



## MEMORANDUM

DATE: JULY 20, 2011  
TO: KATHERINE WYLIE, GRAND JURY  
FROM: NASH GONZALEZ, PLANNING AND BUILDING SERVICES DIRECTOR  
RE: REPORT TITLED "ARE WE HAVING FUN YET (FINDINGS # 1, 2, 3, 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 22, 23, 24, 25 AND RECOMMENDATIONS # 1 – 5, 7 AND 8)

Pursuant to Penal Code Section §933.05, the Mendocino County Civil Grand Jury has requested a response to the Findings and Recommendations contained in the report titled "Are We Having Fun Yet." This response is being transmitted before the due date of July 24, 2011 as requested.

Based on the Grand Jury's Report, the Department of Planning and Building Services was requested to respond to Findings 1, 2, 3, 4, 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 22, 23, 24 and 25. The Department was also requested to respond to Recommendations 1 through 5, 7 and 8. The Department of Planning and Building Services respectfully submits the following responses:

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

1. This response is relative to Finding Number 1, which states "Several departments in Mendocino County are involved in issuing permits and collecting fees. The principal departments responsible are: Mendocino County Treasurer-Tax Collector, Planning and Building Services, Environmental Health Division, and Mendocino County Sheriff's Office."

The Mendocino County Department of Planning and Building Services agrees with this finding.

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

2. This response is relative to Finding Number 2, which states "Any organized festival or event in Mendocino County requires a permit."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

Not every organized festival or event in Mendocino County requires a permit. The Department of Planning and Building Services typically requires an Administrative Permit, or Coastal Development Permit in the Coastal Zone, for a gathering of over one hundred (100) people. A Minor Use Permit, or Coastal Development Use Permit, if located in the Coastal Zone, is required for gathering over 1,000 people.

It should also be noted that a gathering of over 1,000 people is typically required to obtain an Outdoor Festival License from the County Treasurer – Tax Collector, and receives approval from the Board of Supervisors.

The purpose of the Outdoor Festival License is to review special events for adequate security and proper sanitation facilities. Security and sanitation are also reviewed by the Division of Environmental Health and Planning and Building Services through the Community Event Permit and Administrative Permit/ Minor Use Permit review process. For instance, conditions of approval on the Administrative Permit/ Minor Use Permit require an applicant to provide Planning and Building Services with written verification from the Sheriff's Department that adequate security can be provided. Additionally, Planning and Building Services will include Division of Environmental Health standards for number of bathrooms, wash stations, safe drinking water, etc., on Administrative Permit/ Minor Use Permits.

A private gathering of friends and family (i.e. weddings, birthday parties, bar-b-ques, etc.) are exempt from obtaining a permit. A public gathering/event with less than a 100 people that wasn't serving food or was taking place at a location that is already approved to serve food (i.e. restaurant, winery) would not require any of the aforementioned permits. Section 20.164.010 allows for accessory used to be allowed on the same parcel which has an established principal use if approved by the Director of Planning and Building Services.

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

3. This response is relative to Findings Number 3, which states "MCSO staff could not recall that any citation has ever been issued for a festival or event that was held without a permit."

The Mendocino County Department of Planning and Building Services agrees with this finding.

The Department of Planning and Building Services is not aware of any citations that the MCSO has issued for a festival or event that was held without a permit. This question would be more appropriately answered by the Sheriff's Department.

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

4. This response is relative to Finding Number 4, which states "Each department has different permit requirements, depending on the location, type of event, and the number of people attending."

The Mendocino County Department of Planning and Building Services agrees with this finding.

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

5. This response is relative to Finding Number 5, which states "Functions on private property – such as weddings, and non-profits who serve only their own members and guests but not the general public, are exempt from the permitting process."

The Mendocino County Department of Planning and Building Services disagrees with this finding.

*A non-profit group that holds an event on private property and sells tickets to its members only is not exempt from the Administrative Permit/ Minor Use Permit requirements if more than 100 people will be allowed to attend. A permit may not be required if event is located at previously established gathering places, such as hotel conference rooms, fairgrounds, public buildings, etc. Private gathering of friends and family (i.e. weddings, birthday parties, b-b-q, etc.) are exempt from obtaining a Administrative Permit/ Minor Use Permit per Chapter 20.168.020(E) of the County Inland Zoning Code and Chapter 20.460.020(D) of the County Coastal Zoning Code.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

6. This response is relative to Finding Number 6, which states "Conditions contained within a permit may include: food handling/safety; sanitation (port-a-potties, waste disposal; traffic control; facility use; security/fire prevention/electrical; and alcohol."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*The Department of Planning and Building Services may also add conditions to the permit(s) that pertain to attendance levels, noise, water availability, dust control and any other conditions that may mitigate environmental impacts.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

7. This response is relative to Finding Number 7, which states "The departments involved in issuing Outdoor Festival Permits calculate the cost of the fees differently. Some use hourly rates, others divide the total work by the cost of employees' time and/or charge for the prorated use of equipment and inspections."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*The fee established for processing such permits by Planning and Building Services staff is flat fee based on an hourly average rate for processing such permits. The department will be examining these fees in the future to address the cost recovery approach for services, as the current fee may not cover 100% of the department's costs.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

8. This response is relative to Finding Number 8, which states "California Proposition 218, approved by voters in November 1996, state "...the amount of the fee may not exceed the cost of the government to provide the service."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*This is correct. As noted above under Finding 7, the department's fee is a flat fee based on the average time spent by staff to process permit applications, such as the permits utilized for the events permits. However, it should be noted that current fees may not cover the cost of processing event permits and will need to be evaluated.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

9. This response is relative to Finding Number 9, which states "Veterans and non-profit organizations, under Mendocino County Code, Title 6, Chapter 6.16, section 6.16.080, are exempt from Outdoor Festival Permit fees with proper documentation. Veterans must provide a copy of Form DD-214 with application; non-profit organizations must provide their Federal Tax ID Number and Articles of Incorporation with the application."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*This is correct. However, the County Code does not provide for any exemptions for veterans and non-profits from paying fees for Administrative and Use Permit fees to Planning and Building Services.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

10. This response is relative to Finding Number 17, which states "A temporary Use Permit is required for a circus, carnival, concert, religious assembly, or other forms of entertainment with temporary structure, and may be permitted in any location except for residential areas zoned R1 and R2."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

*Through the Department of Planning and Building Services there are no "Temporary Use Permits." However, Chapter 20.460.020 of the Inland Zoning Code and Chapter 20.168.020 of the Coastal Zoning Code discusses the types of temporary activities that would require an **Administrative Permit/ Minor Use Permit** or **Coastal Development Permit/Coastal Development Use Permit** and where they can be located. Temporary events may be permitted in any zoning district within the Coastal Zone. However, temporary events located within the inland portion of our County may not be permitted on lands zoned R-1 (Single-family Residential District) or R-2 (Two-family Residential District).*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

11. This response is relative to Finding Number 18, which states "Permits issued to festival organizers by the Mendocino County Planning and Building Services use the following criteria:

- If the crowd is under 100 persons, no permits are required
- If the crowd is over 100 persons, but less than 1000, and Administrative Permit may be required
- If the crowd is 1000 or more persons, a Minor Use Permit is required"

The Mendocino County Department of Planning and Building Services agrees with this finding.

*The criteria is defined in the Mendocino County Zoning Code, Title 20, Division I, under Temporary Use Regulations.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

12. This response is relative to Finding Number 19, which states "An Administrative Permit fee can be up to \$1500; the fee for Use Permits can be up to \$4000. Fees may be higher within the coastal zone. Fees are not waived for non-profits or veteran organizations, unless a waiver is granted by the Board of Supervisors."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

*As per the currently adopted fees, application fees as they relate to special events are as follows:*

***Inland Administrative Permit fee: \$489.00***

***Inland Minor Use Permit fee: \$3,372.00***

***Coastal Development Permit fee: \$1,238.00 to \$2,798 (process as Administrative CDP or Standard CDP based on Section 20.532.015(a) of the MCC).***

***Coastal Development Use Permit: \$2,652.00***

*The fees are adopted by the Board of Supervisors and these fees cannot be waived by Planning and Building Services, unless the Board of Supervisors grants a fee waiver.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

13. This response is relative to Finding Number 20, which states "A Use Permit requires a different application and process than a standard Building Permit and must be approved by the Board of Supervisors, the Planning Commission, or the Zoning Administrator."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

*A Building Permit is considered a ministerial action under the California Environmental Quality Act (CEQA) and is just that, a permit. Typically it is a permit to construct a building, structure or an improvement. However, the other permits noted are considered discretionary actions subject to an approval by a hearing officer or a hearing body.*

*Minor Use Permits and Administrative Permit requests are subject to obtaining approval from the Zoning Administrator. Administrative Coastal Development Permits are reviewed and heard by the Coastal Permit Administrator, and Coastal Development Use Permits are heard by and actions taken by the Planning Commission. In all three of the above mentioned permits/action, the outcomes/decisions can be appealed to the Board of Supervisors.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

14. This response is relative to Finding Number 21, which states "A permit is required at a public gathering if an admission fee is charged."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*This finding is correct, assuming that it is for a gathering of over 100 people and is not considered an accessory use to an established principal use. See comments above under response to Finding Number 2.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

15. This response is relative to Finding Number 22, which states "Mendocino County does not require that a festival organizer submit Proof of Insurance for commercial liability."

The Mendocino County Department of Planning and Building Services agrees with this finding.

*There is no requirement that the Department of Planning and Building Services require proof of insurance.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

16. This response is relative to Finding Number 23, which states "Planning and Building Services reported three Outdoor Festival Permits and six Administrative permits were issued between 2007 and 2010. Temporary permits are not electronically recorded."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

*Planning and Building Services does not issue "Outdoor Festival Use Permits". The Department of Planning and Building Services is charged with processing Minor use permits and their subsequent Modifications and renewals for temporary events. Planning and Building Services has processed one (1) Minor Use Permit for a temporary event since 2007. Planning and Building Services has also processed two (2) Minor use permit renewals and two (2) Minor Use Permit Modifications for temporary events since 2007. Planning and Building Services has issued six (6) Administrative Permits since 2007.*

*The Department has been electronically tracking its permits since 2005 to date, with all prior permits (Administrative & Use Permits) being tracked manually. Electronic tracking commences when an application is submitted and tracked through project approval. However, as noted above, older permits will not be tracked as it will require manually inputting the data for all permits, which is time consuming and difficult with the current lack of personnel resources.*

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

17. This response is relative to Finding Number 24, which states "Outdoor Festival Event Permit applications for annual events may require less time to process; however the fee charged remains the same"

The Mendocino County Department of Planning and Building Services wholly disagrees with this finding.

*For clarification, the Department of Planning and Building Services does not process or issue "Outdoor Festival Permits" or licenses. Pursuant to Mendocino County Code M.C.C. Section 6.16, Outdoor Festival Licenses are processed by the Sheriff, the County Health Officer and the Treasurer Tax Collector. Pursuant to Chapter 20.168 of the Mendocino County Code, the Department of Planning and Building Services is responsible for processing either Administrative Permits or Minor use Permits for gatherings or events.*

*Gatherings of 100 to 1,000 persons require securing an Administrative Permit; gatherings over 1,000 people shall be required to obtain a Minor Use Permit. Typically an Administrative permit requires less time to process than it takes to process a Minor Use Permit. However, an Administrative Permit may also take additional time to process depending on the size and intensity of the event, including the number of persons to be in attendance. Processing of permit(s) involves (1) communication with applicants; (2) obtaining comments from public agencies; (3) comments received from and interaction with public/neighbors; (4) preparation of*

a staff report; (5) and public hearings when applicable including any subsequent appeal hearings that may occur. The fees established for the processing of Administrative Permits, Minor Use Permits and Coastal Development Permits take into account staff time, noticing requirements, and time allocated to public hearings as applicable. The fees noted under Finding 19 above are appropriate at this time, given the amount of work and coordination that occurs with the processing of Temporary Uses.

**Findings: Required Response: Mendocino County Department of Planning and Building Services**

18. This response is relative to Finding Number 25, which states "Due to budget constraints, Mendocino County has one Code Enforcement Officer stationed on the coast, responsible for several duties, including compliance of Outdoor Festival Permits within the County."

The Mendocino County Department of Planning and Building Services partially disagrees with this finding.

*The Department of Planning and Building Services currently has two code enforcement officers, with one being stationed on the coast and another in Ukiah. However, it should be recognized that the Department of Planning and Building Services is still currently experiencing staffing constraints and has prioritized how violation cases/complaints are processed with the most egregious matters taking priority. Further, it should be noted that Chapter 6.16 as it relates to Outdoor Festivals is administered by the Sheriff's Department, Treasurer-Tax Collector and the County Health Officer. If there is an issue pertaining to zoning/and or building code violations, Code Enforcement will address the matter.*

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

This response is relative to the following Recommendations 1 through 5, and 7-8 found on page 6 of the Grand jury's report, dated March 15, 2011, Titled, "Are We having Fun Yet?"

1. Mendocino County Planning and Building Services continue to enforce County Codes (Finding 3)

The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services has been and will continue to work with all agencies (i.e. Environmental Health, Sheriff's Department, Treasurer-Tax Collector) in addressing any violations of the County Code.

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

2. Departments involved in issuing permits establish uniformity in their permit process and requirements. (Finding 4)



- The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services is more than willing to sit down and meet with the Sheriff, Tax-Collector and the Division of Environmental Health to establish a process of uniformity for all permits/entitlements. However, it should be noted, that Planning and Building does not process Outdoor Festivals as defined in Chapter 6.16 of the County Code, only Administrative Permits and Minor Use Permits as they pertain to gatherings of 100 persons or more.

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

3. Mendocino County Board of Supervisors revisit resolution 80-406 and County Code 6.16, to resolve the conflict found in the Outdoor Festivals fee schedule, (Findings 10, 12-13).

- The recommendation will not be implemented by the Department of Planning and Building Services because they are not warranted and/or are not deemed reasonable.

The Department of Planning and Building Services is not responsible for the implementation of Chapter 6.16 or the fees collected by the Treasurer-Tax Collector or the Sheriff's Department. The revisiting of this code section would be best served by the Treasurer-Tax Collector, Sheriff and the County's Health Officer as described in Chapter 6.16

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

4. Mendocino County Planning and Building Services require Proof of Insurance for a temporary Use or Administrative Permit. (Finding 22)

- The recommendation can be implemented because it is warranted or reasonable.

The Department of Planning and Building Services can require as a condition of approval on all future permits/entitlements that such proof of insurance be required.

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

5. Mendocino County Planning and Building Services record all temporary permits electronically. (Finding 23)

- The recommendation will be implemented because it is warranted or reasonable.

The Department of Planning and Building Services has previously initiated the logging in of such applications/entitlements into the Department's Permit Trak-It program when an application is submitted. The department will continue with this practice and as time and staffing resources are available, prior applications/permits can be entered into the permit tracking system.

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

6. Mendocino County Planning and Building Services permits for annual events, requiring less time to process, be billed at reduced cost. (Finding 24)

The recommendation will not be implemented because it is not warranted or is not reasonable.

As noted in the response to Finding 24, there may be confusion in the difference between Outdoor Festival Permits, which are processed by other County agencies and the Administrative Permits/Minor Use Permits, which are processed by the Department of Planning and Building Services. Currently, fees have been established to cover the cost of processing such entitlements. The fees charged for the applications include staff time that covers communication with applicants and the public, interaction with public agencies, solicitation of comments to be utilized in the formulation of mitigation measures, the preparation of staff reports, attendance of public hearings, public hearing noticing and posting. To the contrary, the fees should be examined to determine if additional fees need to be collected for work performed.

**Recommendations: Required Response: The Mendocino County Department of Planning and Building Services**

7. Mendocino County Planning and Building Services require a Code Enforcement Officer to cite organizers of non-permitted events. (Finding 3)

The recommendation will not be implemented because it is warranted or reasonable.

Currently the Department of Planning and Building Services has two Code Enforcement Officers, with one stationed on the coast and one inland. Although the department was recently able to refill one of its enforcement officer positions, the department still remains understaffed and is prioritizing its complaint cases, with health, safety and immediate dangerous situations as the top priority. The Department has and will continue to work with other public agencies, such as the Sheriff's Department when there is an unpermitted event situation. However, it should be noted that Code Enforcement is currently complaint driven due to staffing constraints and staff is not actively able to police every unpermitted event in the County. Further, when the Department becomes aware of an unpermitted upcoming event, staff makes every reasonable attempt to contact individuals so that they may secure the appropriate permits.

I have completed the above responses, and have attached, as required the following number of pages to this response form:


Number of pages attached: 10 pages included addressing responses

I understand that responses to the Grand Jury reports are public records. They will be posted on the Grand Jury website: [www.co.mendocino.ca.us/grandjury](http://www.co.mendocino.ca.us/grandjury). The clerk of the responding agency is required to maintain a copy of the response.

I understand that I must submit this signed response from and any attachments.

Printed Name: Nash Gonzalez

Title: Planning and Building Services Director

Signed: 

Date: July 20, 2011