

1 **DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**

2
3 **DIVISION 34**
4 **STATE AND LOCAL PARK PLANNING**

5
6 **Amendments Adopted March 23, 2006**

7
8 **660-034-0000**

9 **Purpose**

10 (1) The purpose of this division is to establish policies and procedures for the
11 planning and zoning of state and local parks in order to address the recreational needs of
12 the citizens of the state. This division is intended to interpret and carry out requirements
13 of Statewide Planning Goal 8 and ORS 195.120 ~~to~~ **through** 195.125.

Comment [s1]: Although "through" is fine, we might consider "to" because that word is defined under ORS 174.100(7) to mean "to and including"

14 (2) In general, this division directs local government planning and zoning
15 activities regarding state and local park master plans. OAR chapter 736, division 18,
16 directs the Oregon Parks and Recreation Department (OPRD) with respect to state park
17 master planning, and does not apply to local governments except where specified by this
18 division.

19 Stat. Auth.: ORS ~~[483]~~195.120 & 197.040

20 Stats. Implemented: ORS ~~[197.040, 197.225, 197.245 &]~~195.120 - 195.125

21 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98; LCDD 3-2004, f. & cert. ef. 5-7-04

22
23
24 **660-034-0010**

25 **Definitions**

26 As used in this division, unless the context requires otherwise:

27 (1) "Administrative site" is property owned or managed by OPRD that is used
28 solely for state park administration ~~[and/or]~~ maintenance facilities, **or both**, and which is
29 not within or contiguous to a state park.

Comment [s2]: In *SAIF and University of Oregon v. Donahue-Birran*, 195 Or App 173, 96 P3d 1282 (2004), the court found the term "and/or" to be inherently ambiguous. As a result, this office advised all agencies by memo dated 11/4/04 to amend rules that employ the term.

30 (2) "Agricultural land" shall have the same meaning as OAR 660-033-0020(1).

31 (3) "Camper cabin" is a camp structure with no permanent foundations or
32 plumbing, located within a camping area and intended for occupancy by ~~[1-to-8]~~ **one to**
33 **eight** persons.

34 (4) "Camp store" is an enclosed building not exceeding 1500 square feet for the
35 sale of sundries to registered campers in camping areas within the park.

36 (5) "Endowment property" is property owned by OPRD which has no known
37 outstanding resources or recreational values that would support the state park system
38 mission and role, and which is intended for sale, lease, trade or donation to a different
39 entity or for management for a purpose which does not directly support the state park
40 system mission and role.

41 (6) "Forest land" shall have the same meaning as provided in Goal 4.

42 (7) "Group shelter" is an open sided or enclosed permanent building that does not
43 include bedrooms, but may include plumbing, fireplace, barbecue, and picnic tables, for
44 use by registered campers in a group camping area.

45 (8) "Local park" is a public area intended for open space and outdoor recreation
46 use that is owned and managed by a city, county, regional government, or park district

1 and that is designated as a public park in the applicable comprehensive plan and zoning
2 ordinance.

3 (9) "Open play field" is a large, grassy area with no structural improvements
4 intended for outdoor games and activities by park visitors. The term does not include
5 developed ballfields, golf courses or courts for racquet sports.

6 (10) "OPRD" means the Oregon Parks and Recreation Department.

7 (11) "PAPA" is a "post acknowledgment plan amendment" conducted according
8 to the requirements of ORS 197.610 ~~through~~ **to** 197.625. The term includes
9 amendments to an acknowledged comprehensive plan or land use regulation and the
10 adoption of any new plan or land use regulation.

11 (12) "Park retreat" is an area of a state park designated for organized gatherings.
12 Facilities within a park retreat are for use only by registered retreat guests. A park retreat
13 must include a meeting hall and designated parking, and may also include other park
14 amenities and support facilities.

15 (13) "Park visitor" is any member of the public who enters a state or local park for
16 the primary purpose of enjoying or learning about the natural, historic or prehistoric, or
17 scenic resources associated with the park setting.

18 (14) "Preliminary draft master plan" is a proposal for a state park master plan
19 which has been prepared for adoption as an administrative rule by OPRD under the
20 provisions of OAR chapter 736, ~~[D]~~division [Ø]18, and which is provided to local
21 governments and the public for review and comment.

22 (15) "Recreation shop" is an open or enclosed building not exceeding 500 square
23 feet of floor area for the rental of horses or recreational equipment such as bicycles and
24 boats and for the sale of incidental related items such as bait and fishing flies.

25 (16) "State park" is any property owned or managed by ~~[the Oregon Parks and~~
26 ~~Recreation Department (OPRD)]~~ OPRD and that OPRD has ~~[been]~~ determined ~~[by~~
27 ~~OPRD to have]~~ possesses outstanding natural, cultural, scenic ~~[and]~~ or recreational
28 resource values that support the state park system mission and role. The following OPRD
29 properties are not state parks for purposes of this ~~[rule]~~ division: endowment properties
30 and administrative sites.

31 Stat. Auth.: ORS ~~[183]~~195.120 & 197.040

32 Stats. Implemented: ORS ~~[197.040, 197.225, 197.245 &]~~195.120 - 195.125

33 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98

34 35 **660-034-0015**

36 **State Park Master Plans and Allowable Uses**

37 (1) OPRD ~~[the Oregon Parks and Recreation Department (OPRD)]~~ adopts state
38 park master plans as administrative rules pursuant to OAR ~~[C]~~chapter 736, ~~[D]~~division
39 18 and ORS 390.180. In order to facilitate the implementation of state park master plans
40 through local government land use plans, this division provides procedures and criteria
41 for park master planning and coordination.

42 (2) Each state park master plan shall describe, through maps and text as
43 appropriate, the type, size and location of all land uses intended to occur in the park. Uses
44 listed in ORS 195.120(3) and any other uses determined by OPRD may be authorized in a
45 state park master plan provided all aspects of such uses comply with statewide planning
46

1 goals, ORS 215.296, ORS 390.180, and OAR 736-018-0020 on ~~the applicable date of~~
2 ~~this rule~~ **July 15, 1998**, and all other applicable laws. State park master plans shall
3 include findings of compliance with statewide planning goals and ORS 215.296.

Comment [s3]: Consider whether we need this qualifier.

4 (3) Except where the context specifies otherwise, the requirements in this division
5 do not apply to state park master plans adopted as state rules prior to ~~the effective date of~~
6 ~~this rule~~ **July 15, 1998**. However, the requirements in this division do apply to
7 amendments to such master plans when the amendments are adopted after ~~the effective~~
8 ~~date of this rule~~ **July 15, 1998**.

Comment [s4]: Consider whether we need this qualifier.

9
10 Stat. Auth.: ORS ~~[483]~~195.**120** & 197.**040**

11 Stats. Implemented: ORS ~~[197.040, 197.225, 197.245 &]~~195.120 - 195.125

12 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98
13

14 **660-034-0020**

15 **Coordination Procedures for Development of State Park Master Plans**

16 (1) For each state park master plan developed after ~~the effective date of this rule~~
17 **July 15, 1998**, OPRD shall submit a preliminary draft master plan to DLCD and all local
18 governments with land use authority over the subject state park property. This submittal
19 shall occur prior to or simultaneously with OPRD's initiation of the administrative rule
20 procedure for master plan adoption. At the time of the submittal, OPRD shall consult
21 with local planning officials to determine whether the proposed uses in the park master
22 plan are allowed by the acknowledged local comprehensive plan, as follows:

Comment [s5]: Consider whether we need this qualifier.

23 (a) If the local government determines that all of the proposed uses are allowed by
24 the acknowledged local plan, OPRD may proceed with consideration and adoption of the
25 master plan. In this case, the procedures in ~~OAR 660-03[3]4-0020(2) [through] to 660-~~
26 ~~03[3]4-0030(6)~~ do not apply. However, if the proposed uses are allowable, but only by
27 application of local conditional approval criteria that are not clear or objective, OPRD
28 may seek to amend such criteria by proceeding as described in ~~[S]~~subsection (b) of this
29 ~~[S]~~section. Upon request from OPRD, the local government shall provide written
30 confirmation that the proposed master plan is compatible with the local plan.

Comment [s6]: This cite is not correct – should it be referring to division 34 provisions?

31 (b) If the local government determines that any of the proposed uses described in
32 the master plan are not allowed by the acknowledged local plan or implementing
33 regulations, OPRD shall submit the preliminary master plan to the local government as an
34 application for a post-acknowledgment plan amendment (PAPA).

35 (2) Upon receipt of a PAPA application from OPRD, a local government shall
36 follow applicable PAPA procedures and requirements, except as described in subsections
37 (a) through (c) of this section:

38 (a) The local government shall notify interested citizens and conduct at least one
39 public hearing on the preliminary master plan within 90 days following submittal of a
40 complete PAPA application. This may be conducted as a joint hearing of the local
41 government and OPRD;

42 (b) Within 120 days following submittal of OPRD's complete application, the
43 local government shall forward to OPRD any recommendations for changes to the master
44 plan. The recommendations shall be in writing and shall include any suggested conditions
45 or changes to the master plan;

1 (c) The local government shall not take final action on the PAPA application until
2 OPRD has adopted the park master plan as an administrative rule and submitted it to the
3 local government in accordance with OAR 660-034-0030.

4 (3) Within 60 days of receiving written recommendations from a local
5 government pursuant to OAR 660-034-0020(2)(b), OPRD shall provide a written
6 response to the local government addressing each recommendation. The response shall
7 describe any changes to the draft park master plan that OPRD would propose in response
8 to the local recommendations.

9 (4) OPRD's response shall also provide a second comment period not less than 30
10 days during which the local government may:

11 (a) Review any changes to the park master plan proposed by OPRD in response to
12 the local government's previous recommendations; and

13 (b) Based on this review, either concur with or object to OPRD's pending
14 adoption of the proposed master plan.

15 (5) If no objections are raised by the local government during the 30 day comment
16 period, OPRD may proceed with consideration and adoption of the state park master
17 plan. If OPRD receives a timely objection from the local government, and if the objection
18 meets the requirements of OAR 660-034-0020(6), OPRD shall delay final consideration
19 and adoption of the master plan in order to engage in formal or informal dispute
20 resolution with the local government pursuant to OAR 660-034-0025. This delay of
21 adoption shall continue for at least 60 days following the receipt of the objection, or until
22 the issues in the objection are resolved and the objection is withdrawn, whichever occurs
23 first. At the end of the 60 day delay period OPRD may proceed with consideration and
24 adoption of the state park master plan.

25 (6) OPRD may choose to engage in dispute resolution for all issues raised by an
26 objection. However, the mandatory 60 day delay specified in OAR 660-034-0020(5) shall
27 only apply to an objection that meets the following requirements:

28 (a) The objection shall be described in a letter from the local governing body to
29 the OPRD director received within the 30 day time period specified in OAR 660-034-
30 0020(4); and

31 (b) The objection letter shall indicate the reasons why the local government
32 believes the proposed master plan is inconsistent with either the statewide planning goals,
33 ORS 215.296, or OPRD's state park master planning criteria in OAR 736-018-0020.

34 Stat. Auth.: ORS [~~183~~]195.120 & 197.040

35 Stats. Implemented: ORS [~~197.040, 197.225, 197.245 &~~]195.120 - 195.125

36 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98

37 38 39 **660-034-0025**

40 **Dispute Resolution**

41 (1) If a local government objects to a proposed state park master plan, as
42 described in OAR 660-034-0020(4) [~~through~~to 660-034-0020(6), OPRD shall attempt to
43 resolve the objections during the 60 day delay period specified in OAR 660-034-0020(5),
44 either through informal discussions with the local government or through formal
45 mediation.

1 (2) OPRD or the local government may request mediation through the **Oregon**
2 **Consensus Program** [~~State of Oregon Public Policy Dispute Resolution Program~~] in
3 order to resolve a disagreement about uses in a preliminary draft state park master plan.
4 Such mediation shall be conducted according to the provisions of ORS 183.502.

Comment [s7]: Does this program still exist by that name?

5 (3) If OPRD and the local government engage in mediation pursuant to OAR 660-
6 034-0025(2), and if this mediation does not result in timely resolution of the objection,
7 either OPRD or the local government may request a nonbinding determination by the
8 Land Conservation and Development Commission (LCDC). This determination shall be
9 limited to issues involving the compliance of OPRD's proposed state park master plan
10 with the statewide goals or related statutes or rules. Such a request shall be submitted by
11 the end of the 60-day delay period specified in OAR 660-034-0020(5), or within 15 days
12 following a withdrawal by either party from the mediation proceedings described under
13 section (2) of this rule, whichever occurs last. LCDC may either agree or not agree to
14 consider a request to issue a nonbinding determination regarding the dispute.

15
16 Stat. Auth.: ORS [~~183~~]195.120 & 197.040

17 Stats. Implemented: ORS [~~197.040, 197.225, 197.245 &~~]195.120 - 195.125

18 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98

19 20 **660-034-0030**

21 **Local Government Implementation of State Park Master Plans**

22 (1) Within 60 days following the effective date of the state park master plan
23 administrative rule adopted by OPRD, unless an appeal of the rule is filed, OPRD shall
24 submit the adopted master plan to all local governments with land use authority over the
25 subject state park. The submittal shall include a request that the local governments take
26 final action on the PAPA application previously filed pursuant to OAR 660-034-
27 0020(1)(b).

28 (2) Within 150 days after receipt of an adopted master plan from OPRD, the local
29 governments shall take final action necessary to conclude the PAPA initiated under OAR
30 660-034-0020(1)(b). Final action shall include amendments to the plan, implementing
31 ordinances, plan map and zoning map, as necessary, to:

32 (a) Indicate the existence of the state park and its boundaries on the appropriate
33 maps;

34 (b) Apply appropriate plan and zone categories (a "park" zone or overlay zone is
35 recommended); and

36 (c) Provide objective land use and siting review criteria in order to allow
37 development of the uses indicated in the state park master plan.

38 (3) Amendments to the local plan intended to implement the state park master
39 plan shall be consistent with all statewide planning goals. If the local action includes only
40 such amendments as are necessary and sufficient to implement the park master plan, the
41 local government may rely on goal findings that are included in the park master plan (see
42 OAR 660-034-0015(2)) in order to comply with statewide goal requirements.

43 (4) The final local action shall include findings addressing ORS 215.296 for all
44 uses and activities in or adjacent to an agricultural or forest zone. The local government
45 may rely on the ORS 215.296 findings in the state park master plan (see OAR 660-034-
46 0015(2)) in order to comply with this requirement. The analysis required under 215.296

1 shall concern farm or forest practices occurring on lands surrounding the state park that
2 are devoted to farm or forest use, and shall not concern farm or forest practices occurring
3 on farm or forest land within the state park itself.

4 (5) The local government may decide to alter or disallow the state park master
5 plan provided the local government determines that adoption of the state park master plan
6 would ~~[violate]~~ **not comply with** a statewide planning goal ~~[and/]~~ or ORS 215.296, **or**
7 **both**. The local government shall alter or disallow uses described in the park plan only to
8 the extent necessary to comply with statewide goals ~~[and/]~~ or ORS 215.296, **or both**. If
9 the local government alters or disallows the state park master plan, OPRD may pursue
10 any of the following options:

11 (a) Take no action;

12 (b) Modify the state park master plan to be compatible with the final PAPA action
13 taken by the local government;

14 (c) Appeal the local decision.

15 (6) If the local government takes no final action on the PAPA within 150 days
16 from receipt of the adopted state parks master plan from OPRD, the master plan, rather
17 than the local plan:

18 (a) Shall be deemed the controlling land use regulation for the subject state park
19 with respect to uses described in the state parks master plan;

20 (b) Shall supersede local zoning ordinances with respect to review and approval
21 of uses described in the state parks master plan; and

22 (c) The provisions of this section shall remain in effect until the local government
23 takes final action on the PAPA application.

24 (7) OPRD may submit a state park master plan that ~~[was]~~ **OPRD** adopted prior to
25 **July 15, 1998** ~~[the effective date of this division]~~ to a local government ~~[, either]~~ as a
26 PAPA ~~[or as a request for local action during periodic review]~~. Upon receipt of such a
27 previously adopted state park master plan, the local government shall consider
28 conforming amendments to local planning and zoning measures, and may adopt such
29 amendments provided the proposed uses in the park master plan comply with statewide
30 planning goals and ORS 215.296.

31 (8) The **OPRD** ~~[State Parks and Recreation Department]~~ director may continue
32 any use or facility that existed in a state park on July 25, 1997. Furthermore, the
33 following uses and activities shall be approved by local government subject only to clear
34 and objective siting criteria that shall not, either individually or cumulatively, prohibit the
35 use or activity

36 (a) The repair and renovation of facilities in existence on July 25, 1997;

37 (b) The replacement of facilities and services in existence on July 25, 1997,
38 including minor location changes; and

39 (c) The minor expansion of uses and facilities in existence on July 25, 1997.
40

41 Stat. Auth.: ORS ~~[183]~~195.120 & 197.040

42 Stats. Implemented: ORS ~~[197.040, 197.225, 197.245 &]~~195.120 - 195.125

43 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98
44

Comment [s8]: Consider whether we still want periodic review as an option.

1 **660-034-0035**

2 **Park Uses On Agricultural and Forest Land**

3 (1) All uses allowed under Statewide **Planning** Goal 3 are allowed on
4 agricultural land ~~[subject to]~~ **within** a state park ~~[master plan]~~, and all uses allowed under
5 Statewide **Planning** Goal 4 are allowed on forest land ~~subject to~~ **within** a state park
6 ~~[master plan]~~, provided such uses are also allowed under OAR **chapter** 736, ~~[D]~~ division
7 18 and all other applicable laws, goals, and rules. **Local governments may allow state**
8 **parks and park uses as provided in OAR 660, division 033, and ORS 215.213 or**
9 **ORS 215.283 on agricultural lands, or as provided in OAR 660-006-0025(4) on**
10 **forest lands, regardless of whether such uses are provided for in a state park master**
11 **plan.**

12 (2) **The park uses listed in subsection (a) through (i) of this section are**
13 **allowed in a state park subject to the requirements of this division, OAR chapter**
14 **736, division 18, and other applicable laws. Although some of the uses listed in these**
15 **subsections are generally not allowed on agricultural lands or forest lands without**
16 **exceptions to Statewide Planning Goals 3 or 4, [A] a local government is not required**
17 **to adopt [an] such exceptions [to Statewide Planning Goals 3 or 4 for] in order to allow**
18 **these [following] uses on agricultural or forest land within a state park provided the uses,**
19 **alone or in combination, meet all other applicable requirements of statewide goals and**
20 **are authorized in a state park master plan adopted by OPRD, including a state park**
21 **master plan[s] adopted by OPRD prior to [the effective date of this rule] July 15, 1998:**

22 (a) Campground areas: recreational vehicle sites; tent sites; camper cabins; yurts;
23 teepees; covered wagons; group shelters; campfire program areas; camp stores;

24 (b) Day use areas: picnic shelters, barbecue areas, swimming areas (not
25 swimming pools), open play fields, play structures;

26 (c) Recreational trails: walking, hiking, biking, horse, or motorized off-road
27 vehicle trails; trail staging areas;

28 (d) Boating and fishing facilities: launch ramps and landings, docks, moorage
29 facilities, small boat storage, boating fuel stations, fish cleaning stations, boat sewage
30 pumpout stations;

31 (e) Amenities related to park use intended only for park visitors and employees:
32 laundry facilities; recreation shops; snack shops not exceeding 1500 square feet of floor
33 area;

34 (f) Support facilities serving only the park lands wherein the facility is located:
35 water supply facilities, sewage collection and treatment facilities, storm water
36 management facilities, electrical and communication facilities, restrooms and showers,
37 recycling and trash collection facilities, registration buildings, roads and bridges, parking
38 areas and walkways;

39 (g) Park Maintenance and Management Facilities located within a park:
40 maintenance shops and yards, fuel stations for park vehicles, storage for park equipment
41 and supplies, administrative offices, staff lodging;

42 (h) Natural and cultural resource interpretative, educational and informational
43 facilities in state parks: interpretative centers, information/orientation centers, self-
44 supporting interpretative and informational kiosks, natural history or cultural resource
45 museums, natural history or cultural educational facilities, reconstructed historic
46 structures for cultural resource interpretation, retail stores not exceeding 1500 square feet

1 for sale of books and other materials that support park resource interpretation and
2 education;

3 (i) Visitor lodging and retreat facilities in state parks: historic lodges, houses or
4 inns and the following associated uses in a state park retreat area only:

5 (A) Meeting halls not exceeding 2000 square feet of floor area;

6 (B) Dining halls (not restaurants).

7
8 Stat. Auth.: ORS ~~[183]~~195.120 & 197.040

9 Stats. Implemented: ORS ~~[197.040, 197.225, 197.245 &]~~195.120 - 195.125

10 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98

11
12 **660-034-0040**

13 **Planning for Local Parks**

14 (1) Local park providers may prepare local park master plans, and local
15 governments may amend acknowledged comprehensive plans and zoning ordinances
16 pursuant to the requirements and procedures of ORS 197.610 ~~[through]~~ **to** 197.625 in
17 order to implement such local park plans. Local governments are not required to adopt a
18 local park master plan in order to approve a land use decision allowing parks or park uses
19 on agricultural lands under provisions of ORS 215.213 or 215.283 or on forestlands
20 under provisions of OAR 660-006-0025(4), as further addressed in ~~[S]~~sections (3) and (4)
21 of this rule. If a local government decides to adopt a local park plan as part of the local
22 comprehensive plan, the adoption shall include:

23 (a) A plan map designation, as necessary, to indicate the location and boundaries
24 of the local park; and

25 (b) Appropriate zoning categories and map designations (a “local park” zone or
26 overlay zone is recommended), including objective land use and siting review criteria, in
27 order to authorize the existing and planned park uses described in local park master plan.

28 (2) Unless the context requires otherwise, this rule does not require changes to:

29 (a) Local park plans that were adopted as part of an acknowledged local land use
30 plan prior to ~~[the effective date of this rule]~~ **July 15, 1998**; or

31 (b) Lawful uses in existence within local parks on ~~[the effective date of this rule]~~
32 **July 15, 1998**.

33 (3) All uses allowed under Statewide **Planning** Goal 3 are allowed on agricultural
34 land within a local park and all uses allowed under Statewide **Planning** Goal 4 are
35 allowed on forest land within a local park, in accordance with applicable laws, statewide
36 goals, and rules.

37 (4) Although some of the uses listed in OAR 660-034-0035(2)(a) ~~[through 660-~~
38 ~~034-0035(2)(g)]~~ **to** (g) are not allowed on agricultural or forest land without an exception
39 to ~~[Statewide Planning]~~ Goal 3 or **Goal** 4, a local government is not required to take an
40 exception to Goals 3 or 4 to allow such uses on land within a local park provided such
41 uses, alone or in combination, meet all other statewide goals and are described and
42 authorized in a local park master plan that:

43 (a) Is adopted as part of the local comprehensive plan in conformance with
44 Section (1) of this rule and consistent with all statewide goals;

45 (b) Is prepared and adopted applying criteria comparable to those required for
46 uses in state parks under OAR **chapter** 736, division 18; and

Comment [s9]: Note that this does not include subsections (h) and (i).

1 (c) Includes findings demonstrating compliance with ORS 215.296 for all uses
2 and activities proposed on or adjacent to land zoned for farm or forest use.

3
4 Stat. Auth.: ORS [~~183~~]195.**120** & 197.**040**

5 Stats. Implemented: ORS [~~197.040, 197.225, 197.245 &~~]195.120 - 195.125

6 Hist.: LCDD 3-1998, f. & cert. ef. 7-15-98; LCDD 3-2004, f. & cert. ef. 5-7-04

Comment [s10]: Any idea why this says LCDD throughout the rule? Should it be LCDC? You might check with Secretary of State.