

SECTION 6. EMERGENCY CLAUSE

This ordinance, being immediately necessary for the preservation of the public, peace, health and safety, an emergency is declared to exist and this ordinance shall take effect on immediately upon its passage.

DATED this _____ day of November 2010.

MALHEUR COUNTY COURT:

Judge Dan P. Joyce

Louis M. Wettstein

Jim Nakado

EXHIBIT A

OUTDOOR MASS GATHERING ORDINANCE

SECTION 1. STATUTES AND RULES INCORPORATED

ORS 433.735 to 433.770 and 433.990(6) (the statutes) and OAR 333-039-0005 to 333-039-0055 (the administrative rules) which regulate mass gatherings, are incorporated herein by this reference and apply to outdoor mass gatherings as defined by this ordinance. However, where this ordinance provides a standard, procedure or definition different than the statutes and/or rules, this ordinance shall control.

SECTION 2. DEFINITIONS

As used in this ordinance:

- A. "County Court" means the County Court for Malheur County, Oregon.
- B. "Outdoor mass gathering" means an actual or reasonably anticipated assembly of 750 or more persons at any time on land within the unincorporated areas of Malheur County which continues or can reasonably be expected to continue for more than five (5) hours but not more than 120 hours within any three-month period, which is held primarily in open spaces and not in any permanent structure. Included within the 120 hours is any time necessary to set up the event or clean up afterward.
- C. "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.
- D. "Permanent structure" includes a stadium, an arena, an auditorium, a coliseum, a fairground or other similar established places for assemblies.
- E. "Temporary structure" includes tents, trailers, chemical toilet facilities and other structures customarily erected or sited for temporary use.

SECTION 3. PERMIT REQUIRED

- A. 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 Court.
- B. A permit issued under this ordinance does not entitle the Organizer to make any permanent physical alterations to or on real property.

SECTION 4. APPLICATION

An application, more than sixty (60) days prior to the first day of the gathering, shall be submitted by the Organizer to the County Court. The Application shall include:

- A. Names, addresses, date of birth and telephone number of all persons organizing, promoting and sponsoring the outdoor mass gathering.
- B. Dates, number of days, hours of the days and total duration of the outdoor mass gathering, including set up and clean up.
- C. The location or site of the outdoor mass gathering, including site dimensions. Include legal description, address and zoning designation of site.
- D. Plans for sanitation, fire protection, medical services, public safety, security, parking, traffic flow and public roads to be accessed.
- E. The number of persons anticipated to attend the outdoor mass gathering at any one time, and the number of persons expected to attend the entire event. Organizer must be able to keep a reasonable count of persons and vehicles entering and leaving the outdoor mass gathering and, if necessary, to limit admissions to comply with attendance numbers estimated by Organizer.
- F. Nature of proposed gathering. Food being served and by whom, cost to attend, whether sound amplification will be used, a statement whether alcohol will be made available etc.
- G. Signed certification of the accuracy and truthfulness of the statements made in the application.
- I. Incomplete applications will not be processed.

SECTION 5. FEE

Before accepting an application for an outdoor mass gathering permit, the County Court shall collect an application fee. The fee shall be set, and may be changed, by order or resolution of the County Court. In setting or changing the fee, the County Court will consider the reasonable and necessary costs incurred by the Sheriff, fire agency, County Health and Environmental Health Officers, Road Supervisor and other agencies and officials, in reviewing and processing the application, inspecting the assembly site and ensuring the safety of persons and property at, and in the vicinity of, the outdoor mass gathering. The fee shall not exceed \$5,000, unless the limit in ORS 433.750 (6) is increased. The fee shall be waived or reduced when the County Court finds, by a preponderance of the evidence presented, that the applicant is unable to reimburse the County.

SECTION 6. PERMIT PROCESS FOR OUTDOOR MASS GATHERING

Upon receipt of an application and permit fee to hold an outdoor mass gathering, the County Court shall give notice of the application to the County Sheriff, the fire district, ambulance district and ambulance provider in which the outdoor mass gathering is to be held, the County Environmental and Public Health Officers and the County Road Supervisor. The County Court may, in addition, request comment on the application from any other agency or official who may be affected by the application. The County Court shall publish and post notice, and hold a public hearing on the application in the manner required by ORS 433.750. After holding the hearing and considering the evidence and testimony submitted, the County Court shall determine whether to issue the permit. In any case, the County Court shall not grant a permit for an outdoor mass gathering unless the Organizer can:

A. Demonstrate compliance with or the ability to comply with the administrative rules and conditions of permit.

B. Demonstrate that the proposed outdoor mass gathering will not make any permanent physical alterations to or on the real property, which is the site of the outdoor mass gathering, or materially alter the capability to use the real property upon which the outdoor mass gathering is to be held in the future for uses designated under the real property's comprehensive plan and zoning designation.

C. Demonstrate compliance with or the ability to comply with the requirements of the Oregon Liquor Control Commission (OLCC), if alcohol is served.

D. Demonstrate that the proposed outdoor mass gathering will not unreasonably disturb persons or property in the vicinity of the gathering for reasons such as, but not limited to, excessive noise or dust. When sound amplification is used, no outdoor mass gathering shall be conducted within 1,000 feet of any neighboring residence between the hours of 11:00 p.m. and 9:00 a.m. The County Court, in its discretion, may impose other noise restrictions and specify a noise control level if the County Court determines that doing so is necessary to preserve the comfort and repose of neighboring residents.

E. Consent, in writing, to allow law enforcement, public and environmental health and fire control officers to come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions of the permit issued. If deficiencies are not cured or cannot be cured, a county code enforcement officer may revoke the outdoor mass gathering permit. If the Organizer fails to remove all debris, structures and residue from the site or adjacent property by the end of the 120 hours permitted for the event, a county code enforcement officer may issue a public nuisance citation. In addition, the County may seek other and additional remedies as set out in ORS 433.755 (2).

F. Acknowledge that issuance of a permit by the County Court pursuant to this section shall not authorize an outdoor mass gathering unless the Organizer also secures the written statement of the County Sheriff, as required by OAR 333-039-0050, and the written approval of the chief of the fire district in which the gathering is to be held, or other local fire protection agency with jurisdiction, as required by OAR 333-039-0045.

SECTION 7. WAIVER

An Organizer of an outdoor mass gathering of less than 1,000 persons may request a waiver from the County Court regarding the requirement of published notice and a hearing. The County Court, in its discretion, may waive the requirement of published notice and hearing if the Organizer demonstrates to the County Court's satisfaction that the outdoor mass gathering will involve less than 1,000 persons, that adjacent and nearby residents and property owners have been notified of the outdoor mass gathering, and any concerns of adjacent and nearby residents and property owners have been addressed or will be addressed, and that the waiver is justified under the circumstances.

SECTION 8. INSURANCE

The County Court determines that outdoor mass gatherings inherently create a potential for injury to persons and property. Therefore, Organizers are required to obtain an insurance policy in an amount not exceeding \$1 million. The policy of casualty insurance shall provide coverage against liability for death, injury or disability of any human or for damage to property arising out of the outdoor mass gathering. The County, its officers, agents and employees, the Sheriff, and the County Health Officer shall be named as additional insureds under the policy.

SECTION 9. ADMINISTRATOR

The County Court, by order or resolution, may appoint a person or position to administer this ordinance and applications files pursuant to this ordinance.

SECTION 10. SHERIFF

Upon receipt of an application for an outdoor mass gathering permit, the Sheriff shall consider the requirements of OAR 333-039-0050, Security Personnel.

SECTION 11. FIRE AND EMERGENCY MEDICAL SERVICES

Upon receipt of an application for an outdoor mass gathering permit, the fire district or agency, ambulance service district, ambulance service provider and road supervisor shall consider the requirements of OAR 333-039-0040, Emergency Medical Facilities; 333-039-0045, Fire Protection; and OAR 333-039-0055 Traffic.

SECTION 12. HEALTH OFFICER and ENVIRONMENTAL HEALTH OFFICER

Along with the notice of an application for an outdoor mass gathering permit, the County Court shall request the County Health Officer and Environmental Health Officer to recommend whether to approve or deny the permit considering the requirements of OAR 333-039-0015, Water Supply; OAR 333-039-0020, Drainage; OAR 333-039-0025, Sewerage Facilities; OAR 333-039-0030, Refuse Storage and Disposal; and OAR 333-039-0035, Food and Sanitary Food Service.

SECTION 13. TEMPORARY PERMIT MAY BE REQUIRED

No more than one permit may be issued under this ordinance for an outdoor mass gathering during any three month period for the same Organizer or property, unless the Organizer or landowner also applies for and receives a temporary or conditional use permit pursuant to Malheur County Zoning Ordinance.

SECTION 14. OTHER TYPES OF ASSEMBLIES DISTINGUISHED

A. An actual or reasonably anticipated assembly of less than 750 persons is not an outdoor mass gathering and is not a land use.

B. An actual or reasonably anticipated assembly of 750 or more persons on land which does not constitute and is not reasonably expected to continue for more than five (5) consecutive hours is not an outdoor mass gathering and is not a land use.

C. Outdoor mass gatherings, as defined by this ordinance, are not land uses.

D. An actual or reasonably anticipated assembly of more than 750 persons on land which continues or can reasonably be expected to continue for more than 120 hours within any three-month period within the unincorporated areas of Malheur County is not an outdoor mass gathering, but is a land use, subject to the provisions of ORS 433.763.

E. Events conducted on property where a valid land use permit has been issued for the event by the Malheur County Planning Director or Malheur County Planning and Zoning Commission are not outdoor mass gatherings subject to this ordinance.

SECTION 15. ENFORCEMENT

This ordinance may be enforced as provided by, and violators hereof are subject to the penalties provided in, the Malheur County General Enforcement Provisions, in addition to other remedies and penalties provided by statutes, administrative rules and common law.