



NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 736
PARKS AND RECREATION DEPARTMENT

FILED
05/30/2023 2:00 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Changing Lincoln County ocean shore vehicle restrictions [Corrected]

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 07/20/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
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Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 07/18/2023

TIME: 6:00 PM - 8:00 PM

OFFICER: Katie Gauthier

HEARING LOCATION

ADDRESS: To be determined, x, Lincoln City, OR 97367

SPECIAL INSTRUCTIONS:

Details will be available on: <https://www.oregon.gov/opr/PRP/Pages/PRP-rulemaking.aspx>

Must sign up at hearing testify by 6:30 or register online prior to hearing.

REMOTE MEETING DETAILS

PHONE NUMBER: 503-510-9678

SPECIAL INSTRUCTIONS:

Individuals who would like to provide public comment must register for the hearing at https://us06web.zoom.us/webinar/register/WN_lIOD_VWVSiVsIA6rBGA_A

NEED FOR THE RULE(S)

The city of Lincoln City has closed upland access for vehicles entering the ocean shore at two areas within the city limits. The access point at 34th Street has been closed to vehicles via a city council resolution until December 31, 2023. The access point at 15th Street is currently closed to vehicles from May 26 to September 5, 2023. It has also been closed periodically due to ocean conditions. A change in rules is needed to close the ocean shore to vehicles at both access points.

Per OAR 736-022-0005, Oregon Parks and Recreation Department (OPRD) evaluates ocean shore vehicle use zones based on public and agency concerns for safety, access, scenic and recreation values, seashore resources, and beach

management. Based on changes to upland access, OPRD convened a Rule Advisory Committee comprised of city of Lincoln City park and recreation staff, law enforcement, community members and ocean shore recreationalists to evaluate continued vehicle access on the ocean shore at 34th Street and 15th Street in Lincoln City.

The committee found the access point at 34th Street includes a short ramp that is difficult for vehicles to navigate and only accessible to four-wheel drive vehicles, raising significant safety concerns. In addition, both pedestrians and vehicles utilizing the same access point is a safety concern for visitors. At the 15th Street access point a ramp separates vehicle and pedestrian traffic; however, when hundreds of vehicles go on to the beach at the same time, safety concerns arise with vehicles entering and exiting at the same time. Vehicles and recreationalists, particularly children playing in the same area also raised safety concerns. Both 15th and 34th street access points are well used sections of the ocean shore with many people recreating in a small area. During sunny weekends and holidays, the beach area can become overcrowded. Additionally, the upland access to 15th Street has been closed during King Tides due to concern about high tides and hazardous conditions.

The committee discussed concerns regarding the availability of parking within the city of Lincoln City. The 34th Street access has been closed for over a year without the city of Lincoln City identifying significant upland parking issues. The 15th Street access point has been closed periodically, particularly in the summer. Additional parking is available in Lincoln City and at other access points in the community. The city of Lincoln City is evaluating long term parking options to improve access throughout the community.

Access for individuals with a mobility disability was also considered by the committee. Lincoln City has proactively created opportunities for people with disabilities to access the ocean shore. There are a number of beach access points with beach wheel chairs that are loaned free of charge to visitors. The community has also deployed Mobi Mats at pedestrian access points to increase accessibility.

During the Rule Advisory Committee, enforcement concerns were raised by both Lincoln City Police Department and Oregon Parks and Recreation Department. On busy summer days, the number of vehicles and space available overwhelms local resources for patrol and enforcement at 15th Street. The cost for patrolling and enforcement in these sections of the ocean shore are prohibitive for both the city of Lincoln City and OPRD.

The impact to ocean shore resources was also discussed by the committee. The committee included members concerned about environmental damage, trash and impacts on birds and other ocean shore species due to the increase in vehicle use on the ocean shore. The 34th Street access is adjacent to the Cascade Head, South Marine Protected Area.

Based on the committee evaluation, OPRD is proposing rule changes to prohibit vehicle traffic at 34th street year-round. Under the proposed rule changes vehicle access at 15th street would be prohibited from May 1 to September 30 or at other times when ocean conditions warrant a closure. During the period 15th street is open to vehicles, the area would expand by 150 feet on each side of 15th Street to compensate for closures in other areas. The total area open to driving would be 300 feet on each side of 15th Street from October 1 to April 30. Signs would be posted at both locations to inform visitors. Under the proposed rules, official use would be allowed at both locations when necessary.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

City of Lincoln City RESOLUTION NO. 2022-45 providing for extension of the street closure of a portion of NW 34TH Court <https://www.lincolncity.org/home/showpublisheddocument/3981/638116390521730000>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rule advisory committee considered impacts of the proposed rule changes on racial equity along the ocean shore. The committee did not identify any disparate impacts to racial groups based on the proposed rule change.

FISCAL AND ECONOMIC IMPACT:

The city of Lincoln City and Oregon Parks and Recreation Department anticipate a reduction in cost for patrolling, enforcement and clean up of the two access points if the proposed rules are adopted.

Since the upland access at these locations have been closed periodically to vehicles for more than a year, it is unlikely visitors or businesses would experience an economic impact due to proposed rule changes.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) State agencies and local governments impacted by this rule are Oregon Parks and Recreation Department and The City of Lincoln City. Both identify a likely reduction in costs for patrolling and rule enforcement as a result of the proposed changes. Individuals may be economically impacted if they choose to drive to a different area of the ocean shore open to vehicle traffic.

(2) The impact on small businesses in Lincoln City is unknown. Upland access has been closed to vehicles periodically for more than a year, so it is unlikely any small businesses would see an impact. However, tourism related businesses may experience a reduction in visitors if individuals choose to visit a different community for ocean shore access. In contrast, individuals who prefer ocean shore access without vehicles may travel to these locations.

(a) Tourism-related businesses including restaurants, coffee shops, retail stores and hotels.

(b) Proposed rule changes do not create additional reporting or record keeping requirements for small businesses.

(c) No additional costs are anticipated for professional services, equipment supplies, labor and increased administration due to proposed rule changes.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The potential impact of the proposed rules on small businesses was discussed at the Rule Advisory Committee meeting.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 736-024-0025

RULE SUMMARY: Eliminates vehicle access to the ocean shore year-round on 35th street in Lincoln City and seasonally on 15th street. Expands area open to vehicles on 15th street from October 1 to April 30.

CHANGES TO RULE:

736-024-0025

Lincoln County: Restrictions ¶¶

(1) There shall be no landing of any aircraft on the ocean shore in Lincoln County, except for an emergency.¶¶

(2) Except for an emergency or as provided in section (3) of this rule, there shall be no travel by motor vehicles on the ocean shore in Lincoln County in the areas and during the periods of time hereinafter designated by the Oregon coordinate latitude survey lines, north zone, consisting of "Y" numbers as shown on "Exhibit 3" attached hereto and by this reference made a part hereof. The areas where motor vehicle travel is allowed, the periods of

time for such use, and the areas on the ocean shore where travel by motor vehicles is prohibited, are further described as follows:¶

(a) Motor vehicle travel is prohibited from the Tillamook County-Lincoln County line, Y 521, 960, southerly to Yaquina Bay, Y 367, 056, except for the following locations within the corporate limits of Lincoln City:¶

~~(A) A distance of 15300 feet on each side of the westerly extension of North 315th Court;¶~~

~~(B) A distance of 150 feet on each side of the westerly extension of North 15th StreetStreet within the corporate limits of Lincoln City from October 1 to April 30, unless closed for safety considerations.¶~~

(b) Motor vehicle travel is prohibited from Yaquina Bay, Y 367, 056, southerly to the Lincoln County-Lane County line, Y 243, 400.¶

(3) The Director of State Parks or the authorized representative may issue special permits for motor vehicles to travel on the ocean shore within the areas or at times where such travel is otherwise prohibited by this resolution. No charge for such permits will be made. Any special permit or permit identification card shall be in the immediate possession of the operator of the vehicle at all times when driving on that portion of the ocean shore otherwise closed to travel by motor vehicles. The operator shall display the same upon the demand of any peace officer.¶

(4) The State Parks and Recreation Department is directed to erect conspicuous signs and markers designating the above areas on the ocean shore of Lincoln County, with reference to the Oregon coordinate survey system, as areas where travel by motor vehicles is prohibited, areas where travel by motor vehicles is partially restricted, and areas where travel by motor vehicles is allowed, as herein provided.¶

[ED. NOTE: Exhibits referenced are available from the agency.]

Statutory/Other Authority: ORS 183.545, 184, 390.668

Statutes/Other Implemented: ORS 390.668