

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
LINCOLN COUNTY, OREGON

AN ORDINANCE RELATING TO REGULATING AND)
LICENSING ENTERTAINMENT ASSEMBLIES;)
ESTABLISHING LICENSING PROCEDURES;)
AND PRESCRIBING OFFENSES AND PENALTIES)

✓ ORDINANCE NO. 16

WHEREAS, the Board of County Commissioners of Lincoln County, Oregon, finds and declares that it is necessary for the protection of the health, welfare, safety and morals of the general public to regulate and license by ordinance large assemblies of the public gathered for musical assemblies, automobile racing, motorcycle racing, other racing events and other large assemblies of an entertainment nature to ensure that proper sanitary, police, health and safety measures are taken to adequately protect the people attending or taking part in the gathering as well as other members of the general public; and

WHEREAS, ORS 670.210-240 allow the regulation by counties of said musical assemblies, racing events and other entertainment businesses when desirable for the protection of the public health, welfare, safety and morals; now therefore Lincoln County ordains as follows:

SECTION 1. DEFINITIONS

a. Entertainment Assembly - Shall include all assemblies of the public gathered either indoors or outdoors for musical festivals, concerts, and other musical entertainment; automobile racing; motor-cycle racing; horse racing; dog racing; boat racing; other racing events; and for other entertainment purposes.

b. Sheriff - Shall mean and refer to the Lincoln County Sheriff, his duly authorized deputies and representatives.

c. Health Department - Shall mean and refer to the Lincoln County Health Department and employees and representatives thereof.

SECTION 2. BASIC CLAUSE

It shall be unlawful for any person, persons, corporation, organization, landowner, or lessor to allow, promote, conduct, permit or cause to be advertised, an entertainment assembly that said person, persons, corporation, organization, landowner or lessor believes or has reason to believe will attract 2,000 or more persons, whether or not a charge or contribution is required for admission, unless a completed application, in compliance with this ordinance, has been submitted to the Clerk of the Board of County Commissioners for the operation of said entertainment assembly. One such permit shall be required for each entertainment assembly. Criminal or civil liability for failure to comply with the provisions of this ordinance shall rest in all persons, corporations, organizations, landowners or lessors who are responsible for obtaining permits under this provision.

SECTION 3. PERMIT REQUIRED - FEE

No entertainment assembly shall be held in Lincoln County outside the limits of incorporated cities and towns unless the person, persons or corporation sponsoring said entertainment assembly shall first obtain a permit as hereinafter provided, and shall comply with all regulations herein provided. The fee for said permit to cover the cost of inspecting facilities and issuing and administering same prior to the event shall be in accordance with the following schedule:

- a. 2,000 to 5,000 persons reasonably anticipated to attend - \$250.00
- b. 5,000 and more persons reasonably anticipated to attend - \$350.00

Written application for each entertainment assembly permit shall be made to the Clerk of the Board of Lincoln County Commissioners

thirty (30) or more days prior to the first day upon which such entertainment assembly is to be or may be held by filing the same with the Clerk of the Board of Lincoln County Commissioners, and shall be accompanied by a deposit of the fee herein required. It shall be signed by the person or persons organizing and sponsoring said assembly and verified upon oath. No person who has not reached the age of 21 years shall be entitled to make application for permit or to sponsor an entertainment assembly. Each application shall state the names of all persons organizing, promoting or sponsoring said assembly; shall state the dates, the number of days and the hours of the day of the assembly; shall state the location to be utilized for said assembly; and shall also state that the applicant or applicants will abide by all rules and regulations of this ordinance and other regulations and law for the protection of the health, morals and safety of the persons employed therein, and for the patrons or participants thereof, and for the public. Each application shall be accompanied by the fingerprints and a three inch by five inch photograph of each and every organizer, promoter and sponsor of said assembly. Said fingerprints and photographs may be taken by the Sheriff at the request of the applicant.

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Any permit issued as herein provided shall be kept posted in a conspicuous place upon the premises of said assembly. No permit shall be transferable or assignable without the consent of the Board of County Commissioners. In the event that an application for a permit shall be withdrawn or denied, a rebate or refund of the deposited fee may be allowed by the Board of County Commissioners.

If a request for rebate or refund is made by an applicant, any affected agency or department may show expenses incurred with regard to the particular application for permit. The Board of County

Commissioners may deduct such expenses from the deposited fee and rebate or refund to the applicant the sum, if any, that may remain.

SECTION 4. APPLICATION PROCEDURE - APPROVAL

Within five (5) days after the application for said permit is made, the applicant shall submit a copy of the application, together with other information as required by this ordinance, to the appropriate affected agencies or departments as hereinafter enumerated. No permit shall be issued unless the respective agency or department has approved as to each condition.

When any type of physical facility is required or subject to approval hereunder, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. All such facilities shall be in existence five (5) days or more before the event for which an application is submitted and shall be subject to inspection by the approving agencies or departments. Should the actual facility or construction fail to meet the standards approved in the proposed plans such preliminary approval shall be withdrawn and any and all permits granted subject to such approval shall be withdrawn.

Said approval shall be on forms provided and shall be filed with the Lincoln County Clerk.

a. Condition #1 - Sanitary Facilities

The Health Department shall have the responsibility for approving all sanitation and related facilities to ensure that reasonable minimum standards have been or will be met by the applicant. In this regard, the application must provide the Health Department with a sketch and other detailed information showing the type, number and location or proposed location of all toilets, washing facilities, water supply facilities, food preparation and food service facilities, and refuse containers.

Said approval by the Health Department shall indicate the number, type and location (when appropriate) of the toilet, washing and water supply facilities. If food is to be served on the premises, approval must be given as to the type of food preparation and food service facilities to be provided.

b. Condition #2 - Fire Protection Standards

No permit shall be granted hereunder unless the applicant has shown that the appropriate Fire Protection District Officer has approved fire protection devices and equipment available. Such approval must extend to any building, tent, stadium or enclosure wherein or whereupon more than ten (10) persons may be expected to congregate at any time during the course of such entertainment, amusement or assembly for which a permit is hereunder required, and to potentially flammable material in the area, including but not limited to trees, grass and brush. If the site for which the permit is applied is located outside a Fire Protection District, the applicant must show approval from the office of the State Fire Marshal.

Approved minimum fire protection equipment for any type of motorized racing event shall include three (3) five-pound CO² fire extinguishers.

c. Condition #3 - Medical Services

The Health Department shall have responsibility for approving plans as to medical service required for the entertainment assembly. Each entertainment assembly shall have as a minimum one ambulance and a first aid station staffed by two adult individuals trained in first aid techniques.

All motorized racing events must have an ambulance with attendants present on standby at the start of all races and during all races and time trials or the race or time trial must stop until the ambulance and attendants are present.

d. Condition #4 - Public Safety

The applicant must submit his plans for public safety at the entertainment assembly to the Sheriff for his approval.

(1) Adequate traffic control and crowd protection policing must have been contracted for or otherwise provided by the applicant.

There shall be provided one traffic 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.

(2) The applicant shall submit the names and necessary background information on forms provided by the Sheriff for all traffic control and crowd control personnel to be utilized during the entertainment assembly for investigation by the Sheriff as to fitness.

All such personnel must meet the following minimum standards in order to be approved as suitable by the Sheriff:

(a) Be 21 through 65 years of age.

(b) Be in good physical health.

(c) Never have been convicted of a felony or misdemeanor involving moral turpitude.

(d) Either have received reasonable minimum training in law enforcement or have on the job experience in law enforcement.

All of said policing personnel must wear an appropriate identifying uniform and must be on duty during the entire entertainment assembly unless a relief schedule has been planned and approved.

A relief schedule will be approved by the Sheriff only when sufficient policing strength on duty has been maintained to meet the above-described minimum strength standards.

It shall be the duty of said policing personnel to report any violations of the law to the Sheriff, his deputies, or representatives and attendants are present.

and to take whatever action as can reasonably be expected of them to enforce the law.

e. Condition #5 - Parking Facilities

The applicant shall provide the Sheriff with a scale drawing showing adequate parking facilities have been made available within or adjacent to the location for which the permit is requested. Such parking facilities shall provide parking space for one vehicle for every four persons expected or reasonably to be expected to attend such event. Adequate ingress and egress shall be provided from such parking area to facilitate the movement of any vehicle at any time to or from the parking area. Provided, that should busses be used to transport the public to said event it shall be shown that public parking or parking as described above is available at any site from which busses are scheduled to pick up persons to transport them to said event.

SECTION 5. BOND OF INDEMNITY

No permit shall be issued hereunder unless the applicant has on deposit with the Lincoln County Clerk the following sum of cash or bond as an indemnity to save and protect the streets, pavements, bridges, road signs and other property of the county from any and all damages that may be caused by vehicles, employees, or participants in such entertainment assembly and to be used, if necessary, to restore the grounds where such entertainment assembly is held to a sanitary condition and pay all charges and losses to the county for damages to the streets, bridges, and other property:

- a. \$10,000.00 when attendance of 2,000 to 5,000 persons is reasonably anticipated.
- b. \$25,000.00 when attendance over 5,000 persons is reasonably anticipated.

When a dispute arises between the parties as to the number of persons anticipated to attend, the decision of the Board of Commissioners

thereon establishing the amount of bond required and the permit fee shall be final and controlling.

Provided further, that should the licensed event require police, sanitary and/or fire protection services in excess of services customarily supplied, such added expense shall be recoverable from the principal and its surety out of the cash on deposit and/or the bond. The deposit or its balance shall be returned when the Board of County Commissioners certifies to the Clerk that no damage has been done and that the county did not incur additional expenses due to said licensed event or that the cost of the above has been paid by the permittee.

In addition, the permit applicants shall be required to furnish evidence of liability insurance providing for a minimum of \$100,000.00 bodily injury coverage per person; \$300,000.00 bodily injury coverage per occurrence and \$100,000.00 property damage coverage, naming Lincoln County as an additional insured.

SECTION 6. INSPECTION

No application shall be granted hereunder unless the applicant shall in writing upon the application for such permit consent 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 thereunder.

SECTION 7. DURATION OF OPERATION

No entertainment assembly shall be conducted in the unincorporated areas of Lincoln County within 1,000 feet of any residence between the hours of 12:01 a.m. and 9:00 a.m. and in all other areas between the hours of 2:00 a.m. and 9:00 a.m.

The use of amplified noise shall be regulated in such a manner that it shall not interfere with the normal usage of any

school, church, residence or other permanent place of human habitation unless prior written consent is obtained from all affected persons. A sound level in excess of 70 decibels prior to 10:00 p.m. and in excess of 50 decibels after 10:00 p.m. (as measured upon the A scale of a standard sound level meter on affected property) shall constitute interference.

SECTION 8. INTOXICATING LIQUOR PROHIBITED

No firm, person, society, associated or corporation conducting an entertainment assembly, nor any person having charge or control thereof at any time when an entertainment assembly is being conducted shall permit any person to bring into said entertainment assembly, or upon the premises thereof, any intoxicating liquor, not permit intoxicating liquor to be consumed on the premises, and no person during said time shall take or carry onto said premises or drink thereon intoxicating liquor. In accordance with ORS 670.220 (5) (a) this provision shall not apply to the sale and consumption of intoxicating liquor from a facility located on the premises of an entertainment assembly when licensed by the State of Oregon.

SECTION 9. CROWD LIMITATION

If at any time during said entertainment assembly the size of the crowd exceeds ten percent (10%) of the number of persons expected to be in attendance, the Sheriff, or any of his deputies, shall require the permittee or sponsor to limit further admissions until sanitation, parking, fire, health, traffic, medical, and crowd control requirements have been brought into conformity with the standards herein.

All entertainment assemblies operating without a permit under the terms of this ordinance due to the fact that less than 2,000 persons where reasonably anticipated to attend shall limit attendance therein to 1,999 persons.

SECTION 10. DUTY OF PRESERVING ORDER PLACED ON OPERATOR

The burden of preserving order shall be upon the operator of the entertainment assembly. Any permit granted under this ordinance may be revoked at any time without notice or formal hearing by the Board of County Commissioners and/or the Lincoln County Sheriff upon their finding that any police, sanitary or fire rule or regulation set forth by this ordinance and/or state law has been violated. The revocation of any permit granted under this ordinance shall not preclude the imposition of further penalties as provided for in this ordinance and state law.

SECTION 11. COMPLIANCE

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

SECTION 12. PENALTIES

Any person who shall violate or fail to comply with any provision of this ordinance, or, who, having obtained a permit hereunder, wilfully failed to continue to comply with the terms and conditions thereunder, or who shall counsel, aid or abet such a violation or failure to comply shall be deemed guilty of a misdemeanor and shall be punished, upon conviction, by imprisonment for not more than thirty (30) days or by a fine of not more than \$1,000.00 or both. A failure from day to day to comply with this ordinance shall be a separate offense for each such day.

SECTION 13. EXCLUSION

This ordinance shall not apply to any regularly organized and supervised school district activity or program that takes place on school property, nor to any activity of a municipal corporation assemblage to 1,000 persons.

Or government agency. A permit shall not be required for non-recurring assemblies of a duration not greater than one day nor longer than 5 hours during that day. However, no person, persons, corporation or organization shall conduct or permit an entertainment assembly as defined by this ordinance unless notice in writing of the event is filed with the Clerk of the Board of County Commissioners at least ten (10) days prior to the event. Such notice shall state the time, place, nature of the event and the names of persons responsible.

SECTION 14. REVIEW OF BOARD'S ACTION

All decisions of the Board of County Commissioners under this ordinance shall be reviewable by the Circuit Court of the State of Oregon for the County of Lincoln only by writ of review under the provisions of ORS Chapter 34.010 through 34.100.

SECTION 15. SEVERABILITY

If any provision of this ordinance, or its application to any persons or circumstances is held invalid, the remainder of this ordinance, or the application of the provision to other persons or circumstances is not affected.

SECTION 16. EFFECTIVE DATE

This ordinance shall be in full force and effect on the 30th day after being enacted.

ENACTED in Newport, Oregon, This 22 day of September, 1970.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Albert D. Strand
Chairman

Mike Miller
Commissioner

Arthur ...
Commissioner

APPROVED AS TO FORM:

District Attorney