

## Oregon Parks and Recreation Commission

June 20, 2012

---

Agenda Item:	10a	Action
Topic:	Request to Adopt OAR 736-016 – Non Traditional Use	
Presented by:	Richard Walkoski	

---

### **Background:**

Rulemaking on division 16 has been ongoing since November 2010 when the commission authorized staff to begin rulemaking to update the rules on non-traditional park use. Public comments were accepted in October 2011 and four public hearings were scheduled during that month. Nearly 40 comments were received through e-mail. The hearings were lightly attended: Astoria - 2 attendees; Champoeg - no attendees; Bend - 8 attendees; Coos Bay - 1 attendee. Those attending the public hearings and making comments through e-mail had concerns. Most felt that the rules text was too vague regarding what constituted a special use and when a permit would be required.

Given the public concern about the need for clarification of rule language the department chose to revise the rules further and do another round of public hearings in February 2012. A stakeholder group drawn from those persons and groups who made initial comments assisted with the revision of the rules. Comments on the revised rules were accepted during the month of February and three public hearings were scheduled: Feb 21 – Champoeg; Feb 22 – Lincoln City; and Feb 22 Bend.

During the second round of public hearings no one attended the Champoeg or Bend locations. Approximately 25 people attended in Lincoln city but only four chose to make a comment on the record. It appeared that many of the people attending the hearing in Lincoln City were there to discuss the Ocean Shore rules (division 21) which had been open for comment in January. Seven people also made comments in writing through e-mail. In general the rules were well received but there was still a concern that the group size requirement was still too vague. In addition to the requirement that a group over 50 people must get a permit the rule stated that a smaller group could trigger the permit requirement if the group “significantly impacts public use of park lands, structures or staff resources.” A report on all comments received during the revision process is included in attachment A.

Based on the second round of public comments the rule was revised slightly, removing the “significant impact” language and adding that a permit would be required if the activity “could disturb the natural, cultural, scenic and recreational resources” or “could pose a safety concern for other park area users or for those involved in the activity.” Resource damage and safety were the “significant impacts.” The final revisions are included in attachment B with markup text and a clean version in attachment C. The final revision incorporates comments received from DoJ counsel Steve Shipsey who reviewed the rules.

**Prior Action by Commission:** Authorized rulemaking at the November 18, 2010 meeting.

### **Action Requested:**

Staff requests the commission adopt the revisions to OAR 736-016 as listed in attachment B.

**Prepared by:** Richard Walkoski

## Item 10a – Attachment A – Public Comment and Hearing Summary

### February 2012 Comment Period

**Notification:** A media release was sent out to both statewide and local media outlets. The OPRD web page had a posting of the draft rules and hearing dates. In addition an e-mail was sent to all persons who commented on the rule in October 2011.

**Comment Summary:** Three hearings were held in February, although the Lincoln city hearing was the only one attended by the public. Of the 25 people who came to the hearing only four made comments for the record. In addition there were seven people who made comments by e-mail. The concerns expressed during the hearings and in e-mail are summarized below:

- Group size still has room for interpretation and should be more clearly defined
- The rule language will not always inform people when they need a permit
- Insurance might scare people off and make them reluctant to apply for a permit
- There is a concern that spectators may be counted as participants for purposes of determining permit costs
- When an application is denied and then appealed does the applicant lose their place in line when determining who gets a permit if two applications for the same date are being considered
- How will the department determine damage costs and what happens if someone outside the group has done the damage
- The department needs to do a better job of getting the information out in a way people can find it
- The department should give extra weight to the “positive impact” criteria when evaluating applications

#### Public Comments Received During February 2012

>>> David Gomberg <David@GombergKites.com> 2/7/2012 9:24 AM >>>  
Thanks Richard,

For my own understanding, can you tell me what a "significant impact on public use" means based on your discussions with OPRD staff.

I'm concerned that it goes beyond the original explanation of having too many people in a small park and affects large parks as well.

David

>>> "Alan Smiles" <director@seasidechamber.com> 2/8/2012 8:06 AM >>>

After all the work that was done last week, we had a call this week with a question “I’m having a wedding on the beach with less than 50 people, do I need a permit”. Our reply... call the State Parks. So I wonder how much further we have gone if we are still giving the same answer as before because we continue to have the “significant impact” nuclear option! I think that David raises a good point. Surely somewhere in the rules, a list of State parks that might be adversely affected with over 50 people could be listed with a note that these Parks do not include the 50 people rule! “Significant Impact” continues to provide ambiguous advice and allows subjective decisions to be made. I believe that rules should be clearly defined, otherwise they become guidelines.

>>> Edward Paulsen <edpaulsen@comcast.net> 2/10/2012 10:20 AM >>>  
Richard, Good Morning

It would be helpful to understand how OPRD defines " significantly impacts " as used in the Division 16 Rules revision. In OPRD's interpretation , what specifically constitutes a significant impact on the public use of park lands, structures or staff resources ?

I'm particularly interested in how the interpretation effects beach usage, more specifically kite flying.

Thanks to you and your Staff for your affords in the rules revision process.

Ed Paulsen  
Vancouver WA  
edpaulsen@comcast.net  
360 891 7442

>>> "Sandy Pfaff" <sandyp@lincolncity.org> 2/21/2012 12:09 PM >>>

Hi, Mr. Walkoski. I know that there will be a public workshop tomorrow on the new proposed rules. Thanks so much for all the time you folks have put into this and the care you have taken in listening to and addressing our concerns.

I have two more questions pertaining to the beach. We got an inquiry this morning which brought one question again to my attention. The inquiry was whether or not a permit would be required on the beach for a wedding of fewer than 50 people.

The proposed language, as I understand it, requires a permit for an event which "is an organized group activity or event attended by over 50 people or a group activity or event that significantly impacts public use of park lands, structures or staff resources." Would a wedding or reunion of fewer than 50 people or a spontaneous group volleyball game or kite fly on the beach be an "event that significantly impacts public use...or staff resources"?

I'm unclear what amounts to "significant impact".

Also, I would like some clarity on the charge for additional staff. For instance, we wish to add a night fly and sky lantern release to our June event, including live music. We are told there will be a charge for 2 parks staff for a four-hour minimum. The event will be less than 4 hours but clearly after your normal staff time. Although I don't think two people are probably necessary for this event as a practical matter, you may have other policies or concerns that make it completely sensible. I'm not quarreling with the fact there will be a charge, since we are asking to extend the time park staff is on duty. But I'm not clear if the four-hour minimum is for both people (a total of 8 hours @ \$20 per hour = \$160) or a total of a four-hour minimum (2 people 2 hours each = \$80).

Those kinds of questions will probably continue to come up as folks wonder how the number of staff people is determined, when they are required, why they are required, etc. Understanding the reason in advance can sometimes minimize the concern that accompanies surprise.

I would appreciate it if we could address those tomorrow. I thought it might be helpful to bring the concerns to your attention in advance.

Again, thanks so much for all your work and consideration on this.

Very truly yours,

Sandy Pfaff

Director, Lincoln City Visitor & Convention Bureau  
801 SW Hwy 101, Suite 401  
Lincoln City, OR 97367  
541-996-1271  
Fax: 541-994-2408  
www.oregoncoast.org

>>> "Sandy Pfaff" <sandy@lincolncity.org> 2/23/2012 12:34 PM >>>

1. The proposed language, as I understand it, requires a permit for an event which "is an organized group activity or event attended by over 50 people or a group activity or event that significantly impacts public use of park lands, structures or staff resources."

CONCERN: I am concerned that a wedding or reunion of fewer than 50 people or a spontaneous group volleyball game or kite fly on the beach could be deemed to be an "event that significantly impacts public use...or staff resources"?

I'm unclear what amounts to "significant impact" and I am not comfortable with leaving that totally to the discretion of park rangers. More guidance should be added.

2. Also, I would like some clarity on the charge for additional staff. For instance, we wish to add a night fly and sky lantern release to our June kite event, including live music. We are told there will be a charge for 2 parks staff for a four-hour minimum. The event will be less than 4 hours but clearly after your normal staff time. Although I don't think two people are probably necessary for this event as a practical matter, you may have other policies or concerns that make it completely sensible. I'm not quarreling with the fact there will be a charge, since we are asking to extend the time park staff is on duty. But I'm not clear if the four-hour minimum is for both people (a total of 8 hours @ \$20 per hour = \$160) or a total of a four-hour minimum (2 people 2 hours each = \$80).

CONCERN: Unnecessary charges will be imposed for unnecessary park staff. The kinds of questions as above will probably continue to come up as folks wonder how the number of staff people is determined, when they are required, why they are required, etc. Understanding the reason in advance can sometimes minimize the concern that accompanies surprise.

3. (a) The applicant/sponsor assumes full responsibility and liability for damages or injury to any member of the public **arising out of the activity**, including personal injury and property damage, and for any damage to park property, including natural and cultural resources;

(b) The applicant/sponsor shall indemnify and hold harmless the State of Oregon, its Parks and Recreation Commission and members thereof, the Oregon State Parks and Recreation Department, and its officers, agents and employees against any and all damages, claims or causes of action **arising from or in connection with the event or activity**;

CONCERN: The highlighted language - "arising out of the activity" and "arising from or in connection with the event or activity" is overly broad and unduly burdensome. For instance, a permitted event could be "interrupted" by some stranger not related to it and ensuing fights or disagreements could result in injury caused by the stranger -- or the damage or injury could be caused by a park ranger. The applicant shouldn't be held liable for injuries and damages beyond their control and/or deliberately caused by unrelated individuals.

4. (c) Prior to the permit being issued, the applicant/sponsor shall provide proof of current procure liability insurance coverage which names the State of Oregon, its Parks and Recreation Department, its Parks and Recreation Commission, and the officers, agents and employees thereof as additional parties insureds. The insurance coverage shall have limits of not less than \$1,000,000. For events or activities that are assessed as having high risk exposure (e.g. public

fire works displays), insurance of \$4,000,000 shall be required, per the maximum level of the State's Tort Claim Limits, in ORS 30.271. Insurance limits be reduced or waived by the manager approving the permit if one or more of the following may apply:

(A) Insurance is not required if the applicant is a Cooperative Association with a current agreement under OAR 736-002-0010 and the activity being permitted has been listed on their annual plan for the current year; or

(B) Insurance is not required if the activity being permitted is being co-sponsored by OPRD through an agreement with the applicant; or

(C) Insurance is not required if the applicant is a public agency; or

(D) Insurance requirements may be reduced if approved by the OPRD Safety & Risk Manager based on a risk assessment considering the level of risk and measures that will be put in place to reduce risk;

\$50,000 property damage for each accident or occurrence, and for injury or death to persons, not less than \$100,000 for each person and \$500,000 for each accident or occurrence;

(d) The sponsor shall comply with all applicable federal, state and local laws, regulations and ordinances; and

(e) If required as a condition of the special use permit, the applicant shall deposit with the department a cash deposit, bond or savings certificate in an amount as specified in the approved Division 16 Rules 1/26/2012 (Advisory Committee draft – not for public distribution) Page 8 of 12 permit at least 72 hours prior to the planned event. This deposit, bond or savings certificate shall be security for the applicant's faithful performance of all permit conditions and to cover any damages sustained by the department as a result of breach. The amount of security shall be determined by the department based on exposure and potential for damages from the activity;.

CONCERN: The exempted organizations are the ones who can afford or already have the described insurance, needing only a certificate of coverage for the State. The amount of insurance specified would not likely be in the possession of someone wanting to marry in a park, for instance. The cost of and time required to get the single event insurance would likely discourage or prohibit most private individuals from using the parks if a permit is required.

Thanks to all of you for the time and care you have taken in listening to the public's concerns.

Very truly yours,

Sandy Pfaff

Director, Lincoln City Visitor & Convention Bureau

801 SW Hwy 101, Suite 401

Lincoln City, OR 97367

541-996-1271

Fax: 541-994-2408

>>> "Cyndi Karp" <cyndikarp@peak.org> 2/29/2012 1:44 PM >>>

Chris,

It would help if I could spell.

I have 7 more agencies on my list today.

Sorry, I feel rushed today. Add something like this.

Add....A Special Use Permit must be filed, obtained and pre-authorized for Pre-Planned Events that Expect Exclusive Use of the Oregon Shores State Recreation Area for 100 Attendee's or more.

Maybe this will help better????

Something like that. For Weddings and Pre-Planned Events Exclusive use .  
Please, be careful. I know this is hard work. That is why I volunteer to help.  
I love to read, it is a symptom of my Disability.  
I believe that it is a Gift from the Universe.  
I have been told that I am "Weird", just yesterday.  
I just said smiling, "Thank you, I must be doing something right."

Does State Park Statistical data include Locals that  
Invite Family and Friends to the Coast for the Weekend?  
They don't stay in State Parks usually.  
There are a lot of calls to the valley.  
Invite everybody down to the Coast.  
And, we go to the beach. Visits on the Fly.  
When you live at the Sea, you live on a different clock.  
We live by the White Buffalo Moon.  
We live by the Sea, and fight to stay everyday.  
And, we invite 54 million visitor's to come have a good time.

The Sea and Land provides our Local Resources.  
And, Locals know the way of the Sea and Land.  
It is a different world than the Valley.  
I would have stayed close to my support system in 1976,  
If there had been a Community College in Newport.

My Life my have taken a Completely Different Path.  
I am very Proud of the Local Community Outreach of State Parks.  
I am sorry if I made your life more difficult. I did not want, nor mean too.  
The whole picture of the interacting partnerships is very interesting.

When, OSU emailed me a couple of weeks ago.  
They ask me what projects I had on my list.  
I was busy doing State Parks Rule making and just sent the short list.

I must follow up with the long list soon.  
I really do appreciate all of the Staff help.  
I know how Thankless of a Job it can be.  
I am Sorry. I find it easier to just go to the Beach.  
I am under Doctor orders to walk.

Of course, it would be easier if I didn't have a Broken Foot Boot on which Foot hurts worse?  
I will not let history repeat itself. I am not going to end back in full circle and land in a wheel chair again.  
I don't care what I have to do. I will not have to go there again. That is why I came here is to walk  
again.  
I have picked up little pretty rocks before I could crawl. Why do you want me to go to jail?  
I just want to know why? A \$10,000 fine if I pick up more than 3 gallons of rocks a year.  
What are you Guys Doing???????????

Are you trying to Send Me to Jail?  
If you are please tell me, I will surrender willing.  
I will personally go surrender to the Lincoln County DA.  
Please Fix these Valley Rules for Coast Living.

I have lived in the Valley and by the Ocean.  
The valley is much easier to live affordably.

Finding a Family Wage Job is even more challenging at the coast.

I am an old Sea Dawg now. I have been through thick and thin in my life.

I have a commercial fishing story about when. Dad-Jack Karp and Uncle-Don Karp had the Lady K in Newport.

I was the first of our family group to Graduate College. So, I wasn't allowed to go out on the boat often.

I was one of the Female Primary Wage earners in the family and the mother of his Grand Children.

I just didn't get to go out often, because It was Too Dangerous. Men's Decision. Women don't argue too much.

But, this wonderful Spring Break Day, I got invited to go to Sea with Dad and Uncle Donald.

I am still trying to remember the year. But, I got to go. Yes!! Absolutely, I was ready.

They were hook and line Nearshore Commercial Salmon Fishing.

Lady K, a 19 foot Mahogany Wooden Boat with Custom Poles by Dad and Uncle Donald.

Dad, Broke his Right foot in the shop falling off of the Boat rigging.

I can't image why the Women of Fishing families worry themselves sick.

But, back to Salmon Fishing in the Nearshore back in the 1970's out of Newport.

Dad and Uncle Donald were setting lines and need more Lead Cannon Balls.

Dad asked me to go down under the bench and get the balls. Okay, glad too.

Down, I go. There they are. Nice Box Dad Built. Wood Handles. Balls don't roll.

So, I squat lift, grab the Nice Lead Carrier Dad Built.

And. head back up the stairs and get my job done quick.

Dad, needs them, always in my experience, Now, like several minutes ago.

I was his personal Shop Helper for many years.

Dad like to Invent things. I liked to help. Good Partnership.

I get to the top of the Stairs and Ask Dad and Uncle Donald.

Where do you want these, They are just a little heavy?

Dad and Uncle Donald, look up, look at each other.

Dad and Uncle Donald both said, "Here Cyndi, Let us help you."

I was carrying Six - 50+ = 300+ pounds of Lead Cannon Balls.

They should have been just a Little Heavy. Not much too me, just a little.

Welcome to Cyndi's World. I have always meet my challenges, health or disabled.

Now, do you think that I have Fun at Fish meetings with a name like Cyndi Karp.

Yes, I do. When I became eligible for SSD, I dedicated my life to Volunteerism.

I was breaking glass ceiling when I got in a Car Accident with someone else driving.

Things happen that are out of your control. I had to accept that, and move on.

I believe that I am here to help build new bridges. I don't understand all of this.

But, I do know when and where to Stand my Ground for all of the Citizen's that I talk too.

Cyndi

----- Original Message -----

From: Chris Havel

To: Cyndi Karp

Sent: Wednesday, February 29, 2012 7:52 AM

Subject: Re: Div. 16 Rules changes.

Thanks. Forwarding to the guy coordinating this rule update.

>>> "Cyndi Karp" <cyndikarp@peak.org> 2/29/2012 12:36 AM >>>

Strike 50 Pre-Planned Exclusive Use Beach Guests.

Add... 100 Attendee's of a Pre-Panned Exclusive Use Beach Guest's must get Pre-Approved Permit.

This will help with the situation.

Thank you

Cyndi Karp

>>> "Mike Volk" <mike@outbackmediagroup.com> 2/29/2012 2:56 PM >>>

Hi Vanessa,

On reviewing the latest OAR 736-016 draft on "Commercial Filming" there are some items I have questions about:

1- Sound is recorded by all video cameras. Does "sound" in #4 under the "Definitions" refer to a sound recording crew and not sound that is being recorded by a camera?

2- Is the use of a single flash considered "lighting" or does "lighting" refer to fixtures placed by a lighting crew?

3- I did not see mention of a permit needed for the use of any type of aircraft - airplanes, helicopters, hot air balloons, ultralights, etc. - in commercial filming. I believe that a permit should be required for any kind of commercial filming from aircraft to alert pilots to any park special restrictions or area closures such as closures to safeguard nesting birds of prey.

Sincerely,  
Mike Volk

---

Mike Volk  
Executive Producer  
Outback Media Group  
541-923-1390

>>> ian caldwell <iancaldwell@hotmail.com> 2/29/2012 4:50 PM >>>

Dear OPRD Rules Coordinator,

I would like to provide comments on the rule changes for OAR 736-016. My comments relate to commercial filming in a park. I am supportive of commercial filming in parks, but feel large photo or video shoots can have impacts on the park or park visitors and feel they should go through the permit process to prevent impacts. I think the way this is written is not clear who needs a permit.

As I read the current rules if you have 49 people for filming and you do not "substantially restrict access" then you do not need a permit. I feel this is too large of a group. I think filming groups around 10 people are large enough for a permit.

I also think you need to consider requiring a permit for any commercial filming involving aircraft. Aircraft are commonly used in filming. The language should include airplanes, helicopters, hot air balloons, paragliders, powered paragliders or similar devices.

The definition of Commercial Filming is confusing because it states involving equipment such as props, sets, lighting, or sound AND is of such a scale that it falls under 736-016-005(1). With the use of AND, you could have all kinds of “equipment”, but not meet the other criteria and not need a permit. I think you should use the work OR. I am also confused about some terms. What does lighting mean? Is a single flash considered lighting? What does sound mean? Is it to capture sound or produce sound? Every camera and even iphone has a microphone and flash. I think both lighting and sound should be removed.

My suggestion for a rewrite of the definition of Commercial Filming to:

- (4) “Commercial Filming” means any still or video filming for commercial use (involves the advertisement of a product or service or the creation of a product for sale) which:
- (a) Uses paid models/talent, sets or props that are not part of the site's natural or cultural resource or administrative facilities; or
  - (b) Takes place where members of the public are not generally allowed; or
  - (c) Involves the use of aircraft including planes, helicopters, hot air balloons, gliders or power paragliders; or
  - (d) Involves 10 or more people; or
  - (e) Substantially restricts access to park lands, structures or facilities; or
  - (f) Uses park lands, structures or facilities outside existing park rules and regulations set forth in OAR chapter 736, division 10, 15 and 21; or
  - (g) Requires placement of structures and facilities other than those normally used in recreational activities traditionally allowed on the site.

A couple of other minor corrections:

- (4) “Commercial Filming” means any still or video filming venture which involves equipment such as props, sets, lighting, or sound, and is of such a scale that it falls under 736-016-005 (1). The number needs another 0 before 005. It should read 736-16-0005.

Also definition #9 “special use permit” is out of alphabetical order. I should be #12. Definitions #10, 11 and 12 should all be moved up one number.

Thank you for involving the public on this process.

Ian Caldwell  
541 350-8309

## October 2011 Comment Period

**Notification:** A media release was sent out to local media outlets but due to a short lead time the coverage by external media sources was not good. The OPRD web page had a posting of the draft rules and hearing dates.

**Comment Summary:** Public comments were accepted in October 2011 and four public hearings were scheduled during that month. Nearly 40 comments were received through e-mail. The hearings were lightly attended: Astoria (10/18) 2 attendees; Champoeg (10/19) no attendees; Bend (10/20) 8 attendees; Coos Bay (10/25) 1 attendee. During those hearings a Q&A session clarified the intent of the rules for participants and there were only three people who gave official testimony at the hearings. The concerns expressed during the hearings and in e-mail are summarized below:

- Most people felt that the rules were too vague regarding what constituted a special use and when a permit would be required.

- There was a concern that policies referenced, such as fee waivers and risk analysis for the purpose of reducing the insurance requirement were not easily understood from the reference in the rule.
- Commercial operators such as climbing guides were unclear if they needed a permit since their business transactions are conducted outside of the park.
- A large percentage of the comments were from people who flew kites on the beaches and felt that the current wording could require a permit to fly a kite on the ocean shore.

Public Comments Received During October 2011

>>> Scott A Brown 10/14/2011 11:02 AM >>>  
Richard,

Couple questions about the draft Division 16 Rules as they currently stand.

- 1) Will we no longer be waiving fees for commercial filming?
- 2) Will all guiding services now be required to apply for a permit and will the # of participants - day use fees apply to them?
- 3) Are vending rules/fees (% sales) that are tied to a permit addressed in these rules or elsewhere?

Scott A. Brown  
Park Ranger Supervisor  
Smith Rock State Park  
9241 NE Crooked River Drive  
Terrebonne Or. 97760

>>> <Sally\_Freeman@nps.gov> 10/14/2011 4:09 PM >>>

Dear Mr. Walkoski,

Each August our park partners with The Seaside Museum & Historical Society and the Pacific Northwest Living Historians to put on a 46 hour living history program on the beach in south Seaside called The Saltmakers Return to Seaside. Last spring when we applied for a special use permit for this, we were told that Oregon Parks & Recreation was working on updating the rules for these permits and it is good to see that this process is making progress. The only thing I could see in this draft that would be an improvement for our situation would be on pages 4 and 7 where it mentions the \$100 application fee, it would be good to mention that "public agencies" are generally not required to pay the application fee. On page 9, this is alluded to, "1) The applicant may be exempted from certain requirements set forth in this rule when one or more of the following are satisfied: (a) The applicant is a governmental subdivision;" but it would be better to have it clarified each place that the fee is mentioned.

I hope this is useful input and that the rules are set and simple to comply with when we apply next year.  
Thank you for the opportunity to review this draft.

Sally Freeman  
Park Ranger  
Lewis and Clark National Historical Park  
National Park Service

>>> David Gomberg <David@GombergKites.com> 10/15/2011 7:15 AM >>>  
Dear Mr Walkoski

I was startled today to receive notice that new Division 16 rules are being proposed for activities in our State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days. The notice and opportunity to respond is quite limited. Since I cannot attend the hearings, I am writing to you now.

**I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.**

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits who normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 for a day. The worst part is that ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach.

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying are required to secure permits, quite a number of small business will suffer a loss of income. This should be recognized as a "cost".

More specifically,. the proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. What sense does this make?

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to our fragile coastal tourism industry.

**The proposed rule should be rejected and redrafted to encourage park use rather than discourage it.**

Sincerely,

David Gomberg  
PO Box 113, Neotsu OR 97364

>>> "Ron Bohart" <ronbohart@comcast.net> 10/15/2011 4:33 PM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal is very vague about what constitutes a \*special event\*.

With families struggling in our current economy many are taking day trips to enjoy our beautiful parks.

Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation.

Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. And this took place at a beach the State Parks web pages declare is the "Kite Capitol of the World".

Unclear rules hardly promote people enjoying our State Parks that are world renowned for their enjoyment and beauty.

The proposal also says it will have no impact on small business. But fewer people in parks means fewer people visiting nearby, tourist based communities.

This expansion of parks authority to require permits is not only a bad idea but it completely undermines the reason Oregon's beaches are a treasure to be enjoyed by all, not just the "monied" few.

Ron Bohart  
15491 SW Peachtree Drive  
Tigard, OR 97224  
503-590-0107  
ronbohart@comcast.net

>>> <niteflower@bendbroadband.com> 10/15/2011 4:42 PM >>>

Dear Senator Verger and Representative Cowan,

I was surprised today to receive notice that new rules are being proposed for activities in our Oregon State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days.

I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.

The proposal is very vague about what constitutes a \*special event\*. With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. This coming from a community that has promoted itself as the Kite Flying Capitol for over 33 years seems contradictory. This hardly promotes people enjoying our State Parks that are world renowned for their enjoyment and beauty.

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits that normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 a day. The proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. Is a family of ten going to have to also hire a lifeguard, sanitation cleanup, and traffic control?

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of

compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying is required to secure permits, quite a number of small businesses will suffer a loss of income. This should be recognized as a "cost".

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to the fragile tourism industry.

The proposed rule Non-traditional Park Use and Special Use Permits OAR 736-016 should be rejected and redrafted to encourage park use rather than discourage it.

Sincerely,

PS: For more information on the rules changes please refer to: <http://www.oregon.gov/OPRD/RULES/notices.shtml>

Dare to Dream...

>>> <region9@bendbroadband.com> 10/15/2011 4:45 PM >>>

Dear Senator Verger and Representative Cowan,

I was surprised today to receive notice that new rules are being proposed for activities in our Oregon State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days.

I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.

The proposal is very vague about what constitutes a \*special event\*. With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. This coming from a community that has promoted itself as the Kite Flying Capitol for over 33 years seems contradictory. This hardly promotes people enjoying our State Parks that are world renowned for their enjoyment and beauty.

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits that normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 a day. The proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. Is a family of ten going to have to also hire a lifeguard, sanitation cleanup, and traffic control?

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying is required to secure permits, quite a number of small businesses will suffer a loss of income. This should be recognized as a "cost".

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to the fragile tourism industry.

The proposed rule Non-traditional Park Use and Special Use Permits OAR 736-016 should be rejected and redrafted to encourage park use rather than discourage it.

Sincerely,  
Amy Doran  
Region 9 Director American Kitefliers Association

PS: For more information on the rules changes please refer to: <http://www.oregon.gov/OPRD/RULES/notices.shtml>

>>> David Gomberg <David@GombergKites.com> 10/15/2011 4:54 PM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

- Is a wedding with four participants a group event? Ten people? Twenty people?
- Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit? What if there are 20 people?
- If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation.

Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. And this took place at a beach the State Parks web pages declare is the "Kite Capitol of the World".

Unclear rules hardly promote people enjoying our State Parks that are world renowned for their beauty.

The proposal also says it will have no impact on small business. But fewer people in parks means fewer people visiting nearby, tourist based communities.

The Parks Department should be encouraging park use, not discouraging it.

Respectfully,

Susan Gomberg  
Gomberg Kite Productions International

>>> Rich Durant - PDX <rich@thedurants.net> 10/15/2011 5:10 PM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal is very vague about what constitutes a \*special event\*.

With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation.

Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. And this took place at a beach the State Parks web pages declare is the "Kite Capitol of the World".

Unclear rules hardly promote people enjoying our State Parks that are world renowned for their enjoyment and beauty.

The proposal also says it will have no impact on small business. But fewer people in parks means fewer people visiting nearby, tourist based communities.

This expansion of parks authority to require permits is a bad idea.

---

Rich Durant  
Rockaway Beach, Oregon  
503-539-7034

>>> "Heather T." <hlmtaylor@gmail.com> 10/15/2011 6:09 PM >>>  
Dear Mr Walkoski

I was startled today to receive notice that new Division 16 rules are being proposed for activities in our State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days. The notice and opportunity to respond is quite limited. Since I cannot attend the hearings, I am writing to you now.

The proposal appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits who normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 for a day. The worst part is that ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach.

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying are required to secure permits, quite a number of small business will suffer a loss of income. This should be recognized as a "cost".

More specifically,. the proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. What sense does this make?

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to our fragile coastal tourism industry.

The proposed rule should be rejected and redrafted to encourage park use rather than discourage it.

Sincerely,

Heather Taylor  
2263 NE Evans Ct.  
PO Box 1000  
Yachats, OR 97498

541-547-5727

>>> c <rodbuggy@aol.com> 10/16/2011 1:41 AM >>>

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem. Nowhere in the proposed new rules is "non Traditional park activities" defined.

Is a wedding with four participants a group event? Ten people? Twenty people?  
Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit?  
What if there are 20 people?  
If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event. The weekend prior to the festival 2 individuals were going to fly kites on the beach and were told by a Park Ranger that if the kites required an anchor to fly they were not allowed without a permit and that they would have to leave. The weekend prior I was on the beach flying kites which required anchors with a few friends and we were not required to have a permit that day and yet one week later a permit was required. The obvious question would be; What changed? I personally have been flying large kites which require anchors on the beaches of Oregon for the past 15 years from Astoria in the North to as far South as Brookings and I have never been required to apply for a permit to fly my kites.

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun? If these new rules are passed and put into effect then the next time my family visits from Idaho and wants to go to the beach and fly the large kites I would have to tell them that we can't go because 1: I didn't apply for a permit. 2. I haven't hired a certified lifeguard for the day and 3. I don't have an insurance certificate for \$1,000,000 to give to the park ranger. Under the proposed rules I could be cited even if we just went to the beach for a family picnic if there were enough of us. Although I wouldn't know whether I would be cited or not because nowhere in the proposal does it actually define what a "group", "event" or "organized" really mean. If a group of kite flyers decide to head to the beach for the day does that constitute an "organized event"? Again no real definition and if we are cited for being on the beach just what recourse do we have? Say a couple drives over from a neighboring state and decide to fly their kites on the beach as they have done for years now. Will they be cited if they dig in anchors? How are they going to know that this activity now requires a permit. The proposal as written states that there is no cost to the Parks Department other than the added clerical time required to review permits. However it would seem that there would have to be added costs in making and posting new signage at the State Parks to inform the public of these new more restrictive rules.

The proposal states that there is no economic harm to small businesses and that the rules apply only to recreational users of the state parks. How can there not be economic harm to small businesses? I personally know 3 different couples from neighboring states that come to Seaside at least twice each year to spend time on the beach, fly kites and enjoy the beach. They normally stay for 3-5 nights each visit. They rent hotel rooms, eat in the local restaurants and spend money in the local shops. If these new rules go into effect and they are required to apply for and be approved for a permit to fly on the beach do you really think they will continue to travel here? I would think not, especially if they can go to a beach community in Washington and not have to have a permit.

In closing the proposed rules changes as written would seem to be nearly unenforceable. How could the general public know when they are required to apply for a permit? If the activity they are pursuing does require a permit and they weren't aware of the requirement then they would be cited and asked to leave the State Park? We are talking about public lands here aren't we? Under the proposed rules people can be cited for pursuing a lawful activity in a State Park because someone decides that the activity is either

being pursued by "a group" is "organized" or is an "event". Yet the proposed rule changes do not define what those terms mean even though the stated reason for the changes is to define those things.

The Parks Department should be encouraging park use, not discouraging it.

Regards,

Rodney Thrall  
Newberg, OR

>>> Linda Sanders <region13@ozfeathers.com.au> 10/16/2011 3:22 AM >>>

Please forward to an appropriate department or officer? Thank you.

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

- Is a wedding with four participants a group event? Ten people? Twenty people?
- Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit? What if there are 20 people?
- If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

The Parks Department should be encouraging park use, not discouraging it.

I travel to Oregon once every two years to participate in organised kite festival events, and really want you to be aware of how WIDE this issue has already travelled via the kilters' network.

I also rely on those on the ground to keep me up to date with developments, and for their sake, I trust this matter will receive the serious discussion it deserves?

Thank you.

Linda Sanders  
Creative Director,  
OzFeathers  
P.O.Box 758  
Willunga, S.A. 5172  
AUSTRALIA

>>> Paddy Pace <pace.paddy@gmail.com> 10/16/2011 5:01 AM >>>  
Please do not take another of our freedoms away.

>>> "The Lummas Family" <family@lummas.com> 10/16/2011 9:58 AM >>>

Dear Mr Walkoski,

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

Is a wedding with four participants a group event? Ten people? Twenty people?

Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit? What if there are 20 people?

If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event. This is hardly encouraging. And since a number of these people were visitors to your beautiful coast, delivering such news to them, will simply encourage them not to return. Hardly a benefit to your local economy!

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

The Parks Department should be encouraging park use, not discouraging it.

Sincerely,

Mark Lummas  
California Resident  
Regular visitor to the Oregon Coast

>>> Marjorie Taylor <marjorie@taylor635.com> 10/16/2011 11:20 AM >>>  
Dear Mr. Walkoski,

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

(What does that mean, "non-traditional park activities?" Apparently kite flying at the beach is now a non-traditional activity.)

I am a Washington State resident. I often come to the Oregon Coast with friends and family. I now understand that Oregon will require us to get a permit if our visit involves a "group", some "organized" activity, or an "event".

The regulations, which I have read, are unclear, even admittedly so by the Parks Department. What constitutes a group? How do we know that ahead of time in order to make the trip? Will we get kicked off the beach, as some my friends already have been, because we happen to know each other?

And the business about needing a certified lifeguard if the event is on the beach? You'll have this for sandcastle contests, kite festivals, even weddings?

I know that all states are hurting economically right now, and this is understandably a reach for additional funds to help support the parks system. In Washington, we now have a \$10 daily parking pass, or annual one for \$30. We gladly pay this for the use of our parks. This is a much more reasonable and administratively feasible manner of raising funds from those who actually use the parks.

Given the uncertainty and unreasonable nature of Oregon's approach, I and my group of friends will simply go to the Washington Coast instead and spend our money there.

I had thought Oregon would do better. Until now, I had a pretty good opinion of the state. Now, not so much.

Marjorie Taylor

>>> "Gary Goodenough" <gdgood@pacifier.com> 10/16/2011 12:28 PM >>>

Dear Mr. Walkoski:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities). I do not live in Oregon but enjoy the recreational opportunities living in Vancouver, WA. It would be most regretful to allow this requirement. Please consider this request, as I am a fellow kite flyer, involved with kiting in Oregon and Washington. With kind regards, Gary Goodenough

>>> Donna Houchins <symply\_ah\_mayzon@hotmail.com> 10/16/2011 8:26 PM >>>

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

I am a resident of Missouri, but have greatly enjoyed visits to the Oregon parks and beaches in the past.

This proposal would require permits for organized group activities and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". The proposal does not appear to address or resolve the identified problem, and would thus leave enforcement of a vague rule up to local authorities. This could lead to further confusion and inconsistencies in application of the rule.

For example:

What number of people constitutes a "group"?

Is a wedding with four participants a group event? Ten people? Twenty people?

Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit?

What if there are 20 people?

If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were there a day early as tourists planning to fly informally on the beach. They were informed the event's permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event.

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited? If this rule goes into affect, I personally will plan future trips for family and friends to beaches in other states. With the distance of travel, it would not be worth the risk to plan a trip to Oregon State Parks with the possibility of being cited as an unapproved "group" by local authorities.

The Parks Department should be encouraging use of the parks, not discouraging it. I highly encourage you to review the language in this rule for clarity and to make it as unambiguous as possible.

Thank you for your consideration;  
Donna Houchins

>>> Linda Hayes <linda@thehayesplace.com> 10/16/2011 9:02 PM >>>

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The rule proposal would require more people and groups to secure permits before using our parks for "events".

Permits are a simple process for businesses and non-profit groups. Most already have liability insurance. However, requiring permits for small wedding, family gatherings, or activities by groups of individuals means the purchase of an expensive insurance rider. Such certificates could cost from \$500 to \$1000 per day.

The result is that people will either break the rule, risk citation, or stay away from parks.

Oregon Parks are a treasure. I want to see them used more, not less. The proposed rule is a poor idea, and should be rejected and redrafted to encourage park use rather than discourage it. What would Tom McCall think about this proposal...?

Sincerely,  
Linda Hayes  
Past President of the North West Sport Kite League

>>> Bill Watson <bill.v.watson@gmail.com> 10/17/2011 5:45 AM >>>

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal is very vague about what constitutes a \*special event\*.

With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation.

Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. And this took place at a beach the State Parks web pages declare is the "Kite Capitol of the World".

Unclear rules hardly promote people enjoying our State Parks that are world renowned for their enjoyment and beauty.

The proposal also says it will have no impact on small business. But fewer people in parks means fewer people visiting nearby, tourist based communities.

This expansion of parks authority to require permits is a bad idea.

Sincerely,

William Watson

>>> Archie Stewart <kedu@comcast.net> 10/17/2011 6:32 AM >>>

Dear Mr Walkoski

I was startled today to receive notice that new Division 16 rules are being proposed for activities in our State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days. The notice and opportunity to respond is quite limited. Since I cannot attend the hearings, I am writing to you now.

I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits who normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 for a day. The worst part is that ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach.

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying are required to secure permits, quite a number of small business will suffer a loss of income. This should be recognized as a "cost".

More specifically,. the proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. What sense does this make?

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to our fragile coastal tourism industry.

The proposed rule should be rejected and redrafted to encourage park use rather than discourage it.

Sincerely,

Archie Stewart / Kite Education

>>> "Andrew Kramer" <andrew@swingmark.org> 10/17/2011 9:04 AM >>>

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the

requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

Is a wedding with four participants a group event? Ten people? Twenty people?  
Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit?  
What if there are 20 people?  
If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

The Parks Department should be encouraging park use, not discouraging it.

Andrew L. Kramer  
PO Box 387  
Ashland OR 97520  
(541) 488-7488

>>> "Russ" <mrrusslitle@earthlink.net> 10/17/2011 9:18 AM >>>  
Dear Mr. Walkoski

I was startled today to receive notice that new Division 16 rules are being proposed for activities in our State Parks. Hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten days. The notice and opportunity to respond is quite limited. Since I cannot attend the hearings, I am writing to you now.

I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.

Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits who normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 for a day. The worst part is that ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach.

These rule changes will certainly result in less use of the beach by the public.

Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying are required to secure permits, quite a number of small business will suffer a loss of income. This should be recognized as a "cost".

More specifically,. the proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. What sense does this make?

Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to our fragile coastal tourism industry.

The proposed rule should be rejected and redrafted to encourage park use rather than discourage it.

Sincerely,  
Russ Little  
Tualatin, OR

>>> "Alan Smiles" <director@seasidechamber.com> 10/17/2011 2:21 PM >>>

Richard,

Please find our comments and letter attached. We appreciate the opportunity to provide input in the decision making process.

Regards  
Al Smiles

Executive Director  
Seaside Chamber of Commerce  
PO Box 7 Seaside, OR 97138  
Tel 503 738 6391  
<http://www.seasidechamber.com>

<<< Letter from Seaside Chamber >>>

**These notes are in regards to the letter which we received on Thursday Oct 13, at 3:36pm.  
Regarding**

## **DIVISION 16**

### **NON-TRADITIONAL PARK ACTIVITIE**

Firstly the timing in receiving this document surprised the Chamber. After an initial meeting somewhere in the region of 18 months to two years ago after raising our concerns with regards to the permitting system we were advised that the rules were to be revised and that we would be part of that process. We have continued to be at legislative meetings and committee meetings to keep up to date. Being given only 3 business days notice with regards to this meeting and providing input was not what we expected. As a long time advocate for rule change we expected to be given suitable notice to inform ourselves and just as importantly our partners and businesses of those changes with suitable time being given for input. We would like it to be noted that the original edit of the document shows a date of 9/27/2011 (16 days prior to receiving it). As a result I have had to move other priorities aside to prepare answers to the document in the time that has been given, including a board retreat!

Therefore our first recommendation would be that other hearings be scheduled in the same areas for a future date to allow sufficient time for the impact of the changes to be considered giving more time for the document to be adequately disseminated. We feel that three business days notice is not sufficiently enough notice for a public comment session!

Our initial observations are as follows:

With regards to

**736-016-0015 - Special Use Permit Application Requirements (para m.)**

*(m) The foregoing is not an exclusive list of the elements required for a permit. The applicant shall anticipate other measures necessary to protect the public and the park, depending upon the character of the park area and conditions existing at the time. For example, the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water in the summer months.*

We suggest this only be applicable to water or ocean events where the event takes place on the water, otherwise weddings and other such events will require a lifeguard!

**736-016-0020 - Special Use Permit Form, Conditions and Requirement (para C sub para d.)**

*(D) Insurance requirements may be reduced if approved by the OPRD Safety & Risk Manager based on a risk assessment considering the level of risk and measures that will be put in place to reduce risk;*

What document or scale is used in assessing the risk? This decision could be based on subjective rather than objective considerations. We would suggest that this be clarified in a document.

**736-016-0023 - Fees and Charges, (b) Daily Use Fee: Daily group use rate established in OAR 736-015-0026.**

**Group Rates**

This makes little sense for open events such as beach volleyball where players become spectators, spectators are merely visiting on that day etc. The July 4<sup>th</sup> fireworks display in Seaside, where it is almost impossible to count those involved is another example. The Saltmakers Return would have a bill of perhaps more than they can sustain to continue the program based on event participants or spectators. The discovery program would technically also get billed perhaps to a point more than it can sustain. We then risk cancelling educational programs. We suggest this is clarified or deleted. The problem is that well organized events risk being charged while others are not when there is no system, or systems are unable to be in place to count those associated with an event.

However, we do recognize that OPRD should not be left with undue costs from use of its land, and welcome the fact that OPRD allow a waiver of some fees based on costs assumed by event organizers such as trash disposal, security etc. We would request that future OPRD permit applications allow for a detailed breakdown of costs assumed by the event organizer to help OPRD staff assess waivers, and that those waivers where applicable, be clearly documented within OPRD policies for reference so judgment is not based differently by one region or manager to another.

**(3) Special uses co-sponsored by the department may have a negotiated fee.**

With regards to this we would request that OPRD be subject to the same fees and costs as all other entities and that all events and organizations be treated equally under the same policies and procedures that apply to others including co-sponsored use.

**Fee Waivers, Exemptions and Miscellaneous Provisions**

*(1) The applicant may be exempted from certain requirements set forth in this rule when one or more of the following are satisfied:*

*(a) The applicant is a governmental subdivision;*

We would like to seek clarification as to what a governmental subdivision is and why it would be exempt for having such status. Surely everyone should be subject to the same rules.

*(2) In lieu of the fees charged under OAR 736-016-0023, the department may allow the applicant to provide in-kind services or other value or waive fees in accordance with OAR 736-015-0035.*

We request that in kind services be defined with policy documents..... and examples of why they would be waived. This seems again to be a subjective decision rather than one based on written procedures.

Finally, we applaud OPRD for recognizing that the current rules need to be revised and be subject to public input. We hope that members of the public and event organizations will also be involved in the permit application review and design. By doing so this will provide a clear and concisely worded document (with applicable explanations) to relay OPRD's expectations to permit applicants, and in turn those applications meeting the expectations of OPRD without ambiguity or subjective judgment. And request that policy documents be produced and clearly defined to help OPRD managers and staff to interpret applications equally.

Al Smiles  
Executive Director  
Seaside Chamber of Commerce  
PO Box 7 Seaside, OR 97138  
Tel 503 738 6391  
<http://www.seasidechamber.com>

>>> wayne dowler <wodowler@gmail.com> 10/17/2011 1:13 PM >>>

I've heard and now read the proposed changes to the current regulations!! I'm sorry, but in these economic times, it makes no sense to me to alienate anyone from using the states' beaches!! I do understand you're having to cut back help due to budget cuts, but making it harder to use the beaches and facilities doesn't jive! Isn't it the goal to attract visitors, to increase local economy (more visitors equal more opportunities for restaurants, stores, etc) and just to enjoy the states' scenery? Seems to me the "permitting process" has some unexpected limits! We've been only focused on beaches, but what about lakes or ponds in forests? Are weddings going to need to hire a lifeguard if they're going to have their ceremony near the lake? I don't want to sound disrespectful in any way, I'm 60 years old and lived in this area for nearly 30 years!! I would hope that the park's position is one of help, not hurt, in these times

Wayne O. Dowler

>>> Joe LaPoint <admin@beachweddings101.com> 10/17/2011 2:58 PM >>>

Hello Mr. Walkoski,

Thank you so much for your prompt feedback. I figured I must have read it wrong. In my experience with B Seegler I have been told to, and filed for a permit, if ANY of these conditions were met:

- More than 50 people
- Any structure over 3 feet tall (like an arbor)
- More than 9 chairs
- Any alcohol being served for profit
- I positively needed a time/space slot reserved.

If I may I would like to make an addendum to my feedback adding two more items (the first one takes into account, and adds to your wording).

1) Last year and this year there are proposed rules that change the amount of people needed for a permit, the amount of the permit and who exactly is affected by the proposed rules.

**This is a hardship on my business in that I do not have accurate numbers to quote. As to the State of Oregon's permit costs in planning a beach wedding. And although this year I do have some patient people I have lost others who need to plan ahead. It would be great to solidify the minimum amount of people or conditions for a permit.**

2) My second bit of feedback would be for traditional weddings and small ceremonies themselves requiring a permit since they are either 'non-traditional use' or 'special use' activities. I would speculate that well before people were driving on the beach, flying kits, playing volleyball (small groups) or any of the multitude of activities I see that do not require a permit... That people having been coming to the beach to pledge their love and devotion to one another. I would even say the Native Americans were doing it well before there were laws.

**So the entire premise of needing a permit because a wedding is a 'non-traditional use' or a 'special activity' I find erroneous.**

A valid argument can be made for a larger wedding (or any activity for that matter) that disrupts the public's access and enjoyment of the beach: perhaps should require a permit.

*However if someone brings down 10 chairs for a beach wedding I think it is discriminatory to require a permit. Since they could bring down the same amount of chairs for a family reunion or a private vow renewal or any non-commercial activity.*

Thank you again for your time,  
and allowing me to write about something that affects me everyday.

Sincerely,  
Joe LaPoint

Celebrations by the Sea  
**Joe LaPoint**  
PO Box 508  
Seaside, Oregon 97138

>>> Gary MacEachern <gary\_joe@charter.net> 10/17/2011 8:21 PM >>>  
Dear Mr Walkoski

As an avid kite flier who spends a great deal of time flying kites on the beaches of Crescent City California northward to Seaside Oregon I was dismayed at the behavior of the D-River State Park personnel Friday October 7th regarding people flying kites on the beach that afternoon in preparation for the "Kite Festival" Saturday & Sunday. I was also startled today to receive notice via the kiting community that new Division 16 rules are being proposed for activities in our State Parks which will have an effect on myself and approximately 150 of my Southern Oregon kite flying friends and their family's. As you know hearings (in Bend, Seaside, Aurora, and Coos Bay) are scheduled in the next ten

days regarding this issue.

My opportunity to respond in person is limited by the amount of time I can be absent from my job; since I cannot attend the hearings, I am writing to you now with some canned comments from the kiting community that I hope will influence the outcome of those hearings.

*I've read the proposal. It appears to first, provide State Parks with broad authority to require permits for an increasing number of activities on our beaches, and second, also provide broad authority for denying permit requests.*

*Permits require a minimal fee, but also proof of insurance. This is a minor matter for businesses or non-profits who normally carry such coverage. For individuals, families, or groups, it is a major consideration which could easily cost \$1000 for a day. The worst part is that ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation. Already in Lincoln City, recreational users have been ordered off the beach.*

*These rule changes will certainly result in less use of the beach by the public.*

*Of special note, the Fiscal Impact Statement accompanying the proposal states "This rule has no cost of compliance on small businesses. The rule affects recreational users." However, if family reunions, weddings, or kite flying are required to secure permits, quite a number of small business will suffer a loss of income. This should be recognized as a "cost".*

*More specifically,. the proposed rule states, "the applicant will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water". And since the Pacific Ocean is a body of water, weddings, sand castle contests, kite festivals, and volleyball tournaments will now be required to hire lifeguards. What sense does this make?*

*Rules regarding our parks and beaches should be designed to maximize and encourage public use. This is good public policy, good use of the resource, and economically essential to our fragile coastal tourism industry.*

*The proposed rule should be rejected and redrafted to encourage park use rather than discourage it.*

*Sincerely,*

Gary MacEachern  
914 Midland Way  
Brookings, OR 97415

>>> Donna Hertz <nurseintac@aol.com> 10/18/2011 6:10 PM >>>

Dear Mr. Walkoski,

We are kite fliers that use the Oregon beaches almost every weekend from around May until mid October. Mostly we use the D-River Wayside Park.

Recently we were told if we put any of our kites up we would get cited. We are a group of kite fliers that meet here as a central location to fly together.

We not only drive almost 600 miles round trip to come fly here but we also spend money at kite stores, grocery stores, Fred Meyer, restaurants, casino, gas stations and coffee shops. We spend about \$300 - \$400 each weekend just in these categories. This does not include our hotel/motels that are about \$500

for the three nights we are there. This is just one couple. There are usually at least four couples here flying together.

People do come to the beach when they see the big kites up. They stop and watch, ask questions and sometimes go across the street or up the street to another kite shop and purchase a kite. We frequently help them put their kites together and show them how to fly them safely.

We know the restrooms get used more when there are a lot of people at the beach. The beach is a inexpensive place for families to take their kids to play for free. We don't want this taken away just because they decide to have several of their families join them for a picnic, volleyball or flying kites. They can not afford a permit and/or insurance to be able to use the beach.

We are blessed to have the money to come fly every weekend and stay at Lincoln City and sometimes Seaside. If you take away our opportunity to do this we will keep our flying to Washington State and spend our money there.

Our group of kite fliers are all licensed to fly through American Kite Fliers Association. We always put safety first. We love flying in Oregon and love the people that come to watch us fly. Please do not take that away from us by making us get permits to fly, get life guards and insurance to fly.

Thank you for your time,

Ray and Donna Hertz  
4918 S 360th St  
Auburn, WA 98001  
253-838-7073  
253-318-4957 (Ray's cell)

>>> Yachats Mercantile <yachatsmercantile@gmail.com> 10/19/2011 9:55 AM >>>

To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

Is a wedding with four participants a group event? Ten people? Twenty people?

Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit? What if there are 20 people?

If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

The Parks Department should be encouraging park use, not discouraging it.

Thank you for taking the time to read my letter, and please consider how this will affect communities like mine that rely on a healthy tourist flow to our beaches.

Wyatt Feichtner  
Proprietor  
Yachats Mercantile

>>> "David Hawker" <Davidh@lincolncity.org> 10/19/2011 11:16 AM >>>

As City Manager of the City of Lincoln City, I oppose adoption of the proposed rules that would severely limit the use of state parks and the beach. The rules would have a serious economic impact on Lincoln City and restrict access to the disabled. Our City Council will consider their position on these rules the night of October 24th, and I will email any action they take to you at that time. If this is too late for their comments to be considered, please advise and I will attempt to call for a special Council meeting.

David A. Hawker  
City Manager, City of Lincoln City  
P.O. Box 50  
801 S.W. Hwy 101  
Lincoln City, OR 97367  
541-996-2152

>>> "RMMDIK" <RMMDIK@sbcglobal.net> 10/20/2011 9:40 AM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal would require permits for organized group activity and events. In requesting the rule change, Parks has stated "The rules governing the issuance of those permits are not clear regarding the requirements placed on the applicant, criteria used in evaluating the request, application procedure, and in some cases, the meaning of terms used in the rule."

However, no standards or criteria are provided for what is "organized", what is an "event", or what constitutes a "group". Clearly, the proposal does not address or resolve the identified problem.

- Is a wedding with four participants a group event? Ten people? Twenty people?
- Does a family outing to the beach with ten people, a volley ball net, and a picnic now require a permit? What if there are 20 people?

- If a group of individuals choose to go to a particular beach and informally begin a game or activity, at what point does this unplanned gathering become an event? And how is this decision affected if the people know each other?

In early October, a group of kite fliers came to Lincoln City on Friday planning to participate in a Saturday festival. They were informed the permit did not cover Friday and they would be cited if they flew kites informally in advance of the formal and permitted event

An arbitrary and unclear rule, left in the hands of local decision makers is poor public policy. Moreover, these proposals will tend to discourage people from using the parks. Who would plan a spontaneous family outing, knowing they may be cited for having too much fun?

The Parks Department should be encouraging park use, not discouraging it.

R. K. Milburn

>>> "RMMDIK" <RMMDIK@msn.com> 10/20/2011 9:41 AM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

The proposal is very vague about what constitutes a \*special event\*.

With families struggling in our current economy many are taking day trips to enjoy our beautiful parks. Are those families of 5-10 going to need a special permit? Ambiguous standards mean the public will not know what activities require permits until they are actually in violation of the rule and subject to citation.

Already in Lincoln City, recreational users have been ordered off the beach. A woman simply flying a kite on her own was asked to leave the beach by State Park Representatives. And this took place at a beach the State Parks web pages declare is the "Kite Capitol of the World".

Unclear rules hardly promote people enjoying our State Parks that are world renowned for their enjoyment and beauty.

The proposal also says it will have no impact on small business. But fewer people in parks means fewer people visiting nearby, tourist based communities.

This expansion of parks authority to require permits is a bad idea.

R.K.Milburn

>>> <rmmghg@gmail.com> 10/20/2011 9:44 AM >>>  
To Oregon State Parks:

I am writing in response to proposals to broaden permit requirements for use of Oregon State Parks in Division 16 (Non-Traditional Park Activities).

I am a California resident. I often come to the Oregon Coast with friends and family. I now understand that Oregon will require us to get a permit if our visit involves a "group", some "organized" activity, or an "event".

I and my group of friends will simply either stay in California and invite our Oregon friends to come here

or keep on going to the Washington Coast instead and spend our money there.

R.K.Milburn

>>> terri griffith <terri\_griff@yahoo.com> 10/20/2011 9:39 PM >>>  
Are you freaking kidding!!!

I live here in Oregon and I can honestly say that you people are suffering from Soggy Brain Syndrome!

Do you really think that in this time of high unemployment, when everyone is trying to save money anywhere they can. That their going to want to pay for or be able to pay for a \$100.00 permit to use the beach so there family and friends can picnic, play volleyball or fly kites on the beach! Pay for an insurance rider that could cost anywhere from \$500-\$1000 dollars and pay for a Lifeguard for the day.

Boy you guys really don't want the tourist towns in Oregon to survive do you!

If I'm going to have to spend that much money I think I will go to Northern California or Washington they'll appreciate the business!!

This very sad

Terri Griffith

>>> Brett Howard <brett@livecomputers.com> 10/20/2011 10:18 PM >>>

I greatly fear that the enforcement of this new policy will cause some major issues. Recently some kite flyers showed up a day early to fly together before the Lincoln City kite festival. We were given trouble about our flying there because the permit for the kite festival was only for Saturday and Sunday. I'd like to believe that our public parks will continue to be just that PUBLIC and can be used by the public no matter if they are in a group or not.

Often my wife, 2 friends of ours, and myself like to go to the beach and fly together. Would be then be considered a group and need to apply for a permit 10 days in advance and have proof of insurance to continue this practice?

I'd like to part with a story about the festival in Lincoln City. We often mentioned on the loud speaker on Sunday that there were many sneaker waves coming onto the beach and that it would be best to keep children off the beach. We also tried to announce over the PA system whenever one of these waves was coming on shore. However despite all this a family (a mother and her two children) were picked up by one of these waves. They were washed into the D-River and were swept well up the beach. At the lull at the end of the wave 4 kite flyers myself included rushed in to pull these people to safety. The public enjoyed the festival and was actually safer because we were there. Kite flyiers are people who know mother ocean and have a healthy respect for it. We're a very inclusive bunch and we absolutely love to share our hobby with those who have yet to fall in love with kites.

Please let us continue our shared use of the beaches. We only ask for

our small section and we're more than willing to share politely and ensure the enjoyment of those around us no matter how large or small our group.

Thanks

~Brett Howard~ Eugene, OR

>>> "David Hawker" <Davidh@lincolncity.org> 10/24/2011 8:13 PM >>>

Tonight our City Council unanimously voted to ask that the proposed Division 16 rules be rewritten to be both more specific, and to allow broad access to traditional uses of the parks and the beach without the requirement of a permit. The Council also invited State Parks to have a public hearing in Lincoln City, and we would be most willing to provide a facility, and be a positive contributor.

David A. Hawker  
City Manager, City of Lincoln City

## DIVISION 16

### NON-TRADITIONAL PARK ACTIVITIES

Revision date 05/18/2012 (Incorporates DoJ review of 5/16/2012)

#### OAR 736-016-0005

##### Purpose and Applicability ~~General Regulations~~

This division is intended to secure public health and safety, protect park resources and facilities and assist in maintaining facilities and services in instances where a person requests to use state park land or facilities for a non-traditional park use. These special use permit rules:

- (1) Allow access to park land for a wide variety of non-traditional park uses by requiring a special use permit if the event or activity, including commercial filming: ~~This rule is intended to ensure public health and safety, protect park resources and facilities and assist in maintaining facilities and services in instances where a party desires to use state park facilities for a non-traditional event or activity including:~~
  - (a) Is an organized group activity or event attended by over 50 people; however, Large groups groups larger than 50 people that reserve overnight or day use facilities do not require a special use permit under this division unless one or more of the conditions listed in subsections (b) through (i) also exist; ~~Use by large numbers of people;~~
  - (b) Is an activity associated with a construction project that is not specifically provided for under contract with the department, including contracts related to natural resource projects, placement of utilities, access roads and structures on park land; ~~Non-recreational use of a facility;~~
  - (c) Uses park lands, structures or facilities in a manner not expressly provided for under OAR chapter 736, divisions 10, 15, 20 and 21; ~~Use of a facility for which it was not designed to accommodate;~~
  - (d) Substantially restricts department or public access to or use of park lands, structures or facilities;
  - (~~e~~) Requires placement of structures, facilities, or both, other than those normally used in recreational activities the department traditionally allows on the site; ~~Or use which involves unusual activities such as construction projects, placement of utilities, erection of substantial structures or displays;~~
  - (f) Could disturb the natural, cultural, scenic or recreational resources on park land;
  - (g) Could pose a safety concern for other park users or for those involved in the event or activity;

(eh) Includes temporary, short-term and non-exclusive vending, advertising or sales activities; or This rule is designed to accommodate uses in excess of the one-day "group and company picnics" and moderate size group camping arrangements permitted by existing rules.

(i) Includes non-exclusive commercial uses when financial transactions are conducted on park land.

(2) Establish department procedures for considering applications for authorizing non-traditional park uses by special use permit; and~~For the purposes of this rule, a "non-traditional park activity" means any organized activity, gathering or use conducted in whole or in part within the boundaries of a state park, ocean shore or other recreational area, which is not a recreational use permitted by the posted park regulations or other provisions of OAR Chapter 736, Divisions 10, 15 and 20. Such non-traditional activities may be permitted when the following policies are satisfied:~~

~~(a) Adequate sanitation, policing, medical facilities, traffic control and other necessary services are provided;~~

~~(b) Conflict with traditional park activities is minimized;~~

~~(c) All expenses, risks and liabilities are borne by the sponsors rather than the general public;~~

~~(d) The health, well-being and property of park users, park neighbors and of the general public are protected.~~

(3) Pertain to all non-traditional park uses as described in section (1) unless otherwise authorized by a contract or other agreement between the department and the person conducting the activity or use.~~Acceptable activities may include but are not limited to large group gatherings, rental or lease of property and structures, commercial filming, construction activities and placement of utilities.~~

Stat. Auth.: ~~ORS 184~~ & ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

**736-016-0010**

### Policies ~~Permit Required~~

(1) Pursuant to ORS 390.635 and ORS 390.660 the department has jurisdiction and regulatory authority to manage the Ocean Shore State Recreation area for outdoor recreational purposes consistent with ORS 390.010.

(2) Pursuant to ORS 390.111, the department has jurisdiction and regulatory authority to manage park lands for outdoor recreational purposes consistent with ORS 390.010.

(3) All non-traditional park uses shall conform to applicable local, state, and federal laws.

(4) The department will evaluate a special use permit application under this division using the following criteria:

(a) Whether the activity or use is consistent with local, state, and federal laws;

(b) Whether the activity or use complies with the requirements of this division;

(c) Whether the activity or use, in both nature and timing, will substantially disrupt traditional public park use or unduly inconvenience park neighbors or the general public;

(d) Whether the activity or use will have an adverse impact on public health, safety or welfare, or natural and cultural resource values;

(e) Whether the activity or use is consistent with any natural or cultural resource management plans, policies, or procedures of the department;

(f) Whether the applicant has established their ability to finance, plan and manage the activity in accordance with sanitation, safety, medical care, fire control, security, crowd, noise, and traffic control requirements, and consistent with the protection of park resources;

(g) Whether the applicant has demonstrated experience in performing similar activities in the past or has previously done the event at the proposed location;

(h) Whether the measures planned to mitigate changes in customary park usage or damage to park resources caused by the activity or use will offset the negative impact of the activity;

(i) Whether the applicant has demonstrated an ability to fully meet the terms and conditions of the permit; and

(j) Whether the activity will have a positive impact on the local community, environment, or park land or facilities.

(5) The department will consider applications in the order they are received, however applicants who have conducted the same event at the same location for at least five continuous years may reserve their event's traditional location and date by delivering a letter of intent to the department no less than nine months in advance of the planned event date. The applicant must obtain a permit pursuant to this division.

(6) The department shall administer this division with the objective that persons applying for and holding a special use permit to use park land receive consistent, predictable and fair treatment and that the department's mission is supported.

~~(7) No A person, corporation or other entity shall~~ may not sponsor, promote or conduct a non-traditional park activity ~~within the boundaries of any state~~ on park land without having first obtained a special use permit ~~to do so~~ from the ~~State Parks and Recreation D~~ department.

Stat. Auth.: ~~ORS 184 &~~ ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111 & ORS 390.121

## 736-016-0012

### Definitions:

As used in this division unless the context requires otherwise:

(1) “Applicant” means a person applying for a special use permit for an activity on or use of park land.

(2) “Application Fee” means the amount of non-refundable money an applicant pays to the department when submitting a special use permit application.

(3) “Assign” means a transfer by the permittee intended to allow another person the use of special use permit.

(4) “Commercial Filming” means any still or video filming venture which involves equipment such as props, sets, lighting, or sound, and is of such a scale that it falls under OAR 736-016-0005(1).

(5) “Contract” means a legally executed document signed by the department as defined in OAR 137-046-0110(8).

(6) “Department” means the Oregon Parks and Recreation Department

(7) “Director” means the Director of the Oregon Parks and Recreation Department.

(8) “Non-Traditional Park Use” means any organized activity, gathering or use conducted in whole or in part on park land, that is not a recreational use allowed by the posted park regulations or permitted under the provisions of OAR chapter 736, divisions 10, 15, 20 and 21 and which requires a special use permit under this division.

(9) “Park Land” means any land that is leased, owned or managed by the department including state parks, waysides and scenic, historic or state recreation areas, including the Ocean Shore State Recreation area, recreational grounds or places acquired by the state for scenic, historic, natural, cultural or recreational purposes except as otherwise provided by law.

(10) “Person” means an individual at least 18 years of age, a political subdivision or public agency; any corporation, association, firm, partnership, limited liability company, joint stock company; or quasi-public corporation registered to do business in the State of Oregon.

(11) “Public Agency” means an agency of the federal government, the State of Oregon or any political subdivision thereof, or county, city, special district or other public or municipal corporation, and any instrumentality thereof.

(12) “Special Use Permit” allows uses defined in this division on a specific area of park land for a specific activity or use under specific terms and conditions defined in the permit. The permit consists of an approved permit application form, signed by the park manager or designee and the applicant, and any attachments required by the department.

(13) “Structure” means anything placed, constructed, or erected on park land.

(14) “Traditional Park Use” means a recreational use that park lands or structures were designed to accommodate in compliance with the posted park regulations or other provisions of OAR chapter 736, divisions 10, 15, 20 and 21.

**736-016-0015**

### Special Use Permit Application Form and Requirements~~Permit Application Procedure~~

(1) A person proposing an activity or use on park land subject to a special use permit under this division must apply to the department on a form provided by the department. The form will provide:

(a) Space to fill in the information required under section (5); and

(b) A current rate sheet listing overnight, day use and group rates from OAR chapter 736, division 15;

(c) A list of insurance requirements including the activities or uses considered as high risk for purposes of insurance limits and the department criteria for evaluation of insurance adjustments; and

(d) An explanation of the process and criteria used by the department in evaluating a special use permit application under this division; and

(e) Examples of activities that are allowed without a special use permit, activities that will require a special use permit and activities that will not be allowed, to assist applicants in determining if they need a special use permit.

~~Permit applications for a non-traditional park activity are to be received by the Area Manager or designee no less than ten working days prior to the planned activity.~~

(2) An application for a special use permit must fully complete the form described in section (1) and be accompanied by an application fee in the amount of \$100 unless the department waives such fee under OAR 736-016-0025.

(3) The department will not accept applications more than nine months in advance of the activity or use commencement date.

(4) Unless an exception is approved by the park manager or designee, the department will not consider a special use permit application received less than 30 days prior to the commencement date of the activity or use.

(25) To be accepted by the park manager or designee for consideration, an application must include the following information or an explanation why the information is not applicable to the proposed activity or use:~~Information to be provided by the applicant for a permit shall include:~~

(a) Date of application;

(b) Name of park, ocean shore or other recreation area where the activity or use on park land is ~~proposed to occur~~;

(c) Name and address of applicant ~~and/or sponsor, firm, group or organization~~;

(d) Name, ~~date of birth~~, address and phone number of the person who will be on site and responsible for the permit compliance during the activity or use;

(e) Purpose for which the permit is being requested;

(e) Date(s) and hour(s) of activity, including setup and cleanup times;

(f) Description and where applicable the script pages related to of the activities to be performed in the on park land;

(g) The number of participants involved;

(h) A site plan indicating the location of activities and construction of all facilities, structures and utilities, including staging areas;

(i) Description of parking and security arrangements;

(j) Description of plans for use of amplified sound, alcohol, participant entry/ticket fees and sale of food, beverages, souvenirs, goods or other services;

(k) A plan for timely cleanup and restoration of park area;

~~(1m) The foregoing is~~ Subsections (a) through (l) are not an exclusive list of the elements required for a permit. The applicant shall anticipate other measures necessary to ~~protect the public and the park~~ ensure public safety and protect park resources, depending upon the character of the park area and conditions existing at the time. ~~For example, the sponsor will be required to provide certified lifeguards when the event is planned to be held adjacent to bodies of water in the summer months.~~

~~(36)~~ Any activity or use shall comply with applicable state and local codes, rules and ordinances. The applicant will obtain any additional state and local permits required for the activity or use prior to the beginning of the activity or use. The applicant must provide the park manager proof that all required permits have been obtained upon request. ~~All activities shall comply with applicable state and local building electrical, sanitation, health, fire and mass gathering codes, rules and ordinances. Additional state and local permits required shall be obtained prior to the beginning of the activity.~~

~~(47)~~ Within 14 calendar days of receiving a complete application, the park manager or designee, based on an evaluation of the criteria in OAR 736-016-0010 (4), will approve, approve with conditions, request additional information, or deny the permit application consistent with the policies set forth in this division. ~~The Area Manger or designee may approve, with conditions, or deny the permit application consistent with the policies set forth in these rules. The following shall be considered in evaluating the permit application:~~

~~(a) The ability of the applicant to finance, plan and manage the activity in accordance with sanitation, safety, medical care, fire control, security, crowd, noise, and traffic control requirements, and consistent with the protection of park resources and image;~~

~~(b) The extent to which the proposed activity, in both nature and timing, threatens interference with customary usage of the park by members of the public or interferes with the convenience of park neighbors and the general public;~~

~~(c) The experience of the applicant in performing similar activities in the past;~~

~~(d) Measures undertaken to mitigate any changes in customary park usage or damage to park resources caused by the activity.~~

(8) If the department determines the application will not meet evaluation criteria provided in OAR 736-016-0010 (4) the applicant may modify and resubmit the application.

(9) The department will return a denied application to the applicant with an explanation listing one or more reasons for denial.

(10) An applicant may appeal a permit application denied by a department manager to that manager's supervisor for reconsideration.

(11) The department will not require an additional application fee if an application is resubmitted to the department within 120 days from the date the department returned the application.

Stat. Auth.: ~~ORS 184~~ & ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

**736-016-0020**

### Special Use Permit Conditions ~~Permit Form~~ and Requirements

(1) Upon the approval of the permit application, the department will issue a special use permit ~~will be issued~~ with the terms of permit to be strictly observed by the applicant. The permit shall at a minimum require that:

(a) The ~~sponsor~~ applicant assumes full responsibility and liability for damages or injury to any member of the public arising out of the activity or use, including personal injury and property damage, and for any damage to park property, including natural and cultural resources;

(b) The ~~sponsor~~ applicant shall indemnify and hold harmless the State of Oregon, its Parks and Recreation Commission and members thereof, the ~~State~~ Oregon Parks and Recreation Department, and its officers, agents and employees against any and all damages, claims or causes of action arising from or in connection with the activity or use;

(c) Prior to the permit being issued, the applicant shall provide the department proof of current liability insurance coverage ~~the sponsor shall procure liability insurance~~ which names the State of Oregon, its Parks and Recreation Department, its Parks and Recreation Commission, and the officers, agents and employees thereof as ~~parties~~ additional insureds. The insurance coverage shall have limits of not less than ~~\$50,000~~ 1,000,000. ~~property damage for each accident or occurrence, and for injury or death to persons, not less than \$100,000 for each person and \$500,000 for each accident or occurrence;~~ For activities or uses that are assessed as having high risk exposure (e.g. public fire works displays), insurance of \$4,000,000 shall be required, per the maximum level of the State's Tort Claim Limits, in ORS 30.271. The department safety and risk manager may reduce or waive insurance limits if one or more of the following apply:

(A) Insurance is not required if the applicant is a Cooperative Association with a current agreement under OAR 736-002-0010 and the activity or use being permitted has been listed on their annual plan for the current year;

(B) Insurance is not required if the activity or use being permitted is being conducted in partnership with OPRD through an agreement with the applicant;

(C) Commercial insurance is not required if the applicant is a public agency; or

(D) Insurance requirements may be reduced if approved by the OPRD Safety & Risk Manager based on a risk assessment considering the level of risk and measures that will be put in place to reduce risk;

~~(d) The sponsor shall comply with all applicable federal, state and local laws, regulations and ordinances; and~~

(ed) If required as a condition of the special use permit, The applicant shall deposit with the department a cash deposit, bond or savings certificate in an amount as specified in the approved permit at least 72 hours prior to the planned ~~event~~activity or use. This deposit, bond or savings certificate shall be security for the applicant's faithful performance of all permit conditions and to cover any damages sustained by the department as a result of breach. The department shall determine the amount of security ~~shall be determined by the department~~ based on exposure and potential for damages from the activity or use.

(2) The department will not consider an application for a special use permit unless:

(a) The applicant or its principal representative is at least 18 years of age, or 21 years of age if alcohol is to be served at the activity or use; and

(b) The applicant has satisfied all outstanding liabilities and requirements due to the department and arising out of any prior activity or use involving park land.

(3) A person may not assign a special use permit to any other person.

~~(24)~~ The department may, in its discretion, cancel ~~the a special use~~ permit effective immediately on notice to the applicant in the event of any emergency, significant law enforcement problem, or substantial threat to public welfare, safety or property arising from or affecting the activity. ~~and The department~~ may cancel ~~the a special use~~ permit effective immediately upon any breach of other permit conditions.

(5) The department may stop the activity or use, and require the applicant to clear the activity or use area of visitors, in the event of any emergency, significant law enforcement problem, substantial threat to public safety or park resources or a violation of park rules arising out of or related to the activity or use.

~~(36)~~ The applicant shall terminate the activity or use immediately upon receipt of notice from the department that the permit has been cancelled and shall thereupon be responsible for the immediate cleanup and restoration of the park area.

(7) The department retains the right to enter onto any park land at any time for purposes of inspection or management.

(8) The permittee shall dispose of all solid and liquid waste in manner approved by the department and shall not permit debris, garbage or other refuse to accumulate or be discharged into any waterway or ocean shore area.

(9) The permittee shall not cut, destroy, remove, or permit to be cut, destroyed or removed any vegetation on park land except with the written permission of the department.

(10) The permittee shall conduct all operations within the permit area in a manner which protects natural and cultural resources, protects water quality, and does not contribute to soil erosion or growth of noxious weeds.

Stat. Auth.: ~~ORS 184~~ & ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

**736-016-0023**

### **Fees and Charges**

(1) In addition to the use fees in section (2), an applicant must submit a~~The~~ non-refundable permit application fee ~~is of \$100, except where~~ The application fee is waived if the department charges the applicant a monthly or annual rental lease or access fee ~~is charged in which circumstance the application fee is waived.~~

(2) The applicant shall pay to the department in advance of the event the following daily use fees plus any camping and lodging fees established for persons authorized to stay overnight in connection with the event based on the attendance estimate on the permit application:

(a) Commercial Film Use ~~(motion picture, video and still camera activities requiring the use of props):~~

Number of Participants -- Daily Use Rate

(A) 1-5 -- \$100;

(B) 6-30 -- \$150;

(C) 31-60 -- \$300;

(D) 61 or more -- \$400.

(b) Daily Use Fee: Daily group use rate established in OAR 736-015-0026. ~~Other Users (Commercial and Non-Profit except for activities at the Champoeg Amphitheater):~~

~~Number -- Fee + -- Refundable Deposit~~

~~(A) 0-50 people -- \$25 -- \$25;~~

~~(B) 51-100 people — \$50 — \$50;~~

~~(C) 101-200 people — \$75 — \$75;~~

~~(D) 201-400 people — \$150 — \$150;~~

~~(E) 401-600 people — \$300 — \$300;~~

~~(F) 601-1000 people — \$500 — \$500;~~

~~(G) 1001 people — \$600 — \$600;~~

~~(H) Each additional 100 people above 1,000 people — \$50/100 people — \$50/100 people~~

(c) Overnight Use Fee

(A) Fees for the use of designated overnight facilities are the standard rate established in OAR chapter 736, division 15.

(B) Fees for overnight use of an area not normally designated for overnight use are calculated at the standard group camp rate established in OAR 736-015-0040. ~~Champoeg Amphitheater — Use without admission fee:~~

~~Number — Fee — Refundable Deposit~~

~~(A) 0-400 people — \$500 — \$2,000 minimum;~~

~~(B) 401-1,000 people — \$600~~

~~(C) Each additional 100 people above 1,000 people — \$50/100~~

~~(d) Champoeg Amphitheater — Use with admission fees: Applicants charging an admission fee will be assessed 10% of ticket sales up to \$2,500; this amount shall not be less than the permit fee as calculated in subsection (c) of this section based on size of audience. A refundable deposit of \$2,000 minimum will be required.~~

(3) The department may increase or decrease fees in section (2) after the event when:

(a) The applicant requests an adjustment and provides documentation of attendance showing that the attendance varies more than 10 percent from the estimated attendance; or

(b) The department has documentation of attendance that varies more than 10 percent from the estimated attendance.~~If concessions are sold an assessment of 10% of the gross concessions receipts shall be paid to the department.~~

(4) Special uses conducted in partnership with ~~Events co-sponsored by~~ the department may have a negotiated fee.

(5) ~~The~~ department will assess~~be~~ an hourly rate assessment of \$20 (minimum four hours) for each department employee required by~~that~~ the department requires to be on site to monitor ~~and/or~~ assist in the permittee~~activity~~ies or use.

(6) Annual or monthly rental, lease and access fees may be assessed and paid to the department ~~where appropriate~~.

Stat. Auth.: ORS ~~184 &~~ 390.124 & 390.660

Stats. Implemented: ORS 390.111, 390.121 & 390.124

**736-016-0025**

### Fee Waivers, Reductions and Exemptions ~~and Miscellaneous Provisions~~

(1) The department may exempt public agencies from special use permit requirements upon the department's determination that an exemption will not create significant risk to the health and safety of the public or damage to park resources.~~The sponsor may be exempted from certain requirements set forth in this rule when one or more of the following are satisfied:~~

~~(a) The sponsor is a governmental subdivision, or is a bona fide charitable organization conducting the event solely for charitable purposes;~~

~~(b) The event will be attended by the public for no more than one day; or~~

~~(c) The department determines that the given requirement(s) may be waived without creating a significant risk or threat of harm to public peace, health safety or to park resources.~~

(2) In lieu of the fees charged under OAR 736-016-0023, the department may permit allow the ~~sponsors~~ applicant to provide in-kind services or other value in accordance with OAR 736-015-0035.

(3) Special uses conducted in partnership with the department may have a negotiated fee.~~The department may stop the activity, and require the sponsor to clear the activity area of visitors, in the event of any emergency, significant law enforcement problem, or substantial threat to public safety arising from or affecting the activity.~~

~~(4) No application or proposal for a non-traditional park activity permit will be considered by the department unless:~~

~~(a) The sponsor or its principal representative is at least 21 years of age; and~~

~~(b) The sponsor or sponsor organization has satisfied all outstanding liabilities and requirements running to the department and arising out of any prior activity involving property under the jurisdiction of the department.~~

~~(5) No permit agreement shall be transferable or assignable to any other sponsor, party or entity without the prior written approval from the department.~~

Stat. Auth.: ~~ORS 183~~ & ORS 390.124 & [ORS 390.660](#)

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

DRAFT

## **DIVISION 16**

### **NON-TRADITIONAL PARK ACTIVITIES**

**Revision date 05/18/2012 (Incorporates DoJ review of 5/16/2012)**

**OAR 736-016-0005**

#### **Purpose and Applicability**

This division is intended to secure public health and safety, protect park resources and facilities and assist in maintaining facilities and services in instances where a person requests to use state park land or facilities for a non-traditional park use. These special use permit rules:

(1) Allow access to park land for a wide variety of non-traditional park uses by requiring a special use permit if the event or activity, including commercial filming:

(a) Is an organized group activity or event attended by over 50 people; however, groups larger than 50 people that reserve overnight or day use facilities do not require a special use permit under this division unless one or more of the conditions listed in subsections (b) through (i) also exist;

(b) Is an activity associated with a construction project that is not specifically provided for under contract with the department, including contracts related to natural resource projects, placement of utilities, access roads and structures on park land;

(c) Uses park lands, structures or facilities in a manner not expressly provided for under OAR chapter 736, divisions 10, 15, 20 and 21;

(d) Substantially restricts department or public access to or use of park lands, structures or facilities;

(e) Requires placement of structures, facilities, or both, other than those normally used in recreational activities the department traditionally allows on the site;

(f) Could disturb the natural, cultural, scenic or recreational resources on park land;

(g) Could pose a safety concern for other park users or for those involved in the event or activity;

(h) Includes temporary, short-term and non-exclusive vending, advertising or sales activities; or

(i) Includes non-exclusive commercial uses when financial transactions are conducted on park land.

(2) Establish department procedures for considering applications for authorizing non-traditional park uses by special use permit; and

(3) Pertain to all non-traditional park uses as described in section (1) unless otherwise authorized by a contract or other agreement between the department and the person conducting the activity or use.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

## **736-016-0010**

### **Policies**

(1) Pursuant to ORS 390.635 and ORS 390.660 the department has jurisdiction and regulatory authority to manage the Ocean Shore State Recreation area for outdoor recreational purposes consistent with ORS 390.010.

(2) Pursuant to ORS 390.111, the department has jurisdiction and regulatory authority to manage park lands for outdoor recreational purposes consistent with ORS 390.010.

(3) All non-traditional park uses shall conform to applicable local, state, and federal laws.

(4) The department will evaluate a special use permit application under this division using the following criteria:

(a) Whether the activity or use is consistent with local, state, and federal laws;

(b) Whether the activity or use complies with the requirements of this division;

(c) Whether the activity or use, in both nature and timing, will substantially disrupt traditional public park use or unduly inconvenience park neighbors or the general public;

(d) Whether the activity or use will have an adverse impact on public health, safety or welfare, or natural and cultural resource values;

(e) Whether the activity or use is consistent with any natural or cultural resource management plans, policies, or procedures of the department;

(f) Whether the applicant has established their ability to finance, plan and manage the activity in accordance with sanitation, safety, medical care, fire control, security, crowd, noise, and traffic control requirements, and consistent with the protection of park resources;

(g) Whether the applicant has demonstrated experience in performing similar activities in the past or has previously done the event at the proposed location;

(h) Whether the measures planned to mitigate changes in customary park usage or damage to park resources caused by the activity or use will offset the negative impact of the activity;

(i) Whether the applicant has demonstrated an ability to fully meet the terms and conditions of the permit; and

(j) Whether the activity will have a positive impact on the local community, environment, or park land or facilities.

(5) The department will consider applications in the order they are received, however applicants who have conducted the same event at the same location for at least five continuous years may reserve their event's traditional location and date by delivering a letter of intent to the department no less than nine months in advance of the planned event date. The applicant must obtain a permit pursuant to this division.

(6) The department shall administer this division with the objective that persons applying for and holding a special use permit to use park land receive consistent, predictable and fair treatment and that the department's mission is supported.

(7) A person may not sponsor, promote or conduct a non-traditional park activity on park land without having first obtained a special use permit from the department.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111 & ORS 390.121

## **736-016-0012**

### **Definitions:**

As used in this division unless the context requires otherwise:

(1) "Applicant" means a person applying for a special use permit for an activity on or use of park land.

(2) "Application Fee" means the amount of non-refundable money an applicant pays to the department when submitting a special use permit application.

(3) "Assign" means a transfer by the permittee intended to allow another person the use of special use permit.

(4) "Commercial Filming" means any still or video filming venture which involves equipment such as props, sets, lighting, or sound, and is of such a scale that it falls under OAR 736-016-0005(1).

(5) “Contract” means a legally executed document signed by the department as defined in OAR 137-046-0110(8).

(6) “Department” means the Oregon Parks and Recreation Department

(7) “Director” means the Director of the Oregon Parks and Recreation Department.

(8) “Non-Traditional Park Use” means any organized activity, gathering or use conducted in whole or in part on park land, that is not a recreational use allowed by the posted park regulations or permitted under the provisions of OAR chapter 736, divisions 10, 15, 20 and 21 and which requires a special use permit under this division.

(9) “Park Land” means any land that is leased, owned or managed by the department including state parks, waysides and scenic, historic or state recreation areas, including the Ocean Shore State Recreation area, recreational grounds or places acquired by the state for scenic, historic, natural, cultural or recreational purposes except as otherwise provided by law.

(10) “Person” means an individual at least 18 years of age, a political subdivision or public agency; any corporation, association, firm, partnership, limited liability company, joint stock company; or quasi-public corporation registered to do business in the State of Oregon.

(11) “Public Agency” means an agency of the federal government, the State of Oregon or any political subdivision thereof, or county, city, special district or other public or municipal corporation, and any instrumentality thereof.

(12) “Special Use Permit” allows uses defined in this division on a specific area of park land for a specific activity or use under specific terms and conditions defined in the permit. The permit consists of an approved permit application form, signed by the park manager or designee and the applicant, and any attachments required by the department.

(13) “Structure” means anything placed, constructed, or erected on park land.

(14) “Traditional Park Use” means a recreational use that park lands or structures were designed to accommodate in compliance with the posted park regulations or other provisions of OAR chapter 736, divisions 10, 15, 20 and 21.

## **736-016-0015**

### **Special Use Permit Application Form and Requirements**

(1) A person proposing an activity or use on park land subject to a special use permit under this division must apply to the department on a form provided by the department. The form will provide:

(a) Space to fill in the information required under section (5); and

(b) A current rate sheet listing overnight, day use and group rates from OAR chapter 736, division 15;

(c) A list of insurance requirements including the activities or uses considered as high risk for purposes of insurance limits and the department criteria for evaluation of insurance adjustments; and

(d) An explanation of the process and criteria used by the department in evaluating a special use permit application under this division; and

(e) Examples of activities that are allowed without a special use permit, activities that will require a special use permit and activities that will not be allowed, to assist applicants in determining if they need a special use permit.

(2) An application for a special use permit must fully complete the form described in section (1) and be accompanied by an application fee in the amount of \$100 unless the department waives such fee under OAR 736-016-0025.

(3) The department will not accept applications more than nine months in advance of the activity or use commencement date.

(4) Unless an exception is approved by the park manager or designee, the department will not consider a special use permit application received less than 30 days prior to the commencement date of the activity or use.

(5) To be accepted by the park manager or designee for consideration, an application must include the following information or an explanation why the information is not applicable to the proposed activity or use:

(a) Date of application;

(b) Name of park, ocean shore or other recreation area where the activity or use on park land is proposed;

(c) Name and address of applicant;

(d) Name, address and phone number of the person who will be on site and responsible for the permit compliance during the activity or use;

(e) Purpose for which the permit is being requested;

(f) Date(s) and hour(s) of activity, including setup and cleanup times;

(g) Description of the activities to be performed on park land;

(h) The number of participants involved;

(i) A site plan indicating the location of activities and construction of all facilities, structures and utilities, including staging areas;

(j) Description of parking and security arrangements;

(k) Description of plans for use of amplified sound, alcohol, participant entry/ticket fees and sale of food, beverages, souvenirs, goods or other services;

(l) A plan for timely cleanup and restoration of park area;

(m) Subsections (a) through (l) are not an exclusive list of the elements required for a permit. The applicant shall anticipate other measures necessary to ensure public safety and protect park resources, depending upon the character of the park area and conditions existing at the time.

(6) Any activity or use shall comply with applicable state and local codes, rules and ordinances. The applicant will obtain any additional state and local permits required for the activity or use prior to the beginning of the activity or use. The applicant must provide the park manager proof that all required permits have been obtained upon request.

(7) Within 14 calendar days of receiving a complete application, the park manager or designee, based on an evaluation of the criteria in OAR 736-016-0010 (4), will approve, approve with conditions, request additional information, or deny the permit application consistent with the policies set forth in this division.

(8) If the department determines the application will not meet evaluation criteria provided in OAR 736-016-0010 (4) the applicant may modify and resubmit the application.

(9) The department will return a denied application to the applicant with an explanation listing one or more reasons for denial.

(10) An applicant may appeal a permit application denied by a department manager to that manager's supervisor for reconsideration.

(11) The department will not require an additional application fee if an application is resubmitted to the department within 120 days from the date the department returned the application.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

## **736-016-0020**

### **Special Use Permit Conditions and Requirements**

(1) Upon the approval of the permit application, the department will issue a special use permit with the terms of permit to be strictly observed by the applicant. The permit shall at a minimum require that:

(a) The applicant assumes full responsibility and liability for damages or injury to any member of the public arising out of the activity or use, including personal injury and property damage, and for any damage to park property, including natural and cultural resources;

(b) The applicant shall indemnify and hold harmless the State of Oregon, its Parks and Recreation Commission and members thereof, the Oregon Parks and Recreation Department, and its officers, agents and employees against any and all damages, claims or causes of action arising from or in connection with the activity or use;

(c) Prior to the permit being issued, the applicant shall provide the department proof of current liability insurance coverage which names the State of Oregon, its Parks and Recreation Department, its Parks and Recreation Commission, and the officers, agents and employees thereof as additional insureds. The insurance coverage shall have limits of not less than \$1,000,000. For activities or uses that are assessed as having high risk exposure (e.g. public fire works displays), insurance of \$4,000,000 shall be required, per the maximum level of the State's Tort Claim Limits, in ORS 30.271. The department safety and risk manager may reduce or waive insurance limits if one or more of the following apply:

(A) Insurance is not required if the applicant is a Cooperative Association with a current agreement under OAR 736-002-0010 and the activity or use being permitted has been listed on their annual plan for the current year;

(B) Insurance is not required if the activity or use being permitted is being conducted in partnership with OPRD through an agreement with the applicant;

(C) Commercial insurance is not required if the applicant is a public agency; or

(D) Insurance requirements may be reduced if approved by the OPRD Safety & Risk Manager based on a risk assessment considering the level of risk and measures that will be put in place to reduce risk;

(d) If required as a condition of the special use permit, the applicant shall deposit with the department a cash deposit, bond or savings certificate in an amount as specified in the approved permit at least 72 hours prior to the planned activity or use. This deposit, bond or savings certificate shall be security for the applicant's faithful performance of all permit conditions and to cover any damages sustained by the department as a result of breach. The department shall determine the amount of security based on exposure and potential for damages from the activity or use.

(2) The department will not consider an application for a special use permit unless:

- (a) The applicant or its principal representative is at least 18 years of age, or 21 years of age if alcohol is to be served at the activity or use; and
- (b) The applicant has satisfied all outstanding liabilities and requirements due to the department and arising out of any prior activity or use involving park land.
- (3) A person may not assign a special use permit to any other person.
- (4) The department may, in its discretion, cancel a special use permit effective immediately on notice to the applicant in the event of any emergency, significant law enforcement problem, or substantial threat to public welfare, safety or property arising from or affecting the activity. The department may cancel a special use permit effective immediately upon any breach of other permit conditions.
- (5) The department may stop the activity or use, and require the applicant to clear the activity or use area of visitors, in the event of any emergency, significant law enforcement problem, substantial threat to public safety or park resources or a violation of park rules arising out of or related to the activity or use.
- (6) The applicant shall terminate the activity or use immediately upon receipt of notice from the department that the permit has been cancelled and shall thereupon be responsible for the immediate cleanup and restoration of the park area.
- (7) The department retains the right to enter onto any park land at any time for purposes of inspection or management.
- (8) The permittee shall dispose of all solid and liquid waste in manner approved by the department and shall not permit debris, garbage or other refuse to accumulate or be discharged into any waterway or ocean shore area.
- (9) The permittee shall not cut, destroy, remove, or permit to be cut, destroyed or removed any vegetation on park land except with the written permission of the department.
- (10) The permittee shall conduct all operations within the permit area in a manner which protects natural and cultural resources, protects water quality, and does not contribute to soil erosion or growth of noxious weeds.

Stat. Auth.: ORS 390.124 & 390.660

Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

**736-016-0023**

## **Fees and Charges**

(1) In addition to the use fees in section (2), an applicant must submit a non-refundable permit application fee of \$100. The application fee is waived if the department charges the applicant a monthly or annual rental lease or access fee.

(2) The applicant shall pay to the department in advance of the event the following daily use fees plus any camping and lodging fees established for persons authorized to stay overnight in connection with the event based on the attendance estimate on the permit application:

(a) Commercial Film Use:

Number of Participants -- Daily Use Rate

(A) 1–5 -- \$100;

(B) 6–30 -- \$150;

(C) 31–60 -- \$300;

(D) 61 or more -- \$400.

(b) Daily Use Fee: Daily group use rate established in OAR 736-015-0026.

(c) Overnight Use Fee

(A) Fees for the use of designated overnight facilities are the standard rate established in OAR chapter 736, division 15.

(B) Fees for overnight use of an area not normally designated for overnight use are calculated at the standard group camp rate established in OAR 736-015-0040.

(3) The department may increase or decrease fees in section (2) after the event when:

(a) The applicant requests an adjustment and provides documentation of attendance showing that the attendance varies more than 10 percent from the estimated attendance; or

(b) The department has documentation of attendance that varies more than 10 percent from the estimated attendance.

(4) Special uses conducted in partnership with the department may have a negotiated fee.

(5) The department will assess an hourly rate of \$20 (minimum four hours) for each department employee that the department requires to be on site to monitor or assist in the activity or use.

(6) Annual or monthly rental, lease and access fees may be assessed and paid to the department.

Stat. Auth.: ORS 390.124 & 390.660  
Stats. Implemented: ORS 390.111, 390.121 & 390.124

### **736-016-0025**

#### **Fee Waivers, Reductions and Exemptions**

- (1) The department may exempt public agencies from special use permit requirements upon the department's determination that an exemption will not create significant risk to the health and safety of the public or damage to park resources.
- (2) In lieu of the fees charged under OAR 736-016-0023, the department may allow the applicant to provide in-kind services or other value in accordance with OAR 736-015-0035.
- (3) Special uses conducted in partnership with the department may have a negotiated fee.

Stat. Auth.: ORS 390.124 & ORS 390.660  
Stats. Implemented: ORS 390.111, ORS 390.121 & ORS 390.124

## Oregon Parks and Recreation Commission

June 20, 2012

---

Agenda Item: 10b Action

Topic: Adopt OAR Chapter 736, Division 21, Ocean Shore Rules

Presented by: Jim Morgan

---

### Background:

At the March 16, 2011 meeting, the Commission granted permission to begin permanent rule making for Oregon Administrative Rules, Chapter 736, Division 21, which govern all ocean shore areas not bordering a state park area or wayside. These rules were last revised in 1996. Shifting trends in recreation activities, technological advances, and natural resources management contributed to the need to re-evaluate the rules governing the ocean shore.

OPRD staff incorporated all new state and federal statutes and edited for clarification to produce an initial revised rules draft for public comment filed with Secretary of State December 15, 2011. A stakeholders advisory committee representing the broad communities of coastal users and residents reviewed and offered draft revision. Public meetings to solicit comments on the draft were held Jan. 26 - Feb. 3 in Gold Beach, North Bend, Newport, Cannon Beach and Salem. Public comment period ended Feb. 6, 2012. A summary of public comments are provided in Attachment A. The rules text tracked changes are included in Attachment B, and a clean copy of the final draft rules is provided in Attachment C.

The current revision addresses the department's strategic plans and continues to ensure the public's safety, protection of natural, cultural, and historical resources on the ocean shore, and makes it easier for visitors to understand and locate all rules pertinent to management of the entire ocean shore.

Significant changes in the revised rules are intended to:

- Apply one set of rules to the entire coastline
- Define basic safety rules for motorized and non-motorized vehicles
- Define limits for removing natural products for personal use
- Incorporate requirements for protecting the Western Snowy Plover
- Describe allowances of domestic animals on ocean shores
- Address visitor conduct to ensure safety and access
- Clarify when a special-use event permit may be required.

**Prior Action by Commission:** The Commission granted permission to undertake permanent rule making for changes to OAR 736-21 rules at the September 2011 meeting.

**Action Requested:** Staff requests Commission adopt the amendments to OAR chapter 736, Division 21, which are shown in Attachment B. The revisions have been reviewed and approved by Steve Shipsey, Assistant Attorney General, and his changes have been incorporated into the amendments.

**Prepared by:** Jim Morgan

## Item 10b - ATTACHMENT A

### Summary of Public Comments and Impact on the Draft Rules

The revision of OAR 736-021, ocean shore recreation area rules, received considerable input from the public during the open comment period. The major topics included the following:

- Fossil collection;
- Natural product removal (agates, driftwood, seaweed etc.);
- Scientific research;
- Wildlife feeding;
- Recreational mining;
- Ban on glass; and
- Kite flying.

The rulemaking team reviewed each comment and determined whether to make changes to the proposed rules. While most comments presented thoughtful arguments, not all suggested changes were incorporated in the final draft for the following reasons:

- 1) Some of the points were contradictory, and it was impossible to reflect everyone's view.
- 2) Some of the comments asked for greater detail and sometimes more rules. If a general rule could be applied to address more specific instances, we opted for fewer and more general rules.
- 3) If public comments asked for stricter or more lenient changes, we looked for data that could support those changes. If we didn't find sufficient evidence, we didn't make the changes during this review process. However, we are committed to looking at those issues again during the next rulemaking effort.

Table 1 below summarizes the oral comments received during public hearings. Table 2 summarizes the major comments received and whether they resulted in changes to the proposed rules.

**Table 1: Summary of Public Hearings**

Date	Location	Number of Participants	Summary of Comments
1/24/2012	Salem	1	Continue to allow horse riding on the beach.
1/26/2012	North Bend	4	<i>No oral public comment made; participants felt satisfied with the information presented and the answers to their questions regarding collecting on the beach, safety, fires, glass, litter and enforcement. One person thought we should be even stricter with our rules on fires and litter.</i>
1/27/2012	Gold Beach	2	<i>No oral public comment made; participants</i>

			<i>brought written suggestions for the recreational mining section – allow more hand-operated equipment, including battery-operated tools.</i>
1/30/2012	Newport	4	Praise for the department listening to local stakeholders and revising its proposed rules. There should be no limits on product removal. Dogs should be on leash all the time. Criticism for the department not providing enough notice for the public hearing.
1/31/2012	Cannon Beach	10	Against the ban on glass. Keep driving on the beach away from the tidal zone to protect wildlife. In support of the ban on feeding wildlife. Add a requirement to have pets leashed around marine gardens. Praise for the department involving locals in the rule revision process.

**Table 2: Major Comments & Outcome**

<b>Topic</b>	<b>Number of people</b>	<b>Comment</b>	<b>Outcome – rule changed?</b>
Recreational mining	2	Want battery-operated pumps, dredging, and more equipment. Want to be able to remove rocks during the mining process.	<b>Yes.</b> Allow hand-operated equipment, but no dredges or battery-operated pumps. If rocks are moved, then restore to original condition before leaving.
Fossil collecting	13, most representing the North American Research Group (NARG), an amateur paleontology group based in Oregon, with ~100 members in the Pacific NW.	Limits are too small. Some fossils are larger than 1 gallon and will be lost to science if not immediately collected. Amateur paleontologists make important discoveries and should be allowed to continue to contribute to science.	<b>No.</b> Staff met with key members of NARG and paleontology professors from University of Oregon and Oregon State University, who serve as NARG’s advisors. Staff are working with the group to issue a scientific permit for its members with conditions for collecting, monitoring and reporting. There was consensus that limits send an important message that fossils should be protected. Limit is reasonable even for most NARG members.
Scientific research	8, most representing the Oregon Institute of Marine Biology (OIMB)	Concerned that limits on collection of natural products will adversely affect research and education.	<b>No.</b> Staff followed up with this group and clarified that personal limits do not apply to their members. We issue scientific permits to OIMB for research and

			teaching, and we honor ODFW's permits. We have not changed the rules or our practices in this area.
Agate collecting	12, some representing rock clubs	Most expressed concern that the limits will prevent people from continuing their hobby and may hamper tourism. Some said these are renewable resources that don't need collection limits. One person was in favor of the limits to ensure the resource is shared and available to out-of-state tourists.	<b>No.</b> The limits are very generous and reaching them will be difficult, even for locals. Many misunderstood the rules to mean there is no collection allowed. Staff talked to several concerned individual and in the end, all said the limits wouldn't affect their collection or recreation habits. Staff met with the Willamette Agate and Mineral Club (over 60 attendees) after closure of public comment period to clarify revised rules.
Driftwood	3	No need for a limit; the resource is renewable and we don't have a problem. Collecting more ensures safety because more people die from being hit by logs.	<b>No.</b> Driftwood stabilizes the sand and is important for the living organisms on the beach.
Glass	4	The glass prohibition is too general and could be applied to floats, sunglasses, windshields, cameras, etc. The ban will result in more plastic on the beach.	<b>Yes,</b> the ban was removed from the revised draft.
Feeding wildlife	8	About half were against the rule because it's a fun activity. The ban may prevent people from enjoying the beach for fear of being fined. Half were in support of the rule because it's better for wildlife and for everyone around them.	<b>No.</b> There is considerable evidence to support this ban: it's better for the wildlife and for those around. However, sensitivity will be exercised when enforcing it. As with all OPRD rules, education will be the first approach.
Seaweed collecting	3	Two of those who offered comment own a business selling dried seaweed and think the limits are too low for their families. One is an academic who believes we need to strengthen the rules by species and time of year.	<b>No.</b> The limits are very generous. We want this resource to be shared rather than have a few select individuals over-use it. We will consider working with the academic community in the near future to learn more about seaweed and determine reasonable ways to protect specific species.



# PARKS AND RECREATION DEPARTMENT

## DIVISION 21

### GENERAL OCEAN SHORE STATE RECREATION

#### AREA RULES

##### 736-021-0010

###### Scope of Rules

This division governs the use of the ocean shore state recreation area, which consists of the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland. This division does not govern activities or uses in the sub-tidal zone, which extends below extreme low tide, or in an estuary as defined in ORS 196.800.

Stat. Auth.: ORS 390.124 & [ORS 390.660](#)

Stats. Implemented: [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

##### 736-021-0020

###### Statutory Authority

This division is adopted pursuant to:

- (1) ORS 390.050, which authorizes the director and the director's designees to enforce park and ocean shore state recreation area rules by citation authority; and
- (2) ORS 390.635 and 390.660, which grant the Oregon State Parks and Recreation Commission the following:
  - (a) Complete jurisdiction and authority to administer as state recreation areas, all ocean shore areas owned by the state and all other public easements or other rights of access that the state holds on the ocean shore;
  - (b) Authority to protect and maintain such areas in a manner that will contribute to the general welfare of the public and the natural and cultural resources thereon; and
  - (c) Authority to make regulations and provisions as it deems necessary for the use and administration of such areas.

Stat. Auth.: ORS 390.124 & [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

##### 736-021-0030

###### Definitions

For purposes of this division, the definitions in ORS 358.905 and ORS 390.605 shall apply. In addition, the following definitions apply, unless the context requires otherwise:

- (1) "ATV" means All-Terrain Vehicle as described and defined in OAR 736-004-0015. ATV may also be referred to interchangeably as Off-Highway Vehicle (OHV).

- (2) "Cobble" means a rock fragment between about 2.5 inches and 10.2 inches wide, especially one that has been naturally rounded.
- (3) "Commission" means the Oregon Parks and Recreation Commission.
- (4) "Department" means the Oregon Parks and Recreation Department.
- (5) "Director" means the director of the Oregon Parks and Recreation Department.
- (6) "Domestic animal" means those animals whose food and shelter are provided by a human custodian.
- (7) "Enforcement Officer" means a peace officer or park employee specifically designated by the director under ORS 390.050 to investigate observed or reported violations and to issue oral or written warnings or citations to enforce the ocean shore state recreation area rules.
- (8) "Habitat Conservation Plan for Western (Coastal) Snowy Plovers" is a multi-agency, multi-jurisdictional recovery effort for the Western Snowy Plover. The full text of the "Habitat Conservation Plan for Western (Coastal) Snowy Plovers" is available from the State Parks and Recreation Department.
- (9) "Handler" means a person who brings a domestic animal onto the ocean shore state recreation area.
- (10) "Holdfast" means the part of a seaweed by which it fastens to the surface on which it grows.
- (11) "Marine Protected Area" means any area of the marine environment within Oregon's Territorial Sea that has been reserved by the state to provide lasting protection for part or all of the natural and cultural resources in it. A marine protected area is an area established by the State Land Board and identified in OAR chapter 141, division 142.
- (12) "Marine Reserve" is an area within Oregon's Territorial Sea or adjacent rocky intertidal area that is protected from all extractive activities, including the removal or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors. A marine reserve is an area established by the State Land Board and identified in OAR chapter 141, division 142.
- (13) "Motorized vehicle or device" means any self-propelled means moving on wheels, runners, tracks or the like by which a person could travel or carry something, whether or not designed exclusively to transport or typically used on roads. This definition includes but is not limited to a motor vehicle as defined in ORS 825.005(6), motorized bicycles, motor scooters, ATVs, OHVs, recreational vehicles, trailers and other mobile equipment.
- (14) "Natural Product" means living and non-living natural products on the ocean shore, including but not limited to marine plants, minerals, shells, rocks, and sand.
- (15) "Non-Traditional Park Use" means any organized activity, gathering or use conducted in whole or in part within the boundaries of the ocean shore state recreational area, that is not a recreational use allowed by the posted park regulations or permitted under the provisions of this rule or divisions 10, 15 and 20 and which requires a special use permit under division 16.
- (16) "Occupied site" means a department-owned or leased area, a privately or locally-owned area or an area adjacent to federal lands that has at least one nest or nesting attempt as identified by the department at the beginning of each western snowy plover nesting season in accordance with the Habitat Conservation Plan for Western (Coastal) Snowy Plover.
- (17) "Ocean shore state recreation area" means the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line or the line of established upland vegetation, whichever is farther inland, under the jurisdiction of the department that is used by the public for recreational purposes per ORS 390.605 (2) and (3).
- (18) "Ocean shore resources" means any natural or human-made property, material, product, feature or structure in the ocean shore state recreation area.

- (19) "OHV" means Off Highway Vehicle, also called ATV, see definition (1).
- (20) "Park Employee" means an employee of the department.
- (21) "Park Manager" means the supervisor or designated employee in charge of an ocean shore state recreation area.
- (22) "Peace Officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, and other persons as may be designated by law.
- (23) "Person" includes an individual, a public or private corporation, an unincorporated association, a partnership, a government or a governmental unit, or a non-profit entity.
- (24) "Personal Use" means use that is directly by the individual for purposes other than monetary reward and not involving sale, barter, resale, or exchange of money.
- (25) "Territorial Sea" as defined in ORS 196.405(5) means the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law.
- (26) "Unoccupied sites" means actively managed department-owned or leased areas, privately or locally-owned areas or areas adjacent to federal lands that have been identified as potential nesting sites for western snowy plovers in concurrence with the Habitat Conservation Plan for Western (Coastal) Snowy Plover.
- (27) "Upland" means the land lying shoreward or generally easterly of the ocean shore state recreation area.
- (28) "Violate" includes failure to comply.
- (29) "Wet sand" means the area seaward of symbolic fencing (roping), signs, or both that are placed on the dry sand area.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0040**

#### **General Regulations**

- (1) The director, by written agreement, may cooperatively exercise jurisdiction and authority over the ocean shore state recreation area with a county, city, or political subdivision thereof for the purposes of enforcing this division and applicable state, county or city laws. Local government regulations pertaining to the ocean shore state recreation area are provided in division 30.
- (2) A park employee may seek compliance from the public with any ocean shore state recreation area rules. ( A person may not obstruct, harass or interfere with a park employee's official duties, including enforcing ocean shore state recreation area rules.
- (3) A park manager or designated park employee may order any person who violates any ocean shore state recreation area rule to leave an ocean shore area.
- (4) A park manager or an enforcement officer may exclude a person who violates any ocean shore state recreation area rule from the ocean shore area for a specified period of time.
- (5) A peace officer, pursuant to a written agreement with the department, may seek compliance from the public with any ocean shore state recreation area rule and may order a person who violates one or more rules to leave the ocean shore area.

(6) A peace officer, pursuant to a written agreement with the department, may exclude a person who violates one or more of the following from an ocean shore state recreation area for a specified period of time:

- (a) Ocean shore state recreation area rule;
- (b) Federal, state, county, or city law; or
- (c) Court order.

(7) The department may take action to protect ocean shore resources, to protect public health and safety, to provide security, to avoid user conflicts, or for other reasons deemed necessary. These actions include but are not limited to the following:

- (a) Allowing by permit or limiting specific activities or uses in designated portions of the ocean shore state recreation area;
- (b) Designating locations within the ocean shore state recreation area for specific uses, to avoid conflicts between users;
- (c) Restricting access to or closing all or a portion of the ocean shore state recreation area; or
- (d) Temporarily excluding a person from a portion or all ocean shore state recreation area.

(8) A person excluded from the ocean shore state recreation area under sections (4), (6) or (7) may contest the exclusion notice by filing a written appeal within seven business days of the exclusion date. The person excluded must submit the appeal to the department district manager responsible for the ocean shore state recreation area where the notice of exclusion was issued.

Stat. Auth.: [ORS 390.660](#)  
Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)  
Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0050**

##### **Fines**

- (1) A person that violates any ocean shore state recreation area rule commits a Class A B, C or D violation punishable, upon conviction, by a fine as provided in ORS chapter 153.
- (2) Each occurrence of an ocean shore state recreation area rule violation is considered a separate offense.

Stat. Auth.: ORS 390.124, [ORS 390.660](#) & ORS 153.022  
Stats. Implemented: [ORS 390.050](#) & [ORS 390.124](#)  
Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0060**

##### **Motor Vehicles and Other Motorized Devices**

##### **General Provision**

- (1) A person operating a motorized vehicle or device on the ocean shore state recreation area must'

- (a) Observe all posted signs, including signs that prohibit the operation of motorized vehicles or devices; and
- (b) Restrict speed and manner of operation to reasonable and prudent practice, considering the terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other ocean shore state recreation area users, natural resources, and wildlife.

(2) A person operating a motorized vehicle or device on the ocean shore state recreation area may not:

- (a) Disturb or harass wildlife or other natural resources, or
- (b) Block access, use, or the safe and uninterrupted passage of others on the ocean shore state recreation area.

### **Motor Vehicle Provisions**

(3) A person may not use a motor vehicle as defined in ORS 825.005(6) on any area of the ocean shore state recreation area unless the department had posted the area as open. A person may use a motor vehicle on a closed area only pursuant to a permit issued by the department.

(4) On an area of the ocean shore state recreation area that the department has posted as open to motor vehicle use, a person may only operate a motor vehicle that is registered to operate on public highways and roads.

(5) On the ocean shore state recreation area fronting the Oregon Dunes and Sand Lake National Recreation Areas, a person may use an ATV or OHV provided that the vehicles is equipped with at least the minimum safety equipment as specified in OAR 735-116-0000.

(6) A person may not operate a Class I ATV on the ocean shore state recreation area, except:

(a) If the person obtains an Ocean Shores ATV Operating Permit from the department as provided in OAR 736-004-0062.

(b) On the ocean shore state recreation area fronting the Oregon Dunes and Sand Lake National Recreation Areas. A person may operate a Class I ATV registered in a state other than Oregon under this subsection.

(7) Unless otherwise posted, a person may not operate motorized vehicles or devices within the ocean shore state recreation area at speeds in excess of 25 mph in open sections and 10 mph in closed sections.

(8) A person operating a motorized vehicle or device must comply with regulatory signs in the ocean shore state recreation area. All provisions of motor vehicle laws of the State of Oregon are applicable and enforceable.

(9) The department may have a motorized vehicle or device towed at the owner's expense if left unattended for more than 24 hours or immediately if it meets one or more of the following criteria:

- (a) Blocks or restricts a beach access,
- (b) Is owned by a person who has been excluded or who is in violation of criminal trespass, or
- (c) Poses harm to the beach environment or ocean shore resources, creates a hazard to humans or wildlife, is a nuisance or may become a navigational hazard if washed out to sea.

(10) Vehicle operators must have a valid driver's license in their possession, except at ocean shore state recreation area adjacent to Oregon Dunes and Sand Lake National Recreation Areas that are open to ATV use.

(11) A person whose driving privilege has been suspended or revoked may not operate any vehicle on the ocean shore recreation area, including at ocean shore state recreation areas adjacent to the Oregon Dunes and at Sand Lake National Recreation Areas.

(12) A person may not use any vehicle in western snowy plover-management areas as provided in OAR 736-021-0090.

**ATV-Specific Provisions**

(13) A person operating an ATV on designated portions of the ocean shore state recreation area under this rule must comply with the following equipment requirements:

(a) **Flag:** All vehicles must display a highly visible red or orange flag when on the sand.

(A) The flag must be displayed vertically and be at least nine feet from the ground level when the vehicle is under power; and

(B) The flag dimensions must be at minimum 8 inches wide and 12 inches long.

(b) **Helmet:** Operators and passengers younger than 18-years-old in a Class I, III or IV ATV must wear a Department of Transportation-approved helmet with the chin strap fastened while operating an ATV. In addition, operators and passengers younger than 18 years of age must also wear a Department of Transportation-approved helmet with the chin strap fastened while operating a Class II vehicle not equipped with a roof or roll bar.

(c) **Fuel tank:** All fuel tanks must meet the following requirements:

(A) Must be securely mounted;

(B) Must be properly constructed of industrial material for carrying fuel;

(C) All connections must be secure and tight; and

(D) All mechanical fluids and fuel must be securely contained to ensure no leakages that may affect the ocean shore state recreation area.

(d) **Muffler:** All vehicles must be equipped with a muffler that conforms to the current noise level and defect standards of the Department of Environmental Quality for vehicles operated off road.

(11) A person operating an ATV on designated portions of the ocean shore state recreation area is subject to the following conditions:

(a) **ATV Operator Permit:** Operators of Class I, III and IV ATVs must obtain an ATV Safety Education Card, also known as an ATV operator permit, according to OAR 736-004-0085 and comply with all the provisions in OAR 736-004-0085.

(A) The department shall honor an ATV permit issued by another state, as detailed in OAR 736-004-0070.

(B) A temporary ATV Safety Education Card is valid for operation on the ocean shore state recreation area if the operator meets the provisions of OAR 736-004-0095.

(C) These rules apply to all ATV operators, regardless of state of residence.

(D) Only persons with disabilities and park employees, emergency personnel or natural resources workers on official duty that have obtained an Ocean Shores ATV Operating Permit from the department may operate a Class I ATV on the ocean shore state recreation area.

(b) **Placement of ATV Permit:** A person must display his or her ATV operating permits as provided in OAR 736-004-0065.

(c) **Rider Fit:** ATV operators younger than 16 years of age must meet the rider-fit criteria established in OAR 736-004-0115

### **Other Vehicle Provisions**

(12) A person may take off or land on the ocean shore in a powered aircraft, airborne vehicle or other aircraft:

(a) In an emergency, or

(b) As authorized in a special-use permit from the department as provided in OAR 736-016.

Stat. Auth.: ORS 390.660

Stats. Implemented: [ORS 390.668](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; PR 12-1996, f. 12-23-96, cert. ef. 12-26-96

### **736-021-0065**

#### **Non-Motorized Vehicles, Cycles, Unpowered Aircraft, Sails and Other Similar Devices**

(1) A person may operate a bicycle, skateboard, scooter, rollerblades or inline skate, or other wheeled, operator-propelled equipment that transports the operator on land, as provided in section (3).

(2) A person may operate a wind-powered aircraft or vehicle, such as a land sail, kite-buggy or other similar items on the ocean shore state recreation area as provided in section (3).

(3) A person operating any vehicle described in sections (1) or (2) on the ocean shore state recreation area must:

(a) Observe all posted signs, including the signs that restrict the operation of such vehicles, aircrafts and devices, and

(b) Restrict speed and manner of operation to reasonable and prudent practice considering the terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other ocean shore state recreation area users, natural resources, and wildlife.

(4) A person operating any vehicle described in sections (1) or (2) on the ocean shore state recreation area may not:

(a) Disturb or harass wildlife or other natural resources as provided in OAR 736-021-0090; or

(b) Block access, use, or the safe and uninterrupted passage of others on the ocean shore state recreation area.

### **736-021-0070**

#### **Pets and Other Animals**

(1) Domestic animals, including saddle or pack animals, are allowed in the ocean shore state recreation area except as provided in OAR 736-021-0090, OAR 736-030-0005, OAR 736-030-0010, and as otherwise posted by the department.

(2) The handler of any domestic animal must be responsible for the animal's behavior and must exercise direct control over the animal while in the ocean shore state recreation area.

(a) "Direct control" means that the animal is within the unobstructed sight of the handler and responds to voice commands or other methods of control.

(b) Domestic animal handlers must carry a leash or restraining device at all times while in the ocean shore state recreation area.

(c) Domestic animal handlers must promptly leash animals at the request or order of a park employee.

(d) Handlers must prevent their animals from harassing people, wildlife and other domestic animals.

(e) Animals may not be hitched or confined in a manner that may cause damage to any natural resources on the ocean shore.

(f) Handlers are responsible for the removal of the animal's waste while in the ocean shore state recreation area.

(3) A park manager, ocean shore natural resource specialist or designated park employee may take any necessary measures to protect ocean shore resources and prevent an animal from interfering with the safety, comfort and well-being of visitors. Such measures may include removing the animal from the area.

(4) The department may seize any animal running at large in the ocean shore state recreation area and relinquish the animal to an animal control officer or shelter.

(5) A person may bring animals native to the ocean shore state recreation area for release as part of wildlife rehabilitation efforts pursuant to a valid Wildlife Rehabilitation Permit under ORS 635-044-0200 to 635-044-0310.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0080**

##### **Livestock and Farming**

(1) A person may not harass livestock or interfere with lawfully permitted farming activities or facilities, including fencing.

(2) A person may not conduct non-permitted farming activities on the ocean shore state recreation area.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0090**

##### **Cultural, Historic, Natural and Wildlife Resources**

(1) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on the ocean shore state recreation area, unless the department has authorized that activity by a permit issued under ORS 390.235 and OAR 736-051-0060 to 736-051-0080.

(2) Except with the written permission of the department or as allowed by sections (3) or (4) of this rule, a person may not:

(a) Pick, cut, mutilate, trim, uproot, or remove any living vegetation;

(b) Dig up or remove any sand, soil, rock, historical or fossil materials; or

(c) Place, remove, roll, move any stones, logs or other objects to gain access to the ocean shore state recreation area.

(3) A persons who is an enrolled member of an Indian Tribe as defined in ORS 97.740 may collect natural products as part of their traditional cultural heritage, in accordance with procedures established by the department and in state rules. Upon request by a park employee, a person collecting natural products under this section must present tribal enrollment identification or a department-issued Special Tribal Use Permit.

#### **Removal for Personal Use**

(4) A person may remove small quantities of natural products from the ocean shore state recreation area for personal use without a permit as provided in subsections (a) and (b). However, the department may restrict removal of natural products to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) **Souvenirs** that may serve as a reminder of a person's ocean shore visit and may include a small quantity of agates and other rocks, driftwood, and similar non-living items collected for non-commercial, personal use in accordance with ORS 390.705 and 390.725. For items such as agates, sand and cobble, each person collecting must use an individual container and may not combine collections in the same container with another person. Unless otherwise restricted by the department, a person may remove:

(A) Agates and other non-living items such as shells, stones, and fossils loose on the ground, in small quantities, defined as no more than a one-gallon volume container per person per day; up to three gallons per person per calendar year.

(B) Sand: no more than a five-gallon volume container per person per day; up to 20 gallons per person per calendar year.

(C) Cobble: no more than a five-gallon volume container per person per day; up to 10 gallons per person per calendar year.

(D) Driftwood, for non-commercial purposes, as follows:

(i) No more than one cubic yard (3 ft X 3 ft X 3 ft) per person per day; up to three cords per person per calendar year.

(ii) Driftwood removal is restricted to wood that can be loaded by hand only. A person may not use mechanized loading or removal equipment. The department must approve chainsaw use.

(iii) A person may not remove wood embedded in the beach or in dune banks from the ocean shore state recreation area.

(iv) A person may not disturb, cut, mutilate or remove ancient tree stumps, including but not limited to those found on the ocean shore state recreation area at the Neskowin "ghost forest."

(b) **Living or non-living seaweed and marine plant** harvesting or collecting for non-commercial, personal consumption is allowed as provided in paragraphs (A) through (H) of this subsection. The department may restrict removal of aquatic vegetation to certain species, areas of the ocean shore state recreation area, quantities, and time of year.

(A) A person may harvest living seaweed and marine plants annually beginning March 1 and ending June 15.

(B) A person may harvest non-living seaweed and marine plants all year. However, in any western snowy plover-managed area, a person may not harvest non-living seaweed and marine plants during seasonal closures beginning March 15 and ending September 15.

(C) A person may not cut or disturb eel grass (*Zostera spp.*), surf grass (*Phyllospadix spp.*) or sea palm (*Postelia sp.*) in any area.

(D) A person may not harvest or collect any species listed on the “Rare, Threatened and Endangered Species of Oregon” published by the Oregon Biodiversity Information Center.

(E) A person may harvest no more than a one-gallon volume container per day; up to three gallons per calendar year.

(F) Each person collecting must use an individual container and may not combine collections in the same container with another person.

(G) A person may harvest only by hand using a knife or similar instrument. A person may only harvest live vegetation by cutting or picking; tearing or using tined instruments, such as rakes or forks, is prohibited. A person may remove loose or drift plants. A person may not remove or disturb a holdfast.

(H) A person may not pick, cut, mutilate, trim, uproot, remove or attempt to take or possess any living or non-living plants in marine reserves, marine protected areas, marine gardens, intertidal research reserves, and wildlife or habitat refuges.

(5) For any area of the ocean shore state recreation area that is also either a marine reserve or marine protected area, regulations pertaining to collection or removal of natural products are provided in division 29, OAR chapter 635, division 12, and OAR chapter 141, division 142.

(6) In order to remove or collect quantities of natural products greater than the limits listed in this rule, a person must obtain a special-use permit from the department.

#### **Removal for Commercial Use**

(7) In order to remove or collect natural products for commercial use, a person must obtain a permit as provided in OAR chapter 736, division 20.

#### **Other Collecting Activities**

(8) **Fishing**, shellfishing, and collecting of other marine invertebrates for personal or commercial use are regulated by the Oregon Department of Fish and Wildlife (ODFW) under rules in OAR chapter 635.

(9) A person may engage in **recreational prospecting** as provided in this section. However, the department may restrict disturbance or removal to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) A person may remove sand from the ocean shore state recreation area for personal prospecting use. A person may remove a maximum of one five-gallon volume container per day; for up to 20 gallons per person per calendar year.

(b) Equipment is limited to hand-operated instruments;

(c) A person may not use motorized equipment, including solar, battery operated pumps, or other similar motorized devices;

(d) A person may not use chemicals, heavy metals or other aids to separate metals;

(e) A person may not prospect in waters of the state without written permission from ODFW regarding in-stream work periods. A person may not interrupt or divert water flow or in any way restrict the movement of fish or wildlife;

(f) A person may not disturb, take, or move wildlife, vegetation or other natural resources in the prospecting process;

(g) If a person moves rocks in the prospecting process, the person must return the prospecting area to original condition before leaving the ocean shore state recreation area;

(h) A person may not prospect in any western snowy plover-managed area, during seasonal closures beginning March 15 and ending September 15;

(i) A person may not disturb more than one cubic yard of materials at any individual site, or more than a total of five cubic yards within a one-quarter mile radius; and

(j) A person may not stake or file a mining claim or leasehold location.

(10) **Scientific research:** A person may only engage in scientific research, including product removal for research, pursuant to a written permit from the department's Salem headquarters and any other required state or federal permits. For example, a person who wishes to capture or handle marine and freshwater fish and shellfish and other marine invertebrates for scientific or educational purposes from the waters of Oregon, including the ocean shore state recreation area, must obtain a valid scientific taking permit from the Oregon Department of Fish and Wildlife, as provided in OAR chapter 635, divisions 7 and 43.

(11) **Metal detecting:** A person may use a metal detector or similar device on the ocean shore state recreation area without a written permit from the department in the areas noted in the "Detecting Allowed" list, published on the OPRD website.

#### **Additional Rules for Natural Resource Protection**

(12) A person may not place items such as logs, rocks, ropes, structural members or other objects; remove, bury, roll stones or other objects; carve, dig caves or sculpt in sand dunes or sea cliffs, in a way that endangers visitors or damages ocean shore resources.

(4) A person may not do any of the following within the ocean shore recreation area:

(a) Hunt, collect, pursue, trap, kill, injure, harass or molest any wildlife, disturb or damage their habitat, disturb tidal pools, gather eggs or other live material, except as allowed in this rule. However, a person may detain or remove injured wildlife for rehabilitation efforts. A person must release injured or orphaned wildlife to a licensed wildlife rehabilitator as soon as feasible and in accordance with OAR chapter 635, divisions 44 and 56.

(b) Feed, give or offer food to wildlife;

(c) Discharge any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon or device capable of injuring any person or wildlife, except as allowed by section (14).

(14) The director may authorize the use of firearm and other predator control methods by designated individuals for natural resource management purposes.

#### **Rules for Western Snowy Plover Management Areas**

(15) In the western snowy plover management areas the following additional rules apply, which are adopted based on the department's Habitat Conservation Plan for Western (Coastal) Snowy Plover:

(a) **Occupied Sites:** In areas the department designated as occupied sites for western snowy plovers, the following apply:

(A) All recreation is restricted within dry sand demarked areas beginning March 15 and ending September 15. The department may declare restrictions ended on July 15 due to a discontinuation of nesting. The boundaries of "dry sand" areas may be identified with symbolic fencing (roping), signs, or both.

(B) A person may not operate a motorized or non-motorized vehicle or flying apparatus, including but not limited to kites, gliders and air balloons on the wet sand adjacent to demarked dry sand areas, except persons the department has approved to perform administrative, enforcement or scientific duties.

(C) Dogs are prohibited on the wet sand adjacent to demarked dry sand areas.

(D) Other recreational activities, such as camping and recreational fires, that could not typically occur on wet sand due to waves are also prohibited.

(E) Walking and any other passive activity not otherwise mentioned here are allowed on the wet sand.

(F) Horseback riding on the wet sand of beaches with occupied sites is allowed, unless horseback riding is otherwise restricted by special rules that pertain to areas adjacent to coastal cities and detailed in division 30.

(b) **Unoccupied Sites:** In areas the department has designated as unoccupied sites for western snowy plovers:

(A) A handler must leash dogs with a leash length of six feet or less and keep the dog under physical control at all times.

(B) Motorized and non-motorized vehicles are prohibited beginning March 15 and ending September 15. The department may declare the restrictions to end on July 15 due to a lack of nesting. The department may allow a person performing administrative, enforcement or scientific duties to use motorized or non-motorized vehicles when on official duty.

(C) The department will use signs placed at approaches to an unoccupied, actively managed area to convey restricted portions and duration to visitors.

(c) To manage the restoration efforts for the western snowy plover, the department will:

(A) Implement the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(B) Implement specific site plans designed for each area identified in the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(C) Implement the rules in this section, which apply to department-owned, leased or managed properties, as well as areas owned privately or by local governments that have been identified in the conservation plan or the site plans, and areas adjacent to occupied or unoccupied federal land; and

(D) Take any other action deemed necessary to the restoration effort.

Stat. Auth.: ORS 390.124, [ORS 390.660](#) & ORS 390.725

Stats. Implemented: [ORS 164.775](#), ORS 358.920, [ORS 390.635](#) & [ORS 390.660](#) & ORS 390.725

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

### **736-021-0100**

#### **Visitor Conduct**

(1) A person may not mutilate, deface, damage, or remove any property, structure or facility of any kind in the ocean shore state recreation area, except as provided in OAR 736-021-0090.

(2) A person may not leave any material not found naturally on the ocean shore, including garbage, recyclables, sewage, or waste, on the ocean shore state recreation area.

(3) A person may not engage in the following activities on the ocean shore state recreation area:

(a) Possessing or using alcoholic beverage(s) if the person is under 21 years of age;

(b) Fighting or promoting, instigating or encouraging fighting or similar violent conduct that would threaten the physical well-being of any person;

(c) Activities or conduct that constitutes a public nuisance or hazard; or

(d) Public indecency as defined in ORS 163.465;

(4) A person may only engage in the following activities on the ocean shore state recreation area as authorized in a special use permit that they obtain from the department pursuant to OAR chapter 736, division 16 or written permission from the park manager:

(a) Use or operation of any noise or light-producing machine, vehicle, device or instrument in a manner that may disturb persons or wildlife;

(b) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, or fireworks or other substances;

(c) Using a metal detector or similar device in any property not listed on the “Detecting Allowed” list, published on the department website;

(d) Blocking, obstructing or interfering with pedestrian or vehicular traffic;

(e) Descending, scaling or technical rock climbing on rock formations and cliffs;

(f) Entering or occupying any portion of the ocean shore state recreation area that has been closed to public access, including fenced areas; and

(g) Constructing a structure or sign.

Stat. Auth.: ORS 390.660

Stats. Implemented: [ORS 390.635](#), [ORS 390.655](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

## **736-021-0120**

### **Fires**

(1) A person may have a recreational beach fire in the ocean shore state recreation area under the following conditions:

(a) Fires are no larger than three feet by three feet by three feet in dimension. A person may apply for a special use permit under division 16 for larger fires.

(b) Fires must be located as follows:

(A) In the open sand area;

(B) Downwind of any shoreline vegetation and small wood debris or log accumulations;

(C) Never in dunes, small wood debris or beach log accumulations; and

(D) A minimum of 25 feet away from beach access points, shoreline vegetation, log accumulations and seawalls constructed of wood or other combustible material.

(c) Fires must not be left unattended;

- (d) Fires must not cause damage to facilities or natural resources;
  - (e) Fires may not be covered with sand; and
  - (f) Fires must be extinguished completely with water and be broken apart before its users leave the area.
- (2) A person may only burn paper products and untreated natural wood free of attached metal, nails, glass or plastic objects. A person may not use gasoline, diesel or any other petroleum-based products to start a fire.
- (3) Notwithstanding section (1), the department may restrict fires to individual beach areas, or temporarily prohibit fires due to high fire hazard conditions.
- (4) Beach fires are prohibited in western snowy plover-management areas as provided in OAR 736-021-0090.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; PR 3-1997, f. 11-5-97, cert. ef. 11-10-97

#### **736-021-0130**

##### **Commercial Activities and Non-Traditional Activities**

- (1) A person may only engage in a commercial activity or non-traditional park use on the ocean shore state recreation area as authorized in a special use permit that they obtain from the department pursuant to OAR chapter 736, division 16.
- (2) A person must obtain a special use permit from the department for any activity or use as described in OAR 736-016-0005(1), including but not limited to an activity or use within the ocean shore state recreation area that:
- (a) Is an organized group activity or event attended by over 50 persons;
  - (b) Uses a portion of the ocean shore state recreation area to the exclusion of other persons or the department;
  - (c) Modifies or embellishes the natural ocean shore state recreation area, or places structures, such as tents, chairs, arches, etc. on the ocean shore state recreation area in a manner outside of normal recreational use, as determined by the department;
  - (d) Uses public-address, amplification or lighting systems, other than those designed for personal use;
  - (e) Charges money for participation or admission, or they sell products or services;
  - (f) Could disturb the natural, cultural, scenic and recreational resources in the ocean shore state recreation area or adjacent areas;
  - (g) Could pose a safety or access concern for other ocean shore state recreation area users or for those involved in the event or activity.
- (3) A person who obtains a special use permit under OAR 736, division 16 must comply with all the provisions of division 16, special use permit conditions, and with instructions from the department.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#).

Hist.: PR 9-1984, f. & ef. 12-12-84; PR 8-1992, f. & cert. ef. 11-12-92; Renumbered from 736-020-0033; PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; Renumbered from 736-021-0000

#### **736-021-0140**

### Signs and Promotional Materials

(1) Unless the department authorizes a person to do so within the ocean shore state recreation area under a special use permit as provided in OAR chapter 736, division 16, a person may not place or distribute:

(a) Any sign, marker, advertisement, or inscription with the sole purpose of advertising a business or soliciting customers;

(b) Any circulars, notices, leaflets, pamphlets, written or printed information, promotional materials, products or other similar items of any kind.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

### 736-021-0150

#### Lost Articles

(1) Under ORS 164.065 and ORS 98.005, a person who finds money or goods with a perceived value of \$100 or more at the ocean shore state recreation area must try to find the property's rightful owner in one of the following ways:

a) by directly following the provisions established in ORS 98.005; or

b) by giving the found property to the department within 10 days of finding it, along with the details of the time and place the property was found.

(2) A person who finds money or goods valued at less than \$100 in the ocean shore recreation may give the property to the department.

(3) Sections (1) and (2) apply to items found by using metal detectors but not to minerals discovered through recreational prospecting.

(4) The department may dispose of unclaimed items in the department's custody in as early as 90 days.

(5) The department must have and follow a property disposition process that complies with applicable state laws and ethics standards.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

### 736-021-0160

#### Additional Rules

Additional administrative rules may apply to the ocean shore state recreation area, including but not limited to OAR chapter 736, divisions 4, 20, 22, 30 and 80.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

# PARKS AND RECREATION DEPARTMENT

## DIVISION 21

### GENERAL OCEAN SHORE STATE RECREATION

#### AREA RULES

##### 736-021-0010

###### Scope of Rules

This division ~~These rules~~ governs the use of ~~all the~~ ocean shore state recreation areas ~~which consists of the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line as described by ORS 390.770 or the line of established upland shore vegetation, whichever is farther inland, not bordering a state park area or wayside. Beaches bordering coastal state parks are governed by separate state park rules.~~ This division does not govern activities or uses in the sub-tidal zone, which extends below extreme low tide, or in an estuary as defined in ORS 196.800.

Stat. Auth.: [ORS 390.124 & ORS 390.660](#)

Stats. Implemented: [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

##### 736-021-0020

###### Statutory Authority

This division is adopted pursuant to:

(1) [ORS 390.050](#), which authorizes the ~~park~~ director and the director's designees to enforce park and ocean shore state recreation area rules by citation authority; and

(2) ~~These rules are adopted pursuant to~~ [ORS 390.635](#) and [390.660](#), which grant the Oregon State Parks and Recreation Commission the following:

(a) Complete jurisdiction and authority to administer as state recreation areas, all ocean shore areas owned by the state and all other public easements or other rights of access that the state holds on the ocean shore;

(b) Authority to protect and maintain such areas in a manner that which will contribute to the general welfare of the public and the natural and cultural resources thereon; and

(c) Authority to make regulations and provisions as it deems necessary for the use and administration of such areas.

Stat. Auth.: [ORS 390.124 & ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

##### 736-021-0030

###### Definitions

For purposes of this division, the definitions in [ORS 358.905](#) and [ORS 390.605](#) shall apply. In addition, the following definitions apply, unless the context requires otherwise:

(1) "ATV" means All-Terrain Vehicle as described and defined in OAR 736-004-0015. ATV may also be referred to interchangeably as Off-Highway Vehicle (OHV).

(2) "Cobble" means a rock fragment between about 2.5 inches and 10.2 inches wide, especially one that has been naturally rounded.

(3) "Commission" means the Oregon Parks and Recreation Commission.

(4) "Department" means the Oregon Parks and Recreation Department.

(5) "Director" means the director of the Oregon Parks and Recreation Department.

(6) "Domestic animal" means those animals whose food and shelter are provided by a human custodian.

(7) "Enforcement Officer" means a ~~peace officer or park department~~ employee specifically designated by the director under ORS 390.050 ~~authorized by the department~~ to investigate observed or reported violations and to issue oral or written warnings ~~and citations to enforce for violations of~~ the ocean shore state recreation area rules.

(8) "Habitat Conservation Plan for Western (Coastal) Snowy Plovers" is a multi-agency, multi-jurisdictional recovery effort for the Western Snowy Plover. The full text of the "Habitat Conservation Plan for Western (Coastal) Snowy Plovers" is available from the State Parks and Recreation Department.

(9) "Handler" means a person who brings a domestic animal onto the ocean shore state recreation area.

(10) "Holdfast" means the part of a seaweed by which it fastens to the surface on which it grows.

(11) "Marine Protected Area" means any area of the marine environment within Oregon's Territorial Sea that has been reserved by the state to provide lasting protection for part or all of the natural and cultural resources in it. A marine protected area is an area established by the State Land Board and identified in OAR chapter 141, division 142.

(12) "Marine Reserve" is an area within Oregon's Territorial Sea or adjacent rocky intertidal area that is protected from all extractive activities, including the removal or disturbance of living and non-living marine resources, except as necessary for monitoring or research to evaluate reserve condition, effectiveness, or impact of stressors. A marine reserve is an area established by the State Land Board and identified in OAR chapter 141, division 142.

(13) "Motorized vehicle or device" means any self-propelled means moving on wheels, runners, tracks or the like by which a person could travel or carry something, whether or not designed exclusively to transport or typically used on roads. This definition includes but is not limited to a motor vehicle as defined in ORS 825.005(6), motorized bicycles, motor scooters, ATVs, OHVs, recreational vehicles, trailers and other mobile equipment.

(14) "Natural Product" means living and non-living natural products on the ocean shore, including but not limited to marine plants, minerals, shells, rocks, and sand.

(15) "Non-Traditional Park Use" means any organized activity, gathering or use conducted in whole or in part within the boundaries of the ocean shore state recreational area, that is not a recreational use allowed by the posted park regulations or permitted under the provisions of this rule or divisions 10, 15 and 20 and which requires a special use permit under division 16.

(16) "Occupied site" means a department-owned or leased area, a privately or locally-owned area or an area adjacent to federal lands that has at least one nest or nesting attempt as identified by the department at the beginning of each western snowy plover nesting season in accordance with the Habitat Conservation Plan for Western (Coastal) Snowy Plover.

(17) "Ocean ~~s~~Shore ~~s~~tate ~~r~~Recreation ~~a~~Area" means the land lying between extreme low tide of the Pacific Ocean and the statutory vegetation line or the line of established upland vegetation, whichever is farther inland, under the

~~jurisdiction of the department that is used by the public for recreational purposes established and described by .770, except for those beach portions abutting a park area. per ORS 390.605 (2) and (3).~~

~~(185)~~ "Ocean ~~s~~Shore ~~r~~Resources" means ~~a~~ any natural or ~~human~~man-made ~~property, material,~~ product, feature or structure in the ocean shore ~~state~~ recreation area.

~~(19)~~ "OHV" means Off Highway Vehicle, also called ATV, see definition (1).

~~(6)~~ "Park Property" means any state park, wayside, corridor, monument, historic, or recreation area, except portions of ocean shore recreation areas not abutting a state park or wayside, under the jurisdiction of the Commission.

~~(7)~~ "Park Director" means the director of the department.

~~(208)~~ "Park Employee" means ~~an~~ employees of the department.

~~(219)~~ "Park Manager" means the ~~area manager, assistant area manager,~~ supervisor or designated employee in charge of an ~~designated~~ ocean shore ~~state~~ recreation area.

~~(22)~~ "Peace Officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, and other persons as may be designated by law.

~~(23)~~ "Person" includes an individual, a public or private corporation, an unincorporated association, a partnership, a government or a governmental unit, or a non-profit entity.

~~(24)~~ "Personal Use" means use that is directly by the individual for purposes other than monetary reward and not involving sale, barter, resale, or exchange of money.

~~(25)~~ "Territorial Sea" as defined in ORS 196.405(5) means the waters and seabed extending three geographical miles seaward from the coastline in conformance with federal law.

~~See Exhibit 1.~~

**Exhibit 1**

~~Ocean Shore Management Jurisdiction Director.~~

~~Columbia River to Tillamook Bay~~

~~AREA 1-OPRD~~

~~Fort Stevens State Park~~

~~Hammond OR 97121~~

~~(503) 861-3170~~

~~Bayocean Spit to Nye Beach Wayside~~

~~AREA 2-OPRD~~

~~2505 Highway 101 N. Suite A~~

~~Tillamook OR 97141~~

~~(503) 842-5501~~

~~Nye Beach to Umpqua Lighthouse Beach~~

~~AREA 3 OPRD~~

~~Honeyman State Park~~

~~84505 Hwy 101 S~~

~~Florence OR 97439~~

~~(541) 997-3851~~

~~Umpqua Lighthouse to California Border~~

~~AREA 4 OPRD~~

~~Sunset Bay State Park~~

~~40965 Cape Arago Hwy~~

~~Coos Bay OR 97420~~

~~(541) 888-3778~~

(26) "Unoccupied sites" means actively managed department-owned or leased areas, privately or locally-owned areas or areas adjacent to federal lands that have been identified as potential nesting sites for western snowy plovers in concurrence with the Habitat Conservation Plan for Western (Coastal) Snowy Plover.

(2740) "Upland" means the land lying shoreward or generally easterly of the Ocean Shore state Recreation Area.

(28) "Violate" includes failure to comply.

(29) "Wet sand" means the area seaward of symbolic fencing (roping), signs, or both that are placed on the dry sand area.

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0040**

### **General Regulations**

(1) The director, by written agreement, may cooperatively exercise jurisdiction and authority over the ocean shore state recreation area with a county, city, or political subdivision thereof for the purposes of enforcing this division and applicable state, county or city laws. Local government regulations pertaining to the ocean shore state recreation area are provided in division 30.

~~(2) AThe park manager employee may shall seek compliance fromby the public with anythe Ocean Shore state Recreation Area rules. The park manager may order any person violating these rules to leave the ocean shore recreation area.~~

~~(2) No~~ A person ~~may shall not~~ obstruct, harass or interfere with ~~a park employee's the~~ official duties, ~~including of any park employee during enforcement of the~~ ocean shore state recreation area rules.

(3) A park manager or designated park employee may order any person who violates any ocean shore state recreation area rule to leave an ocean shore area.

(4) A park manager or an enforcement officer may exclude a person who violates any ocean shore state recreation area rule from the ocean shore area for a specified period of time.

(5) A peace officer, pursuant to a written agreement with the department, may seek compliance from the public with any ocean shore state recreation area rule and may order a person who violates one or more rules to leave the ocean shore area.

(6) A peace officer, pursuant to a written agreement with the department, may exclude a person who violates one or more of the following from an ocean shore state recreation area for a specified period of time:

(a) Ocean shore state recreation area rule;

(b) Federal, state, county, or city law; or

(c) Court order.

~~(7)~~ The department may take action ~~to~~ to protect ocean shore resources, to protect public health and safety, to provide security, ~~to and~~ avoid user conflicts, or for other reasons deemed necessary. These actions include but are not limited to the following:

(a) Allowing by permit or limiting specific activities or uses in designated portions of the ocean shore state recreation area;

(b) Designating locations within the ocean shore state recreation area for specific uses, to avoid conflicts between users;

(c) Restricting access to or closing all or a portion of the ocean shore state recreation area; or

~~(d) Temporarily excluding a person from a portion or all ocean shore state recreation area. ,the park manager or enforcement officer may restrict access, impose use limits on a temporary basis, or close all or a portion of the ocean shore recreation area to a specific use or activity (e.g., due to natural disaster, hazardous spill, discovery of toxic dumping, or due to wildlife habitat needs).~~

(8) A person excluded from the ocean shore state recreation area under sections (4), (6) or (7) may contest the exclusion notice by filing a written appeal within seven business days of the exclusion date. The person excluded must submit the appeal to the department district manager responsible for the ocean shore state recreation area where the notice of exclusion was issued.

~~(4) Individuals are to comply with signs installed to seek compliance with said restrictions or the ocean shore recreation area rules.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.124, ORS 390.635 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0050**

**Fines**

(1) ~~Any person, firm or corporation that~~ violates ~~ing~~ any ocean shore state recreation area rule commits a Class A B, C or D violation ~~park and recreation infraction~~ punishable, upon conviction, by a fine as provided in ORS chapter 153, not to exceed \$700.

(2) Each occurrence of an ocean shore state recreation area rule violation ~~is~~ ~~shall be~~ considered a separate offense.

Stat. Auth.: ORS 390.124, ORS 390.660 & ORS 153.022

Stats. Implemented: ORS 390.050 & ORS 390.124

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0060**

## **Motor Vehicles and Other Motorized Devices**

### **General Provision**

(1) A person operating a motorized vehicle or device on the ocean shore state recreation area must"

(a) Observe all posted signs, including signs that prohibit the operation of motorized vehicles or devices; and

(b) Restrict speed and manner of operation to reasonable and prudent practice, considering the terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other ocean shore state recreation area users, natural resources, and wildlife.

(2) A person operating a motorized vehicle or device on the ocean shore state recreation area may not:

(a) Disturb or harass wildlife or other natural resources, or

(b) Block access, use, or the safe and uninterrupted passage of others on the ocean shore state recreation area.

### **Motor Vehicle Provisions**

(3) A person may not use a motor vehicle as defined in ORS 825.005(6) on any area of the ocean shore state recreation area unless the department had posted the area as open. A person may use a motor vehicle on a closed area only pursuant to a permit issued by the department.

(4) On an area of the ocean shore state recreation area that the department has posted as open to motor vehicle use, a person may only operate a motor vehicle that is registered to operate on public highways and roads.

(5) On the ocean shore state recreation area fronting the Oregon Dunes and Sand Lake National Recreation Areas, a person may use an ATV or OHV provided that the vehicles is equipped with at least the minimum safety equipment as specified in OAR 735-116-0000.

(6) A person may not operate a Class I ATV on the ocean shore state recreation area, except:

(a) If the person obtains an Ocean Shores ATV Operating Permit from the department as provided in OAR 736-004-0062.

(b) On the ocean shore state recreation area fronting the Oregon Dunes and Sand Lake National Recreation Areas, A person may operate a Class I ATV registered in a state other than Oregon under this subsection.

(7) Unless otherwise posted, a person may not operate motorized vehicles or devices within the ocean shore state recreation area at speeds in excess of 25 mph in open sections and 10 mph in closed sections.

(8) A person operating a motorized vehicle or device must~~Motorists shall~~ comply with ~~motor vehicle~~ regulatory signs in the ocean shore state recreation area. All provisions of motor vehicle laws of the State of Oregon are applicable and enforceable.

(9) The department may have a motorized vehicle or device towed at the owner's expense if left unattended for more than 24 hours or immediately if it meets one or more of the following criteria:

(a) Blocks or restricts a beach access.

(b) Is owned by a person who has been excluded or who is in violation of criminal trespass, or

(c) Poses harm to the beach environment or ocean shore resources, creates a hazard to humans or wildlife, is a nuisance or may become a navigational hazard if washed out to sea.

~~(2) Motor vehicle use is allowed on beaches unless otherwise posted. Beaches closed to vehicles may be accessed only by permit.~~

~~(3) Motor vehicles shall be "street legal" and registered to operate on public highways and roads, except on beaches where vehicle use is allowed at the Oregon Dunes National Recreation Area and at the Sand Lake Recreation Area. Vehicles there need only be equipped with minimum off-road vehicle safety equipment.~~

(104) Vehicle operators must~~shall~~ have a valid driver's license in their possession, except at ocean shore state recreation area adjacent to Oregon~~the Dunes NRA and at Sand Lake National Recreation Areas that are and on adjacent beaches~~ open to ATV off-road vehicle use, ~~where Class I all-terrain vehicle operators must meet one of the following qualifications:~~

~~(a) The person must hold a valid driver's license;~~

~~(b) The person must hold a valid Class I all-terrain vehicle operator permit issued under ORS 821.180;~~

~~(c) The person must be accompanied by a person who is at least 18 years of age, who has either a valid Class I all-terrain vehicle operator permit and who is either on the same vehicle if the vehicle is designed to carry passengers, or on a separate Class I all-terrain vehicle.~~

(11) A person whose driving privilege has been suspended or revoked may not operate any vehicle on the ocean shore recreation area, including at ocean shore state recreation areas adjacent to the Oregon Dunes and at Sand Lake National Recreation Areas.

~~(5) At the Dunes NRA and at Sand Lake persons whose driving privilege has been suspended or revoked may not operate Class I all-terrain vehicles on the ocean shore.~~

(12) A person may not use any vehicle in western snowy plover-management areas as provided in OAR 736-021-0090.

### ATV-Specific Provisions

(13) A person operating an ATV on designated portions of the ocean shore state recreation area under this rule must comply with the following equipment requirements:

(a) **Flag:** All vehicles must display a highly visible red or orange flag when on the sand.

(A) The flag must be displayed vertically and be at least nine feet from the ground level when the vehicle is under power; and

(B) The flag dimensions must be at minimum 8 inches wide and 12 inches long.

(b) **Helmet:** Operators and passengers younger than 18-years-old in a Class I, III or IV ATV must wear a Department of Transportation-approved helmet with the chin strap fastened while operating an ATV. In addition, operators and passengers younger than 18 years of age must also wear a Department of Transportation-approved helmet with the chin strap fastened while operating a Class II vehicle not equipped with a roof or roll bar.

(c) **Fuel tank:** All fuel tanks must meet the following requirements:

(A) Must be securely mounted;

(B) Must be properly constructed of industrial material for carrying fuel;

(C) All connections must be secure and tight; and

(D) All mechanical fluids and fuel must be securely contained to ensure no leakages that may affect the ocean shore state recreation area.

(d) **Muffler:** All vehicles must be equipped with a muffler that conforms to the current noise level and defect standards of the Department of Environmental Quality for vehicles operated off road.

(11) A person operating an ATV on designated portions of the ocean shore state recreation area is subject to the following conditions:

(a) **ATV Operator Permit:** Operators of Class I, III and IV ATVs must obtain an ATV Safety Education Card, also known as an ATV operator permit, according to OAR 736-004-0085 and comply with all the provisions in OAR 736-004-0085.

(A) The department shall honor an ATV permit issued by another state, as detailed in OAR 736-004-0070.

(B) A temporary ATV Safety Education Card is valid for operation on the ocean shore state recreation area if the operator meets the provisions of OAR 736-004-0095.

(C) These rules apply all to ATV operators, regardless of state of residence.

(D) Only persons with disabilities and park employees, emergency personnel or natural resources workers on official duty that have obtained an Ocean Shores ATV Operating Permit from the department may operate a Class I ATV on the ocean shore state recreation area.

(b) **Placement of ATV Permit:** A person must display his or her ATV operating permits as provided in OAR 736-004-0065.

(c) **Rider Fit:** ATV operators younger than 16 years of age must meet the rider-fit criteria established in OAR 736-004-0115

#### **Other Vehicle Provisions**

(12) A person may take off or land on the ocean shore in a powered aircraft, airborne vehicle or other aircraft:

(a) In an emergency, or

(b) As authorized in a special-use permit from the department as provided in OAR 736-016.

~~(6) Unless otherwise posted, motor vehicles shall not be operated within the ocean shore recreation area at speeds in excess of 25 miles per hour.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: [ORS 390.668](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; PR 12-1996, f. 12-23-96, cert. ef. 12-26-96

### [736-021-0065](#)

#### [Non-Motorized Vehicles, Cycles, Unpowered Aircraft, Sails and Other Similar Devices](#)

[\(1\) A person may operate a bicycle, skateboard, scooter, rollerblades or inline skate, or other wheeled, operator-propelled equipment that transports the operator on land, as provided in section \(3\).](#)

[\(2\) A person may operate a wind-powered aircraft or vehicle, such as a land sail, kite-buggy or other similar items on the ocean shore state recreation area as provided in section \(3\).](#)

[\(3\) A person operating any vehicle described in sections \(1\) or \(2\) on the ocean shore state recreation area must:](#)

[\(a\) Observe all posted signs, including the signs that restrict the operation of such vehicles, aircrafts and devices, and](#)

[\(b\) Restrict speed and manner of operation to reasonable and prudent practice considering the terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other ocean shore state recreation area users, natural resources, and wildlife.](#)

[\(4\) A person operating any vehicle described in sections \(1\) or \(2\) on the ocean shore state recreation area may not:](#)

[\(a\) Disturb or harass wildlife or other natural resources as provided in OAR 736-021-0090; or](#)

[\(b\) Block access, use, or the safe and uninterrupted passage of others on the ocean shore state recreation area.](#)

### [736-021-0070](#)

#### [Pets and Other Animals](#)

[\(1\) Domestic animals, including saddle or pack animals, are allowed in the ocean shore state recreation area except as provided in OAR 736-021-0090, OAR 736-030-0005, OAR 736-030-0010, and as otherwise posted by the department.](#)

[\(2\) The handler of any domestic ~~owner of any dog, cat, or other~~ animal ~~brought into or kept in the ocean shore recreation area must shall~~ be responsible for the animal's behavior and ~~must exercise direct physical~~ control ~~over the animal~~ while in the ocean shore ~~state~~ recreation area.](#)

[\(a\) "Direct control" means that the animal is within the unobstructed sight of the handler and responds to voice commands or other methods of control.](#)

[\(b\) Domestic animal handlers must carry a leash or restraining device at all times while in the ocean shore state recreation area.](#)

[\(c\) Domestic animal handlers must promptly leash animals at the request or order of a park employee.](#)

[\(d\) Handlers must prevent their animals from harassing people, wildlife and other domestic animals.\(e\) Animals may not be hitched or confined in a manner that may cause damage to any natural resources on the ocean shore.](#)

(f) Handlers are responsible for the removal of the animal's waste while in the ocean shore state recreation area.

~~(2) Saddle animals such as horses, llamas, mules, etc. may be used on the ocean shore recreation area where not otherwise posted. No animal shall be hitched or confined in a manner that may cause damage to any natural resources on the ocean shore.~~

(3) ~~The~~ park manager, ocean shore natural resource specialist or designated park employee ~~ee~~ may take any necessary measures ~~deemed necessary, including the removal of the animal from the area,~~ to protect ocean shore resources and ~~to~~ prevent interference by the an animal from interfering with the safety, comfort, and well-being of visitors. Such measures may include removing the animal from the area.

(4) ~~The department~~ Park managers may seize any animal running at large in the ocean shore state recreation area and relinquish ~~lease~~ the animal to an animal control officer or shelter ~~pound~~.

(5) A person may bring animals native to the ocean shore state recreation area for release as part of wildlife rehabilitation efforts pursuant to a valid Wildlife Rehabilitation Permit under ORS 635-044-0200 to 635-044-0310.

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.635 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0080**

#### Livestock and Farming

(1) ~~No~~ A person may ~~shall~~ not harass livestock or interfere with lawfully permitted farming activities or ~~and~~ facilities, including fencing, ~~lawfully permitted on any ocean shore recreation area.~~

(2) A person may not conduct non-permitted farming activities on the ocean shore state recreation area.

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.635 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0090**

#### Cultural, Historic, Natural and Wildlife Resources ~~Vandalism and Litter~~

(1) A person may not excavate, injure, destroy or alter an archaeological site or object or remove an archaeological object located on the ocean shore state recreation area, unless the department has authorized that activity by a permit issued under ORS 390.235 and OAR 736-051-0060 to 736-051-0080.

~~(2) No person shall, e~~ Except with the written permission of the department or as allowed by sections (3) or (4) of this rule, a person may not ~~park manager or designated park employee:~~

(a) Pick, Ccut, mutilate, trim, uproot, or remove any living vegetation;

(b) Dig up or remove any sand, soil, rock, historical or fossil materials; or ~~or Indian artifacts or burials, except in accordance with ORS Chapter 358 and OAR 736-020-0035.~~

(c) Place, remove, roll, move any stones, logs or other objects to gain access to the ocean shore state recreation area.

(3) A persons who is an enrolled member of an Indian Tribe as defined in ORS 97.740 may collect natural products as part of their traditional cultural heritage, in accordance with procedures established by the department and in state

rules. Upon request by a park employee, a person collecting natural products under this section must present tribal enrollment identification or a department-issued Special Tribal Use Permit.

### **Removal for Personal Use**

(4) A person may remove small quantities of natural products from the ocean shore state recreation area for personal use without a permit as provided in subsections (a) and (b). However, the department may restrict removal of natural products to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) **Souvenirs** that may serve as a reminder of a person's ocean shore visit and may include a small quantity of agates and other rocks, driftwood, and similar non-living items collected for non-commercial, personal use in accordance with ORS 390.705 and 390.725. For items such as agates, sand and cobble, each person collecting must use an individual container and may not combine collections in the same container with another person. Unless otherwise restricted by the department, a person may remove:

(A) Agates and other non-living items such as shells, stones, and fossils loose on the ground, in small quantities, defined as no more than a one-gallon volume container per person per day; up to three gallons per person per calendar year.

(B) Sand: no more than a five-gallon volume container per person per day; up to 20 gallons per person per calendar year.

(C) Cobble: no more than a five-gallon volume container per person per day; up to 10 gallons per person per calendar year.

(D) Driftwood, for non-commercial purposes, as follows:

(i) No more than one cubic yard (3 ft X 3 ft X 3 ft) per person per day; up to three cords per person per calendar year.

(ii) Driftwood removal is restricted to wood that can be loaded by hand only. A person may not use mechanized loading or removal equipment. The department must approve chainsaw use.

(iii) A person may not remove wood embedded in the beach or in dune banks from the ocean shore state recreation area.

(iv) A person may not disturb, cut, mutilate or remove ancient tree stumps, including but not limited to those found on the ocean shore state recreation area at the Neskowin "ghost forest."

(b) **Living or non-living seaweed and marine plant** harvesting or collecting for non-commercial, personal consumption is allowed as provided in paragraphs (A) through (H) of this subsection. The department may restrict removal of aquatic vegetation to certain species, areas of the ocean shore state recreation area, quantities, and time of year.

(A) A person may harvest living seaweed and marine plants annually beginning March 1 and ending June 15.

(B) A person may harvest non-living seaweed and marine plants all year. However, in any western snowy plover-managed area, a person may not harvest non-living seaweed and marine plants during seasonal closures beginning March 15 and ending September 15.

(C) A person may not cut or disturb eel grass (*Zostera spp.*), surf grass (*Phyllospadix spp.*) or sea palm (*Postelia sp.*) in any area.

(D) A person may not harvest or collect any species listed on the "Rare, Threatened and Endangered Species of Oregon" published by the Oregon Biodiversity Information Center.

(E) A person may harvest no more than a one-gallon volume container per day; up to three gallons per calendar year.

(F) Each person collecting must use an individual container and may not combine collections in the same container with another person.

(G) A person may harvest only by hand using a knife or similar instrument. A person may only harvest live vegetation by cutting or picking; tearing or using tined instruments, such as rakes or forks, is prohibited. A person may remove loose or drift plants. A person may not remove or disturb a holdfast.

(H) A person may not pick, cut, mutilate, trim, uproot, remove or attempt to take or possess any living or non-living plants in marine reserves, marine protected areas, marine gardens, intertidal research reserves, and wildlife or habitat refuges.

(5) For any area of the ocean shore state recreation area that is also either a marine reserve or marine protected area, regulations pertaining to collection or removal of natural products are provided in division 29, OAR chapter 635, division 12, and OAR chapter 141, division 142.

(6) In order to remove or collect quantities of natural products greater than the limits listed in this rule, a person must obtain a special-use permit from the department.

#### **Removal for Commercial Use**

(7) In order to remove or collect natural products for commercial use, a person must obtain a permit as provided in OAR 736, division 20.

#### **Other Collecting Activities**

(8) **Fishing**, shellfishing, and collecting of other marine invertebrates for personal or commercial use are regulated by the Oregon Department of Fish and Wildlife (ODFW) under rules in OAR chapter 635.

(9) A person may engage in **recreational prospecting** as provided in this section. However, the department may restrict disturbance or removal to specific areas of the ocean shore state recreation area, by quantities of material, and by time of year.

(a) A person may remove sand from the ocean shore state recreation area for personal prospecting use. A person may remove a maximum of one five-gallon volume container per day; for up to 20 gallons per person per calendar year.

(b) Equipment is limited to hand-operated instruments;

(c) A person may not use motorized equipment, including solar, battery operated pumps, or other similar motorized devices;

(d) A person may not use chemicals, heavy metals or other aids to separate metals;

(e) A person may not prospect in waters of the state without written permission from ODFW regarding in-stream work periods. A person may not interrupt or divert water flow or in any way restrict the movement of fish or wildlife;

(f) A person may not disturb, take, or move wildlife, vegetation or other natural resources in the prospecting process;

(g) If a person moves rocks in the prospecting process, the person must return the prospecting area to original condition before leaving the ocean shore state recreation area;

(h) A person may not prospect in any western snowy plover-managed area, during seasonal closures beginning March 15 and ending September 15;

(i) A person may not disturb more than one cubic yard of materials at any individual site, or more than a total of five cubic yards within a one-quarter mile radius; and

(j) A person may not stake or file a mining claim or leasehold location.

(10) **Scientific research:** A person may only engage in scientific research, including product removal for research, pursuant to a written permit from the department's Salem headquarters and any other required state or federal permits. For example, a person who wishes to capture or handle marine and freshwater fish and shellfish and other marine invertebrates for scientific or educational purposes from the waters of Oregon, including the ocean shore state recreation area, must obtain a valid scientific taking permit from the Oregon Department of Fish and Wildlife, as provided in OAR chapter 635, divisions 7 and 43.

(11) **Metal detecting:** A person may use a metal detector or similar device on the ocean shore state recreation area without a written permit from the department in the areas noted in the "Detecting Allowed" list, published on the OPRD website.

#### **Additional Rules for Natural Resource Protection**

~~(2) Persons shall not mutilate, deface, damage or remove any property, structure or facility of any kind in the ocean shore recreation area.~~

~~(123) Persons shall~~ A person may not place items such as logs, rocks, ropes, structural members or other objects; remove, bury, roll stones or other objects; or carve, dig caves or, sculpture in sand dunes or sea cliffs, in a way that ~~which~~ endangers visitors or damages ocean shore resources.

~~(4) No person shall deposit garbage, sewage, refuse or waste on any~~ A person may not do any of the following within the ocean shore recreation area:

(a) Hunt, collect, pursue, trap, kill, injure, harass or molest any wildlife, disturb or damage their habitat, disturb tidal pools, gather eggs or other live material, except as allowed in this rule. However, a person may detain or remove injured wildlife for rehabilitation efforts. A person must release injured or orphaned wildlife to a licensed wildlife rehabilitator as soon as feasible and in accordance with OAR chapter 635, divisions 44 and 56.

(b) Feed, give or offer food to wildlife;

(c) Discharge any firearm, pellet gun, bow and arrow, slingshot, paintball gun, or other weapon or device capable of injuring any person or wildlife, except as allowed by section (14).

(14) The director may authorize the use of firearm and other predator control methods by designated individuals for natural resource management purposes.

#### **Rules for Western Snowy Plover Management Areas**

(15) In the western snowy plover management areas the following additional rules apply, which are adopted based on the department's Habitat Conservation Plan for Western (Coastal) Snowy Plover:

(a) **Occupied Sites:** In areas the department designated as occupied sites for western snowy plovers, the following apply:

(A) All recreation is restricted within dry sand demarked areas beginning March 15 and ending September 15. The department may declare restrictions ended on July 15 due to a discontinuation of nesting. The boundaries of "dry sand" areas may be identified with symbolic fencing (roping), signs, or both.

(B) A person may not operate a motorized or non-motorized vehicle or flying apparatus, including but not limited to kites, gliders and air balloons on the wet sand adjacent to demarked dry sand areas, except persons the department has approved to perform administrative, enforcement or scientific duties.

(C) Dogs are prohibited on the wet sand adjacent to demarked dry sand areas.

(D) Other recreational activities, such as camping and recreational fires, that could not typically occur on wet sand due to waves are also prohibited.

(E) Walking and any other passive activity not otherwise mentioned here are allowed on the wet sand.

(F) Horseback riding on the wet sand of beaches with occupied sites is allowed, unless horseback riding is otherwise restricted by special rules that pertain to areas adjacent to coastal cities and detailed in division 30.

(b) **Unoccupied Sites:** In areas the department has designated as unoccupied sites for western snowy plovers:

(A) A handler must leash dogs with a leash length of six feet or less and keep the dog under physical control at all times.

(B) Motorized and non-motorized vehicles are prohibited beginning March 15 and ending September 15. The department may declare the restrictions to end on July 15 due to a lack of nesting. The department may allow a person performing administrative, enforcement or scientific duties to use motorized or non-motorized vehicles when on official duty.

(C) The department will use signs placed at approaches to an unoccupied, actively managed area to convey restricted portions and duration to visitors.

(c) To manage the restoration efforts for the western snowy plover, the department will:

(A) Implement the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(B) Implement specific site plans designed for each area identified in the Habitat Conservation Plan for Western (Coastal) Snowy Plover;

(C) Implement the rules in this section, which apply to department-owned, leased or managed properties, as well as areas owned privately or by local governments that have been identified in the conservation plan or the site plans, and areas adjacent to occupied or unoccupied federal land; and

(D) Take any other action deemed necessary to the restoration effort.

Stat. Auth.: [ORS 390.124](#), [ORS 390.660](#) & [ORS 390.725](#)

Stats. Implemented: [ORS 164.775](#), [ORS 358.920](#), [ORS 390.635](#) & [ORS 390.660](#) & [ORS 390.725](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

**736-021-0100**

### **Visitor Conduct ~~Prohibited Activities~~**

(1) A person may not mutilate, deface, damage, or remove any property, structure or facility of any kind in the ocean shore state recreation area, except as provided in OAR 736-021-0090.

(2) A person may not leave any material not found naturally on the ocean shore, including garbage, recyclables, sewage, or waste, on the ocean shore state recreation area.

(3) A person may not engage in the following activities on the ocean shore state recreation area:

(a) Possessing or using alcoholic beverage(s) if the person is under 21 years of age;

(b) Fighting or promoting, instigating or encouraging fighting or similar violent conduct that would threaten the physical well-being of any person;

(c) Activities or conduct that constitutes a public nuisance or hazard; or

(d) Public indecency as defined in ORS 163.465;

(4) A person may only engage in the following activities on the ocean shore state recreation area as authorized in a special use permit that they obtain from the department pursuant to OAR chapter 736, division 16 or written permission from the park manager:

(a) Use or operation of any noise or light-producing machine, vehicle, device or instrument in a manner that may disturb persons or wildlife;

(b) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, or fireworks or other substances;

(c) Using a metal detector or similar device in any property not listed on the "Detecting Allowed" list, published on the department website;

(d) Blocking, obstructing or interfering with pedestrian or vehicular traffic;

(e) Descending, scaling or technical rock climbing on rock formations and cliffs;

(f) Entering or occupying any portion of the ocean shore state recreation area that has been closed to public access, including fenced areas; and

~~The following activities are prohibited within the ocean shore recreation area:~~

~~(1) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, fireworks or other similar devices without the written permission of the park manager of the beach area in which the permittee wishes to discharge such devices. See ocean shore management jurisdiction directory for address and phone number. Fireworks are defined in OAR 837-012-0072(19);~~

~~(g) Constructing a structure or sign without a permit;~~

~~(3) Harassing wildlife, seabirds or nesting birds; disturbing tide pools; gathering eggs or other live material.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.635, ORS 390.655 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

### **736-021-0110**

#### **Hunting and Firearms**

~~No person within the ocean shore recreation area shall:~~

~~(1) Hunt, pursue, trap, kill, injure, or molest any wildlife or disturb their habitats;~~

~~(2) Discharge any firearm, pellet gun, bow and arrow, slingshot, paint ball gun, or other weapon capable of injuring any person or wildlife.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 166.630, ORS 390.635 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

### **736-021-0120**

#### **Fires**

(1) ~~Small~~ A person may have a recreational beach fire in the ocean shore state recreation area under the following conditions: are allowed provided they are located in the open dry sands area, downwind of and below beachgrass and the driftwood line; no fires are allowed in dunes or beach log accumulations.

(a) Fires are no larger than three feet by three feet by three feet in dimension. A person may apply for a special use permit under division 16 for larger fires.

(b) Fires must be located as follows:

(A) In the open sand area;

(B) Downwind of any shoreline vegetation and small wood debris or log accumulations;

(C) Never in dunes, small wood debris or beach log accumulations; and

(D) A minimum of 25 feet away from beach access points, shoreline vegetation, log accumulations and seawalls constructed of wood or other combustible material.

(c) Fires must not be left unattended;

(d) Fires must not cause damage to facilities or natural resources;

(e) Fires may not be covered with sand; and

(f) Fires must be extinguished completely with water and be broken apart before its users leave the area.

(2) A person may only burn paper products and untreated natural wood free of attached metal, nails, glass or plastic objects. A person may not use gasoline, diesel or any other petroleum-based products to start a fire.

(3) Notwithstanding section (1), the department may restrict fires to individual beach areas, or temporarily prohibit fires due to high fire hazard conditions.

(4) Beach fires are prohibited in western snowy plover-management areas as provided in OAR 736-021-0090.

~~(2) No fire shall be placed in driftwood, left unattended or be permitted to cause damage to facilities or natural resources. Every fire shall be extinguished before its users leave the area.~~

~~(3) No fire shall be permitted within 25 feet of a seawall that is constructed of wood or other combustible material.~~

~~(4) At the discretion of a park manager, fires normally permitted in the ocean shore recreation area may be restricted or prohibited due to high fire hazard conditions.~~

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; PR 3-1997, f. 11-5-97, cert. ef. 11-10-97

#### **736-021-0130**

#### **Commercial Activities and Non-Traditional Activities**

(1) A person may only engage in a commercial activity or non-traditional park use on the ocean shore state recreation area as authorized in a special use permit that they obtain from the department pursuant to OAR chapter 736, division 16.

(2) A person must obtain a special use permit from the department for any activity or use as described in OAR 736-016-0005(1), including but not limited to an activity or use within the ocean shore state recreation area that:

- (a) Is an organized group activity or event attended by over 50 persons;
  - (b) Uses a portion of the ocean shore state recreation area to the exclusion of other persons or the department;
  - (c) Modifies or embellishes the natural ocean shore state recreation area, or places structures, such as tents, chairs, arches, etc. on the ocean shore state recreation area in a manner outside of normal recreational use, as determined by the department;
  - (d) Uses public-address, amplification or lighting systems, other than those designed for personal use;
  - (e) Charges money for participation or admission, or they sell products or services;
  - (f) Could disturb the natural, cultural, scenic and recreational resources in the ocean shore state recreation area or adjacent areas;
  - (g) Could pose a safety or access concern for other ocean shore state recreation area users or for those involved in the event or activity.
- (3) A person who obtains a special use permit under OAR 736, division 16 must comply with all the provisions of division 16, special use permit conditions, and with instructions from the department.

~~Except as otherwise provided in this rule, no person shall conduct any commercial activity on the Ocean Shore Recreation Area. Commercial activities include, but are not limited to: selling, renting, leasing or offering to sell, rent or lease any merchandise, food, beverage or service; operating a concession; advertising; monetary transactions or payments; and displaying or storing goods for sale or rent.~~

~~(2) In the sole discretion of the department a special permit may be granted by the department to a private party for a commercial activity in conjunction with a special event if all of the following conditions are met:~~

~~(a) No feasible alternative location is available at some off-beach site;~~

~~(b) The permitted activity does not pose a threat to public health, safety or welfare, does not cause any lasting damage to any ocean shore resources, and does not interfere with public access to and along the beach.~~

~~(3) A special permit may be granted by the department to a local city or county government to allow specific commercial activities to be performed by a named private parties if the following conditions are met:~~

~~(a) The specific type of commercial activity exists at the specific ocean shore location on the effective date of these rules;~~

~~(b) There are no feasible alternative locations nearby at some off-beach site;~~

~~(c) No money is exchanged or payment made on the beach;~~

~~(d) The permitted activity does not pose a threat to public health, safety or welfare, does not~~

~~cause any lasting damage to any ocean shore resources, and does not interfere with public access to and along the beach;~~

~~(e) The affected city or county government will be responsible for enforcing all terms of the permit.~~

~~(4) Special permits issued pursuant to this rule are not transferable. The department may require additional conditions on any special permit issued pursuant to this rule. Permits for commercial activities under section (2) of this rule are limited in duration to no more than the length of the special event. Permits for cities and counties under~~

~~section (3) of this rule shall be limited to five years, and the city or county may further limit the time it allows the activity to continue. Issuance of a permit confers no right or expectation that the permit will be renewed or extended.~~

~~(5) Violation of terms or conditions of permits issued under sections (2) and (3) may cause the permits to be subject to immediate cancellation or revocation.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.635 & ORS 390.660.

Hist.: PR 9-1984, f. & ef. 12-12-84; PR 8-1992, f. & cert. ef. 11-12-92; Renumbered from 736-020-0033; PR 9-1994, f. 11-29-94, cert. ef. 12-1-94; Renumbered from 736-021-0000

#### 736-021-0140

#### Signs and Promotional Materials

(1) Unless the department authorizes a person to do so within the ocean shore state recreation area under a special use permit as provided in OAR chapter 736, division 16, a person may not place or distribute:

~~(a) No Any~~ sign, marker, advertisement, or inscription with the sole purpose of advertising a business or soliciting customers; ~~of any kind shall be placed within the ocean shore recreation area without written permission from the park manager.~~

~~(b2) No person may distribute Any~~ circulars, notices, leaflets, pamphlets, ~~or~~ written or printed information, promotional materials, products or other similar items of any kind, ~~within the ocean shore recreation area, unless they have first obtained permission from a park manager and reported their name, address and number of leaflets to be distributed to the park manager.~~

Stat. Auth.: ORS 390.660

Stats. Implemented: ORS 390.635 & ORS 390.660

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### 736-021-0150

#### Lost Articles

(1) Under ORS 164.065 and ORS 98.005, a person who finds money or goods with a perceived value of \$100 or more at the ocean shore state recreation area must try to find the property's rightful owner in one of the following ways:

a) by directly following the provisions established in ORS 98.005; or

b) by giving the found property to the department within 10 days of finding it, along with the details of the time and place the property was found.

(2) A person who finds money or goods valued at less than \$100 in the ocean shore recreation may give the property to the department.

(3) Sections (1) and (2) apply to items found by using metal detectors but not to minerals discovered through recreational prospecting.

(4) The department may dispose of unclaimed items in the department's custody in as early as 90 days.

(5) The department must have and follow a property disposition process that complies with applicable state laws and ethics standards.

~~All money or goods found in the ocean shore recreation area must be turned over to the park manager. All money or goods shall be disposed of according to department policy adopted in accordance with ORS Chapter 98.~~

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.124](#), [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

#### **736-021-0160**

#### **Additional Rules**

Additional administrative rules [may apply](#) ~~shall be posted in specific to the~~ ocean shore [state](#) recreation area, ~~s to which they pertain. These~~ including [ing](#) but ~~are~~ not limited to [OAR chapter 736, D](#)divisions [4, 20, 223, 30 and 80-24, 25, 26, 27 and 28.](#)

Stat. Auth.: [ORS 390.660](#)

Stats. Implemented: [ORS 390.635](#) & [ORS 390.660](#)

Hist.: PR 9-1994, f. 11-29-94, cert. ef. 12-1-94

## Oregon Parks and Recreation Commission

June 20, 2012

---

Agenda Item:	10c	Action
Topic:	Temporary Adopt OAR 736-015, Tribal Foster Fee Waiver	
Presented by:	Richard Walkoski	

---

### **Background:**

The Oregon Parks and Recreation Department offers camping and day-use parking fee waivers to two groups: veterans with a service-related disability and Oregon foster homes (including those that later adopt their foster child). The foster home exemption has been in force since the early 1990s. In 2011 Oregon foster families enjoyed 1,769 stays worth \$125,000, plus an unmeasured number of day-use trips. The foster family waiver is called out in statute (ORS 418.625) and when the statute was written it included only foster homes for youth directly certified by one state agency, the Department of Human Services (DHS).

There are two groups of Oregon foster children excluded from the fee waiver because their foster care providers are not certified by DHS: foster homes certified by tribal governments and by the Oregon Youth Authority (OYA). It is possible that these exclusions from the program were unintentional, since these are Oregon youth in every sense save for the jurisdiction serving the foster homeowner. Unlike privately-run and funded foster businesses, foster care systems certified by a tribal government and the OYA are largely dependent on support from nonprofits, personal communities and public social services.

There are approximately 50 homes in the tribal foster care system at any one time, and perhaps 10-12 would register for free state park camping and day-use if given the opportunity. Assuming 3-5 stays per year, averaging \$70 per stay, the maximum fee waivers would be in the range of \$2,100-4,200 annually, increasing and decreasing slightly as awareness of the program spreads, and as enrollment in the programs changes. The Youth Authority system is smaller, with around 40 homes, leading to perhaps 8-10 new enrollees each year, for another \$1,600-3,500 in fees waived. The total estimated revenue lost: \$3,700-7,700.

**Prior Action by Commission:** None.

### **Action Requested:**

Staff requests the commission adopt a temporary rule adding families in homes certified by tribal governments and the Oregon Youth Authority to the list of those eligible for the foster fee waiver. The amendments to OAR 736-015-0006 are included in Attachment A. The amendments have been reviewed and approved by Steve Shipsey, Assistant Attorney General. Staff will also request, in a separate agenda item, the authority to permanently adopt the language in the temporary rule.

**Prepared by:** Richard Walkoski

## DIVISION 15

### RATES

#### 736-015-0006

#### Definitions

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

- (1) "Adoptive Foster Families" means one or more persons who have adopted one or more foster children pursuant to ORS 418.285. At least one of the children must currently be under 18 years of age and living with the Adoptive Foster Family.
- (2) "Commission" means the Oregon State Parks and Recreation Commission.
- (3) "Department" means the Oregon State Parks and Recreation Department.
- (4) "Director" means the director of the department.
- (5) "Enforcement Officer" means a peace officer or park employee specifically designated by the director under ORS 390.050 to investigate observed or reported violations, and to issue oral or written warnings or citations to enforce park area rules.
- (6) "Foster Families" means persons ~~certified to maintain~~ along with their foster children, who currently maintain:
  - (a) ~~a~~ A Foster Home, a Relative Home for Children or a Foster Home for Children with Developmental Disabilities, as described in ORS 418.625 and or ORS 443.830, with their foster children;
  - (b) A Foster Home certified by the Oregon Youth Authority under OAR chapter 416, division 530; or
  - (c) A Foster Home certified by any of the nine federally-recognized tribal governments in Oregon.
- (7) "In Kind Services" means a group or person who provides, at the direction of park staff, materials or services whose value to the park area equals or is greater than the normal fees.
- (8) "Marketing and Promotion" generally are agency-sponsored events that are of regional or statewide significance promoting tourism or partnerships with local communities, other agencies or economic development.
- (9) "Motor Vehicle" as defined in ORS 801.360 means a vehicle that is self-propelled or designed for self-propulsion. ORS 801.590 further defines "vehicle" as "any device in, upon or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means."

(10) "Non-Profit Entity" means a group having a 501c(3) exempt status filed with the US Department of Internal Revenue Service.

(11) "Park Area" means any state park, wayside, corridor, monument, historic, or recreation area, except portions of ocean shore recreation areas not abutting a state park or wayside, under the jurisdiction of the department.

(12) "Park Employee" means an employee of the department.

(13) "Park Facility" includes but is not limited to individual and group campsites, day use areas and shelters, cabins, yurts, tepees, camper wagons, meeting halls, lodges, pavilions, and other amenities of the department.

(14) "Park Manager" means the supervisor or designated park employee in charge of a park area.

(15) "Peace Officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, and other persons as may be designated by law.

(16) "Person" includes individuals, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(17) "Reduced Service Level" means a reduction in the normal level of service that a person may reasonably expect due to the department's action/inaction or park facility failure lasting longer than 24 hours.

(18) "Reservation Cancellation" means the person requests an existing reservation be ended without the creation of a new reservation.

(19) "Reservation Change" means a modification to an existing reservation by a person that changes the arrival or departure dates, a complete change to reservation dates, or changes the type of site from the original request.

(20) "Special Events" may be an activity sponsored or co-sponsored by the department, an event that provides entertainment to park visitors, or other activities that promote the mission of the department or Oregon tourism.

(21) "Split Reservation" means a stay at a park area for one person for one continuous date range that requires a mid-stay move from one site to another.

(22) "Traditional Tribal Activities" generally means traditional, spiritual, natural and cultural resource practices that would have been or which still are conducted by a federally recognized tribe or its members.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.050, 390.111, 390.121 & 390.124

## Oregon Parks and Recreation Commission

June 20, 2012

---

Agenda Item:	10d	Action
Topic:	Request to go to Rulemaking OAR 736-015 – Tribal Foster Fee Waiver and No Show rules for Preregistration	
Presented by:	Richard Walkoski	

---

**Background:**

Two groups of Oregon foster children are excluded from the Foster fee waiver because their foster care providers are not certified by DHS: foster homes certified by tribal governments and by the Oregon Youth Authority (OYA). On the June 2012 commission agenda there is a temporary rule request to include these Foster Families in the waiver program. That temporary rule, if approved will only last 180 days, so permanent rulemaking needs to be done to adopt the language of the temporary rule.

Staff is also requesting a change to division 15 related to the new preregistration program. Campers can now enter arrival information related to their reservation on-line prior to their arrival at the park. To ensure that campers using preregistration notify park staff of their arrival at the park or any changes to arrival plans made after preregistration, staff is requesting division 15 rules apply the standard no show rules to campers who preregister but do not arrive by 1:00 PM on the second day of their reservation.

**Prior Action by Commission:** Temporary rules to include tribal and Oregon Youth Authority homes in the Foster Fee waiver are being considered at the June 20, 2012 meeting.

**Action Requested:**

Staff requests the commission open chapter 736 division 15 for rulemaking to add families in homes certified by tribal governments and the Oregon Youth Authority to the list of those eligible for the foster fee waiver and add requirements that campers using preregistration check in or notify park staff prior to 1:00 p.m. of the second day of the reservation. The amendments to OAR chapter 736 division 15 are included in Attachment A.

**Prepared by:** Richard Walkoski

## DIVISION 15

### RATES

736-015-0006

#### Definitions

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

(1) "Adoptive Foster Families" means one or more persons who have adopted one or more foster children pursuant to ORS 418.285. At least one of the children must currently be under 18 years of age and living with the Adoptive Foster Family.

(2) "Commission" means the Oregon State Parks and Recreation Commission.

(3) "Department" means the Oregon State Parks and Recreation Department.

(4) "Director" means the director of the department.

(5) "Enforcement Officer" means a peace officer or park employee specifically designated by the director under ORS 390.050 to investigate observed or reported violations, and to issue oral or written warnings or citations to enforce park area rules.

(6) "Foster Families" means persons ~~certified to maintain~~ with their foster children, who currently maintain:

(a) a Foster Home, a Relative Home for Children or a Foster Home for Children with Developmental Disabilities, as described in ORS 418.625 and-or ORS 443.830, with their foster children: or

(b) a Foster Home certified by the Oregon youth Authority under OAR 416-530; or

(c) a Foster Home certified by any of the nine federally-recognized tribal governments as listed in ORS 172.110.

(7) "In Kind Services" means a group or person who provides, at the direction of park staff, materials or services whose value to the park area equals or is greater than the normal fees.

(8) "Marketing and Promotion" generally are agency-sponsored events that are of regional or statewide significance promoting tourism or partnerships with local communities, other agencies or economic development.

(9) "Motor Vehicle" as defined in ORS 801.360 means a vehicle that is self-propelled or designed for self-propulsion. ORS 801.590 further defines "vehicle" as "any device in, upon or

by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.”

(10) "Non-Profit Entity" means a group having a 501c(3) exempt status filed with the US Department of Internal Revenue Service.

(11) "Park Area" means any state park, wayside, corridor, monument, historic, or recreation area, except portions of ocean shore recreation areas not abutting a state park or wayside, under the jurisdiction of the department.

(12) "Park Employee" means an employee of the department.

(13) "Park Facility" includes but is not limited to individual and group campsites, day use areas and shelters, cabins, yurts, tepees, camper wagons, meeting halls, lodges, pavilions, and other amenities of the department.

(14) "Park Manager" means the supervisor or designated park employee in charge of a park area.

(15) "Peace Officer" means a sheriff, constable, marshal, municipal police officer, member of the Oregon State Police, and other persons as may be designated by law.

(16) "Person" includes individuals, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality.

(17) "Reduced Service Level" means a reduction in the normal level of service that a person may reasonably expect due to the department's action/inaction or park facility failure lasting longer than 24 hours.

(18) "Reservation Cancellation" means the person requests an existing reservation be ended without the creation of a new reservation.

(19) "Reservation Change" means a modification to an existing reservation by a person that changes the arrival or departure dates, a complete change to reservation dates, or changes the type of site from the original request.

(20) "Special Events" may be an activity sponsored or co-sponsored by the department, an event that provides entertainment to park visitors, or other activities that promote the mission of the department or Oregon tourism.

(21) "Split Reservation" means a stay at a park area for one person for one continuous date range that requires a mid-stay move from one site to another.

(22) "Traditional Tribal Activities" generally means traditional, spiritual, natural and cultural resource practices that would have been or which still are conducted by a federally recognized tribe or its members.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.050, 390.111, 390.121 & 390.124

Hist.: PRD 4-2005, f. & cert. ef. 5-5-05; PRD 15-2009, f. & cert. ef. 9-29-09; PRD 5-2010, f. & cert. ef. 3-24-10; PRD 5-2011, f. & cert. ef. 8-1-11

## **736-015-0015**

### **Reservations**

(1) Purpose: Based on the department's goal to promote outdoor recreation in Oregon, the department established a reservation program known as Reservations Northwest to increase use of park areas and facilities. The director may designate specific park facilities to offer for reservation through a centralized call center and through the Internet.

#### (2) General Regulations:

(a) Reservations will be accepted and processed for designated park facilities through Reservations Northwest.

(b) A person may make a reservation a minimum of two days and a maximum of nine months prior to the arrival date.

(c) A person must be 18 years of age or older to make a reservation.

(d) A person who qualifies under the Americans with Disabilities Act (ADA) may reserve accessible campsites.

(e) A person may not make reservations for multiple park areas for the same date range.

(f) A person reserving a boat slip (where available) must also reserve another facility at the same park area.

(g) Reservations and registrations for horse camping sites shall be made only for people camping with their horses or similar large animals unless otherwise specified by the park manager.

(h) Split reservations are allowed to accommodate persons. Only one split reservation shall be allowed per reservation.

(i) Only the person whose name appears on the original reservation or their designee (as documented in the original reservation) may change or cancel an existing reservation or access information associated with a reservation.

(j) Customer information may be made available upon written request in compliance with ORS chapter 192 and department policy.

(k) Specific information regarding a confirmed reservation will not be released to the public as provided in ORS 192.501 and 192.502.

(3) Transaction Fees and Deposits:

(a) The department will charge a \$8 non-refundable transaction fee for each reservation made through the centralized call center or the Internet.

(b) Reservations require a facility deposit equal to the full amount charged for use of the facility during the reservation period.

(c) All fees are due at the time the person makes the reservation.

(4) Payment Methods:

(a) A person may use a valid credit card (VISA or MasterCard) or bank debit card with a VISA or MasterCard logo.

(b) A person may pay by personal check, money order, certified check, or travelers check (in U.S. funds).

(c) The department must receive payment within five calendar days of the date the person makes the reservation. If payment is not received within this time frame, the department will cancel the reservation. The person remains responsible for the \$8 transaction fee for each reservation request.

(d) If a banking institution returns a check to the department for any reason or if a credit or debit card is declined, the department will attempt to contact the person. Inability to resolve the payment dispute will result in a reservation cancellation. The person will remain responsible for the \$8 transaction fee for each reservation.

(e) Government agencies and non-profit entities may request to be invoiced for services. Reservations should be made at least 30 days prior to arrival. The department must receive payment within 25 days of the date the reservation is made. If payment is not received the department will cancel the reservation. The department will bill for the \$8 transaction fee for each reservation.

(f) A person must pay all outstanding account balances prior to making future reservations.

(5) Reservation Cancellations:

(a) A person may cancel a reservation three calendar days or more prior to their arrival date by calling Reservations Northwest. An automated reservation cancellation voice mail system is available seven days a week, 24 hours a day.

(b) A person may also cancel a reservation three calendar days or more prior to their arrival date through E-mail by accessing the department's web site and following the posted cancellation procedures. The web site is available seven days a week, 24 hours a day.

(c) A person must contact the specific park to cancel reservations with an arrival date that is two calendar days or less from the current date.

(d) The park area may only cancel reservations with an arrival date that is two days or less from the current date.

(e) In order to receive a refund of the facility deposit, a person must cancel the reservation for individual campsites, rustic cabins and yurts, tepees, camper wagons, and boat moorages three or more calendar days prior to arrival. If the cancellation is not received three or more days in advance of the arrival date, an amount of the facility deposit fee equal to one night rental for the facility will be forfeited.

(f) In order to receive a refund of the facility deposit for deluxe cabins and yurts, group camps, day use areas, meeting halls, horse camps, lodges, Silver Falls Youth Camp, Silver Falls Ranch House, Shore Acres Garden House, Pavilions, RV Group Areas and other special facilities as designated by the department, a person must cancel the reservation at least one month prior to arrival. If the cancellation is not received one month or more in advance of the arrival date, an amount of facility deposit fee equal to one night rental for the facility will be forfeited.

(6) Reservation Changes:

(a) The department will charge an \$8 non-refundable transaction fee for each reservation change.

(b) A person may request to change a confirmed reservation by calling Reservations Northwest during normal business hours Monday through Friday.

(c) A person may also request to change a reservation through Email by accessing the department's web site and following the posted reservation change procedures. The web site is available seven days a week, 24 hours a day.

(d) A person may not make any changes to reservations more than eight months in advance of the arrival date.

(e) The park area may only cancel reservations with an arrival date that is two days or less from the current date.

(f) The department will assess a fee equal to the nightly rental fees for all nights cancelled for any reservation change resulting in a reduction in length of stay for reservation bookings greater than five nights.

(g) A person must request a reservation change for campsites, rustic cabins and yurts, tepees, camper wagons, and boat moorages three or more days in advance of the arrival date. The

department will treat reservation change requests with an arrival date of three days or less from the current date as a reservation cancellation and cancellation rules will apply. A person may request a new reservation once the existing reservation has been cancelled.

(h) A person requesting a reservation change for deluxe cabins and yurts, group camps, day use areas, meeting halls, horse camps, lodges, Silver Falls Youth Camp, Silver Falls Ranch House, Shore Acres Garden House, Pavilions, RV Group Areas, and other special facilities as designated by the department must request the change at least one month prior to arrival date. The department will treat reservation change requests with an arrival date of less than one month from the current date as a reservation cancellation and cancellation rules will apply. A person may request a new reservation once the existing reservation has been cancelled.

#### (7) Claiming Reservations

(a) Customers with confirmed reservations must arrive before 1:00 p.m. the day following the first scheduled day of their reservation.

(b) The reserved site must remain occupied each night during the entire length of stay.

(c) In emergency situations, customers may request Park Manager approval for late arrivals not to exceed 6:00 p.m. of the second day of the reservation. Site fees for the first night will be charged regardless of the arrival time.

(d) Customers, [including those that have pre-registered](#), who do not check in [at the park](#) or notify park staff [that they will be delayed](#) prior to 1:00 p.m. of the second day of the reservation will be considered a “no show” and the entire reservation will be cancelled. The first night fee and any transaction fees previously collected for the reservation will be retained. Any remaining nightly fees paid to confirm the reservation will be refunded.

#### (8) Reservations to Accommodate Organized Groups:

(a) General: To promote the use of facilities by groups and to bring efficiencies to the group reservation process, the director may offer group camping to persons reserving multiple tent, electrical or full hook-up campsites.

(b) The department will charge only one transaction fee for the group when the sites are reserved together. The department will require a facility deposit fee equal to the full amount of the site fee for each campsite at the time the reservation is made.

(c) A person must reserve a minimum of five individual campsites during Discovery Season (October 1 to April 30) or ten individual campsites during the Prime Season (May 1 to September 30) to qualify for group camping benefits.

(d) The department will charge a transaction fee of \$8 for each site cancellation or change made to the group reservation.

- (e) Reservations made on the Internet for a group of sites are not eligible.
- (f) A person may reserve a meeting hall (where available) for one day's free use when the minimum number of sites are reserved and used. The person may reserve the meeting hall for additional days at the normal rental rate.
- (g) Special facilities such as deluxe cabins and yurts, rustic cabins and yurts, horse camps, lodges, Silver Falls Youth Camp, Silver Falls Ranch House, and other special facilities as designated by the department are not included in the group camping program.
- (h) A person must make reservations at least 10 days prior to arrival date to qualify for group camping benefits.
- (9) When only a portion of a specific type of facility in a park is designated as ADA compliant, the department will hold the facility designated as ADA compliant for use by individuals with disabilities until all other facilities of that type have been reserved and the accessible facility is the only remaining facility of that type available in the park.

Stat. Auth.: ORS 390.124

Stats. Implemented: ORS 390.111, 390.121 & 390.124

## Oregon Parks and Recreation Commission

June 20, 2012

---

Agenda Item:	10e	Action
Topic:	Request to go to Rulemaking OAR 736-010 – Alcohol Ban at Iwetemlaykin State Heritage Site	
Presented by:	Richard Walkoski	

---

**Background:**

Since the park opened alcohol has been banned at Iwetemlaykin State Heritage Site. The temporary ban was placed by the park manager as a result of tribal concerns raised during the planning process for the park. The site is a very special place and as such it was determined that it should be one of the few state park properties where alcohol is prohibited.

While the temporary ban placed by the park manager has been effective, OPRD made a commitment during the planning process to seek a permanent ban in rule. District Manager Jim Hutton has evaluated the effectiveness of the temporary ban and has requested the rule be made a permanent part of the general park area rules, division 10. Mr. Hutton has also contacted Mike Hayward (Chair of the Wallowa County Board of Commissioners) and Dennis Sands (City of Joseph Mayor) and both said they support the idea of making the alcohol ban at Iwetemlaykin permanent. They have not received any negative comments from the public about the temporary ban.

**Prior Action by Commission:** None.

**Action Requested:**

Staff requests the commission open OAR 736-010-0060 for rulemaking, adding Iwetemlaykin State Heritage Site to the list of parks where a person may not possess or use alcoholic beverages. The proposed amendments to OAR 736-010-0060 are included in Attachment A.

**Prepared by:** Richard Walkoski

## CHAPTER 736

### DIVISION 10

#### GENERAL PARK AREA RULES

##### 736-010-0060

#### Alcoholic Beverages

- (1) A person under 21 years of age may not possess or use alcoholic beverage(s) in any park area.
- (2) A person may not possess or use alcoholic beverages in the following areas except by permit from the park manager:
  - (a) Bald Peak State Scenic Viewpoint;
  - (b) That portion of Dabney State Recreation Area downstream from the Stark Street bridge;
  - (c) Lewis and Clark State Recreation Site between the east bank river frontage road and the Sandy River from I-84 upstream to the park boundary;
  - (d) TouVelle State Recreation Site;
  - (e) Tumalo State Park day use area;
  - (f) Bonnie Lure State Recreation Area;
  - (g) Warm Springs boat launch access, Deschutes River, Jefferson County;
  - (h) [Iwetemlaykin State Heritage Site](#); and
  - (h) Other park areas as signed.
- (3) A person may not use an Oregon Liquor Control Commission licensed server to dispense any alcoholic beverage including malt beverages from kegs without a permit from the park manager.

Stat. Auth: ORS 390.124

Stats. Implemented: ORS 390.111