



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Planning Department and Planning Commission

FOR THE BOARD MEETING OF: September 4, 2012

SUBJECT: Zoning Code Update Workshop

DEPARTMENTAL RECOMMENDATION: Conduct a workshop regarding code enforcement and special event permit issues related to the Zoning Code Update and provide input.

SUMMARY DISCUSSION: One of the follow-up actions from the 2001 General Plan was to update the Zoning Code. Staff worked with Willdan to prepare updated Zoning Code sections, which were provided for review by the Board and the Planning Commission in a series of workshops last year. Staff incorporated this input into a comprehensive Zoning Code update and has prepared a related General Plan update.

The Planning Commission and the Board of Supervisors conducted a joint workshop on July 10, 2012 regarding the draft documents and directed staff to address two issues further before proceeding with public outreach and environmental review: (1) Code Enforcement and (2) Special Event Permits. The Planning Commission conducted a workshop on August 22, 2012 regarding these two issues and provided input.

Code Enforcement

Under current practice, staff responds to written complaints regarding zoning violations and works with property owners to rectify such issues. If no resolution can be reached, staff notifies the District Attorney (DA) of the violation. Based on previous input from the Planning Commission and the Board, staff had crafted a proposal to create a Code Enforcement Committee with the power to levy fines, and transfer enforcement to the Office of County Counsel. This proposal was presented on July 10, and staff was directed to bring the issue back for more detailed review and consideration of alternatives. Attachment 1 includes the concept presented on July 10, and has been updated to incorporate input received at the workshop as well as the Planning Commission's August 22 workshop. The primary changes involve adding provisions regarding the County's intent to work proactively to bring before leading to hard enforcement actions, means to enforce if necessary, clarifying language regarding fines, make-up of the Committee, and means to avoid a Committee meeting if the violator agrees to pay a fine.

Based on the discussion on July 10, the following alternatives may be considered to replace or augment the current proposal:

- ***Code Enforcement Committee Membership:*** variations in the make-up of any Code Enforcement Committee could be considered. Staff has revised the draft language to indicate that the County Administrator will appoint a Committee of three. A hearing officer could also be employed, such as a member of the Planning Commission (who does not represent the district in which the violation has occurred) or an individual or panel with

expertise in land use issues. Any decision of the Committee could be appealed to the Planning Commission and then the Board of Supervisors under the current proposal.

- **Code Enforcement Committee Procedures:** under the current proposal, the Committee would set operational procedures with limited direction from the Code. Staff believes that this is warranted to provide the Committee with flexibility in the many various code enforcement cases typical in Inyo County. More detailed procedures could be codified, such as setting location and time, rules for speaking, and others.
- **Tickets:** the Planning Director and/or designee could issue tickets for violators, either upon confirmation of a complaint or later if attempts to bring the violation into conformity fail.
- **Outsourcing:** the County could hire an outside firm to conduct code enforcement. A variety of models are available, ranging from completely outsourcing the activities, authorizing the County to maintain some oversight (such as override power in extenuating circumstances), or limiting the firm's involvement to penalty collection. Profit motive could be an issue for outsourcing, including from any potential firm's ability to make a profit due to the low number of cases in Inyo County as well as the firm's motivation to issue and collect fines.
- **Amount of Fine/Ticket:** the amount of the fine could vary based on how the code is crafted. Under the current proposal, the fines are flexible; in egregious cases, fines up to \$1,000 could be levied. If greater certainty is deemed warranted, the flexibility could be eliminated.
- **Enforcement:** enforcement could continue to be vested in the DA's office to eliminate transferring the burden to prosecute violations to County Counsel.
- **Rectification:** in cases in which the violation cannot be cured through other means, the County could correct the violation itself and recover its costs by billing the property owner, and if payment is not forthcoming, record a lien against the property, seize the property, or otherwise collect payment.

Special Event Permits

The Board and the Commission have discussed special event permit issues extensively. Although the proposed section could be eliminated, there appears to be a desire to regulate special events in some manner. Based on the discussion from July 10, staff has incorporated the requirements of Inyo County Code Chapter 5.12 (Outdoor Festivals) into the special event section (refer to Attachment 2), in consultation with the Sheriff.

At its August 22 workshop, the Planning Commission discussed issues related to minor commercial events in residential zones, such as small commercial parties, and the current proposal clarifies these issues, including allowing special event permits for a limited number of such events in Residential (R) and Open Space zoning districts. Clarification has also been added to exempt County sponsored events and events at County facilities from the permit requirements, as well as more specific language to recover County costs and other County permit requirements. Discussion with the Treasurer/Tax Collected reveals that there have been issues regarding special events and fee collection; references have been added to address these issues.

The Commission also discussed special event permit fees; staff will need to update the fees schedule for special events (as well as a variety of other issues in the proposed Code). At this time, staff believes that a scaled fee schedule may be appropriate for special event permits, such

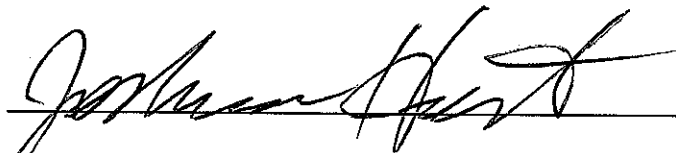
as a flat fee for minor special event permits in R zones. However, this system could result in the County not covering its costs in the event of appeals or unusual situations.

OTHER AGENCY INVOLVEMENT: None directly; other County departments and/or outside agencies may be affected during implementation.

FINANCING: Resources from the County's general fund are being utilized for staff to process the updated Zoning Code. Funds for Willdan to prepare the draft Code were allocated from geothermal royalties by operating transfer to the General Fund/Planning Department budget.

<u>APPROVALS</u>	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i>
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i>
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i>

DEPARTMENT HEAD SIGNATURE:
(Not to be signed until all approvals are received)



Date: 8-28-12

Attachments

1. Proposed Code Enforcement Provisions
2. Proposed Special Event Permit Provisions

Attachment 1

Draft Code Enforcement Zoning Code Regulations

18.01.040 ENFORCEMENT

1. It is the purpose and intent of the County to investigate alleged violations of this Title and to work proactively with property owners and affected persons to bring confirmed violations into conformance with this Title. Furthermore, except under extraordinary circumstances that could reasonably in the near future affect life, property, and/or the public safety, the County will work to educate persons about the requirements of this Title, work with property owners with confirmed violations to remove the violation or if appropriate obtain necessary permits to legalize the violation, provide for flexible timelines to rectify confirmed violations based on the specific circumstances of the situation, and minimize fines.
2. The County Administrator, County Counsel, District Attorney, Planning Director, Code Enforcement Officer, Building Official, Public Works Director, or their designee, any duly authorized law enforcement officer, and any official charged with the issuance of licenses and permits shall enforce the provisions of this Title.
3. All officials and employees of the County vested with the authority or duty to issue permits shall conform to the provisions of this Title and shall not issue a permit, certificate or license for uses, purposes, buildings or structures in conflict with the provisions of this Title. Any such permit, certificate or license issued in conflict with the provisions of this Title shall be null and void.
4. Whenever an authorized official is notified in writing that a violation of this Title exists on any property located within the County, he or she shall notify the property owner on which the violation is located and direct that the violation be abated in a manner consistent with this Title.

5. Remedies

All remedies provided for herein shall be cumulative and not exclusive. The conviction and punishment of any person, hereunder, shall not relieve such person from the responsibility of correcting prohibited conditions or removing prohibited buildings, structures or improvements, nor prevent the enforced correction or removal thereof.

6. Continuing Violations

A continuing violation of this Title is deemed a separate violation for each and every day that such violation exists. Any of the violations set forth in this Title constitutes a criminal act and is punishable pursuant to ordinances of the county and the laws of the state; provided however, that the county retains any and all civil remedies including the right of civil injunction for the prevention of the violation and for the recovery of money damages therefor.

18.01.050 GENERAL PENALTY

Except as otherwise provided in this Title, any person violating any provisions or failing to comply with any of the mandated requirements of this Title shall be investigated by the Planning Director and, if a

violation does exist, the Planning Director shall notify the owner of the property involved to show cause why the violation should not cease. If the violation should continue beyond a reasonable period of time required for abatement, typically three months, the Planning Director shall notify the property owner by certified mail or other appropriate means to confirm receipt that a fine will be levied in the amount of \$1,000.00 per violation, that such fine shall be paid within 30 days of receipt of the notification, and that the property owner may request reconsideration of the fine by the Code Enforcement Committee.

If the property owner requests, or if the fine is not paid within 30 days, or if the violation is not abated, the case shall then be forwarded to a Code Enforcement Committee.

1. The Code Enforcement Committee consists of up to three members designated by the County Administrator. The Committee shall meet as needed to review code enforcement violations. Such meetings shall be open to the public.
2. If a violation has been investigated by the Planning Director, and the property owner notified, and the violation has not been corrected or the initial fine imposed by the Planning Director not submitted, or if the property owner requests reconsideration of the fine, the Planning Director shall forward relevant information to the Code Enforcement Committee for review. The Committee will provide notice to the property owner of its scheduled review of the violation at least ten (10) days prior to meeting to considering the violation. The Committee will consider all of the information presented by the Planning Director, the property owner, and other interested parties. Unless the Committee finds that no violation exists or extraordinary circumstances warrant additional time to correct the violation, the property owner will be required to pay a \$1,000.00 fine per violation. In the event the Committee finds that additional time to correct the violation is warranted, the Committee shall identify a reasonable period of time to correct the violation, which shall be reported to the property owner. If the violation is not corrected within the specified time period, the Committee shall meet again upon ten (10) days notice to consider the violation anew. The Committee may impose additional fines as specified by this Chapter, including fines in addition to those imposed by the Planning Director.

If the violation continues beyond a reasonable time, typically three months from the decision of the Code Enforcement Committee, the violation shall be referred to the Office of County Counsel for further action.

18.01.052 ALTERNATIVE ENFORCEMENT PROCEDURES

Nothing in this chapter shall prevent the County from initiating a civil or criminal proceeding or pursuing any other legal or equitable remedy as an alternative or in addition to the proceedings set forth in this chapter.

18.01.054 RECORDATION OF JUDGMENT LIENS

When and if the County obtains a judgment for fines from the person who caused the violation and/or the property owner, it may collect on the judgment through any lawful means, including but not limited to recordation of a judgment lien in accordance with applicable legal requirements.

Attachment 2

Draft Special Event Zoning Code Regulations

18.02.100 SPECIAL EVENT PERMIT

1. Purpose and Intent

A special event permit is intended to allow for the short-term placement of activities with appropriate regulations so that such activities will be compatible with the surrounding areas.

2. Authority

Authority for approval of special event permits shall be vested with the Planning Director. A special event permit shall not be required for events that occur in permitted or conditionally permitted theaters, stadia, meeting halls, or other permanent public assembly facilities. A special event may be subject to additional permits, other County department approvals, licenses, and inspections as required by this Title or any other applicable laws and regulations.

3. Permitted Special Events

Table 2.A below identifies those special events subject to the issuance of a special event permit, as well as the maximum number of days and occurrences per 12-month period such events may be permitted pursuant to a special event permit.

**Table 2A
Special Event Criteria**

Uses	Zones	Maximum Days Per 12-Month Period	Maximum Occurrences Per 12-Month Period
Non-commercial meetings	All Zones	48	48
Small commercial events (such as garage sales and commercial parties) in R and OS Zones	R and OS Zones	18	12
Commercial circus with tent	Public, Commercial, and Industrial	20	4
Commercial or non-commercial carnival, fair, concert, exhibit, festival, Outdoor Festival, or similar event outdoors or in temporary enclosure(s)	Public, Open Space Commercial, and Industrial	20	6
Commercial and non-commercial holiday sales, such as pumpkin or Christmas tree sales, and incidental sales of Christmas lights, tree stands and decoration, but excluding gift items	Public, Open Space, Commercial, and Industrial	30	4

4. Applications for Special Event Permits

Applications for special event shall be on a form prescribed by the Planning Department and shall include the consent of the property owner. Information necessary to process the permit is generally based on the size, duration, and frequency of the special event. Information needed to process the application may include site plans, emergency access and evacuation plans, parking and traffic control plans, lighting plans, sanitation plans, medical plans, potable water plans, proof of consultation with safety agencies (such as the Sheriff, fire protection agencies, Public Works Department, Environmental Health Department, and Treasurer/Tax Collector), proof of insurance, and other information as appropriate.

5. Criteria for Special Event Permit Issuance

The Planning Director shall consider the following criteria in rendering its decision relative to a special event permit application:

- a. The operation of the requested special event at the location proposed and within the time period specified will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety, or general welfare;
- b. The proposed site is adequate in size and shape to accommodate the special event without being materially detrimental to the use and enjoyment of other properties located adjacent to and in the vicinity of the site;
- c. The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the special event will or could reasonably be expected to generate; and
- d. Adequate temporary parking to accommodate vehicular traffic to be generated by the special event will be available either on site or at alternate locations acceptable to the Planning Agency.

6. Specific Requirements for Outdoor Festivals

In addition to the findings and conditions specified herein, the following requirements apply to Outdoor Festivals.

- a. Approval in writing on a form prescribed by the Planning Director shall be obtained from the Sheriff, Environmental Health Department, Treasurer/Tax Collector, and Public Works Department for those aspects of the event within each department's jurisdiction prior to issuance of the Special Event Permit.
- b. A copy of the Acceptance of Conditions Form shall be kept at the Outdoor Festival for the duration of the event and made available for inspection upon request.

7. Conditions of Approval

In approving an application for a special event permit, the Planning Agency may impose conditions that are deemed necessary to ensure that the permit will be applied in accordance with the criteria outlined above. These conditions may involve any factors affecting the operation of the special event, and may include, but are not limited to:

- a. Provision of temporary parking facilities, including vehicular ingress and egress;
 - b. Regulation of nuisance factors such as, but not limited to, prevention of glare or direct illumination of adjacent properties, noise, vibration, smoke, dust, dirt, odors, gases, and heat;
 - c. Regulation of temporary buildings, structures, and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards;
 - d. Provision of sanitary and medical facilities;
 - e. Provision of solid waste collection and disposal;
 - f. Police and fire concerns;
 - g. Provision of security and safety measures;
 - h. Regulation of signs;
 - i. Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested;
 - j. Submission of a performance bond or other surety device to assure that any temporary facilities or structures used for the proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former conditions;
 - k. Submission of a site plan indicating any information required by this Code;
 - l. Liability insurance of the type and in the amount required by the County; and
 - m. Fees to cover County costs, including law enforcement and emergency medical response, as well as other permits and associated fees and taxes required by the County and/or the State, including as required by Chapters 5.04 and 5.08; and
 - n. A requirement that the approval of the requested special event permit is contingent upon compliance with this Title and with other applicable provisions of other ordinances;
 - o. Other conditions that will ensure the operation of the proposed special event in an orderly and efficient manner and in accordance with the intent and purpose of this Chapter.
8. Violations-Remedies for Outdoor Festivals
- a. It is unlawful for any licensee, employee, agent or persons associated with a Special Event Permit to do any of the following:
 - i. Conduct or operate an Outdoor Festival without first securing a Special Event Permit to do so;
 - ii. Sell tickets to an Outdoor Festival without a Special Event Permit first having been obtained;

- iii. Operate, conduct or carry on any Outdoor Festival in such a manner as to create a public or private nuisance;
 - iv. Exhibit, show or conduct within the place of an Outdoor Festival any obscene, indecent, vulgar or lewd exhibition, show, play, entertainment or exhibit, no matter by what name designated;
 - v. Allow any person on the premises of the permitted Outdoor Festival to cause or create a disturbance in, around or near any place of the Outdoor Festival, by offensive or disorderly conduct;
 - vi. Knowingly allow any person at the permitted Outdoor Festival to use, sell or be in possession of any narcotic or dangerous drug while in and around or near a place of the Outdoor Festival.
- b. Any of the violations set forth in subsection a of this section constitutes a criminal act and is punishable pursuant to ordinances of the county and the laws of the state; provided however, that the county retains any and all civil remedies including the right of civil injunction for the prevention of the violation and for the recovery of money damages therefor.

9. Notice

At least 10 (ten) days prior to making a decision regarding a Special Event Permit, the Planning Director shall issue a notice describing the application and the anticipated date of the decision. The notice shall be distributed as specified by Section [REDACTED] except that no hearing shall be required. The Notice for Outdoor Festivals shall be distributed to the County Administrator, Sheriff, Public Works Department, Environmental Health Department, any fire protection agencies with jurisdiction, and other agencies as may be appropriate based on the location and size of the proposed Outdoor Festival.

10. Acceptance of Conditions

A special event permit shall not become effective for any purpose unless an "Acceptance of Conditions" form has been signed by the applicant and returned to the Planning Department and no appeal consistent with the provisions of this Title has been filed.

11. Cancellation of a Special Event Permit

- a. Noncompliance with the conditions set forth in approving the special event permit shall be grounds for the Planning Director to cancel and void any such special event permit.
- c. The Planning Director shall give notice of such an action to the permittee. The permittee may appeal such a decision to the Planning Commission by filing an appeal consistent with this provisions of this Title.

12. Exceptions

The following uses and activities are exempt from the permit requirements of this subsection.

- a. Non-commercial gatherings or parties in compliance with County noise regulations;
- b. Up to six (6) days per 12-month period per parcel in R and OS zones of garage sales, non-commercial outdoor gatherings or parties with temporary tents or play equipment, and/or other similar temporary outdoor activities, uses, and structures common in residential neighborhoods in compliance with the Building Code, County noise regulations, and other relevant rules and regulations;

- c. Irregularly scheduled small commercial parties inside of residences, with minimal outdoor activities, in R and OS zones in compliance with County noise regulations with no potentially significant impacts on parking, traffic, air quality, or other environmental resources;
- d. Temporary outdoor uses, activities, and structures associated with an established permitted, conditionally permitted, and/or legal non-conforming uses in non-R zones consistent with the Building Code, County noise and environmental health regulations, and other applicable rules and regulations. Examples include, but are not limited to, outdoor retail sales and dining in C zones, commercial gatherings or parties in C and M zones, and laydown of equipment, shipments, and other materials prior to storage in C and M zones; and
- e. Public voting places; and
- f. Events at County facilities with appropriate authorization or events operated or sponsored by the County.