

Jefferson County Planning Commission
October 27, 2015

The Jefferson County Planning Commission met on October 27, 2015, with the following Commission members present: Wade Louthan, Vice President; Donnie Fisher, Dale Manuel, Dick Childs, Gary Phalen, and Peter Fricke. Staff members present included Jennie Brockman, Director of Planning and Zoning; David Simon, County Planner; Lydia Lehman, Assistant Prosecuting Attorney; and Alexandra Beaulieu, Office/Project Manager.

Stephen Stolipher, Mike Chapman, and Gene Taylor were absent with notice.

In Mr. Stolipher's absence, Mr. Louthan presided over the meeting.

Mr. Louthan called the meeting to order at 7:02 PM.

1. Citizen Communications.

Mr. Doug Rockwell spoke in reference to Agenda Item #2. He stated that there should be a provision for events with less than 1,000 attendees. Mr. Rockwell made a comparison for Mass Events to the definition of Convention Center in the Zoning Ordinance.

Mr. Bob Aitcheson spoke in reference to Agenda Item #2. He referenced the State Health Department regulations and also addressed the definition of Mass Event as noted in the staff memo dated 09-09-14.

Mr. Mark Dyck spoke in reference to Agenda Item #2. He noted that the greatest challenge encountered during the All Good Festival was the requirement to have approval from outside agencies, such as the Health Department, because they didn't always have an approval process. He stated that any outside agencies which are required to approve mass events should establish a clear process for approval.

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).

Ms. Brockman provided an update as to the status of the proposed text amendment.

Mr. Fisher distributed a handout with comments he drafted pertaining to the proposed amendment.

The Planning Commission discussed the proposed draft amendment at length and each Commissioner recommended a number of changes to the draft, which are attached to the minutes and shown in track changes. The Planning Commission requested that staff bring to the November 11 meeting a draft of the proposed amendment with the changes discussed.

3. Request for postponement. None.

4. Reports from Legal Counsel and legal advice to the Planning Commission.

- Far Away Farms: Report on legal action in Jefferson County Circuit Court, Case #11-C-325 Possible Executive Session

Ms. Lehman provided an update on the Case #11-C-325.

- Shiloh Citizens Association: Report on legal action in Jefferson County Circuit Court, Case #15-C-129 – Possible Executive Session

Ms. Lehman provided an update on Case #15-C-129.

5. Actionable Correspondence. None.

6. Non-Actionable Correspondence.

- 10-21-15, Letter from Mr. Douglas Rockwell re: Campgrounds

Mr. Louthan motioned to adjourn the meeting at 9:14 PM.



Jefferson County, West Virginia

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MEMO

To: Jefferson County Planning Commission

From: Jennifer Brockman, Director of Planning and Zoning

Date: November 10, 2015

RE: Proposed changes to ZTA14-02, Mass Event Regulations as discussed 10-27-15

Following the October 27, 2015 Planning Commission meeting, staff amended the proposed Zoning Ordinance text amendment pertaining to Mass Event Regulations (File #ZTA14-02) to reflect the recommendations of the Planning Commission.

Attached please find the amended version reflecting the Planning Commission's recommendations show in **red for text added** or **blue strikethrough** for text deleted. Any **text highlighted in yellow** was added by staff based on the direction of the Planning Commission.

Attachments:

- ZTA14-02, proposed draft Mass Event Regulations as amended 10-27-15
- ZTA14-02, Appendix C, Principal Permitted Use Table – DRAFT
- For Reference Only: Section 3.4A.3.b of the Zoning Ordinance (Notification Requirements)

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

DELETE THE FOLLOWING SECTIONS:

Section 2.2 Terms Defined

~~Seasonal Use⁵ — 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, 23}~~

ADD THE FOLLOWING SECTIONS:

Section 2.2 Terms Defined

Mass Event, **Major** Any outdoor gathering of more than 1,000 people on any parcel, regardless of the length of time or type of activity. A Mass Event, **Major** may be permitted to occur in the Rural Zoning District, **General Commercial, Highway Commercial, Residential-Light Industrial-Commercial, or Industrial Commercial** ~~or any commercial~~ zoning districts and is prohibited on a property in ~~any the R~~**Residential Growth** zoning district **and in any major subdivision. A Mass Event, Major shall not qualify as a Rural Reception/Event Facility.**

Mass Event, Minor Any outdoor gathering of less than 1,000 people on any parcel, regardless of the length of time or type of activity. A Mass Event, Minor may be permitted to occur in zoning districts detailed in Section 8.16 and Appendix C. A Mass Event, Minor shall not qualify as a Rural Reception/Event Facility.

Section 8.16 Mass Event Regulations

A Mass Event, Minor is any outdoor gathering of less than 1,000 people on any parcel, regardless of the length of time or type of activity. A Mass Event, Minor may be permitted to process administratively if camping or overnight lodging is not proposed. If camping or overnight lodging is proposed, or if the proposed event will occur in the Neighborhood Commercial or Village zoning districts, the applicant shall adhere to the requirements for a Mass Event, Major as outlined in this section. Any Mass Event, Minor that is proposed to occur on a parcel with shared access shall be considered by the Board of Zoning Appeals pursuant to a Public Hearing and the notification requirements of Section 3.4A.3.b shall apply.

A. Mass Event, Minor Application

- 1. Approval of a Mass Event, Minor shall require the submission of an application at least 180 days prior to the event.**
- 2. Applications for events with less than 1,000 attendees and which are located on a parcel that does not have shared access may process administratively. Applications for events located on a parcel with shared access shall be considered by the Board of Zoning Appeals pursuant to a**

public hearing and the notification requirements of Section 3.4A.3.b shall apply. Any application proposing camping or overnight lodging shall adhere to the requirements for a Mass Event, Major as outlined below.

3. A Mass Event, Minor will be in accordance with the following criteria:

- a. Each Mass Event, Minor must be the subject of separate application.
- b. 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.
- c. No Mass Event, Minor may last more than three days, including attendee arrival and departure dates. Only one Mass Event, Minor may occur per year on any given parcel or a portion of any given parcel.
- d. Each Mass Event, Minor application will be required to submit an application fee of \$100.
- e. As part of the application, a sketch plan detailing the layout of the proposed event shall be submitted. A sketch plan should delineate areas for parking, performance areas (if applicable), bathrooms, food, concessions, setbacks, and any other information required by planning or engineering staff.

A Mass Event, Major is any outdoor gathering of more than 1,000 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, General Commercial, Highway Commercial, Residential-Light Industrial-Commercial, or Industrial Commercial ~~or any Commercial Zoning Districts~~, provided that it processes according to the following requirements:

A. Mass Event, Major Application

1. Approval of all Major Mass Events shall require the submission of an application at least 180 days prior to the event, ~~and Public Hearing before the Board of Zoning Appeals, in accordance with the following criteria:~~
2. Applications for events with less than 5,000 attendees will be processed administratively, unless the proposed parcel is on a shared access. If the proposed parcel is on a shared access, the application shall be considered by the Board of Zoning Appeals pursuant to a Public Hearing. The notification requirements in Section 3.4A.3.b shall apply. Applications for events with more than 5,000 attendees and any event requesting camping for participants and/or attendees will require a public hearing before the Board of Zoning Appeals in accordance with 3.e below.

3. All Mass Events, Major will be in accordance with the following criteria:

- a. Each Major Mass Event must be the subject of separate application ~~and Public Hearing.~~
- b. 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.
- ~~b.c.~~ No Mass Event, Major may last more than seven days, including attendee arrival and departure dates. Only one Mass Event, Major may occur per year on any given parcel or a portion of any given parcel.

~~e.d.~~ Each Mass Event, **Major** application will be required to submit an application fee that shall be based on the projected number of attendees and whether participants may spend the night at the event: ~~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:~~

- ~~i. 1,000 – 2,000 attendees ————— \$200~~ 1,000 to 5,000 attendees ————— \$500
- ~~ii. 2,000 – 5,000 attendees ————— \$300~~ Over 5,000 attendees and/or if camping by participants is proposed ————— \$1,000
- ~~a. 5,000 – 10,000 attendees ————— \$400~~
- ~~b. Over 10,000 attendees ————— \$500~~

~~e.~~ Mass Events, **Major** with a projected number of attendees over 5,000 shall require a Public Hearing before the Board of Zoning Appeals at least 180 days in advance of the planned event. The notification requirements in Section 3.4A.3.b shall apply. Staff will notify adjacent and confronting property owners by certified mail, the date, time, and location of the Public Hearing and will include a copy of the application in the mailing. The applicant shall be responsible for reimbursing all costs associated with the certified mailing. In addition, the applicant must send written notice and a copy of the application to adjoining property owners via certified mail.

~~f.~~ All Mass Events, **Major** must be Insured and Bonded. The amount and type of insurance and bonding requires approval of the County Commission on a case by case basis and shall be posted 60 days in advance of an event. The County Commission shall be listed as additionally insured on any insurance policy. Documentation of the insurance shall be submitted with the Zoning Certificate application. 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.

- ~~c. 1,000 – 2,000 attendees/day ————— \$2,000/day~~
- ~~d. 2,000 – 5,000 attendees/day ————— \$5,000/day~~
- ~~e. 5,000 – 10,000 attendees/day ————— \$10,000/day~~
- ~~f.a. 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.~~

f. The following supplemental site preparedness information shall be addressed and shall accompany the Zoning Certificate application. All Mass Events, Major must contract with the following agencies:

i. Jefferson County Sheriff's Department

ii. WV Licensed EMS Medical Provider

➤ JCESA shall verify that WV Licensed EMS Provider is adequately equipped and prepared for the event, which shall be reported to the County Commission.

iii. Licensed Garbage Removal Company

iv. Licensed Towing Company

d.g. All Mass Events must consult with the following agencies:

i. County Health Department (need approval or permit required)

ii. WV Division of Highways (need approval or permit required)

iii. County Homeland Security

~~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.~~

~~e. 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.~~

~~e. 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.~~

~~f.h. If the Mass Event, Major application is approved by the Board of Zoning Appeals, ~~in addition to all other permits and agreements required,~~ the applicant ~~shall~~must also submit a Zoning Certificate application Concept Plan in accordance with the requirements found below, which shall be administratively reviewed and approved.~~

~~2. 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. Zoning Certificate Application

~~1. If approved by the Board of Zoning Appeals, in addition to all other permits and agreements required, Upon approval of the Mass Event, Major Application, the applicant shall submit a Zoning Certificate Application and Concept Sketch Plan for administrative review and approval at least 60 days prior to the event date.; The Sketch Plan shall be in accordance with Concept Plan guidelines as outlined in Section 24.116 and Appendix A, Section 1.2 of the Subdivision Regulations-Minor Site Plan Process, for administrative review and approval, and in accordance with the requirements found below:~~

~~a. The Concept Sketch Plan shall be to scale; on a 24"x36" sheet; showing appropriate areas for parking, performance areas (if applicable), 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.;~~ setbacks; 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 Zoning Certificate application and Concept Sketch Plan for completeness within 10 days of receipt. All applications must meet the requirements of all applicable laws, ordinances, and regulations. Any application that fails to meet the requirements of all applicable laws, ordinances, and regulations shall be rejected. There will be a 30 day period for staff to review and approve the Sketch Plan once the~~

application is deemed complete. The Zoning Certificate shall be approved within 60 days if all requirements are met.

3. The applicant must comply with standards in this Ordinance. 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 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.

~~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, **Major** shall meet the following site requirements and such requirements will be depicted on the ~~Concept~~ Sketch Plan:
- A setback of 500 feet from the property line is required for any performance area;
 - A setback of 250 feet from the property line is required for any area in which camping is permitted;
 - A setback of 250 feet from the property line is required for all dumpsters and trash collection areas;
 - 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 feet from any structures on adjoining properties, unless written documentation from adjoining property owners granting permission to be closer is submitted; and
 - A setback of 250 feet from the property line is required for any alcohol, food, or other sales or concession.
 - Any variance from these requirements shall be ~~referenced~~included in the Mass Event, **Major** Application and the applicant shall ~~process~~submit a Variance application which shall be presented to the Board of Zoning Appeals for their approval.
5. A Mass Event, **Major** is subject to the following conditions and restrictions and such notes shall be placed on the ~~Concept~~ Sketch Plan:
- No outdoor amplified performances after ~~3 a.m. or before 10 a.m.~~ 1 a.m. or before 10 a.m. Sunday through Thursday; and not after 2 p.m. or before 10 a.m. on Friday and Saturday (amplified announcements are permitted).
 - No outdoor performance lighting after ~~3 a.m. or before 10 a.m.~~ 1 a.m. or before 10 a.m. Sunday through Thursday; and not after 2 a.m. or before 10 a.m. on Friday and Saturday.
 - All sale of alcohol shall be regulated by the West Virginia Alcohol Beverage Control (ABC) Administration.
 - No Mass Event, **Major** may last more than ~~four~~ seven days, including attendee arrival and departure dates. A day shall be defined as a 24 hour period from midnight to

- midnight. Only one Mass Event **Major** may occur 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. **The** 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 **Major** Application which is presented to the Board of Zoning Appeals for their approval.
6. Proof of liability insurance, including a certificate listing Jefferson County as additionally insured, and bonding documents in the amount as determined by the County Commission shall be submitted with the Zoning Certificate Application.

~~A 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.~~

APPENDIX C: PRINCIPAL PERMITTED USES TABLE²³

Land Use	NC	GC	HC	LI	MI	PND ¹	OC	R	RG	RLIC	IC	V	Additional Standards
Residential Uses													
Dwelling, Single Family	P	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Single Family, Small Lot	P	NP	NP	NP	NP	P	NP	NP	P	P	NP	NP	
Dwelling, Two Family	NP	NP	NP	NP	NP	P	NP	P	P	P	NP	P	
Dwelling, Duplex	NP	NP	NP	NP	NP	P	NP	NP	P	P	NP	P	
Dwelling, Townhouse	NP	NP	NP	NP	NP	P	P	NP	P	P	NP	NP	
Dwelling, Multi-Family	NP	NP	NP	NP	NP	P	P	NP	P	P	NP	NP	
Day Care Center, Small	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	
Mobile Home	NP	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	
Mobile Home Park	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
Model Homes/Sales Office	P	PC	NP	NP	NP	P	NP	P	P	P	NP	NP	Sec. 8.10
Home Uses													
Home Occupation, Level 1	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Home Occupation, Level 2	P	NP	NP	NP	NP	P	P	P	P	P	P	P	Art. 4A
Cottage Industry	P	NP	NP	NP	NP	P	NP	P	P	P	P	P	Art. 4A
Institutional Uses													
Airport	NP	NP	NP	P	P	NP	NP	NP	NP	NP	PC	NP	
Church	P	P	P	P	PC	P	P	P	P	P	NP	P	
Convention Center	NP	P	P	P	PC	P	P	NP	NP	P	PC	NP	
Cultural Facility ²⁹	P	P	P	P	PC	P	P	P	P	P	P	P	
Day Care Center, Large	P	P	P	P	PC	P	P	NP	P	P	P	PC	
Electric Vehicle Charging Station	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Elementary or Secondary School	P	P	PC	PC	NP	P	P	P	P	P	NP	NP	
Essential Utility Equipment	P	P	P	P	P	P	P	P	P	P	P	P	Sec. 4.7
Group Residential Facility	P	P	P	NP	NP	P	PC	P	P	P	NP	P	
Group Residential Home	P	P	P	NP	NP	P	PC	P	P	P	NP	P	
Heliport	NP	PC	PC	P	P	PC	PC	NP	NP	PC	PC	NP	
Hospital	NP	P	P	P	PC	P	P	P	P	P	NP	NP	
Mass Event, Major	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>	Sec. 8.16
Mass Event, Minor	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	Sec. 8.16
Nursing or Retirement Home	PC	P	P	P	NP	P	P	NP	P	P	NP	NP	
Park	P	P	P	P	NP	P	P	P	P	P	NP	P	
Performing Arts Theater	P	P	P	P	P	P	P	NP	NP	P	P	PC	
Preschool	P	P	PC	PC	PC	P	P	P	P	P	NP	NP	
Public Safety Facility	P	P	P	P	P	P	P	P	P	P	P	P	
Publicly Owned Facility	P	P	P	P	P	P	P	P	P	P	P	PC	
Industrial													
Recycling Drop-Off Center	PC	P	P	P	P	P	P	NP	NP	P	P	NP	
Residential Care Home	P	P	P	NP	NP	P	PC	P	P	P	NP	P	
School, College or University	NP	P	P	P	NP	P	P	NP	NP	P	NP	NP	
School, Vocational or Professional	NP	P	P	P	NP	P	P	NP	NP	P	P	NP	
Vocational and Training Facility for Adults	P	P	P	P	P	P	P	P	P	P	NP	NP	

NC	Neighborhood Commercial	OC	Office / Commercial Mixed-Use
GC	General Commercial	R	Rural
HC	Highway Commercial	RG	Residential Growth District
LI	Light Industrial	RLIC	Residential-Light Industrial-Commercial District
MI	Major Industrial	IC	Industrial-Commercial District
PND	Planned Neighborhood Development	V	Village District
P	Permitted Use		
NP	Not Permitted Use		
PC	Use Permitted Conditionally (subject to requirements of district and/or other requirements of this Ordinance)		
*	Limited Permitted or Conditional Permitted Uses listed in Permitted Uses Table		
**	Accessory Use to a planned residential community, if permitted pursuant to Section 5.4.		
¹	The Planning Commission may amend the permitted uses for a development in the PND District per Article 5 of this Ordinance		
²	Approval process is per the Salvage Yard Ordinance.		