

ARE WE HAVING FUN YET?

A Report on Mendocino County Festival Fees and Temporary Permits

March 15, 2011

Summary

The 2010-2011 Grand Jury (GJ) conducted a comprehensive review of the festival fee and permit process in Mendocino County. The purpose was to determine if the cost of festival permit fees is sufficient to cover the actual cost to the County.

The main intent to issue the *Outdoor Festival License* is to provide for public health and safety, since each applicant has to prove that they will provide adequate security and sanitation facilities.

Festival and special events require permits and approval from County departments. Each department has different requirements, depending on the location, type of event, and the level of attendance. Permits must be obtained prior to the issuance of any required license.

The *Outdoor Festival License* process is quite different than the normal business license, although it is issued on the same form as a business license. There are numerous requirements that must be met before the outdoor festival packet is submitted to the Board of Supervisors (BOS) for approval.

An *Outdoor Festival*, as described in County Code 6.16, includes any outdoor gathering of one thousand (1000) or more persons with the primary purpose of attending, participating and/or observing any of the following events to which the public is admitted, with or without admission charges:

- a musical or theatrical performance,
- a fair, meaning any exhibition of crafts, agricultural or industrial products, or any other handiwork or product.

Method

The GJ interviewed County staff, including Mendocino County Environmental Health Division (EHD), Mendocino County Planning and Building Services (P&BS), Mendocino County Sheriff's Office (MCSO), Mendocino County Treasurer-Tax Collector (MCTTC), and the Anderson Valley Volunteer Fire Department (AVVFD) staff.

Documents reviewed were obtained from EHD, P&BS, MCSO, MCTTC, and AVVFD, including applications, fee schedules, County codes and resolutions concerning outdoor

festivals and permits. Documents obtained from the MCSO included the budget and accounting with actual expense information and reimbursement of costs.

Background

California Proposition 218, approved by voters in November 1996, states "...the amount of the fee may not exceed the cost to the government to provide the service".

The departments involved in issuing 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 use of equipment and inspections.

Findings - General

1. 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.
2. Any organized festival or event in Mendocino County requires a permit.
3. MCSO staff could not recall that any citation has ever been issued for a festival or event that was held without a permit.
4. Each department has different permit requirements, depending on the location, type of event, and the number of people attending.
5. 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.
6. Conditions contained within a permit may include:

food handling/safety	facility use
sanitation (port-a-potties, waste disposal)	security/fire prevention/electrical
traffic control	alcohol

7. 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.
8. 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."

Findings - Mendocino County Treasurer-Tax Collector

9. 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 the application; non-profit organizations must provide their Federal Tax ID Number and Articles of Incorporation with the application.
10. The MCTTC issues an *Outdoor Festival License* intended to protect the health and safety of the public. The current fee schedule for *Outdoor Festival License* issued by the MCTTC has remained the same for the last 30 years.
11. The MCTTC issues six to seven *Outdoor Festival Licenses* each year; however, most applicants are non-profit and the MCTTC receives no fee for the service provided.
12. Mendocino County Code, Title 6, Chapter 6.16, Section 6.16.10, establishes the *Outdoor Festival License* for events of 1000 or more persons attending festivals, with or without the payment of admission charges. Resolution 80-406¹, passed by the Board of Supervisors in 1980, establishes fee for service including for less than 1000 people based on actual cost of providing specific County services.
13. The MCTTC fee schedule for *Outdoor Festival License* is based on daily attendance:

0-499 people	\$ 50	500-749 people	\$ 75
750-999 people	\$ 100	1000 or more people	\$150

14. Fairgrounds operated by the State of California, County of Mendocino, or other public entities are exempt from fees.
15. The application for an *Outdoor Festival License* shall be filed with the MCTTC no later than three weeks prior to the event, and shall be accompanied by a non-refundable fee. Applications must be accompanied by either a *Use Permit* or *Administrative Permit* from P&BS, if applicable.
16. Property zoned General Commercial (C2), requires no permit from P&BS; organizers may be required to pay a license fee to the MCTTC.

Findings - Planning and Building Services

17. A temporary *Use Permit* is required for a circus, carnival, concert, religious assembly, or other forms of entertainment with a temporary structure, and may be permitted in any location except for residential areas zoned R1 and R2.

¹ See attached Appendix A

18. 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, an *Administrative Permit* may be required,
- if the crowd is 1000 or more persons, a *Minor Use Permit* is required.

19. 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.
20. 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.
21. A permit is required at a public gathering if an admission fee is charged.
22. Mendocino County does not require that a festival organizer submit Proof of Insurance for commercial general liability.
23. Planning and Building Services reported three *Outdoor Festival Use Permits* and six *Administrative Permits* were issued between 2007 and 2010. Temporary permits are not electronically recorded.
24. *Outdoor Festival Event Permit* applications for annual events may require less time to process; however, the fee charged remains the same.
25. 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.

Findings - Environmental Health Division

26. Environmental Health Division (EHD) issues permits for community events. The organizer of a festival is required to obtain a *Community Event Permit*. The fee for less than 15 food vendors is \$158; for 15 or more food vendors is \$303.
27. All vendors who sell food to the general public at special events or festivals require a permit, issued by EHD.
28. Each vendor must pay for their own individual permit. Non-hazardous foods (i.e. potato chips) permits are \$47, and for potentially hazardous foods (meat, beans, dairy) permits are \$64, if the application is filed within 5 days prior to the event. If the application and fee are received less than 5 business days prior to the event, the fee for non-hazardous foods is \$84; for potentially hazardous food is \$113.
29. The permits issued by EHD may have requirements for sanitation facilities based on the number of persons expected to attend.
30. The EHD requires fees to be submitted with the original application and cannot

accept faxes or photocopies. Temporary food vendors must apply at least five days prior to the event or be assessed a late fee.

31. Permits must be clearly posted at each food vendor station.
32. *Food Handlers Certificates* for temporary food vendors are not required.
33. When the food inspector discovers a vendor without a permit, or operating with an expired permit, the vendor must pay for the permit on site, including a late fee. If the vendor refuses to pay, the inspector has the authority to require the vendor to leave the event.
34. Veterans and non-profits with proper documentation are exempt from fees, but are not exempt from a penalty fee for late submittal of their application.
35. The number of street corner produce vendors has increased in the last few years and are often found to be operating without a permit.
36. EHD maintains electronic records of the number of permits issued each year for permanent food facilities, including groceries, restaurants, and delicatessens. In 2010, the number of annual permits invoiced was 714. EHD has no readily available information on the number of festival permits issued.

Findings - Security and Fire Prevention

37. The Mendocino County Sheriff's Office (MCSO) may provide law enforcement services for private events. If the deputy is assigned during regular scheduled time, the event coordinator is charged the actual cost. If the deputy is assigned to the event during his day off, then reimbursement is at over-time rate. According to MCSO staff, this arrangement does not compromise public safety.
38. The MCSO does not allow deputies to provide private security services.
39. For events where liquor is sold, the MCSO reviews the Alcohol Beverage Control (ABC) applications and checks the applicant's background for *Temporary Liquor Sales*.
40. MCSO was charging \$176 to process the ABC application for alcohol sales. Veterans and non-profit organizations are not exempt from this fee. At the time of the GJ review, the fee schedule is being revised and has not been implemented.
41. If a citizen requests, a fire department may provide committed stand-by service at special events for a fee.
42. Fire department personnel on standby at an event are free to pursue other emergency calls if there is no commitment to an event.

Recommendations

The Grand Jury recommends that:

1. Mendocino County Planning and Building Services continue to enforce County Codes, (Finding 3)
2. departments involved in issuing permits establish uniformity in their permit process and requirements, (Finding 4)
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)
4. Mendocino County Planning and Building Services require Proof of Insurance for a temporary *Use or Administrative Permit*, (Finding 22)
5. Mendocino County Planning and Building Services record all temporary permits electronically, (Finding 23)
6. Mendocino County Environmental Health Division record all temporary permits electronically, (Finding 36)
7. Mendocino County Planning and Building Services permits for annual events, requiring less time to process, be billed at reduced cost, (Finding 24)
8. Mendocino County Planning and Building Services require a Code Enforcement Officer to cite organizers of non-permitted events. (Finding 3)

Discussion

The Grand Jury found it difficult to distinguish between the various types of permits and licenses. The GJ found no uniformity in the application process for permits. Each department allows some latitude in their requirements for permits.

County revenue may be lost by unpermitted events. However, California Proposition 218, states that a government entity may not charge more than it costs for the service provided.

The GJ could not determine if the County recovers the actual costs associated with all permitted festival activities. However, the Sheriff's Office does recover the full cost for any law enforcement services provided for private parties or other functions.

The GJ found departmental staff to be helpful. However, information regarding the

permit applications needs to be coordinated and shared with other participating departments.

Required Responses

Mendocino County Board of Supervisors (Findings 10, 12-13, 22; Recommendations 3-4)

Mendocino County Planning and Building Services (Findings 1-9, 17-25; Recommendations 1-5, 7-8)

Mendocino County Environmental Health Division (Findings 1-2, 4-9, 26-36; Recommendations 2, 6)

Mendocino County Treasurer-Tax Collector Office (Findings 9-16)

Mendocino County Sheriff's Office (Findings 1,3,21, 37-40)