



AGENDA
Jefferson County Planning Commission
Tuesday, July 8, 2014, 7:00 PM

Planning Commission meetings are held in the Old Charles Town Library Meeting Room located at 200 East Washington Street, at the side entrance on Samuel Street in the City of Charles Town.

All Citizens that desire to speak must sign-in prior to the Agenda Item being addressed.

1. Introduction of new Planning Clerk, Rhonda Greenholtz, to the Planning Commission.
2. Approval of the minutes from the June 10 and June 24, 2014 Planning Commission Meetings.
3. Citizen Communications: If you wish to comment, please sign-in to speak for issues that are not on the agenda or items that are not open for public comment. Items not open for public comment will be so noted.
4. Request for postponement.

There is no public comment for the remaining items.

5. Discussion and possible recommendation related to Draft Amendment to Zoning Ordinance regarding Mass Events. Request to schedule Public hearing for August 12, 2014.
6. Reports from Legal Counsel and legal advice to the Planning Commission.
Active Litigation:
 - Far Away Farms
7. Director's Report.
8. Planning Commission Exchange and Liaison Reports:
 - County Commission Meeting
 - Health Department Meeting
 - Public Service District Meeting
 - Parks and Recreation Meeting
 - Jefferson County Development Authority Meeting
 - Water Advisory Committee Meeting
 - Planning Commission Exchange
9. President's Report.
10. Actionable Correspondence.
11. Non-Actionable Correspondence.
12. Signing of approved Motions from previous Planning Commission meetings.

All files are made available for public review Monday through Friday, 9:00 AM to 5:00 PM (excluding Holidays). The Planning Commission welcomes written comments at any time. Submitting a document no later than the Thursday before a scheduled meeting will provide the Commission an advanced opportunity to review your comments prior to the meeting. Please note that documentation and exhibits submitted at a Planning Commission meeting are retained as part of the official record.

Feel free to submit your comments to any of the addresses below:

Physical Address: 116 E. Washington St., Charles Town, West Virginia 25414
Mailing Address: P.O. Box 338, Charles Town, West Virginia 25414
Email Address: planningdepartment@jeffersoncountywv.org
Fax Number: 304-728-8126

Any party desiring a transcript of these proceedings will be responsible for providing a competent stenographer at their own expense. Minutes, video and/or audio recordings of past meetings, the Jefferson County Subdivision Regulations, Zoning Ordinance and Comprehensive Plan, as well as any working proposed amendments are located on the Departments page within the County's website at www.jeffersoncountywv.org. Minutes and audio recordings of older meetings that are not on the County's website are available for review in the office.



Jefferson County, West Virginia

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor
Charles Town, WV 25414

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

Email: zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMORANDUM

TO: Planning Commission
**FROM: Jennifer M. Brockman, AICP,
Director, Planning and Zoning/Acting Zoning Administrator**
DATE: July 8, 2014
**RE: Discussion and possible recommendation related to Draft Amendment to
Zoning Ordinance regarding Mass Events**

Attached is a red-lined draft of the proposed Mass Event that was reviewed by the Planning Commission at the June 10, 2014 Planning Commission meeting. The edits reflect the input of the Planning Commission from that night and research and discussion that staff did based on questions raised by the Planning Commission members at the June 10th meeting. One item that was added to 8.16A(6)(b) is that DOH should be contacted as well however this is not proposed to require an entrance permit.

There are still a few outstanding concerns that staff feels need to be considered:

- 1) It was noted when researching other Mass Events that many do collect a fee as a part of every ticket sold that that appears to be a "contribution" to the County. This appears to vary from \$1.00 to \$3.00 per ticket and is clearly stated on the various event websites as part of the ticket price. This might be something Jefferson County would consider as well.
- 2) The proposed sliding scale liability insurance seems low for any event that involves over 1,000 people and may need to be reconsidered. Many individual homeowners or businesses have liability insurance of this amount in more standard business venues.
- 3) After discussion with the County's Bonding Administrator, the proposed ordinance text includes Letter of Credit and Cash-in-Escrow Bonds, but not a Surety Bond. It is believed that the amount of staff work that would be required for such a small amount of Surety Bond would not be feasible and the other alternatives are more reasonable.
- 4) It should be noted that a separate Mass Event Bond Policy will need to be developed upon approval of this ordinance by the County Commission.
- 5) While the proposed ordinance language allows the Concept Plan to be administratively approved after the BZA hearing, there would need to be some type of graphic or sketch as part of the original application and presentation. This language may need to be added to 8.16A or to the application form.

This request is on the agenda for the purposes of discussion and to request that the Planning Commission schedule a Public Hearing on this Ordinance at the August 12, 2014 Planning Commission meeting.

Please note that once referred to the County Commission, they will also be required to hold a separate Public Hearing prior to making final revisions.

**PROPOSED AMENDMENTS TO THE ZONING ORDINANCE
RELATED TO MASS EVENTS (ZTA 14-02)**

DELETE THE FOLLOWING SECTIONS:

Section 2.2 Terms Defined

~~Seasonal Use — A use that is carried on for not more than a single three day consecutive period in each of the four solar seasons.~~

~~Section 9.8 Seasonal Uses^{5,7}~~

~~Seasonal uses must be considered by the Board of Zoning Appeals pursuant to a Public Hearing. Newspaper notification requirements of Section 3.4A.3.b apply. Seasonal uses cannot be approved for longer than one year at a time.^{17, 21,}~~

ADD THE FOLLOWING SECTIONS:

Section 2.2 Terms Defined

Mass Event Any outdoor gathering of more than 1000 people on any parcel; regardless of the length of time or type of activity. A Mass Event may be permitted to occur in the Rural Zoning District or any commercial zoning district and is prohibited on a property in any residential zoning district.

Section 8.16 Mass Event Regulations

A Mass Event is any outdoor gathering of more than 1000 people on any parcel; regardless of the length of time or type of activity. Such event shall be permitted to occur in the Rural Zoning District or any Commercial Zoning District, provided that it processes according to the following requirements:

- A. Approval of all Mass Events shall require the submission of an application and Public Hearing before the Board of Zoning Appeals, in accordance with the following criteria:
 - 1. Each Mass Event must be the subject of separate application and Public Hearing.
 - 2. Any application must be submitted by and with the original signature of all persons or entities with ownership interest in the parcel on which the event is proposed.
 - 3. Each Mass Event application shall require a Public Hearing before the Board of Zoning Appeals at least 180 days in advance of the planned event. The application fee for said hearing shall be based on the projected number of attendees and whether participants may spend the night at the event:

a. 1,000 – 2,000 attendees	\$200
b. 2,000 – 5,000 attendees	\$300
c. 5,000 – 10,000 attendees	\$400
d. Over 10,000 attendees	\$500

 - ~~e. If participants may spend the night at the event the fees above are doubled~~
 - ~~f. If alcohol is to be sold for consumption or is allowed to be consumed the fees above are doubled.~~
 - ~~g. If both “e” and “f” above apply then the rates are quadrupled~~

4. In addition to the application fee for the Board of Zoning Appeals hearing, the applicant for any Mass Event must post a Letter of Credit (LOC) or Cash-in-Escrow Bond, payable to the Jefferson County Commission, from a bank or financial institution within a 150 mile radius of Charles Town, WV, to cover any unexpected costs to the County related to the Mass Event, pay an additional Event Fee to offset application, management and public safety impact of the event based on the sliding scale below. Said LOC or Cash Bond Event Fee must shall be postedpaid after approval by the Board of Zoning Appeals, but at least 45 days in advance of the event and, and a bond in the amount of ten times the pre-paid Event Fee must be submitted to cover attendees in excess of estimated amount and to cover any fines, fees, or costs which may arise by any violation of the requirements of this section. Said Event Fee and bond shall be submitted as an additional condition of the issuance of a zoning certificate. The Event Fee for said approved "Mass Event" shall be based on the projected number of attendees, number of days, and whether participants may spend the night at the event:

- a. 1,000 – 2,000 attendees/day \$2,000/day
- b. 2,000 – 5,000 attendees/day \$5,000/day
- c. 5,000 – 10,000 attendees/day \$10,000/day
- d. Over 10,000 attendees/day ~~\$20,000~~15,000/day

The applicant shall be required to meet with County staff, including representatives of legal, finance, planning, zoning and the agencies referenced in Subsection 6 below, within 60 days of the close of the event to discuss any issues or concerns with the event and to determine if there were any unexpected costs to the County. Each agency referenced in Subsection 6 and any other County or Regional agency which incurred costs related to the Mass Event shall provide a full accounting of costs incurred and a letter of release stating that all of their costs had been reimbursed by the applicant, which shall be provided at the 60-day meeting. Any unexpected costs to the County related to the Mass Event which were not paid by the applicant shall be chargeable against the bond required to be posted herein. After 90 days, the applicant may request the return of any remaining value to the Letter of Credit (LOC) or Cash Bond, which shall require action of the County Commission.

The applicant shall be responsible for any jail-fees or jail costs incurred by Jefferson County for any person arrested at the event for any crime which is alleged to occur at the event. Such costs shall be chargeable against the bond required to be posted herein and, if it exceeds the LOC or Cash Bond amount, the balance is chargeable to the applicant.

~~e. If participants may spend the night at the event, the rate noted above is doubled~~

~~f. If alcohol is sold for consumption or allowed to be consumed at the event, the rates per day noted above are doubled.~~

~~g. If both "e" and "f" above apply then the rates are quadrupled.~~

~~Note: If the applicant can provide copies of contracts with public safety agencies determined to cover some of the anticipated management and public safety impact costs, the additional Event Fee may be reduced by the amount of the contract.~~

5. The Public Hearing must comply with notice requirements of the Zoning Ordinance. In addition, the applicant must send written notice and a copy of the application first class mail postage pre-paid to all adjoining land owners and all land owners within 1000 feet with land fronting on any proposed access route.
6. The following supplemental site preparedness information shall be addressed and shall accompany the application prior to the Board of Zoning Appeals Public Hearing:
 - a. Applicant for Mass Event must consult with local law enforcement, EMS, Fire, 911 agencies, ~~and~~ a licensed garbage removal company, and a licensed towing company. ~~The applicant shall~~ develop a written agreement with and a contract to cover all costs of ~~with~~ said agencies which satisfies their public safety and clean up or maintenance concerns ~~or a letter from each agency stating that the agency's concerns have been addressed.~~ Such written proof of said agreements and each signed contract shall be submitted with the application for consideration at the Public Hearing required herein and, again, prior to issuance of Zoning Certificate if the hearing is greater than 270 days prior to the event.
 - b. Applicant for the Mass Event must have and submit with the application written approval from the County Health Department for the provision of adequate potable water and proper sanitation facilities for the event. Applicant will also contact the WV Division of Highways to inform them of the proposed use and discuss any concerns they might have with the proposed temporary activity. Applicant shall submit written proof of said County Health Department approval and DOH discussion with the application for consideration at the Public Hearing required herein and, again, prior to issuance of Zoning Certificate if the hearing is greater than 270 days prior to the event.
 - c. The applicant shall provide written proof of appropriate general commercial liability insurance coverage which specifically covers the Mass Event based on the following sliding scale:

<u>i. 1,000 – 2,000 attendees/day</u>	<u>\$250,000</u>
<u>ii. 2,000 – 5,000 attendees/day</u>	<u>\$500,000</u>
<u>iii. 5,000 – 10,000 attendees/day</u>	<u>\$1,000,000</u>
<u>iv. Over 10,000 attendees/day</u>	<u>\$2,000,000</u>

~~in the amount of at least \$2,000,000 (two million dollars). If the event allows participants to stay overnight or if alcohol is sold for consumption at the event or if the event permits the consumption of alcohol, the amount of insurance required is \$5,000,000. If the number of attendees exceeds 10,000, the above amounts of required insurance are increased by 25% for each 10,000 attendees increment, or fraction thereof, above 10,000. (i.e. 55,000 attendees would have an insurance requirement increase of 125% base plus 5 10,000 attendee increments)~~

The Board of Zoning Appeals may take into consideration any past Mass Event on the same parcel by the same applicant in considering whether to grant the application and/or additional conditions or restrictions placed upon the event.
7. If approved by the Board of Zoning Appeals, in addition to all other permits and agreements required, the applicant must also submit a Concept Plan in accordance with the requirements found below, which shall be administratively reviewed and approved.

8. During the event, any violation of the requirements of this section of the Ordinance and/or any violation of additional terms and conditions set by the Board of Zoning Appeals will result in imposition of a fee equal to the additional Event Fee for every hour in which a violation occurs for each restriction that is violated. In addition, the County may seek other legal and equitable relief.

~~9. The applicant and the land owner shall be responsible for any jail fees or jail costs incurred by Jefferson County for any person arrested at the event for any crime which is alleged to occur at the event. Such costs shall be chargeable against the bond required to be posted herein.~~

B. If approved by the Board of Zoning Appeals, in addition to all other permits and agreements required, the applicant shall submit a Concept Plan, in accordance with the Minor Site Plan Process, for administrative review and approval, and in accordance with the requirements found below:

1. The Concept Plan shall be to scale; on a 24"x36" sheet; showing appropriate areas for parking, performance areas, bathrooms, food, concessions, public entrance, separate emergency entrance, area for on-site stacking of vehicles for admissions processing, garbage collection area, ~~garbage removal service contract~~, location of performance lighting and amplification, and any other information required by planning or engineering staff at the Public Hearing at least 120 days before the event. The Concept Plan shall also show all structures located on neighboring properties with 500 feet of the property upon which the Mass Event is proposed to occur.
2. Staff will review the application and Concept Plan for completeness within 10 days of receipt.
3. There will be a 30 day period for staff to review of the application and of the Concept Plan once the application is deemed complete. Staff shall approve any application and Concept Plan that meet the requirements of all applicable laws, ordinances and regulations and shall reject any application that fails to meet the requirements of all applicable laws, ordinances and regulations.
4. A Mass Event shall meet the following site requirements and such requirements will be depicted on the Concept Plan:
 - a. A ~~set-back~~setback of 500 feet from the property line is required for any performance area;
 - b. A set-back of 250 feet from the property line is required for any area in which camping is permitted;
 - c. A set-back of 250 feet from the property line is required for all dumpsters and trash collection areas;
 - d. A set-back of ~~250~~ feet from the property line is required for all parking areas, provided that all parking areas meet a minimum distance requirement of 250' from any structures on adjoin properties; and
 - e. A set-back of 250 feet from the property line is required for any alcohol, food, or other sales or concessions.
 - e.f. Any variance from these requirements shall be included in the Mass Event Application and shall process a Variance application which shall be presented to the Board of Zoning Appeals for their approval.

5. A Mass Event is subject to the following conditions and restrictions and such notes shall be placed on the Concept Plan:
 - a. No outdoor amplified performances after ~~12~~ 3 a.m. or before 10 a.m. (amplified announcements are permitted).
 - b. No outdoor performance lighting after ~~3~~ 12 a.m. or before 10 a.m.
 - c. All No sale of a Alcohol shall be regulated by the West Virginia Alcohol Beverage Control (ABC) Administration, after 12 a.m. nor before 10 a.m., or as further established by the ABC.
 - d. No Mass Event may last more than ~~three~~ seven days, including attendee arrival and departure dates provided that participants may arrive on the afternoon prior to the first day of the event and may stay until the morning following the third day, allowing for set up and taking down of the event activities. Only one Mass Event may occur per year on any given parcel or a portion of any given parcel.
 - e. All lighting and all sound shall be aligned so as to minimize impact on nearby residents and shall conform to the requirements of Section 8.9 of the Jefferson County Zoning and Land Development Ordinance.
 - f. Mass Event site shall provide ample potable water supply and proper sanitation facilities.
 - g. All trash shall be removed daily.
 - h. Any variation from these requirements shall be included in the Mass Event Application which is presented to the Board of Zoning Appeals for their approval.
6. Upon approval of the Mass Event by the Board of Zoning Appeals and administrative approval of the Concept Plan, an application for a Zoning Certificate, signed by the applicant and the landowner(s), shall be submitted a minimum of 60 days prior to the Mass Event and all LOC or Bond documents as well as proof of liability insurance shall be submitted with the Zoning Certificate application. The Zoning Certificate for a Mass Event shall be review and issued within 30 days of submission of a complete application.



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Director's Report Planning Commission Meeting July 8, 2014

1) Envision Jefferson 2035 Update

REMINDER: Planning Commission Public Hearing scheduled for **07/22/14**

2) Recent/Upcoming CC Actions relevant to Planning:

- a) PC recommended "SB 595" Vested Development Time Extensions Proposal – CC to hold Public Hearing (*PH date tentatively 7/31/14 7 pm*)
- b) Recommendation from the Planning Commission to the County Commission on the landowner-initiated petition to amend the County Zoning Map for two parcels owned by Hoy Shingleton, Trustee for Pearl Perkins, Beneficiary; and Eric and Stacy Lindberg;. The properties are designated as Tax District: Middleway (07), Map: 1, Parcels: 1.2 (16.62 acres, with 12.67 acres in Jefferson County) and 1.1 (7 acres), located on the north side of Route 115 (Old Route 9/Charles Town Road), along the Berkeley/Jefferson County line for the purpose of setting a public hearing to be held by the County Commission (*PH date tentatively 7/31/14 1:30 pm*)
- c) Overview and Summary of the Draft Envision Jefferson 2035 Comprehensive Plan (the 2014 Comprehensive Plan) transmitted by the Envision Jefferson 2035 Steering Committee and Resolution in Recognition of Service on the Envision Jefferson 2035 Steering Committee (*6/19/14*)
- d) Approval of Job Offer for Vacant Planning Clerk Position (*6/19/14*)

3) Planning Commission Training – date and time TBD

- Required 2 hour training every year
- Ethics Packets and signatures to be required
- Orientation for New Members

4) Upcoming PC meetings

- a) Special Called Meeting: July 22, 2014 (Comp Plan Public Hearing)
- b) Next Regular Meeting: August 12, 2014