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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 736
PARKS AND RECREATION DEPARTMENT

FILED
02/15/2022 8:28 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Take-off and landing unmanned aircraft systems in state parks and on ocean shore.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 04/07/2022 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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HEARING(S)

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

DATE: 03/30/2022
TIME: 6:00 PM - 8:00 PM
OFFICER: Katie Gauthier
ADDRESS: Virtual hearing, registration required.
725 SUMMER ST NE
SALEM, OR 97301
SPECIAL INSTRUCTIONS:

Hearing on proposed rule changes on state park properties. Registration required to provide testimony:
https://us06web.zoom.us/webinar/register/WN_MamTCi_uRpKJOX_DG9L3HA

DATE: 03/31/2022
TIME: 6:00 PM - 8:00 PM
OFFICER: Katie Gauthier
ADDRESS: Virtual hearing, registration required.
725 SUMMER ST NE
SALEM, OR 97301
SPECIAL INSTRUCTIONS:
Hearing on proposed rule changes on the ocean shore. Registration required to provide testimony:
https://us06web.zoom.us/webinar/register/WN_iMaoUQ7HiaA

NEED FOR THE RULE(S)

As unmanned aircraft activities have increased across the state with operations by both commercial pilots and recreational hobbyists, OPRD has faced increasing questions and conflicts among and between visitors.

For drone pilots and hobbyists, it is often confusing to know where operations are allowed and appropriate. State Parks are often contacted with questions from drone enthusiasts about where they can operate. For some park visitors, there is a frustration that State Parks have not prohibited drone operations.

As an agency, we are caught in the middle. The flights of unmanned aircraft are regulated by the Federal Aviation Administration (FAA). At national parks, drone flights are prohibited. Visitors who travel to Crater Lake or one of our National Wildlife Refuges will find those areas closed to drone operations and often wonder why it is not the same with state parks. As a state agency we do not have the ability to ban drone operations at the state level. However, with the passage of SB 109 during the 2021 legislative session, the legislature has provided the permission necessary for OPRD to work to adopt fair, balanced rules that address the location of take-off and landings on state park properties and the

ocean shore.

The goal of these rules are to articulate places in state parks and along the ocean shore where drone operations can be managed as any other recreational use, the places with a special use permit, drone operations may be appropriate and separate the places that for the protection of natural, cultural or scenic resources drones are not appropriate, some or all of the time. These rules will provide the clarity needed for drone pilots, hobbyists and the general public to know where drone take-off and landing is allowed and prohibited within a state park and along the ocean shore.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 109, 2021: <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB109/Enrolled>

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

The proposed rules do not have an impact on racial equity in Oregon.

FISCAL AND ECONOMIC IMPACT:

The proposed rules will clarify where take-off and landing of unmanned aircraft systems/drones are allowed and where areas are closed to protect natural, cultural or scenic resources. In areas closed to take-off and landing of drones, a permit or written permission could allow for use with conditions. Implementation of the proposed rules including signage, map creation and education will likely have a minimal fiscal impact on Oregon Parks and Recreation Department. The department plans to work with stakeholders and neighboring land managers including state, federal and local agencies to develop "unmanned aircraft system/drone take-off and landing prohibition" zones and create educational materials.

The creation of "unmanned aircraft system/drone take-off and landing prohibition zones may have an economic impact on recreational park users, drone operators, neighboring land managers and local communities.

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) The proposed rules are unlikely to economically affect any other state agencies or local governments. The agency has worked with state agencies including Department of Aviation and Department of Forestry on development of proposed rules. There could be an economic impact to commercial and recreational drone operators who need to obtain a special use permit to operate in certain state park areas or choose to travel to different areas to take-off and land drones in an open park or portion of the ocean shore.

(2) (a) Businesses that utilize drones would be subject to the proposed rules. As of 12/31/21, 4,530 Oregonians were certified by the FAA as remote pilots. This type of certification is required in order to operate drones commercially, however, not everyone with a certification operates for commercial purposes. (b) Small businesses, and all drone operators, would need to review areas open for the take-off and landing of UAS/drones. If desiring to take-off and land on a park property otherwise closed, drone operators would need to request a special use permit. In some circumstances, there could be a cost for required insurance of permit fees. (c) There could be an additional cost for required insurance to take-off and land on state park properties otherwise closed.

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

Small businesses had an opportunity to comment during the legislative process and the Rule Advisory Committee included business owners.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

736-010-0015, 736-010-0040, 736-021-0030, 736-021-0100, 736-021-0130

AMEND: 736-010-0015

RULE SUMMARY: Definitions for use in division 10. This change adds definition for overnight facilities, public safety agency and unmanned aircraft system.

CHANGES TO RULE:

736-010-0015

Definitions ¶¶

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

- (1) "Day Use Area" is a park property or portion of a park property that the department has designated for day use only.¶¶
- (2) "District Manager" means the immediate supervisor of park managers within a specified geographic region of the state.¶¶
- (3) "Closed Area" means a park or portion of a park that the public is prohibited from entering. Closures will be identified by signs in the park and notices placed on the state park website.¶¶
- (4) "Commission" means the Oregon State Parks and Recreation Commission.¶¶
- (5) "Dawn" means 30 minutes prior to sunrise as calculated by the U.S. Naval Observatory.¶¶
- (6) "Department" means the Oregon State Parks and Recreation Department.¶¶
- (7) "Director" means the department director.¶¶
- (8) "Domestic Animals" are those animals whose food and shelter are provided by a human custodian.¶¶
- (9) "Dusk" means 30 minutes after sunset as calculated by the U.S. Naval Observatory.¶¶
- (10) "Enforcement Officer" means a peace officer or park employee specifically designated by the director under ORS 390.050 to investigate observed or reported state park rule violations and to issue oral or written warnings or citations to enforce state park rules.¶¶
- (11) "Handler" means any person who either brings a domestic animal into a park property or keeps a domestic animal at a park property.¶¶
- (12) "Motorized Vehicle" means any vehicle being powered by an engine or motor which is capable of transporting a person.¶¶
- (13) "Other power-driven mobility device" means any mobility device powered by batteries, fuel, or other engines, whether or not designed primarily for use by individuals with mobility disabilities, that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway[®] PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning defined in section (26) below.¶¶
- (14) "Overnight Facilities" means everything within the campground including showers, campsites, cabins, yurts, parking areas associated with camping and other facilities for use by overnight visitors.¶¶
- (15) "Park Property" means any state park, natural area, wayside, corridor, scenic area, monument, historic structure or area, trail, or recreation area under the jurisdiction of the department.¶¶
- (156) "Park Employee" means an employee of the department while on duty.¶¶
- (167) "Park Manager" means the supervisor or designated employee in charge of a park property.¶¶
- (178) "Park Resource" means any natural feature, wildlife, vegetation, water, cultural artifact, archaeological remains, or human-made structure or feature of a park area.¶¶
- (189) "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.¶¶
- (1920) "Person" includes individuals, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality, or a non-profit entity.¶¶
- (201) "Public safety agency" means agency defined under ORS 181A.335(15).¶¶

(22) "Public" includes all persons visiting or intending to visit a park property that are not park employees.¶

(213) "Service Animal" means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.¶

(224) "State Park Rules" mean the rules, regulations, restrictions, prohibitions, or limitations established by this division for the use or protection of park properties.¶

(235) "State Park Website" means the internet resource with the host name <http://www.oregon.gov/OPRD/Parks/> and its associated links.¶

(246) "Unmanned Aircraft System" means device defined under ORS 837.300(4).¶

(27) "Violate" includes failure to comply.¶

(258) "Visitor" means any member of the public who arrives at or is present at a park property.¶

(269) "Wheelchair" means a manually-operated or power-driven device designed primarily for use by an individual with a mobility disability for the main purpose of indoor, or of both indoor and outdoor locomotion.¶

(2730) "Electric assisted bicycle" means vehicle defined under ORS 801.258.

Statutory/Other Authority: 390.124

Statutes/Other Implemented: ORS 390.050, 390.111, 390.124

AMEND: 736-010-0040

RULE SUMMARY: Instructs Oregon State Park visitors in appropriate conduct within a state park. Change adds information about the take-off and landing of unmanned aircraft systems within a park.

CHANGES TO RULE:

736-010-0040

Visitor Conduct ¶

- (1) A person shall cause, build, maintain, or accelerate a fire at a park property only in:¶
 - (a) Park camp stoves or fireplaces provided for such purpose;¶
 - (b) Portions of beach areas designated as permissible for campfires; or¶
 - (c) Portable stoves used at established campsites, picnic areas, or beach areas where fires are designated as permissible.¶
- (2) A person who has caused, built, or maintained an allowed fire shall:¶
 - (a) Burn only paper products and untreated natural wood free of attached metal, nails, glass or plastic objects;¶
 - (b) Burn wood no longer than 24 inches in length;¶
 - (c) Attend the fire at all times, breaking it apart and extinguishing it completely with water before leaving the immediate area;¶
 - (d) Use no gasoline, diesel or any other petroleum-based products to start or maintain a fire; and¶
 - (e) Ensure that any fire that they set does not cause personal injury or damage to private property or park resources.¶
- (3) The park manager may temporarily restrict or prohibit fires in otherwise allowed situations due to high fire hazard conditions, and all persons shall observe such restrictions.¶
- (4) A person may not injure, mutilate, deface, damage, harass, or remove any park resource, property, structure or facility of any kind at a park property, except as provided in OAR 736-010-0055.¶
- (5) A person shall in no manner cause any rubbish, garbage, refuse, organic or inorganic waste, diseased or dead animals, or other offensive matter or any abandoned property or material to be placed or left at a park property, except for:¶
 - (a) Recreational vehicle sewage and gray water holding tank contents that are disposed of in designated dump stations;¶
 - (b) Garbage, trash, and recyclables generated while using a park property and disposed of in the designated containers provided.¶
- (6) A person may not remove items from containers designated for recyclables, garbage, sewage or waste without authorization of the park manager.¶
- (7) A person may not leave personal property or possessions overnight in a day use area without written permission from the park manager or designated park staff.¶
- (8) While many activities are allowed on park property, the following activities are specifically prohibited at park properties, and a person may not engage in:¶
 - (a) Using or operating any noise producing machine, vehicle, device or instrument in a manner that disturbs or may disturb other park visitors except as allowed in section 10 below;¶
 - (b) Using a public address system or similar device without written permission of the park manager;¶
 - (c) Possessing, discharging, or causing to be discharged, any firecracker, explosives, torpedoes, rockets, fireworks or other similar materials or substances without the written permission of the park manager or designated park employee;¶
 - (d) Using a metal detector or similar device without written permission of the park manager or designated employee at any park property or portion of a park property not listed on the "Detecting Allowed" list, published on the state park website;¶
 - (e) Obstructing, harassing or interfering with a park employee or peace officer in the performance of their duties;¶
 - (f) Entering or occupying any building, facility or portion of a park property that has been closed to public access; punishable as a Class C misdemeanor pursuant to ORS 164.245;¶
 - (g) Blocking, obstructing or interfering with vehicular or pedestrian traffic on any road, parking area, trail, walkway, pathway or common area; punishable as a Class C misdemeanor pursuant to ORS 164.245;¶
 - (h) Occupying or interfering with access to any structure, office, lavatory or other facility in a manner which interferes with the intended use of such a structure or facility; punishable as a Class C misdemeanor pursuant to ORS 164.245;¶
 - (i) Fighting; or promoting, instigating or encouraging fighting or similar violent conduct which would threaten the physical well-being of any person at the park property;¶
 - (j) Smoking tobacco products except:¶

- (A) In vehicles and personal camping units in accordance with all applicable laws governing smoking in vehicles;¶
- (B) In designated campsites in developed overnight camping areas, unless temporarily suspended by the park manager due to high fire hazard conditions;¶
- (C) In day use areas managed as Safety Rest Areas through agreements with the Oregon Department of Transportation; and¶
- (D) Where allowed by the park manager for personal use by a member of a federally recognized Oregon tribe as part of their traditional religious, medicinal, or other customary cultural heritage practices;¶
- (k) Activities or conduct which constitutes a public nuisance or hazard;¶
- (l) Public indecency as defined in ORS 163.465;¶
- (m) Base-jumping, hang gliding, paragliding or similar activities without written permission from the park manager except that the use of hang gliders is allowed at Cape Kiwanda State Natural Area;¶
- (n) Discharging any firearm, bow and arrow, slingshot, pellet gun, or other weapon capable of injuring humans or wildlife or damaging property, except at those park property locations and for those purposes specified in OAR 736-010-0055(7);¶
- (o) Placing a sign, marker or inscription of any kind, except in designated areas within a park property, without written permission from the park manager;¶
- (9) A person may take off or land an unmanned aircraft system, commonly known as a drone, on park property unless otherwise restricted in an "Unmanned Aircraft System/drone take-off and landing prohibition" zone published on the state park website.¶
 - (a) Take-off and landing of an unmanned aircraft system must be done in a manner that is reasonable and prudent relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other park users. ¶
 - (b) As provided in OAR 736-010-0055, park visitors may not harass, disturb, pursue, or injure wildlife. ¶
 - (c) OPRD overnight facilities are "Unmanned Aircraft System/drone take-off and landing prohibition" zones.¶
 - (d) Take-off and landing an unmanned aircraft system in an "Unmanned Aircraft System/drone take-off and landing prohibition" zone may only be conducted with a permit or written permission of the park manager or designated employee. ¶
 - (e) Public safety agencies may take off or land in emergencies without prior approval. ¶
 - (f) "Unmanned Aircraft System/drone take-off and landing prohibition" zones will be designated by the director or designee based on visitor safety, sensitive natural, scenic or cultural resources, or user conflict. Proposed zones will be posted on the department website for a minimum of 30 days prior to the effective date.¶
 - (g) Take-off or landing of an unmanned aircraft system in a "Unmanned Aircraft System/drone take-off and landing prohibition" zone without permission is a class A violation.¶
- (10) A person may only distribute circulars, notices, leaflets, pamphlets or written or printed information of any kind within a park property after they have first obtained permission from the park manager and reported their name, address and number of leaflets to be distributed.¶
- (101) 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 a park property that:¶
 - (a) Is an organized group activity or event attended by over 50 people;¶
 - (b) Uses a portion of a park property to the exclusion of other persons or the department;¶
 - (c) Modifies or embellishes the park property, or places structures, such as tents, chairs, arches, and similar structures on the park property in a manner outside of normal recreational use, as determined by the park manager or enforcement officer;¶
 - (d) Uses public-address, amplification or lighting systems, other than those designed for personal use;¶
 - (e) Charges money for participation or admission;¶
 - (f) Involves the sale of products or services;¶
 - (g) Could disturb the natural, cultural, scenic and recreational resources in the park property or adjacent areas;¶
 - (h) Could pose a safety or access concern for other park users or for those involved in the event or activity.¶
- (44i) Involves the take-off and landing of an unmanned aircraft system in "Unmanned Aircraft System/drone take-off and landing prohibition" zones as provided in section 736-010-0040(9).¶
- (12) A person who obtains a special use permit under OAR chapter 736, division 16 must comply with all the provisions of division 16, special use permit conditions, and with instructions from the department.¶
- (123) All money or goods, having a value of \$250 or more and found by the public at park properties, must be turned over to the park manager or a park employee. All found money or goods will be disposed of according to department policy adopted in accordance with ORS 98.005.¶
- (134) The director or designee may close rock formations and cliffs within a park property to descending, scaling or technical rock climbing. A person that engages in such activities at such locations commits a Class C misdemeanor as provided in section (8)(f).¶
- (145) The director or designee may close park access to lakes, streams or waterfalls for kayaking, boating, diving,

swimming, or other water recreation activities when the park manager has determined the activity to be a danger to participants. Persons accessing through closed areas to engage in such activities commit a Class C misdemeanor as provided in section (8)(f).¶

(156) A person using a park property shall pay rates and comply with procedures and restrictions as established in OAR chapter 736, division 15 for use of designated facilities or the purchase of services or products.

Statutory/Other Authority: OAR 390.124, ORS 837.350

Statutes/Other Implemented: ORS 390.111, ORS 163.465, ORS 433.835 - 433.875, ORS 498.006

AMEND: 736-021-0030

RULE SUMMARY: Definitions used in Division 21. Change adds definitions for public safety agency, territorial sea plan and unmanned aircraft system.

CHANGES TO RULE:

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(69), 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) "Public safety agency" means agency defined under ORS 181A.335(15).¶
- (26) "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.¶
- (267) "Territorial Sea Plan" means plan defined under ORS 196.405(6).¶
- (28) "Unmanned Aircraft System" means device defined under ORS 837.300(4).¶
- (29) "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.¶
- (2730) "Upland" means the land lying shoreward or generally easterly of the ocean shore state recreation area.¶
- (2831) "Violate" includes failure to comply.¶
- (329) "Wet sand" means the area seaward of symbolic fencing (roping), signs, or both that are placed on the dry sand area.

Statutory/Other Authority: ORS 390.660

Statutes/Other Implemented: ORS 390.124, 390.635, 390.660

AMEND: 736-021-0100

RULE SUMMARY: Instructs visitors regarding appropriate conduct along the ocean shore. Proposed changes add information about take-off and landing of unmanned aircraft systems along the ocean shore.

CHANGES TO RULE:

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.¶¶
- (5) A person may take off or land an unmanned aircraft system, commonly known as a drone, on the ocean shore unless otherwise restricted in an "Unmanned Aircraft System/drone take-off and landing prohibition" zone published on the state park website. ¶¶
 - (a) Take-off and landing of an unmanned aircraft system must be done in a manner that is reasonable and prudent relative to terrain, prevailing conditions, equipment, personal capabilities, personal safety and the safety of all other park users. ¶¶
 - (b) As provided in OAR 736-021-0090, ocean shore visitors may not disturb, harass, injure or pursue wildlife. ¶¶
 - (c) Areas designated for protection as Marine Research Area, Marine Garden/Marine Education Area, Marine Conservation Area in the Territorial Sea Plan are restricted as "Unmanned Aircraft System/drone take-off and landing prohibition" zones.¶¶
 - (d) Restrictions for Western Snowy Plover Management areas described in OAR 736-021-0090(15) apply to the take-off and landing of an unmanned aircraft system.¶¶
 - (e) Take-off and landing an unmanned aircraft system in an "Unmanned Aircraft System/drone take-off and landing prohibition" zone may only be conducted with a permit or written permission of the park manager or designated employee. ¶¶
 - (f) Public safety agencies may take off or land in emergencies without prior approval. ¶¶
 - (g) "Unmanned Aircraft System/drone take-off and landing prohibition" zones will be designated by the director or designee based on visitor safety, sensitive natural, scenic or cultural resources, or user conflict. Proposed zones will be posted on the department website for a minimum of 30 days prior to the effective date.¶¶
 - (h) Take-off or landing of an unmanned aircraft system in a "Unmanned Aircraft System/drone take-off and landing prohibition" zone without permission is a class A violation.

Statutory/Other Authority: ORS 390.660, ORS 837.350

Statutes/Other Implemented: ORS 390.635, ORS 390.655, ORS 390.660

AMEND: 736-021-0130

RULE SUMMARY: Details the process for obtaining a special use permit along the ocean shore. Proposed amendment adds allowance for permit for take-off and landing of unmanned air craft systems in otherwise closed areas.

CHANGES TO RULE:

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.¶¶

(h) Involves the take-off or landing of an unmanned aircraft system in "Unmanned Aircraft System/drone take-off and landing prohibition" zones as provided in section 736-021-0100(5).¶¶

(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.

Statutory/Other Authority: ORS 390.660

Statutes/Other Implemented: ORS 390.635, 390.660