

NOTICE OF EXEMPTION

TO: Santa Barbara County Board of Supervisors

FROM: Scott McGolpin, Public Works Director

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: n/a Case No.: n/a

Location: Santa Barbara County, all Districts

Project Title: Ordinance to Authorize Public Works Director to Temporarily Issue Special Encroachment Permits for Operations by Businesses and Community Entities in County Roadway Rights-of-Way During the COVID-19 Pandemic Response

Project Description: This Ordinance would authorize the Public Works Director to issue encroachment permits to business and community entities to operate some permitted operations temporarily in the County Right-of-Way in order to address social distancing and other requirements of the COVID-19 pandemic response. It also would provide for waiver of permit fees for these encroachment permits. These special encroachment permits and the temporary use of the County Rights-of-Way would be permitted only if certain requirements are satisfied.

This ordinance would take effect and be in full force 30 days from the date of its passage and remain in effect and operative until the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated or the ordinance is otherwise earlier terminated.

Project Applicant: n/a

Name of Public Agency Approving Project: Santa Barbara County

Name of Person or Agency Carrying Out Project: Santa Barbara County

Exempt Status: (Check one)

Ministerial

Statutory Exemption (Section 15269(c))

Categorical Exemption (Sections 15301, 15303 and 15305)

Emergency Project

Not A Project (Section 15061(b)(3))

Cite specific CEQA and/or CEQA Guideline Section: CEQA Guidelines Section 15061(b)(3) exempts activities that are covered by the commonsense exemption that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it

can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

CEQA Guidelines Section 15269(c) exempts emergency projects that consist of specific actions necessary to prevent or mitigate an emergency.

CEQA Guidelines Section 15301 [Existing Facilities] states that a project is exempt from CEQA if the project “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.”

CEQA Guidelines Section 15303 [New Construction or Conversion of Small Structures] states that a project is exempt from CEQA if the project “consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.”

CEQA Guidelines Section 15305 [Minor Alterations in Land Use Limitations] states that a project is exempt from CEQA if the activity consists of “minor alterations in land use limitations in areas with an average slope of less than 20%, which do not result in any changes in land use or density[.]”

Reasons to support exemption findings: This Ordinance would authorize the Public Works Director to issue encroachment permits to business and community entities to operate some permitted operations temporarily in the County Right-of-Way in order to address social distancing and other requirements of the COVID-19 pandemic response. It also would provide for waiver of permit fees for these encroachment permits to facilities.

The Board finds that it is necessary to authorize the Public Works Director to issue temporary encroachment permits to businesses and community entities to conduct permitted operations within public rights-of-way if necessary to comply with State or local requirements for reopening. This is necessary to preserve social distancing requirements and slow the spread of the COVID-19 virus.

The recommended Ordinance allows the Public Works Director to place conditions on the encroachment permit, including:

1. Insurance and indemnification requirements;
2. Aesthetic or safety standards for design, seating, or parking;
3. Such other conditions as may be necessary to protect public health and safety or to protect public improvements;
4. Setback and clearance standards for all reasonable pedestrian uses of the sidewalk, as well as for unusual or occasional public uses that can be anticipated; and
5. A requirement that the applicant follow all State and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response.

This Ordinance is based on evidence of increasing transmission of COVID-19 both within the County and worldwide, scientific evidence regarding the most effective approach to slow transmission of communicable diseases generally and COVID-19 specifically, as well as best practices as currently known and available to protect the public from the risk of spread of or exposure to COVID-19. This Ordinance is intended to reduce the likelihood of exposure to COVID-19, thereby slowing the spread of COVID-19 in the County of Santa Barbara. Therefore, this Ordinance is subject to CEQA Guidelines Section 15269(c).

This Ordinance also is subject to CEQA Guidelines Section 15061(b)(3) because the activity of authorizing the issuance of temporary special encroachment permits for permitted activities and the waiving of fees for those encroachment permits has no possibility of having a significant effect on the environment.

In addition, this Ordinance does not allow permanent structures to be constructed or erected, no native or environmentally sensitive habitat will be removed to accommodate the use of outdoor areas, and the capacity of the business or community entity will not be able to be expanded. In addition, an applicant must follow all state and local directives regarding reopening of businesses or community entities during the COVID-19 pandemic response, including acquiring any other permit or approval required by regulations. Therefore, this Ordinance is consistent with CEQA Guidelines Sections 15301, 15303, and 15305.

There is no substantial evidence that the proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

This Ordinance allows the Public Works Director to provide administrative regulations for issuance of a special encroachment permit for the reopening of businesses and community entities and to issue encroachment permits pursuant to those regulations in the County roadway rights-of-way in order to protect public health and support a phased re-opening of Santa Barbara County in a manner that effectively limits the spread of COVID-19. Applicants are required to submit plans to Public Works and review of those plans would confirm and ensure that proposed use of the right-of-way would not be in a sensitive environment nor impact an environmental resource of hazardous or critical concern. Therefore this exception to the exemption does not apply.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

This Ordinance will allow issuance of special encroachment permits only until the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated or the Ordinance is otherwise earlier terminated. The temporary nature of the ordinance ensures that impacts will not be significant. Additionally, the exemption will not result in an increase in the number of structures, the capacity of businesses or community entities would not be increased, and any change in lot coverage would be temporary. Therefore this exception to the exemption would not apply.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

This Ordinance will allow issuance of special encroachment permits only until the Board of Supervisors declares the proclaimed Santa Barbara County Local Emergency from the COVID-19 virus is terminated or the Ordinance is otherwise earlier terminated. The Ordinance is temporary in nature, and therefore would not cause any significant or long-term impacts to communities.

The Ordinance also requires special encroachment permit applicants to follow all state and local directives regarding the reopening of business or community entities during the COVID-19 pandemic response. The Ordinance will not have a significant effect on the environment due to unusual circumstances. Therefore this exception to the exemption would not apply.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

It is not reasonably foreseeable that projects that use this Ordinance will result in damage to scenic resources within a highway officially designated as a state scenic highway because the Ordinance does not allow the construction or erection of new permanent structures and any temporary encroachment would be in the County roadway right-of-way. Therefore this exception to the exemption does not apply.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

It is not reasonably foreseeable that projects that use this Ordinance to temporarily encroach in the roadway right-of-way will be located on a site that is designated or listed as a hazardous waste site. Therefore this exception to the exemption does not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

It is not reasonably foreseeable that projects that use this Ordinance to temporarily encroach in the roadway right-of-way will impact a historical resource. The Ordinance applies only to non-

residential projects and does not allow the construction or erection of new permanent structures. Therefore, the significance of any historical resource would not result in a substantial adverse change, and this exception to the exemption would not apply.

Lead Agency Contact Person: Chris Sneddon, Deputy Director Public Works
Transportation/Engineering Division, Phone: (805) 568-3064

Acceptance Date: **December 8, 2020**
Distribution: Hearing Support Staff for posting



Morgan M. Jones _{FOR} Department Representative November 12, 2020
Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statute of limitations on legal challenges.

Distribution: Date filed with Planning & Development _____.

Distribution: Date Filed by County Clerk: _____.

POSTED
NOV 12 2020
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