

(b) The outdoor amplified sound permit shall be subject to the following standard conditions of approval:

(1) The permittee shall establish and maintain an on-site noise complaint hotline to respond to noise complaints during events.

(2) The permittee shall install signs at the public entrance of the facility identifying the contact information for the on-site noise complaint hotline and contact information for the Santa Clara County Department of Environmental Health.

(3) All contracts between the applicant and those using the facility when the event will include outdoor amplified noise shall reference any required control measure required to minimize noise impacts, including, but not limited to, hours of operation or direction of speakers.

(c) The Zoning Administrator may impose other reasonable conditions of approval necessary to minimize the noise impacts to ensure compliance with the County Noise Ordinance (Division B11, Chapter VIII) and the General Plan.

Section B3-171. Appeal.

(a) Within 15 calendar days after the decision of the Zoning Administrator on the application for a outdoor amplified sound permit, any person dissatisfied with the decision may appeal to the Planning Commission by filing an appeal with the Planning Office. The appeal application shall be accompanied by a nonrefundable fee in an amount established by resolution of the Board of Supervisors.

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(b) The Planning Office shall fix the time and place for the appeal to be heard by the Planning Commission. Notice of the hearing shall be made in the same manner as the noticing of the original hearing.

(c) A hearing date for the appeal to be heard by Planning Commission shall be scheduled within 30 days after filing of the appeal.

(d) The Zoning Administrator shall transmit to the Planning Commission all records, minutes, papers and files which constitute the record for which the appeal is made.

(e) The Planning Commission shall hear the outdoor amplified sound permit application de novo and may approve, disapprove, or modify the decision of the Zoning Administrator. The decision of the Planning Commission on an appeal is final.

(f) The Secretary of the Planning Commission will inform the appellant, the applicant, and the Zoning Administrator whether the appeal has been granted or denied.

Section B3-172. Issuance of outdoor amplified sound permit.

The outdoor amplified sound permit shall be issued by the Planning Office.

Section B3-173. Permit renewal for time-limited permit.

Requests for permit renewals of a time-limited outdoor amplified sound permit must be made in writing prior to the expiration date and must be accompanied by an application form and permit application fee. Permit renewal requests shall be processed in the same manner as the original application. Upon application for renewal, the expiration of the permit shall be stayed until a formal action has been taken on the extension request, but in no event for more than two years. If permit renewal is granted, the new approval term shall be established by the approval authority, in its discretion, and shall begin immediately after the original expiration date.

Section B3-174. Summary suspension of outdoor amplified sound permit.

The Sheriff or designee or any authorized representative of the County may summarily suspend the outdoor amplified sound permit whenever it appears that the permittee is conducting an event in violation of any provision of this chapter, this Code or federal or state law and such violation endangers public health or safety. Following issuance of a suspension order and within 30 days thereafter, a hearing to revoke, reaffirm or conditionally reaffirm the outdoor amplified sound permit shall be held in accordance with B3-175. Any permittee whose outdoor amplified sound permit is suspended pursuant to this section shall not conduct an event using amplified sound unless and until the Zoning Administrator, or Planning Commission on appeal, reaffirms or conditionally reaffirms the outdoor amplified sound permit under Section B3-175.

Section B3-175. Revocation, reaffirmation or conditional reaffirmation.

Any outdoor amplified sound permit issued under this chapter may be reaffirmed, conditionally reaffirmed, or revoked based on a suspension order. A public hearing on the revocation, reaffirmation, or conditional reaffirmation will be held and noticed will be given in accordance with Section B3-169(c). The Zoning Administrator may revoke or conditionally reaffirm an outdoor amplified sound permit on any of the following grounds:

(a) That the outdoor amplified sound permit was obtained by fraud, or false, misleading or fraudulent statements of material facts made in the application for the license or in any other document submitted pursuant to this chapter.

(b) That any person making use of the outdoor amplified sound permit is violating or has violated any conditions of the permit.

(c) That the detriment to the public health or safety, or the nuisance arising from the conduct of the event or from changed circumstances necessitates the revocation of the outdoor amplified sound permit or the modification or addition to the conditions of approval.

(d) That the permittee has violated, or caused or permitted any other person to violate, any provision of this chapter or state or federal law in connection with the outdoor amplified sound permit.

An appeal to Planning Commission from the decision of the Zoning Administrator under this section may be made within 15 calendar days after the decision and in accordance with the procedures in Section B3-171.

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SECTION 2. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California this 18 day of December, 2012, by the following vote:

AYES:	Supervisors	CORTES, KNISS, SHIRAKAWA, WASSERMAN, YEAGER
NOES:	Supervisors	NONE
ABSENT:	Supervisors	NONE
ABSTAIN:	Supervisors	NONE




George Shirakawa, President
Board of Supervisors

ATTEST:



Lynn Regadan
Interim Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



11/20/2012
Elizabeth G. Pianca
Deputy County Counsel