

46. Outdoor Mass Gatherings. Where a county makes a single decision to approve an outdoor mass gathering as defined in ORS 433.735, that decision is excluded from LUBA’s jurisdiction under ORS 197.015(10)(d), even if the decision authorizes access roads and other development and that authorization, but for being embodied in a decision approving an outdoor mass gathering, arguably might constitute a land use decision. *Thomas v. Wasco County*, 68 Or LUBA 102 (2013).

46. Outdoor Mass Gatherings. Even if a hearings officer’s assumption that the applicant could legally conduct both an outdoor mass gathering and a smaller gathering during the same three-month period is erroneous, any error is harmless and not a basis to reverse or remand the decision, where a proposal for outdoor gatherings was not part of the application, and the hearings officer’s statement was merely *dicta*, not binding on the parties in any way. *Horning v. Washington County*, 51 Or LUBA 303 (2006).

46. Outdoor Mass Gatherings. Local government decisions authorizing outdoor mass gatherings as defined at ORS 433.735(1) that will last fewer than 120 hours are not subject to local land use regulations and are not land use decisions subject to LUBA review. *Landsem Farms v. Marion County*, 44 Or LUBA 611 (2003).

46. Outdoor Mass Gatherings. Local government decisions authorizing the large outdoor gatherings defined at ORS 433.763(1) that will last more than 120 hours are subject to local land use regulations and are land use decisions subject to LUBA review. *Landsem Farms v. Marion County*, 44 Or LUBA 611 (2003).

46. Outdoor Mass Gatherings. Even if ORS 197.015(10)(d) does prohibit county regulation of gatherings of fewer than 3,000 persons on a site, it would only do so if those gatherings occurred no more frequently than once every three months on the site. *Cookman v. Marion County*, 44 Or LUBA 630 (2003).

46. Outdoor Mass Gatherings. ORS 433.750 completely occupies the field of regulation of outdoor mass gatherings of less than 120 hours’ duration. There is no room for more restrictive local regulation of such gatherings. However, ORS 433.735(1) authorizes a county to adopt a more expansive definition of outdoor mass gatherings of less than 120 hours’ duration. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. Under ORS 433.735(1), a county may define “outdoor mass gatherings” to include gatherings of 500 or more persons for 24 hours’ to 120 hours’ duration, and may include the time necessary to set up, take down and clean up after a gathering in determining whether a particular gathering is of less than 120 hours’ duration. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. ORS 433.750(1) does not allow a county to require that an outdoor mass gathering of less than 120 hours’ duration be a permitted use in the applicable zoning district or otherwise subject to zoning regulations. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. ORS 433.750(6) authorizes a county to charge applicants for an outdoor mass gathering permit a fee calculated to reimburse the county only for “reasonably necessary costs in receiving, processing and reviewing applications for [such] permits,” not for costs of providing services, such as law enforcement, to the gathering. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. ORS 433.750(6) requires a county to waive payment of an outdoor mass gathering permit fee if it finds that the applicant is unable to reimburse the governing body. A county ordinance adopted to implement ORS 433.750 must provide for an outdoor mass gathering permit fee waiver, in the circumstances described in ORS 433.750(6). *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. ORS 433.735 to 433.770 allow a county to require that an application for an outdoor mass gathering permit be filed at least 60 days before the proposed gathering is to occur. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. Under ORS 433.755(1), a county may not require all applicants for an outdoor mass gathering permit to obtain one million dollars of insurance. ORS 433.755(1) requires an individualized determination concerning the insurance risks posed by a particular gathering, with one million dollars being the maximum amount of insurance a county may require. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. Under ORS 433.770(1), the only remedy for specific violations of the outdoor mass gathering statute or its implementing local regulations is injunctive relief authorized by a court. Therefore, a county ordinance that purports to authorize the county sheriff to order dispersal of an outdoor mass gathering, if he believes such gathering is not in “compliance with all applicable state and local laws,” is overly broad. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. Under ORS 433.763(1)(c), a county may subject outdoor mass gatherings of more than 120 hours’ duration to conditional use permit land use regulations. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).

46. Outdoor Mass Gatherings. Where a challenged county ordinance regulating outdoor mass gatherings of more than 120 hours’ duration makes such gatherings subject to comprehensive plan and code provisions, but LUBA cannot determine which plan and code provisions apply to such gatherings, or how any such provisions are satisfied with regard to gatherings of a religious nature, LUBA cannot determine whether the challenged ordinance uses the least restrictive means to achieve a compelling state interest, as required by the Federal Religious Freedom Restoration Act of 1993. *Fence v. Jackson County*, 29 Or LUBA 147 (1995).