

BEFORE THE BOARD OF COMMISSIONERS

FOR MARION COUNTY, OREGON

In the matter of an ordinance permitting)
outdoor mass gatherings; repealing)
Ordinance No. 1036; and declaring an)
emergency.)

ORDINANCE NO. 1230

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS
FOLLOWS:

SECTION 1: Authority

This ordinance is adopted in accordance with ORS 433.735 to 433.770 (2005).

SECTION 2: Regulation of Mass Gatherings

An outdoor mass gathering of people in the unincorporated areas of Marion County shall only be allowed by permit issued by the Board of Commissioners (“the Board”) following a public hearing. The Board may impose reasonable conditions on the outdoor mass gathering in the permit. Except in cases for which this ordinance provides a different standard, procedure or definition, the Board shall issue permits for outdoor mass gatherings in accordance with the procedures and regulations established by ORS 433.735 to 433.770 (2005).

SECTION 3: Definitions and Exceptions

(1) As used in this ordinance:

- a. “Illegal drugs” means any drug, the possession or distribution of which is unlawful under state law or under the Controlled Substances Act, 21 USCA 812, as amended, but does not include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized under the Controlled Substances Act or under other provisions of state or federal law.
- b. “Large gathering” means an assembly of persons whose actual number is, or reasonably can be anticipated to be:
 - i) more than 3,000 persons at any time; or
 - ii) more than 750 persons at any time on each of three calendar days during an assembly that continues or can

reasonably be expected to continue for more than 120 hours;

and is held primarily in open spaces and not in any permanent structure within Marion County. Included within the calculation of hours is any time in excess of 48 hours necessary to set up the event or any time in excess of 48 hours necessary to clean up afterward.

- c. "Organizer" means any person who holds, conducts, stages or sponsors an outdoor mass gathering and includes the owner, lessee and possessor of the real property upon which the outdoor mass gathering is taking place.
- d. "Outdoor mass gathering" means either a large gathering or a small gathering.
- e. "Small gathering" means any assembly of persons whose actual number is, or reasonably can be anticipated to be, less than or equal to 3,000 but more than 750 persons at any time, for a period that continues or can reasonably be expected to continue for more than six hours but not more than 120 hours within any continuous three month period, and that is held primarily in open spaces and not in any permanent structure in the unincorporated areas of Marion County. Included in the six to 120 hours is any time in excess of 48 hours necessary to set up the event or any time in excess of 48 hours necessary to clean up afterward.
- f. "Temporary structure" means tents, trailers, chemical toilet facilities and other non-permanent structures customarily erected or sited for temporary use.

(2) The following events are not outdoor mass gatherings subject to this ordinance:

- a. Events of less than or equal to 3,000 but more than 750 persons conducted at wineries that have valid land use permits issued by Marion County;
- b. Events of less than or equal to 3,000 but more than 750 persons conducted at state parks;
- c. Events conducted on property where a valid land use permit has been issued by Marion County that specifically allows the event to be held on the property and imposes conditions on the conduct of the event.

- d. Events conducted on property where the holding of the event constitutes a pre-existing, non-conforming use allowed pursuant to Marion County Zoning ordinances.
- e. Outdoor mass gatherings that begin before August 8, 2006, and that have less than a total of 1,000 persons.

SECTION 4: Permit Required.

- (1) No organizer shall hold, conduct, stage, sponsor, 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 within the unincorporated areas of Marion County unless the organizer first obtains a permit to hold the outdoor mass gathering.
- (2) No permit shall be issued unless the landowner of the property that is the site of the outdoor mass gathering also signs the application.
- (3) One permit shall be required for each outdoor mass gathering.
- (4) A permit issued under this section does not entitle the Organizer to construct any permanent physical alterations on the real property that is the site of the outdoor mass gathering.
- (5) The Organizer of a proposed outdoor mass gathering shall file an application with the Planning Division of the Public Works Department.
- (6) For any outdoor mass gathering that will begin on August 8, 2006, or thereafter, the application shall be filed at least 45 days prior to the event and shall include the following:
 - a. Name and address of the Organizer.
 - b. Legal description of the location of the proposed outdoor mass gathering.
 - c. The date or dates of the proposed outdoor mass gathering, including the beginning time and termination time of the event.
 - d. Estimated attendance at the outdoor mass gathering.
 - e. Nature of the proposed outdoor mass gathering and whether or not sound amplification will be used.
 - f. A site plan, drawn to scale, and other detailed information showing the type, number and location of all toilets, washing facilities, water

supply, food preparation, food service facilities and solid waste collection sites.

- g. A contact person who shall be easily identified and who shall remain at the outdoor mass gathering site at all times.
 - h. A fire protection plan demonstrating compliance with Section 9.
 - i. Information indicating that the Organizer will comply with all health and safety rules governing outdoor mass gatherings as adopted by the Oregon Department of Human Services and demonstrating compliance with Section 10.
 - j. A public safety plan in accordance with Section 11.
 - k. A parking and traffic control plan, and if appropriate a dust control plan, demonstrating compliance with Section 12.
 - l. A statement of whether alcohol will be made available and if so, by whom and at what location, along with a copy of the Oregon Liquor Control Commission permit.
 - m. Such other appropriate information as the Public Works Director may require in order to insure compliance with the provisions of this chapter, as well as rules of the Oregon Department of Human Services. If such additional information is not supplied within two weeks of the Public Works Director's request, the application shall be deemed incomplete.
- (7) For any outdoor mass gathering of 1000 persons or more that will begin prior to August 8, 2006, the application shall be filed as much in advance as possible prior to the first day of the proposed gathering and shall include the information required in Section 4(6).
- (8) Marion County may charge applicants a fee reasonably calculated to reimburse the county for its reasonable and necessary costs in receiving, processing and reviewing applications to hold outdoor mass gatherings. The fee imposed shall not exceed \$5,000.00. This fee does not exempt an applicant from the responsibility to obtain any other permit or pay any other fee that may otherwise be required including, but not limited to, temporary restaurant license fees, Oregon Liquor Control Commission fees or land use permit application fees.
- (9) The applicant shall pay the appropriate application fee as provided in the County's fee schedule.

- (10) Incomplete applications shall be denied and the application fee, less County costs, shall be returned to the permit applicant.
- (11) The Board may waive all or part of the permit fee upon a showing by the Organizer of good cause to reduce or waive the fee.

SECTION 5: Hearing Required.

No application for an outdoor mass gathering permit shall be approved without review by the Board following a public hearing.

SECTION 6: Notice of Public Hearing.

- (1) The Public Works Director shall send notice of the Board's public hearing on an application for an outdoor mass gathering to the following officers at least ten calendar days prior to the hearing: County Risk Manager, County Sheriff, County Environmental Health Officer, and the chief of the fire district and ambulance service district (if different) in which the outdoor mass gathering is proposed.
- (2) The Public Works Director shall develop a policy for notifying neighboring property owners that an application for an outdoor mass gathering has been received and that a hearing has been scheduled.

SECTION 7: General Approval Criteria.

- (1) The Organizer shall demonstrate that it can comply with the provisions of this ordinance.
- (2) An outdoor mass gathering permit shall be approved upon demonstration by the Organizer of compliance with or the ability to comply with the provisions of this ordinance, as well as all health and safety rules governing all outdoor mass gatherings, adopted by the Oregon Department of Human Services.
- (3) If the application is for a large gathering, the applicant must obtain a conditional use permit for a temporary use in accordance with Marion County Zoning Ordinance chapters 119 and 126 before the large gathering permit application will be approved. The procedure to obtain a conditional use permit will be independent of the procedure to obtain an outdoor mass gathering permit under this ordinance, except that the Board may, at its discretion, elect to consider applications for both permits at one public hearing. If the Board does not elect to consider applications for both permits at one hearing, the application for the outdoor mass gathering for a large gathering shall not be processed until the conditional use permit has been obtained.

- (4) The Board, in its discretion, may approve a subsequent small gathering that is within three months of a prior small gathering on the same property. If a second small gathering is approved, no third small gathering shall be allowed to occur within six months of the first small gathering.
- (5) Each public official receiving notice of the application who wishes to comment on the application shall submit such comment in writing to the Board no later than the date and time for the hearing. 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. The Board may consider and impose any reasonable condition the Board deems necessary including any suggested condition submitted by a public official who received notice of the outdoor mass gathering application or any suggested condition submitted by a member of the public.
- (6) The Board may deny an application or impose reasonable conditions if evidence is provided to the Board indicating that an organizer has previously violated any provision of this ordinance.
- (7) The Board may impose a permit condition requiring compliance with all or portions of the Marion County Noise Ordinance as set forth in Section 15(3).

SECTION 8: Insurance.

- (1) After consultation with the Marion County Risk Manager, the Board may require an organizer to obtain a commercial general liability policy in an amount commensurate with the risk and in compliance with standards established by the Marion County Risk Manager.
- (2) The Marion County Risk Manager shall establish standards for commercial general liability policies required for outdoor mass gatherings that include: minimum coverage amounts, policy type, minimum financial ratings for carriers, required additional coverage, requirements for naming additional insured parties, policy duration and any other requirement that the Marion County Risk Manager deems necessary.
- (3) The Organizer shall furnish the Public Works Director with an insurance certificate and a copy of the insurance policy complying with the insurance requirements imposed by the Board pursuant to subsection (1) of this section at least seven days before the first day of the outdoor mass gathering.

- (4) Any permits for an outdoor mass gathering may be voided by the Public Works Director if the Organizer fails to comply with subsection (3) of this section.
- (5) Any insurance premiums that must be paid to meet the requirements of this section are the responsibility of the Organizer.

SECTION 9: Fire Protection Plan.

- (1) No permit shall be granted under this ordinance unless the Organizer has a fire protection plan approved by the Fire Protection District Officer for the type, size, number and location of fire protection devices and equipment available at, in or near any location, including outdoor sites, building, tents, stadium or enclosure, wherein or whereupon more than 10 persons may be expected to congregate at any time during the course of an outdoor mass gathering.
- (2) If the site for which the permit is applied for is located outside a fire prevention district, the Organizer must show approval from the office of the State Fire Marshal or a fire prevention district that would respond in the event of an emergency.

SECTION 10: State Health Rule Compliance and Medical Service.

The County Environmental Health Division shall have responsibility for approving plans relating to water supply, sewerage facilities, refuse storage and disposal, food and sanitary service, and emergency medical facilities in compliance with this ordinance and rules governing outdoor mass gatherings, adopted by the Oregon Department of Human Services. Each outdoor mass gathering shall have no less than one first aid station staffed by two adult individuals trained in first aid techniques.

SECTION 11: Public Safety.

- (1) Prior to or on the date of application submittal, the Organizer must submit plans for public safety at the outdoor mass gathering to the Sheriff for approval demonstrating the following:
 - a. Adequate parking control and crowd protection policing must have been contracted for or otherwise provided by the Organizer. There shall be provided one parking control person for each 250 persons expected or reasonably expected to be in attendance at any time during the event. Further, there shall be provided one crowd control person for each 100 persons, expected or reasonably expected to be in attendance at any time during the event. The Sheriff may approve plans that provide for a lesser number of parking control or crowd protection personnel than set forth above, if in the Sheriff's discretion,

adequate safety and security can be maintained under the circumstances. The Organizer shall submit the names of the proposed parking control personnel to the Sheriff.

b. The Organizer shall submit the names and necessary background information, on forms provided by the Sheriff, for all crowd control personnel to be used during the outdoor mass gathering for investigation by the Sheriff as to fitness. Crowd control personnel must meet the following minimum standards in order to be approved as suitable by the Sheriff:

- i. Be 21 years of age or older;
- ii. Be in good physical health;
- iii. Never have been convicted of a felony and must not have been convicted of a misdemeanor involving moral turpitude in the last five years; and
- iv. Either have received reasonable minimum training in law enforcement, security or relevant on-the-job experience.

(2) All of the policing personnel must wear an appropriate identifying uniform and must be on duty during the entire outdoor mass gathering unless a relief schedule has been planned and approved. A relief schedule will only be approved by the Sheriff when sufficient policing strength on duty has been maintained.

(3) It shall be the duty of the policing personnel to report any violations of the law to the Sheriff, the Sheriff's deputies or representatives and to take whatever action as can be reasonably expected of them to enforce the law.

SECTION 12: Parking and Traffic Control.

Prior to or on the date of application the Organizer shall provide the Public Works Director with a parking and traffic control plan acceptable to the Public Works Director. The plan shall include a scale drawing showing the parking facilities within or adjacent to the location for which the permit is requested. Ingress and egress shall be shown on the plan and provide for safe movement of any vehicle at any time to or from the parking area. The Public Works Director may require that flaggers, traffic control devices or dust control measures be used during the outdoor mass gathering to ensure the safe and efficient flow of vehicles. If flaggers, traffic control devices or dust control measures are required, the plan must include details showing their expected use and placement. The use of flaggers, traffic control devices or dust control measures must comply with standards established by the Marion County Department of Public Works.

SECTION 13: Permit Posting.

Any permit issued as provided in this ordinance shall be kept posted in a conspicuous place upon the premises of the assembly. No permit shall be transferable or assignable without the consent of the Board. No rebate or refund of money paid for a permit shall be made.

SECTION 14: Inspection of Premises.

- (1) No application shall be granted under this ordinance unless the Organizer agrees and consents, in writing as part of the application for the permit, to allow law enforcement, public 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 pursuant to this ordinance, and any other applicable laws or ordinances.
- (2) If any inspections described above reveal deficiencies in compliance with State or local law, the inspectors may return as often as needed until the deficiencies are cured. If the deficiencies are not cured or cannot be cured, the county Sheriff may terminate the outdoor mass gathering or extended outdoor mass gathering as provided in Section 17(3).

SECTION 15: Restricted Hours of Operation.

- (1) 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.
- (2) If written consent from neighboring property owners and residents are submitted with the application, the Board may modify these hours in the permit.
- (3) The Board, in its discretion, may require that an outdoor mass gathering comply with all or portions of the Marion County Noise Ordinance if the Board determines that doing so is necessary to preserve the comfort and repose of neighboring residents.

SECTION 16: Organizer Responsible for Preserving Order.

It is the intention of this ordinance to put the burden of preserving order upon the organizer of the outdoor mass gathering, and if any outdoor mass gathering in the County is not being operated in accordance with the rules and regulations prescribed in this ordinance and as set forth in state law, the organizer shall be subject to revocation of the permit, and the organizer or other individual responsible subject to such other sanction as the law and this ordinance provide.

SECTION 17: Enforcement.

- (1) The Organizer shall keep a reasonable count of persons and vehicles entering and leaving the outdoor mass gathering.
- (2) If at any time during the outdoor mass gathering held under a valid permit, the number of persons or vehicles attending the outdoor mass gathering exceeds by 10 percent or more the number of persons or vehicles estimated in the permit application, the Sheriff, or any Sheriff's deputy, has the authority to require the Organizer to limit further admissions until a sufficient number of individuals or vehicles have left the site to bring the actual attendance down to the number estimated by the Organizer.
- (3) For any outdoor mass gathering held under a valid permit, the County Sheriff has the authority to order the crowd to disperse and leave the outdoor mass gathering site if the Organizer cannot maintain order and compliance with all applicable state and local laws or refuses to maintain order and compliance with state and local laws or refuses or is unable to adhere to the terms and conditions of the permit.
- (4) In addition to state law provisions in ORS Chapter 433, including ORS 433.770(1), Marion County Legal Counsel may maintain an action in any court of general jurisdiction to prevent, restrain, or enjoin any violation of ORS 433.745.
- (5) If the organizer fails to remove all debris or residue from the event site or adjacent property within 72 hours after termination time of the event, or fails to remove all temporary structures within three weeks after the termination time of the event, any county code enforcement officer may issue citations to any organizer of the event. The county code enforcement officers may also issue citations to any persons who have left behind debris at the site or on adjacent property.
- (6) In addition to any other remedies provided, if the outdoor mass gathering site is not restored to its previous condition, or better, the County may arrange for clean up of the site, and then file an action for damages against the organizer and the landowner or successor landowner.
- (7) If any organizer violates any provisions of this ordinance, the Board may immediately revoke any permit for an outdoor mass gathering and may seek any legal remedy available.

SECTION 18: Intoxicating Liquor Prohibited.

- (1) Except as provided in subsection (2) of this section, no Organizer, landowner or any person having charge or control thereof at any time when an outdoor mass gathering is being conducted shall permit any person to bring into such outdoor mass gathering or upon the premises thereof, any intoxicating liquor, or permit intoxicating liquor to be consumed on the premises, and no person during such time shall take or carry onto such premises or drink thereon intoxicating liquor.
- (2) Subsection (1) of this section shall not apply to the sale and consumption of intoxicating liquor from a facility located on the premises of an outdoor mass gathering section if the express approval of the Oregon Liquor Control Commission has been obtained in the form of a temporary license or letter of authority.

SECTION 19: Use or Possession of Illegal Drugs Prohibited.

No firm, person, society, association or corporation conducting an outdoor mass gathering, nor any person having charge or control thereof at any time when an outdoor mass gathering is being conducted shall permit any person to bring into the outdoor mass gathering, or upon the premises thereof, any illegal drugs, nor permit illegal drugs to be used on the premises.

SECTION 20: Compliance Required.

The terms and conditions of this ordinance constitute minimum health, sanitation and safety provisions; and failure to comply with the terms and conditions of this ordinance or state law shall constitute a public nuisance and shall be subject to all civil and equitable remedies as such.

SECTION 21: Review of Board's Action.

All decisions of the Board concerning the issuance of a permit for an outdoor mass gathering shall be subject to review by the Circuit Court of the State of Oregon in Marion County only by writ of review under the provisions of ORS 34.010 to 34.100. Decisions of the Board concerning the issuance of a conditional use permit under Marion County Zoning Ordinance chapters 119 and 126 are subject to review as land use decisions.

SECTION 22: Public Nuisance and Violations.

- (1) Except as provided in subsection (2) of this section, violation of any provision of this ordinance or the erection or construction of a permanent physical alteration to the real property that is the site of the outdoor mass

gathering shall constitute a Class A violation as provided in ORS Chapter 153.

- (2) Any violation of Section 4(1) of this ordinance is punishable upon conviction by a fine of not more than \$10,000.00 as provided for in ORS 433.990 (2005).
- (3) Enforcement shall be accomplished through the Marion County Enforcement Ordinance.

SECTION 23: Repeal of prior Mass Gathering Ordinance.

Marion County Ordinance No. 1036 is repealed in its entirety.

SECTION 24: Emergency Clause.

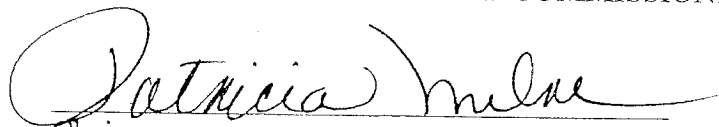
This ordinance being necessary for the immediate preservation of the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect immediately upon its passage.

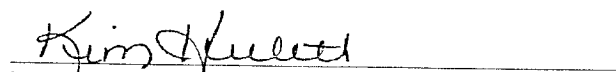
SECTION 25: Severability.

The invalidity of any section or part of this ordinance shall not affect the validity of the remaining sections or parts.

Signed and finalized at Salem, Marion County, Oregon, this 21st day of June 2006.

MARION COUNTY BOARD OF COMMISSIONERS


Chair


Recording Secretary

G:/Legal/Files2005/MassGatheringOrdinance/OMG Ordinance June15.doc