



AGENDA

Jefferson County Planning Commission
Tuesday, September 22, 2015, 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. 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.

There is no public comment for the remaining items.

2. Review and Discussion of the proposed draft Zoning Ordinance Text Amendment
RE: Mass Event Regulations (File #ZTA14-02).
3. Review and Discussion of proposed draft redlined edits to the Subdivision Regulations
RE: Subdivision and Site Plan Processes (File # STA15-05).
4. Review and Discussion of proposed draft redlined edits to Article 12 of the Zoning Ordinance
RE: Zoning Map and Text Amendments (File #ZTA15-03).
 - **To be distributed at the meeting.**
5. Request for postponement.
6. Reports from Legal Counsel and legal advice to the Planning Commission.
 - a) Active Litigation:
 - Far Away Farms: Report on legal action in Jefferson County Circuit Court, Case # 11-C-325 Possible Executive Session
 - Shiloh Citizens Association: Report on legal action in Jefferson County Circuit Court, Case # 15-C-129 – Possible Executive Session.
7. Actionable Correspondence.
8. Non-Actionable Correspondence.
 - 09-14-15, Comments from Mr. Douglas Rockwell regarding the proposed Text Amendments on campgrounds.

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: September 22, 2015
**RE: ZTA14-02, proposed text amendment to the Zoning Ordinance regarding
Mass Event Regulations**

In May 2015, the County Commission requested that the Planning Commission review the current draft Mass Event Regulations which was the version for which the PC held a Public Hearing on August 12, 2014.

Attached is also the original draft from legal, submitted to the Planning Commission on March 11, 2014. Additionally attached are comments received pertaining to the draft amendment.

This request is on the agenda for the purpose of discussion and possible direction related to action by the Planning Commission as directed by the County Commission in May 2015.

Attachments:

- 08-12-14 draft Mass Event Regulations (current draft for consideration)
- 08-12-14 Planning Commission Minutes
- 03-11-14 draft Mass Event Regulations (original draft from Legal)
- Public Comments:
 - Staff recommended revision to the proposed draft definition, as discussed 08-21-14 with some of the stakeholders
 - Red-lined draft of the 08-12-14 version from Doug Rockwell (submitted 08-20-14)
 - Matrix of comments received by County Commission at their 10-01-14 Public Hearing on the same draft ordinance from 08-12-14.
 - JCESA After Action Report – All Good Music Festival
 - JCSO Comments on proposed draft text amendment ZTA14-02
 - Health Department Mass Gathering Permit Application

**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
 - 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, based on the sliding scale below. Said LOC or Cash Bond shall be posted after

approval by the Board of Zoning Appeals, but at least 45 days in advance of the event and shall be submitted as an additional condition of the issuance of a zoning certificate.

- | | |
|---------------------------------|--------------|
| 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 | \$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.

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, 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 said agencies which satisfy their public safety and clean up or maintenance concerns. 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 a 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 temporary event/use and discuss any traffic control and entrance concerns they might have with the proposed temporary activity. Applicant shall submit a signed letter of agreement from both the County Health Department and the WV Division Of Highways 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:

i. 1,000 – 2,000 attendees/day	\$500,000
ii. 2,000 – 5,000 attendees/day	\$750,000
iii. 5,000 – 10,000 attendees/day	\$1,000,000
iv. Over 10,000 attendees/day	\$2,000,000

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.
- 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, 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 the application and 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 setback of 500 feet from the property line is required for any performance area;
 - b. A setback of 250 feet from the property line is required for any area in which camping is permitted;
 - c. A setback of 250 feet from the property line is required for all dumpsters and trash collection areas;

- d. A setback of 50 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 adjoining properties; and
 - e. A setback of 250 feet from the property line is required for any alcohol, food, or other sales or concessions.
 - 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 3 a.m. or before 10 a.m. (amplified announcements are permitted).
 - b. No outdoor performance lighting after 3 a.m. or before 10 a.m.
 - c. All sale of alcohol shall be regulated by the West Virginia Alcohol Beverage Control (ABC) Administration.
 - d. No Mass Event may last more than four days, including attendee arrival and departure dates. 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 reviewed and issued within 30 days of submission of a complete application.

Ms. Cathy Loftin: Commenting on letter from Mr. Matt Knott. Reiterated what Ms. Cathy Vance stated regarding property being landlocked, etc. recommending that this not be shown as river access point on the Existing Land Use Map. Ms. Loftin added that the Planning Commissioner/Staff has done great job with the plan.

Mr. Bernard Simmons: Commented on road conditions of Knott Road. No place to turn around.

Mr. Charles Axline: Agreed with previous comments. Not a safe place to get in or out. No place to park or turnaround. No room to make improvements. Would like to oppose Mr. Knott's request.

3. Request for postponement. None.

4. Public Hearing on the proposed text amendment to the Jefferson County Zoning Ordinance related to Mass Events (File #ZTA14-02). The amendment includes deleting the term "Seasonal Use" from Section 2.2; adding the definition of "Mass Event" to Section 2.2; deleting Section 9.8 "Seasonal Use"; and creating the new Section 8.16 "Mass Event Regulations" which includes details on the Public Hearing process before the Board of Zoning Appeals and the submittal of a Concept Plan, which is administratively approved.

Ms. Jennifer Brockman gave an explanation of proposed Zoning Text Amendment related to Mass Events Regulations and clarified that it is not intended to apply to any existing fairs and festivals which would be grandfathered, to any commercial property with a permanent structure with an approved site plan, or to land owned by a local, state or federal government.

Mr. Dale Manuel made an announcement before opening the Public Hearing regarding developing a "grandfather clause" for existing activities, i.e. the County Fair, Summit Point Raceway, Mountain Heritage Arts and Crafts Festival and other activities that take place in Jefferson County. Mr. Manuel has preliminary language but hasn't had opportunity to fully look it over as the draft was just received from legal counsel before the meeting.

Mr. Stolipher opened the floor to public comment.

Ms. Annette Gavin, CEO Jefferson County Convention & Visitors Bureau. Ms. Gavin read the letter submitted to Commissioner Pellish dated August 11, 2014 regarding the impact on tourism and adverse effects on current as well as future events. Ms. Gavin added that the stakeholders appreciated the proposed grandfather clause but has concerns.

Mr. Doug Rockwell: Mr. Rockwell pointed out that there may be potential conflict of interest with Mr. Stephen Stolipher due to representation of an organization that would fall under the provisions of the mass events regulations. Mr. Rockwell has some suggested changes in the language of the proposed amendment. He stated that he would submit a hard copy of his recommended edits to the Planning Commission for consideration.

Mr. Charles Tilley: President of Country Roads Car Club. Mr. Tilley is concerned with how this Ordinance would impact a non-profit organization. He questioned how would this affect obtaining permits and fees associated with this.

Mr. Andrew Skinner: President of Jefferson County Chamber of Commerce. Questioned how this will affect the economic activity in Jefferson County; asked for caution in implementing these rules and appreciates any consideration.

Ms. Peggy Smith: Not speaking as the Mayor but because she serves on several boards including Jefferson County Chamber of Commerce, County Convention & Visitors Bureau Board. The Board has come up with new ideas that cannot be grandfathered in as they are new ideas. Tourism is a concern due to monies coming into Jefferson County. Fundraisers are another concern.

Mr. Mark Dyck: Suggested modifications:

- Section 8.16 (A) paragraph 4; fees associated with posting bond; to state “if recommended” by the sheriff’s department. The Sheriff could review and determine if needed or not.
- Section 8.16 (A) paragraph 5; define what proposed access route is.
- Section 8.16 (A) paragraph 6; Approvals required. Getting approval from agencies before Board of Zoning Appeals approval is premature. Huge effort and cost. Suggested changing language to state that notification only required, with approvals required with Site Plan.
- Section 8.16 (A) paragraph 8; Define additional event fee.
- Section 8.16(B) paragraph 4(a) and 8 (b); suggest setback from nearest residential structure not property line.
- If sheriff waives fees, the insurance bonding should automatically be waived.

Mr. Mike Chapman motioned to close public hearing.

Mr. Gary Phalen seconded motion which carried unanimously.

Mr. Stephen Stolipher asked for suggestions or recommendations from Planning Commission.

Ms. Jennifer Brockman stated for the record there were letters from:

- Mr. Robert Aitcheson
- Ms. Joyce Rawn
- Mr. Dallas Wolfe
- Ms. Annette Gavin
- Mr. John Michael Cassell
- Mr. Matt Knott

Ms. Jennifer Brockman stated these letters were submitted as written comments into this record.

Mr. Dale Manuel motioned to keep the proposed amendment to the Zoning Ordinance regarding Mass Event Regulations before Planning Commission for discussion and possible revisions. He requested that staff work with stakeholders and those individuals who have shown interest at this meeting and bring back a revised amendment at a future meeting.

Mr. Wade Louthan seconded the motion which carried unanimously.

Mr. Stephen Stolipher will check with the Ethics Committee regarding Mr. Rockwell’s conflict of interest concerns. Mr. Stolipher believes there is no conflict because the proposed amendment will apply county-wide.

DRAFT

Amendment to Zoning Ordinance of Jefferson County, West Virginia

The County Commission finds that temporary mass gatherings of large numbers of people to attend outdoor concerts, festivals, “mud runs” or other gatherings in a rural outdoor setting which lacks sufficient permanent structures to house, feed, bath and provide for the sanitary needs of all people at the gathering, accompanied with the impact of traffic congestions and parking burden a large number of vehicle presents a hazard to public health and safety and places unacceptably high burden upon police, fire, EMS, 911 and medical resources of the county. WHEREFORE:

A new section “**Section 9.9 Mass Events**” shall be added to the Ordinance as follows:

- A. Any outdoor gathering of more than 1000 people on any parcel involving any three or more of the following characteristics shall be considered a “Mass Event”
 - 1. An admission fee is charged
 - 2. involves a performance or activity with amplified sound
 - 3. attendees use temporary shelters of any form such as tents, RVs, vehicles or other items, property or structures not assessed under West Virginia Code as an improvement upon real property.
 - 4. alcohol is sold (whether separate from or included in the price of admission) or the event allows the consumption of alcohol
 - 5. any activity planned to take place or to be attended on more than one consecutive day or more than three days in any calendar year or any activity open to attendees for more than 16 hours on a given day.

- B. In addition, a Mass Event is subject to the following conditions and restrictions:
 - 1. No outdoor amplified sound after 11pm or before 10 am
 - 2. No outdoor performance lighting after 11 pm or before 10 am

3. No sale of Alcohol after 11pm nor before 10 am
4. No Mass Event may last more than three days. Only one Mass Event may occur per year on any given parcel or a portion of any given parcel.
5. Each Mass Event must be the subject of separate application and public hearing.
6. A set back of 500 feet from the property line is required for any performance area
7. A set back of 250 feet from the property line is required for any area in which camping is permitted and for all parking areas
8. A set back of 250 feet from the property line is required for any alcohol, food or other sales or concessions
9. Applicant for Mass Event must consult with local law enforcement, EMS, Fire and 911 agencies and develop a written agreement with said agencies which satisfies their public safety concerns and submit written proof of said agreement at the public hearing required herein and again prior to issuance of Zoning Certificate.
10. Mass Event must have and submit with the application written approval of the County Health Department for the provision of potable water and sanitation facilities for the event. Applicant shall submit written proof of said approval at the public hearing required herein and again prior to issuance of Zoning Certificate.
11. Each Mass Event application shall require a public hearing before the Board of Zoning Appeals at least 180 days, but no sooner than one year, in advance of the planned event. The application fee for said hearing shall be \$500. The public hearing must comply with notice requirements of the Zoning Ordinance. In addition, the applicant must send written notice and 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 assess route.
12. all lighting and all sound shall be aligned so as to minimize impact on nearby residents.
13. The applicant shall provide written proof of appropriate general commercial liability insurance coverage which specifically covers the mass event in the amount of at least \$2,000,000 (two million dollars).

14. At said hearing the Board of Zoning Appeals may permit, deny or permit with additional restrictions and conditions
 15. The Board of Zoning Appeals may not grant a variance from nor waiver of any of the foregoing provisions (B(1) -B(13) but may impose conditions more restrictive than the ones set forth herein (e.g limits on number of attendees, barring or restricting hours of alcohol sales and/or restricting hours of performance). The Board of Zoning Appeals may consider any past Mass Events on the same parcel or by the same applicant in considering whether to grant the application and/or additional conditions or restrictions placed upon the event.
 16. If approved by the Board of Zoning Appeals, in addition to all other permits and agreements required, the applicant must also submit a site plan, to scale, on a 24"x36" sheet, showing parking, performance areas, bathrooms, food, concessions, public entrance, separate emergency entrance, garbage collection area, 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. Staff will review the application and site plan for completeness within 10 days of receipt. There will be a 30 day period for staff to review of the application and of the site plan once the application is deemed complete. Staff shall approve any application and site 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
- C. During the event, any violation of the requirements in Section B and/or any violation of additional terms and conditions set by the Board of Zoning Appeals will result in imposition of a fee of \$2 per attendee per hour in which a violation occurs for each restriction that is violated. In addition, the County make seek other legal and equitable relief.
- D. In addition to normal application fee for the Board of Zoning Appeals hearing, any Mass Event must make an estimate of total anticipated attendance and pay an additional fee to offset application, management and public safety impact of the event in the amount of \$2 per attendee per day. Said fee must be paid in advance and a bond in the amount of

ten times the pre-paid 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 fee and bond shall be submitted as an additional condition of the issuance of a zoning certificate.

- E. 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.
- F. The Development Review System may not be used to permit any activity barred under this section or otherwise supercede the requirements of this section. No variance nor waiver of any of the foregoing provisions contained in sections A-E above may be granted by the Board of Zoning Appeals or Planning Commission.
- G. Seasonal Use provisions under Section 9.8 of the Ordinance are not permitted to include any activity that meets the definition of a Mass Event under this section.

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, 23} After the public hearing required under this section the Board of Zoning Appeals may deny, approve or approve with condition any proposed season use. The Board of Zoning Appeals may not grant a waiver or variance from the three day limit for seasonal events nor for any event more than once a year. Furthermore, no seasonal event may involve outdoor amplified sound after 11 pm nor before 10 am.



Jefferson County, West Virginia

Departments of Planning and Zoning

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MEMORANDUM

TO: Planning Commission

FROM: Jennifer M. Brockman, AICP,
Director, Planning and Zoning/Acting Zoning Administrator

DATE: September 09, 2014

RE: Distribution, discussion, and possible action related to input received on the proposed text amendment to the Zoning Ordinance (ZTA14-02) regarding Mass Event Regulations.

On August 21, 2014, a meeting was held between staff and some of the stakeholders that spoke at the Public Hearing to address some of the concerns discussed at that meeting. In essence, the two primary concerns appear to be applicability and clarifying that existing events are grandfathered in. It has also become clear that we either need to retain the provision for "Seasonal Uses" with some added processing criteria or have a multi-tiered Mass Event process so that all events that do not qualify as a Rural Reception Event or agritourism event have a process by which they can be considered for approval. To that end, staff has drafted a potential revision to the definition that may address these concerns; however, there are still gaps in these provisions:

Section 2.2 Terms Defined

Mass Event Any outdoor gathering of more than ~~1000~~ 5,000 people/day (midnight – midnight) on any parcel or contiguous parcels; regardless of the length of time or type of activity, and which involves overnight stay in temporary shelters. 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 provided that it processes according to the requirements of Section 8.16 of this Ordinance.

It should be noted that this definition does not apply if the event occurs entirely within in a lawful permanent structure nor on a property so long as the structure or property has a site plan specifically developed and approved for the purpose of hosting such an event. In addition, this Section does not apply to events conducted by local or state or federal government on land owned by or in which there is an interest by said government body.

Section 4.3 “Nonconforming Use” of this Ordinance applies to the continuation of all activities, festivals and events that legally existed and regularly operated before the adoption the Zoning Ordinance. Further, the expansion clause of Section 4.3 shall not serve to limit the number of attendees allowed at such pre-existing legal non-conforming events, so long as the event occurs entirely within the confines of the existing parcel or structure where it became an otherwise lawful non-conforming use. Any such non-conforming event must follow the requirements of the Ordinance and must also obtain a Zoning Certificate.

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 and involving over 1,000 people per day, and not meeting the definition of a Mass Event, a Rural Reception Event or agritourism, as determined by the Zoning Administrator .

It should be noted that this definition does not apply if the event occurs entirely within in a lawful permanent structure nor on a property so long as the structure or property has a site plan specifically developed and approved for the purpose of hosting such an event. In addition, this Section does not apply to events conducted by local or state or federal government on land owned by or in which there is an interest by said government body.

Section 4.3 “Nonconforming Use” of this Ordinance applies to the continuation of all activities, festivals and events that legally existed and regularly operated before the adoption the Zoning Ordinance. Further, the expansion clause of Section 4.3 shall not serve to limit the number of attendees allowed at such pre-existing legal non-conforming events, so long as the event occurs entirely within the confines of the existing parcel or structure where it became an otherwise lawful non-conforming use. Any such non-conforming event must follow the requirements of the Ordinance and must also obtain a Zoning Certificate.

Section 8.16 Mass Event Regulations (proposed language)

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 may be~~ permitted to occur in the Rural Zoning District or any Commercial Zoning District, provided that it processes according to the following requirements:

Section 9.8 Seasonal Uses

Seasonal uses must be ~~approved~~ considered for approval by the Board of Zoning Appeals pursuant to a public hearing, approval of required permits by the Board of Health, the WV Department of Highways, a Traffic Control Plan in conjunction with the Sherriff's Department, and further requiring the submission of a Concept Plan in accordance with Section 8.16B for administrative review and approval. Newspaper notification requirements of Section 3.4A.3.b apply. Seasonal uses cannot be approved for longer than one year at a time.

**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 within the Rural Zoning District or any commercial zoning district and is prohibited on a property in any residential zoning district and is prohibited from any property that does not abut and does not have access to a center-lined state road.

Section 8.16 Mass Event Regulations

~~A Mass Event, as defined in Section 2.2, 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 may 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, but not more than 240 days, in advance of the planned event. The application fee for said hearing shall be based on the projected number of attendees per day 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
 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 and approved by the Jefferson County Commission, from a bank or financial institution within a

150 mile radius of Charles Town, WV, to cover any ~~unexpected~~ costs ~~incurred by~~ ~~to~~ the County related to the Mass Event, based on the sliding scale below. Said LOC or Cash Bond shall be posted after approval by the Board of Zoning Appeals, but at least 45 days in advance of the event and shall be submitted as an additional condition ~~offor~~ the issuance of a zoning certificate.

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	\$15,000/day

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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~~30 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 whether ~~that~~ all of their costs had been reimbursed by the applicant, which shall be provided at the ~~60~~30-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 or Letter of Credit 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.

5. ~~The All~~ Public Hearings 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.

At the Public Hearing, the Board of Zoning Appeals may take testimony, evidence, and arguments first in support of the application and second in opposition thereto. In reaching their decision, the Board may consider the location, physical characteristics, and uses of the proposed event property and the adjoining neighborhood, roadways to be used for access, activities which may occur at the proposed event and did occur at other events conducted by the applicant or parties related thereto, and such other matters as may affect the public health, safety, and welfare with respect to the application. The Board may deny, grant, or grant with additional restrictions and conditions.

5-6. The following supplemental site preparedness information shall be addressed and shall be filed with the 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, 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 said agencies which satisfy their public safety and clean up or maintenance concerns. 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 a 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 State and County Health Departments for the provision of adequate potable water and proper sanitation facilities, ~~and camping if appropriate, for the event.~~ Applicant will also contact the WV Division of Highways to inform them of the proposed temporary event/use and discuss any traffic control and entrance concerns they might have with the proposed temporary activity. Applicant shall submit a signed letter of agreement from both the County Health Department and the WV Division of Highways 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:

i. 1,000 – 2,000 attendees/day	\$500,000
ii. 2,000 – 5,000 attendees/day	\$750,000
iii. 5,000 – 10,000 attendees/day	\$1,000,000
iv. Over 10,000 attendees/day	\$2,000,000

~~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.~~

~~6.7. 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.~~

~~7.8. 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 a penalty or fine for every hour in which a violation occurs for each violation, 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 immediate other legal and equitable relief.

- B. ~~If approved by the Board of Zoning Appeals, i~~In addition to all other permits and agreements required, the applicant shall submit with the application 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 screening, camping, surface disturbance, stormwater management, parking, performance areas, bathrooms, food, concessions, public entrance, separate emergency entrance, area for on-site stacking of vehicles for admissions processing, garbage collection area, 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 the application and 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 setback of 500 feet from the property line is required for any performance area;
 - b. A setback of ~~250~~500 feet from the property line is required for any area in which camping is permitted;
 - c. A setback of 250 feet from the property line is required for all dumpsters and trash collection areas;
 - d. A setback of 50 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 setback of 250 feet from the property line is required for any alcohol, food, or other sales or concessions.
 - 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 ~~3~~12 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 sale of alcohol shall be regulated by the West Virginia Alcohol Beverage Control (ABC) Administration.~~
 - d. ~~No~~A Mass Event may last ~~no~~ more than ~~four~~three days, including attendee arrival and departure dates, ~~and only be held between June 10 and August 10, excluding July 1-6.~~ 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 ~~the applicant~~ shall ~~comply with all~~ 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~~ Within 60 days of 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), with all LOC or Bond documents and 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 45 days prior to the Mass Event, with the Zoning Certificate application. The Zoning Certificate for a Mass Event shall be reviewed and issued or denied within 30 days of submission of a complete application.

DRAFT

County Commission Public Hearing 10-01-14
ZTA 14-02 Mass Event/Seasonal Use Text Amendment

	COMMENT	County Commission Direction
1	<ul style="list-style-type: none"> • Consider Washington State’s provision regarding Outdoor Music Festivals <ul style="list-style-type: none"> ○ Grant County, Washington – Sasquatch Festival; 140 Ac 27,000 max attendees ○ due to size of facility (being expanded); ○ [Note: takes place in the Gorge Amphitheatre, a 20,000-seat concert venue located above the Columbia River Gorge in George, Washington] ○ 14’ roads, no shoulders – gave example from Washington State Law ○ Stated that draft inadequately addresses traffic issues Grant Co, WA requires: written confirmation from approving authority? ○ Not less than 20% commissioned police officers or deputy sheriffs (1/200 for crowd control – 1/1000 commissioned officer) • Recommends addressing traffic safety matters in the proposed amendment. 	<ul style="list-style-type: none"> •
2	<p>Expressed concerns re: public health as Chair, Board of Health</p> <ul style="list-style-type: none"> • Issues are population based: <ul style="list-style-type: none"> ○ Board of Health needs to know number of attendees with maximum upper limit to ensure that water, sewage, and camping is adequate ○ Also concerned with length of event as the BOH needs to be able to meet daily needs in addition the proposed event ○ Currently staffed with 3 of 4 sanitarian positions – sanitarians are difficult to find • Locations for such events impacts public health <ul style="list-style-type: none"> ○ Currently largest events in County are the demolition derbies at the Fair Grounds; the Fair; and the Arts and Crafts Festival – all occur on properties with some permanent facilities and for defined shorter time periods 	
3	<ul style="list-style-type: none"> • Shepherdstown Street Fest (annual one day festival) totaled 7,500 attendees in 2014 • Encourages ordinance to stay flexible vs absolutes (harder to deal with) • Encourages CC to pay attention to what PC has done. County does need an ordinance and agrees with most of what PC has proposed 	

4	<ul style="list-style-type: none"> Referenced letter from Barbara Byrd, Clarke County Commission regarding the All Good Festival dated 09/19/14 Referenced the Transylvania, South Carolina Ordinance Opposed to a 3 a.m. sound curfew Recommends repealing Seasonal Use provisions as stop gap Bittenger vs. Bolivar said Building Permits could be issued separately from Zoning 	•
5	<ul style="list-style-type: none"> In favor of the safety aspect of the ordinance Would like to use the farm one week per year to sustain the farm and give the County the greenspace. Agricultural uses for every \$1 in taxes, gets 5 cents Community uses for every 45 cents in taxes, get \$1.00 back 	•
6	<ul style="list-style-type: none"> Agriculture community existed centuries without much help (built roads, etc.) If farm doesn't survive, it could be developed with 1000 + homes with cars & traffic. 	•
7	<ul style="list-style-type: none"> If the festival meets a threshold, needs a team of people to be involved in an approval process from the Health Department, EMS, Law Enforcement, Division of Highways, etc. Recommended implementing a team of experts to review each event 	•
8	<ul style="list-style-type: none"> Generally supports the creation of Mass Gathering Regulations. Recommends that the regulations encourage larger events to sprout from or to bring their business to Jefferson County. Maintain the allowance for variances within the ordinance; make determinations on a case-by-case basis. Make regulations flexible. 	•
9	<ul style="list-style-type: none"> Given the type of regulations for Mass Events, it would be more appropriate for the application to be heard in front of the Planning Commission rather than the Board of Zoning Appeals. 	
	<ul style="list-style-type: none"> Day should be defined as noon to noon or 10:00 a.m. to 10:00 a.m. as opposed to midnight to midnight. With the current definition, almost half a day is lost for a multi-day event. 	
	<ul style="list-style-type: none"> Add the caveat to Section 8.16.A.2: "unless the person signing is the manager or has the legal authority to sign for all Owners" 	
	<ul style="list-style-type: none"> Reduce bond amount by 50% if a separate agreement to cover cost is signed with Sheriff. 	

	<ul style="list-style-type: none"> Section 8.16.A.5: Change noticing requirements to reflect "all properties within 1,000 feet of the mass event property"; or "All land owners who front the primary access routes where queuing may occur within 1 mile of the property." 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> Section 8.16.A.6.a Private contracts between non-governmental agencies should not have to be submitted as part of the public record. They are proprietary. It is premature to expect contracts between non-governmental agencies to be finalized by the public hearing. Suggests: address public and private entities in separate sections. Provide copies of the application to agencies and formalize agreements 30 days prior to the event. Suggests that the applicant submit in writing to the County the name of a licensed garbage removal company and towing company 30 days prior to the event. 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> Section 8.16.A.6.b Required permits and/or agreement must be submitted 30 days prior to the event. 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> Section 8.16.6.c - Recommends deleting this paragraph. 	
	<ul style="list-style-type: none"> Section 8.16.8 - Clarify what is the event fee 	
	<ul style="list-style-type: none"> Section 8.16.B.1 Change to "show all structures within 50' of the property line and all residential structures within 500' of the property line." 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> Section 8.16.B.4 All setbacks should be 50' from any property line and the noted distance from a residential structure. 	<ul style="list-style-type: none">
	<ul style="list-style-type: none"> Section 8.16.B.4.d - Change to "residential structures" 	
	<ul style="list-style-type: none"> Section 8.16.B.5 Change length of time for the event to seven (7) days. Examples: Boy Scout retreat, renaissance festival, or similar function. Last day of an event lasting more than four days would be restricted to departure activities only. 	<ul style="list-style-type: none">

10	Recommends a maximum number of participants. There should be a magnitude upper limit and a duration upper limit accepted by the organizer before County approval.	
	Recommends requiring a new application for each event, each year with a new impact assessment and BZA public hearing.	
	Recommends requiring monitoring and reporting noise levels at the edge of the event.	
	<ul style="list-style-type: none"> • Recommends organizing a team of personnel made up of personnel from the various Jefferson County Departments to determine if the departments have readily available personnel to handle a particular event. <ul style="list-style-type: none"> ○ Where are limits on size of event? ○ Who assesses impact on adjoining neighbors? ○ Who reassesses if number of attendees increases? ○ Who assesses capacity of acres, etc. of proposed property? 	•
11	<ul style="list-style-type: none"> • Concerns for potential traffic safety issues that would result from a mass event. 	
12	<ul style="list-style-type: none"> • Comments in opposition of the All Good Festival were also received (see attached) 	

Chapter 70.108 RCW OUTDOOR MUSIC FESTIVALS

Christy Huddle

RCW Sections

- 70.108.010 Legislative declaration.
- 70.108.020 Definitions.
- 70.108.030 Permits -- Required -- Compliance with rules and regulations.
- 70.108.040 Application for permit -- Contents -- Filing.
- 70.108.050 Approval or denial of permit -- Corrections -- Procedure -- Judicial review.
- 70.108.060 Reimbursement of expenses incurred in reviewing request.
- 70.108.070 Cash deposit -- Surety bond -- Insurance.
- 70.108.080 Revocation of permits.
- 70.108.090 Drugs prohibited.
- 70.108.100 Proximity to schools, churches, homes.
- 70.108.110 Age of patrons.
- 70.108.120 Permits -- Posting -- Transferability.
- 70.108.130 Penalty.
- 70.108.140 Inspection of books and records.
- 70.108.150 Firearms -- Penalty.
- 70.108.160 Preparations -- Completion requirements.
- 70.108.170 Local regulations and ordinances not precluded.

Notes:

Reviser's note: Throughout chapter 70.108 RCW the references to "this act" have been changed to "this chapter." "This act" [1971 ex.s. c 302] consists of this chapter, the 1971 amendments to RCW 9.40.110-9.40.130, 9.41.010, 9.41.070, 26.44.050, 70.74.135, 70.74.270, 70.74.280, and the enactment of RCW 9.27.015 and 9.91.110.

70.108.010

Legislative declaration.

The legislature hereby declares it to be the public interest, and for the protection of the health, welfare and property of the residents of the state of Washington to provide for the orderly and lawful conduct of outdoor music festivals by assuring that proper sanitary, health, fire, safety, and police measures are provided and maintained. This invocation of the police power is prompted by and based upon prior experience with outdoor music festivals where the enforcement of the existing laws and regulations on dangerous and narcotic drugs, indecent exposure, intoxicating liquor, and sanitation has been rendered most difficult by the flagrant violations thereof by a large number of festival patrons.

Notes:

Severability -- 1971 ex.s. c 302: See note following RCW 9.41.010.

70.108.020

Definitions.

For the purposes of this chapter the following words and phrases shall have the indicated meanings:

- (1) "Applicant" means the promoter who has the right of control of the conduct of an outdoor music festival who applies to the appropriate legislative authority for a license to hold an outdoor music festival.
- (2) "Issuing authority" means the legislative body of the local governmental unit where the site for an outdoor music festival is located.
- (3) "Outdoor music festival" or "music festival" or "festival" means an assembly of persons gathered primarily for outdoor, live or recorded musical entertainment, where the predicted attendance is two thousand persons or more and where the duration of the program is five hours or longer: PROVIDED, That this definition shall not be applied to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established places of assembly for assemblies which do not exceed by more than two hundred fifty people the maximum seating capacity of the structure where the assembly is held: PROVIDED, FURTHER, That this definition shall not apply to government sponsored fairs held on regularly established fairgrounds nor to assemblies required to be licensed under other laws or regulations of the state.
- (4) "Participate" means to knowingly provide or deliver to the festival site supplies, materials, food, lumber, beverages, sound equipment, generators, or musical entertainment and/or to attend a music festival. A person shall be presumed to have knowingly provided as that phrase is used herein after he or she has been served with a court order.
- (5) "Promoter" means any person or other legal entity issued a permit to conduct an outdoor music festival.

[2012 c 117 § 421; 1971 ex.s. c 302 § 21.]

Notes:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2) (k).

70.108.030

Permits — Required — Compliance with rules and regulations.

No person or other legal entity shall knowingly allow, conduct, hold, maintain, cause to be advertised or permit an outdoor music festival unless a valid permit has been obtained from the issuing authority for the operation of such music festival as provided for by this chapter. One such permit shall be required for each outdoor music festival. A permit may be granted for a period not to exceed sixteen consecutive days and a festival may be operated during any or all of the days within such period. Any person, persons, partnership, corporation, association, society, fraternal or social organization, failing to comply with the rules, regulations or conditions contained in this chapter shall be subject to the appropriate penalties as prescribed by this chapter.

[1971 ex.s. c 302 § 22.]

70.108.040

Application for permit — Contents — Filing.

Application for an outdoor music festival permit shall be in writing and filed with the clerk of the issuing authority wherein the festival is to be held. Said application shall be filed not less than ninety days prior to the first scheduled day of the festival and shall be accompanied with a permit fee in the amount of two thousand five hundred dollars. Said application shall include:

(1) The name of the person or other legal entity on behalf of whom said application is made: PROVIDED, That a natural person applying for such permit shall be eighteen years of age or older;

(2) A financial statement of the applicant;

(3) The nature of the business organization of the applicant;

(4) Names and addresses of all individuals or other entities having a ten percent or more proprietary interest in the festival;

(5) The principal place of business of applicant;

(6) A legal description of the land to be occupied, the name and address of the owner thereof, together with a document showing the consent of said owner to the issuance of a permit, if the land be owned by a person other than the applicant;

(7) The scheduled performances and program;

(8) Written confirmation from the local health officer that he or she has reviewed and approved plans for site and development in accordance with rules, regulations and standards adopted by the state board of health. Such rules and regulations shall include criteria as to the following and such other matters as the state board of health deems necessary to protect the public's health:

(a) Submission of plans

(b) Site

(c) Water supply

- (d) Sewage disposal
- (e) Food preparation facilities
- (f) Toilet facilities
- (g) Solid waste
- (h) Insect and rodent control
- (i) Shelter
- (j) Dust control
- (k) Lighting
- (l) Emergency medical facilities
- (m) Emergency air evacuation
- (n) Attendant physicians
- (o) Communication systems

Walker from
camping
(don't check
every vehicle)

Gorge 140 acres

Conditional use permit

no shoulder, 14' travel way

provide map to residents & how
to avoid

4 day Thurs - Tues

Licensed security company

14 lanes, foot traffic

(9) A written confirmation from the appropriate law enforcement agency from the area where the outdoor music festival is to take place, showing that traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant meeting the following conditions:

(a) One person for each two hundred persons reasonably expected to be in attendance at any time during the event for purposes of traffic and crowd control.

(b) The names and addresses of all traffic and crowd control personnel shall be provided to the appropriate law enforcement authority: PROVIDED, That not less than twenty percent of the traffic and crowd control personnel shall be commissioned police officers or deputy sheriffs: PROVIDED FURTHER, That on and after February 25, 1972 any commissioned police officer or deputy sheriff who is employed and compensated by the promoter of an outdoor music festival shall not be eligible and shall not receive any benefits whatsoever from any public pension or disability plan of which he or she is a member for the time he is so employed or for any injuries received during the course of such employment.

(c) During the hours that the festival site shall be open to the public there shall be at least one regularly commissioned police officer employed by the jurisdiction wherein the festival site is located for every one thousand persons in attendance and said officer shall be on duty within the confines of the actual outdoor music festival site.

(d) All law enforcement personnel shall be charged with enforcing the provisions of this chapter and all existing statutes, ordinances and regulations.

(10) A written confirmation from the appropriate law enforcement authority that sufficient access roads are available for ingress and egress to the parking areas of the outdoor music festival site and that parking

emergency vehicles

2-3 on other 12 hrs.

270 vehicles / mile

4-5 miles on 1 rd

traffic study, certified engineer, hired

areas are available on the actual site of the festival or immediately adjacent thereto which are capable of accommodating one auto for every four persons in estimated attendance at the outdoor music festival site.

(11) A written confirmation from the department of natural resources, where applicable, and the chief of the Washington state patrol, through the director of fire protection, that all fire prevention requirements have been complied with.

(12) A written statement of the applicant that all state and local law enforcement officers, fire control officers and other necessary governmental personnel shall have free access to the site of the outdoor music festival.

(13) A statement that the applicant will abide by the provisions of this chapter.

(14) The verification of the applicant warranting the truth of the matters set forth in the application to the best of the applicant's knowledge, under the penalty of perjury.

[1995 c 369 § 59; 1986 c 266 § 120; 1972 ex.s. c 123 § 1; 1971 ex.s. c 302 § 23.]

Notes:

Effective date -- 1995 c 369: See note following RCW 43.43.930.

Severability -- 1986 c 266: See note following RCW 38.52.005.

70.108.050

Approval or denial of permit — Corrections — Procedure — Judicial review.

Within fifteen days after the filing of the application the issuing authority shall either approve or deny the permit to the applicant. Any denial shall set forth in detail the specific grounds therefor. The applicant shall have fifteen days after the receipt of such denial or such additional time as the issuing authority shall grant to correct the deficiencies set forth and the issuing authority shall within fifteen days after receipt of such corrections either approve or deny the permit. Any denial shall set forth in detail the specific grounds therefor.

After the applicant has filed corrections and the issuing authority has thereafter again denied the permit, the applicant may within five days after receipt of such second denial seek judicial review of such denial by filing a petition in the superior court for the county of the issuing authority. The review shall take precedence over all other civil actions and shall be conducted by the court without a jury. The court shall, upon request, hear oral argument and receive written briefs and shall either affirm the denial or order that the permit be issued. An applicant may not use any other procedure to obtain judicial review of a denial.

[1972 ex.s. c 123 § 2; 1971 ex.s. c 302 § 24.]

70.108.060

Reimbursement of expenses incurred in reviewing request.

Any local agency requested by an applicant to give written approval as required by RCW 70.108.040 may within fifteen days after the applicant has filed his or her application apply to the issuing authority for reimbursement of expenses reasonably incurred in reviewing such request. Upon a finding that such expenses were reasonably incurred, the issuing authority shall reimburse the local agency therefor from the funds of the permit fee. The issuing authority shall prior to the first scheduled date of the festival return to the applicant that portion of the permit fee remaining after all such reimbursements have been made.

[2012 c 117 § 422; 1971 ex.s. c 302 § 25.]

70.108.070

Cash deposit — Surety bond — Insurance.

After the application has been approved, the promoter shall deposit with the issuing authority, a cash deposit or surety bond. The bond or deposit shall be used to pay any costs or charges incurred to regulate health or to clean up afterwards outside the festival grounds or any extraordinary costs or charges incurred to regulate traffic or parking. The bond or other deposit shall be returned to the promoter when the issuing authority is satisfied that no claims for damage or loss will be made against said bond or deposit, or that the loss or damage claimed is less than the amount of the deposit, in which case the uncommitted balance thereof shall be returned: PROVIDED, That the bond or cash deposit or the uncommitted portion thereof shall be returned not later than thirty days after the last day of the festival.

In addition, the promoter shall be required to furnish evidence that he or she has in full force and effect a liability insurance policy in an amount of not less than one hundred thousand dollars bodily injury coverage per person covering any bodily injury negligently caused by any officer or employee of the festival while acting in the performance of his or her duties. The policy shall name the issuing authority of the permit as an additional named insured.

In addition, the promoter shall be required to furnish evidence that he or she has in full force and effect a one hundred thousand dollar liability property damage insurance policy covering any property damaged due to negligent failure by any officer or employee of the festival to carry out duties imposed by this chapter. The policy shall have the issuing authority of the permit as an additional named insured.

[2012 c 117 § 423; 1972 ex.s. c 123 § 3; 1971 ex.s. c 302 § 26.]

70.108.080

Revocation of permits.

Revocation of any permit granted pursuant to this chapter shall not preclude the imposition of penalties as provided for in this chapter and the laws of the state of Washington. Any permit granted pursuant to the provisions of this chapter to conduct a music festival shall be summarily revoked by the issuing authority when it finds that by reason of emergency the public peace, health, safety, morals or welfare can only be preserved and protected by such revocation.

Any permit granted pursuant to the provisions of this chapter to conduct a music festival may otherwise be revoked for any material violation of this chapter or the laws of the state of Washington after a hearing

held upon not less than three days notice served upon the promoter personally or by certified mail.

Every permit issued under the provisions of this chapter shall state that such permit is issued as a measure to protect and preserve the public peace, health, safety, morals and welfare, and that the right of the appropriate authority to revoke such permit is a consideration of its issuance.

[1971 ex.s. c 302 § 27.]

70.108.090

Drugs prohibited.

No person, persons, partnership, corporation, association, society, fraternal or social organization to whom a music festival permit has been granted shall, during the time an outdoor music festival is in operation, knowingly permit or allow any person to bring upon the premises of said music festival, any narcotic or dangerous drug as defined by chapters *69.33 or 69.40 RCW, or knowingly permit or allow narcotic or dangerous drug to be consumed on the premises, and no person shall take or carry onto said premises any narcotic or dangerous drug.

[1971 ex.s. c 302 § 28.]

Notes:

*Reviser's note: Chapter 69.33 RCW was repealed by 1971 ex.s. c 308 § 69.50.606.

70.108.100

Proximity to schools, churches, homes.

No music festival shall be operated in a location which is closer than one thousand yards from any schoolhouse or church, or five hundred yards from any house, residence or other human habitation unless waived by occupants.

3,000'

1,500'

[1971 ex.s. c 302 § 29.]

70.108.110

Age of patrons.

No person under the age of sixteen years shall be admitted to any outdoor music festival without the escort of his or her parents or legal guardian and proof of age shall be provided upon request.

[1971 ex.s. c 302 § 30.]

70.108.120

Permits — Posting — Transferability.

Any permit granted pursuant to this chapter shall be posted in a conspicuous place on the site of the outdoor music festival and such permit shall be not transferable or assignable without the consent of the issuing authority.

[1971 ex.s. c 302 § 31.]

70.108.130

Penalty.

(1) Except as otherwise provided in this section, any person who willfully fails to comply with the rules, regulations, and conditions set forth in this chapter or who aids or abets such a violation or failure to comply is guilty of a gross misdemeanor.

(2)(a) Except as provided in (b) of this subsection, violation of such a rule, regulation, or condition relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction.

(b) Violation of such a rule, regulation, or condition equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 is a misdemeanor.

[2003 c 53 § 359; 1979 ex.s. c 136 § 104; 1971 ex.s. c 302 § 32.]

Notes:

Intent -- Effective date -- 2003 c 53: See notes following RCW 2.48.180.

Effective date -- Severability -- 1979 ex.s. c 136: See notes following RCW 46.63.010.

70.108.140

Inspection of books and records.

The department of revenue shall be allowed to inspect the books and records of any outdoor music festival during the period of operation of the festival and after the festival has concluded for the purpose of determining whether or not the tax laws of this state are complied with.

[1972 ex.s. c 123 § 4.]

70.108.150

Firearms — Penalty.

It shall be unlawful for any person, except law enforcement officers, to carry, transport, or convey, or to have

in his or her possession or under his or her control any firearm while on the site of an outdoor music festival.

Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not more than two hundred dollars or by imprisonment in the county jail for not less than ten days and not more than ninety days or by both such fine and imprisonment.

[2012 c 117 § 424; 1972 ex.s. c 123 § 5.]

70.108.160

Preparations — Completion requirements.

All preparations required to be made by the provisions of this chapter on the music festival site shall be completed thirty days prior to the first day scheduled for the festival. Upon such date or such earlier date when all preparations have been completed, the promoter shall notify the issuing authority thereof, and the issuing authority shall make an inspection of the festival site to determine if such preparations are in reasonably full compliance with plans submitted pursuant to RCW 70.108.040. If a material violation exists the issuing authority shall move to revoke the music festival permit in the manner provided by RCW 70.108.080.

[1972 ex.s. c 123 § 6.]

70.108.170

Local regulations and ordinances not precluded.

Nothing in this chapter shall be construed as precluding counties, cities and other political subdivisions of the state of Washington from enacting ordinances or regulations for the control and regulation of outdoor music festivals nor shall this chapter repeal any existing ordinances or regulations.

[1972 ex.s. c 123 § 7.]

HAND-DELIVERED 9/19/14

September 19, 2014

Jefferson County Commission
Charles Town, WV 25414

Re: Presentation time on the October 1, 2014 Agenda
(Mass Gathering Amendment to the Zoning Ordinance)

Dear President Pellish and Members of the Commission:

With respect to the Commission's Notice of Public Hearing referenced above, I respectfully request time on the October 1 agenda for both Douglas Rockwell and myself separately to discuss with the Commission different issues regarding the subject matter. I make this request for both of us and at Mr. Rockwell's request because we do not want to miss the deadline for the requests.

We are both residents of Jefferson County and enclose the following documents for your consideration:

1. Transylvania County, NC Mass Gathering Ordinance;
2. Amendment to Zoning Ordinance prepared by an Assistant Prosecuting Attorney;
3. Preston County Mass Gathering Ordinance pursuant to Code Section 7-1-3kk;
4. Proposed amendment to delete Section 9.8.

I also enclose:

1. My letter to the Commission of September 5, 2014 and enclosure for re-consideration;
2. The case of *Bittinger v. Bolivar*, 183 W.Va. 310, 395 S.E. 2d 554 (1990) which clearly permitted the Town of Bolivar to issue building permits separate and independent of "zoning", an analogous situation to the one at hand.

The following comments are mine alone and not to be attributed to Mr. Rockwell.

1. On February 20, 2014, the Commission allowed me to address a solution to the problem, to put it mildly, now facing County residents as a result of a proposed mass gathering.

2. At that time I told the Commission (and later in writing) that “All Good” was coming back and that the Commission had better do something to protect us from its ravages.
3. I urged the Commission to put a sixty (60) day deadline on the Planning Commission but you did not do so.
4. As Commissioner Widmyer observed on September 12, 2014, here we sit and nothing has been done.
5. Some would say that this is not about “All Good” and it should not be, but IT IS! As their local attorney told the Commission recently, “All Good” and some of their friends on the Planning Commission wrote what you now have as the Planning Commission’s recommendation. It is tailor-made for “All Good” and does nothing significant to protect County residents.
6. Please pardon me if the question arises: WHEN is this Commission going to take ACTION to PROTECT County residents and the County’s finances from the catastrophic effects of the proposed “All Good” event?!
7. Members of the Commission can take all the shots at me they want for saying this, but I wasn’t elected to protect the residents of Jefferson County, YOU WERE. I hope I’m wrong but I fear County residents will have to experience the devastation “All Good” brings with it before anything gets done.

Respectfully,



Robert D. Aitcheson
P.O. Box 188
Rippon, WV 25441
304-582-1997

Encl.

cc: Douglas S. Rockwell
P.O. Box 727
Charles Town, WV 25414

cc+enc: Stephanie Grove, Esq.

Transylvania County Mass Gathering Ordinance

TABLE OF CONTENTS

1. PURPOSE AND JURISDICTION:

The intent and purpose of this ordinance is to provide for the protection of the public health, public welfare and public safety of those person in attendance at mass gatherings held in the County and of those persons who attend or who reside near or are located in proximity to the sites of such mass gatherings or are directly affected thereby. This purpose is to be executed with due consideration to the fiscal implications of enforcing this ordinance. Nothing herein is intended or shall be used to impose any duties on Transylvania County for purposes of claims or causes of actions arising by a failure to properly execute this ordinance, and no third party shall have any claims related to the same.

The State of North Carolina grants to Transylvania County the Authority, power and jurisdiction over mass gatherings, as defined below, throughout the County of Transylvania.

2. DEFINITIONS:

AMPLIFICATION-Noises above and beyond the ordinary noises of the mass gathering area and which are caused by some sort of man-made noise enhancement system.

ATTENDEE- Any person who attends the event, whether for payment or not, who is not an employee or agent of the event sponsor, or who is not providing a public service associated with the event, and who is not a performer or service provider at the event.

BOARD OF HEALTH- The Transylvania County Board of Health.

BOND- This is the performance guarantee that is required to receive permission from Transylvania County to hold the mass gathering event within the County and shall be determined as set forth herein.

COUNTY MANAGER- The County Manager of Transylvania County.

ENVIRONMENTAL HEALTH SPECIALIST- Qualified Representative of the Transylvania County Board of Health.

RECEIVED

SEP 08 2014

JEFFERSON COUNTY
PLANNING, ZONING AND ENGINEERING

Effective 4/1/07

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EVENT SPONSOR- The person or company (also called the "Operator") responsible for the mass gathering (to be held liable for all Public Costs, claims, liabilities, or causes of action resulting from the mass gathering or any of its invitees or participants), including but not limited to the management of the event and the area, promotion, and/or collection of any fees charged. Event Sponsor is required to be on site and present at the event at all times.

EXEMPTIONS- Events sponsored or sanctioned by the City of Brevard, Brevard Chamber of Commerce, the Heart of Brevard, Brevard College, Transylvania Community Hospital TCH Foundation, The State of North Carolina, The United States of America, Transylvania County, Transylvania County Schools and Agencies, Religious Institutions any legally- recognized Not-for-Profit Organization, any not-for-profit events sponsored or sanctioned by Transylvania County, and any events with less than 300 attendees.

FINANCIAL ASSURANCES- Any form of insurance, bonding, financial capitalization, financial accountability or other assurances required by County, in its sole discretion, to insure that there will be compliance with this ordinance and to insure compliance with documents, plans and proposals submitted to the County by the Event Sponsor.

FEES-Application fees shall be charged by the County for all commercial mass gatherings unless otherwise exempt, in addition, to costs incurred by the County for a Mass gathering.

HEALTH DIRECTOR- The Health Director of Transylvania County or his/her authorized representative.

INELIGIBLE MASS GATHERING-

1. Any event that is substantially continuous for greater than or equal to fourteen (14) hours;
2. Any event that occurs in whole or in part before 9:00 am or after 11:00 pm (shall be presumed to have an adverse impact unless Event Sponsor demonstrates to the County, in the County's sole discretion, to the contrary);
3. Any event that has greater than 2000 total attendees;
4. Any event that has an adverse impact on the areas adjoining the mass gathering or the Transylvania County communities, or
5. Any event that falls within the definition of mass gathering, but for which no provisional and final applications have been made and approved (this event cannot be held in

this County).

MASS GATHERING- Any event that has between 300 to 2000 total attendees.

MASS GATHERING AREA- Any place maintained, operated, or used for mass gathering or assemblage (or by its attendees), except where the mass gathering is to occur within an established permanent stadium, arena, auditorium or other type of permanent building that is enclosed (and/or protected by a roof), floor and has sufficient existing permanent facilities (sanitary, parking, seating) to handle the number of attendees and other persons to be located in the area during the event.

NUISANCE- Means and includes any of the following:

1. Any public or private nuisance known at common law, North Carolina statute, or in equity.
2. Any attractive nuisance known at common law, North Carolina statute or in equity.
3. Any condition which violates local, state, or federal environmental or health laws, ordinances and/or regulations.
4. Any condition which violates the sensibilities of reasonable persons so as to pose a potential threat of harm to health or so as to pose a potential threat to the safety, use and/or enjoyment of the local environment.

PERSON- Any person, firm, corporation or other organization of any kind which holds, sponsors, organizes, conducts, or promotes, jointly or severally, a mass gathering.

PUBLIC COSTS- Those costs incurred directly or indirectly by the County in connection with a mass gathering that would not be incurred by the County if the mass gathering was not held.

REFUSE- All combustible and non-combustible putrescible and nonputrescible solid or liquid waste.

SANITARY FACILITIES- Toilets, privies, lavatories, urinals, drinking foundations and service facilities or rooms for the installation and use of these units.

SECURITY GUARD- Any person clearly identified by Event Sponsor as security personnel and if qualified as set forth herein.

3. PERMITTING PROCESS-APPLICANT

A. Provisional Permit –Greater than or equal to 60 days before mass gathering (“event”).

i. The Event Sponsor must present a completed Provisional Permit Application and seven (7) copies (See Exhibit A for a list of items to be included in this Application) to the County Manager sixty (60) days or more prior to the date of the scheduled event. ii. Transylvania County shall have exclusive jurisdiction and discretion to grant or refuse to grant a Provisional Permit under the terms and conditions set forth herein unless the event is exempt or ineligible, with the latter not allowed in this County. iii. Notwithstanding any other provision or condition in this ordinance to the contrary, the County does not have any discretion to approve an application if the following circumstances exist:

1. The event has a prior history of criminal behavior by its attendees, violations of this ordinance, substance abuse by its attendees, or other evidence of dangerous or improper behaviors for a public event so as to put members of the general public in danger.
2. The event or event sponsor has a past history or experience with environmental or health risks or problems at this or similar events.
3. The mass gathering area is not conducive to providing a safe, healthy, or functional area for the type of event or for the number of attendees and other persons to be present at the event.
4. The event sponsor is unable to obtain the required bonds and/or assurances.
5. The event sponsor does not complete all required applications.
6. The event sponsor and landowner do not have the required insurance to cover the event.
7. The event sponsor and landowner refuse to indemnify the County (its departments or cities) and hold it harmless from any and all liabilities, claims or causes of action resulting from the mass gathering event or the application process itself.

B. Application Plan and Conference-Provisional Permit-When the complete Provisional Permit (Application and Copies) has been presented, along with proof of ability to obtain financial assurances, then the process (a thirty [30] day process) for approval or denial of such application is as follows:

- i. Within seven (7) days of the tender of such application the County Manager shall submit the application to the following departments for an assessment of the application and for estimates of costs to be ultimately borne by the event sponsor.
 1. Transylvania County Health Department
 2. Transylvania County Sheriff
 3. Transylvania County Emergency Management
 4. Transylvania County 911
 5. Transylvania County Finance Director
 6. Transylvania County Solid Waste Department
 7. City of Brevard or City of Rosman if within those city limits.
 - ii. Within ten (10) days after the submission of the application by the County Manager, these departments or cities shall report to the County Manager as to whether or not the application is approved by that department or city and shall submit a cost estimate for the direct or indirect expenses (public costs) anticipated from that department or city with respect to that event.
 - iii. If a department or city does not approve the application, the County Manager shall contact the event sponsor within five (5) days of such denial, and shall give any stated reasons for such denial to the event sponsor, and the event sponsor shall have an additional five (5) days from the date of contact to fix or cure the reason(s) for such denial, evidence of which must be submitted in detailed writing to the County Manager who shall have the remaining three (3) days to determine if the revised plan cures the concerns of the department or city, and if it does not, the application will be automatically denied on the thirtieth (30th) day after receipt of the application.
 - iv. If the application is approved, event sponsor must immediately tender on the 30th day the bonds and assurances required herein.
 - v. The application fee for submission of the provisional application is \$1000, a nonrefundable fee.

C. Final Permit- The final permit may only be applied for after approval of the provisional permit and it must be applied for and received at least three (3) business days and at least 72 hours prior to the beginning of the event and the process is as follows (no final permit applications can be received less than three business days prior to dates in which County offices are not open):

- i. The Final Permit Application shall contain all of the information and shall comply with the checklists listed in Exhibit B.
- ii. The Final Permit Application shall require an additional \$500 fee.
- iii. The Final Permit Application cannot be accepted without proof of bonds and assurances as required herein.
- iv. Transylvania County may visit the site of the mass gathering area, which may be done within 72 hours of the receipt of this final application, to confirm that the information submitted in the provisional and final permit applications is accurate before giving final approval to hold the event.
- v. The County Manager shall contact the event sponsor within thirty six (36) hours of the beginning of the event, and if the application is denied, the County Manager will give reasons for the same and the event sponsor shall have up until twelve (12) hours before the event to correct any problems with the final permit application and the circumstances at the site of the mass gathering area.
- vi. Notwithstanding any other provision to the contrary, if the County Manager or the Board of Commissioners determines that the event is not in the best interest of the County (based on information not previously disclosed or reasonably known during the provisional permitting process,) its residents or those who visit the County, then the final permit may be denied in the County's discretion.
- vii. If ultimately denied, Event Sponsor shall make every reasonable attempt to notify the public in a timely manner.

D. Additional considerations for all permits, whether provisional or final-

The County Manager shall take into account the following factors (this not a comprehensive list but which is a list intended to guide the County Manager and its departments or the cities within the County when assessing an application for an eligible mass gathering event.) The following factors are intended to protect the health, welfare and safety of those attending mass gatherings, and of other persons who may be affected by mass gatherings.

- i. **Activity Area-** An activity area shall be provided of sufficient size to accommodate the estimated number of persons reasonably expected to be in attendance at any one time. The activity area is in addition to those areas required for parking and camping, and for a command post.

- ii. **Distance from Dwellings-** No part of the perimeter of the activity and camping areas shall be within 500 feet of any residence unless the occupant or owner has signed a written waiver. Notarized copies of any such waivers shall accompany the application. The waiver must be dated and can be no older than 12 months.
- iii. **Distance from Certain Public Water Supply Sources-** No part of the perimeters of the activity and camping areas shall be located within one mile of a Class I and Class II reservoir, as classified by NCDENR, Division of Environmental Health, Public Water Supply Section.
- iv. **Camping Area-** An area of adequate size, at least 100 square feet per person; shall be provided and dedicated for camping if those attending or some of those attending will be staying overnight. Such area shall be in addition to the areas provided for activities and parking.
- v. **Command Post-** An adequate command post at a conveniently accessible location approved by health, law enforcement and other relevant governmental agencies shall be provided for the use of said agencies. The command post shall consist of at least one building or mobile unit equipped with an adequate number of telephones, and other utilities, and an adequate number of parking spaces. The event sponsor shall insure access to it at all times by such governmental personnel.
- vi. **Ingress and Egress Roads; Entrances and Exits-** The event sponsor shall provide personnel and arrangements (to include obtaining permission) necessary to keep entrances and exits to public highways open to traffic at all times. The event sponsor shall make arrangements with private parties and/or consult with the N.C. Department of Transportation regarding adequate ingress and egress.
- vii. **Parking-** Parking facilities shall be provided off public roadways and rights-of-way sufficient to serve the reasonably expected requirements at a rate of up to 100 passenger cars per acre and 30 buses per acre. One parking space for cars shall be provided for each two people expected to attend. Camper class vehicles shall park in the camping area. Parking on shoulders of public highways shall not be permitted and temporary signs shall be erected by the applicant to so indicate.
- viii. **Plan for Limiting Attendance; Exclusion of Non-Ticket Holders; Crowd Control; Security Enforcement-** The application for permit shall be accompanied by a written plan for limiting attendance to the number stated in the application for permit, the exclusion of persons not holding tickets, and a written plan for security guards to be provided for

internal and external crowd control and security enforcement. The plan shall be accompanied by a written statement by the Sheriff or Chief of Police, or an authorized representative (depending on jurisdiction), that the plan meets the minimum requirements of this ordinance, or greater. The event sponsor shall execute the plan.

ix. Dust Control- The application shall be accompanied by a written plan for dust control. The event sponsor shall execute the plan. x.

Fire Prevention and Control- The application shall be accompanied by a written plan for fire prevention and control, to be approved by the Fire Marshal.

xi. Plans for Emergencies- The application shall be accompanied by written plans for dealing with emergency situations involving the occurrence of incident involving rapid evacuation, including arrangements for use of emergency egress roads, if deemed necessary by the County Manager.

xii. Provisions for Adequate Medical Care- The application for permit shall be accompanied by a written plan for the provision of adequate medical care, such plan having been approved in writing by a qualified licensed medical physician with expertise in the area of emergency medical management. At the time of inspection noted in this ordinance, the structure and all supplies and equipment provided for in the plan shall be in place or are guaranteed or planned, and the agreements and statements provided for in the plan shall be determined to be valid. The plan shall include provisions for:

1. At least one enclosed covered structure to be used as a medical treatment center. The structure shall provide at least a total of 400 square feet and have hot and cold running water under pressure from an approved source.
2. A list of medical supplies and equipment sufficient to support reasonably anticipated attendance at the mass gathering.
3. Notification of all general public hospitals within 20 miles of the mass gathering location as to the scheduled dates and anticipated attendance of the mass gathering. (ex.-Copies of certified letters).
4. The name and address of at least one licensed ambulance or EMS service to be responsible for providing emergency transportation. A signed, notarized statement by an official of the agency accepting this responsibility shall accompany the plan.

xiii. Water Supply-Water supplies shall meet the requirements in 15A NCAC 18A. 1700.

1. The water supply used shall be located, constructed, maintained and operated in accordance with the Commission for Health Services' rules governing water supplies. At least once a year, a sample of water shall be collected by an Environmental Health, Specialist and submitted to the Division of Laboratory Services or other laboratory certified by the Department of Environment & Natural Resources to perform bacteriological examinations. The water supply and the facilities for distributing and dispensing shall be provided with effective safeguards to prevent the introduction of hallucinogenic drugs or other contaminants.

2. Cross connections are prohibited. All plumbing fixtures for potable water shall be provided and installed as required by the North Carolina State Building Code.

3. If a new source of water supply is to be provided, the Application shall be accompanied by the necessary plans, engineer's report, and specifications (in triplicate) as required for review and approval by the Division of Environmental Health, Public Water Supply Section, and the application shall include plans, engineer's report, and specifications for an emergency source capable of supplying at least three gallons per day per person. If waster is to be hauled from an off-site source, storage facilities shall be provided in the area sufficient in volume to supply the needs of the gathering for its duration. Before being filled with water for use during the gathering, all such storage tanks shall be cleaned thoroughly, filled with clean water containing a chlorine residual of at least 100 parts per million, and, after a contact time of at least 24 hours, all such tanks shall be emptied. Subsequently and prior to the issuance of a permit, all such tanks shall be closed and locked so as to give positive protection against the introduction of contamination.

4. Water outlets shall be provided at an adequate number of convenient and readily accessible locations properly distributed throughout the activity and camping areas.

xiv. Toilet Facilities-Sewage Disposal

1. Sanitary toilet facilities shall be provided at an adequate number and readily accessible locations properly distributed throughout the activity and camping areas at a rate of not more than 100 persons per toilet seat.
 2. If chemical toilet rental service is to be employed, all toilets shall be so located as to be readily accessible by service vehicles and shall be serviced as often as necessary. Material removed from such toilets shall be disposed of in a public or community sewerage system, or in an approved area that has been permitted as a septage disposal site by NCDENR, Division of Water Management Disposal must be done by a permitted septage management company.
 3. If water carried sewage facilities are permitted, the sewer system shall be connected to a public or community sewerage system having waste water treatment facilities of adequate capacity to treat the flow of waste water from the mass gathering. The application shall be accompanied by a representative of the owner/operator of the treatment facility attesting to its adequacy. No sewage shall be discharged on the ground or into any watercourse.
- xv. Solid Waste Collection and Disposal-Facilities shall be provided for all solid wastes to be collected and stored in leak-proof, nonabsorbent containers, and all solid wastes shall be removed daily or more often if necessary and disposed of at the Transylvania County Landfill. Approved receptacles shall be provided at places conveniently located throughout the activity, camping and parking areas, and at each food service facility for the disposition of solid wastes. If bulk solid waste storage containers are used, at least two (2) containers of four(4) cubic yard capacity or greater, shall be provided per 1,000 persons in case of twice daily removal and these containers shall be so located as to be accessible to solid waste service vehicles.
- xvi. Food Dispensing-Sanitary food dispensing facilities shall be provided at accessible and convenient locations, and shall be maintained in a sanitary condition. Perishable food items dispensed from such facilities shall be limited to pre-packages items such as wrapped sandwiches, prepared in commercial establishments and under official supervision,

- and shall be dispensed in unbroken packages, provided that chicken, hamburgers, pork, hot dogs, etc. obtained from approved sources may be cooked and packaged at the site if all operations of preparation, cooking and packaging for dispensing to individuals are done inside an approved structure or vehicle, in a sanitary manner, and otherwise in compliance with 15A NCAC 18A.2600, "Rules Governing the Sanitation of Restaurants and Other Food Handling Establishments." Perishable foods shall be stored at or below 45°F, or in the frozen state, until heated or cooked immediately before serving.
- ii. Insect and Rodent Control- There shall be no fly or mosquito breeding places, rodent harborages, or undrained areas on the premises. Necessary measures shall be taken to control flies, mosquitoes, rodents or other vermin.
 - iii. Post-Gathering Cleanup- Within one week after the end of the gathering, all areas and immediate surrounding properties shall be cleaned of all litter and solid waste attributable to the mass gathering. Unless otherwise directed by the property owner, all temporary solid waste facilities and signs shall be removed.
 - iv. Noise Level at Perimeter- The application shall be accompanied by plans for amplifying equipment, which shall be so located and operated as to limit the noise level at the perimeter of the site to no more than 70 decibels on the A Scale of a sound level meter which meets the specifications of the American National Standards Institute. The application shall include a signed statement certifying that the noise level limit as herein specified shall not be exceeded.
 - v. Lighting- The application shall be accompanied by plans for lighting designed to illuminate the site, with such lighting to be adequate to illuminate the site and to be directed away from adjacent properties.
 - vi. Signs- Signs shall be posted throughout the area showing the location of toilet facilities, water supply outlets, solid waste receptacles, food stands, first aid facilities and the command post.
 - vii. Animals/Pets- Animals shall not be allowed, except for animals for the blind or handicapped. If the event is primarily for animal exhibition, then those animals being exhibited may be allowed in the County's discretion, however a plan shall be submitted, approved and executed for control and clean up of animal waste and disturbance.

4. DENIAL AND APPELLATE PROCESS (Only if a discretionary denial)

A. Appeals- The denial of a permit by the County Manager or his or her designee pursuant to the provisions of this ordinance may be appealed to the Board of County Commissioners by the applicant. Such appeal shall be in writing, filed with the Chairperson of the Board of County Commissioners within five (5) days of the mailing or personal service of the decision of the County Manager or his or her designee and must specify objections to the decision of the

County Manager or his or her designee. The Board of Commissioners for Transylvania County shall place this appeal on its agenda for its next scheduled Board meeting so long as it was received by them at least four (4) business days prior to the scheduled meeting. The event sponsor shall make him/her or itself aware of the next meeting and shall confirm receipt of the appeal and the scheduled agenda. If the Board of Commissioners determines that a permit should be issued, then they shall issue a permit. If the Board of Commissioners determines that a permit should not be issued, then they shall not issue the permit and shall notify the applicant in writing specifying the reason for the denial within a reasonable amount of time permitted.

5. ENFORCEMENT MECHANISMS-By presentation of an application, event sponsor and owner of the mass gathering area agree to the following enforcement mechanisms, as well as to all other enforcement remedies available to the County in law or in equity.

A. INJUNCTION- If any person shall violate or threaten to violate the provisions of this ordinance and any subsequent rules and regulations adopted pursuant thereto and such violation, if continued, or such threatened violation, if committed, is or may be dangerous to the public health, safety, or welfare, or if any person shall hinder or interfere with the County Manager (or any department or city) in the performance of his(her) duties, or representative, and such hindrance or interference is or may be dangerous to the public health, the County Manager may institute an action in the Superior Court of the county in which such violation, threatened violation, hindrance, or

interference, irrespective of all other remedies of law, and upon the institution of such an action, the procedure shall be in accordance with G.S. Article 37 of Chapter 1, and all future amendments. Event sponsor shall be responsible for all County costs for this action, including but not limited to attorneys' fees, court costs, expert fees, and all other direct or consequential costs related to the action.

B. CRIMINAL ENFORCEMENT- If there are applicable health, safety or environmental violations, then the County may recommend and enforce criminal prosecution against event sponsor and/or attendees or invitees, as allowed under the laws of the State of North Carolina and the United States of America.

C. ADMINISTRATIVE ENFORCEMENT- The County in its sole discretion, or through its departments and cities, may issue a NOTICE OF VIOLATION & ORDER OF COMPLIANCE, which shall be served to the owner of the property or the event sponsor (note that event sponsor must always be in the mass gathering area during the event) and the owner and/or event sponsor shall immediately cure the violation or the County, in its sole discretion, may close down the event and demand that all activities cease and that all persons be removed from the area. Nothing herein gives the owner or event sponsor any recourse against the County or its departments or cities for any damages, including but not limited to lost profits, for shutting down the event.

6. ALLOCATION OF COSTS-PROCESS-

The County, its departments and any cities who incur direct or indirect costs because of any mass gathering event shall hold the event sponsor responsible for paying such additional costs. The costs shall be determined under traditional cost-accounting methods and the invoice for such costs shall be immediately payable by event sponsor upon receipt. The County, its departments and any cities, shall be entitled to recover interest, penalties, court costs, attorneys' fees and any other reasonable costs for the enforcement of this provision.

7. POST-GATHERING PROCEDURES

- A. Clean-up. The applicant shall be responsible for placing all refuse in appropriate containers, making it ready for removal within twelve hours following the conclusion of the mass gathering.
- B. Post-gathering inspection. Within twelve (12) hours following the conclusion of the mass gathering, the Sherriff of Transylvania County shall cause an inspection to be made at the mass gathering site to determine compliance herein.
- C. Deposit, refund of bond termination. If the event sponsor has complied with all of the provisions herein, including clean up, the County Manager shall authorize return of the clean-up deposit (in an amount to be initially determined by the County Manager) shall be returned within five (5) days from such authorization.
- D. If, upon inspection, the County Manager determines that the event sponsor has failed to comply with the ordinance and specifically with these post-gathering procedures, the County Manager may cause trash and debris at the site to be placed in the appropriate containers, making it ready for removal. The event sponsor shall be responsible for the cost of such clean-up. The County may apply all or a portion of clean up deposit towards the clean-up cost incurred by the County.

8. BOND AND PUBLIC ASSURANCES-

- A. The event sponsor shall carry a public liability insurance policy (which shall name the County as additional insured) in the following amounts, which specifically covers this event: \$ 1,000,000 bodily injury per person; \$5,000,000 bodily injury per occurrence; and \$ 500,000 property damage per occurrence. Proof shall be required upon the approval of the provisional application.
- B. The event sponsor shall provide to County immediately upon approval of the provisional permit the following: a performance bond or some other surety in an amount of \$10 per attendee for the maximum number of attendees to be admitted per application.

9. ADDITIONAL PENALTIES-

In addition to the remedies noted above in Article 5 above, the following penalties may be assessed against any person or entity who willfully holds mass gatherings (or willfully fails to perform any requirement of this ordinance) as defined herein (or who holds an ineligible mass gathering): fines up to \$5,000 and/or imprisonment of up to 60 days. Any person who willfully violates this ordinance shall be guilty of a misdemeanor.

An Ordinance pursuant to WEST VIRGINIA CODE Section 7-1-3kk to eliminate hazards to public health and safety and abate public nuisances associated with temporary mass gatherings of people for entertainment events.

Be it enacted by the Preston County Commission,

An Ordinance to Regulate Mass Gatherings

It appearing to the County Commission (the Commission) of Preston County, West Virginia that it is authorized by Chapter 7, Article 1, Section 3kk of the Official Code of West Virginia, 1931, as amended, to enact ordinances, issue orders and take other appropriate and necessary actions for the elimination of hazards to public health and safety and to abate or cause to be abated anything which the commission determines to be a public nuisance, the Commission hereby adopts the following Ordinance which provides as follows:

(1) **Purpose**

The Commission **FINDS** that temporary mass gatherings of people to attend musical performances and other entertainment events have created a hazard to public health and safety and a public nuisance due to increased criminal activity, high levels of traffic congestion in the public roads surrounding such events, and high demands on police, emergency, and medical resources in Preston County.

(2) **Definitions**

For purposes of this Ordinance

"Mass gathering" is defined as any event which has more than 3,000 attendees who will reside at the event for 14 hours or more in temporary shelters that will be removed when the event has been completed.

"Temporary shelters" are defined as a non-permanent structure such as a tent which is designed to be easily removed and which is not assessed under West Virginia Law for tax purposes as either an improvement upon real property or as personal property.

Ex. 8

(3) **Permit Required**

No person, firm, corporation, or partnership, shall stage, promote, or conduct any entertainment event creating a "mass gathering" unless there shall have first been obtained a permit from the Commission. Applications for said permit shall be in writing, on forms provided by the County Clerk and filed with the County Clerk not more than one year but at least 30 days prior to the beginning of said entertainment event. Said Application shall have attached the plans, statements, approvals and other documents required by this Ordinance. The Commission anticipates that the application process may occur over time with some application requirements submitted earlier than others. However, the Commission will not act until all Application requirements have been submitted.

The Commission shall docket and act on said Application at the next regularly scheduled meeting held after all Application requirements have been filed which allows said matter to be docketed at least three business days before the Commission meeting.

(4) **Application Requirements**

The Application for permit shall include the following plans, statements, approvals, and documents:

a statement by the applicant of the date(s) and times for the event;

a statement by the applicant of the total number of tickets that will be provided for attendees whether sold or provided otherwise, the applicant's best reasonable estimate of the total expected persons in attendance at the event, and the applicant's certification that it will comply with all applicable state and local laws and regulations;

a statement of the name and addresses of the promoter of the event, the financial backing of the event, and the names of all persons that will perform at the event;

a statement of all lands upon which any part of the event will occur, and the names and addresses of all owner(s) of those lands;

a plan for adequate sanitation facilities and garbage, trash, and sewage disposal for the event which shall comply with all applicable state and local law and regulations which shall be approved by the County Health Department;

a plan for providing food and water for persons attending the event which shall comply with all applicable state and local law and regulations which shall be approved by the County Health Department;

a plan for providing adequate medical care for persons attending the event which shall be approved by the Director of the Office of Emergency Management for the County;

a plan for providing adequate security and traffic control for the event including surrounding roads which shall be approved by the Sheriff of Preston County;

a list of all vendors that will be providing goods or services to the event and documentation showing that they are legally certified and licensed to do business in West Virginia.

(5) **Deposit Required**

A deposit in an amount sufficient to cover the cost of additional police, emergency, and medical resources which shall be paid to the Commission when the Application is finally approved by the Commission. Said deposit will be determined as follows:

3,000 to 9,999 attendees	\$1 per person per day
10,000 to 19,999 attendees	\$1.25 per person per day
20,000 to 39,999 attendees	\$1.50 per person per day

40,000 or greater attendees

\$1.75 per person per day

(6) Geographical Coverage

This Ordinance applies to all geographical areas of Preston County, West Virginia, whether inside or outside the boundaries of any municipal corporation. Provided: this Ordinance shall not be construed as prohibiting a municipal corporation from lawfully adopting a municipal ordinance with greater protections against the hazards addressed by this Ordinance, to the extent allowed by the laws of this State.

(7) Severability

In the event that any court declares any provision of this Ordinance to be unenforceable, said declaration shall not be construed as invalidating the remaining provisions.

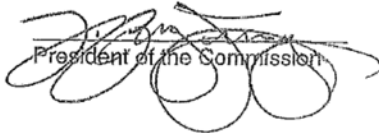
(8) Civil Sanctions


The Commission shall have the right to revoke any permit granted under this Ordinance and prohibit the Applicant from obtaining any future permits after appropriate notice and hearing for the Applicant if there are violations of any portion of the Ordinance; In addition, the Commission may seek injunctive relief in the Circuit Court of Preston County for public nuisance if there are violations of any portion of the Ordinance.

(9) Criminal Violations

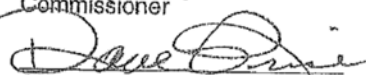
Any person, firm, corporation, or partnership which willfully violates any portion of this Ordinance shall upon conviction be subject to a jail sentence of not more than 12 months and/or a fine not to exceed \$25,000 by the Preston County Magistrate Court.

Adopted this 24 day of January 2011,
effective immediately upon passage.

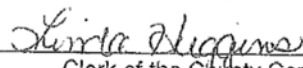

President of the Commission



Commissioner



Commissioner

Attest: 

Clerk of the County Commission

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

September 2000 Term

FILED

December 12, 2000
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED

December 13, 2000
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

No. 27913

STATE OF WEST VIRGINIA EX REL. ANITA D. BROWN,
EXECUTRIX OF THE ESTATE OF DIXIE D. KILHAM,
Petitioner

PAUL L. ASHBAUGH,
Intervenor

v.

THE CORPORATION OF BOLIVAR,
A WEST VIRGINIA MUNICIPALITY,
Respondent

Petition for Writ of Prohibition/Mandamus

WRIT GRANTED AS MOULDED AND REMANDED

Submitted: November 28, 2000

Filed: December 12, 2000

F. Samuel Byrer, Esq.
Nichols and Skinner
Charles Town, West Virginia
Attorney for Petitioner

Richard G. Gay, Esq.
Berkeley Springs, West Virginia

Attorney for Intervenor

Charles B. Howard, Esq.
Charles Town, West Virginia
Attorney for Respondent

The Opinion of the Court was delivered PER CURIAM.

SYLLABUS BY THE COURT

1. “The writ of prohibition lies from a superior court not only to inferior judicial tribunals properly and technically so denominated but also to inferior ministerial tribunals possessing incidentally judicial powers, such as are known in the law as quasi judicial tribunals, and even in extreme cases to purely ministerial bodies, when they attempt to usurp judicial functions.’ Point 1 Syllabus, *Fleming v. Commissioners*, 31 W.Va. 608 [8 S.E. 267].” Syllabus Point 1, *State ex rel. City of Huntington v. Lombardo*, 149 W.Va. 671, 143 S.E.2d 535 (1965).

2. “A writ of mandamus will not issue unless three elements coexist—(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which the petitioner seeks to compel; and (3) the absence of another adequate remedy.” Syllabus Point 2, *State ex rel. Kucera v. City of Wheeling*, 153 W.Va. 538, 170 S.E.2d 367 (1969).

3. “In order to suspend the operation of an ordinance, the ordinance must be repealed or succeeded by another ordinance or an instrument of equal dignity.” Syllabus Point 3, *Bittinger v. Corporation of Bolivar*, 183 W.Va. 310, 395 S.E.2d 554 (1990).

4. “Costs and attorney’s fees may be awarded in mandamus proceedings involving public officials because citizens should not have to resort to lawsuits to force government officials to perform their legally prescribed nondiscretionary duties.” Syllabus Point 1, *State ex rel. Highlands Conservancy, Inc. v. West Virginia Div. of Environmental Protection*, 193 W.Va. 650, 458 S.E.2d 88 (1995).

5. “Attorney’s fees may be awarded to a prevailing petitioner in a mandamus action in two general contexts: (1) where a public official has deliberately and knowingly refused to exercise a

clear legal duty, and (2) where a public official has failed to exercise a clear legal duty, although the failure was not the result of a decision to knowingly disregard a legal command.” Syllabus Point 2, *State ex rel. Highlands Conservancy, Inc. v. West Virginia Div. of Environmental Protection*, 193 W.Va. 650, 458 S.E.2d 88 (1995).

6. “Where a public official has deliberately and knowingly refused to exercise a clear legal duty, a presumption exists in favor of an award of attorney’s fees; unless extraordinary circumstances indicate an award would be inappropriate, attorney’s fees will be allowed.” Syllabus Point 3, *State ex rel. Highlands Conservancy, Inc. v. West Virginia Div. of Environmental Protection*, 193 W.Va. 650, 458 S.E.2d 88 (1995).

Per Curiam:

This case is before this Court upon a petition for a writ of prohibition and/or writ of mandamus filed by the petitioner, Anita D. Brown, executrix of the Estate of Dixie D. Kilham, deceased, against the respondent, the Corporation of Bolivar, a municipality located in Jefferson County, West Virginia (hereinafter “Bolivar”). Ms. Brown claims that Bolivar unlawfully passed a resolution on December 7, 1999, adopting a nine-month moratorium on the issuance of any building permits, both residential and commercial. Ms. Brown requests that Bolivar be ordered to issue building permits under the ordinance that was in effect prior to the moratorium and that Bolivar be prohibited from adopting similar moratoriums in the future. She also requests that she be awarded reasonable attorney fees and costs for this matter. We issued a rule to show cause, and now, for the reasons set forth below, grant the writ as moulded and remand this case to the Circuit Court of Jefferson County.

I.

Dixie D. Kilham died on August 15, 1998, and the petitioner, Ms. Brown, was qualified as executrix of his estate on August 24, 1998. At the time of his death, Mr. Kilham owned a considerable amount of real estate in Jefferson County, West Virginia, and in the state of Maryland. Several parcels of the real estate in Jefferson County were located in the town of Bolivar. At the time of Mr. Kilham’s death, his property in Bolivar was appraised at approximately \$800,000.00.

In administering the estate, Ms. Brown negotiated a settlement agreement with the Internal Revenue Service (hereinafter “the IRS”) with regard to the federal estate tax liability. The agreement between the estate and the IRS provided that the estate would pay the IRS fifty-five percent of the value of each piece of property as appraised, including the real estate located in Bolivar. Ms. Brown paid the corresponding West Virginia tax liability which was approximately \$675,000.00.

Thereafter, Ms. Brown proceeded to market the real estate located in Bolivar so that she could discharge the estate’s obligation to the IRS. At the same time, the Bolivar town council passed a resolution adopting a nine-month moratorium on the issuance of any building permits applied for in the town, both residential and commercial. The stated purpose of the moratorium was to study and evaluate the building and zoning ordinance of Bolivar.

Ms. Brown attended the second reading of the resolution adopting the moratorium and argued that the moratorium was void and would interfere with the sale of the estate’s property and her fiduciary duties. Nonetheless, the town council of Bolivar adopted the moratorium on December 7, 1999.

Ms. Brown filed this petition for a writ of prohibition and/or writ of mandamus on July 7, 2000. That same day, the town council of Bolivar passed a new Planning and Zoning Ordinance thereby ending the moratorium. The new ordinance now governs the application process for residential and commercial building permits.

On September 29, 2000, this Court granted a motion to intervene filed by Paul L. Ashbaugh. Mr. Ashbaugh also owns property in Bolivar. He purchased the property for the purpose of constructing a housing development. Mr. Ashbaugh claims that under the prior ordinance, he would have been permitted to divide his property into twenty-five lots. Pursuant to the new ordinance adopted by Bolivar on July 7, 2000, Mr. Ashbaugh will only be able to construct a subdivision with nine lots. Mr. Ashbaugh also claims the moratorium adopted on December 7, 1999, was unlawful.

II.

We begin by noting that generally “[p]rohibition lies only to restrain inferior courts from proceeding in causes over which they have no jurisdiction, or, in which, having jurisdiction, they are exceeding their legitimate powers and may not be used as a substitute for [a petition for appeal] or certiorari.” Syllabus Point 1, *Crawford v. Taylor*, 138 W.Va. 207, 75 S.E.2d 370 (1953). However, this Court has also held that,

“The writ of prohibition lies from a superior court not only to inferior judicial tribunals properly and technically so denominated but also to inferior ministerial tribunals possessing incidentally judicial powers, such as are known in the law as quasi judicial tribunals, and even in extreme cases to purely ministerial bodies, when they attempt to usurp judicial functions.” Point 1 Syllabus, *Fleming v. Commissioners*, 31 W.Va. 608 [8 S.E. 267].

Syllabus Point 1, *State ex rel. City of Huntington v. Lombardo*, 149 W.Va. 671, 143 S.E.2d 535 (1965). By contrast, “[a] writ of mandamus will not issue unless three elements coexist--(1) a clear legal right in the petitioner to the relief sought; (2) a legal duty on the part of respondent to do the thing which

the petitioner seeks to compel; and (3) the absence of another adequate remedy.” Syllabus Point 2, *State ex rel. Kucera v. City of Wheeling*, 153 W.Va. 538, 170 S.E.2d 367 (1969).

Both Ms. Brown and Mr. Ashbaugh claim that the moratorium adopted by Bolivar on December 7, 1999, is unlawful pursuant to this Court’s decision in *Bittinger v. Corporation of Bolivar*, 183 W.Va. 310, 395 S.E.2d 554 (1990). We agree. *Bittinger* also involved the town of Bolivar and a similar moratorium on the issuance of building permits.

In *Bittinger*, Bolivar adopted a resolution which placed a ninety-day moratorium on the issuance of all building permits. The moratorium was later extended for an additional sixty days, during which the town council adopted a new ordinance establishing a review process for construction within Bolivar. The council specified certain requirements that had to be met in order to apply for and receive a building permit.

As a result of the moratorium, Steven Bittinger and Douglas Alexander, d/b/a Cornerstone Properties, were denied twenty building permits for a subdivision they were in the process of developing. Prior to the moratorium, Cornerstone Properties had obtained twelve building permits for the subdivision. Bittinger and Alexander filed a petition for a writ of mandamus in the Circuit Court of Jefferson County requesting that Bolivar be ordered to issue the building permits. Ultimately, the circuit court denied the writ of mandamus and upheld the new ordinance. Thereafter, the petitioners filed an appeal with this Court

After reviewing the record, the new ordinance in question, and the applicable case law, this Court concluded that there is “no authority which would permit a town council to impose a blanket moratorium on a valid ordinance.” *Bittinger*, 183 W.Va at 314, 395 W.Va. at 558. Except for emergency situations as set forth in W.Va. Code § 8-11-4(c) (1969), “[g]enerally, the requirements of an ordinance governing procedure for the adoption of another ordinance cannot be waived, suspended or repealed by motion.” *Id.*, quoting *Hukle v. City of Huntington*, 134 W.Va. 249, 255-56, 58 S.E.2d 780, 784 (1950). As this Court further explained,

“the ordinance of a municipal corporation may not be repealed by mere motion or resolution, nor can the operation of the ordinance be suspended by a resolution or by the acts of municipal officers A suspension, to be effective. . . . [must be] by an instrument of equal dignity, i.e. an ordinance.”

Id. Accordingly, this Court held in Syllabus Point 3 of *Bittinger* that “[i]n order to suspend the operation of an ordinance, the ordinance must be repealed or succeeded by another ordinance or an instrument of equal dignity.”

Despite this Court’s decision in *Bittinger*, the town council of Bolivar has once again declared a moratorium on a valid ordinance. This moratorium which was intended to last for nine months ended on July 7, 2000, seven months after it began, when the town council enacted a new ordinance. Undoubtedly, this action was prompted by the filing of the petition for a writ of prohibition and/or mandamus by Ms. Brown. Contrary to the assertions made by Bolivar in its brief filed with this Court on July 17, 2000, the enactment of the new ordinance on July 7, 2000, did not render this case moot. The town of Bolivar clearly exercised a power it did not possess when it adopted the moratorium on December

7, 1999. Therefore, we find that the moratorium is void as a matter of law and once again instruct the town of Bolivar that it may not suspend the operation of a valid ordinance by adopting a blanket moratorium.

Having found that the December 7, 1999 moratorium is void, we must now determine the appropriate remedy for Ms. Brown and Mr. Ashbaugh. Clearly under *Bittinger*, Ms. Brown, Mr. Ashbaugh, or any other applicant is entitled to have any applications for building permits which were submitted within the moratorium period considered under the ordinance existing at the time and granted, if the ordinance as written would permit. *Bittinger*, 183 W.Va. at 315, 395 S.E.2d at 559. However, based upon Ms. Brown's petition, it does not appear that she requested a building permit during the moratorium. As noted above, Ms. Brown was attempting to sell the estate's property in order to discharge the estate's obligation to the IRS. Ms. Brown claims that the moratorium interfered with her ability to market the real estate.

The facts of this case are similar to those in *Carter v. City of Salina*, 773 F.2d 251 (10th Cir. 1985). *Carter* involved certain property located in Salina, Utah, which was purchased by Thomas and Mary Carter in 1963. At the time the Carters bought the property, Salina was unzoned. In 1981, the Carters sought to sell their property and attempted to list the property as commercial real estate to attract a higher sales price. At that time, the Carters learned that Salina had enacted a zoning ordinance in 1973, and that their property was now classified as residential.

In early 1982, a potential purchaser offered the Carters \$90,000.00 for the property on the condition that it be rezoned from residential to commercial. The purchaser intended to operate a restaurant upon the property. However, the city denied the request to rezone the property, and the offer to purchase the property was withdrawn. Subsequently, the Carters filed a lawsuit against Salina seeking monetary relief in the amount of \$90,000.00 plus interest, and an order setting aside the 1973 zoning ordinance or alternatively, an order requiring the City to change the zoning classification of the property to commercial.

It was undisputed that the 1973 ordinance adopted by Salina was void for failure to comply with the mandatory, jurisdictional notice requirements of the Utah statute. As a direct result of the void zoning ordinance, the Carters suffered financial hardship including loss of sale, costs, and attorney fees. Given these facts and circumstances, the Court of Appeals concluded that equitable considerations dictated that the City be enjoined from interfering with the Carters' use of their property for commercial purposes even though the City had later enacted a valid zoning ordinance in 1984. The court explained that:

If the zoning ordinance is void for want of the procedural safeguards of notice and hearing, etc., the properties intended to be affected thereby are unzoned and the property owners may proceed with any other lawfully intended use. In such cases, the court is limited to the remedy of declaring the zoning ordinance void and finding that the property owner affected is entitled to use his property for any lawful purpose without regard to the void zoning ordinance.

773 F.2d at 255. In other words, at the time the Carters sought to sell their property, it remained unzoned because the 1973 ordinance was invalid. In addition, Utah had declared that zoning ordinances do not operate retrospectively against existing nonconforming buildings or uses where vested rights are concerned.

Accordingly, the court found that because the Carters had never relinquished their intention to use their property for a restaurant or other similar use, they were entitled to injunctive relief against the City permitting them to use or sell their property in the City for a restaurant or other similar use.

In this case, Ms. Brown was seeking to sell the estate's property when the moratorium was adopted. By instituting the illegal moratorium, Bolivar effectively voided the existing zoning ordinance. Despite Ms. Brown's objections, Bolivar, by adopting the illegal moratorium, essentially prevented her from selling or developing the estate's property because no potential purchaser was able to acquire a building permit. Moreover, while the moratorium was still in place, Bolivar adopted a new zoning ordinance further limiting Ms. Brown's ability to sell the property as any potential purchaser would now have to seek a building permit under a less favorable zoning ordinance. Given these circumstances and the fact that West Virginia has also exempted preexisting, nonconforming uses of land from compliance with subsequently enacted planning and zoning ordinances,¹ we find that equitable considerations dictate that Ms. Brown and

¹ W.Va. Code § 8-24-50 (1984) provides:

Such zoning ordinance or ordinances shall not prohibit the continuance of the use of any land, building or structure for the purpose for which such land, building or structure is used at the time such ordinance or ordinances take effect, but any alteration or addition to any land or any alteration, addition or replacement of or to any existing building or structure for the purpose of carrying on any use prohibited under the zoning rules and regulations applicable to the district may be prohibited: Provided, That no such prohibition shall apply to alterations or additions to or replacement of buildings or structures by any farm, industry or manufacturer, or to the use of land presently owned by any farm, industry or manufacturer but not used for agricultural, industrial or manufacturing purposes, or to the use or

(continued...)

her immediate purchasers and/or her immediate successors in title to the estate's property are entitled to develop and use the property for any lawful purpose as they might have done prior to the void moratorium and the now repealed zoning ordinance. Likewise, Mr. Ashbaugh was also effectively prevented from developing his property while the moratorium was in place, and he is also entitled to continue to develop his property without regard to the current zoning ordinance, as he might have done prior to the void moratorium and the now repealed zoning ordinance.

Finally, Ms. Brown and Mr. Ashbaugh contend that they are entitled to attorney fees and costs for this matter. In Syllabus Point 1 of *State ex rel. Highlands Conservancy, Inc. v. West Virginia Div. of Environmental Protection*, 193 W.Va. 650, 458 S.E.2d 88 (1995), this Court held that “[c]osts and attorney’s fees may be awarded in mandamus proceedings involving public officials because citizens should not have to resort to lawsuits to force government officials to perform their legally prescribed nondiscretionary duties.” This Court further held in Syllabus Points 2 and 3, respectively, of *Highlands Conservancy*:

¹(...continued)
acquisition of additional land which may be required for the protection, continuing development or expansion of any agricultural, industrial or manufacturing operation or any present or future satellite agricultural, industrial or manufacturing use. If a nonconforming use has been abandoned, any future use of such land, building or structure shall be in conformity with the provisions of the ordinance regulating the use in the district in which such land, building or structure may be located: Provided, however, That abandonment of any particular agricultural, industrial or manufacturing process, shall not be construed as abandonment of agricultural, industrial or manufacturing use.

Attorney's fees may be awarded to a prevailing petitioner in a mandamus action in two general contexts: (1) where a public official has deliberately and knowingly refused to exercise a clear legal duty, and (2) where a public official has failed to exercise a clear legal duty, although the failure was not the result of a decision to knowingly disregard a legal command.

Where a public official has deliberately and knowingly refused to exercise a clear legal duty, a presumption exists in favor of an award of attorney's fees; unless extraordinary circumstances indicate an award would be inappropriate, attorney's fees will be allowed.

In this case, the town of Bolivar ignored a clear directive of this Court and refused to exercise a clear legal duty by adopting an unlawful moratorium instead of repealing the ordinance or enacting a new ordinance or instrument of equal dignity. Accordingly, we find that an award of attorney fees and costs is justified. Therefore, the writ is granted as moulded, and this case is remanded to the Circuit Court of Jefferson County for the sole purpose of determining the proper amount of attorney fees and costs.

Writ granted as moulded and remanded.

From: John Barile [mailto:johngb@hotmail.com]
Sent: Sunday, October 05, 2014 6:46 PM
To: info@jeffersoncountywv.org
Subject: Comment on the "Zoning Ordinance Text Amendment related to Mass Gatherings/Events (ZTA14-02)

The following text and the attached document provide our comment on the "Zoning Ordinance Text Amendment related to Mass Gatherings/Events (ZTA14-02). John & Sally Barile

Comment on the "Zoning Ordinance Text Amendment related to Mass Gatherings/Events (ZTA14-02).

Each Mass Event must have some limits. A limit on a Mass Event's magnitude and duration should be of importance to communities in Jefferson County and to Jefferson County in particular. Mass events should not be allowed by Jefferson County without a magnitude limit and a duration limit.

Some information needs to be available before a Board of Zoning Appeal (BZA) Public Hearing. The Proposed Mass Event Organizer and Property Owner will supply some information on an application. Two numbers of particular importance are the anticipated number of participants and the total number of participants the property could properly handle or some lesser number the Organizer and Property Owner would accept as a maximum.

There needs to be a participants maximum number specified for a Mass Event before the BZA Public Hearing. The Mass Event participants maximum number should be used to determine the potential negative impacts on County personnel resources and the potential negative impacts to the nearby communities of the Mass Event site. After evaluating potential negative impacts, Jefferson County may decide to place a lower limit on the Mass Event maximum participant number or may decide that the Mass Event is not practical for the site due to significant negative impacts to nearby communities or significant negative impacts to the availability of Jefferson County personnel resources. There should be a magnitude upper limit and a duration upper limit accepted by the Mass Event Organizer before Jefferson County Approval.

Without limits on a potential Mass Event, the negative impacts on Jefferson County resources as well as the negative impacts on the nearby communities to the Mass Event could be extreme. Mass Events held in Jefferson County (by virtue of its proximity to major urban areas) could attract many participants to music festivals and other Mass Events. However, if these Mass Event thrive then the desirability for middle class homes and white collar professional businesses may be adversely impacted. This is particularly true if the Mass Events selected locations cause environmental, social, and/or economic impacts due to their specific locations and magnitudes.

If there is no limit to the Mass Event then the anticipated participants (say 15,000) may turn

out to be 30,000 (based on ticket sales). The Mass Event maximum capacity of the site can be determined prior to the BZA Public Hearing. The ticket sales number would not be known until after the Board of Zoning Appeals (BZA) Public Hearing. Therefore the Public Comments would address one magnitude of negative impacts while the actual negative impacts could possibly be far greater.

The anticipated participants versus the ticket sales to a Mass Event can make a big difference on the magnitude of the negative impacts on Jefferson County personnel resources and the negative impacts on the nearby communities involved. Also, if an organizer is planning a Mass Event for next year, it is highly probable, he will want to hold a similar event each year for several years. Therefore the negative impacts on the nearby communities and the negative impacts on the Jefferson County personnel resources will probably not be a single event. A new application must be required for each Mass Event each year with a new impact assessment, a new BZA Public Hearing, and with any new requirements applied as appropriate.

If a mass event is allowing camping then the number of participants per car may be only 2 due to the space required for camping gear. The longer the Mass Event duration the more camping gear and clothing may be needed. If there are 15,000 participants that could mean 7,500 vehicles, 30,000 participants could mean 15,000 vehicles. Noise and bright lights can be a disturbance to nearby communities particularly after midnight. The Mass Event should be required to monitor and make available the noise levels at the edge of their Mass Event site. The longer a Mass Event the greater the negative impacts on Jefferson County personnel resources. The longer the Mass Event the greater the negative impacts on the nearby communities. The longer a Mass Event the greater the alcohol consumed, the greater the drug use, and the greater the loss of sleep for participants and the nearby communities. This translates into a greater probability of participants having automobile or personal accidents, committing careless acts, or participating in vandalism to nearby communities. Although there maybe camping on the site some traffic will leave the Mass Event every day and some in the middle of the night.

The practicality of having a Mass Event in Jefferson County must be assessed for each occurrence and each specific Mass Event proposed. An assessment could be conducted by a team of personnel from the various Jefferson County Departments (such as, Sheriff's Office, Public Health, Emergency Services, and others) to determine if the departments have the readily available personnel to handle a particular Mass Event. Also, this team of personnel needs to assess the potential negative impacts that the Mass Event will have on nearby communities. This initial assessment should be based on the maximum capacity that the property area (site) hosting the Mass Event can practically handle. The maximum capacity should be based on the number of participants the site can handle allowing for vehicle parking, trailer camping, tent camping, toilets, wash rooms, vendors, performance areas, etc. The organizer of the Mass Event when locating the property will quickly assess a minimum and maximum number of participants that will provide his profit and a successful event. The Jefferson County staff can assess the validity of the maximum capacity provided by the Mass Event Organizer.

In the case of the "All Good Music Festival" the Sheriff's Office was given the anticipated number of vehicles as 5,000. The organizer stated at the BZA Public Hearing the anticipated number of vehicles to be 8,000. The organizers anticipated participant number to be 15,000. If ticket sales next year turns out to be 25,000 than the vehicle traffic will be 12,500. What is the maximum capacity of the proposed Mass Event on the chosen 350 acres? A football stadium must know its maximum capacity before receiving community approvals. Jefferson County and the nearby communities to a Mass Event have the right to know the Mass Event maximum capacity prior to a public hearing. Also, Jefferson County residents have the right

to expect the County to place upper limits on the negative impacts that Jefferson County will allow for each occurrence and each specific Mass Event.

John & Sally Barile
597 Pheasant Hill Road
Quail Run Community



WALTHER PRODUCTIONS, INC

October 1, 2014

County Commission of Jefferson County
Mass Gathering Ordinance
All Good Music Festival

Dear County Commissioners,

As we anticipate an answer from the BZA on whether the All Good Festival will be approved for a Seasonal Use Permit and a variance to extend to 5 days, the discussion progresses regarding the Mass Gathering Ordinance. As we have said previously in front of the County Commission, we support the Mass Gathering Ordinance and see it to be wise for the county to set guidelines and parameters on larger events such as the All Good Festival. The draft, as it's currently written, is fairly digestible for an event like ours, but could certainly be a deterrent for smaller events. We would suggest that other than protecting the interests of the county, the most important aspect of the Mass Gathering Ordinance would be for it to encourage larger events to sprout from or to bring their business to Jefferson County. With endless sets of circumstances, it seems prudent to maintain the allowance for variances within the ordinance allowing for adjustments to be made on a case-by-case basis. The set backs for instance may work with some events and make perfect sense, but may be prohibitive for others. The set backs are based from the property line and in a rural setting, set backs from a structure may be more appropriate. We would imagine the county would want events to be organized and run in such a way that works best for the community as well as the event, a rigid ordinance would not allow for this. With a flexible ordinance larger events will have a fair opportunity to do business in Jefferson County.

For your reference, we have included a copy of an Economic Impact Study that was done in 2010 by AC Entertainment Inc. as well as the speech addressing community concerns and economics that we drafted for the BZA hearing on September 25, 2014.

Thank you for taking the time to read this and to work on the mass gathering ordinance that will be so important to your community, your economics and the vitality of Jefferson County for many years to come.

Sincerely



Tim Walther
Junipa Contento



2801 Chevy Chase Cir
Jefferson, MD 21755
USA

PHONE (301) 834-4100
FAX (301) 834-3373
WEBSITE <http://www.walther-productions.com>



**Presentation by Tim Walther to the BZA on September 25, 2014:
Not all of this was presented due to time constraints.**

Economic Impact – Please see copy attached.

We had an economic impact study conducted by a third party, AC Entertainment, the same company that produces the largest campout festival in the country, Bonnaroo. This study shows that we brought as much as 2.1 million of revenue to WV in 2010.

We will promote Tourism. Many fans that will come to Jefferson County, have never been here, have never seen the beauty, may not be aware of the opportunities for outdoor adventures, the historic offerings of Harpers Ferry, the casino and racetrack or the charm of downtown Charles Town. They will return and support your economy.

Bringing revenue to Jefferson County

Given the opportunity, we will be a strong business partner to Jefferson County for many years to come. We have attended meetings this summer and have been keeping up with the discussions regarding the Mass Gathering Ordinance. We think the Mass Gathering Ordinance is a good thing for the county...It's wise to set guidelines and parameters on larger events such as ours. We realize the mass gathering ordinance is not finalized but we are prepared to and can readily comply with nearly everything that is in the Mass Event Ordinance draft for 8-12-14 PC Public hearing.

We have agreed to put up the \$60,000 surety bond. We have met w Sheriff Dougherty- we have discussed our traffic plan and we are working on the plan moving forward. We assured the sheriff that we will pay for the expenses for additional traffic control as well as any other expenses incurred from our event. We are offering a Zero Cost, All Revenue event for Jefferson County as we have delivered to Licking County in Ohio for our past 2 festivals.

The residents may ask how is that possible considering what we have heard from Preston County. Preston County did not substantiate their expenses in 2010 and the expenses are not presently being substantiated. We can only work with facts.

We are going to bring music, culture and revenue into Jefferson County.

Thank you for the opportunity to speak on behalf of our Festival and we are looking forward to it being all good in Jefferson County.



ECONOMIC IMPACT OF THE ALL GOOD MUSIC FESTIVAL ON THE WEST VIRGINIA ECONOMY

PREPARED BY AC ENTERTAINMENT, INC.

KNOXVILLE, TN

September, 2010

Introduction

Introduction

More than 25,000 patrons, fans, musicians, staff, volunteers, and technicians arrive in Preston County, West Virginia during the second week in July for the All Good Music Festival and Campout. With less than 30,000 people in Preston County, All Good almost doubles the population which creates a variety of economic activity in Masontown, Kingwood, Preston County and West Virginia as a whole. The short term economic impact of activities of All Good and its attendees is the focus of this report.

All Good Breakdown

The All Good Music Festival and Camp Out is an annual weekend-long event held in July. The festival celebrated its 14th anniversary in 2010. Since 2003, the festival has been held in Masontown, West Virginia (Preston County) on Marvin's Mountain Top.

All Good offers a 4 and 3 day festival pass as well as a VIP experience. General admission passes range from \$129 to \$200 and VIP passes range from \$399 to \$500 (additional passes for RVs (\$50), RV campions pass (\$45), child pass (\$75), locals pass (\$100), and a Sunday pass (\$95)).

In 2010, All Good had over 23,000 patrons from all 50 states and 6 countries. The majority of the patrons arrived in one of the 10,300 vehicles. Additionally, there were 1,260 workers (does not include vendor's workers), 610 volunteers and 63 vendors. The main festival route comes from Interstate 68 to Route 7 through downtown Masontown. Patrons also utilize Co Route 14/4, Co Route 52 from Route 26 and Route 50 from Interstate 81.

Site build for All Good started on June 29th with the takedown completed by July 16th. The 2010 festival days were July 8, 9, 10 and 11.

Methodology

The total impact of All Good on the Preston County economy is measured by the expenditures/income for site operations, patron spending and direct gifts. Direct expenditures, indirect impacts, secondary measurements and induced effects are all calculated in 2010 dollars.

Direct impacts of on-site operations were estimated through the accounting information provided by the festival's organizers. Direct impact operations include fuel, construction, sanitation, local staffing, towing, auto sales, fire department, police department, water, food, hardware, security, equipment rental, hotels, and more. Direct impact also includes festival sales tax. Attendee impacts are more difficult to calculate but using survey data, travel location, and on-site consumption conservative numbers were estimated.

It is also important to note that impact calculations were made only for the festival within Preston County and West Virginia. Therefore spending outside of West Virginia by the organizers, vendors or the fans is not included. The festival has created a greater impact outside of these specified areas but this report focuses solely on the geographic areas highlighted above. Lastly, the tax rate is based on West Virginia's 6% rate.

Results

Results

The overall impact of All Good Music Festival on West Virginia is \$2.1M + and the overall impact on Preston County is more than \$694,600. Below is a breakdown of the overall impact:

- \$387,600 + spent by festival organizers in Preston County (i.e. water, towing, sanitation, excavating, hardware, petroleum, land, etc)
- \$462,000 + spent by festival organizers outside of Preston County but within West Virginia (i.e. machine rental, security, food, car rental, office supplies, hardware, decorative supplies, etc)
- More than 1,100 room nights booked, generating more than \$90,000
- \$121,500 + in sales tax (tickets, merchandise, food and beverage sales)
- Estimated \$141,000 + spent by West Virginia residents attending the festival
- Estimated \$307,000 spent in Preston County by festival attendees at C-stores (includes gas and incidentals). Another \$831,000 was spent outside of Preston County but in WV by attendees at C-stores
- 28 jobs created and filled by local residents generating \$31,500 in income. It is important to note that these numbers do not include the local companies and unions, or secondary jobs that were created
- \$30,000 + impact to local, regional and national non-profit organizations:
 - \$14,000 + donated within Preston County benefiting the Preston County High School Music Program, Reedsville Fire Department, County Commission and Masontown Volunteer Fire Department. Additionally, more than 1,000 pounds of food were donated to the Preston County Food Bank
 - \$8,500 + donated within West Virginia benefiting Friends of Deckers Creek, WV Women's Works, Mountain Justice and Carbonfund.
- In addition, All Good composts organic trash, uses of biodiesel, recycles all plastic, glass and aluminum. This requires all vendors to use compostable plates, napkins and utensils. Additionally, with the help of Trees for the Future the festival planted more than 19,000.

The All Good Music Festival generates an immediate impact Preston County and West Virginia and an unprecedented level of economic activity. The direct impact to local business, residents and government is generated by the festival organizers and fans that attend the festival. As the local area becomes more attractive to new business it will continue to grow and the festival will be able to continue to invest in the area. Local business, residents and local government are all directly impacted by the festival, organizers and attendees of All Good.

Good afternoon, I am Tim Walther, co-founder and producer of what will be the 18th All Good Music Festival and Campout...thank you for your time and consideration today. I am thrilled to have the opportunity to present our side of the story.

Here's A little background:

Junipa Contento and I founded and Incorporated Walther Productions in 1996. We started with no capital, a fax machine and a hand full of fliers. We have been fortunate enough to build a career in the music business. We have been bringing quality music into this region for nearly 20 years and have an impeccable reputation for conducting business in an honorable and respectable manner. In the music business your reputation and your integrity are imperative to your survival.

Based out of Jefferson, MD, we currently produce 120 + club shows a year in Baltimore and DC at venues such as 9:30 Club and Rams Head Live, we manage a nationally touring band and we produce 3 festivals a year. In 2012 the All Good Festival was nominated for Music Festival of the Year by Industry Leading Pollstar Magazine. The industry subscribers, our peers, voted All Good for festival of the year based on many factors such as production, operations, art installations, success, reputation, professionalism, and artist lineups.

The All Good Festival has been our baby for 18 years and has graduated to adulthood. Our goals have always been to bring a mix of groundbreaking and established bands into a music loving and peaceful environment and doing so in a safe and professional manner.

We have brought together a world-class team of department managers that work these events year round and specialize in site operations, production, traffic, security, parking, gate-processing, vending, trash and recycling, waste removal, and more. Our festival has changed lives; weddings have taken place, life long friends have been made, bands have seen exponential growth and we have fueled the entrepreneurial spirit.

We are proposing to bring a nationally acclaimed, cultural music and arts festival to Jefferson County. Music is universal, live music heals the soul, I would say that one of the best experiences in life is enjoying live music amongst friends and family. Junipa and I are parents, we are professionals, we care deeply about all aspects of our operation and we will be good neighbors.

The Community:

We are aware of the misleading-information that has circulated throughout the neighboring community and I have read the letters that the citizens have sent to the BZA. With awareness of these concerns, I went door to door to all of the adjacent properties to hear what the neighbors had to say. I spoke to about 15 residents. The

main concerns were the number of attendees, traffic, safety, length of the event, drugs, trash and the curfew. We appreciate the opportunity to address these issues now:

Contrary to rumors suggesting we will bring 30 – 60,000 fans, we are realistically expecting 15 to 20. We sold 22,000 tickets in Preston County in 2011 following 8 years of building the audience at the same location. When we moved to Ohio, we sold 16,500 in 2012 and 11,500 in 2013. Standardly an event loses 30% of its attendance when moving locations. We are moving locations, we have taken a year off, we saw our numbers drop by 50% from 2011 to 2013. Plus there has been a significant increase in competition with many emerging camp-out festivals. We hope to do more considering we broke even in 2012, lost a fortune in 2013 and had no All Good in 2014, ... we are not shooting low when we say we are expecting 15 to 20,000.

In regards to traffic, a traffic plan was presented to the BZA on 9-25-14 which should alleviate most concerns.

As far as the length of the event:

The festival itself will be 4 days with a Monday morning exodus. Our festival has been a 4-day festival for many years. We created a 4-day event in order to minimize traffic and to ensure the safety of the community and the patrons. By having our festival begin on Thursday, we spread out the incoming traffic over the course of 2 days, allowing us to significantly better manage the traffic, to better search vehicles and to process approximately 90% of the traffic during daylight hours.

4 Days allows for a much safer way to deal with traffic both inside and outside of the venue. With the option of camping on Sunday night we minimize the chances of people driving tired or under the influence and we once again spread out traffic w approximately 90% exiting during day time hours. A 3-day event starting on Friday is problematic as it would lead fans to getting into town on Thursday night with nowhere to go until gates open at daybreak on Friday, it would make traffic extremely difficult to manage as everyone would show up at the same time on Friday and it would most certainly interrupt weekend traffic through Charles Town.

In regards to our desire to have a 3:00 am curfew:

The fans that spend over \$200 for a ticket and another \$300 for travel, food, gas and supplies, are coming to see as much music as they can for their money. They are fanatical music lovers that are accustomed to our festival and other festivals providing music until 3 to 4 am and even sometimes until sunrise. These fans see these bands in clubs that close at 2 to 3 in the morning, they are used to live music going this late. It's part of their lifestyle.

Most importantly the later curfew creates a safer and more controlled environment. If the music ends early, the fans will wander around the site, hang out at their campsite or drive into town looking for something to do. By programming music until 3:00 am you centralize everyone that is still awake into one concentrated area and you maximize your control of the crowd. It's easier to control a large number of patrons in one central location, then it is when they are spread out around the entire site.

By going until 3:00 am, everyone remains on site, people gradually go back to their sites throughout the night to go to sleep and the ones that want to see every second of music will head back for sleep as soon as the music ends. The later curfew is the safest way to go for the patrons and for the community.

As far as safety goes:

Our festival will be self-contained. We process and manage the traffic and our patrons. We will keep the festival contained within its boundaries, leaving the community safe and one step removed from the event. As a direct result of speaking to the residents and from reading the letters to the BZA, we will do the following;

In addition to the 6 foot perimeter fence around the rest of the site, we will put up an 8-foot temporary chain link fence with a green wind screen, set back 150 feet from Witherslarue Road as a separation between Quail Run and the festival. This fence setback from Witherslarue will provide a nice aesthetic along the road, create a larger buffer and visually separate the community from the festival. If our ticket sales are low we will move this fence further off the road to create a larger buffer. We will park and camp the venue from the inside out leaving as much open space as possible between Witherslarue and our parking and camping areas.

We will not permit patrons to leave the venue on foot without us removing their \$200 wristband. This will discourage nearly if not everyone from leaving the venue. Only vehicles will be permitted to leave the event for medical reasons or to re-stock on supplies.

As standard practice, we will do the following:

For the safety of our patrons and the community, we will search all vehicles upon entry for weapons, bottles, drugs etc and will coordinate this procedure with the sheriff's department. We will set up port-a-johns along the routes to the festival and we will sweep the streets for trash as necessary. We will post signs along the routes for patrons to remain in their vehicle. We will administer hang-tags for affected neighborhood vehicles as to alert our staff and the police to expedite residents to where they need to go. We will assign a festival representative to address community concerns that will be available 24/7. All residents will have our representative's cell number and he will be quick to respond.

As far as drugs are concerned:

We, nor our employees are advocates for drugs. We are festival producers, we invite music lovers to come and enjoy their favorite music and community experience of the summer. The vast majority of our fans are middle class college educated folks coming out to enjoy music, nature and one another. Our fans will be the friendliest and most peaceful group of people that you will ever meet.

This next subject is a very sensitive:

In the letter to Bob Aitcheson from the Preston County Sheriff, you will notice that the Sheriff mentioned multiple times that we worked closely with them and always supported their efforts. We always work closely with local Sheriff Departments and we always respect their lead in community safety and law enforcement. The Preston County Sheriff worked well with us in 2009 and 2010, but for some reason, the Sheriff worked against us in 2011.

As the Sheriff stated in his letter, they took the money that they collected from us through the ordinance and hired additional officers for a total of 100 officers. With those officers they stopped nearly every vehicle, including local traffic, from all routes leading to our festival. They continued to stop most vehicles on the local roads throughout the weekend. They made a number of arrests and wrote many citations, most of which took place off the festival property and most of which were for possession of marijuana. These arrests were not distinguishable between local residents and festival-goers.

Can you imagine the number of arrests and citations that they would make if they stopped every car leaving a WV football game? Would it be 500 arrests, 1,000 citations?

When we moved to Ohio and worked with a Sheriff's Department that was supportive of the event with a focus on safety and community, it was a whole different story. The Licking County Sheriff's department chose to utilize 20 officers, on our dime, and had 2 arrests the whole weekend. What a difference an approach can make.

We have submitted to Sheriff Dougherty an After Action Report prepared by Colonel Dennis of the Licking County Sheriff's Department that will substantiate the fact that only 2 arrests were made at All Good festival 2012. I am confident that we can work well with the Jefferson County Sheriff's department and have a similar result as we did in Ohio, a safe and successful All Good festival with limited issues and hopefully no arrests.

We are good people making an honest living. We treat people the way that we would like to be treated. We stand by our word. We always strive to do the right thing. We are very good at what we do and we go above and beyond to safeguard the community, to deliver a world-class festival to the fans, and to leave nothing but footprints. I do realize that proof is in the pudding, but I will say it once again. We will be an all good neighbor.

All Good Music Festival

--Tim Walther, Junipa Contento

Mass Event Ordinance

Please accept my comments on the proposed ordinance.

Mark Dyck

1. BZA versus Planning Commission

It is the purpose of the Zoning Ordinance to provide specificity on uses and then have the uses submitted and approved according to the terms and conditions of the Zoning and Subdivision Ordinances. The BZA currently reviews applications that cannot be processed without further guidance on land use.

It would seem that the proposed Mass Event ordinance are now highly regulated with clarity on all issues. Given this control it would seem that the application would be properly heard in front of the planning commission. There are several reasons for this;

- a. If the application is technical in nature it will require significant engineering and planning review prior to approval by a County board. This review process is similar to the processing of a site plan and will require a large investment by the Applicant. This type of investment is not appropriate or fair when it is subject to a discretionary decision by the BZA.
- b. The Planning Commissions meeting schedule is more regular and more applicable to a detailed submission.
- c. The BZA is required to take action within 45 days of submission, by state code. It will be difficult to meet this time frame when approval is required by the BZA.
- d. It would not change the public's ability to comment on an application, it would simply change the venue.

2. Terms Defined – Mass Event

- a. Most events do not start until noon on any given day. It would be beneficial for all applicants to have a day defined as noon to noon (or 10:00am to 10:00am) as opposed to midnight to midnight. With the current definition most applicant would lose half a day on multi day events.
- b. *"It should be noted that this definition does not apply if the event occurs entirely within a lawful permanent structure no on a property so long as the structure or property has a site plan specifically developed and approved for the purpose of hosting such an event". Consider replacing the underlined section with "an approved site plan compatible". It will be very difficult to predict what events may occur in the future. Revising the definition would provide the County with important flexibility as it pertains to events.*
- c. *"Any such non-conforming event must follow the requirements of the Ordinance and must also obtain a Zoning Certificate"* It is unlikely that existing non-conforming events will be able to follow the requirements of the Ordinance. Obtaining a Zoning Certificate also seems like an unnecessary burden. The County Fair would likely not meet this requirement of the new definition, suggest deleting this sentence.

3. Terms Defined – Seasonal Use

- a. See comments 2.b and 2.c.

4. Section 9.8 Seasonal Uses

- a. The section as worded would require the approval of all permits prior to the BZA approval.
- b. These permits (and others) are not optional regardless of the decision by the BZA. There is no risk to the BZA approving an application prior to having these permits.

Section 8.16 Comments

8.16.A.2 – unless the person signing is the managing or has the legal authority to sign for all Owner's

8.16.A.4 – see below

- The bond amount should be reduced by 50% if a separate agreement to cover cost is signed with the Sheriff.
- Prior to expending any money on non-emergency items the County must notify the applicant in writing of the expenditure and give the Applicant the ability to cure the situation that is causing the expenditure.
- Prior to expending any money on non-emergency items all Agencies must notify the applicant and the County in writing of the expenditure and give the Applicant the ability to cure the situation that is causing the expenditure.

8.16.A.5 – notice is sent to the land owner as identified in the tax records. Notice may not be sent to a tenant and the Applicant has no way of acquiring the tenants address.

8.16.A.5 – proposed access route is not defined. Suggest changing the language to;

- All properties within 1,000 of the mass event property
- All land owners who front the primary access routes where queuing may occur within 1 mile of the property.

8.16.A.6. – For clarity each entity should be dealt with in a separate paragraph.

8.16.A.6.a – see below

- Private contracts between non-governmental agencies should not have to be submitted as part of the public record. They are proprietary.
- Expecting these contracts to be finalized at this hearing is premature. Agencies have no requirement to enter into these agreements and may not want to spend their resources doing so when the application may be denied by the BZA. To make the section better I would suggest;
 - Address public and private entities in separate sections.
 - The Applicant be required to notify the Sheriff's Office, EMS, closest Fire Station, 911 of the event;
 - Provide them a copy of the application to comment on.
 - If requested by the agency a formal agreement will be signed and submitted 30 days prior to the event.

- Applicant shall submit in writing to the County the name of a licensed garbage removal company and towing company 30 days prior to the event.

8.16.A.6.b – see below

- The Applicant should be required to notify County Health Department and WVDOH of the event.
- If required permits and/or agreements must be submitted 30 days prior to the event.

8.16.A.6.c – the last paragraph of this section does not make sense in this location. Is the ordinance attempting to give the BZA unlimited insurance discretion over events? Suggest removing this section.

8.16.A.8.d – what is the event fee, please clarify.

8.16.B.1 – show all structure within 50' of the property line and all residential structures within 500' of the property line.

8.16.B.4 – all setbacks should be 50' from any property line and the noted distance from a residential structure.

8.16.B.4.d – change to residential structures.

8.16.B.5 – Mass event should be permitted for up to 7 days. An example would be a Boy Scout retreat, renaissance festival or some similar function. The last day of an event lasting more than 4 days would be restricted to departure activities only.

Clarke County Board of Supervisors



Berryville Voting District
J. Michael Hobert – Chair
(540) 955-4141

Buckmarsh Voting District
David S. Weiss – Vice Chair
(540) 955-2151

Millwood Voting District
John R. Staelin
(540) 837-1903

Russell Voting District
Barbara J. Byrd
(540) 955-1215

White Post Voting District
Bev McKay
(540) 837-1331

County Administrator
David L. Ash
(540) 955-5175

September 24, 2014

J. Tyler Quynn, Chair
Jefferson County Board of Zoning Appeals
124 E. Washington Street
Charles Town, WV 25414

Dear Mr. Quynn:

My name is Barbara Byrd and I represent the Russell District on the Clarke County, Virginia Board of Supervisors. I am writing to you to express grave concerns that I have regarding the seasonal use event and variance requests by Mark Dyck (consultant) on behalf of Tim Walther and Junipa Contento for a five-day music festival and "camp out" (the "All Good Music Festival") proposed for 261 Berry Hill Farm Lane.

I have had an opportunity to review the case packet including the numerous letters and emails provided by your citizens in opposition to this proposed event. I am also aware that if this event is as popular as previous All Good Music Festivals, our two counties could expect in excess of 30,000 attendees. I share many if not all of the concerns expressed by your citizens regarding noise, crime, and adverse impact on property values but my greatest concern is with the potential for very serious traffic safety issues that would result from this event. I am very familiar with our shared road network having been a resident of the area for many years. I cannot see how the massive volume of traffic from thousands of festival patrons can be managed in a safe and efficient manner at this location.

As I am sure you are aware, Withers Larue Road is an old, narrow wagon road with several blind hills and virtually no shoulders, no dividing line, an at-grade rail crossing, and very poor sight distance at its intersection with U.S. 340. It is my understanding that the event organizers plan to limit ingress-egress directly to U.S. 340 by funneling traffic into Clarke County via Summit Point Road. This road is only marginally wider than Withers Larue Road but also has poor horizontal sight distance in several places and insufficient shoulders. Dumping hundreds and potentially thousands of additional vehicles on Summit Point Road with the ever-increasing commuter traffic, horse trailers, and farm vehicles is a recipe for accidents and gridlock. I also shudder to think about the additional safety issues of vehicles attempting to avoid this route by using Franklinton and Lewisville Roads – both of which may be even more unsafe than Withers Larue Road.

I strongly urge you and your fellow Board of Zoning Appeals members to deny both of these applications specifically on the grounds that our shared road network is woefully inefficient to handle an event of this magnitude.

Sincerely,



Barbara Byrd
Clarke County Board of Supervisors

Cc: J. Michael Hobert, Chair, Board of Supervisors (Berryville District)
David Weiss, Vice-Chair, Board of Supervisors (Buckmarsh District)
John Staelin, Board of Supervisors (Millwood District)
Bev McKay, Board of Supervisors (White Post District)
David Ash, County Administrator
Jennifer M. Brockman, Director of Planning, Jefferson County

-----Original Message-----

From: 4glovers [<mailto:4glovers@comcast.net>]

Sent: Monday, October 13, 2014 2:08 PM

To: walterpellish@mac.com; vinemont@frontiernet.net;
dmanuel@frontiernet.net; patsynol@gmail.com; lynwidmyer@gmail.com;
info@jeffersoncountywv.org

Cc: Paul Espinosa; lawrencefordelegate@hotmail.com;
stephen.skinner@wvhouse.gov; vicki.l.pendell@wvago.gov

Subject: Mass Gathering Ordinance concerns

County Commissioners:

Given the BZA's recent decision to unanimously allow the "All Good Festival and Camp Out" to hold a venue in Jefferson County, I don't see why there needs to be a new ordinance written for these types of events. The county already has an ordinance that states that camp outs and performing arts are not permitted in a rural zone

(<http://www.jeffersoncountywv.org/uploads/planning/Jefferson%20County%20Zoning%20and%20Land%20Development%20Ordinance%20-%20as%20amended%20June%201,%202014.pdf>), and yet the BZA has ignored their own ordinance and allowed this to happen anyway. What's the point of having laws, rules, ordinances, if they aren't going to be enforced? Seems like a waste of taxpayers money to me.

Sincerely,
Matthew Glover
318 Pheasant Hill Road
Summit Point

All Good Music Festival and Camp Out-Planned Event

After-Action Report/Improvement Plan

Operational Periods: July 09-12, 2015

EVENT OVERVIEW

Event Name	All Good Music Festival and Camp Out
Event Dates	July 09-12, 2015
Scope	Response to a Planned Event
Mission Area(s)	Response
Core Capabilities	Communications, Fire Response, Medical Response, Public Safety/Law Enforcement, Emergency Management
Objectives	To provide response to the event, while still providing response to the rest of the community.
Threat or Hazard	Planned Event-Music Festival and Camp Out.
Scenario	The All Good Music Festival and Camp Out was held at the Berryhill Farm in Summit Point, West Virginia. It attracted over 11,000 people and resulted in a response effort that included seven 12-hour operational periods for local responders.
Jurisdiction	Jefferson County, West Virginia
Participating Organizations	Jefferson County Sheriff's Department, Jefferson County Emergency Communications, Jefferson County Homeland Security and Emergency Management, Charles Town Police Department, Ranson Police Department, West Virginia State Police, Eastern Panhandle Drug Task Force, Citizens Fire Company, U.S. Customs and Border Protection, West Virginia Fire Marshal's Office, Jefferson County Emergency Services Agency, and Ryneal Medical Transport, Jefferson County Health Department and University Healthcare-Jefferson Medical Center.
Point of Contact	The information within this After Action Report was compiled with information gathered at an After Action Review that was held on July 14, 2015 at Citizens Fire Company and from additional information gathered since that time. POC is: Barbara Miller, Director, Jefferson County Homeland Security and Emergency Management (JCHSEM), 28 Industrial Blvd., Suite 101, Kearneysville, WV 25430. Phone: 304-728-3290. Email: bmiller@jeffersoncountywv.org

SUMMARY

On September 25, 2014, Mark Dyck, on behalf of Tim Walther and Junipa Contento, requested a Seasonal Use Permit to conduct a music festival and campout to be held at 261 Berry Hill Farm Lane, Summit Point, WV from the Jefferson County Board of Zoning Appeals (BZA).

On June 26, 2015, The All Good Festival and Camp Out, was issued a Zoning Certificate to hold the event. On June 25, 2015, a permit was issued to Tim Walther/Junipa Contento for a Mass Gathering with Campout Festival by the Jefferson County Health Department.

Citizens Fire Company hosted response planning meetings for six weeks prior to the All Good Music Festival and Camp Out to plan for the response to this mass gathering with all response agencies that would be involved with a response to the festival.

Sheriff Dougherty served as the Point of Contact between the All Good Festival producers and all response agencies, per the BZA permit process.

The response included:

The response involved seven 12-hour operational periods from 0700 hours on July 09 to 1900 hours on July 12.

Jefferson County Emergency Communications Center staff reported 53 CAD events within a 2-mile radius of the event.

Ryneal Medical Transport reported 113 patient treatments, with 17 transports to University Healthcare-Jefferson Medical Center and one to Winchester Medical Center.

One death occurred at the event.

There were no fires reported at the event that required fire response.

There were no triggers to cause the Emergency Operations Center to activate.

The Jefferson County Sheriff's Department made 2 misdemeanor arrests and 1 felony arrest.

The West Virginia State Police (WVSP) reported that they made 46 possession misdemeanor arrests, 9 felony possession with intent to distribute arrests, seized over \$5,000 worth of Molly, recovered one stolen gun within a half mile of the festival's gate, recovered one stolen vehicle, and arrested two fugitives.

The Eastern Panhandle Drug Task Force agents made 31 felony arrests on 86 counts of felony distribution and seized \$49,105 worth of illicit drugs from the festival grounds.

The After Action Review was hosted by Citizens Fire Company on July 14, 2015.

The information within this After Action Report was compiled with information gathered at an After Action Review that was held on July 14, 2015 at Citizens Fire Company and from additional information gathered since that time.

ANALYSIS OF CORE CAPABILITIES

Communications (ESF-2)

The Jefferson County Emergency Communications Center (JCECC) set up a remote location to perform emergency public safety dispatching from the All Good Festival site. Other dispatchers worked in the Emergency Communications Center for non-event related calls. The All Good Festival provided a mobile command post trailer that included a room for emergency communications. Dispatchers worked from this location throughout the event.

A NIMS form 205, Communications Plan, was developed so that all agencies knew which talk groups were being used for the special event. This communications plan became a part of the overall Incident Action Plan (IAP) for each operational period.

The Emergency Communications Center reported that they received 53 Computer Aided Dispatch (CAD) incidents generated within a two mile radius of the actual address of the event. These incidents were comprised of law, fire, and ems calls, including controlled burns, crop damage permits (hunting), traffic stops, K9 assists, etc. As such, it is safe to say that while the majority of these incidents were festival related, all of them certainly were not.

The West Virginia State Police did their own dispatching for the event through Romney.

The JCECC Deputy Director reported that the All Good Festival Security personnel from AXIS worked well with Jefferson County ECC with communications between AXIS, JCECC and Ryneal.

Strengths:

Strength 1: Full Remote CAD Access and ability to track resources

Strength 2: Communications Plan-Region 2 TAC worked well.

Strength 3: Command Post Location

Strength 4: Radio sign out went well for agencies that needed to borrow radios from Jefferson ECC's radio cache.

Strength 5: Walther Productions reimbursed for Jefferson County Emergency Communications expenses for dispatching in the amount of \$5,500.

Areas for Improvement:

The following areas require improvement:

Area for Improvement 1: There is a need to have more room within the command post for dispatchers. They were somewhat cramped. Having two locations with four terminals would be optimal for future events. Consideration should also be given to the West Virginia State Police having their own trailer.

Fire (ESF-4)

The All Good Music Festival and Camp Out occurred in the first due area of the Citizens Fire Company (CFC). CFC accepted the responsibility for holding six weekly planning meetings leading up to the event, setting up an emergency responder walk-through the night before the event started, and development and distribution of the Incident Action Plan (IAP) for each of the 7 operational periods. Additionally, all credentials for emergency responders, vendors, and festival staff were issued by AGF staff from the fire department through a contract between the AGF and Citizens Fire Company. Required vendor permits could also be obtained from the Health Department, who was also set up at an outside tent at CFC.

No fires were reported from the AGF site. CFC had personnel staged both at the AGF site and at their fire station to respond to calls.

Two representatives from the WV Fire Marshal's Office were onsite at the AGF. They reported that the AGF security confiscated several different types of fireworks, including 1 ½ inch mortars, cake-type devices, roman candles, etc. AGF security then turned over all of the confiscated fireworks to the WV State Fire Marshal's Office for disposal.

Strengths:

Strength 1: Incident Action Plans were developed for each operational period and distributed by Citizens Fire Company.

Strength 2: Coordination of Resources-JCHSEM provided cots and blankets, through a partnership with the American Red Cross, to responders staying overnight in the responder tent.

Strength 3: Walther Productions donated \$4,000 for use of Citizens facility for AGF's credentialing team and paid \$4,500 to Citizens Fire Company for reimbursement for per diem expenses for personnel and apparatus.

Areas for Improvement:

Area for Improvement 1: Emergency response planning needs to begin coordination and planning sooner for any mass gathering. This event is taxing for one company with an 8 minute response time to the event. There is a need for more participation.

Area for Improvement 2: The staging area for fire needs to be more central (or have multiple staging areas); possibly in the Silo area. The staging area did not take into account the terrain. Staging mats are also needed.

Area for Improvement 3: There is a need for fire and medical transportation that is more suited to the terrain. The larger vehicles don't get around well in that environment.

Area for Improvement 4: Make sure that information about fireworks, including lanterns being illegal, is distributed in advance to attendees, staff and producers of the event.

Emergency Management (ESF-5)

Jefferson County Homeland Security and Emergency Management staff monitored the event throughout the 7 operational periods. Citizens Fire Company provided IAPs for each operational period for the event. There were no triggers for JCHSEM to activate the Emergency Operations Center (EOC).

There was one resource request from Citizens Fire Department to provide them with 8 cots and blankets for the event, which was fulfilled through a partnership with the American Red Cross.

JCHSEM Director was notified by University Healthcare-Jefferson Medical Center when they activated their Incident Command Center (ICC), and notifications were made at that time, as appropriate.

One tornado watch was received from the National Weather Service (NWS) during the event, but did not materialize. The watch was sent out over NIXLE and was broadcasted to all County monitors by the Emergency Communications Center.

Strengths:

Strength 1: The Public Information Officer (PIO) monitored public information from both traditional and social media throughout the event.

Strength 2: JCHSEM staff made all reports to the West Virginia State Emergency Operations Center (WVSEOC) through ETEAM, the state's online reporting tool.

Strength 3: Situation Reports were received from the Sheriff, Incident Action Plans were received every 12 hours, and CAD and SIRM radios were also monitored for situational awareness. Staff also monitored the weather, power outages, media and social media throughout the event.

Strength 4: A resource request was received from Citizens Fire Company for 8 cots and blankets at the event that was able to be fulfilled through a partnership with the American Red Cross.

Strength 5: All JCHSEM staff participated in a walk-through of the event site the night before the festival began.

Areas for Improvement:

Area for Improvement 1: There was some confusion by AGF staff when EM staff went to pick up credentials about whether or not a vehicle pass was needed, and the Deputy Director did not receive the same wristband as the Director initially. After a phone message was left with AGF, she did receive the upgrade.

Public Health & Medical Services (ESF-8)

ESF-8 for this event was a combination of Jefferson County Health Department, University Healthcare-Jefferson Medical Center, Jefferson County Emergency Services Agency (ESA) and Ryneal Medical Transport.

Ryneal Medical Transport was contracted by the All Good Festival for medical treatment and transport during the event. Two medical tents were set up at the event and staffed by Ryneal Medical Transport employees. Ryneal Medical Transport's Patient Treatment/Transport Report shows 113 patients. The breakdown was 30 patients on Thursday; 42 patients on Friday, 35 patients on Saturday, and 6 patients on Sunday. Patients ranged in age from 03 to 66. University Healthcare-Jefferson Medical Center stood up their Incident Command Center on Friday, due to reaching their trigger for overdoses a 12-hour period. The Incident Command Center at the hospital notified Emergency Management, who notified the Jefferson County Health Department's Health Officer, who in turn, notified the WV State Health Department.

18 patients were transported from the AGF, with 17 going to University Healthcare-Jefferson Medical Center and one going to Winchester Medical Center. One patient died.

Strengths:

Strength 1: University Healthcare-Jefferson Medical Center triaging and treating patients went well.

Strength 2: University Healthcare-Jefferson Medical Center had increased supplies ahead of the event and call staff.

Strength 3: University Healthcare-Jefferson Medical Center opened their Incident Command Center (ICC) in a timely fashion, facilitating communication and planning.

Strength 4: University Healthcare-Jefferson Medical Center communicated well with hospital leadership team and community partners.

Strength 5: University Healthcare-Jefferson Medical Center completed their Department Of Health report.

Strength 6: University Healthcare-Jefferson Medical Center reported that Ryneal Medical Transport did a good job handling their regular transports in addition to the All Good Festival transports.

Strength 7: Health Department Environmental Services permitting/inspection process went very well.

Strength 8: Communications between all parties was good.

Strength 9: Ryneal Medical Transport staff reported that they did a good job, got to people, honored wishes of persons in response, and transported and treated people.

Strength 10: Ryneal Medical Transport reported that their staffing was good for the amount of people in attendance.

Strength 11: Ryneal Medical Transport reported that they had adequate supplies for the event.

Strength 12: Walther Productions paid \$97,500 to Ryneal Medical Transport for a contract to provide medical services and transport at the event.

Areas for Improvement:

Area for Improvement 1: University Healthcare-Jefferson Medical Center needs to be added to the list of agencies to receive a copy of the IAP for each operational period.

Area for Improvement 2: University Healthcare-Jefferson Medical Center will follow up with LE regarding protocol of admitted patients who are violent or who will be released to police at time of discharge in order to ensure staff's safety and security.

Area for Improvement 3: University Healthcare-Jefferson Medical Center needs a Quick Communications Call tree for the event, separate from the event's IAP.

Area for Improvement 4: Medical information should only be shared amongst appropriate personnel in order to remain compliant with HIPAA.

Area for Improvement 5: Medical planning needs to begin a year in advance, at a minimum.

Area for Improvement 6: Overdose prevention strategies need to be implemented.

Area for Improvement 7: A comprehensive mass gathering ordinance needs to be passed.

Area for Improvement 8: Larger treatment tents are needed.

Area for Improvement 9: A larger cooling area or more trailers are needed.

Area for Improvement 10: Have a physician on site to determine treat and monitor or transport.

Public Safety & Security/Law Enforcement (ESF-13)

Law Enforcement responders included: Jefferson County Sheriff's Department and Sheriff County Deputy Reserves, Charles Town Police Department, Ranson Police Department (all working under the authority of the Sheriff), West Virginia State Police, as well as two teams of Drug Task Force.

Jefferson County Sheriff's Department reported that the traffic plan was well designed and well executed. Traffic concerns before the festival did not materialize. There were no traffic backups in Virginia, or on the roads leading to the site. JCSD had regular communications with Clark County, VA, and changed the Sunday traffic plan based upon traffic flow. They also reported that there were no significant complaints about property or other crimes.

Jefferson County Sheriff's Department made 2 misdemeanor arrests and 1 felony arrest directly related to the event and investigated one death on site.

The West Virginia State Police (WVSP) reported that they made 46 possession misdemeanor arrests, 9 felony possession with intent to distribute arrests, seized over \$5,000 worth of Molly, recovered one stolen gun within a half mile of the festival's gate, recovered one stolen vehicle, and arrested two fugitives.

Eastern Panhandle Drug Task Force agents made 31 felony arrests on 86 counts of felony distribution and seized \$49,105 worth of illicit drugs from the festival grounds.

Strengths:

Strength 1: Traffic plan went well.

Strength 2: The concerns of residents prior to the event did not materialize. There were no significant complaints about property damage or crimes on the properties adjacent to the event. Having the Community Outreach person from the All Good Festival was considered a strength.

Strength 3: Police presence was good.

Strength 4: Walther Productions reimbursed the Sheriff's Department \$28,350, the Jefferson County Maintenance Department \$1,150, the Charles Town Police Department \$5,575, Ranson Police Department \$2,750, Jefferson County Sheriff's Reserves \$7,800, and WV State Police \$64,845 for their response expenses for the event. Walther Productions also paid in advance of the event, \$15,000 to the Clarke County Sheriff's Office for their services in Virginia.

Areas for Improvement:

Area for Improvement 1: The drug issue is a major concern. More police presence as people entered the site may have deterred drug use.

Area for Improvement 2: Cameras at the festival to give responders better views of the site are needed.

Area for Improvement 3: A better map of the site in CAD with more magnification is needed. Need for color flags or a beacon system would help all responders to see where they need to go inside the gate.

Area for Improvement 4: The festival organizer needs to leave the signage up until all patrons have left the area.

Area for Improvement 5: The festival organizer needs to provide a more detailed map with resources identified on the map.

Area for Improvement 6: Ensure that badges are the same as festival goers for the undercover agents.

Area for Improvement 7: County law enforcement resources were stretched beyond acceptable levels to cover the event and take care of needed law enforcement activities outside of the event. There is a need to reach out to other agencies for additional help.

APPENDIX A: IMPROVEMENT PLAN

This IP has been developed specifically for Jefferson County Response Agencies as a result of the All Good Music Festival and Camp Out, which had response operational periods from July 09-12, 2015

Core Capability	Area for Improvement	Corrective Action	Capability Element	Primary Responsible Organization	Organization Point of Contact
Communications	Mobile Command trailer needs to be bigger	There is a need to have more room within the command post for dispatchers. The space was somewhat cramped. Having two locations with four terminals would be optimal for future events.	Equipment	JCECC/AGF	Director/Deputy Director/AGF Producer
Communications	WV State Police need their own trailer	To assist with space needs, the WV State Police need to have their own trailer.	Equipment	WVSP/AGF	Captain or designee/ Festival Producers
Fire/EMS/LE/Health Department/Hospital	Planning needs to start earlier	Planning for emergency response needs to begin a year ahead of time.	Planning	All agencies involved in response.	Chiefs, Directors, Sheriff, SP Captain
Fire	Staging Areas Need to Improve.	The staging area for fire needs to be more central (or several); possibly in the Silo area. The staging area did not take into account the terrain. Staging mats are also needed.	Equipment	CFC/EMS	Chief
Fire	Need for transportation	There is a need for fire and medical transportation that is more suited to the	Equipment	CFC	Chief

	more suited to the terrain.	terrain. The larger vehicles don't get around well in that environment.			
Fire	Information about fireworks not being legal.	Make sure that information about fireworks, including lanterns, being illegal is distributed in advance to attendees, staff and producers of the event.	Training	AGF	Festival Producers
Fire	Fire lanes need to be wider.	Fire lanes need to be wider.	Planning	AGF	Festival Producers
Emergency Management	No parking passes are needed for emergency vehicles. Director and Deputy Director need same credential.	Some confusion by All Good Festival staff when Emergency Management staff went to pick up credentials about whether or not a vehicle parking pass was needed, and the Deputy Director did not receive the same wristband as the Director initially. After a phone message was left with AGF, she did receive the upgrade.	Training	AGF	Festival Producers
Public Health & Medical Services	All agencies should receive a copy of the IAP each operational period.	University Healthcare-Jefferson Medical Center needs to be added to the list of recipients for the IAP.	Planning	CFC	Chief
Public Health & Medical Services	Staff safety at University Healthcare-	University Healthcare-Jefferson Medical Center will follow up with LE regarding protocol of admitted patients	Planning/ Training	University Healthcare/	CEO or designee

	Jefferson Medical Center	who are violent or who will be released to police at time of discharge in order to ensure staff's safety and security.		Law Enforcement	Police Chief
Public Health & Medical Services	Communications Call Tree at University Healthcare-Jefferson Medical Center	University Healthcare-Jefferson Medical Center needs a Quick Communications Call tree for the event, separate from the event's IAP.	Planning	University Healthcare-Jefferson Medical Center	CEO or designee
Public Health & Medical Services	HIPAA Compliance	Medical information should only be shared amongst appropriate personnel in order to remain compliant with HIPAA.	Training	University Healthcare-Jefferson Medical Center	CEO or designee
Public Health & Medical Services	Overdose Prevention Strategies	Overdose prevention strategies need to be implemented.	Training	Jefferson County Department of Health/Festival Producers	Health Director/Festival Producers
Public Health & Medical Services	Mass Gathering Ordinance Needed.	A comprehensive mass gathering ordinance need to be passed.	Planning	Jefferson County Commission/Board of Zoning Appeals.	County Commission/Board of Zoning Appeals.
Public Health & Medical Services	Larger treatment tents.	Larger treatment tents are needed, and a larger cooling area or more trailers are needed.	Equipment	AGF	Festival Producers

Public Health & Medical Services	Physician needed on site.	Have a physician on site to determine treat and monitor or transport.	Resource	AGF	Festival Producers
Public Safety/Law Enforcement	More uniformed WV State Police Troopers on the ground/ Need more visible presence to deter drug use.	WV State Police Captain would like to have more uniformed troopers in the crowd and on the ground if the event is held again.	Planning	WV State Police	Captain
Public Safety/Law Enforcement	Need for a locksmith or someone to unlock vehicles inside the venue.	The tow truck driver inside of the venue would not unlock people's vehicles that had locked themselves out. Because he had an "exclusive" contract for the event, other tow trucks could not come inside the venue.	Planning	AGF	Festival Producers
Public Safety/Law Enforcement	Need cameras on poles to see out over the event.	Several wide view cameras on poles in the area of the event to give law enforcement views of the crowd. This would also aid those at the communications center to tell responders what they can see prior to responders entering the scene of an event if there is a problem and will help during the exiting process to get a solid	Equipment	Sheriff	Sheriff

		understanding of the traffic volume. when exiting.			
Public Safety/Law Enforcement	Need another tent or command post on a more centrally located position.	A law enforcement tent or Sheriff's Command Vehicle would be advantageous, if placed in the area adjacent to the medical tent allowing deputies patrolling a place to meet and stage to allow faster response to emergency situations.	Equipment	Sheriff/AGF	Sheriff/ Festival Producers
Public Safety/Law Enforcement	Need a better way to find locations, especially after dark & Map with resources identified.	The ability to identify locations within the event site was difficult. If there are future events, it would be advantageous to have some type of flag marker on posts that give responders the ability to respond to appropriate locations faster.	Equipment	Sheriff/AGF	Festival Producers

APPENDIX B: PARTICIPANTS

Participating Organizations
Federal
National Weather Service
U.S. Customs and Border Protection Advanced Training Center
U.S. Department of Justice-Eastern Panhandle Drug and Violent Crimes Task Force
State
West Virginia Department of Health and Human Services
West Virginia Department of Highways
West Virginia Department of Homeland Security and Emergency Management
West Virginia Fire Marshal's Office
West Virginia State Police
County/Local Jurisdictions
Charles Town Police Department
Citizens Fire Company
Jefferson County Department of Health
Jefferson County Emergency Communications Center
Jefferson County Emergency Services Agency
Jefferson County Homeland Security and Emergency Management
Jefferson County Sheriff's Department and Deputy Reserves
Ranson Police Department
Ryneal Medical Transport
University Healthcare-Jefferson Medical Center

APPENDIX C: ACRONYMS

AAR	After Action Review and/or After Action Report
AGF	All Good Festival
BZA	Board of Zoning Appeals
CAD	Computer Aided Dispatch
CBP	Customs and Border Protection
CEO	Chief Executive Officer
CFC	Citizens Fire Company
CTPD	Charles Town Police Department
EOC	Emergency Operations Center
EM	Emergency Management
ESF	Emergency Support Function
HIPAA	Health Insurance Portability and Accountability Act
IAP	Incident Action Plan
ICC	Incident Command Center (Hospital)
IP	Improvement Plan
JCECC	Jefferson County Emergency Communication Center
JCESA	Jefferson County Emergency Services Agency
JCHSEM	Jefferson County Homeland Security and Emergency Management
JCSD	Jefferson County Sheriff's Department
LE	Law Enforcement
NIMS	National Incident Management System
SIRN	Statewide Interoperable Radio Network
WVSP	West Virginia State Police
WV	West Virginia
WVSEOC	West Virginia State Emergency Operations Center
WVU	West Virginia University

**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

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, based on the sliding scale below. Said LOC or Cash Bond shall be posted after

Comment [PD1]: Several General Comments:
1. There is a finite law enforcement resource in Jefferson County. County law enforcement physically cannot provide sufficient law enforcement for multiple mass gathering events.
2. Events that exceed 10,000 for a three day period would require a minimum of 1,500 man-hours for a 72 hour event including sufficient time in advance and after the event.
3. If the event is for adults [not a scout camping event] a sufficient police presence is needed with the event site to ensure safety of patrons and sufficient manpower outside. Hard to codify that into hard number but Sheriff's Office needs to have final approval.

Comment [PD2]: That is a good number since that number would likely generate 250- to 600 vehicles.

Comment [PD3]: Fees at 5,000 or more attendees are way too low given the amount of time spent

approval by the Board of Zoning Appeals, but at least 45 days in advance of the event and shall be submitted as an additional condition of the issuance of a zoning certificate.

- 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 \$15,000/day

Comment [PD4]: Not certain why the Letter of Credit or Escrow bond needs to be from an institution 150 miles or less. Bond or LOC seems too low, I'd suggest events over 2,000 attendees be much higher. \$1.50 a day would be insufficient to cover a major event.

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.

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, 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 said agencies which satisfy their public safety and clean up or maintenance concerns. 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 a 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 temporary event/use and discuss any traffic control and entrance concerns they might have with the proposed temporary activity. Applicant shall submit a signed letter of agreement from both the County Health Department and the WV Division of Highways 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:

Comment [PD5]: Section needs better language and coordination role.

i. 1,000 – 2,000 attendees/day	\$500,000
ii. 2,000 – 5,000 attendees/day	\$750,000
iii. 5,000 – 10,000 attendees/day	\$1,000,000
iv. Over 10,000 attendees/day	\$2,000,000

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.
- 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, 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 the application and 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 setback of 500 feet from the property line is required for any performance area;
 - b. A setback of 250 feet from the property line is required for any area in which camping is permitted;
 - c. A setback of 250 feet from the property line is required for all dumpsters and trash collection areas;

- d. A setback of 50 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 setback of 250 feet from the property line is required for any alcohol, food, or other sales or concessions.
 - 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 3 a.m. or before 10 a.m. (amplified announcements are permitted).
 - b. No outdoor performance lighting after 3 a.m. or before 10 a.m.
 - c. All sale of alcohol shall be regulated by the West Virginia Alcohol Beverage Control (ABC) Administration.
 - d. No Mass Event may last more than four days, including attendee arrival and departure dates. 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 reviewed and issued within 30 days of submission of a complete application.

Comment [PD6]: I would suggest music beginning earlier say 8 a.m. but not allowing amplified announcements or music past midnight.

Comment [PD7]: No lighting past midnight

Comment [PD8]: Given past experience I'd suggest language clarify that this refers to patrons, not staff, vendors or volunteer assistants.



DAVID DIDDEN, M.D.
HEALTH OFFICER

CHRISTINA JACKSON, MA
HEALTH ADMINISTRATOR

1948 WILTSHIRE ROAD, SUITE 1
KEARNEYSVILLE, WV 25430
PHONE: (304) 728-8416
FAX: (304) 728-3319
WWW.JCHEALTHDEPT.ORG

APPLICATION FOR MASS GATHERING PERMIT

Event Coordinator's Name: _____ Email: _____

Address: _____

Phone: _____ Fax: _____

Description of Gathering: _____

Location of Gathering: _____

Dates and Times of Gathering: _____

Purpose of Gathering: _____

Number of People Expected to Attend: _____

Peak Number of People Expected: _____

Estimated Length of Stay of Attendees: _____

Name of Property Owner: _____

Address of Property Owner: _____

Phone: _____ Fax: _____

Site Clean-Up Plan: _____

Plan for Directional and Exit Signs: _____



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Plan to address nuisances or health hazards associated with animals present at the gathering:

Plan to address hazardous conditions, including but not limited to evacuation, cancellation or delay of the gathering and provisions for support facilities: _____

Name of Solid Waste Haulers: _____ Phone: _____

Name of Liquid Waste Haulers: _____ Phone: _____

Total number of emergency medical personnel & qualifications:

*Submit a site plan delineating the area where the gathering is to be held, including the following:

1. the parking area available for patrons
2. location of entrance, exit, and interior roadways and walks
3. location of all first aid stations and emergency medical resources
4. location, type, and provider of restroom facilities
5. location and description of water stations
6. location and number of food stands, and the type of food to be served if known
7. location, number, type, and provider of solid waste containers
8. location of operator's headquarters at the gathering
9. a plan to provide adequate lighting to ensure the comfort and safety of attendees and staff
10. location of all parking areas designated for the gathering and under the operators' control
11. provisions for allowing health inspectors onsite

Applicant's Signature: _____

Date: _____

For Health Department Use Only

Fee Paid: _____

Date: _____

Permit Number: _____



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Has a production company or other organizational entity been used to provide assistance in the promotion and/or organization of this event: Yes No

If yes, specify the name and address of the production company or other organizational entity:

Name: _____

Address: _____

Telephone: _____ Contact Person: _____

Advertising And Promotion Of Event:

Briefly describe the advertising and promotion that has been done for purposes of making the public aware of the planned event: _____

Has this event been promoted or advertised by:

Television Radio Newspaper Other Print Media
 Internet Poster Other (specify) _____

Estimated Size of Event:

The estimated attendance at this event is _____ persons.

This estimate is based on: _____

Have advance (pre-event) tickets been sold for this event? Yes No

If yes, estimate the total number of advance ticket sales: _____ tickets



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Admission costs:

Will admission be charged for persons to attend this event? Yes No

If yes, please specify the ticket costs:

General Admission Cost \$ _____

Advance Admission Cost (if applicable) \$ _____

Children's Admission Cost (if applicable) \$ _____

Senior Citizens' Cost (if applicable) \$ _____

Other Admission Charges (if applicable) Specify: _____

Has the State Tax Department been notified about this event for purposes of providing for the remittance of all Consumer Sales Taxes to the State of West Virginia? Yes No

If yes:

Contact Person Notified: _____

Notice Date: ____/____/20____

Description of Event:

Name of Event: _____

This event can be described as: Musical Concert Festival/Fair
 Other (specify) _____

Briefly describe the event as planned: _____



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Duration of Event:

The event is scheduled to begin at ____:____ am/pm on ____/____/20____ and will conclude at ____:____ am/pm on ____/____/20____.

Event Schedule:

If available, please submit as a separate attachment to this application a copy of the schedule for all planned activities/events (including times, dates, and locations).

Entertainment:

Will musical entertainment be provided during this event? Yes No

If yes, will the musical entertainment be: Live Performers Recorded

If yes, the music can be classified as: Rock and Roll Country Pop
 Bluegrass Other (specify) _____

Please list names and addresses of the live musical performer(s)/band(s):

NAME	ADDRESS

Has the applicant taken steps to ensure that all performers have the ASCAP license in effect for the public performance of legally copyrighted music? Yes No



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Entertainment – other than musical (Please describe any entertainment other than musical performances that will be part of this event): _____

Sound Amplification:

Will sound amplification be used during this event? Yes No

Please describe the sound amplification system to be used: _____

Location of Event:

This event will be held: Indoors Outdoors Indoors and Outdoors

Describe the exact location within Jefferson County where this event will be held: _____

Property Description: Deed Book # _____ Page # _____ Map and Parcel # _____

Who is the owner of the property where the event will be held?

Name: _____

Address: _____

Telephone #: _____

Social Security #: _____



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If the property owner is a person other than the applicant, is there a written agreement/contract between the property owner and the applicant concerning this planned event? Yes No

[If yes, attach a copy of this agreement to this application]

If the property owner is a person other than the applicant, will the property owner share in the proceeds of this event? Yes No

[If yes, attach a separate statement disclosing the details of this profit sharing agreement]

Approximate acreage of the site where this event will be held: _____ acres

Crowd Density:

Based on the estimated attendance and approximate acreage of the site for the event, will at least twenty (20) square feet per person be provided for day time assemblage? Yes No

Will at least forty (40) square feet per person be provided for overnight assemblage, exclusive of parking areas? Yes No

Event Parking:

The approximate acreage available for vehicle parking is _____ acres.

The space provided for vehicle parking will accommodate the parking of approximately _____ cars.

Will a parking space be available for every four (4) persons in attendance at this event, with a density not to exceed one hundred (100) passenger cars or thirty (30) buses per usable acre? Yes No

Will traffic control and parking assistance be offered? Yes No

Describe your plan for the parking of cars and security of vehicles during this event: _____



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Describe the roadway access (driving instructions) for attendance at this event: _____

Will parking be permitted along any public roadways? __Yes __No

Will applicant enforce legal parking? __Yes __No

Camping:

Will camping be permitted on the site location for this event? __Yes __No

If yes, what will be the approximate number of camping sites at the location of this event?
_____ campsites

If yes, what will be the approximate acreage allotted for camping at the site of this event?
_____ acres

If yes, will separate comfort stations be provided within the proposed camping areas that will include water closets, lavatories, and bathtubs/showers? __Yes __No

If yes, will the average campground density at this event exceed twenty-five (25) campsites per acre?
__Yes __No

[Note: The General Sanitation Rules of the West Virginia Division of Health, Title 64 – Series 18 contain specific standards regulating campgrounds. All applicants for events that will permit camping on the site location of the event will be expected to comply with these specific regulatory requirements].

If yes, will a fee be charged for camping? __Yes __No

If yes, what is the amount of the fee that will be charged for camping at the event location? \$ _____
per campsite

Sanitation Concerns:



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Will toilet facilities be provided during this event? Yes No

The toilet facilities to be provided are: Permanent Facilities Portable Facilities Both

The total number of separate toilets that will be available are:

Women's toilets _____ Men's toilets _____ Handicapped toilets _____

If portable toilets, specify the vendor who will provide for the delivery and removal of these toilet units from the event site:

Vendor: _____

Business Address: _____

Business Telephone: _____

Will garbage cans or other disposable receptacles be located on the site of the event? Yes No

If yes, specify the quantity and size of the trash cans or other disposal receptacles that will be located on the site of the event: Number of units _____ Size of units _____

Describe the method to be used for the removal of trash from the event site: _____

Food Service and Sales:

Will food be available for purchase at the event? Yes No

If yes, provide a listing of the vendors who have been authorized to provide for the sale of food at this event:

FOOD VENDOR

ADDRESS



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Have food vendors been advised of the applicable regulations and permits required for the sale of food by the West Virginia Department of Health? Yes No

Has each vendor applied for and received a Temporary Food Service Permit issued by the Jefferson County Health Department? Yes No

Has the Jefferson County Health Department conducted a site inspection of the event location for purposes of ensuring compliance with all applicable health and sanitation rules and regulations? Yes No

If yes, specify the date of the required inspection and the person who conducted the on-site inspection:

Inspection Date: ___/___/20___ Inspected By: _____

Were there any compliance problems identified as a result of this site inspection? Yes No

[If there were problems identified as a result of this inspection, include a separate letter documenting these problems and the steps that have been taken to insure compliance].

If a site inspection of the event location has not been completed by the Jefferson County Health Department, has contact been made to request this required inspection? Yes No

If yes, specify the date and time at which this inspection is to be conducted:

Scheduled Inspection Date: ___/___/20___ Scheduled Inspection Time: _____

Insurance Coverage:

Has the applicant purchased general liability insurance coverage for this event? Yes No



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If yes, specify the insurer through which the liability coverage is provided:

Insurers' (Company) Name: _____

Insurers' Address: _____

Insurers' Telephone Number: _____

Name and telephone of local agent: _____

Specify the name of the principal insured: _____

Specify the name(s) of any additional insured: _____

Specify the policy number that has been assigned to this coverage: _____

Specify the maximum liability coverage available under the terms and conditions of this policy:
\$ _____

[Note: Please attach a copy of the policy or any guaranteed binder that has been issued to cover this special event].

Emergency Medical Services:

Will emergency medical services be made available by the applicant on the site for this event? ___Yes
___No

On the site for this event, specify the number of locations from which emergency medical services will be provided: _____

Specify the type and number of medical service providers that will be made available on the site for this event:



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TYPE OF PROVIDER	NUMBER OF PERSONNEL
Emergency Medical Service Attendant	_____
Emergency Medical Service Technician (EMT) – Basic	_____
Emergency Medical Technician – Paramedic	_____
Licensed Practical Nurse (LPN)	_____
Registered Nurse (RN)	_____
Other Nurse Practitioner	_____
Physician’s Assistant	_____
Physician (MD or DO)	_____
Other Provider (specify) _____	_____

Specify the names, addresses and applicable license/certificate numbers for those medical service providers who will be assigned to provide on-site medical coverage for this event:

Provider’s Name	Address	License/Cert. #
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Will medical services be made available at all times through the entire duration of this event? __Yes __No

Will on-site ambulance services be made available at all times for the transportation of persons requiring further medical treatment by off-site medical providers? __Yes __No



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Briefly describe your plan to triage persons requiring additional medical services from the event site to the outside healthcare facilities: _____

Security for Event:

Will a security company be employed for the security of this event? Yes No

[If no, provide a separate statement documenting the manner in which the security needs of this event will be met].

If yes, provide the name, address, and contact person for this security company:

Company name: _____

Business Address: _____

Telephone #: _____

Contact Person: _____

Is there a written agreement or contract for the delivery of security services at this event? Yes No

[If there is a written security agreement or contract, include a copy of the document with this application].

Is this security company licensed in the State of West Virginia? Yes No

Is this security company bonded and/or insured? Yes No

How many security officers/ personnel will be present throughout this event? _____

[If staffing levels will vary, provide a schedule that represents the actual number of security personnel that will be physically present at the event site at all times].

Will the security personnel for this event be: Armed Unarmed Both



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Will the security personnel for this event be uniformed or dressed in a manner that will distinguish them as being security personnel for the event? Yes No

If yes, briefly describe the manner of dress that will distinguish them as being authorized security personnel: _____

Will entry to and egress from this event be controlled by security personnel? Yes No

If yes, briefly describe your event plan and policy for controlling entry to and egress from the event site (e.g. return passes, alcohol check points, etc): _____

Will communications be available/provided for security personnel? Yes No

If yes, specify the type of communications equipment that will be used:

Walkie-Talkie Radios Cell Phones Other: _____

Have you contacted and met with any state, county, or local law enforcement agencies to advise them of the details of this event? Yes No

If yes, specify the law enforcement agencies that have been contacted to review and discuss the details of this event:

Law Enforcement Agency

Contact/Meeting Date



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Briefly describe the highlights of the basic security plan for this event: _____

Alcohol and Drug Policy:

Will alcoholic beverages be sold on the premises of this event? __Yes __No

If yes, have the proper event licenses been secured throughout the West Virginia Alcohol Beverage Control Commission? __Yes __No

Will alcoholic beverages be permitted on the site for this event? __Yes __No

If yes, what measures will be taken to prevent underage consumption or other abuses involving the presence of alcoholic beverages? _____

If no, what measures will be taken to further insure that alcoholic beverages will not be consumed on the premises of this event (i.e. cooler checks, signage, etc)? _____

Describe the measures that will be taken to police and discourage the use of illegal drugs on the site of this event: _____



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Certification of Application:

I do affirm and certify that the information contained in this Application for Special Events Permit is true and correct to the best of my knowledge and belief. As the applicant for this permit, I do authorize the Jefferson County Health Department or their authorized representative to conduct an investigation into all information contained in this application for purposes of verifying the same to be true.

Date of application

Signature of applicant

Notary

Subscribed and sworn before me, in said County and State, this ____ day of _____, 20____.

Notary Public

My commission expires: _____

Official Seal



JEFFERSON COUNTY, WEST VIRGINIA

Departments of Planning and Zoning

116 East Washington Street, 2nd Floor

P.O. Box 338

Charles Town, WV 25414

www.jeffersoncountywv.org/government/departments/planning-and-zoning-department.html

Email: planningdepartment@jeffersoncountywv.org

Phone: (304) 728-3228

zoning@jeffersoncountywv.org

Fax: (304) 728-8126

MEMO

To: Jefferson County Planning Commission

From: Jennifer M. Brockman, AICP
Director of Planning and Zoning

Date: September 22, 2015

RE: Proposed red-lined edits to the Jefferson County Subdivision and Land Development Regulations regarding the Major/Minor Processes (STA15-05)

On February 10, 2015 the Planning Commission appointed a citizen's committee to draft an amendment to the Jefferson County Subdivision and Land Development Regulations regarding the Major/Minor Subdivision and Site Plan processes.

On August 11, 2015 staff distributed for your review the first draft of the proposed redlined edits (STA15-05) as submitted by the committee.

Attached for your review is the first draft of the proposed red-lined edits as submitted by the committee. Note, the only revision made on this version from the first version you received is that **Section 24.105E Minor Site Plan Application – Determination** has been re-added to the text by staff because it is mandated by WV Code §8A-5-4.

The next step would be to schedule a Public Hearing to receive public input on the proposed text amendment.

Attachments

- ❖ Cover Memo dated 07-29-15
- ❖ Article 26 – Terminology, Definition of Major Site Plan and Minor Site Plan
- ❖ Minor Site Plan Process
 - Sections 20.203; 24.105
 - Proposed new Sections (not yet numbered):
 - Minor Site Plan Concept Plan – Submission and Completeness Review
 - Minor Site Plan Concept Plan – Public Workshop
 - Minor Site Plan Concept Plan Direction
 - Minor Site Plan Process After Concept Plan Direction (working title)
- ❖ Major Subdivision/Site Plan Processes
 - Sections 23.203; 24.206; 24.107; 24.109; 24.110; 24.111; 24.112; 24.114; and 24.115
 - 24.113 - Major Subdivision Final Plat – Public Hearing – Recommendation is to delete this section entirely.

MEMORANDUM

TO: Steve Stolipher, President, Jefferson County Planning Commission

FROM: Committee on Subdivision and Site Plan Process Ordinance Amendments *PSR*

SUBJECT: Draft of Proposed Amendments to the Subdivision and Site Development Ordinance

DATE: July 29, 2015

As you are aware, this Committee has been working diligently on proposed ordinance amendments for the processing of Subdivisions and Site Plans. The Committee has met for many months to come up with reasonable amendments to the process that would both streamline an application while keeping the Public involved and informed during the process.

The Committee understood that our task was to come up with a more workable process for plan and plat approvals that more closely reflected the intent of the West Virginia State Code and the experiences of the last several years of processing plans. When the Subdivision/Site Development Ordinance was adopted in 2008, the procedures for processing developments were incorporated into the document without much direction from a very vague new enabling legislation.

Although the Enabling Legislation does not contain a lot of public participation, the Committee felt that it served both the Public and the Applicant if the Concept Plan stage remained in the early stages of the plan approval process. Accordingly, the proposed amendments should achieve a balanced approach to public participation along with quicker processing times.

While the State Code makes it difficult to make the process perfect, the Committee believes that it succeeded with their task. The active participants of the Committee included: Suzanne Malesic; Katy Fidler; Mike Shepp; Michael Boyle; Debra Lee Hovatter; and, Paul J. Raco.

As discussed with Staff, the Committee would like the draft of the proposed amendments distributed to the Planning Commission at your August 11, 2015 meeting, but would hope for time in a September meeting to discuss the amendments with you. Ideally, we discussed the possibility of scheduling a second meeting in September to adequately address the amendments.

We appreciate the opportunity that we had to work on this important matter and hope that we can continue on the project until the final version is adopted. Thank you.

cc: Jennie Brockman, AICP, Director of Planning and Zoning

RECEIVED

JUL 29 2015

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING



M

Maintenance Guarantee. A guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to these Regulations or to maintain same.

Major Change. A change to the plan that increases density or floor area, decreases open space, *bufferyards*, or which alters the alignment or layout of streets by more than five feet. For conditional approvals granted prior to the effective date of these Regulations, any proposed use not contained in the original advertisement shall be considered a major change.

Major Site Plan³. A plan that follows the major site development process and proposes one or more of the following:

- A. A new public or private street or dedication to public use of an existing street;
- B. Building(s), both new and additions to existing, where new ~~all~~ structures or new additions located on the parcel are equal to or total more than 250,000 square feet or more of GFA on any site;
 - except building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater;
- C. ~~Apartment or multi-family development of ten or more dwelling units~~; or
- D. A heavy industrial use.

Existing single family structures used as single family structures and existing agricultural structures are not included in the square footage computations noted in this definition.

Major Subdivision Plat. A plat that proposes subdivision of land, whether residential or non-residential, that requires the development of streets (public or private) or rights-of-way access to the lots, or common area and/or includes the creation of more than five lots that take access to an existing public street.

Manufactured Home. Housing built in a factory according to the federal manufactured home construction and safety standards effective June 15, 1976. (*Source: W.Va. Code §8A-1-2(r)*)

Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum to which base flood elevations shown on a community's flood Insurance Rate Map are referenced.

Mean Surface Water Elevation. The observed limit of dry weather flow elevation in a *watercourse* or mean high water level in tidal areas.

Minimize. To reduce to the smallest amount possible using *Best Management Practices*. "Minimize" shall not mean complete elimination, but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect of the action required to be minimized. With respect to activities, the conduct of which is adverse to the conservation of the natural features of land, the requirement to "minimize" shall include, but not be limited to, the requirement that the placement of dwellings and other structures and the locations of roads, sedimentation and erosion control devices, and earthmoving activities shall be planned and designed so as to permit the adverse effect of the activity in question to be reduced to the smallest amount possible under the circumstances consistent with the otherwise permitted development.

Minor Change. A change to the plan that does not increase density or floor area, does not decrease open space, bufferyards, or parking, or does not *alter* the alignment or layout of streets by more than five feet.



Minor Site Plan^{1&3}. A plan that follows the minor site development process and that will not require the development of new infrastructure or the extension of existing off-tract infrastructure, that proposes one or more of the following:

- A. Building(s), both new and additions to existing, where new all structures or new additions to structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site shall process administratively, and building(s), both new and additions to existing, where all structures located on the parcel total more than 5,000 and less than ~~50,000~~ 250,000 square feet gross floor area (GFA) on any site shall:
 - Process a concept plan with a public workshop and all remaining site plan review processes shall be administratively approved.
 - In the event that any condition(s) placed upon a site plan during the concept plan public workshop that cannot be addressed or resolved administratively, such condition(s) placed upon the concept plan at the public workshop shall return to the Planning Commission for resolution.
 - ~~Building(s), both new and additions to existing that exceed 50,000 square feet gross floor area at the time of this adoption, adopted 01/19/2012, shall be permitted a one-time expansion up to 25,000 square feet gross floor area with a concept plan public workshop.~~
- B. Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater. Sub-Section A of this definition does not apply to this provision;¹
- C. Apartment or multi-family development ~~of nine or less dwelling units.~~

Minor Site Plans do not include the design, erection or addition to detached single family dwelling units when only one dwelling unit is located on an established lot.

Existing single family structures used as single family structures and existing agricultural structures are not included in the square footage computations noted in this definition.³

Minor Subdivision Plat. A plat that will not require the development of new off-tract infrastructure or the extension of existing off-tract infrastructure, that proposes subdivision of land into five or less lots including the parent parcel.

Mitigation. Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict, or otherwise be deemed incompatible with surrounding properties.

Moderately Vulnerable Area. An area where the combination of soils, subsurface conditions, geologic features, hydrology, population density, and Source Water Protection Areas makes the aquifer and groundwater moderately vulnerable to contamination. This area contains a lower intensity of the conditions found in a highly vulnerable area.

Monument. A stone or concrete boundary marker, as required by these Regulations, intended to fix the physical location of property lines.



- 2. Judicial sales or tax sales;
 - 3. Mortgages;
 - 4. Deeds of partition under or pursuant to an order of Court;
 - 5. Real estate transferred by will or intestacy.
- d. A parent or a child may receive only one such exempt lot within the County after July 19, 1979.
- e. Parents who are married are entitled to only one such parcel.

B. Non-Residential.

The re-subdividing of a lot located in an approved industrial park or existing major non-residential subdivision shall be permitted to follow the minor non-residential subdivision process. When a non-residential subdivision is provided for in the rural district, such development may utilize the minor non-residential subdivision provisions provided only one parcel is being subdivided off and only one use will be established on the lot. All minor non-residential subdivisions shall contain, but are not limited to, the following criteria:

- 1. **Lots.** A minor non-residential subdivision divides the property into more than one lot.
- 2. **Access.** All lots shall front on an existing internal subdivision road built to county grade road standards and having a minimum right-of-way width of 50 feet. Lots having direct access to a state road are not permitted to process as a minor, except for those proposals utilizing the non-residential permitted uses in the Rural District.
- 3. **Water/Well or Sewer/Septic.** Potable water and sewer shall be provided according to the requirements of Appendix B, *Engineering Standards*. All submissions shall provide a plat approved by the Department of Health.

Where, in the judgment of staff, a residential or non-residential proposal does not comply with the minor subdivision requirements and/or the intent of these Regulations, the proposed subdivision shall be classified as a major subdivision. The reason for such a determination shall be provided to the applicant in writing. The determination may be appealed to the Planning Commission for consideration and classification.

Sec. 20.202 Major Subdivision

A major subdivision, whether residential or non-residential, is any subdivision of land that requires the development of streets (public or private) or easements of access to the lots, or common area and/or includes the creation of more than five lots that take access to an existing public street. (See definition of "Major Subdivision.") A subdivision may be classified as major if in the judgment of staff, a proposal does not comply with the minor subdivision requirements and/or the intent of these Regulations. The reason for such a determination shall be provided to the applicant in writing. The determination may be appealed to the Planning Commission for consideration and classification.

Sec. 20.203 Minor Site Development^{1, 3, & 4}

Minor Site Developments are those proposals that do not require the development of new infrastructure or the extension of existing off-tract infrastructure.

If the development requires easements for drainage or other purposes, private roads, or parking, and access to public roads is involved that serve one or more land uses, it is a site development. Minor site development proposes one or more of the following:



(1) Building(s), both new and additions to existing, where all structures located on the parcel total less than 5,000 square feet gross floor area (GFA) on any site shall process administratively, and building(s), both new and additions to existing, where all new structures or additions to structures located on the parcel total more than 5,000 and less than ~~50,000~~ 250,000 square feet gross floor area (GFA) on any site shall:

- Process a concept plan with a public workshop and all remaining site plan review processes shall be administratively approved.
- In the event that any condition(s) placed upon a site plan during the concept plan public workshop that cannot be addressed or resolved administratively, such condition(s) placed upon the concept plan at the public workshop shall return to the Planning Commission for resolution.
- ~~Building(s), both new and additions to existing that exceed 50,000 square feet gross floor area at the time of this adoption, adopted 01/19/2012, shall be permitted a one-time expansion up to 25,000 square feet gross floor area with a concept plan public workshop.~~

(2) Building(s), both new and additions to existing, regardless of size, when located in a business and/or industrial park on a lot within an approved major non-residential subdivision with master planned roads and stormwater. Section 20.203 Sub-Section (1) does not apply to this provision;

(3) Apartment or multi-family development ~~of nine or less dwelling units.~~

Minor Site Development requires Stormwater Management Plans and stormwater management activities per the Jefferson County Stormwater Management Ordinance, as identified in A, B, C, and D within this Section.

Existing single family structures used as single family structures and existing agricultural structures are not included in the square footage computations noted in this section; unless, development/redevelopment activity at the site triggers stormwater management policy as described in the Jefferson County Stormwater Management Ordinance.

- A. **No Site Plan or Stormwater Management Plan Required.** No site plan is required for additions to existing structures or structures ancillary to existing uses on a property, when:
1. The footprint of the addition or the new structure is less than 250 square feet; and
 2. No additional parking is required per Zoning Ordinance standards; and
 3. The disturbed area is no more than 3000 square feet.
- B. **Limited Site Plan and Stormwater Management Plan Addressing Quantity Only Required.** A site plan limited to basic information needed to address (a) erosion and sediment control, (b) parking requirements for the expanded use, (c) stormwater management for the additional impervious area only, (d) handicapped access to the existing and proposed structures and (e) compliance with the Zoning Ordinance, may be used on sites where the structure is:
1. An addition to an existing structure, or, ancillary to an existing use; and
 2. The footprint does not exceed 1600 square feet or 35% of the existing structure, whichever is smaller.
 3. For a home occupation or cottage industry, the limited site plan standards are applicable if a site plan is required pursuant to the Zoning Ordinance.²
- C. **Full Site Plan Required.** Any development which does not meet all of the criteria for a limited or rural site plan shall meet all the requirements of these Regulations and the appendices.
- D. **For site plans located in the rural zone, Rural Site Plan Required Standards may be utilized.**⁴ A primary function of the Rural/Agricultural zoning district is to preserve the rural



Sec. 24.105 Minor Site Plan Application – Determination

- A. **General.** An applicant for a minor site plan, who does not schedule a pre-proposal conference, shall be subject to the procedures of this Section upon submittal of a copy of a site plan application and the corresponding fees to the Planning Commission. All minor site plans shall follow the site plan standards in Appendix A, *Plan & Plat Standards*.
- B. **Application Meeting.** Within seven days after the submission of the site plan, the applicant and the staff shall meet to discuss the proposed site plan and the criteria used to classify the proposal as minor. The applicant may choose to waive this meeting but shall do so upon submission.
- C. **Site Inspection.** The staff shall make a site inspection of the site plan.
- D. **Determination.** Within ten days after the submission of the site plan, the staff shall notify the applicant in writing that the proposed site plan has or has not been classified a minor site development. If the Staff determines that the site plan has been classified as a minor site development and is over 5,000 square feet as described in Section 20.201, then the project shall proceed with Section XXXX, Minor Site Plan Concept Plan. All other Minor Site Plans (under 5,000 sq. ft. and in Industrial/Business Park) shall proceed with Section XXXX (page 50D) Minor Site Plan Process After Concept Plan Direction (Page 50D).
- E. **Approval.** Within ten days after the site plan has been classified as minor site plan, the staff shall approve, approve with conditions, or deny the site plan.
(For minor site plan criteria see the definition, Site Plan, Minor and Sec. 20.201, Minor Subdivisions.)

Sec. XXXX Minor Site Plan Concept Plan - Submission and Completeness Review^{2, 4}

The submission of a concept plan is a required step for minor site plans determined in Section 24.105. The Department shall have 45 days to complete the sufficiency and completeness review. At the time of submission, Concept Plan shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. In order to keep on the proposed schedule, the applicant shall resubmit within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission workshop.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the planning department. It shall be accompanied by the fee for concept plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated by staff.
 - 1. **General location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
 - 2. **Concept Plan.** A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*. Show or note if all features are addressed.



3. Zoning Information. This shall include:

- a. Determination of the zoning district in which the proposed site plan project is situated.
- b. Density calculations.
- c. Site resource map. (See definition)
- d. Use designations for all adjoining and confronting parcels.

4. Proposal Description. This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is multifamily residential.

5. Traffic Impact Data. This shall include:

- a. ADT figures for the adjoining or accessible State road.
- b. Trip generation figures based on the following table:

<u>USE</u>	<u>PEAK HOUR</u>	<u>AVERAGE DAILY</u>
<u>Townhouse</u>	<u>0.6</u>	<u>7.0 per d.u.</u>
<u>Mobile Home</u>	<u>0.6</u>	<u>5.0 per d.u.</u>
<u>Light Industrial</u>	<u>1.2</u>	<u>5.5 per 1000 s.f.</u>
<u>Industrial Park</u>	<u>0.99</u>	<u>7.0 per 1000 s.f.</u>
<u>Warehousing</u>	<u>1.63</u>	<u>4.9 per 1000 s.f.</u>
<u>Mini-warehousing</u>	<u>0.29</u>	<u>2.8 per 1000 s.f.</u>
<u>Office</u>	<u>2.82</u>	<u>17.7 per 1000 s.f.</u>
<u>Small Shopping Center</u>	<u>15.51</u>	<u>118.0 per 1000 s.f.</u>
<u>Convenience Market</u>	<u>54.80</u>	<u>625/1000 leasable s.f.</u>

- c. Nearest key intersection that will serve the proposed project. A “key intersection” is defined as any intersection with a primary or secondary highway as classified by the current Comprehensive Plan.
- d. “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
- e. If a use is not listed in the table above, the most current edition of the Institute of Transportation Engineers Trip Generation Manual or Handbook shall be referenced to determine appropriate trip generation figures.

6. A traffic study may be required only at the request and direction of the West Virginia Division of Highways. Any required traffic study or a letter from the West Virginia Division of Highways outlining the proposed improvements shall be received with the first submission of the site plan.⁴



- 7. Agency Reviews.** The reviewing agencies shall conduct reviews of the proposed concept plan. Agency comments shall be received by the Department fourteen (14) days prior to the scheduled public workshop. The applicant shall distribute the concept plan to all reviewing agencies no later than 7 days after the review. Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide copy of letter sent to outside agencies to the Departments of Planning and Zoning with 7 days of submission of Concept Plan. If any review agency failed to respond, they shall be deemed by these Regulations to have approved the plan.
 - 8. Other Data.** Any other data or information the applicant believes will assist in the review.
 - 9. Other Reviews.** Any other staff or agency reviews of the plans.
 - 10. Adjoining Property.** The applicant must provide an accurate list of all properties and owners' addresses adjoining the subject property. The adjoining and Homeowner's Associations shall be notified by staff of the date of the workshop.
- C. Review Content.** The Department and agency reviews shall address the areas indicated in D through G below and any other areas of concern to the agencies.
- D. Department.** The Department review shall include the following:
1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a site plan submittal.
 2. Staff opinion as to whether the plan meets the site plan criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- E. WVDOH.** WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off-site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plat review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.
- F. Traffic Impact.** The review shall indicate whether a traffic impact study will be required based on analysis required in 24.116.B.5.e.
- G. Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County's needs in that area of the County.
- H. Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a site plan or reasons why the plan should be denied.
- I. Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors



that make the development impossible, Planning Staff shall accept or deny the concept plan as complete.

J. **Effect.** At the time of submission, the concept plan shall be placed on the 1st regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Staff shall advertise the public workshop in a local newspaper of general circulation in the area one time at least twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.

Sec. XXXX Minor Site Plan Concept Plan - Public Workshop

At the scheduled Planning Commission meeting, the Planning Commission shall hold a public workshop to take public comments, concerns, and inputs on the proposed concept plan. This workshop is intended to provide the developer and the Planning Commission with said public input.

- A. **Plan Presentation.** The developer shall make a short presentation of the plan.
- B. **Agency Comments.** The staff shall briefly outline agency comments. The planning department shall specifically address whether the project can meet the standards of the Zoning Ordinance.
- C. **Public Comment.** The public will be invited to comment. The Planning Commission shall direct participants to briefly cite concerns or ask questions of the Planning Commission. The intent of this procedure, like the Department comments, is to inform the developer and Planning Commission with regard to issues that should be addressed in the site plan and report such transportation or engineering matters.

Sec. XXXX Minor Site Plan Concept Plan - Direction

After the close of the public workshop, the Planning Commission shall, during their regular meeting or at a specific public meeting within 14 days, provide direction on the concept plan. If the Planning Commission decides to postpone action for 14 days, the workshop shall be closed for public comment; however the applicant or designated representative will be permitted to interact with the Planning Commission at that meeting to answer questions raised during the public comment at the workshop.

- A. **Direction.** The Planning Commission shall direct the preparation of a site plan subject to conditions to be addressed in the site plan application. The purpose of this review is to guide the developer so that when the site plan application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.
- B. **Conditions.** In the direction, it is anticipated that there will be numerous conditions from the Department, agencies, and public comment. There may well be public comment that seeks to lower density of the project below that permitted by the Zoning Ordinance, or to deny the project because of concerns outside the scope of the zoning or subdivision regulations. The applicant may make proffers to address these concerns, but the Planning Commission may not use them as conditions, unless they are proffered by the applicant.

Effect. The direction is to the developer to proceed to prepare a site plan (Section 24.119, *Major Site Plan Application – Submission and Completeness Review*). The direction received in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to these Regulations or the Zoning Ordinance in the second year shall control. If any zoning changes have been presented in a public hearing prior to the decision on the concept plan direction, then meeting the amended zoning requirements, if adopted, shall be a condition of the direction.

C.

Section XXXX Minor Site Plan Process After Concept Plan Direction

- A. Formal Site Plan Submission. An Application, applicable fees, two copies of a Site Plan as outlined in Appendices A and B, 2 copies of Storm Water Management Calculations with Stormwater Narrative and all other applicable Site Plan support material can be submitted after the Concept Plan Direction is given by the Planning Commission.
- B. Required Elements. Within 7 days, Engineering Staff shall determine if the Site Plan is sufficient and support material contains at least 70 percent of the required elements of a site plan submission.
- C. Staff Review Conference. Once Engineering Staff determines that the Site Plan contains 70 percent of the required elements, Staff shall place an advertisement in the Spirit of Jefferson noticing a Staff Review Conference will be held on the first available Staff Review Schedule held on the first and third Fridays of every month. This Staff Review Conference shall be open to the public, but will be conducted only between the Staff, applicant and Design Consultant. The Design Consultant is required to attend, or the Staff Review Conference will be postponed to the next available Staff Review Schedule on a first or third Friday of the month. The purpose of the Staff Review Conference is for the Staff, applicant and design consultant to exchange checklists, ideas, suggestions and questions regarding the applicable site plan regulations as it relates to the submitted site plan and support data.
- D. Site Plan Approval. Once the Staff Review Conference is held, the site plan will be exchanged back and forth between the design consultant and Staff via the approved checklist process until such time that the Staff believes that the site plan and support data meets all applicable local and state regulations. Once the Staff determines that the site plan meets all such regulations, the Staff shall approve the site plan and allow the project to proceed to bond the project under the current Jefferson County Bonding Policy. All Health Department, Highway Department, Public Service District, WVDEP and other applicable State and Local Agency Approvals shall be in place prior to the Staff's Approval.
- E. Site Plan/Checklist Approval Process. Under Section D above, the applicant may at any time request to be on the Planning Commission agenda pursuant to current agenda rules in order to request that the Planning Commission approve the site plan if the applicant believes that the site plan meets the site plan rules and regulations.
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Sec. 23.203 County Agencies

The following Jefferson County agencies are involved or may be involved in the subdivision and site development review process.

- A. **On-Site Water Supply and Sanitary Waste Disposal.** The Jefferson County Health Department and West Virginia Department of Health shall be responsible for the review of any on-site water supply or sanitary waste disposal for the proposed development. Approval needed at Preliminary Plat Stage.
- B. **Centralized Water Supply/Distribution and Sewage Collection/Treatment.** The Jefferson County Public Service District or other applicable local agency supplying centralized utilities, West Virginia Health Department, and WVDEP shall be responsible for the review and approval for any centralized sewer and water supply intended to serve the proposed development. Approval needed at Preliminary Plat Stage.
- C. **Jefferson County Historical Landmarks Commission.** This body shall submit a report and findings on whether historical resources exist on the site of the proposed subdivision of site development. If there are, they shall submit findings on whether the proposal meets the requirement of zoning with respect to such structures or places at Concept Plan Stage.
- D. **Jefferson County Parks and Recreation Department.** This body shall determine the adequacy of park, recreation, and trail facilities intended to serve a proposed residential development at Concept Plan stage. This is a courtesy review for Park Planning Purposes.
- E. **Jefferson County Addressing/GIS Office.** This body shall verify adequacy of proposed addresses, road names, and names of subdivisions in accordance with Jefferson County E 9-1-1 Addressing Ordinance. Approval is needed at either Concept Plan or Preliminary Plat Stage.
- F. **Jefferson County Engineering Department.**⁴ This body shall review and either approve or deny the Stormwater Management Plan relating to stormwater management.

Sec. 23.204 Other Agencies

The following are the responsibilities of other agencies:

- A. **West Virginia Division of Highways (WVDOH).** WVDOH is responsible for reviewing the site access and potential improvements to public roads at Preliminary Plat Stage.
- B. **Jefferson County Schools.** The Board of Education should determine the adequacy of school facilities intended to serve a proposed residential development at Concept Plan Stage. This is a courtesy review for School Planning purposes.
- C. **Emergency Services.** Fire, police, and EMS providers should determine the adequacy of emergency response and lifesaving services provided to their respective service area if potentially affected by a proposed subdivision or development project at Concept Stage.
- D. **U.S. Postal Service.** ~~The U.S. Postal Service shall determine which zip code wholly contains the new subdivision and acknowledge which postal delivery mechanism is approved when affected by a proposed subdivision or development project.~~ WVDEP, DEP approval for NPDES, SWPPP, GPP, and other applicable approvals (if required) are needed prior to Preliminary Plat Approval.

Division 23.300 Planning Commission

The County Planning Commission shall be the agency overseeing the review of subdivisions and site development. This is a function that grants limited authority for the approval. The duties are identified in W.Va. Code §8A-2-11 and the Planning Commission By-Laws.



Sec. 24.106 Major Subdivision Concept Plan - Submission and Completeness Review²

The submission of a concept plan is a required step for major subdivisions. The Department shall have 45 days to complete the sufficiency and completeness review. At the time of submission, Concept Plan shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. In order to keep on the proposed schedule, the applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission workshop.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the planning department. It shall be accompanied by the fee for a concept plan review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated by staff.
 - 1. **General location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
 - 2. **Concept Plan.** A Concept Plan shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*. Show or note if all features are addressed.
 - 3. **Zoning Information.** This shall include:
 - a. Determination of the zoning district in which the proposed subdivision or development project is situated.
 - b. Density calculations.
 - c. Site resource map.
 - 4. **Proposal Description.** This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.
 - 5. **Traffic Impact Data.** This shall include:
 - a. Average Daily Trip figures for the adjoining or accessible State road.
 - b. Trip generation figures based on the following table:

<u>USE</u>	<u>PEAK HOUR</u>	<u>AVERAGE DAILY</u>
Single family	0.8	8.0 per d.u.
Detached	0.7	6.0 per d.u.
Townhouse	0.6	7.0 per d.u.
Mobile Home	0.6	5.0 per d.u.



- c. Nearest key intersection that will serve the proposed project. A “key intersection” is defined as any intersection with a primary or secondary highway as classified by the current Comprehensive Plan.
 - d. “Highway Problem Areas” according to the current Comprehensive Plan that falls within a one-mile radius of the project.
 - e. In the event trip generation in the peak hour exceeds 100 or the limitation designated in the most current DOH Traffic Engineering Directive, a traffic study may will be required which includes generators, etc. or unless the West Virginia Division of Highways has created an agreement with the applicant to provide site access improvements that are typically required by a traffic study, the traffic study shall not be required. This type of study should be performed by a traffic engineering consultant. The effect of phasing the subdivision shall be cumulative. The traffic study or a letter from the West Virginia Division of Highways outlining proposed improvements shall be received prior to ~~with the first submission of~~ the preliminary plat approval.⁴
6. **Agency Reviews.** The reviewing agencies may shall conduct reviews of the proposed concept plan. Agency comments, if responding, shall be received by the Department fourteen (14) days prior to the scheduled public workshop. The applicant shall distribute the concept plan to all reviewing agencies no later than 7 days after review. Reviewing agencies are found in Sections 23.203 and 23.204. Applicant shall provide a copy of the letter sent to outside agencies to the Department of Planning and Zoning within 7 days of the submission of Concept Plan. If any review agency fails to respond, they shall be deemed by these Regulations to have approved the plan.
7. **Adjoining Property.** The applicant must provide an accurate list of all properties and owners’ addresses adjoining the subject property. The adjoining and Homeowner’s Associations shall be notified by staff of the date of the workshop.
8. **Other Data.** Any other data or information the applicant believes will assist in the review.
9. **Other Reviews.** Any other staff or agency reviews of the plans.
- C. **Review Content.** The Department and agency reviews shall address the areas indicated in D through G below and any other areas of concern to the agencies.
- D. **Department.** The Department review shall include the following:
1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the concept plan submission. (Landscaping, for instance, is not generally available at this stage). Staff shall identify conditions that would enable the plan to meet the standards. It shall also identify any other zoning issues the developer shall address in a preliminary plat submittal.
 2. Staff opinion as to whether the plan meets the site development planning or subdivision criteria of these Regulations. The Department shall review the concept plan for modifications that would improve the plan.
- E. **WVDOH.** The WVDOH approval is necessary prior to preliminary plat approval. The County defers to the WVDOH requirements and approval. When appropriate, the WVDOH shall submit a letter to the Department of Planning indicating issues and data requirements or notice that there are no issues or data requirements. If WVDOH determines that a traffic study needs to include more area than required by these



~~Regulations or the Zoning Ordinance, it shall specify the expanded area. Any issues regarding sight distances, access location, road configuration, or off site improvements shall be noted with recommendations or required changes. The purpose is to ensure that, at preliminary plat review, all transportation information is available so the agency does not have to seek additional data for a qualitative review.~~

- F. **Traffic Impact.** ~~The WVDOH shall determine~~ The review shall indicate whether a traffic impact study will be required during the preliminary plat stage. ~~based on analysis required in 24.106.B.5.e.~~
- G. **Public Services.** The review shall indicate whether there are existing water and sewer systems in place that can handle the development. If not, the review shall indicate the type or extent of a system that shall be proposed by the developer to best meet the County’s needs in that area of the County.
- H. **Recommended Conditions.** All reviews shall contain recommended conditions for moving forward to a preliminary plat or reasons why the plat should be denied.
- I. **Approval.** Unless there are reviews indicating that the development cannot conform to the Zoning Ordinance, be serviced by public services, or provide its own utilities, or other factors that make the development impossible, Planning Staff shall accept or deny the concept plan as complete.
- J. **Effect.** At the time of submission, the concept plan shall be placed on the 1st regularly scheduled Planning Commission meeting after the 45 day review period for the public workshop. Staff shall advertise the public workshop in the local newspaper one time at least twenty-one (21) days in advance of the meeting and send notice by mail to the adjoining property owners at least fourteen (14) days prior to the meeting. The applicant shall post notice on the property at least fourteen (14) days in advance of the meeting.

Sec. 24.107 Major Subdivision Concept Plan - Public Workshop

At the scheduled Planning Commission meeting, the Planning Commission shall hold a public workshop to take public comments, concerns, and inputs on the proposed concept plan. This workshop is intended to provide the developer and the Planning Commission with said public input.

- A. **Plan Presentation.** The developer shall make a short presentation of the plan.
- B. **Agency Comments.** The staff shall briefly outline agency comments. The planning department shall specifically address whether the project can meet the standards of the Zoning Ordinance.
- C. **Public Comment.** The public will be invited to comment. The Planning Commission shall direct participants to briefly cite concerns or ask questions of the Planning Commission or Applicant. The intent of this procedure, like the Department comments, is to inform the developer and Planning Commission with regard to issues that should be addressed in the preliminary plat and report such transportation or engineering matters.

Sec. 24.108 Major Subdivision Concept Plan -Direction

After the close of the public workshop or at any public meeting within 14 days thereafter, the Planning Commission shall provide direction on the concept plan. If the Planning Commission decides to postpone action for 14 days, the workshop shall be closed for public comment; however the applicant or designated representative will be permitted to interact with the Planning Commission at that meeting to answer questions raised during the public comment at the workshop.



- A. **Direction.** The Planning Commission shall direct the preparation of a preliminary plat subject to conditions to be addressed in the preliminary plat application. The purpose of this review is to guide the developer so that when the preliminary plat application is formally reviewed by the staff, there should not be a whole range of issues being raised for the first time. The developer shall cite conditions and demonstrate that they have been met or otherwise addressed.
- B. **Conditions.** In the direction, it is anticipated that there will be numerous conditions from the Department, agencies, and public comment. There may well be public comment that seeks to lower density of the project below that permitted by the Zoning Ordinance, or to deny the project because of concerns outside the scope of the zoning or subdivision regulations. The applicant may make proffers to address these concerns, but the Planning Commission may not use them as conditions unless they are proffered by the applicant.
- C. **Effect.** The direction is to the developer to proceed to prepare a preliminary plat (Section 24.109). The direction received in the Concept Plan Public Workshop shall be applicable for a period of two years, with the provision that any amendments to these Regulations or the Zoning Ordinance in the second year shall control. If any zoning changes have been presented in a public hearing prior to the decision on the concept plan direction, and then meeting the amended zoning requirements, if adopted, shall be a condition of the direction.

Sec. 24.109 Major Subdivision Preliminary Plat - Application Submission and Completeness Review

The submission of a preliminary plat application is a required step for major subdivisions. The Department shall have 45 days to complete the sufficiency and completeness review unless the applicant chooses to waive the 45 day period. Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient (at least 70 % of the required elements are addressed) in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. The 45 day period shall restart when the applicant resubmits. After staff concludes completeness review, staff shall place the preliminary plat and application on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. In order for the preliminary plat to remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission.

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department and reviewing agencies. It shall be accompanied by the fee for preliminary plat review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 - 1. **Preliminary Plat.** A preliminary plat application shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.
 - 2. **Density Calculation and Site Resource Map.** This map shall have the preliminary plat on it and shall identify the total area of each resource present, the amount protected and a summary table showing that the resource protection standards are met.
 - 3. **General Location.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.



4. **Preliminary Engineering Plans.** An ~~preliminary~~ engineering plan shall be submitted in accordance with the content and formatting guidelines provided by the County Engineer.
5. **Preliminary Landscape Plans.** A ~~preliminary~~ landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department of Planning.
6. **Transportation Impact Study.** If required, TIS and materials agreed to at the concept plan direction shall be submitted prior to final preliminary plat approval by staff. This element is not required for completeness review. Where applicable, analysis, commentary, drawings, or other material specifically addressing conditions in the concept direction. This shall include comments or material from WVDOH regarding the impact study and any responses from the developer's engineers.
7. **Well and Septic Systems.** Where applicable, preliminary plats shall include well and septic provisions and all appropriate Jefferson County Health Department approvals. This element is not required for completeness review. However, final Health Department (State and Local) approval is necessary prior to final Preliminary Plat approval by Staff.
8. **Feasibility of Water and Sewer Systems.** Where applicable, preliminary plats shall include connections to existing water and sewer systems or provisions for these systems and for oversizing to serve additional properties. This shall include comments or material from the Jefferson County Public Service District regarding the impact study and any responses from the developer's engineers. Capacity Letters are required at Completeness Stage, but final approvals are necessary prior to final Preliminary Plat approval by Staff.
9. **Special Engineering.** Special engineering studies are required if the site is in or partially in areas designated as high vulnerability areas. If other natural resources have specific resource protection standards contained in the Zoning Ordinance, a preliminary engineering assessment shall be provided regarding how those standards can be met.
10. **Historic Resource Preservation.** A Phase I archaeological study is required. A historic resources impact study shall also be included.
11. **Proposal Description.** This shall be a written description of the proposal with general identification of the number of dwelling units or floor area proposed, commentary, zoning, and development option selected if the development is residential.
12. **Stormwater Management Plan and Narrative.** A Stormwater Management Plan and Narrative, as described in the Jefferson County Stormwater Management Ordinance, must be submitted as part of the preliminary plat to be reviewed by the Jefferson County Engineering Department. This is a required element in the first submission or the submission will automatically be determined as incomplete.⁴
13. **Identified Concerns.** A report demonstrating how specific conditions identified in the concept plan evaluation and direction received from the Concept Plan public workshop have been addressed on the preliminary plat or will be addressed on the final plat documents.
14. **Names.** Name of applicant and of consulting firms, addresses, phone, e-mail, and person(s) to whom correspondence shall be addressed.

15. **Other Data.** Any other data the applicant believes will assist in the review. If there are proffers being offered, they shall be included here.
 16. **Other Agency Reviews.** Agency reviews as to the technical, engineering, zoning, landscaping, impact fee, and other agency reports, comments, and recommendations.
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- C. **Review Content.** The Department and agency reviews shall address the areas indicated in paragraphs D to F below and any other areas of concern to the agencies.
- D. **Department of Planning.** The Department review shall include the following:
1. Whether the density, use, and plan meet the requirements of the Zoning Ordinance and any other zoning issues that can be identified at the preliminary plan submission. Staff shall identify conditions that must be adjusted if they would enable the plan to conform to Zoning and Subdivision Ordinance standards.
 2. Staff shall provide a written opinion as to whether the preliminary subdivision plat meets the site planning criteria specified in Articles 21 and 22 of these Regulations. In reviewing the submitted application, the Department shall determine whether the concept plan was fulfilled.
- E. **WVDOH.** ~~The WVDOH approval is required prior to final Preliminary Plat Approval by Staff. When appropriate, the WVDOH review shall determine whether the on-site conditions of the preliminary plat are acceptable to the Department, including sight distances, access location, turning or by pass lanes, road configuration, road alignment and road drainage. A review of the traffic study shall be conducted and any problems or concerns with the study methodology or findings identified. WVDOH shall identify any off-site improvements that shall be required of the developer. A list of concerns to be addressed on the final plat shall be provided.~~
- F. **Public Services.** The review shall indicate whether the preliminary engineering indicates that water and sewer can adequately be provided for the project and if a new system is provided, whether the proposal is sufficient to handle other development in the area. The Public Service District shall make recommendations for oversizing and methods to recapture costs.
- G. **Recommended Conditions.** All reviews shall contain recommended final engineering standards that shall be met to deal with specific issues or conditions that need to be addressed in final engineering, plat, landscape plan, or other documents.
- H. **Approval.** If the preliminary plat and application is incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, or is otherwise impossible, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it. The Planning Commission may also accept the preliminary plat and application with the condition that the remaining items identified as necessary by the Ordinance be completed prior to final preliminary plat approval
- I. **Effect.** After staff concludes the completeness review, staff shall place the preliminary plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. If the application is found complete or essentially complete, the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.110 , *Major Subdivision Preliminary Plat - Public Hearing*. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.

Sec. 24.110 Major Subdivision Preliminary Plat - Public Hearing

Within 45 days of accepting an application as complete or essentially complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed preliminary subdivision plat. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing. The scope of this public hearing shall be limited to whether the application meets the requirements of these Regulations and the Zoning Ordinance.



Sec. 24.111 Major Subdivision Preliminary Plat - Approval

After the close of the public hearing or at any meeting within 14 days thereafter, the Planning Commission shall (1) approve the application, (2) approve the application with conditions, (3) deny the application, or (4) hold the application for up for 45 days for additional information. If the application is to be held for the additional time, a date certain for re-opening the public hearing must be set by the Planning Commission simultaneously with the vote to hold. Additional legal advertisement is not required.

A. **Approval.** The Planning Commission shall review the recommendations and opinions of the reviewing agencies, the staff’s decision regarding compliance with the Zoning Ordinance, and the testimony of the public and render its decision. The Planning Commission may approve the plan if it meets the standards of the land use ordinances, deny the plan if it does not meet the standards of the land use ordinances, or approve the plan with conditions to complete any remaining items. In the event that the preliminary plat is approved with conditions to complete any remaining items, unless otherwise directed by the Planning Commission, the Staff shall have the authority to grant final approval of the preliminary plat once the conditions are met. Also, if the Planning Commission conditionally approves the preliminary plat, then the Applicant shall be required to submit a notarized document expressly and explicitly waiving the 45 day time requirement for the Commission and/or Staff to act. If the Applicant is unwilling to provide such document, then the Planning Commission shall proceed in the final consideration of the preliminary plat. In making the decision, the following rules apply:

1. **Zoning.** The preliminary plat application must be denied on zoning grounds if the staff’s decision is that the proposed project does not comply with the Zoning Ordinance. If staff indicates it can meet zoning with a specific condition, these conditions shall be required by the Planning Commission. The Planning Commission cannot deny an application on the basis of zoning if the staff’s decision is that the application complies with the Zoning Ordinance.
2. **Impact Fees.** The County has adopted impact fee requirements that apply to parks and recreation, schools, law enforcement, fire protection, and emergency services. All fees are collected from individual landowners or builders in conjunction with the building permit process. For this reason, the preliminary plat application cannot be denied on the grounds of adverse impact on these services.
3. **Roads.** The Planning Commission shall defer to the WVDOH on final requirements and approvals for improvements to the public roads. Staff, Applicant and WVDOH are encouraged to work together for an acceptable final approval by WVDOH. ~~have the jurisdiction over any developer or subdivider to require the installation of such improvements as are deemed proper within or adjacent to the subdivision to assure safe access to and from the public highway, and maintain an adequate flow of traffic on the public highway. Improvements required may include the installation of traffic signs and signals, constructing left or right turn lanes, acceleration and deceleration lanes, or reconstructing public roads to eliminate vertical or horizontal curves. Such improvements shall be acceptable to and approved by the West Virginia Division of Highways, provided a denial of such approval shall supersede Planning Commission authority under this provision. The roads impacted by a development are State roads under the jurisdiction of WVDOH. The Planning Commission shall not substitute its judgment of the safety or performance of roads for that of WVDOH unless there is compelling professional evidence that WVDOH has erred in its determination of impact.~~
4. **Sewer and Water Systems.** All sewer and water systems, whether privately owned or publicly owned shall be permitted only on the recommendation of the Jefferson County

Public Service District (JCPSD), and/or the City of Charles Town or private utilities, depending on the service area within which they are proposed. The Planning Commission shall not make a decision contrary to the agency provider recommendation unless there is compelling professional evidence that its recommendation is in error.

5. **On-Site Water Supplies and Sanitary Waste Disposal.** The Jefferson County Health Department shall make a determination regarding the feasibility of on-site wells and septic tanks (or other means of on-site disposal), where applicable.



- 6. **Engineering and Landscaping.** The plan being reviewed consists of substantial sediment and erosion control, stormwater management and sewer or water system engineering, landscaping, and site development plan. There will be adjustments in additional work that needs to be done for final engineering, landscaping, and site development plan. The preliminary plat application cannot be denied based on engineering considerations that have not been addressed at this stage of the proceedings. The Planning Commission and Engineering Department may attach conditions to ensure that specific issues are addressed.
 - 7. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the preliminary plat. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved.
- B. **Conditions.** It is anticipated that there will be conditions for slight site adjustments and many conditions from the planning department and agencies on engineering and landscaping that must be met in the preparation of the final plat, final engineering, and final landscaping. In addition, there will be conditions on surety, payment of impact fees, and any proffers made by the developer and accepted by the Planning Commission or agency benefiting from the proffer. In no event shall a condition require the developer to reduce the density below the requirements of the Zoning Ordinance or what is shown on the proposal unless the reduction is proffered by the applicant.
- C. **Effect.** The approval of the preliminary plat, with or without conditions, allows the applicant to proceed to prepare a final plat, final engineering, and final landscape plan. The approval shall be good for a period of five years, with the provision that any zoning changes that have been advertised for public hearing prior to the date of approval may be made a condition of approval if adopted prior to submission of final plat including all engineering and landscaping.

Sec. 24.112 Major Subdivision Final Plat - Application - Submission and Completeness Review⁴

The submission of a final recordable plat, bonding estimate and-application is a required step for all subdivisions. The Department shall have 45 days to complete the sufficiency and completeness review. ~~At the time of submission, the final plat shall be placed on the first regularly scheduled Planning Commission meeting after the 45 day review period for the completeness public hearing.~~ Within the 45 days, the department shall have ten (10) days to review the submission and determine whether it is sufficient in that it includes all of the items listed below. If the submission is insufficient, it shall be returned to the applicant. Approval of the Final Plat shall be administrative, pursuant to Section 24.112E. ~~In order to keep on the proposed schedule, the applicant shall resubmit a sufficient application within 10 days after being notified of insufficiency. For the review to be complete within 45 days and remain on the scheduled Planning Commission meeting, all reviewing material, including outside agency reviews, shall be returned to the Department of Planning and Zoning at least 14 days prior to the scheduled Planning Commission meeting.~~

- A. **Submission.** The applicant is responsible for submitting an application and all supporting documents to the Department of Planning. It shall be accompanied by the fee for final plat review.
- B. **Submission Contents.** The submission shall contain the following elements in the number of copies indicated.
 - 1. **Final Plat.** The final plat shall be submitted in accordance with the content and formatting guidelines provided in Appendix A, *Plan & Plat Standards*.



2. **Density Calculation.** ~~The final recording plan shall include a current density calculation note or table. **and Site Resource Map.** This map shall have the final plat superimposed, and shall identify the total area of each resource present, the amount protected, and a summary table showing that the resource protection standards are met.~~
3. **General Location Map.** A map or aerial photograph showing an area of 500 feet around the property. Zoning boundaries shall be located on this document.
4. ~~**Final Engineering Plans.** The final engineering plan(s) shall be submitted in accordance with the content and formatting guidelines provided by the Department of Engineering. If preliminary engineering plans satisfy the requirements of the Department of Engineering and no modifications to the preliminary engineering plans are required, then preliminary plans previously approved shall be considered final plans.~~
5. ~~**Final Landscape Plans.** The final landscape plan shall be submitted in accordance with the content and formatting guidelines provided by the Department of Planning.~~
6. ~~**Transportation Impact Study and WVDOT Approvals.** A transportation impact study shall be re-submitted only if there was a condition for revisions in the preliminary plat approval. WVDOT approvals shall be secured prior to final approval.~~
7. ~~**Water and Sewer Services.** This shall include a declaration of Public Service District's approval of plats, or approval by the appropriate service provider, and an agreement to operate the facility. This shall also include documents necessary for the transfer of ownership of the facility to the Public Service District or appropriate operating agency.~~
8. **On-Site Sewer and Water.** If on-site waste disposal and water supply are provided, approval of the soils, design of the system, and its their location on the site shall be indicated.
9. ~~**Special Engineering.** If the site is in or partially in areas designated as high vulnerability areas, preliminary geotechnical engineering assessment may be required. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations shall be complied with and require final engineering approval. All natural resources which have specific resource protection standards in the Zoning Ordinance or these Regulations, shall be complied with, and require final engineering approval.~~
10. **Open Space.** Open space to be provided to satisfy the requirements of the Zoning Ordinance shall be identified on the final plat. Covenants and deed restrictions applicable to such open space to assure its retention shall be submitted and approved for recordation.
11. ~~**Stormwater Management Plan.** If the preliminary Stormwater Management Plan satisfies the requirements of the Department of Engineering and no modifications to the preliminary Stormwater Management Plan is required, then preliminary plans previously approved shall be considered final plans. Preliminary stormwater management plans requiring modifications will require a final Stormwater Management Plan, as described in the Jefferson County Stormwater Management Ordinance, to be submitted as part of the final plat to be reviewed by the Jefferson County Engineering Department.⁴~~
12. **Surety.** Cost estimates for all improvements and proof of surety. See Section 24.503, *Amount of Surety*.
13. ~~**Other Agencies.** Required agency sign offs that the final plat is approved by that agency. These agencies shall include the Jefferson County Health Department, West~~



~~Virginia Division of Highways, West Virginia Department of Environmental Protection, the West Virginia Health Department, the Public Service District, appropriate utility service providers, Jefferson County 911 Addressing Department, and other review agencies certifying that the application is consistent with approved preliminary plat and meets all requirements of the applicable codes, ordinances, or standards or others when determined appropriate by County staff.~~

14. **Names.** Name of applicant and of consulting firms, addresses, phone numbers, e-mail addresses, and person(s) to whom correspondence shall be addressed.

C. **Endorsements on Final Plats.** The following certificates shall be placed on all final plats:

1. **Surveyor.** Certificate of accuracy and mapping by professional licensed surveyor signed and sealed.
2. **Owners.** Certificate of ownership and dedication signed and notarized, including all individuals, partnerships, and corporations, and lenders with financial security interests.

D. **Additional Information.** The Department shall:

1. Review and approve all matters under its jurisdiction.
2. Issue a zoning compliance letter.
3. Certify that all proffers have been satisfied.

E. **Approval.** ~~Based on the Planning Commission's approval or conditional approval of the final Preliminary Plat, the approval of the final recording plat shall be an administrative function of Staff unless there is a disagreement between the Staff and the Applicant. The Staff or Applicant can request that the final recording document be addressed by the Planning Commission by having the matter placed on the next available meeting agenda. If the final plat is found by the Planning Commission to be incomplete, or the development cannot conform to the Zoning Ordinance, be serviced by public services or on-site utilities, the Planning Commission shall deny the same; otherwise, the Planning Commission shall find it complete and accept it.~~

F. **Effect.** ~~After staff concludes the completeness review, staff shall place the final plat on the next regularly scheduled Planning Commission agenda for a vote to accept or deny the application as complete. If the application is found complete, the Planning Commission shall schedule a public hearing within 45 days in accordance with Section 24.113, Major Subdivision Final Plat - Public Hearing. If the application is incomplete, the applicant shall be notified in writing stating the reasons for denial.~~

Sec. 24.113 Major Subdivision Final Plat - Public Hearing

~~Within 45 days of accepting the application as complete, the Planning Commission shall conduct a public hearing to receive public comments, concerns, and inputs on the proposed final plat. The public notice of the public hearing shall be advertised in a local newspaper of general circulation in the area at least twenty-one (21) days prior to the public hearing. The applicant shall post notice on the site at least fourteen (14) days prior to the public hearing.~~

- A. **Subjects Covered.** ~~The scope of this public hearing shall be limited to whether the final plat application meets the requirements of these Regulations and the Zoning Ordinance.~~
- B. **Hearing Procedure.** ~~The hearing shall be conducted in accordance with the Bylaws of the Jefferson County Planning Commission.~~

Sec. 24.114 Major Subdivision Final Plat - Approval

~~After the close of the public hearing or at any meeting within 14 days thereafter, the Planning Commission shall (1) approve the application, (2) approve the application with conditions, (3) deny the~~

application, or (4) hold the application for up to 45 days for additional information.



- A. **Approval.** If the final plat application is consistent with the preliminary plat application and meets all other requirements of these Regulations and the Zoning Ordinance and has received sign-off from the agencies specified in Section 24.112 (B)(12), the Planning ~~Director-Commission~~ shall approve the subdivision application.
- B. **Denial.** Denial can only be done on the following basis:
 - 1. The plat (plan, ~~plat, final engineering, or final landscaping~~) is inconsistent with the approved preliminary plat or conditions of said approval.
 - 2. Failure to provide approved surety.
- C. **Plat Signing.** The Planning Director, or their representative shall sign ~~Commission President shall authorize the signing of~~ the plat.
- D. **Effect and Vesting.** The approval of the final plat application and signing of the plat makes the document recordable.

Sec. 24.115 Major Subdivision Final Plat -Recording

The applicant shall have 180 days after approval to file and record the final plat for lots to be recorded, together with any deed restrictions as may be required, in accordance with W.Va. Code §39-1-13. The approval shall become void if it is not recorded within the 180 day period. The Planning Commission may grant a waiver to this provision pursuant to the waiver process. The following documents shall be submitted to the Department of Planning:

- A. One (1) Mylar copy of the Final Plat suitable for recordation and acceptable to the Clerk of Jefferson County;
- B. Three (3) paper copies of the Final Plat;
- C. One (1) digital copy of the Final Plat compatible with the Jefferson County GIS, as specified by the Jefferson County GIS Office-requirements; and
- D. One (1) digital and one (1) paper copy of any deed restrictions/covenants in a form suitable to the Department.

September 14, 2015

Douglas S. Rockwell

P. O. Box 727, Charles Town, WV 25414

Jennifer Brockman, Director

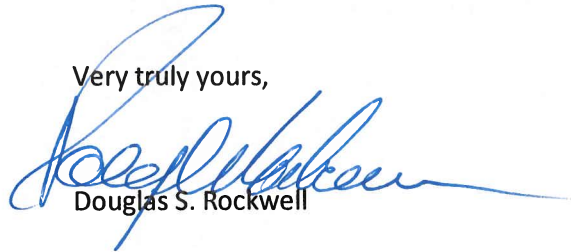
Planning & Zoning Dept. Of Jefferson Co.

Charles Town , WV 25414

Dear Mrs. Brockman,

Enclosed in a text form are the topics I raised at the September 8th meeting of the Planning Commission. My proposals are to Section B of the Zoning Amendments on campgrounds and would eliminate subparagraphs B(1) and (3). The remaining subparagraphs B(2) and (4) should remain in the amendment. There needs to be a difference in the requirements between rural and commercial districts.

Very truly yours,



Douglas S. Rockwell

Attachment

P.S. As drafted the proposed Campground regulations would allow a mass gathering (25,000+) "All Hood" without a seasonal use permit.

RECEIVED

Sept 14, 2015

JEFFERSON COUNTY PLANNING,
ZONING & ENGINEERING

RECEIVED

Sept 14 2015

Dated 9/18/15 *S. Pre*

JEFFERSON COUNTY PLANNING
ZONING & ENGINEERING
ROCKWELL PROPOSED CHANGES
Campground Zoning

B. Development Guidelines

1. Density

- a) Campgrounds shall contain a minimum of 10 acres.
- b) Except as herein provided, the area of each campsite shall be a minimum of 1,200 square feet, not to include any road.
- c) Except as hereinafter provided, no more than 15 campsites per acre are permitted.
- d) Except as hereinafter provided, no more than six individuals may use or occupy a campsite in a Rural District.

2. Setbacks and screenings

- a) General Commercial, Residential-Light Industrial-Commercial, and Industrial Commercial Districts.
 - i. The perimeter of campgrounds in these Districts shall be defined by fencing, posting, natural boundaries or other methods to prevent unintentional trespass.
 - ii. All campsites shall be located a minimum of _____ (200') from existing residential dwellings and if within _____ (500') of an existing dwelling shall be screened for visibility, glare and noise.

b) Rural District

- i. All campgrounds shall be located at least 1000' from adjoining property boundaries.
- ii. All campgrounds shall be screened by a planting of trees, shrubs or other plant material, or a fence or both to serve as a barrier to visibility, glare and noise.

3. Campgrounds along the Potomac and Shenandoah Rivers

INTENT One of the stated goals of the Comprehensive Plan-Envision Jefferson County is to promote the conservation of natural resources and preserve the County's

scenic beauty. In furtherance thereof certain provisions of this Ordinance were designed to prevent development along the Potomac and Shenandoah Rivers and to conserve and protect the natural and ecological resources and aesthetic value thereof. It is recognized that limited low activity recreation uses along the rivers may be permitted.

- a) Notwithstanding Section 4.13 of this Ordinance, campgrounds will be allowed along the Potomac and Shenandoah Rivers subject to the following limitations and restrictions with respect to any portion of the campground being within 500' of either said river:
 - i. Only tent camping is permitted in any campsite within the said 500 feet;
 - ii. The area of each campsite shall be no more than 750 square feet. The number of campsites shall be limited to 5 per acre; no more than four individuals may occupy or use a campsite;
 - iii. These campsites may only be used between May 1 and October 31.
 - iv. No above ground structure, building or amenity, other than the aforesaid tents, shall be erected, constructed or allowed within 500 feet of the river.
 - v. A natural vegetative buffer of trees, grasses and other plant materials shall be maintained for a distance of 100 feet from the river. Other than by the forces of nature, no change or alteration of the topography is permitted within 100 feet of the river.
4. Campsites located within 500 feet or within the floodplain of either the Potomac or Shenandoah River must comply with all applicable federal, state and county laws, ordinances and regulations.
5. The provisions of this article are in addition to the ^{the} existing County Subdivision and Land Development Ordinance and where in conflict therewith, the most strict provision or requirement shall apply.