

DIVISION 16

NON-TRADITIONAL PARK ACTIVITIES revision date 02/08/2012 (Public Comment draft)

736-016-0005

Purpose and Applicability ~~General Regulations~~

These special use permit rules:

(1) Secure public access to park land and the Ocean Shore State Recreation area for a wide variety of non-traditional park uses by requiring a permit if the event or activity: ~~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 or a group activity or event that significantly impacts public use of park lands, structures or staff resources. Large groups reserving overnight and day use facilities do not need a special use permit unless one of the conditions below also exist; or ~~Use by large numbers of people;~~

(b) is a construction project not covered under contract, including natural resource projects, placement of utilities, access roads and structures on park property; or ~~Non-recreational use of a facility;~~

(c) uses park lands, structures or facilities outside existing park rules and regulations set forth in OAR chapter 736, divisions 10, 15 and 21; or ~~Use of a facility for which it was not designed to accommodate;~~

(d) substantially restricts access to park lands, structures or facilities; or

(~~e~~) requires placement of structures and facilities other than those normally used in recreational activities traditionally allowed on the site; or ~~Or use which involves unusual activities such as construction projects, placement of utilities, erection of substantial structures or displays;~~

(~~e~~f) 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.~~

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

(2) Establish procedures for authorizing non-traditional park uses by special use permit. ~~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 outlined in 736-016-0005 (1) unless otherwise authorized by a contract or other agreement between the department and the person conducting the activity. ~~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

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

736-016-0010

Policies **Permit Required**

(1) Pursuant to Oregon law as defined in ORS 390.635 through ORS 390.632 the department has authority to manage the Ocean Shore for recreational purposes.

(2) Pursuant to Oregon law as defined in ORS 390.111 through ORS 390.240 the department has authority to manage the lands under its jurisdiction with the object of obtaining the greatest benefit for the people and state.

(3) All uses of park land shall conform to applicable local, state, tribal and federal laws.

(4) Permit applications will be evaluated using the following criteria:

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

- (b) the activity or use is in compliance with the requirements set forth in OAR 736-016;
- (c) the proposed activity, in both nature and timing, will cause no substantial disruption to traditional public park use or unduly inconvenience park neighbors and the general public as determined by the department;
- (d) the amount of impact the activity or use will have on public health, safety or welfare, or natural and cultural resource values as determined by the department;
- (e) the activity or use is consistent with any natural or cultural resource management plans policies or procedures utilized by the department;
- (f) the applicant has the 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) the applicant has experience in performing similar activities in the past or has done the event for a number of years at the proposed location;
- (h) the measures planned to mitigate changes in customary park usage or damage to park resources caused by the activity will offset the negative impact of the activity;
- (i) the applicant will be able to fully meet the terms and conditions of the permit;
- (j) the activity will have a positive impact on the local community, environment or park
- (k) applications are considered 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 still submit a permit application pursuant to administrative rule 736-016.
- (6) The department shall administer these rules to ensure to the extent possible that persons applying for and holding a permit to use park land receive consistent, predictable and fair treatment and that the OPRD mission is supported. ~~No person, corporation or other entity shall sponsor, promote or conduct a non-traditional park activity within the boundaries of any state park without having first obtained a permit to do so from the State Parks and Recreation Department.~~

Stat. Auth.: ORS 184 & ORS 390

Stats. Implemented: ORS 390.111 & ORS 390.121

736-016-0012

Definitions:

- (1) “Applicant” is any person applying for a miscellaneous use permit to use 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) “Assignment” means a transfer by the permit holder allowing the use of any rights and privileges granted in the miscellaneous permit to another person.
- (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).
- (5) “Contract” means any legally executed document signed by the department.
- (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 within the boundaries of park land, which is not a recreational use permitted by the posted park regulations or other provisions of OAR Chapter 736, Divisions 10, 15, 20 and 21 and which requires a special use permit under these rules.
- (9) “Special Use Permit” allows uses defined in this rule on a specific area of park land for a specific 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 approving manager.
- (10) “Park Land” means any land that is leased, owned or managed by the department including the Ocean Shore State Recreation area.
- (11) “Person” is an individual at least eighteen (18) years old, a political subdivision or public agency, or any corporation, association, firm, partnership, joint stock company, or quasi-public corporation registered to do business in the State of Oregon.
- (12) “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.
- (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 and 20.
- (15) “Tribal” means any Federally recognized Oregon Tribe

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

(1) Persons needing to obtain a special use permit must apply to the department on a form provided by the department. The form will contain:

(a) Space to fill in the information required in 736-016-0015 (4); and

(b) A current rate sheet listing overnight, day use and group rates from OAR 736-015; and

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

(d) An explanation of the process and criteria used by the department in evaluating a permit application; and

(e) Examples of activities that are allowed without a permit, activities that will require a permit and activities that will not be allowed, to assist applicants in determining if they need a 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) All special use permit applications must be fully completed and accompanied by a non-refundable fee payable to the department in the amount of \$100 unless waived under 736-016-0025.

(3) Applications will not be accepted more than nine months in advance of the activity date.

(4) Unless an exception is approved by the park manager or designee, a special use permit application must be received by the park manager or designee no less than 30 days prior to the planned activity in order to be considered.

(25) To be accepted by the park manager or designee for consideration, an application for a special use permit will be considered fully completed when it contains the following information or an indication that the information is not applicable to the proposed event or activity:~~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 is 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;

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

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

(fg) Description ~~and where applicable the script pages related to~~ of the activities to be performed in the park;

(gh) The number of participants involved;

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

(ij) Description of parking and security arrangements;

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

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

(lm) 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~~ 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) All activities 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 prior to the beginning of the activity. The park manager may request the applicant provide proof that the permits have been obtained. ~~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 using the criteria in 736-016-0010 (5), will approve, approve with conditions, request additional information, or deny the permit application consistent with the policies set forth in these rules. ~~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 set forth in 736-016-0010 (5) the applicant may modify and resubmit the application.

(9) Applications that are denied will be returned to the applicant with an explanation listing the reason(s) for denial.

(10) If a permit application is denied by a department manager, the applicant may make an appeal for reconsideration to that manager's supervisor.

(11) If an application is resubmitted within 120 days from the date the department returned the application, no additional application fee will be assessed.

Stat. Auth.: ORS 184 & ORS 390.124

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, a 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, 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 event or activity;

(c) Prior to the permit being issued, the applicant shall provide 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 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 may be reduced or waived by the safety and risk manager 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 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 conducted in partnership with OPRD through an agreement with the applicant; or

(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, Fthe 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. 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.

(2) No application or proposal for a non-traditional park activity permit will be considered by the department 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 event or activity; and

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

(3) No permit agreement shall be transferable or assignable to any other applicant, party or entity.

(24) The department may, in its discretion, cancel the 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 may cancel the permit effective immediately upon any breach of other permit conditions.

(5) The department may stop the activity, and require the applicant to clear the activity 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.

(36) The applicant shall terminate the activity 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 shall have the right to enter onto the permitted area at anytime 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 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

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

736-016-0023

Fees and Charges

(1) In addition to the use fees below, there will be a~~The~~ non-refundable permit application fee ~~is~~ of \$100, except where 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 will be the standard rate established in OAR 736-015.

(B) Fees for overnight use of an area not normally designated for overnight use will be 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) Champoege 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) Fees in 736-016-0023 (2) will be adjusted after the event when:

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

(b) The department has documentation of attendance that varies more than 10% 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) There will be an hourly rate assessment of \$20 (minimum four hours) for each employee required by the department to be on site to monitor and/or assist in the ~~permittee~~ permitted activities.

(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

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 when those exemptions 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

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