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Via Hand Delivery

Santa Barbara County Board of Supervisors
County of Santa Barbara
105 East Anapamu Street, Room 407
Santa Barbara, CA 93101

Attention: Clerk of the Board

APRIL 2, 2013 DEPARTMENTAL AGENDA – PLANNING ITEMS AND PUBLIC
HEARINGS
ITEM NO. 5, PLANNING AND DEVELOPMENT, 13-00196
CASE NOS. 12ORD-00000-00002 (County Land Use and Development Code) AND
12ORD-00000-00004 (Article II Coastal Zoning Ordinance)
TEMPORARY USES (SPECIAL EVENTS) ORDINANCE AMENDMENTS

Dear Chair Carbajal and Members of the Board,

Thank you for the opportunity to provide these comments. Our firm has previously provided both written comments and oral testimony to the Santa Barbara County Planning Commission over the past year and a half regarding Item No. 5 of your Agenda, in which we set forth our objections to the proposed amendments to the existing ordinance regulations (and new implementing regulations) regarding the use of property for temporary uses (special events) (hereinafter, the “Ordinance Amendments”), on the basis that the proposed Ordinance Amendments are constitutionally prohibited.

We appreciate the time and effort that was put forth by both the Planning Staff and the Commission in attempting to address the concerns voiced by many regarding the Ordinance Amendments. However, after making what appeared to be significant headway in addressing the constitutionality concerns, as well as correctly focusing on the actual impacts of these events as a whole instead of the nature of the events themselves or the identity of the user, Planning and Development came back full circle and decided to present the Ordinance Amendments currently before you, which reflect the same unconstitutional elements that existed when the process first started. Essentially, one and one-half years of public process were wasted by the Planning Commission.

We reaffirm our previously submitted objections and reiterate that California law constitutionally prohibits local government from adopting the Ordinance Amendments as presented in the January 23, 2013 Memorandum approved by the Planning Commission and now submitted to your board with recommendations for adoption. Specifically, those provisions of the Ordinance Amendments that purport to limit the rights of individuals to freely assemble, enjoy equal protection under the law, be free from intrusion upon their

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privacy, or otherwise impinge upon an individual's constitutional rights by, among other things, making distinctions between the short-term rental of property versus the long-term rental of property and special events associated with such short-term rentals.¹ Moreover, those provisions which require such short-term renters to obtain Minor Conditional Use Permits for a "Reception and Similar Gathering Facility (commercial)" prior to the commencement of *any* event associated with the short-term rental of property. (See Section 3, Subsection F.4(c)(1)(b) of the Ordinance Amendments of Exhibit 1 of Attachment C, p. 14.)

Any provision of the Ordinance Amendments which requires tenants who rent property for a period of 30 days or less to obtain a permit for a "Reception and Similar Gathering Facility (commercial)" (either a Minor Conditional Use Permit or any other type of use permit) and does not require a long-term renter (or property owner) to obtain the same permit for the same use is unconstitutional.

1. Freedom of Speech and Assembly.

First Amendment protections are adversely impacted by the proposed Ordinance Amendments. The First Amendment to the United States Constitution states: "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble..." The California Constitution reaffirms these words and adds an express right of privacy.

Wedding ceremonies, whether religious or secular in nature, are considered protected expression under the First Amendment. (*Kaahumanu v. Hawaii* (9th Dist. 2012) 682 F.3d 789, 799.) Under the proposed Ordinance Amendments, weddings are regulated and treated differently depending on whether the wedding is held by a short-term renter (not allowed without a permit) vs. a long-term renter or property owner (allowed without a permit). Thus, the proposed Ordinance Amendments do not provide narrowly tailored, clear limits on an individual's right to speak or host others to speak on their property. This action is therefore unconstitutional.

Further, zoning ordinances which require a conditional use permit for conduct of speech and assembly operations are subject to strict scrutiny because they impact First Amendment rights. In *City of Imperial Beach v. Escott* (1981) 115 Cal.App.3d 134-137, the city required a conditional use permit for operation of an adult bookstore. The ordinance was

¹ The Ordinance Amendments define a "short-term rental of property" as the "possession or use of a lot or any portion thereof, including any structures located on the lot, for a period of 30 consecutive calendar days or less, ..." (See Section 3, Subsection F.4(a)(1)(b) of the Ordinance Amendments of Exhibit 1 of Attachment C, p. 13).

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found to be an impermissible attempt to use a zoning ordinance to restrict constitutionally protected activities. Any restriction on protected activities must set forth definite objective guidelines. Requirements for obtaining a conditional use permit that are subjective and incapable of precise measurement are void. Further, the restriction on government limiting a person's right to free speech and to freely associate with others is at least as strong on his or her private property. (See *City of Ladue v. Gilleo* (1994) 512 U.S. 43, 58 ["A special respect for individual liberty in the home has long been part of our culture and our law..."].)

Additionally, the proposed Ordinance Amendments distinguish between "commercial" events vs. "non-commercial" events, arbitrarily classifying *any* event associated with a short-term rental of property as commercial while classifying the *same type* of event as non-commercial if associated with a long-term rental or ownership of property and then arbitrarily treating them differently. In its Board of Supervisors Agenda Letter regarding the Ordinance Amendments, the Planning Commission specifically recommends that the Board adopt ordinance amendments that specify that "*special events associated with the short-term rental of property are considered to be commercial events that are not exempt from zoning permits and require a minor conditional use permit.*" A regulation that treats commercial speech differently from non-commercial speech is unconstitutional where the interests served by the regulations are unrelated to the distinction drawn between commercial and non-commercial speech. (See *City of Cincinnati v. Discovery Network, Inc.* (1993) 507 U.S. 410, 430).

In this case, the County claims its request to amend the existing regulations via the Ordinance Amendments is in the "interest of the general community welfare" and that the proposed "restrictions pertaining to specific special events...will serve to minimize potential adverse impacts to surrounding neighbors..." (See Attachment A: Findings to the County's January 23, 2013 Memorandum.) However, a wedding with 50 people in attendance hosted by a short-term renter of property has the same impacts in terms of noise, dust, traffic, parking, etc. on the neighbors, as a wedding with 50 people in attendance hosted by a long-term renter or owner of property. Therefore, because the distinctions drawn by the proposed Ordinance Amendments between short-term renters vs. long-term renters or property owners and the events hosted by these individuals are unrelated to the interests the County purports to serve by adopting the proposed amendments, such provisions of the proposed amendments are unconstitutional.

2. Equal Protection.

The right of equal protection under the Constitution prevents adoption of the proposed Ordinance Amendments. In *Coalition Advocating Legal Housing Options, et al v. City of Santa Monica* (2001) 88 Cal.App.4th 451, the city attempted to restrict second units to a select subgroup of users. The court held that the city ordinance, which allowed the creation of second units in single family residential zones but only if the person occupying

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the second unit was the property owner or his or her dependant or a caregiver for the property owner or a dependant, violated the right to equal protection under the California Constitution. The stated objective of the limitation--to preserve the character and integrity of single family neighborhoods and avoid an undue concentration of population and traffic--did not bear any relationship to the status of the occupier of the second unit--an unrelated renter versus a dependant or caregiver who is allowed to pay rent. Assuming the city made or could make appropriate findings to ban second units entirely did not mean that it could ban them selectively based on the user rather than the objectionable conduct sought to be regulated.

A similar result was reached in *College Area Renters & Landlord Association v. City of San Diego* (1996) 43 Cal.App.4th 667, where a local ordinance that limited the number of persons over age 18 who could live in non-owner-occupied single family residences in targeted areas violated equal protection because no significant relationship existed between the stated purpose of the ordinance, which was to alleviate overcrowding of single family dwellings, and the non-owner-occupied (user, not uses) classification contained in the ordinance.

This equal protection rule applies with the same force here in the County's efforts to implement proposed Ordinance Amendments which attempt to preserve neighborhood character and avoid adverse impacts on neighboring properties by regulating conduct based on the status of the occupier (user) of the property. Assuming the County can make the appropriate findings to require permits across the board for all property owners and all renters alike, whether long-term or short-term, hosting private events on their property does not mean that the County can selectively regulate and/or require such permits of only short-term renters (select users) based on their user status. The proposed Ordinance Amendments are impermissible.

3. Right of Privacy.

The California Constitution protects an individual's right of privacy. The California constitutional right of privacy requires that any incursion into individual privacy be justified by a compelling public interest. A zoning ordinance requiring inquiry into the identity of the users of a residence is suspect. Zoning ordinances are much less suspect when they focus on the conduct of households rather than when they command inquiry into who are the users.

In *Coalition Advocating Legal Housing Options, supra*, the city attempted to restrict second units to a select subgroup of users. The Court concluded that the city's effort must fail because the legitimate objectives it held, such as prevention of crowding and parking, could be readily accomplished by alternative means with little or no privacy impact. Essentially the court found that inquiry into the types of users of property in an attempt to regulate an activity or conduct was impermissible.

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Similarly, in *City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, the Supreme Court held that the distinction drawn by the City's ordinance between related and unrelated persons violated the right of privacy guaranteed by the California Constitution. The City of Santa Barbara's ordinance provided that no more than five (5) unrelated persons could live together in a single household. While the city claimed the overall intent of the ordinance was to serve the public health, safety, comfort, convenience and general welfare, the court found the interest hardly justified the restrictions imposed by the law. The city also claimed a more specific intent of, among other things, maintaining and protecting the essential characteristics of the district, including low density.

The court found, however, that since the law proscribed some groups (users), *i.e.*, those comprised of more than five *unrelated* individuals, and not other similar groups (users), *i.e.*, those comprised of more than five *related* individuals, it left uncontrolled certain groups that could be contributing to overcrowding. In response, the City of Santa Barbara posed the argument that the groups comprised of *related* individuals, as opposed to the groups comprised of *unrelated* individuals, would be *self-limiting*, in that they tend to have a natural limit, making a legal limit unnecessary. The California Supreme Court rejected the city's argument. Here, in presenting the proposed Ordinance Amendments, the Planning Commission makes the same argument that "charitable and noncommercial events not associated with short-term rentals are treated differently because they are self-limiting as there is no economic incentive to hold such events." (See Board of Supervisors Agenda Letter; Recommended Actions, p. 2).

The court in *City of Santa Barbara v. Adamson* also recognized that the "rule-of-five might reflect an assumption that an unrelated group will be noisier, generative of more traffic and parking problems, or less stable than a related group of the same size." *Id.* at 133. 'But none of these observations reflects a universal truth.' *Id.* (citing to *Ctiy of Des Plaines v. Trottnr* (1966) 34 Ill.2d 432). Likewise here, the County's proposed Ordinance Amendments appear to be based on some erroneous assumption that gatherings held by a short-term renter will somehow create more adverse impacts to surrounding neighbors (noise, traffic, parking problems, etc.) than those gatherings of the same size held by a long-term renter or property owner.

If adopted, the proposed Ordinance Amendments would result in the County regulating uses of property based upon the identity of the users - *i.e.*, a short term renter vs. a long term renter or property owner. Thus, the language and proposed regulation set forth in the proposed Ordinance Amendments making such distinctions based on the identity of the user does not pass constitutional scrutiny. In order to pass constitutional muster, the ordinance cannot distinguish between events associated with the property based upon whether the activity is being conducted by a short-term renter vs. activity being conducted by a long-term renter or property owner. The use - in this case any event, reception or similar gathering of people - would need to be regulated across the board and considered the same

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for all purposes, regardless of the *user*, in order for the proposed Ordinance Amendments to have a chance of meeting constitutional requirements.

Thus, the Ordinance Amendments, as currently written, and any provision therein which attempts to regulate the use of property based on the status of the user is impermissible.

Because the County's current proposal is not legally supportable, we urge the Board to consider the "Good Neighbor Special Events Ordinance" attached hereto (a copy of which is also attached to the Planning Commission's Board of Supervisors Agenda Letter as Exhibit T). The Good Neighbor ordinance aims to create regulations applicable to all lands in the County by addressing and regulating the potential impacts of special events, such as noise, light, dust, traffic and parking. The cost of analyzing the Good Neighbor ordinance would be minor in comparison to the legal costs that will be incurred by the County in defending against constitutional challenges if it adopts the Ordinance Amendments.

Respectfully Submitted,

REETZ, FOX & BARTLETT LLP



Randall Fox

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Enclosures

**GOOD NEIGHBOR SPECIAL EVENTS ORDINANCE
APPLICABLE IN SANTA BARBARA COUNTY
December 18, 2012**

The following ordinance is proposed to regulate all temporary special events throughout the County of Santa Barbara. The proposed ordinance is to regulate and prevent impacts from these special events. This ordinance language is proposed to replace Land Use Development Code §§ 35-137.3.1.d.2 and 3; 35-137.3.2.b; 35-137.3.3.a and b and b; 35-137.4; and 35.42.260.4 and 9 and Montecito Land Use and Development Code §§ 35.442.180.F.3 and 35.442.180.F.6.

Sec. 35-___ Temporary Uses – Special Events

Sec. 35-___ Purpose and Intent. The purpose and intent of this ordinance is to create regulations applicable to all lands in the County that address potential impacts of special events such as noise, light, dust, traffic, and parking. The purpose and intent of this ordinance also is to provide for event uses that are incidental to the primary use of the land. All event activities described below shall be incidental to the primary use of the land and shall not displace or impede the primary use. All applicable fire, health, and safety ordinances and regulations shall apply.

Sec. 35-___ Applicability.

The provisions of this section shall apply to all special events held in the County. Such uses shall be subject to all the provisions set forth herein, as applicable.

Sec. 35-___ Definition of Special Event. "Special event" is the temporary use of property for functions, including but not limited to fundraisers, parties, receptions, weddings and other similar celebrations with more than 75 guests in attendance at any one time during a 24-hour period. Any event conducted where 75 or fewer total guests are in attendance at any one time during a 24-hour period is a gathering, not a special event, and shall be exempt from regulation and no development standards or other requirements shall be imposed under this ordinance.

Sec. 35-___ Processing.

No special events subject to the provisions of this Section shall occur except in conformance to the following requirements. No permits for special events subject to the provisions of this Section shall be approved or issued except in conformance to the following requirements.

Sec. 35-___ General Requirements Applicable to All Special Events

For any of the following events, the landowner or occupant hosting or allowing the event to occur shall ensure that all of the following General Requirements Applicable to All Special Events (General Requirements) are met throughout the event:

1. No later than seven (7) days prior to the commencement of the event, the landowner or event sponsor shall provide written notice to all neighboring property owners, using the most current owner's name and address on the Assessor's tax records. Such notices shall advise the recipients of the date and time of the event commencing and ending and an operating telephone number that neighboring property owners can use to reach the event sponsor during and at least one week following the event to advise of any problems or complaints associated with the event. The notice shall also include the phone number for the Sheriff in case a noise complaint during the event is not addressed by a call to the event sponsor.
 - (a) A "neighboring property owner" for properties outside the urban limit line is defined as (i) properties located within a one-half mile radius of the portion(s) of the parcel upon which special event activities will occur, including both the site upon which

people will be gathering and all parking areas, sanitary facilities, catering set-up areas, and other areas directly related to the event ("event site") and (ii) all property owners whose lands abut a public road serving, and located within one mile of, any entrance road used to access the event site by guests or staff.

- (b) A "neighboring property owner" for properties inside the urban limit line is defined as all owners of property located within a 300-foot radius of the exterior boundaries of the premises hosting the special event.
2. Noise levels generated by the special event shall not exceed levels of 65 decibels (Leq) from 8:00 a.m. to 10:00 p.m. and 60 decibels (Leq) from 10:00 p.m. to 8:00 a.m. at any property line that lies at the exterior boundaries of the event premises.
 3. No dust generated by event activities shall be allowed to travel beyond the exterior boundary of the event premises.
 4. Within the urban limit line or on properties smaller than 20 acres, no event set up or clean up shall occur on Sunday earlier than 10:00 a.m. or Saturdays before 8:00 a.m.
 5. All parking shall be provided onsite except that parking may be provided off-site in any of the following locations.
 - (a) A public lot owned or operated by a public agency.
 - (b) A public lot operated on a privately owned commercially zoned property, provided that the property owner or lessee of the property has consented to the use of property for the event parking.
 - (c) A lot on a church, educational, or other similar institution's property, provided that the property owner or lessee of the property has consented to the use of the property for the event parking.
 - (d) Privately owned property, provided that the owner or lessee of the property has consented to the use of the property for the event parking and the parking activity meets all of the following standards:
 - (i) No dust generated by parking shall travel beyond the exterior boundary of the property used for parking.
 - (ii) No vehicles are parked closer than 50 feet of a residence owned by a party other than the owner or lessee of the property upon which parking is occurring.
 6. A traffic monitor shall be on duty throughout all periods during the event that guests are arriving and departing in personal vehicles to prevent congestion and stacking of vehicles on public roads or private access roads shared with property owners other than the owner of the event site. No traffic monitor shall be required if all guests, other than those displaying handicapped stickers or placards on or in their vehicles, arrive and depart via shuttle. For special events with more than 1,000 people, the traffic monitor shall be a retired, off-duty, or on-duty Sheriff's Deputy, City Police officer, or California Highway Patrol officer.

7. Lighting shall meet all of the following specifications:

(a) The general purpose of this specification is to protect and promote public health, safety and welfare, the quality of life, and the ability to view the night sky and control light shining from a parcel onto neighboring parcels and onto public rights-of-way. These specifications establish standards for special event lighting in order to accomplish the following:

(b) Purpose and Intent:

- (i) To protect against direct light glare and excessive lighting; and,
- (ii) To provide safe lighting levels at events; and,
- (iii) To protect the ability to view the night sky; and,
- (iv) To minimize light trespass to neighboring parcels, public right of ways, and areas of the affected parcel not used for the special event.

(c) General Lighting Requirements:

- (i) All exterior lighting shall be full cutoff fixtures with light source fully shielded.
- (ii) Maximum height of any lamp in any fixture shall not exceed 25 feet measured from the average ground elevation where the event is to be held.
- (iii) No glare shall be visible when viewed from adjoining parcels and public right of ways.
- (iv) Light trespass on adjacent parcels or public right of ways shall be one candle foot or less measured at ground level at the limit line of adjacent parcels or public right of ways.
- (v) Average illumination shall not exceed 30 foot candle unless a higher amount is required for health, safety and welfare, subject to the following exceptions:
 - (1) Luminaries that have a maximum output of 260 lumens (approximately 20 watts incandescent) per fixture may be unshielded provided the fixture has an opaque top to prevent up lighting. Light may not trespass onto properties owned by third parties.
 - (2) Luminaries that have a maximum output of 1000 lumens (approximately 60 watt incandescent) may be partially shielded, provided the lamp is not visible and the fixture has an opaque top to prevent up lighting. Light may not trespass onto properties owned by third parties.
 - (3) Flood Lights with external shielding may be angled, provided that no light escapes above a 25 degree angle measured from the vertical line from the center of the fixture extended to the ground. Light may not trespass onto properties owned by third parties. Flood lights with directional shielding should be encouraged.
 - (4) Holiday lights are exempt, as long as they are not flashing or otherwise sequenced.
 - (5) Any lighting within a temporary structure, such as a tent or canopy, are exempt, provided that the structure fully shields all lamps.
 - (6) Hand held battery operated luminaries (i.e. flashlights) are exempt.

- (7) Vehicular lights and all temporary emergency lighting needed by fire and police departments, or other emergency service, shall be exempt.
- (d) Exceptions to General Lighting Requirements: An exception or relaxation of the terms of the General Lighting Requirements shall be made by the Director under a permit for an SEUP if without the exception or relaxation, because of conditions peculiar to the property and not the result of the actions of the owner or operator of the premises, strict application of this article would result in unnecessary and undue hardship or compromise the health, safety and welfare of the attendees of the event.

Sec. 35-___ Exemption for touring. This ordinance does not apply to touring activities on agricultural and mountainous lands such as individual or group bicycling, horseback riding, walking, jogging, running, touring, or hiking activities, which shall be exempt from regulation as a temporary event or special event regardless of the number of participants except that touring shall be subject to the noise regulation stated above.

Sec. 35-___ Special Events on Lands Outside the Urban Limit line

1. Special events must be incidental to the primary zoning use on the property. To ensure that special events on lands zoned for agricultural use are incidental to the primary use, which shall be agricultural production, and any secondary residential use of the land, an active agricultural operation must exist on any agricultural property used for special events and special events activities shall not displace or impede agricultural activities on the land.
2. The Property owner must comply with all applicable General Requirements during all set-up, clean up, and break down of event amenities and throughout the event. Furthermore, depending on the size of the premises and the number of guests, the following Additional Operating Standards are required.
 - (a) Premises¹ that Comprise 500 or More Total Acres
 - (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 50 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 50 feet from a public road.
 - (ii) For events with more than 151 total guests in attendance, no event activity shall be conducted closer than 500 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 500 feet from a public road.
 - (b) Premises that Comprise 100 to Less than 500 Total Acres
 - (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 50 feet from an exterior property line

¹ For the purposes of this ordinance, the term "premises" shall refer to the parcel or parcels upon which event activities (including people gathering, parking areas, sanitary facilities, catering set-up areas, and other areas directly related to the event, but not public roads or access roads shared with other property owners) are conducted, and all other abutting or adjacent parcels owned, leased or otherwise controlled by the owner or operator of the parcel or parcels upon which the event activities are conducted.

of the premises or public road, except that parking during daylight hours may occur closer than 50 feet from a public road.

- (ii) For events with 151 to 1000 total guests in attendance at any one time, no event activity shall be conducted closer than 500 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 500 feet from a public road.
 - (iii) For events with more than 1,000 guests, see the permit requirements set forth in Section ____ below.
- (c) Premises that Comprise 40 to Less than 100 Total Acres
- (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 50 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 50 feet from a public road.
 - (ii) For events with more than 151-500 total guests in attendance at any one time, no event activity shall be conducted closer than 300 feet from an exterior property line of the premises or public road, except that parking during daylight hours only may occur closer than 300 feet from a public road.
 - (iii) For events with more than 500 guests, see the permit requirements set forth in Section ____ below.
- (d) Premises that Comprise 5 to Less than 40 Total Acres
- (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 50 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 50 feet from a public road.
 - (ii) For events with more than 151-300 total guests in attendance at any one time, no event activity shall be conducted closer than 300 feet from an exterior property line of the premises or public road, except that parking during daylight hours only may occur closer than 300 feet from a public road.
 - (iii) For events with more than 300 guests, see the permit requirements set forth in Section ____ below.
- (e) Premises that Comprise Less than 5 Total Acres
- (i) Refer to regulations applicable to properties within the urban limit line of the corresponding size.

Sec. 35-____ *Special Events on Lands Inside the Urban Limit line*

1. Special events must be incidental to the primary zoning use on the property. Given the relatively small size of property within the urban limit line, to ensure that special events are incidental to the primary use, a property owner shall not have more than 12 special events in a year and each event must be at least 30 days apart. In Montecito, a property owner shall not have more than 3 special events in a year.

2. The Property owner must comply with all applicable General Requirements throughout the event and during all set-up, clean up, and break down of event amenities. Furthermore, depending on the size of the premises and the number of guests, the following Additional Operating Standards are required.

(a) Premises that Comprise 5 or More Total Acres

- (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 25 feet from an exterior property line of the premises or public road, except that parking during daylight hours only may occur closer than 25 feet from a public road.
- (ii) For events with 151 -- 300 total guests in attendance at any one time, no event activity shall be conducted closer than 20 feet from an exterior property line of the premises or public road, except that parking during daylight hours may occur closer than 20 feet from a public road.
- (iii) For events with more guests, see the permit requirements set forth in Section ____ below.

(b) Premises that Comprise 1/2 an Acre to Less than 5 Total Acres

- (i) For events with 76-150 total guests in attendance at any one time, no event activity shall be conducted closer than 15 feet from an exterior property line of the premises or public road, except that parking during daylight hours only may occur closer than 15 feet from a public road.
- (ii) For events with more guests, see the permit requirements set forth in Section ____ below.

(c) Premises that Comprise Less than 1/2 Total Acres

- (i) For special events with more than 76 total guests, see the permit requirements set forth in Section ____ below.

Sec. 35-____ Special Events Use Permit

1. A property owner must apply to the Director of Planning & Development for a Special Events Use Permit (SEUP) if the owner cannot comply with the requirements of this section or if the special event will have more than a certain number of guests.

SEUP Required	
Type of Property	Number of Guests
<i>Lands Outside the Urban Limit line</i>	
500 or More Acres	No limit
100 to Less than 500 Acres	Over 1,000
40 to Less than 100 Acres	Over 500
5 to Less than 40 Acres	Over 300
Less than 5 Acres	See limits below
<i>Lands Inside the Urban Limit line</i>	

Over 5 Acres	Over 300
0.5 to 5 Acres	Over 150
Less than 0.5 Acres	Over 75

2. The Director's decisions on any SEUP application shall not be appealable by any party, including the applicant. This includes decisions regarding conditions of approval.
3. Properties That Receive Complaints Regarding Special Events
 - (a) The Planning and Development Department shall keep public records of complaints about special events. If complaints supported by evidence of a violation of public nuisance laws or the requirements of this section are received by the County within any 12 month period regarding two events on a single premises, the property owner must apply for a SEUP for all future special events for the next 12 months.
4. If the Director denies issuance of a SEUP or the applicant disagrees with the SEUP's conditions of approval, the applicant shall be entitled to apply for a Minor Conditional Use Permit for the proposed event(s).

Sec. 35-___ *Special Events Lighting Definitions*

1. Unless otherwise defined in the section, the following definitions for Lighting Specifications are applicable to this section:

Unless specifically defined below, words and phrases used in this specification shall be interpreted as to give them the meaning they have in common usage and to give this specification its most reasonable application.

- (a) Area Light: Light that produces over 1800 lumens.
- (b) Average Foot-candle: The level of light measured at an average point of illumination between the brightest and darkest areas measured at ground surface.
- (c) Candela: Unit of luminous intensity.
- (d) Eighty-Five Degree Full Cutoff Type Fixtures: Fixtures that do not allow light to escape above an 85 degree angle measured from a vertical line from center of the lamp extended to the ground.
- (e) Exterior Lighting: Fixture that is installed, located or used in such a manner to cause light rays to shine outside.
- (f) Fixture: The assembly that holds the lamp and its various components in a lighting system.
- (g) Foot Candle: Illumination produced on a surface one foot from a uniform point source of one candela.
- (h) Full Cutoff Fixture: Fixture as installed that are designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

- (i) Glare: Intense light that results in discomfort and/or a reduction of visual performance and visibility. In this specification, glare is the ability to see the lamps directly or through reflection.
- (j) Holiday Lighting: Festoon type lights limited to small individual lamps and/or fixtures on a string or lamp cord where the spacing of lamps are three inches or greater and where the output per lamp is no greater than 15 lumens.
- (k) Lamp: The source of light, commonly referred to as a light bulb.
- (l) Light Pollution: Any adverse effect of manmade light, including but not limited to, light trespass, up-lighting, the uncomfortable distraction of the eyes, or any manmade light that diminishes the ability to view the night sky.
- (m) Light Trespass: Light falling where it is not needed or wanted.
- (n) Lumen: A unit of luminous flux; the flux emitted within a unit solid angle by a point source with a uniform luminous intensity of one candela. One foot candle is one lumen per square foot.
- (o) Luminaire: A light fixture – see Fixture definition.
- (p) Partially Shielded: The lamp of the fixture is shielded by translucent siding and the lamp is not visible directly or indirectly, but may be viewed as a glow.
- (q) Shielded: When the light emitted from the lamp in a fixture is projected below a horizontal plane running through the lowest point of the fixture where light is emitted. The lamp is not visible and no light is emitted from the sides of the fixture. Also considered a "Full Cutoff Fixture."
- (r) Temporary Lighting: Lighting that is intended to be used for a special event for seven days or less.
- (s) Up Lighting: Lighting that is directed in such a manner as to shine light rays above the horizontal plane
- (t) Wattage: Wattage is a measure of energy use and has no bearing on light output.