

DRAFT

Kensington Municipal Advisory Council Minutes Special Meeting of June 22, 2005 Regarding June draft of the Temporary Events Ordinance

Council Members present:

Chair: Reyes Barraza

Vice Chair: Patrick Tahara

Council Member: Kay Reed

Alternate Member: Chris Brydon

Alternate Member: Ed Detmer

The meeting commenced at 7:00 p.m.

There were no Citizen's Comments.

Presentation:

Supervisor John Gioia presented to the meeting the June revision of the proposed Temporary Events Ordinance. He stated that this draft of the proposed ordinance would be circulated to all of the MAC's as part of the Staff Report due out July 1, and that the ordinance would be heard at the July 12 meeting of the Planning Commission. Comments can be made up to July 12 at the Planning Commission hearing.

John stated that the purpose of the ordinance is to draw a line between what you can and cannot do in your home. It tries to be more specific than ordinances covering similar situations on other locales.

John listed specific changes made to the last (April) draft based upon earlier comments. They include:

1. It does not regulate events on public properties, but does continue to regulate in residences and residentially zoned areas. Broadens religious exemption.
2. Reduces to 3 the number of events allowed by Administrative Permit with only one event larger than 200 people. None greater than 300 people. This could be lower depending upon the circumstances.
3. Persons "at the event" includes attendees, invitees, staff and entertainers.

4. Language added minimizing impact of noise.
5. Parades exempted.
6. Definition of “event” raised from 50 to 75 people for an outdoor assemblage.
7. Noticing radius increased to 500’ (Process: 1. Notice to neighbors, 2. Solicit comments, 3. ZA makes decision, 4. Can appeal to CDD Director)
8. Noise standards stay the same
9. Amplified sound still requires a permit. Noise provisions in effect with or without amplified sound
10. Prior performances can be the basis of denial.
11. Fees for compliance included in recoverable costs. Page 11 (Sect.82-44.604). There are some legal limits on government ability to recover law enforcement costs.
12. Lower limits can be set for events based upon prior performance of an applicant. Gives flexibility to CDD staff.
13. Removed alcohol permission because of ABC.
14. Details of each event must be known before OK to apply for multiple events.
15. Hearing can be held to revoke permit if first event is not in compliance.

In regards to the question of “temporary” vs. “regular” events, John stated that other similar ordinances are frequently found in the Bay Area and that City of Clayton allows up to 3 per year while City of Orinda has no set limit. Many residences in these cities have repetitive events (at least one per year.)

Public Comments and Questions:

Joan Gallegos (239 Cambridge): Doesn’t see “outdoor events”

JG: Found under definition of event. Applies to private property, residential and commercial.

Tim Hoyer (555 Coventry): On page 6 at “Grounds for Denial, item c”, how are hearings triggered?

JG: If someone has one event, and if they don’t meet conditions, it’s over and a violation would impact next event.

TH: How are neighbors supposed to report violations if County staff is not there?

JG: If on a weekend and Building Inspection is closed, call Sheriff or Police

TH: Appeal process?

JG: Director won’t want to hear every permit.

Toni Folger-Brown (555 Coventry): Concerned with enforcement, KPD usually busy and come late. County staff members have not stayed for the full event. Sound engineers to monitor noise are difficult to come by.

JG: Hopes that ordinance gets compliance with conditions. Building Inspection staff may be trained to do noise monitoring equipment.

Gertrude Buehring (1 Marchant Ct.) Does “one day” in definitions include set-up and clean-up?

JG: Set-up and clean-up may be in conditions. Needs to be a test of reasonableness. Additional conditions may be added to the list in the ordinance.

Andrew Reed (728 Coventry): Wants to reduce number of people in residential zoning. “Temporary” implies occasional, but ordinance makes regular. Looks like a grant of special privilege. Wants one application per event and to reduce the number of people at the events.

JG: The ordinance sets maximums. Conditions are set to minimize impact.

Andrew Gutierrez (37 Arlington Ave.): This is a “one size fits all ordinance”. It’s not appropriate for an amphitheater with regular use.

Councilmember Reed: What if we had a motorcycle sale for a “temporary event”? Each event needs to be looked at individually by decision maker.

Robert Giusti (112 Willow Lane): The draft ordinance allows continuing events, not temporary events.

JG: The ordinance addresses policy. There are continuing concerns over possible State law and difficulty with injunctions.

William Buehring (1 Marchant Ct.): When selling a house next to an amphitheater, must this be disclosed?

JG: Do not think that house values would be decreased.

Estelle Kent (279 Berkeley Park Blvd.): A property on Coventry was sold about a year ago. Did put Mr. Scher’s amphitheater into disclosure. It does impact property value to some people. Affected the number of people interested.

John Gioia: Get any changes in. Preferably no major changes at the Planning commission hearing.

Councilmember Reed: What would we do if this was a permit for a new amphitheater? Look at it from that viewpoint.

John Gioia: This proposed law gives neighbors more muscle to curb events.

KMAC Discussion:

At this point Chair Barraza closed the meeting to further questions and comments and requested the Council to come up with recommendations on this draft of the Ordinance.

The council discussed a list of comments which had been earlier offered by the Kensington community. They had been included in KMAC's response to the April draft of the ordinance and transmitted to Community Development Department in our May 24, 2005, response to their request for comments on that draft. Some of the comments were addressed by the June draft, and were now unneeded. Additional comments were offered by the Council in response to this evening's discussion.

The following resolution was proposed:

"The Kensington Municipal Advisory Council supports the good work of the County on revising the Temporary Events Ordinance and supports the Ordinance subject to the following modifications which address the concerns of health, safety, and quality of life in Kensington, an R-6 residential community:

1. Each event requires an individual permit. Multiple events on a single permit are prohibited.
2. Maximum number of events which can be held on a residential property is two within a 12 month period with the two events not less than 45 days apart.
3. Maximum number of persons on site limited to 125 per event including all attendees, staff, and entertainers for any event.
4. The County and Law Enforcement agencies shall monitor and enforce the Administrative Permit and Temporary Event ordinance provisions. The applicant shall pay all costs of this enforcement.
5. All sound monitoring shall be performed by a person qualified in the use of sound level measurement equipment.
6. The responsible Fire Department and Law Enforcement Agency shall each be notified at the time an Administrative Permit request is filed.
7. Define "Outdoor Assemblage" as an outdoor gathering where attendees may enter the onsite residence as opposed to an indoor residential gathering where attendees may also gather on attached decks.
8. Even if all grounds FOR APPROVAL are met by the applicant, an administrative permit may still be denied if ANY grounds for DENIAL are met.

9. Amplified sound is prohibited after 8 pm daily. Maximum sound levels shall continue to be enforced after 8 pm.
10. Section 82-44.206(a): delete "75 or more invited persons at a venue" and replace with "75 or more people present at a venue".
11. Section 82-44.414(b): The second sentence should be moved to the definitions at Section 82-44.206.
- 12.** Section 82-44.204: The second sentence starting with "Because" and ending with "conditions" be deleted."

Resolution passed 4-1 with Alternate Detmer dissenting as he felt unsure about the appropriateness of the quantity "125" included at Modification #3.

The meeting was closed at approximately 9:30 pm.

Minutes recorded by Member Kay Reed and transcribed by Chair Barraza.