



AGENDA  
Jefferson County Planning Commission  
Tuesday, October 27, 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.

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**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 possible recommendation to the County Commission regarding the proposed draft Zoning Ordinance Text Amendment pertaining to Mass Event Regulations (File #ZTA14-02).
3. Request for postponement.
4. 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.
5. Actionable Correspondence.
6. Non-Actionable Correspondence.
  - 10-21-15, Mr. Douglas Rockwell re: 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.

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](http://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, 2<sup>nd</sup> Floor

Charles Town, WV 25414

Email: [planningdepartment@jeffersoncountywv.org](mailto:planningdepartment@jeffersoncountywv.org)

Email: [zoning@jeffersoncountywv.org](mailto:zoning@jeffersoncountywv.org)

Phone: (304) 728-3228

Fax: (304) 728-8126

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## MEMO

**To:** Jefferson County Planning Commission

**From:** David Simon, County Planner

**Date:** October 13, 2015

**RE:** Planning Commission Discussion Points Regarding the Mass Event Zoning Ordinance Amendment

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Staff has reviewed input from public and community stakeholders over the last two years regarding the proposed mass events Zoning Ordinance amendments and grouped the input into the following categories requiring feedback and decision by the Planning Commission. Once this input is received, staff will make the appropriate edits for the PC to review and forward to the County Commission.

Essentially the Planning Commission needs to decide:

- What a Mass Event is?
- Where a Mass Event Can Occur?
- How a Mass Event is approved?
- What are the Event Standards?

### 1. What is a Mass Event?

Are there different standards and processes based on:

- Number of Attendees?
- Number of Days?
- Camping Provided?
- Alcohol?

Note: Rural Reception Events are narrowly defined, cannot charge admission, and are smaller than mass events, but have an approval process.

Seasonal Use Permit process still exists and can be incorporated if desired.

### 2. Where Can a Mass Event Occur?

#### a. Site Selection

- Options include limiting the types of sites available for locating a Mass Events to the Commercial Districts or to include the Rural District
- Consider limiting the types of sites to those that abut or have direct access to DOH maintained state roads of a certain ROW width

b. Accessibility

- Limit the types of sites to those that abut or have direct access to DOH maintained state roads of a certain ROW width

**3. How is a Mass Event Approved?**

Note the draft ordinance requires an application with input from a variety of agencies and a public hearing before the BZA. If approved, the Concept Plan is administratively approved.

a. Application process/Costs/Ease of Process

- Written Application time frames – suggestions ranged from submitting at least 45 days in advance to needing 240 days in advance
- Application needs to be thoroughly detailed in information provided by applicant, including approval by relevant agencies:
  - Board of Health (hygiene stations, internal circulation pathways, food service locations, refuse disposal plan, emergency plan);
  - Department of Highways (access and traffic control plan);
  - Sheriff (traffic control plan and law enforcement);
  - JCESA (emergency response and services plan);
  - Planning and Zoning (site layout, setbacks, location of stages, camping areas, etc.)
  - Others?
- Why is there a requirement for bond/letter of credit from bank and financial institution to be within 150 miles? If all banks are backed by the full faith and credit of the govt, wouldn't any established institution be an acceptable source of the LOC?
- What is an appropriate bond/letter of credit amount? Concerns about amount suggested in the ordinance is too low for an event of this size, needs to be more in line with potential costs of County provision of services in light of size of crowd and County staff time used to prepare for event approval and provision of public health/safety services.
- What is considered a reasonable amount of liability insurance for an event of more than 250 attendees with overnight camping on site? Which governing body would legally enforce the requirement for event insurance?

b. Agencies involved in the review

Board of Health

- Setting thresholds of attendees that classify an event as a “Mass Gathering”
- Site habitability – Not in flood plain; well drained location; an area that does not create health hazards for those in attendance

- Provision of basic needs: Standards for potable waters for crowd capacity; refuse pick-up in a timely manner; site clean-up in timely fashion ((X# of refuse/toilets/hand sinks per X # of attendees)

#### Public Safety

- What is the standard for calculating first responder/emergency personnel based on attendees and other factors (X# of Emer. Personnel per X # of attendees)
- Storm Management and Evacuation Plan that has been reviewed by JeffCoHESM
- There is a finite law enforcement resource in Jefferson County. County law enforcement physically cannot provide sufficient law enforcement for multiple mass gathering events.
- 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.

#### **4. What are the Event Standards?**

##### a. Site Size

- Minimum?
- Maximum?

##### b. Hours of Operation Noise/Light Limits

- Concerns raised regarding acceptable hours of performance; currently hours of amplified music are 10am -3am. Suggestions to reduce hours of amplified sound to end at midnight were suggested.



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Phone: (304) 728-3228

Email: [zoning@jeffersoncountywv.org](mailto: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 9, 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.

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At the August 26, 2014 Planning Commission meeting, it was determined that the September 9, 2014 Planning Commission meeting should be dedicated to the discussion of and action on the Envision Jefferson 2035 Comprehensive Plan and that the Zoning Ordinance text amendment related to Mass Events (ZTA14-02) should be put on the October meeting. However, at the County Commission's August 28, 2014, the Commission voted to request that the Planning Commission take action on the draft ZTA14-02 and forward it to the County Commission for their consideration at the next scheduled Planning Commission meeting. Therefore, this item has been added to the agenda.

Attached are all the written comments received before, at or after the Planning Commission Public Hearing as well as the minutes of the Public Hearing (a part of the August 12, 2014 PC Meeting) and a red-lined version of the draft incorporating Mr. Rockwell's comments. We have also attached the original draft provided to the Planning Commission on March 11, 2014 as well as the version for which the August 12, 2014 Public Hearing was held.

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.

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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.

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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.

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**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.

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

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

### **Attachments:**

- 3-11-14 Original Draft
- 8-12-14 Public Hearing draft

**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<sup>5,7</sup>**~~

~~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.<sup>17,21,</sup>~~

**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.

October 20, 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

RECEIVED

OCT 21 2015

JEFFERSON COUNTY PLANNING  
ZONING & ENGINEERING

Dear Mrs. Brockman:

Oh Boy, you missed an opportunity to provide sage advice to the Planning Commission! At the October 13 meeting Mr. Manuel asked questions regarding paragraph O of the campground amendment (STA15-04). Your answer referring to the Arts & Crafts Festival was completely off the mark. You ducked! There is no camping nor is there expected to be camping associated with Arts & Crafts. The festival does not require the approval of any Jefferson County board or agency. In fact on many occasions you have stated that the Arts & Crafts Festival was "grandfathered."

Historically, the planning and zoning department has been staffed with professional and skilled people who have provided accurate information, advice, and recommendations to the planning commission. In most cases the amendments were drafted by the staff. Hoping the current staff fits this model, I submitted written comments regarding the campground amendments five days before the October 13 meeting. Constructive criticism of paragraph O was offered. These comments on Paragraph O were either ignored or misunderstood. To correct this I will mail a copy of this letter to the commission members and will be more direct with my comments.

O. Camping associated with short term, temporary uses, approved by the appropriate Jefferson County board or agency, are not subject to these regulations.

What is "short term"? Is this a length of time (number of days)? Is it 3, 5, 10, or 15 days? Who makes the determination as to the number of days, the planning director, the planning commission or the appropriate county board? Does the length of time depend upon the temporary use?

What is "temporary uses"? This term is not defined in the county subdivision or zoning regulations. Is there a written definition somewhere? Who makes this determination? How is this determination made? Does it vary from case to case?

These are vague and abstract terms which are subjective in nature. Equal protection under the law would require the adoption of objective standards which are applied uniformly to all.

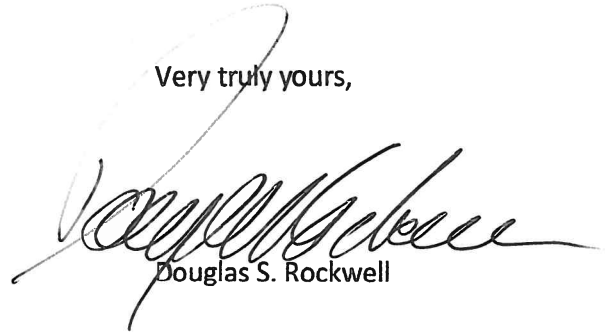
Please identify in the amendment the "appropriate" Jefferson County board or agency with the authority to approve temporary uses. Is there more than one such board? Who determines which board or agency is the "appropriate" one? Under due process of law an applicant should not be required to apply to five boards to find the "appropriate" one.

Paragraph O is the All Good exemption. All is good if the appropriate Jefferson County board approves a five day music festival. Eliminate paragraph O; applicants can always file for waivers under Division 24.300 of the subdivision ordinance.

If you want to offer an exemption for the County Fair or Arts & Crafts here is an example.

O. Camping associated with events lasting no longer than seven calendar days on lands owned by Jefferson County are not subject to these regulations.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Douglas S. Rockwell', written in a cursive style. The signature is positioned above the printed name 'Douglas S. Rockwell'.

Douglas S. Rockwell

cc: Pc members