

Enrolled
House Bill 2790

Sponsored by COMMITTEE ON AGRICULTURE AND LAND USE (at the request of Representative Brian Clem)

CHAPTER

AN ACT

Relating to mass gatherings; amending ORS 433.735, 433.750, 433.763, 433.765 and 433.767.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 433.763 is amended to read:

433.763. (1) **An application for an outdoor mass gathering for which the county decides that a land use permit is required, or for any gathering of more than 3,000 persons any part of which is held outdoors and 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] a period exceeding that allowable for an outdoor mass gathering,** 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] (a) [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[,] **and 433.755;**

[c] *The county planning commission shall make findings that:*

[A] (b) [Any] Permits required by the applicable land use regulations have been granted; and

[B] (c) The proposed gathering:

[i] (A) Is compatible with existing land uses; and

[ii] (B) 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) (2) **A hearings officer, county planning commission or other person or body that the county designates may make findings and approve or deny an application for a permit under this section.** 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.

(3) **Notwithstanding subsection (1) of this section, a county may not require a permit under ORS 433.750 for events otherwise permitted under ORS 215.213 (11), 215.283 (4), 215.451 or 215.452.**

[(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.*]

SECTION 1a. If Senate Bill 287 becomes law, section 1 of this 2019 Act (amending ORS 433.763) is repealed and ORS 433.763 is amended to read:

433.763. (1) **An application for an outdoor mass gathering for which the county decides that a land use permit is required, or for any gathering of more than 3,000 persons any part of which is held outdoors and 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] a period exceeding that allowable for an outdoor mass gathering,** 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) (a) [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[.] and 433.755;*

[*(c) The county planning commission shall make findings that:*]

[*(A) (b) [Any] Permits required by the applicable land use regulations have been granted; and*

[*(B) (c) The proposed gathering:*

[*(i) (A) Is compatible with existing land uses; and*

[*(ii) (B) 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) (2) A hearings officer, county planning commission or other person or body that the county designates may make findings and approve or deny an application for a permit under this section.* 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.

(3) Notwithstanding subsection (1) of this section, a county may not require a permit under ORS 433.750 for events otherwise permitted under ORS 215.213 (11), 215.283 (4), 215.451 or 215.452 or section 2, chapter __, Oregon Laws 2019 (Enrolled Senate Bill 287).

[*(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.*]

SECTION 2. ORS 433.735 is amended to read:

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

(1) “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.

[*(1) (2) “Outdoor mass gathering,” unless otherwise defined by county ordinance, means an actual or reasonably anticipated assembly of more than 3,000 persons which [continues or can reasonably be expected to continue for more than 24 consecutive hours but less than 120 hours within any three-month period and which] is held primarily in open spaces and not in any permanent structure and within any three-month period is expected to continue for more than 24 hours and not more than 120 hours, excluding hours required for ingress to and egress from a gathering that is located on lands zoned for exclusive farm use that are 60 miles or farther from the nearest interstate highway.*

[*(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.

SECTION 3. ORS 433.750 is amended to read:

433.750. (1) **Unless a county decides that a land use permit is required,** the [governing body of a] county in which an outdoor mass gathering is to take place shall issue a permit upon application [when] **if** 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 Oregon Health Authority. The application *[shall]* **must** 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]* **ensure** compliance with rules of the authority.

(2) Notice of the application *[shall]* **must** be sent by the county *[governing body]* to the county sheriff or county chief law enforcement officer, the local 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]* **may** 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]* **the** hearing including a general explanation of the matter to be considered *[shall]* **must** 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]* **must** be posted in at least three public places in the county.

(5) *[Any]* **Except as provided in ORS 433.763**, a 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.

(6) A county *[governing body]* may charge permit applicants a fee reasonably calculated to reimburse the county for its reasonable and necessary costs in receiving, processing and reviewing applications for permits to hold outdoor mass gatherings. However, a fee authorized by this subsection *[shall]* **may** not exceed **the greater of \$5,000 or \$2 per anticipated attendee of the gathering** *[and shall not be charged when the governing body finds, by a preponderance of the evidence presented to the governing body, that the applicant is unable to reimburse the governing body]*.

SECTION 4. ORS 433.767 is amended to read:

433.767. 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)]*.

SECTION 5. ORS 433.765 is amended to read:

433.765. *[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]* **and** any rules adopted under ORS 433.735 to 433.770 and 433.990 (7) *[precludes]* **do not preempt** 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), **except that a county may not, under ORS 433.750 or 433.763, require a land use permit for a gathering of 3,000 people or fewer, any part of which is held outdoors.**

Passed by House April 16, 2019

Repassed by House June 5, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 23, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State