

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON  
FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

FILED  
YAMHILL COUNTY, OREGON  
1994 NOV -7 PM 3:  
CHARLES STERN  
COUNTY CLERK

In the Matter of an Ordinance )  
Permitting Mass Gatherings; ) ORDINANCE 580  
Amending Ordinance 507; )  
Declaring an Emergency. )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON ("the Board") sat for the transaction of county business in special session on November 7, 1994, commissioners Dennis L. Goecks, Ted Lopuszynski and Debi Owens being present.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A. On May 23, 1990 the Board adopted Ordinance 507. Ordinance 507 incorporated certain provisions of ORS 433.735 to 433.770 to establish standards and procedures for the Board to permit outdoor mass gatherings.

B. Since the adoption of Ordinance 507, the Board has granted several permits for outdoor mass gatherings. Based on the experience gained in the course of the permitting process, the Board determined that certain changes to Ordinance 507 were in the best interests of the citizens of Yamhill County. Although mass gatherings were not necessarily governed by state land use law due to the partial exemption created by ORS 433.735 to 433.770, the Board requested the Yamhill County Planning Commission to review changes to Ordinance 507 as proposed by county planning department staff.

C. The planning commission's review was conducted in spring, 1994, as part of a broader review of commercial uses in resource zones. The planning commission's review, undertaken as Planning Docket G-1-94, resulted in a series of recommendations separated into proposed amendments to the county's zoning regulations and proposed amendments to Ordinance 507. In its first hearing on Planning Docket G-1-94 on August 31, 1994, the Board determined to separate the land use issues requiring amendments to the zoning regulations from the mass gathering issues requiring amendments to Ordinance 507. The hearing was continued, and public testimony was taken on October 5 and October 19, 1994.

D. The first reading of Ordinance 580 was conducted on October 19, and the hearing was continued to November 2. The second reading was conducted on November 7, 1994. After considering the public testimony and planning commission recommendations, the Board finds that modifications to Ordinance 507 made by this ordinance are appropriate and in the best interests of the citizens of Yamhill County. NOW, THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Regulation of Mass Gatherings.

All "mass gatherings" in the unincorporated areas of Yamhill County shall be allowed only by permit issued by the Board of Commissioners ("the Board") following a public hearing. The Board may impose reasonable conditions on the mass gathering in the permit. Except where this ordinance provides a different standard, procedure or definition, the Board shall issue permits for mass gatherings in accordance with the regulations established by ORS 433.735 to 433.770, 1993 replacement part. Where this ordinance provides a standard, procedure or definition different than ORS 433.735 to 433.770, 1993 replacement part, this ordinance shall control.

Section 2. "Mass Gatherings" Defined.

As used in this ordinance, a "mass gathering" means an actual or reasonably anticipated assembly of one thousand persons or more which is held in the unincorporated areas of Yamhill County, primarily in open spaces and not in any permanent structure. Under this ordinance, "mass gatherings" are separated into two categories: Mass gatherings where 1,000 to 3,000 persons are reasonably anticipated to attend and mass gatherings where more than 3,000 persons are reasonably anticipated to attend.

Section 3. Requirements for Mass Gatherings of 1,000 to 3,000.

The Board of Commissioners shall grant a permit for a mass gathering where a crowd of 1,000 to 3,000 persons is reasonably expected to attend upon satisfaction of the following conditions by the applicant:

- a. Compliance with or the ability to comply with health and safety rules established in accordance with ORS 433.750, 1993 replacement part.
- b. Demonstration that the proposed gathering will not materially alter the capability, in the future, to use the property upon which the mass gathering is to be held for uses designated under the property's zone and comprehensive plan designation.

Section 4. Requirements for Mass Gatherings in excess of 3,000.

The Board of Commissioners shall grant a permit for a mass gathering where a crowd of more than 3,000 persons is reasonably expected to attend upon satisfaction of the following conditions by the applicant:

- a. Compliance with or the ability to comply with health and safety rules established in accordance with ORS 433.750, 1993 replacement part.
- b. Demonstration that the proposed gathering will not materially alter the capability, in the future, to use the property upon which the mass gathering is to be held for uses designated under the property's zone and comprehensive plan designation.
- c. Where the site or a portion of the site of the proposed gathering is located upon land designated "F" Forest, "EF" Exclusive Farm Use, or "AF" Agriculture/Forestry, the applicant must first obtain an exception to the statewide planning goals as to the proposed site in accordance with Chapter 660, Division 4 of the Oregon Administrative Rules. The procedure to obtain an exception is independent of the procedure to obtain a mass gathering permit under this ordinance. An application for a proposed gathering will not be processed until an exception has been obtained.

**Section 5. Limitations on Number and Duration of Mass Gatherings.**

- a. No more than five mass gathering events in any single calendar year shall be permitted for the same applicant or property.
- b.
  - i. Except as provided in subsection (5)(b)(ii), a mass gathering event shall not exceed 24 hours in duration.
  - ii. An applicant who otherwise meets all criteria of this ordinance may conduct a mass gathering event that lasts longer than 24 hours; provided, however, that each 24 hour period or part thereof shall constitute a separate mass gathering event for purposes of the limitation established in section (5)(a) and the fee established in section (7)(b).

**Section 6. Permits for Multiple Events.**

At the request of the applicant, the Board shall consider at a single public hearing an application seeking a permit for up to five mass gathering events on a single parcel. At the discretion of the Board, a permit for more than one mass gathering event may assure only the first gathering with permission for remaining mass gathering events subject to revocation as provided in the permit.

Section 7. Fees.

Before accepting an application for a mass gathering permit, the Board shall collect a permit fee. The fee shall be in the following amount.

- a. Single event. The fee for a mass gathering permit for a single event shall be equivalent to the fee for a conditional use permit in effect at the time of the application.
- b. Multiple events. The fee for a mass gathering permit for multiple events shall be equivalent to the county Department of Planning and Development's fee for a conditional use permit in effect at the time of the application plus an additional fee of \$100 per event.

Section 8. Repeal of Prior Mass Gathering Ordinance.

Sections 2, 3 and 4 of Ordinance 507, May 23, 1990 are hereby repealed and of no further force or effect.

Section 9. Effective Date; Emergency Clause.

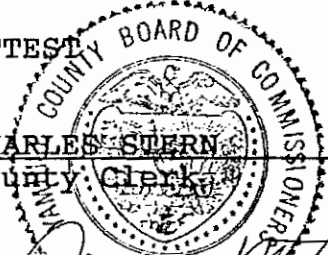
This ordinance, being necessary for the health, safety and welfare of the citizens of Yamhill County and an emergency having been declared to exist, shall become effective on November 7, 1994.

Section 10. Severability.

All sections, subsections and paragraphs of this ordinance are severable. If any section, subsection or paragraph is ruled invalid for any reason by the court of last resort, the other portions of this ordinance shall be unaffected.

DONE at McMinnville, Oregon this 7th day of November, 1994.

ATTEST



CHARLES STERN  
County Clerk

YAMHILL COUNTY BOARD OF COMMISSIONERS

*Dennis L. Goecks*  
 Chairman DENNIS L. GOECKS

By: *Wayne Mitchell*  
Deputy WAYNE MITCHELL

*Ted Lopuszynski*  
 Commissioner TED LOPUSZYNSKI

FORM APPROVED BY:

*John M. Gray, Jr.*  
 JOHN M. GRAY, JR.  
 Yamhill County Counsel

*Debi Owens*  
 Commissioner DEBI OWENS

**REGULATION OF OUTDOOR MASS GATHERINGS**

**433.735 Definitions for ORS 433.735 to 433.770.** As used in ORS 433.735 to 433.770 and 433.990 (7):

(1) "Outdoor mass gathering," unless otherwise defined by county ordinance,

r. d  
a: h  
c: o  
c: s  
b: a-  
r: n  
o: >  
t: >

"Mass gatherings" are defined by Section 3 of Ordinance 507.

(2) "Organizer" includes any person who holds, stages or sponsors an outdoor mass gathering and the owner, lessee or possessor of the real property upon which the outdoor mass gathering is to take place.

(3) "Permanent structure" includes a stadium, an arena, an auditorium, a coliseum, a fairgrounds or other similar established places for assemblies.

(4) "Temporary structure" includes tents, trailers, chemical toilet facilities and other structures customarily erected or sited for temporary use. [1971 c.597 §1a; 1981 c.82 §3; 1985 c.758 §1]

**433.740 Policy.** The Legislative Assembly finds that the uncontrolled outdoor gatherings of large groups of persons for extended periods of time have necessitated a need for the establishment of reasonable health and safety rules to regulate such outdoor mass gatherings. [1971 c.597 §1]

**433.745 Outdoor mass gathering without permit prohibited.** (1) No organizer shall hold, conduct, advertise or otherwise promote an outdoor mass gathering or allow an outdoor mass gathering to be held on real property the organizer owns, leases or possesses unless a permit to hold such outdoor mass gathering has been issued by the county governing body in which the outdoor mass gathering is to take place.

(2) A permit issued under this section does not entitle the organizer to make any permanent physical alterations to or on the real property which is the site of the outdoor mass gathering. [1971 c.597 §2; 1985 c.758 §3]

**433.750 Permit application; procedure for issuance of permit.** (1) The governing body of a county in which an outdoor mass gathering is to take place shall issue a permit upon application when the organizer demonstrates compliance with or the ability to comply with the health and safety rules governing outdoor mass gatherings to be regulated according to the anticipated crowd and adopted by the Health Division. The application shall include all of the following:

- (a) Name and address of the applicant.
- (b) Legal description of the place of the proposed gathering.
- (c) Date of the proposed gathering.
- (d) Estimated attendance at the proposed gathering.
- (e) Nature of the proposed gathering.
- (f) Such other appropriate information as the county governing body may require in order to insure compliance with rules of the Health Division.

(2) Notice of the application shall be sent by the county governing body to the county sheriff or county chief law enforcement officer, the county health officer and the chief of the fire district in which the gathering is to be held.

(3) Each officer receiving notice of the application under subsection (2) of this section who wishes to comment on the application shall submit such comment in writing to the county governing body not later than the hearing date. The comment may include recommendations related to the official functions of the officer as to granting the permit and any recommended conditions that should be imposed.

(4) The county governing body shall hold a public hearing on the issue of compliance with this section. Notice of the time and place of such hearing including a general explanation of the matter to be considered shall be published at least 10 calendar days before the hearing in a newspaper of general circulation in the county or, if there is none, it shall be posted in at least three public places in the county.

(5) Any decision of a county governing body on an application for a permit to hold an outdoor mass gathering may be appealed to a circuit court for the county as provided in ORS 34.020 to 34.100. [1971 c.597 §3; 1985 c.758 §4]

**433.755 Additional information required before permit issued; liability of permit holder.** (1) In reviewing an application for a permit to hold an outdoor mass gathering, the county governing body may require such plans, specifications and reports as it may deem necessary for proper review and it may request and shall receive from all public officers, departments and agencies of the state and its political subdivisions such cooperation and assistance as it may deem necessary. The county governing body may require the organizers to post a surety bond in an amount up to \$25,000, but not to exceed the estimated potential costs and damages resulting from the gathering. If the county governing body requires the posting of a bond, it shall request assistance from all appropriate public officers, departments and agencies of the state and its political subdivisions in estimating potential costs and damages. The county governing body may waive any part or all of the bond.

(2) In the event of failure to remove all debris or residue and repair any damage to personal or real property arising out of the outdoor mass gathering within 72 hours after its termination and to remove any temporary structures used at the outdoor mass gathering within three weeks after its termination, the county governing body may file suit against the organizer for financial settlement as is needed to remove debris, residue or temporary structures and to repair such damage to real or personal property of persons not attending the outdoor mass gathering. The organizer shall be wholly responsible for payment of any fines imposed under ORS 433.990 (7). [1971 c.597 §4; 1985 c.758 §1]

**433.760 Rulemaking authority.** Notwithstanding any other provisions of law, the Health Division shall, in accordance with the provisions of ORS 183.310 to 183.550, make rules regulated according to anticipated crowds with respect to health and safety at outdoor mass gatherings which provide for:

- (1) Adequate water supply, drainage and sewerage facilities;
- (2) Adequate toilet facilities;
- (3) Adequate refuse storage and disposal facilities;
- (4) Adequate food and sanitary food service, if supplied;
- (5) Adequate emergency medical facilities and communication systems;
- (6) Adequate fire protection; and
- (7) Adequate security personnel and traffic control. [1971 c.597 §5; 1981 c.82 §4; 1985 c.758 §8]

**433.763 Compliance with land use regulations required; criteria for approval.** (1) Any gathering of more than 3,000 persons which continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces shall be allowed by a county planning commission if all of the following occur:

- (a) The organizer makes application for a permit to the county planning commission.
- (b) The applicant demonstrates to the county planning commission that the applicant has complied or can comply with the requirements for an outdoor mass gathering permit set out in ORS 433.750.
- (c) The county planning commission shall make findings that:
  - (A) Any permits required by the applicable land use regulations have been granted; and
  - (B) The proposed gathering:
    - (i) Is compatible with existing land uses; and
    - (ii) Does not materially alter the stability of the overall land use pattern of the area.

(2) The provisions of ORS 433.755 apply to any gatherings reviewed or approved under this section.

(3) A decision granting or denying a permit under this section may be appealed to the county governing body as provided in ORS 215.402 to 215.438.

(4) If a county has not created a planning commission as provided in ORS 215.030, the county governing body, or such other person as the governing body designates shall receive the application and make the findings and decision required by this section. [1983 c.758 §7]

**433.765 Effect on county ordinances adopted under county charter.** Ordinances or regulations of a county enacted under a county charter adopted pursuant to section 10, Article VI, Oregon Constitution, and not inconsistent with ORS 433.735 to 433.770 and 433.990 (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 (7), are not superseded by ORS 433.735 to 433.770 and 433.990 (7) or such rules. Nothing in ORS 433.735 to 433.770 and 433.990 (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 (7) precludes the right of a county to enact ordinances or regulations under a county charter if such ordinances or regulations are not inconsistent with ORS 433.735 to 433.770 and 433.990 (7) or any rules adopted under ORS 433.735 to 433.770 and 433.990 (7). [1971 c.597 §6]

**433.767 Application to gatherings defined by county ordinance.** ORS 433.735 to 433.770 and 433.990 (7) apply to outdoor mass gatherings defined by county ordinance as well as to those defined by ORS 433.735 (1). [1981 c.82 §2]

**433.770 Enforcement.** (1) In addition to and not in lieu of the maintenance of other actions for any violation of ORS 433.745, the district attorney for the county in which an outdoor mass gathering is to be held may maintain an action in any court of general equitable jurisdiction to prevent, restrain or enjoin any violation of ORS 433.745.

(2) Cases filed under the provisions of this section or an appeal therefrom shall be given preference on the docket over all other civil cases except those given equal preference by statute. [1971 c.597 §6a; 1979 c.284 §143]

## PENALTIES

### 433.990 Penalties.

(7) Any organizer, as defined in ORS 433.735, violating ORS 433.745 is punishable, upon conviction, by a fine of not more than \$10,000.