

# Protecting Rural & Resource Land

## Outdoor Mass Gatherings (OMGs) HB 2790

1000  
friends  
of Oregon

### What is an outdoor mass gathering?

“Outdoor mass gathering” refers to large gatherings of people that last for short periods of time (such as a few days). Outdoor mass gatherings are typically music festivals. The legal definition of outdoor mass gathering is convoluted, and this lack of clarity has resulted in confusion and litigation.

### The Problem

The number of very large gatherings of people taking place on rural lands, and specifically farmlands and ranchlands, has increased, particularly with multi-day music festivals. These gatherings are a land- and resource-intensive use, often using more local water, fire and safety resources than many other land uses.

The lack of clear definitions and jurisdictional issues makes the permitting process confusing for local governments, the applicant and the affected public. Some gatherings have given rise to parallel legal challenges.



Photo: Applejam Music Festival, Jackson/Joeshphine Counties

### Examples

The following recent OMGs have had issues resulting in legal challenges prior to or enforcement issues during or after the events:

- Simbiosis (Eclipse Festival) – Crook County: resulted in \$250K of damages to the County because applicant failed to provide/follow traffic and safety plan. Also exceeded attendance limitations by 25,000 people.
- Applejam Music Festival – Jackson/Joesphine Counties: event organizers didn't get a permit, County had to file for injunction, event ultimately denied by the county.
- What the Festival – Wasco County: resulted in both Circuit Court and LUBA cases, went to Court of Appeals, injunctive relief (enforcement) issues still pending.
- Bi-Mart Country Music Festival – Marion County: requires conditional use permit in addition to the OMG permit. County denied permit. Applicant did not appeal but has moved the festival to Linn County where no land use permit is required.

**Very large events on resource land should be treated as nonresource uses subject to land use review, and should require a conditional use permit. Currently they are exempt.**

Despite being short in duration, these events are often extremely large and have widespread impacts on surrounding lands, people and resources. Other associated development is often constructed to support the event, such as new structures, road improvements, and other infrastructure. These developments often occur where the events are planned to be repeated every year. But these improvements are outside of the mass gathering permit process (which does not allow any permanent structures), causing additional confusion over whether separate land use permits are needed.

# Legislative Background & Recommendations

## HB 2790

The primary definition of outdoor mass gathering is found in ORS Chapter 433. ORS 433.735(1). It states: "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."

Note that this definition allows counties to create their own definition of outdoor mass gathering.

For land use purposes, outdoor mass gatherings are addressed in ORS 197.015(10)(d), which provides that the following gatherings are **not** land use decisions subject to LUBA review: "except as provided in ORS 215.213 (13)(c) or 215.283 (6)(c), authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period."

ORS 215.213(13)(c) and 215.283(6)(c) state: "The authorizations provided by [the section authorizing agritourism events] are in addition to other authorizations that may be provided by law, except that "outdoor mass gathering" and "other gathering," as those terms are used in ORS 197.015 (10)(d), do not include agritourism or other commercial events and activities.

What all of these definitions boil down to is a complicated and convoluted path to figuring out whether a proposed event is subject to land use review, particularly when counties have written code addressing these events that does not match state law. Confusion over these definitions has led to litigation over what type of permit is required for certain proposed events, what criteria apply and what the review process is.

## Proposed Statutory Change

Amend ORS 197.015(10)(d) so that **only** gatherings fewer than 3,000 people, regardless of duration, are exempted from land use review. Make gatherings of over 3,000 people on resource lands as a conditional use. Revise Chapter 433 definition to cover gatherings 500 to 3,000.

## Results:

- Gatherings over 3,000 people, regardless of duration, on farmland or forestland will require a conditional use permit. This permit will be subject to LUBA review.
- Gatherings from 500 to 3,000 people, regardless of duration, will go through the county permit process set forth in ORS 433.750. This permit will be subject to circuit court review.
- Gatherings less than 500 people will not require a permit.

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