

## Oregon Parks and Recreation Commission

September 15, 2021

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Agenda Item: 9b

**Action**

Public Comment Allowed: Yes

Topic: Request to open rules implementing 2021 legislation: 736-010-0020- General Regulations; 736- 015-0006- Definitions; 736-015-0020-Overnight rentals; 736-015-0040- Miscellaneous rental products; 736-002-0170- Outdoor Recreation Advisory Council

Presented by: Katie Gauthier, Government Relations and Policy Manager

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Legislation passed during the 2021 session resulted in the need to update administrative rules to implement legislative directives.

Changes in three bills are included in this proposed rulemaking: SB 289 prohibiting individuals convicted of a bias crime on public property from entering state parks; SB 794 requiring a 25% surcharge on RV sites for nonresidents and HB 2171 making changes to the Outdoor Recreation Advisory Council.

SB 289 is effective January 1, 2022. It requires individuals convicted of a bias crime committed on public property used for outdoor recreation or on a public waterway to be prohibited from entry to state park properties for up to five years. The agency will be notified by the court system when an individual qualifying under this statute is convicted. The proposed rules are necessary to establish the process for issuing exclusions.

SB 794 requires that nonresidents be charged a 25% surcharge for recreational vehicle sites. This bill is effective September 25, 2021. A portion of the registration fees Oregon residents pay to license their RV funds the department. Proposed rules will outline which site types are subject to the surcharge.

HB 2171, effective September 25, 2021, includes a number of provisions implementing recommendations from the Governor's Task Force on the Outdoors. The legislation requires the director, in consultation with the Commission to establish the number of members of the Outdoor Recreation Advisory Council. The Governor will then appoint members of the council taking into consideration the geographic, racial, ethnic and gender diversity of Oregon and ensuring that a majority of the members represent historically underserved communities. Our current OAR establishing the council will meet statutory requirement to determine the number of members, but an amendment is needed to change the appointment process to reflect the Governor's involvement.

A Rule Advisory Committee (RAC) has been appointed to make recommendations on specific language. The draft language in Attachment A will be a starting point for the committee to consider. The RAC includes members from diverse backgrounds who were involved in development of legislation or frequently utilize state parks. They plan to meet in September.

If approved for opening, the public comment on the rule changes would open in October. Staff would plan virtual public hearings in addition to public notices seeking comment.

**Prior Action by Commission:** The Commission adopted 736-002-0170 in April 2021.

**Action Requested:** Staff requests permission to open rulemaking to amend OAR 736-010-0020, 736-015-0006, 736-015-0020, 736-015-0040, and 736-002-0170 to implement changes based on legislation passed in the 2021 legislative session.

**Attachments:** Attachment A Marked Copy

**Prepared by:** Katie Gauthier

**736-010-0020**

General Regulations

(1) The director may establish seasons, overnight lengths of stay, camper checkout times and procedures to adjust daily park property opening and closing times, and portions of a park property that are permanently closed or limited to specific uses or activities by the public. These may differ from park property to park property and from time to time, but shall be indicated on the state park website, published maps, brochures, the current state parks guide booklet, or on posted signs at the park property.

(2) Unless otherwise specifically established by the director the following apply:

(a) The maximum length of stay for campers is 14 consecutive nights in a 17 night span. After three nights out of the park, campers may return to start a new stay.

(b) The maximum length of stay for hiker/biker sites is three consecutive nights in a seven night period per park.

(c) Unless otherwise posted or specifically open for an event or activity, the hours of operation for a day use area are dawn to dusk.

(3) The director, by written agreement, may cooperatively exercise jurisdiction and authority over a park property with a county, city, or political subdivision thereof for the purposes of enforcing state park rules, and applicable state, county or city laws.

(4) A person shall observe and abide by all instructions, warnings, restrictions, and prohibitions on posted signs and notices and from park employees.

(5) A park manager or park employee may seek compliance from the public with any state park rule.

(6) A park manager or department enforcement officer may order any person that violates any state park rule to leave a park property.

(7) A park manager or a department enforcement officer may exclude a person that violates any state park rule from the park property or multiple park properties for a specified period of time.

(8) A peace officer may seek compliance from the public with any state park rule and may order a person who violates one or more state park rules to leave a park property.

(9) A peace officer may exclude or recommend that the park manager exclude a person who violates any state park rule; federal, state, county, or city law; or court order from a park property or multiple park properties for a specified period of time.

(10) A park manager or designated park employee may protect the safety or health of the public or protect park resources. This authority includes actions that may temporarily:

- (a) Permit or limit specific activities or uses in designated portions of a park property;
- (b) Designate a location within a park for a single use to avoid conflicts between users;
- (c) Restrict access to or close an entire park property;
- (d) Restrict access to or close a portion of a park property; or
- (e) Exclude a person from a park property.

(11) Pursuant to ORS XXX.XXX, when the department is notified by the court of a person convicted of ORS 165.155 or 165.165 committed while on the waters of this state or on publicly owned land used for outdoor recreation, the director or designee will exclude the person for up to five years.

(a) Exclusions issued under (11) do not apply to the grounds of the State Capitol State Park.

(b) Exclusions may be waived while performing community-service under the supervision of a park employee.

(11) A person excluded from a park property may contest the exclusion notice by filing a written appeal within seven days of the exclusion date. The person excluded must submit the appeal to the District Manager responsible for the park where the notice of exclusion was issued.

(12) The following situations are criminal trespass in the second degree, a Class C misdemeanor, per ORS 164.245:

- (a) A person ordered to leave a park property that remains present as a visitor;
- (b) A person excluded from a park property that enters or remains present as a visitor;
- (c) A person enters a closed or restricted portion of a park property; and
- (d) A person engages in an activity that has been specifically prohibited or restricted at a park property or a portion of a park property.

### **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 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 or 443.830;

(b) A Foster Home certified by the Oregon Youth Authority under OAR chapter 416, division 530;

(c) A Foster Home certified by any of the nine federally-recognized tribal governments as listed in ORS 172.110; or

(d) A therapeutic Foster Home for Children with Developmental Disabilities provided through a third-party provider that has been certified by the Department of Human Services.

(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) "Nonresident vehicle" means a vehicle not registered in the state of Oregon.

(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, 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) "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.

(22) "Fee Range" means a range of fees that may be charged for a campsite. The Director will set the actual fee for each campsite within that range.

### **736-015-0020**

#### Overnight Rentals

The director is authorized by the commission to include transient lodging taxes in the nightly rental rate and to increase the rental rate to the nearest whole dollar. The department shall retain the additional revenue. Campsite Rental rates (per night per site before tax):

(1) Full Hookup Campsite: Provides campsite with individual water supply, electrical and sewage hookups, table, stove, and access to a restroom. Fee Range: \$26-40. Pursuant to ORS 390.124(2)(a) nonresident vehicles will be charged a 25-percent surcharge for this site type.

(2) Electrical Hookup Campsite: Provides campsite with individual water supply and electrical hookups, table, stove, and access to a restroom. Fee Range: \$24-38. Pursuant to ORS 390.124 (2)(a) nonresident vehicles will be charged a 25-percent surcharge for this site type.

(3) Tent Campsite: Provides campsite with water supply nearby but does not have electricity or sewage hookup. Provides table, stove, and access to a restroom. Fee Range: \$17-22

(4) Primitive Campsite: Provides campsite with table and stove; water and sanitary facilities may be some distance away. All primitive campsites Fee Range: \$10-15.

(5) Yurt: Rustic units provide a temporary tent structure, covered deck, heat, lights and beds along with outdoor picnic facilities. Deluxe units add kitchen facilities, bathrooms and showers.

(a) Rustic: Fee Range: \$42-62.

(b) Deluxe: Fee Range: \$81-99.

(6) Cabin: Rustic units provide a hard-walled wooden structure, covered deck, heat, lights and beds along with outdoor picnic facilities. Totem units are primitive log units. Deluxe 1 units add kitchen facilities, bathrooms and showers.

(a) Totem: Fee Range: \$26-46.

(b) Rustic: Fee Range: \$42-62.

(c) Deluxe 1: Fee Range: \$81-99.

(7) Tepee: Tepee replica units vary in diameter from 18' to 26' and provide heat, lights and beds along with outdoor picnic facilities. All tepees: Fee Range: \$42-62.

(8) Hiker/Boater/Bicyclist Campsite: Provides cleared area for campers without motor vehicles; water and sanitary facilities may be some distance away. All hiker/boater/bicyclist campsites: Fee Range: \$7-12 per camper per night.

(9) Extra Vehicle in Campground: An additional rental rate of \$7 per vehicle is charged when an extra vehicle is driven into the campground and remains overnight.

(10) Extra Motorcycle in Campground: If the initial campsite rental is to a person riding a motorcycle, and the first extra vehicle is a motorcycle, the second motorcycle will not be charged. Additional motorcycles in the site will be charged \$7 as an extra vehicle. The \$7 extra vehicle charge will allow up to two motorcycles per extra vehicle charge.

(11) Pre-Registration (where available): The department may allow a person with a reservation for individual tent, electrical or full hook-up campsites to expedite the check-in process by registering on-line prior to or upon arrival at the park area.

(12) Pursuant to ORS 105.672 to 105.696, overnight rental charges under this rule are for use of the assigned area or park facility of the state park land for camping and not for any other recreational purpose or area of state park land. The immunities provided under ORS 105.682 apply to use of state park land for any other recreational purpose.

### **736-015-0040**

#### Miscellaneous Rentals and Products

(1) Firewood: Where conditions permit, firewood will be sold.

(2) Boat Moorage Facilities — \$10 per day per boat: Where boat moorage facilities are provided they may only be reserved with other campsite reservations.

(3) Showers — \$2 per person: Charged where showers are available to non-campers in a campground.

(4) Horse Camping Area:

(a) Non-hookup site: Fee Range: \$17-22 per night per camper unit;

(b) Hookup site: Fee Range: \$26-40 per night per camper unit; pursuant to ORS 390.124(2)(a) nonresident vehicles will be assessed a 25-percent surcharge for hookup sites.

(c) Group site (accommodates 3-5 units): Fee Range: \$51-66 per night;

(d) Double site: Fee Range: \$43-69 per night per two camper units;

(e) A camper unit consists of a motor home, trailer, tent or camper.

(5) Group Tent Camps: Small group tent areas available in some parks which are designed to accommodate approximately 25 people. Water and toilet facilities are provided nearby, but shower facilities may be some distance away.

(a) Base rate (0-25 people): Fee Range: \$70-90 per night;

(b) Charges for persons in excess of the 25 person base rate will be \$3 per person per night.

(6) Group RV Camp: Special camp area designed to accommodate RV's requiring hookups in a group setting. The camp has electrical hookups available, water, table, stove, and access to a restroom.

(a) Base rate (up to 10 units): Fee Range: \$100-120 per night; pursuant to ORS 390.124(2)(a) nonresident vehicles will be assessed a 25-percent surcharge.

(b) Charges for units in excess of the 10-unit base rate: \$10 per unit per night.

(7) Pets Staying Overnight in Facilities (Yurts, Cabins, Tepees): Not more than two pets (cat or dog only) staying overnight in facilities: \$10 per night.

(8) Youth Camp (Silver Falls): Large capacity group camp facility with cabins, commercial kitchen facilities, dining hall, showers, meeting halls and swimming facilities. Minimum fee of \$800 per night for up to 80 persons and \$10 per person per night thereafter up to a maximum occupancy of 250 persons.

(9) Lodge/Community Hall: Large meeting facility with kitchen and restroom facilities which may be reserved overnight: Fee Range \$200-250 per night.

(10) Meeting Hall: Small meeting facility, generally associated with a campground, which may have limited kitchen facilities and restrooms: Fee Range \$75-125 per day.

(11) Pavilion: A large, covered day-use facility for group use: Minimum fee range of \$100-150 per event for up to 50 people, and \$1 per person thereafter up to the maximum occupancy of the facility.

(12) Shore Acres Garden: All facility prices, no matter which facility or combination of facilities are booked, start with a minimum of 50 persons per event. Additional people beyond the minimum of 50 are \$1 per person up to a maximum of 100 people per event.

(a) Event Site: A lawn area outside the formal garden or a section of the formal garden (NOTE: sites in the garden must be booked in conjunction with another facility): Fee Range \$100-150 per event.

(b) Pavilion (inside the formal garden and must be booked with an event site or the garden house): Fee Range \$100-150 per event.

(c) Garden House (inside the formal garden and must be booked with the Pavilion): Fee Range: \$200-250 per event.

### **736-002-0170**

#### Outdoor Recreation Advisory Council: Membership and Function

(1) ~~The State Parks and Recreation Commission (commission) may appoint an Outdoor Recreation Advisory Council (council) to the Oregon Office of Outdoor Recreation (OREC).~~ The purpose of the Outdoor Recreation Advisory Council (council) is to support the Oregon Office of Outdoor Recreation's (OREC)'s duty to promote and facilitate efforts to coordinate outdoor recreation policy and priorities across the state, and with government and nongovernmental entities, as provided in ORS 390.233 and section (7).

(2) ~~Members of t~~The council will be appointed by the Governor taking into consideration the geographic, racial, ethnic and gender diversity of the state and ensuring that a majority of the council members represent historically underserve communities. ~~is composed of~~The membership should include:

(a) At least three outdoor recreation participants that reflect the indigenous heritage, cultural richness, varied physical ability, socioeconomic status, or geographic diversity of this state and the many forms of recreation enjoyed here;

(b) At least three representatives from Oregon's outdoor recreation sector such as brands, manufacturers, retailers, outfitters, guides and community-based organizations or non-profits;

(c) Two members from a federally-recognized Indian tribe in Oregon.

(d) Ex-officio Membership on the council is limited to those individuals and organizations that have or potentially have significant in-kind or other resources to contribute to the purpose provided in section (1). Ex-officio members may fully participate in discussions and deliberations of the council. Ex-officio membership shall include, but is not limited to, the director or the director's designee of the following agencies:

(A) One member designated by the Travel Oregon;

(B) One member designated by the Oregon Business Development Department;

(C) One member designated by the Department of Fish and Wildlife;

- (D) One member designated by the Oregon State Marine Board;
- (E) One member designated by the Oregon Department of Forestry;
- (F) One member designated by the Oregon Department of Transportation;
- (G) One member designated by the Oregon Health Authority;
- (H) One member designated by the Oregon Department of State Lands
- (I) One member designated by Oregon State University Extension Service;
- (J) One member designated by the Association of Oregon Counties.

(e) Other members deemed necessary by the [Oregon Parks and Recreation Commission](#) (commission) in consultation with OREC.

(3) Members appointed under section (1) may serve two consecutive three-year terms on the council. Members are eligible for reappointment and the commission may fill vacancies.

(4) The commission shall appoint the chair from the council membership, considering the recommendations of the council.

(5) The council shall meet at times and places specified by the call of OREC.

(6) A majority of council members appointed under subsections (2)(a), (b), (c), and (e) constitutes a quorum for the transaction of business.

(7) Function and duties of the council. Upon the request of OREC, the council may assist in efforts to:

(a) Work with public, private and non-profit sectors to advocate for conservation and stewardship of land, air, water, and wildlife, and for public access to them.

(b) Educate and empower Oregon residents and visitors on the importance and interrelatedness of a healthy environment, outdoor recreation and a vibrant economy.

(c) Facilitate public-private partnerships to enhance public outdoor recreational access, infrastructure improvements, and conservation efforts.

(d) Coordinate outdoor recreation policy, as mandated in ORS 390.233, through a consensus-oriented approach:

(A) Within the administrative divisions of the Oregon Parks and Recreation Department (department) and between and among the department and federal, state, regional and local government entities, special districts, and nongovernmental entities.

(B) Assist in developing or updating the outdoor recreation management strategies of the department.

(C) Collaborate with Travel Oregon and the Oregon Travel Information Council to create effective forums for communicating recreation-based initiatives and for sharing best practices. Serve as a clearinghouse and information center for outdoor recreation stakeholders.

(D) Develop data, independently or through contracts with appropriate public or private agencies, on the social, economic and resource impacts of outdoor recreation in this state.

(E) Promote the health and social benefits of outdoor recreation in coordination with other related state programs and initiatives.

(e) Collaborate with the Oregon Business Development Department and Travel Oregon, representatives of regional and local governments, the outdoor recreation industry and other outdoor recreation stakeholders to promote a robust economic cluster focusing on the outdoor industry and outdoor recreation participation. In furtherance of promoting economic development, OREC may recommend, adopt or assist in the implementation of policies and initiatives that:

(A) Maximize public and private investment in outdoor recreation activities and in the outdoor recreation industry in this state.

(B) Develop and implement state policies and programs to bolster outdoor recreation for locals and visitors.

(C) Work with partners to improve, manage or develop recreational opportunities that yield economic returns through participation and travel spending.

(D) To balance improved or expanded outdoor recreation access and opportunities with resource protection.

(f) Strive to enhance quality of life and economic vibrancy in communities across the state.

(g) Aim to strike a sensitive balance between development and preservation of the unique natural experiences provided by Oregon's outdoor recreation resources, and between motorized and non-motorized outdoor recreation activities.

(h) Seek a proactive approach to enhancing regional and local outdoor recreation infrastructure.

(i) Establish one and five-year work plans within the department that involves policy guidance and strategic planning for grants, recreation trails, Engage-Relate-Adapt, Statewide Comprehensive Outdoor Recreation Plan (SCORP), and state park service delivery.

(j) Develop cooperating agreements with Oregon Department of Fish and Wildlife, Oregon Department of Forestry, Oregon State Marine Board, Department of State Lands, Department of Land Conservation and Development, Travel Oregon, Oregon Health Authority, and Business Oregon and other entities.

(k) Make recommendations for legislation, on policies and initiatives to OREC for inclusion in an annual report submitted by OREC to the Legislative Assembly.

(8) Reporting structure:

(a) The council shall solicit and consider input from agencies and organizations that it identifies as being involved in implementing any recommendations, providing the opportunity to identify any statutory, regulatory, logistical, budgetary or staffing issues that may not be apparent.

(b) OREC will submit any final joint outdoor recreation policy, legislative, and strategic plan recommendations developed by council for review by any other affected agency or organization for a period of 30 days prior to OREC submitting recommendations for review to the commission.

(c) When commission action includes recommendations that fall under the purview of another state, local or federal government agency, it shall provide a referral to those bodies for their consideration.

(9) Expectations:

(a) Recommendations from the council are expected to help to shape outdoor recreation policy and strategy across the state without regards to jurisdiction or public/private boundaries. Council recommendations, however, are not a mandate for any government or nongovernment organization to implement joint policies, legislative agendas, or strategic plans unless the affected organization agrees to do so.

(b) All joint outdoor recreation policies, legislative concepts, and strategic plans developed through council will include analysis of additional resources that may be needed, and provide recommendations for producing those resources through public and private means.

(c) OREC shall maintain regular communications with the council around legislative considerations.

(10) Administrative Entity: OREC operates as an entity within the department, which is responsible for the administration and enforcement of the duties, functions and powers imposed by law upon OREC.

(11) By-Laws: the council shall adopt by-laws consistent with its duties to conduct its affairs. By-Laws shall be created and administered by the council, OREC and under the department and the commission. By-Laws shall reflect that the council is an advisory body to OREC.