



City of Sedona Community Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

SUMMARY SHEET
Art for Sedona's Sake – Thom Stanley
A14-00001
Appeal
Board of Adjustment

Action Requested: Consideration of an appeal of the decision of the Zoning Administrator (Community Development Director) relative to the interpretation of the Sedona Land Development Code.

Land Development Code: Article 4 (Review Procedures), Section 407 (Temporary Uses)

Public Hearing Date: September 10, 2014

Public Notice Date: August 22, 2014

Appellant: Thom Stanley, Agent for Art Sedona's Sake

Prepared By: Audree Juhlin, Director
Community Development Department

Exhibits:

Exhibit A: Appeal Form and Attachment

Exhibit B: Director's Interpretation Letter June 24, 2014

Exhibit C: January 11, 2013 Letter from Community Development

Exhibit D: Land Development Code – Article 2 (Definitions) and Article 3 (Decision Making and Administrative Bodies) and Article 4, Section 407 (Review Procedures – Temporary Uses)

Exhibit E: City of Sedona Adopted Fee Schedule



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Art for Sedona's Sake – Thom Stanley

A14-00001 - Appeal

Board of Adjustment

ISSUE

Do the provisions of Section 407.02 of the Sedona Land Development Code limit a property to 4 separate 3-day fundraising events per year? Do the provisions for these events include 1, 2 and 3 day events or are they specifically limited to events that are 3 days in duration only?

BACKGROUND

Art for Sedona's Sake has held eight "Arts & Craft" events every year for many years utilizing vacant properties in the area of Saddlerock and State Route 89a. These events were processed through a Temporary Use Permit application. Historically, these applications were administered by Code Enforcement staff. With the retirement of the Development Services Supervisor and Senior Code Enforcement staff member, Jim Windham in September 2011 this function was transferred to Current Planning staff.

In 2012, it came to Staff's attention that there was confusion and inconsistencies in processing temporary use permit applications including assessing the incorrect fee associated with the Category "B. Organized Outdoor Community Events". In the past, the fee charged for this category was \$50 per event; the correct fee in accordance with the City Council adopted Fee Schedule is \$400. With this discovery, Staff notified event organizers that might be affected by the error and provided them with the correct fee amount. Because the correct fee (\$400) was significantly higher than the fee incorrectly assessed (\$50), and because of the potential financial hardship for the event organizers who had budgeted for a \$50 fee and not a \$400 fee, as the Interim Director at that time, I made the decision to allow all organized outdoor events occurring in 2012 to remain subject to the \$50 fee rather than the correct fee of \$400. Event organizers were informed of this decision, and, at the same time, were told that beginning in 2013, all organized outdoor events would be subject to the correct fee of \$400.

Because Mr. Stanley was one of the primary event organizers affected, a letter was sent to him on January 11, 2013 clarifying the temporary use permit process and requirements for his arts and craft events (attached, Exhibit C). The letter, dated January 11, 2013, provided an overview of the regulations pertaining to temporary uses, specifically:

- number of events allowed per year;
- fees charged for TUPs (organized outdoor events, \$400);
- timing of applications;
- compliance with conditions of approval; and
- possibility of conditional use permit (would allow for an increased number of events over that allowed under the temporary use section of the LDC).



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In March of 2013, Mr. Stanley requested a meeting with then Community Development Director Kevin Snyder and staff to discuss the issue of the \$400 fee and the temporary use permits process in general. As a result of this meeting, Director Snyder agreed to temporarily suspend the \$400 fee for organized outdoor events and assess the \$50 fee for events held in 2013. This concession was made based on the understanding that beginning in 2014 the \$400 fee for the organized outdoor events classification would be assessed.

In early Spring 2014, Mr. Stanley submitted 8 temporary use permit applications for arts and crafts events all under the Category "C. Fundraising Activities". Newly employed Assistant Planner Keith Chamberlain processed all 8 applications as submitted; however, four of the applications should not have been processed under the fundraising category, as they exceeded the maximum number allowed per year for that specific category as outlined in the LDC, Article 4 (Review Procedures), Section 407 (Temporary Uses).

Based on a complaint received about the number of arts and craft events advertised on Mr. Stanley's webpage, staff conducted research regarding the matter. Upon review of the applications submitted by Mr. Stanley and approved by Mr. Chamberlain, the error was discovered. After consultation with the City Attorney, Mike Goimarac, Mr. Chamberlain contacted Mr. Stanley informing him of the error and that the City was rescinding the 4 Fall temporary use permits that were inadvertently approved incorrectly and that the fees paid for these permits would be refunded. In addition, Mr. Chamberlain offered Mr. Stanley two possible options for his consideration. One option for consideration that would allow Mr. Stanley to hold the additional 4 events in 2014, was to resubmit the Fall applications under "B" Organized Outdoor Events and pay the \$400 fee per event; the other option conveyed was to find another location where the maximum allowable number of events (4) for Category "C. Fundraising Activities" had not be met.

As a result of being informed about this error, Mr. Stanley requested a Director's Interpretation of the LDC regulations pertaining to temporary uses. A letter was sent to Mr. Stanley on June 24, 2014 (attached, Exhibit B) in response. This letter summarized the applicable sections of the LDC, specifying event categories, time limitations, and Mr. Stanley's right to appeal the Director's Interpretation. The authority of the Director to interpret and administer the Sedona Land Development Code is established in Article 3, (Decision Making and Administrative Bodies) of the Land Development Code.

APPLICABLE LAND DEVELOPMENT CODE PROVISIONS

Article 4 (Review Procedures) Section 407 (Temporary Uses)

The purpose of Article 4 (Review Procedures), Section 407 (Temporary Uses) is to consider possible temporary uses that are not frequent in nature. A temporary use permit is required when a use is proposed that is not allowed by the property's zoning designation. For the most part, all outdoor activities are regulated either through the issuance of a Temporary Use Permit or a Conditional Use Permit. A temporary use as defined by the LDC



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is a use which is conducted outside a permanent structure and occurs for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend.

The requirements provide for several scenarios in which an outdoor use not allowed by the zoning designation may be considered through the issuance of a temporary use permit. These include, but are not limited to, temporary events as part of existing businesses, fundraising events, and organized outdoor events. An application for a proposed temporary use must be submitted to the Community Development Department for review and consideration. Prior to issuing a temporary use permit, it is staff's responsibility to ensure that all conditions of the LDC are met, that the use is temporary in nature, that the property has not exceeded the allowable number of events per category per year, that the use will not create a nuisance, hazard or interfere with neighboring property and the enjoyment of their property, that the location will not create a traffic hazards or parking problems, that the area will be kept clean and free of litter, and vegetation is protected from damage.

Specifically, Article 4 (Review Procedures), Section 407 (Temporary Uses) provides:

401.01 (Scope)

407.02 (Purpose and Classification) *“Temporary uses are uses which are conducted outside a permanent structure and occur for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend.”*

Temporary uses are classified as follows:

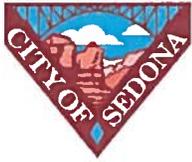
A. *Existing Commercial Business.*

1. *Individual Businesses Conducting an Organized Outdoor Event.*

- a. *Duration. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit;*
- b. *Outside sales shall be located only within the permittee's business frontage.*

2. *Three or More Businesses Coordinating an Organized Outdoor Event.*

- a. *Duration. Event shall not exceed 11 consecutive days every 12 months or 12 separate 3-day events every 12 months, each event by separate permit.*



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- B. Organized Outdoor Community Events. Educational, historic, religious and patriotic displays or exhibits, circuses, amusements, outdoor concerts, festivals, revivals, street fairs, outdoor arts and crafts fairs, and other organized outdoor events.
1. Itinerant vendors are allowed only in conjunction with an organized outdoor community event. Organized outdoor community events shall mean any event sponsored by a community based organization.
 2. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.
- C. Fund-Raising Activities. Any and all offerings of products and services conducted as fund-raising activities for a nonprofit organization.
1. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.
 2. Applicant must provide a letter of verification from an official of the nonprofit charitable or community organization and a letter of determination from the Internal Revenue Service.
- D. Christmas Tree Lots. The Christmas tree lots can be displayed no sooner than the fourth Friday of November and must be removed by December 30.
- E. Construction Support Activities. Contractors' offices; mobile homes for security purposes if no new construction is proposed (subject to development and review time limits and removal requirements).
- F. Film permits.
- G. Accessory Parking Facilities – Duration. In conjunction with and subject to limits for a primary event.
- H. Temporary Use Activities. Temporary use activities which are not specifically classified above shall be assigned to 1 of the above categories by the Director, based on the similarity of the activity.

Article 2 (Definitions)

The LDC, Article 2 (Definitions) defines a temporary use as "a use that is authorized by this Code to be conducted for a fixed period of time. Temporary uses include activities such as the sale of agricultural products, contractor's offices, and equipment sheds, fireworks, carnivals, flea markets and garage sales".



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Intent and Purpose of the Land Development Code

The Sedona Land Development Code (LDC) was adopted in the early 1990s after the City's incorporation in 1988. The purpose of the LDC is to provide standards and regulations relative to the use of land, including zoning districts, provide sensitivity pertaining to the built environment within the natural environment, providing minimal disturbance to Sedona's natural ecosystem, as well as promoting the public health, safety and welfare by providing appropriate and reasonable controls for the development of such lands, while also protecting the rights of property owners.

These LDC standards and regulations are also intended to:

- A. Ensure the harmonious integration of manmade improvements with the natural environment.
- B. Safeguard and enhance the appearance and quality of development of Sedona;
- C. Reduce congestion in the streets;
- D. Provide safe access to streets from private property;
- E. Prevent the overcrowding of land;
- F. Facilitate the adequate provision of transportation, water, schools, parks and other public infrastructure requirements;
- G. Regulate the use of buildings, structures and land; and
- H. Regulate the location, height, bulk, number of stories and size of buildings.

ADMINISTRATION OF LDC AUTHORITY

Article 3 (Decision Making and Administrative Bodies)

Article 3 (Decision Making and Administrative Bodies) of the Land Development Code (LDC) describes the organization, powers and duties of the offices responsible for the administration of the LDC. Section 305 (Department of Community Development) addresses the authority and duties of the Community Development Department staff including the Director. As stated, duties include "providing information and assistance to the public in the interpretation and administration of all articles of this Code"

305.01 Organization. The Department shall consist of city staff as required for the administration and enforcement of this Code. The Director or his or her designated representative shall serve as the Zoning Administrator for the city.

305.02 Duties. The Department has the following powers and duties:

- A. Providing information and assistance to the public in the interpretation and administration of all articles of this Code, except Article 8 SLDC, Grading and Drainage;
- B. Interpreting and administering the zoning and subdivision regulations (and related policies);
- C. Establishing forms, procedures and acceptance and accounting of fees for the administration and review of rezoning applications, text amendments, conditional



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- use permits, development review applications, temporary use permits, variance applications, subdivision plats, administrative waivers, and appeals;
- D. Conducting pre-application conferences with and providing advice to applicants for rezonings, conditional use permits, development review, temporary use permits, administrative waivers, variances and subdivision plats;
 - E. Accepting, reviewing and making recommendations regarding rezonings, text amendments, conditional use permits, development review applications, variances, temporary use permits, administrative waivers, and appeals;
 - F. Approving or denying development review applications as applicable;
 - G. Approving or denying administrative waivers;
 - H. Reviewing permit requests to confirm compliance with applicable provisions of this Code;
 - I. Administering, reviewing, and distributing subdivision applications and preparing a written report on the application for submittal to the Commission;
 - J. Providing staff to assist the Council, the Commission, and the Board in the execution of their duties under these regulations and facilitating all public hearings requirements necessary under the provisions of this Code;
 - K. Providing published and posted notices of hearings and appeals;
 - L. Enforcing the provisions of this Code.

Director's Interpretation

The Sedona Land Development Code, Article 4 (Review Procedures), Section 407 (Temporary Uses) provides that "Temporary uses are uses which are conducted outside a permanent structure and occur for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend." Temporary uses are uses which are not specified by the property's zoning designation as a permitted use, but can be considered through a temporary use in accordance with Section 407. Arts and crafts events such as Mr. Stanley's are not allowed by zoning but can be considered as part of a Temporary Use Permit or Conditional Use Permit application.

The LDC further states that temporary uses such as an arts and crafts show can be considered under specific classifications; 1) in conjunction with an Existing Commercial Business, 2) Organized Outdoor Community Event, and, 3) Fund-Raising Activities. Event durations shall not exceed a one-time event for 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, and each event is considered by separate permit application. The interpretation of past Directors John O'Brien and Kevin Snyder, and current Director, Audree Juhlin is that the provision for 4 separate 3-day events means 4 separate events up to and including three days total per event. Staff does not take into account how an applicant chooses to use the number of days allowed per event - 1, 2 or the full amount of 3 days. Nonetheless, the number of events per temporary use classification



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cannot exceed 4 separate events per year, regardless if the event is a 1-day, 2-day or 3-day event.

It has never been the interpretation of past Directors nor the present Director, that Article 4, Section 407, only provides for 3-day events and that all other number of days (1, 2, 4, etc.) for an event are therefore exempt from code regulations. As suggested by Mr. Stanley, if this interpretation was applied, all events other than 3-days events would be allowed outright and not subject to the requirements related to temporary uses. This interpretation would be in direct conflict with the purpose of Section 407 which states: "Temporary uses are uses which are conducted outside a permanent structure and occur for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend." Mr. Stanley's interpretation, if applied, sets the stage for unlimited on-going, year-round temporary events not allowed by current zoning, as long as their duration was not a 3-day event.

Conversely, applying this same logic, it could be concluded that only 3-day events are allowed and subject to the temporary use regulations and that any other combination of days (1, 2, 4, etc.) would not be allowed. However, this is not an interpretation that has been considered or supported by past or current staff. Staff, historically and currently, receives temporary use applications for 1, 2, and 3-day events.

Although not specifically stated in the appeal letter, Mr. Stanley requested staff to approve 8 fundraising events per year. Mr. Stanley did not request an unlimited number of events based on his premise that any temporary event other than a 3-day event is not subject to the temporary use regulations. Staff did deny approval of this request. However, if staff was to allow Mr. Stanley special exception and approve 8 fundraising events per year, in addition to the other categories available, for the Saddlerock location, this decision would not be in compliance with the applicable code regulations. If this special exception was granted, it would need to be uniformly applied to all fundraising event coordinators, thus opening up the opportunities for all commercial properties located within the City limits to allow for additional temporary events than provided for by code and other coordinators may want to request even more than four additional fundraising events.

CONCLUSION

In early 2014, Art for Sedona's Sake, (Mr. Thom Stanley) submitted 8 temporary use permit applications for 4 arts and crafts events to be held in the Spring of 2014 and 4 arts and crafts events to be held in the Fall of 2014 under the Category "C. Fundraising Activities". With the submittal of these applications, Mr. Stanley paid a \$50 fee for all 8 applications. Staff processed all 8 applications as submitted, inadvertently exceeding the maximum



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allowable number of events per year for the fundraising category. Upon realization of the error, the 4 Fall applications were rescinded and the fees were refunded to Mr. Stanley. Options were provided to Mr. Stanley at that time that would allow his events to continue. These options included finding an alternative location that had not held fundraising events for the 2014 year, or submitting the applications under the Category "B. Organized Outdoor Community Events" and paying the \$400 fee. Based on the options provided by staff, Mr. Stanley resubmitted the 4 Fall applications, paying \$400 per application and, subsequently received approval for these events under the Category "B. Organized Outdoor Events" for the Fall of 2014.

In June 2014, Mr. Stanley requested an interpretation of the Land Development Code specific to the number of temporary events allowed at a specific location. A Director's Interpretation was issued on June 24, 2014 in response to Mr. Stanley's request. As part of this Interpretation the ability to appeal the Director's Interpretation was provided. On July 21, 2014, Mr. Stanley submitted an appeal to the Director's Interpretation (Exhibit A).

Mr. Stanley is appealing the interpretation of the number of days allowed by Code for temporary events. Mr. Stanley believes that the Director's Interpretation of "up to 3 days" per event is not correct because the specific language does not state "up to 3 days" and rather provides for "4 separate 3-day events" per category. Because the code language specifically indicates 4 separate 3-day events, only 3-day events are regulated; any other combination of days, such as 1, 2, 4 or more day events are allowed and not subject to those regulations pertaining to temporary 3-day events.

It is important to note that the recent interpretation by the Director has not restricted Mr. Stanley's ability to hold 8 events per year; however, 4 of those events will now cost \$400 each in fees as opposed to \$50. Mr. Stanley typically has a high number of itinerant vendors during these events. If 30 itinerant vendors were to attend an event, the fee for each vendor would amount to \$13.33. Staff considers that to be a very affordable fee to conduct retail sales for several days in Sedona.

Exhibits

Exhibit A

Appeal Form and Attachment



CITY OF SEDONA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

APPEAL FORM

Date 7/21/14
Name Art For Sedona's Sake (Thom Stanley)
Address POB 843, Sedona, AZ 86339

Pursuant to Article 4, Section 907 of the City of Sedona Land Development Code, this is a formal appeal being registered with the City of Sedona Department of Community and Economic Development regarding the following:

(Appellant should be as specific as possible regarding the reasons for the appeal and refer to the specific sections of the Land Development Code or City Code being contested.)

SEE ATTACHED

(Please attach additional pages if more space is required)

A copy of this appeal will be provided to the appropriate city staff.

Thom Stanley
Signature

7/14/21 10:19 AM
Date and Time

City of Sedona Board of Adjustments
re: Fund Raising Activities
7/22/2014

I am writing you to appeal a decision by the City of Sedona Code Enforcement Department regarding the number of events allowable at a specific location. For 10 years, I have conducted 8 events annually – 4 during spring, 4 during fall.

Each of these events is held at the corner of Saddlerock Circle and SR89A. Each event makes a donation to a variety of not-for-profits in and around Sedona. To date, benefactors have included Sedona Food Bank, Sedona Community Center, Sedona International Film Festival, Sedona Recycles, Humane Society of Sedona, Sedona Arts Festival, Red Rose Inspirations, Verde Valley Sanctuary, Sedona Elk's Lodge, Habitat for Humanity, Old Town Mission, Sedona Arts Center, World Fellowship Church, Morningstar Animal Shelter, Chamber Music Sedona.

Over the years, we have managed to bring our 510(c)3 Art For Sedona's Sake out of the red to donate over \$80,000 to our local organizations.

The code enforcement division of Sedona has chosen not to allow more than 4 such events per year per lot. Though I operate on multiple lots – 4 to be exact, they contend our corporation must now submit application under a different category of event than that of fund raising at a cost of \$400 per event versus the \$50 paid in every event prior for the past 10 years.

I have reviewed to code, Sedona Land Development Code, Article 4, Section 407 (Temporary Uses.. In the way it is verbally constructed, the code does not apply to any events other than those of 3 days, or 11. Please pay close attention to the wording and you must agree, if you value the meaning of words, that the code was written errantly. Rather than correct the code, they choose to interpret it. That should never be acceptable by any standards. Few things in life are beyond debate, as they depend on accepted theory and supposition. However, numbers are not up for interpretation. They are finite and necessary.

I, therefore, argue that I am limited to 4 fund raising events per calendar year and look for a ruling from this board to reinstate our event status to its position for the past 10 years.

Sincere Regards,



Thom Stanley, Organizer Art For Sedona's Sake

R E C E I V E D
JUL 21 2014
CITY OF SEDONA
COMMUNITY & ECONOMIC
DEVELOPMENT

Exhibit B

June 24, 2014

Director's Interpretation Letter



City Of Sedona Community & Economic Development Department

102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

June 24, 2014

Thom Stanley
10880 E. Oak Creek Circle
Cornville, AZ 86325

RE: Temporary Uses – Director Interpretation

Dear Mr. Stanley,

This letter is in response to your request for a Director's Interpretation of the regulations pertaining to temporary uses. The Sedona Land Development Code (Code), Article 4 (Review Procedures), Section 407 (Temporary Uses) regulates temporary uses. Article 2 (Definitions) of the Code, defines a temporary use as "a use that is authorized by this Code to be conducted for a fixed period of time. Temporary uses include activities such as the sale of agricultural products, contractor's offices, and equipment sheds, fireworks, carnivals, flea markets and garage sales". Under Section 407 of the Code, it is further defined as "uses which are conducted outside a permanent structure and occurs for a specified time period only. Such uses shall not include the frequent occurrence of any activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend".

Subsection 407.02 (Purpose and Classification) provides specific temporary use classifications:

- Existing Commercial Business – Individual businesses conducting an Organized Outdoor Event.
- Organized Outdoor Community Events – Educational, historic, religious, circuses, amusements, outdoor concerts, festivals, revivals, street fairs, outdoor arts & craft fairs, etc.
- Fund-Raising activities – Any and all offerings of products and services conducted as fund-raising activities for a nonprofit organization.
- Christmas tree lots
- Construction Support Activities
- Film Permits
- Accessory Parking Facilities
- Temporary Use Activities – Not specifically classified in Section 407.

In addition, this Subsection outlines duration limitations for several of the classifications with the purpose to ensure the temporary nature of such uses. As the Code relates to your events, the "Fund-Raising activities classification provides that this type of "event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months". While not specifically stated, the intent of the Code and the long-standing interpretation is that these regulations pertaining to durations are applicable to the properties involved in an event. In other words, through the issuance of temporary use permits, a location (utilizing 1 or more properties) may be eligible to host 4 separate fund-raising events, up to 3-days per event, per year, or for fund-raising events greater than the 3-day duration, no



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more than 1 event per year, up to 11 consecutive days, whether the events are conducted by one applicant or four different applicants.

In your situation, you propose conducting 8 separate 2-day "Fund-Raising activities" per year at the Saddlerock location. Based on the Director's Interpretation of the Code, as explained above, only four of your events would be permitted. To date, because you have held 4 separate 2-day fund-raising events, the maximum number of events allowed per year for the "Fund-Raising activities" classification, the City cannot approve any additional temporary use permits for fund-raising activities for this year for the Saddlerock location.

As discussed with you previously, there are several other options for your consideration 1) locate a different site where the maximum allowable TUPs for "Fund-Raising activities" has not been met, or 2) apply for a temporary use permit under the "Organized Outdoor Community Events" for the Saddlerock location.

In accordance with the Code, you have the right to appeal the Director's Interpretation of the Code regulations pertaining to temporary uses to the City of Sedona Board of Adjustment based on Article 3 (Decision Making & Administrative Bodies) Section 304.01B, Duties (Board of Adjustment). The Board of Adjustment has the authority to conduct hearings, review and act on appeals of the decisions of the Director regarding an interpretation of the Sedona Land Development Code. You must submit in writing your appeal with the Community and Economic Development Department within 30 days after the date of this letter. The fee to submit an appeal is \$150, which is non-refundable. If you choose to appeal the Director's Interpretation, not later than 30 days after receipt of your appeal, the City shall schedule a time for the appeal to be heard by the City of Sedona Board of Adjustment.

If you have any questions, please do not hesitate to contact me at (928) 204-7107 or by email at ajuhlin@Sedonaaz.gov.

Sincerely,

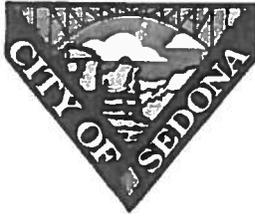
Audrey Juhlin, Interim Director
Community & Economic Development

cc: Tim Ernster, City Manager
Mike Goimarac, City Attorney
Nick Gioello, Development Services Manager
Keith Chamberlain, Assistant Planner

Exhibit C

January 11, 2013

Letter from Community Development



102 Roadrunner Drive
Sedona, Arizona 86336
TDD (928) 204-7102
www.SedonaAZ.gov

January 11, 2013

Baney Corporation
475 NE Bellevue Dr. #210
Bend, OR 97701

Art for Sedona's Sake
c/o Thom Stanley
PO Box 843
Sedona, AZ 86339

Red Rose Inspiration for Animals
c/o Tina-Marie Allegrezza
PO Box 74
Sedona, AZ 86339

RE: Temporary Use Permits at the Saddlerock Lot

To Whom It May Concern:

The purpose of this letter is to clear up confusion and inconsistencies in Temporary Use Permit processing, specifically at the Saddlerock Circle lot used in the past by Mr. Stanley and Ms. Allegrezza in the past.

Number of Events (TUPs) Allowed Per Year

Temporary Uses are regulated by Section 407 of the Sedona Land Development Code (SLDC). This section of the code defines different categories of temporary uses and limits the number of permits allowed in each category. The limits set are per property, not per applicant. The events Mr. Stanley and Ms. Allegrezza hold would be categorized as "Category B – Organized Outdoor Community Events" or "Category C – Fund Raising Activities" (applicant must be a nonprofit and provide proof of nonprofit status from the IRS). Each of these categories is limited to four three-day events per year per property. Therefore, this property is limited to a maximum of 8 three-day events per year.

Fees Charged for TUP Applications

In the past, all TUPs have been charged \$50. However, the City's adopted Fee Schedule sets fees for Category B TUPs at \$400 per event and all other TUPs at \$50 per event. Beginning in 2013, the City will be charging \$400 for Category B TUP applications, as specified by the Fee Schedule.

Timing of Applications

Use of the lot will be at the discretion of the property owner. However, the City will issue TUPs for this site on a first-come, first-serve basis. In order to ensure all parties wishing to use the lot are given an equal chance to apply, the City will not accept TUP applications for this site more than 2 months in advance of the proposed event date. As

always, applications must be submitted at least 30 days in advance of the proposed event.

Compliance with Conditions of Approval

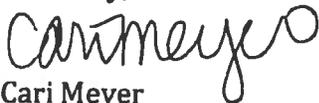
In the past year, the City has received a number of complaints regarding the operation of events at this location, specifically regarding unauthorized use of the right-of-way, unauthorized placement of signs, and problems with parking. All of these items are specifically addressed in the conditions of approval of the TUPs that have been issued. If the applicants do not comply with conditions of approval, the City will deny future applications based on the applicant's demonstrated failure to comply with conditions of approval.

Possibility of Conditional Use Permit

If the property owner determines that they would like these types of events to occur more often than permitted under the TUP provisions of the SLDC, there is the possibility of a Conditional Use Permit for this site. This process would require a public hearing before the Planning and Zoning Commission, a filing fee of \$1,500, and can take 2-3 months to complete. If this is a direction the property owner wishes to go, please contact the Community Development Department for more information.

This property has appeared to work well for these types of events in the past. While the City does not discourage the use of the site, it is necessary to ensure that all activities here comply with the SLDC and are properly permitted. If you have any questions, please feel free to contact me at (928) 203-5049 or cmeyer@sedonaaz.gov. I look forward to working with you to permit successful events at this location this year.

Sincerely,



Cari Meyer
Associate Planner

cc: Audree Juhlin, Interim Director of Community Development
David Nicolella, Associate Planner
Patty Lewis, Development Services Representative.

Exhibit D

Land Development Code

Article 2 (Definitions)

Article 3 (Decision Making & Administrative Bodies)

Article 4, Section 407 (Review Procedures – Temporary Uses)

**Sedona Land Development Code
Excerpts Related to Temporary Uses**

Article 2 (Definitions)

201 Definitions

“Use, temporary” means a use that is authorized by this Code to be conducted for a fixed period of time. **“Temporary uses”** include activities such as the sale of agricultural products, contractors’ offices and equipment sheds, fireworks, carnivals, flea markets and garage sales.

Article 3 (Decision Making and Administrative Bodies)

305 Department of Community Development.

305.01 Organization. The Department shall consist of city staff as required for the administration and enforcement of this Code. The Director or his or her designated representative shall serve as the Zoning Administrator for the city.

305.02 Duties. The Department has the following powers and duties:

- A. Providing information and assistance to the public in the interpretation and administration of all articles of this Code, except Article 8 SLDC, Grading and Drainage;
- B. Interpreting and administering the zoning and subdivision regulations (and related policies);
- C. Establishing forms, procedures and acceptance and accounting of fees for the administration and review of rezoning applications, text amendments, conditional use permits, development review applications, temporary use permits, variance applications, subdivision plats, administrative waivers, and appeals;
- D. Conducting pre-application conferences with and providing advice to applicants for rezonings, conditional use permits, development review, temporary use permits, administrative waivers, variances and subdivision plats;

- E. Accepting, reviewing and making recommendations regarding rezonings, text amendments, conditional use permits, development review applications, variances, temporary use permits, administrative waivers, and appeals;
- F. Approving or denying development review applications as applicable;
- G. Approving or denying administrative waivers;
- H. Reviewing permit requests to confirm compliance with applicable provisions of this Code;
- I. Administering, reviewing, and distributing subdivision applications and preparing a written report on the application for submittal to the Commission;
- J. Providing staff to assist the Council, the Commission, and the Board in the execution of their duties under these regulations and facilitating all public hearings requirements necessary under the provisions of this Code;
- K. Providing published and posted notices of hearings and appeals;
- L. Enforcing the provisions of this Code.

306 Director of Community Development.

A. The Director of Community Development is appointed by, reports to and serves at the pleasure of the City Manager.

B. The Director of Community Development is the head of the Department of Community Development, in accordance with A.R.S. Section 9-461.03 (as may be amended). His duties involving planning, zoning and building, and as Zoning Administrator pursuant to A.R.S. Section 9-462.05 (as may be amended), include:

1. Reviewing building plans, comparing plans with ordinances, codes, specifications and regulations, and directing and enforcing compliance;
2. Reviewing subdivision and master plan, zoning, rezoning and variance applications; comparing these with the Sedona Community Plan, with zoning ordinances, codes and regulations; and directing and enforcing compliance;
3. Preparing the agenda and presentations for the Commission and, as an expert advisor, attending all Commission and necessary Council meetings;
4. Directing office analyses of building permit applications and field inspections; issuing building and grading permits; managing the building safety function;

5. Establishing and directing department policies, procedures and operations and informing the City Manager of all departmental activities through written and oral reports;
6. Conferring with federal, state, county and special district agencies on technical planning, zoning and building issues, in accordance with A.R.S. Section 9-461.12 and other applicable statutes, and informing the Commission and Council through written and oral reports;
7. Preparing, administering and performing quality control of the annual departmental budget;
8. Continuously evaluating land uses, land use balance criteria, zoning criteria, building practices and procedures, and recommending to the Commission and Council modification of ordinances, codes and regulations essential for community development;
9. Producing, administering and maintaining the City of Sedona Community Plan in accordance with A.R.S. Section 9-461.05 et seq.;
10. Considering and granting where appropriate in the Director's sole discretion requests for reasonable accommodations under the federal Fair Housing Act (42 U.S.C. 3604(f)(3)(B)), the federal Americans with Disabilities Act (42 U.S.C. 12101 et seq.), the Arizona Fair Housing Act (A.R.S. Section 41-1491.19(E)(2)) and any other similar and binding federal or state law, when such accommodations may be necessary to afford individuals with disabilities equal opportunity to use and enjoy a dwelling unit;
11. Monitoring and negotiating with Coconino and Yavapai County Planning, Zoning and Building Department counterparts on issues in extraterritorial areas, in accordance with A.R.S. Section 9-461.11;
12. Performing related planning, zoning, and building duties as directed by the City Manager and the Council.

Article 4 (Review Procedures)

407 Temporary uses.

407.01 Scope. The provisions of this section shall apply to the uses and conditions hereinafter enumerated. Where this section prescribes regulations more restrictive than the zoning district in which a use or conditional use is permitted, the provisions of this section shall apply to temporary uses regardless of the zoning classification.

407.02 Purpose and Classification. Temporary uses are uses which are conducted outside a permanent structure and occur for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend.

Temporary uses are classified as follows:

A. Existing Commercial Business.

1. Individual Businesses Conducting an Organized Outdoor Event.

- a. Duration. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit;
- b. Outside sales shall be located only within the permittee's business frontage.

2. Three or More Businesses Coordinating an Organized Outdoor Event.

- a. Duration. Event shall not exceed 11 consecutive days every 12 months or 12 separate 3-day events every 12 months, each event by separate permit.

B. Organized Outdoor Community Events. Educational, historic, religious and patriotic displays or exhibits, circuses, amusements, outdoor concerts, festivals, revivals, street fairs, outdoor arts and crafts fairs, and other organized outdoor events.

1. Itinerant vendors are allowed only in conjunction with an organized outdoor community event. Organized outdoor community events shall mean any event sponsored by a community based organization.
2. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.

C. Fund-Raising Activities. Any and all offerings of products and services conducted as fund-raising activities for a nonprofit organization.

1. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.

2. Applicant must provide a letter of verification from an official of the nonprofit charitable or community organization and a letter of determination from the Internal Revenue Service.

D. Christmas Tree Lots. The Christmas tree lots can be displayed no sooner than the fourth Friday of November and must be removed by December 30.

E. Construction Support Activities. Contractors' offices; mobile homes for security purposes if no new construction is proposed (subject to development and review time limits and removal requirements).

F. Film permits.

G. Accessory Parking Facilities – Duration. In conjunction with and subject to limits for a primary event.

H. Temporary Use Activities. Temporary use activities which are not specifically classified above shall be assigned to 1 of the above categories by the Director, based on the similarity of the activity.

407.03 Application Requirements.

A. The property owner(s) of record shall have authorized, in writing, the proposed use, dates, times and locations applicable to the request.

B. Applicants shall submit a written explanation to the Director stating how the activity will meet the following requirements for issuance of a temporary use permit, and stating the following required information where applicable:

1. That the use is temporary and impermanent and the time(s) that the use will last;

2. That the use will not create a nuisance, hazard or interfere with neighbors' property and enjoyment thereof;

3. That the location will not create a traffic hazard or parking problem in the right-of-way and that improved parking is available on site or at satellite locations by separate permit;

4. That signs will conform to Article 11 SLDC, Sign Regulations, and will be temporary and impermanent;

5. That the area will be kept clean and free from litter and debris at all times;

6. That landscape and natural vegetation areas shall be protected to the satisfaction of the Director of Community Development and will not be injured or trampled. The liability for replacement of any damage which may occur shall be assumed by the applicant.

C. Prior Health Authority approval and permits shall be submitted as a part of the application if required by Health Department standards and where food items or food products are handled or sold.

D. Provide Transaction Privilege Tax (TPT) number.

E. Major Events. The following procedures shall apply to all major outdoor community events which will have an anticipated public participation greater than 50 people:

1. Pre-Application Consultation. At least 1 pre-application consultation is required with the city staff member assigned to accept and review submitted applications. The pre-application consultation must be made a minimum of 45 days in advance of the proposed event. This step includes initial meetings and discussion with the applicant for general orientation purposes. At these meetings the following items should be discussed:

- a. The event proposal;
- b. Existing and required zoning;
- c. Area zoning and land use and the degree to which the proposed event is compatible or could be made compatible;
- d. Identification of preliminary areas of concern such as police and fire protection, Health Department regulations, insurance risk and traffic control;
- e. Identification of city departments and outside reviewing agencies with whom coordination will be required;
- f. Establishment of data needs;
- g. The application/review/appeal process;
- h. Filing deadlines (minimum 30 days in advance of proposed event);
- i. Provision of application forms and check lists of required items;

- j. Discussion of filing deadlines and late fees.

Following the initial meeting with staff, an additional pre-application meeting with other representatives of city departments and outside reviewing agencies may be necessary for large or complex community events.

2. Application Submittal Requirements. The applicant shall meet with a designated city staff member a minimum of 30 days in advance of a proposed event to review the submitted application to ensure that all the required information has been submitted. Specifically, the following will be evaluated:

- a. Application form/check list requirements;
- b. Ownership information;
- c. Location of proposed event;
- d. Traffic control provisions, including identification and authorization of use for proposed off-site parking areas and transportation services;
- e. Site Plan, Signage Plan, temporary structures, other significant details;
- f. Collection of application fee and/or posting of required bond;
- g. Identification of contact person or party responsible for the event.

Once it is determined and verified that the application is complete, the proposal will be given an application number and scheduled for administrative review and decision.

3. Investigation and Decision.

- a. The day following the application submittal deadline, the designated staff member shall provide application plans and other appropriate materials and reports to other city departments and outside reviewing agencies for written comments on each application. A letter shall be attached briefly summarizing each proposal and its location. City staff will schedule a coordination meeting for each application with these departments and agencies to be held approximately 3 weeks prior to the scheduled event.
- b. Approximately 3 weeks prior to the proposed event, a coordination meeting will be conducted. The staff member, applicant and representatives from the other city departments and outside reviewing agencies will attend the meeting and provide written comments on the proposed event and

application. The staff member will consolidate all comments into the application file. If any additional information is required, the applicant will be given written notice and a time frame to provide the information prior to the proposed event.

c. No later than 2 weeks prior to the proposed event, the city will either approve the temporary use permit request or notify the applicant in writing of its denial based on the following:

- i. Completeness of the application and supporting materials;
- ii. Submittal within established deadlines;
- iii. Satisfactory resolution of city and outside reviewing agency comments;
- iv. Substantiation that information provided is correct;
- v. Provision of required bonding, insurance and hold harmless agreements;
- vi. Satisfactory completion of a field investigation of the proposed event location to assure compatibility with surrounding land uses and zoning.

F. Film Permits. The following procedures shall apply to a film permit for filming within the Sedona city limits:

1. Application Submittal Requirements. The applicant shall submit a completed film permit application to a designated city staff member a minimum of 5 workdays in advance of any proposed filming event to review the submitted application to ensure that all the required information has been submitted. Filming events may consist of still shots, motion picture filming, commercials or any other type of commercial filming. Specifically, the following will be evaluated:

- a. Application form/check list requirements;
- b. Ownership information;
- c. Location of proposed event;
- d. Traffic control provisions including identification and authorization of use of public streets and proposed parking areas and transportation services;

- e. Any needed coordination with Sedona Police Department, Sedona Fire District and the Coconino National Forest Service;
- f. Site Plan, Signage Plan, temporary structures, catering or food service issues, other significant film plan details;
- g. Collection of application fees, insurance documents and/or posting of any required bonds;
- h. Identification of contact persons or party responsible for filming event.

Once it has been determined and verified that the application is complete, the application will be given a permit number and scheduled for review and decision.

2. Filming in Residential Districts. Filming in a residential location for more than 4 weeks requires approval of a conditional use permit by the Planning and Zoning Commission in accordance with SLDC 402.

3. Investigation and Decision.

- a. Immediately following verification that the film permit application is complete, the designated staff member shall provide application plans and other appropriate materials and reports to other city departments, Sedona Film Office and outside reviewing agencies for written comments and/or approvals.
- b. Film permit applicants need to be advised that although it is the City of Sedona's intent to process film permit applications in an expedited manner, the city has no control over the timeliness of outside reviewing agencies. It is therefore recommended that applications for large or complex filming events requiring traffic control or police/fire related coordination contact city staff well in advance of the proposed filming event in order to address logistical and/or health safety requirements.
- c. Once appropriate review of the film permit application is complete, staff will issue the permit, amend or deny the application.

407.04 Performance Standards.

- A. The activities of all temporary use categories are subject to an issuance of a temporary use permit.
- B. The Director, in his sole discretion based upon the anticipated impacts of the use, may require the temporary use permit for any category A through H activities of

subsection 407.02 of this section to be issued only pursuant to a public hearing before the Commission and approval by that body.

C. In all categories of subsection 407.02 of this section, the applicant shall provide substantial evidence that adequate on-site sanitary facilities are available or will be provided. All activities in category B and other activities as determined by the Director shall require portable sanitation facilities in addition to existing area sanitation facilities.

D. All activities in category B of subsection 407.02 of this section and other activities as determined by the Director shall coordinate with the Sedona Police and Fire departments, ambulance services and other jurisdictions for emergency service, traffic and coordination of events as a condition of approval.

407.05 Permits, Bonds and Appeals.

A. The Director shall review the request for a temporary use permit for conformance with performance standards and time limitations and may impose other conditions necessary to protect public health, safety, welfare and conveniences.

B. The Director may require cash bond to defray costs if the permittee fails to comply with required performance standards and conditions.

C. An appeal of any decision on a temporary use permit request may be filed by the applicant or any member of the general public within 5 days of the decision. If an appeal is filed within this time period, the application will be considered by an appeal panel consisting of the City Manager, Director of Community Development, and Chief of Police. The appeal panel's decision on the appeal will be final.

Exhibit E

City of Sedona Adopted Fee Schedule

Development Fee Schedule



**City Of Sedona Community &
Economic Development Department**
102 Roadrunner Drive Sedona, AZ 86336
(928) 282-1154 • Fax: (928) 204-7124

Summary of Ordinance 2003-11 of the City of Sedona, Arizona, amending ordinance no. 95-14, by revising the fee schedule for the development review process. Adopted by the Sedona City Council on July 9, 2003. Effective date August 8, 2003.

Purpose and Intent

There is an established fee schedule for the review process associated with development applications in order to cover the costs and expenses associated with examining, processing, conducting field inspections, publishing legal notices and meeting with developer and builder applicants, which fees shall be paid to the Community Development Department at the time of filing an application.

A. Conditional Use Permit: \$1,500.00 base fee

Assumes only one public hearing with the Planning and Zoning Commission.

1. State licensed daycare facilities and pre-schools, and public schools with classes from kindergarten to 12th grade (including charter schools) pay 50% of the base fee, i.e. \$750.00.
2. Upon the recommendation of the Community Development Director and upon the approval by the City Manager, service charges related to the review process for Conditional Use Permit applications for activities related to non-profit fund raising purposes not conducted within permanent structures, and which occur on a more frequent basis than as defined in the Temporary Use provisions of the Land Development Code, Section 407, may be waived for those organizations possessing an exemption under Section 501(c)(3) of the Internal Revenue Code. The applicant shall bear the costs directly attributable to publication of the legal notice required for a public hearing.

Any person or entity aggrieved by a decision to deny the fee waiver for issuance of the permit may appeal to the City Council within fifteen (15) days for the decision by filing a written notice of appeal with the City Clerk. The City Clerk shall notify the City Council of the appeal, cause a hearing to be set within thirty (30) days of the filing of the notice, and give written notice to such person or entity of the time and place of the hearing by first class mail.

B. Conditional Use Permit Renewal: 50% of current base fee

Assumes only one public hearing with the Planning and Zoning Commission.

C. Development Review: \$1,500 base fee

Assumes only one public hearing with the Planning and Zoning Commission.

Additional charges may apply as follows:

- | | |
|---|---|
| a) Commercial projects over 5,000 sq.ft. | \$45.00 per 1,000 sq.ft. of gross floor area or portion thereof over 5,000 sq.ft. |
| b) Group dwellings and multi-family over 12 units | \$25 per additional unit |
| c) All lodging over 6 units | \$25.00 per additional unit |
| d) State licensed daycare facilities and pre-schools, and public schools with classes from kindergarten to 12th grade (including charter schools) pay 50% of the base fee, i.e. \$750.00. | |
| e) Fee for landscape plan review and site inspection for | |

projects that are not tied to a Development Review application \$150.00.

D. Zone change: \$2,200 base fee

Assumes one public hearing with the Planning and Zoning Commission and one public hearing with the City Council.

Additional charges may apply as follows:

a) Zone change requests for all projects over 2 acres \$100.00 per additional acre or portion thereof.

E. Time Extension of Conditional Use Permit, Development Review or Zone Change:

50% of current base fee

Assumes only one public hearing with the Planning and Zoning Commission, and if a zone change, one public hearing with the City Council.

F. Conceptual Development Review: 50% of the total calculated fee for the project.

G. Community Plan Amendments:

\$1,800 base fee, plus the proportionate share of legal notice costs and city wide property owner notifications

Assumes only one public hearing with the Planning and Zoning Commission and one public hearing with the City Council.

Additional charges may apply as follows:

a) Community Plan amendment requests for all projects over 5 acres: \$100.00 per acre or portion thereof over 5 acres.

H. Subdivisions: \$3,300.00 base fee

Assumes two public hearings with the Planning and Zoning Commission (conceptual and preliminary plat) and one public hearing with the City Council (preliminary plat) and an administrative approval by the City Council (final plat).

Additional charges may apply as follows:

a) Subdivisions over 30 lots \$50.00 per additional lot.

Applicant initiated amendment to an approved final plat \$150.00 per lot

I. Multiple Approvals:

In instances where more than one review process is required (for example, a zone change and development review or subdivision approval and a zone change), there shall be a full charge for the highest priced application and a 10% charge for the lower priced applications.

J. Additional Public Hearings:

If a new legal notice is required \$300.00

If no new legal notice is required \$250.00

K. Land Division Permit: \$50.00

L. Variance: \$780.00

Assumes only one public hearing with the Board of Adjustment.

1. State licensed daycare facilities and pre-schools, and public schools with classes from kindergarten to 12th grade (including charter schools) pay 50% of the base fee, i.e. \$390.00.

M. Administrative Waiver: \$150.00

N. Temporary Use Permit:

Category A \$ 50.00

Category B \$400.00

Category C \$ 50.00

Category D \$ 50.00

Category E \$ 50.00

Category F \$ 50.00

O. Sign Permit:

1. Temporary Sign Permit \$ 25.00

2. Signs 12 square feet or less \$ 75.00

3. Signs over 12 square feet \$100.00

4. Lighted signs \$ 18.00 (In addition to other applicable sign permit fees)

5. Double fees shall be payable where signs are erected prior to issuance of an approved Sign Permit.

6. Master sign Kiosk plan requiring Planning and Zoning Commission approval \$450.00

7. Amendment to a master sign Kiosk plan requiring Planning and Zoning Commission approval \$225.00

8. Individual Kiosk Permit \$100.00

9. Individual Kiosk placard sign \$75.00

P. Appeal: \$150.00

Q. Road Abandonment: \$300.00 base fee plus \$25.00 for each abutting property.

R. Annexation:

\$500.00 base fee for first five (5) acres plus \$100.00 for each additional acre (maximum of \$3,000.00).

S. Historic Preservation Fees:

1. Historic District Designation	\$300.00
2. Landmark Designation	\$150.00
3. Certificate of Appropriateness	\$75.00

T. City Consultant Fees:

100 percent of the City's cost associated with outside consultant review fees

U. Expert Review Fees for Wireless Communications Facilities:

1. Stealth Wireless Communications Facility	not to exceed \$3,000.00
2. Attached Wireless Communications Facility	not to exceed \$3,500.00
3. Collocation on Existing Antenna Support Structure	not to exceed \$4,000.00
4. Replacement of Existing Antenna Supporting Structure -	not to exceed \$4,500.00
5. New Antenna Support Structure	not to exceed \$7,500.00
6. AM/FM/TV/DTV Antenna Support Structure	not to exceed \$10,000.00

V. Non-commercial Amateur Wireless Facility: \$100.00

W. Written Interpretation of the Land Development Code: \$100.00

X. Zoning Verification Letter: \$100.00

Y. Development Agreement: \$3,000.00

Assumes one review at a public hearing by the Planning and Zoning Commission and one public hearing with the City Council. (\$1,500 to be paid up front, the balance is due when the agreement is signed)

Z. Development Agreement Amendment:

50% of the current approved Development Agreement fee.

Annexation Documents

At the time of filing an annexation application, an applicant shall provide to the Community Development Department the following documents in addition to the fee for the annexation review process:

1. A legal description and map of the proposed annexation
2. A location map
3. The necessary signatures supporting the annexation
4. Evidence of the filing of the annexation petition with the County Recorder