

Oregon Parks and Recreation Commission

April 14, 2021

Agenda Item: 9b

Action

Topic: Request to adopt, OAR 736-024-0015, Restrict Beach Driving in South Tillamook County

Presented by: Katie Gauthier

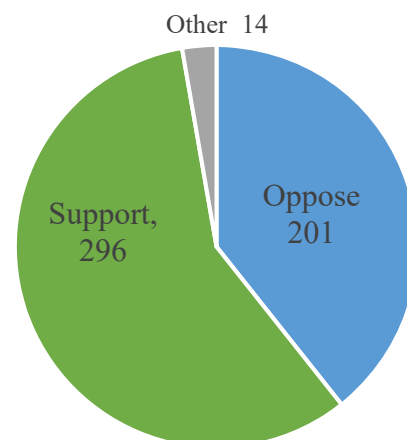
Background: In cooperation with Tillamook County, OPRD proposed amendments to beach driving rules in Tillamook county to restrict motor vehicles on two sections of the ocean shore in southern Tillamook County.

One proposed change would ban driving year-round from the mouth of Sand Lake south to the northern border of the Cape Kiwanda State Natural area, roughly in line with the southern edge of the unincorporated community of Tierra del Mar. Driving is currently prohibited on this beach at specific times throughout the year: it's not allowed May 1 through September 30 (but limits can start in March if beach driving is closed to protect snowy plovers during nesting season), and from sunrise to sunset on legal holidays, and on Saturdays and Sundays between October 1 and April 30.

The second change closes the beach to driving from a Tillamook County boat ramp in Pacific City, south about a quarter of a mile. Boaters will be able to park on the beach north of the boat ramp to the foot of Cape Kiwanda, and launch or land south of the boat ramp when the beach north of the ramp is unsafe. This section of beach had been open year-round, but was temporarily closed to vehicles, except boaters, over the last year due to staffing shortages and safety concerns related to mixing beach visitors and vehicles.

The proposed rules were opened for public comment from December 10 through February 12. Over 500 written comments were received. The full comments can be read on the agency [rulemaking website](#). Twenty people attended a virtual public hearing that provided an opportunity to ask questions and provide oral comments. A recording of the hearing is available on the agency [rulemaking website](#). 81 responses were received in an electronic survey on businesses distributed by the Pacific City-Nestucca Chamber of Commerce to share

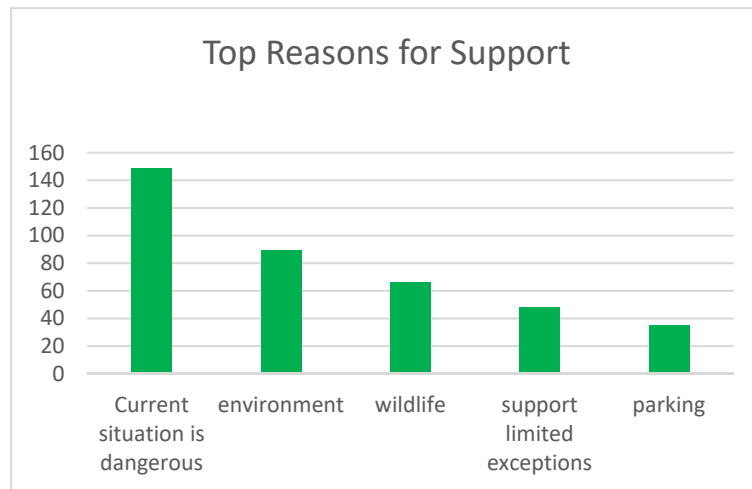
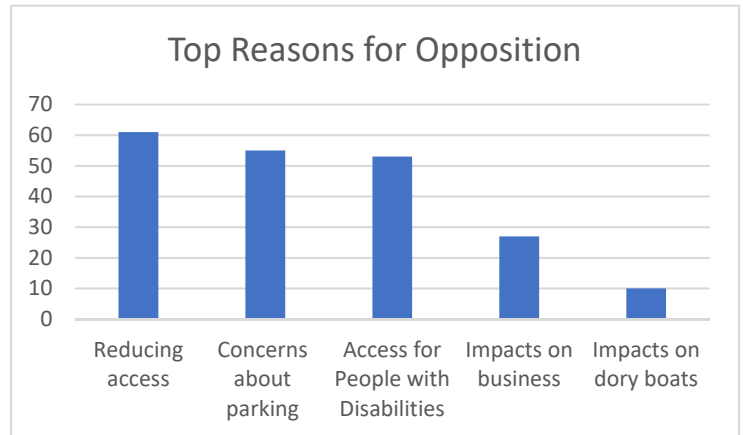
General Opinion on Proposed Rules



opinions on the potential impact for businesses. Responses to the survey are included in Attachment D; they indicate a slight majority of owners feel the proposed rule will make it more difficult for customers to access their business.

Comments were very mixed, with slightly more than half being supportive of the proposed rule. Many individuals in support and opposition to the proposed amended rule shared thoughtful arguments about the impact the change in driving would have on business, visitor experience and safety.

Many commenters opposed to the proposed amendment to the rule expressed a strong appreciation for the legacy of the driving on the beach. They felt the proposed amended rule would limit access to the beach and various types of recreation. Maintaining access for boaters, particularly dory boats was often mentioned as a reason for opposition. The availability and cost of parking near the ocean shore was a prime concern for those opposed to the proposed rule. Some individuals expressed that the added cost of parking would result in them looking for an alternative beach to visit. Commenters were particularly concerned about access for individuals with disabilities. Being able to drive onto the beach and park provided individuals with a disability access to fishing, picnicking or other recreation.



Individuals in support of the proposed amendment often cited dangerous conditions created by congestion on the beach near Pacific City. The mixture of recreational uses and vehicles caused safety concerns that would be resolved by limiting driving. Individuals supporting the proposed amendment also expressed concern over the environmental impact of driving on the beach. Many said they would like to see fewer or no sections of the ocean shore open to vehicles.

Concern over impacts to native wildlife was also often mentioned by commenters in support of the rule. Many commenters did express support for some exceptions to vehicles, particularly for people with a disability.

The proposed change in driving on the section near Tierra Del Mar is a more limited change because driving is already restricted for much of the year in that area. Some commenters felt the

proposed change would simplify the rule and make it easier for visitors to understand where driving is not allowed. Confusion over driving being allowed at some times, but not others and makes this section of the beach more difficult to enforce.

Other commenters felt that although visitation is low, the limited times driving is allowed in that section of the beach are important for local residents. Commenters shared stories of spending time in the off-season on this quiet section of beach playing with their dogs, fishing or clamming.

Staff Recommendation:

Based on comments received, staff recommend the following actions:

- Adopt amendments to OAR 736-024-0015, as modified. When opening, the proposed rule amendments contained an error in the coordinate referenced in 2(f) that has been corrected in the final rule. In addition, a statutory definition for boat is referenced. The changes are highlighted in Attachment A.
- Convene a rule advisory committee to develop updated rules on permits for individuals with disabilities to access the beach. In addition to rulemaking, the agency will develop more accessible information on the permit application process.
- Ensure implementation of the new beach driving rule includes outreach to diverse communities. Using relationships that were developed during the rulemaking, staff will continue to work with community-based organizations to provide multilingual educational materials. The agency will also review signage in both impacted sections of the ocean shore.
- The cost and availability of parking in Pacific City is outside the scope of this rulemaking. However, we recognize that limiting parking on the ocean shore could pose a burden to visitors who cannot afford to pay for parking. As a result, the amended rule may result in some visitors changing where they choose to recreate. Visiting a different beach that does allow for parking or driving on the ocean shore, or has adjacent free parking, may be less convenient or costlier. The agency will continue to work with Tillamook County on efforts to improve parking availability and affordability.

Prior Action by Commission: In February 2021, the Commission was updated on the progress of the rulemaking.

Action Requested: Adopt OAR 736-024-0015 as amended to restrict driving on the beach in south Tillamook County.

Prepared by: Katie Gauthier

Attachments: Attachment A – proposed rule amendments- marked copy
Attachment B- proposed rule amendments-clean copy
Attachment C-maps of proposed rule change
Attachment D- summary of comments and business survey results

736-024-0015

Tillamook County: Restrictions

(1) There shall be no landing of any aircraft on the ocean shore in Tillamook 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 Tillamook 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 2" **attached hereto available from the agency** 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 Clatsop County-Tillamook County line, Y 790, 613, southerly to the south line of Oswald West State Park, Y 774, 737;

(b) Motor vehicle travel is prohibited from the south line of Oswald West State Park, Y 774, 737, southerly to the north boundary of Nehalem Bay State Park, Y 761, 335, except as follows:

(A) Between the hours of 7:00 a.m. and 12:00 noon, October 1 through April 30;

(B) Motor vehicles essential to and engaged in boat launchings will be allowed any time during the year.

(c) Motor vehicle travel is prohibited from the north boundary of Nehalem Bay State Park, Y 761, 335, southerly to the south boundary of the Boy Scout property north of Sand Lake, Y 618, 468, except as follows: Motor vehicles essential to and engaged in boat launchings will be allowed any time during the year for a distance of 300 feet northwest from point Y 665, 466; XI, 113, 850, near Happy Camp;

(d) Motor vehicle travel is allowed at any time from the south boundary of Boy Scout property north of Sand Lake, Y 618, 468 southerly to the Galloway Road beach access Y 610, 120;

(e) Motor vehicle travel is prohibited from the Galloway Road beach access Y 610, 120 southerly to ~~the mouth of Sand Lake Y 606, 590;~~

~~(f) Motor vehicle travel is allowed at any time from the mouth of Sand Lake Y 606, 590 southerly to the north boundary of Cape Kiwanda State Park property, Y 595, 111.~~

(f) Motor vehicle travel is allowed from the north boundary of Cape Kiwanda State Park property, Y 595, 111 to the base of headland north of Cape Kiwanda, **Y 586, 275.**

~~the base of the headland north of Cape Kiwanda, Y 586, 275, except as follows: From the mouth of Sand Lake, Y 606, 590, southerly to the approximate north boundary of Cape Kiwanda State Park property, Y 595, 111, motor vehicle travel is prohibited May 1 through September 30 and from sunrise to sunset on legal holidays (as defined in ORS Chapter 187) and on Saturdays and Sundays between October 1 and April 30;~~

(g) Motor vehicle travel is prohibited from the base of the headland north of Cape Kiwanda, Y 586, 275, southerly to a point north of the beach ramp near Cape Kiwanda, Y 584, 097, except as follows:

(A) From the base of the headland south of Cape Kiwanda, Y 584, 879, southerly approximately 400 feet to Y 584, 688, motor vehicles essential to and engaged in boat, **as defined in ORS 830.005(2)** launchings, boat recoveries, transferring equipment or supplies onto boats, unloading equipment or catches from boats, or emergency repairs of other vehicles or boats will be allowed at any time during the year;

(B) From Y 584, 688, southerly approximately 700 feet to a line located north of and parallel to the beach ramp near Cape Kiwanda, the point of intersection of said line and the line of vegetation being at Y 584, 097, operation or parking of motor vehicles used for towing boat trailers or essential to boat launchings will be allowed.

(h) Motor vehicle travel and parking is ~~prohibited~~**allowed** at any time from the line described in subsection (2)(g) of this rule, north of the beach ramp near Cape Kiwanda, southerly approximately 1,300 feet to Y 582, 843, ~~except that in a corridor 100 feet in width, southerly of and contiguous to the line described in subsection (2)(e) of this rule, all parking is prohibited; except for boat launching or boat recoveries when access north of the ramp is unsafe due to ocean or beach conditions.~~

(i) Motor vehicle travel is prohibited from Y 582, 843 southerly to near Pacific Avenue at Pacific City, Y 579, 329;

(j) Motor vehicle travel is allowed at any time from near Pacific Avenue at Pacific City, Y 579, 329, southerly to Porter Point, Y 563, 121;

(k) Motor vehicle travel is prohibited from Porter Point, Y 563, 121, southerly to the Tillamook County/Lincoln County line, Y 521, 960.

(3) The State Parks Director 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 Tillamook 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.]

736-024-0015

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(d) Motor vehicle travel is allowed at any time from the south boundary of Boy Scout property north of Sand Lake, Y 618, 468 southerly to the Galloway Road beach access Y 610, 120;

(e) Motor vehicle travel is prohibited from the Galloway Road beach access Y 610, 120 southerly to;

the north boundary of Cape Kiwanda State Park property, Y 595, 111.

(f) Motor vehicle travel is allowed from the north boundary of Cape Kiwanda State Park property, Y 595, 111 to the base of headland north of Cape Kiwanda, Y 586, 275.

(g) Motor vehicle travel is prohibited from the base of the headland north of Cape Kiwanda, Y 586, 275, southerly to a point north of the beach ramp near Cape Kiwanda, Y 584, 097, except as follows:

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(h) Motor vehicle travel and parking is prohibited at any time from the line described in subsection (2)(g) of this rule, north of the beach ramp near Cape Kiwanda, southerly approximately 1,300 feet to Y 582, 843. except for boat launching or boat recoveries when access north of the ramp is unsafe due to ocean or beach conditions.

(i) Motor vehicle travel is prohibited from Y 582, 843 southerly to near Pacific Avenue at Pacific City, Y 579, 329;

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(4) The State Parks and Recreation Department is directed to erect conspicuous signs and markers designating the above areas on the ocean shore of Tillamook 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.

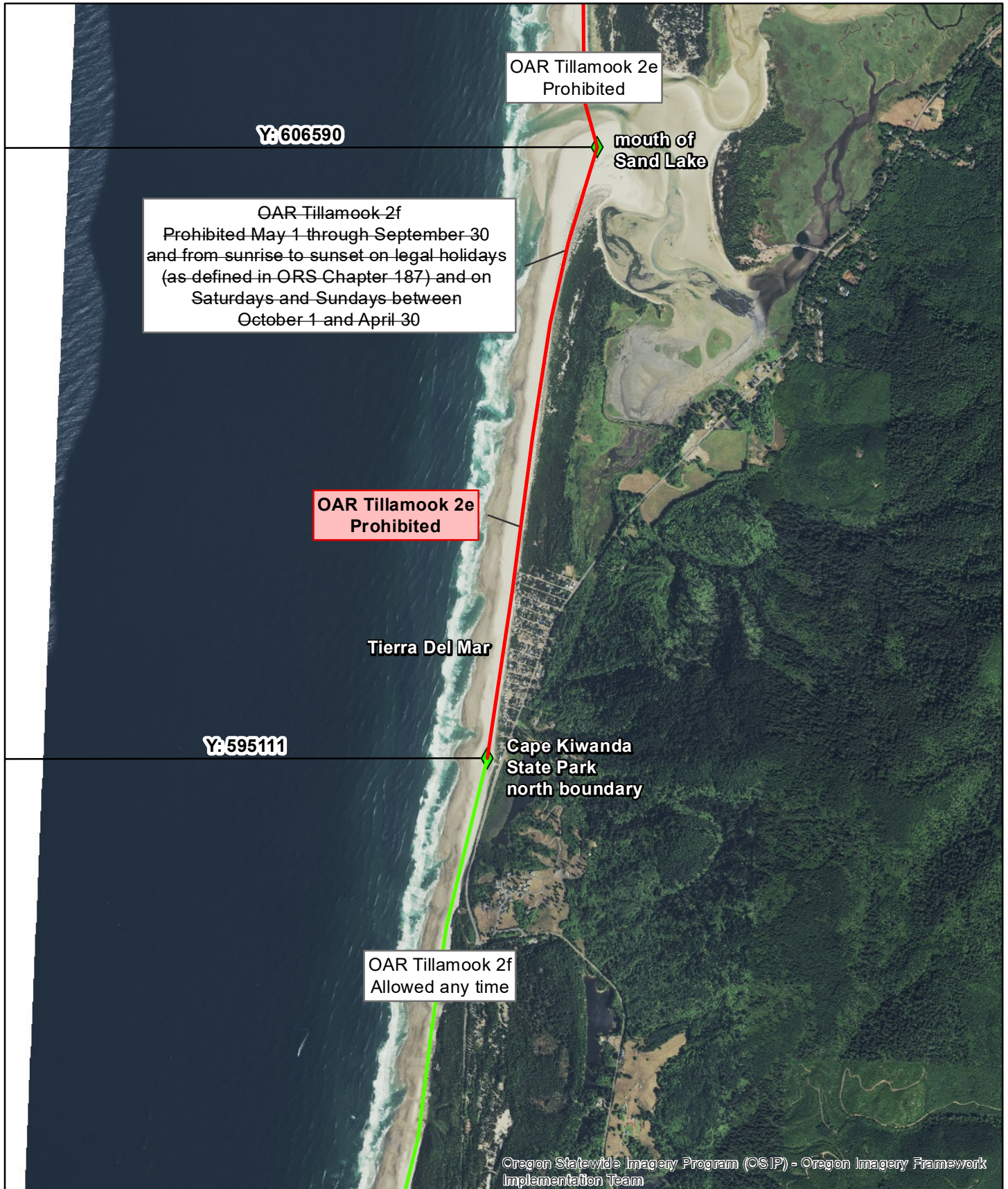
[ED. NOTE: Exhibits referenced are available from the agency.]

VEHICLE RESTRICTIONS ON OCEAN SHORE - PROPOSED

Oregon Parks & Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



MAP 1

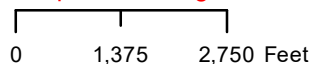


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Vehicle Restrictions

- Allowed
- Restricted
- Prohibited

Proposed changes in red text box



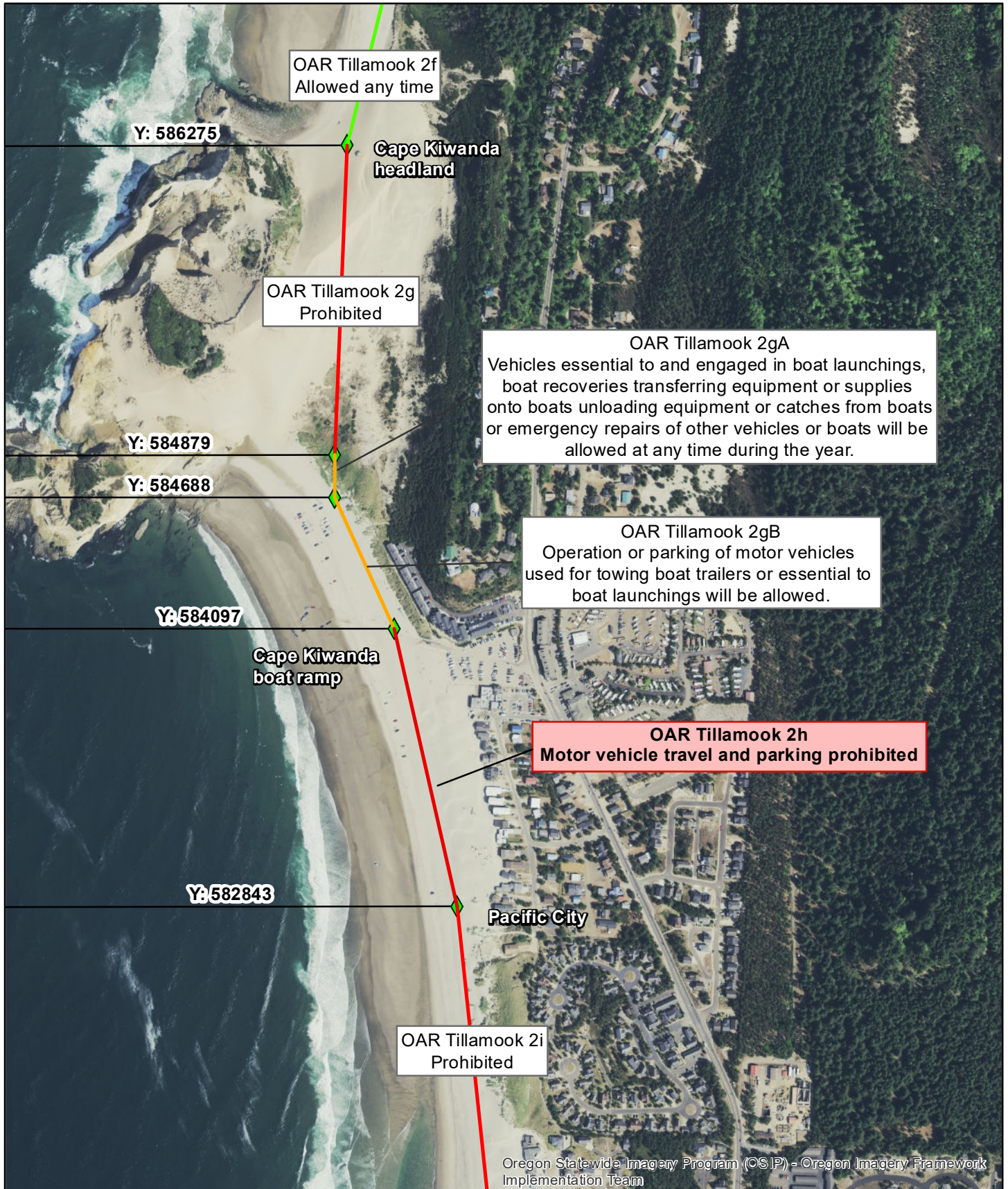
David.Quillin 11/2/2020

VEHICLE RESTRICTIONS ON OCEAN SHORE - PROPOSED

Oregon Parks & Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



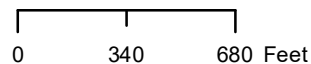
MAP 2



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Vehicle Restrictions

- Allowed
- Restricted
- Prohibited



David.Quillin 11/10/2020

VEHICLE RESTRICTIONS ON OCEAN SHORE - PROPOSED

Oregon Parks & Recreation Dept.
725 Summer St. NE, Suite C
Salem OR, 97301



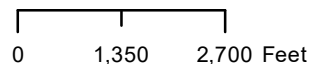
MAP 3



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Vehicle Restrictions

- Allowed
- Restricted
- Prohibited



David.Quillin 11/2/2020

Attachment D: Comments

In order to provide a sense of the comments received, below are a selection of comments received in support and opposition to the proposed amendment. Additionally, tables showing the results of the survey of business owners is available. At the end of this attachment is a spreadsheet of all written comments received with a response from the agency. Full comments are available on the agency [rulemaking website](#).

Select Comments from Individuals who Support proposed amended rule:

“As a retired deputy from Tillamook Sheriffs Office and having spent literally thousands of hours patrolling these areas I fully support the closures. The last few years that I worked for the Sheriffs Office I was assigned to Marine Patrol which included patrolling Cape Kiwanda Beach on weekends. I have witnessed many accidents, continual overcrowding and misuse of the area. Many tourist try to drive on the beach in vehicles that become stuck and create a hazardous traffic situation and repeatedly interfere with the dorymen trying access the beach.”

Terry Huntsman

Reasons for support...“1. Sitka Sedge is a State Natural Area. Park trails are only open to pedestrians; even horses and bicycles are banned. The State Parks guide says "expect more nature and fewer developed facilities: and notes the "secluded beach" as a visitor attraction. Beach driving in front of the park is inconsistent with the park's management designation and marketing. 2. The proposed closure makes the rules consistent so no one can plead confusion or ignorance, especially regarding the Snowy Plover seasonal closure at the mouth of Sand Lake. 3. The proposed closure supports the designation of the South Sand Lake Snowy Plover Management Area, including the investment in restoring nesting habitat, which I observed several years ago. The Snowy Plover Management Plan calls for reducing human disturbance in designated management areas, even outside of nesting season since plovers may be using the beach year round. 4. The proposed closure makes the beach fronting Sitka Sedge State Natural Area safer for pedestrians. I like to walk on beaches for wildlife viewing, photography and beachcombing without having to keep looking out for approaching vehicles. I avoid going to beaches that are open to beach driving due to the hazards for pedestrians. The proposed closure would improve the quality of my beach experience.”

Susan Saul

“I am all for banning cars from driving and parking on the beach at Cape Kiwanda. Times have changed since to was a quaint thing to do in the 1950s and 1960s. The area is becoming one of the premier surf destinations on the Oregon coast. As a surfer, I have seen this growth with my own eyes. Just 20 years ago there were only a handful of surfers in the area. Now the paking lot is always full summer and winter and the beach is loaded with beachgowers, spending the day haning out and surfing. Certainly, with the population growth statewide, and the increased popularity of surfing, the ability to drive your car down onto the beach will only become more and more problematic do to very limited space. It seems better to actually be slightly head of the inevitable, as oppose to waiting until gridlock occurs, or worse, someone gets hurt, to ban cars from driving onto and parking on the beach at Cape Kiwanda. Finally, I am sure an environmental scientist and a beach erosion expert could add a dozen or more insightful reasons

why parking a 5000 pound internal combustion engine vehicle on a beach is a bad idea in the first place.”

Aukui Ferguson

“I have been a full time resident of Pacific City for 6 years and have had a second home here for 12. I am in full support for the proposed driving restrictions. Our family has enjoyed the ability to drive on the beach over the years but every year it seemed to get more crowded and more dangerous as the crowds have increased every year, especially in the summer months. The summer of 2020 brought a needed relief from the unsafe, overcrowded beach parking scene in Pacific City! Currently the driving access from the south border of Tierra Del Mar to the mouth of the sand lake is full of ways to be misinterpreted by visitors, thus tend to drive down there despite the current restrictions. It would be safer and more easy to enforce one rule; no driving south to the mouth of sand lake year round.”

Maureen Wisehart

“I fully support the closing of any and all beach access points that allow vehicles to drive on the beach. I have thoroughly enjoyed walking on the beach since the Covid closures and watching my grandchildren play without fear of vehicles harming us. I am also requesting that you close the access point commonly called The Turnaround as well. The conflict between pedestrians and vehicles at this access point is extremely hazardous. Closing this access point will protect the Bob Straub State Park natural areas and estuaries. It is criminal the way vehicles have abused this area. I am a property owner on Sunset Drive where my parents built a fishing cabin in 1962. I know and love this area well.”

Laurel Mahar

“I strongly support the proposed rules changes to prohibit driving along these stretches of the Oregon Coast. These popular stretches are frequently experiencing user conflicts and the native wildlife are getting pushed out of the area. Without question removing motor vehicles will reduce and/or eliminate these issues. In addition, this change will almost certainly improve the beach experience for the majority of visitors compared to the few that currently benefit from the motor vehicular access. Thanks for taking the time to read this comment”

Caroline House

“I agree with the proposed changes. The existing rules are confusing to know when and where you can drive. Please make it easy and I really prefer to ban it altogether; protect those little endangered birds; promote safety and pleasant walking for those on the beach. But I agree that dory launching is one of the few acceptable reasons to have cars on the beach, but there is no need for them to drive up and down the beach for this purpose. I think it works quite well at Pacific City. It would be great if would otherwise ban cars near Cape Kiwanda.”

Suellen Rinker

Select Comments from Individuals in Opposition to proposed amended rule:

“In reference to use of beach at Tierra del Mar and McPhillips Beach. “In all the years of using this beach we have always been able to find a place for us to be “alone” in the sense that we can easily be in our own world in our spot on the beach. And we can tell you now at the ages we are at that being able to drive onto this beach that is not easily accessible to people who can’t walk a long distance carrying chairs, etc., is wonderful!” Dean Bones

“I oppose restricting vehicle access (year round) to the PC boat ramp area. Restricting access during weekend summer months when traffic is high is reasonable for safety but during the weekdays or non-summer months, vehicles use should continue to be allowed as it allows Oregonians to freely enjoy this unique area. As someone with children, parking on the beach provides a way to accommodate the extra gear (chairs, bbq grill, coolers, kid toys) to enjoy the beach. I have been coming to Cape Kiwanda for 3 decades. There is not a legitimate need to completely end vehicle use year round at this location if safety is the reason. If needed for safety, only restrict high use dates.”

Sam Brooks

“My name is Josh Brown and I am the Sheriff for Tillamook County. Prior to being Sheriff I was a working deputy and my primary coverage area was South County. I dealt with this beach driving on numerous occasions and have very extensive knowledge of this area and this subject matter. To address the beach closure at Cape Kiwanda first. Long term I do not disagree with closing this section of beach to all except Dory Boaters. I believe this because I have seen first hand the safety issues related to this beach being full in the height of summer. From a law enforcement standpoint safety is a priority. However, in the short term I believe it is a mistake. When I say short term, what I mean from now until the full county parking plan is put into effect. Closing it now will only increase parking issues and safety concerns reminiscent of summer 2020. The Sheriff's Office will struggle greatly to make any impact on this issue, again just like summer 2020. The closure north of Tierra Del Mar (as it is commonly referred to) is also a mistake in my opinion. I am uncertain of the original reason why it has been shutdown during specific times of the year as it is now, but there is absolutely no need for a full closure. I also realize that many residents of Tierra Del Mar are very protective of their beach and very much wish it to be fully closed for their personal use. I do not believe this is a viable reason for a full shutdown. Additionally from a law enforcement perspective enforcing this shutdown is very difficult, it is very low priority when considering our call volume and call types. Right now we receive many calls regarding vehicles on that section of the beach and we very seldom are able to respond and contact the suspect vehicles. There is no foreseeable way that this can change.”

Tillamook Sheriff Josh Brown

“I want the state my disapproval of restricting private driving on the beach. My family (and later myself) have been going to Pacific City since the 1940's. My grandfather bought a cabin in Tierra Del Mar in 1962 - which our family still owns. My husband and I own a beachfront home on Sunset in Pacific City. We are not newcomers. I have walked with my dogs and played on those beaches through the years with not so much as a close call with drivers on the beach. In 1913, Oswald West designated all Oregon beaches as public highways to the wet sand line. In 1967, Tom McCall enlarged upon that by declaring all of the beach as public state highway. Please do not negate the laws that previous governors have fought to enact!!!”

Barbara and Dennis Baltzell

“I'm disabled, I need to drive into the beach so I can walk on it. I used the beach access at the south end of Tierra del Mar. I rarely ever go north of that access but I do park my car in near the sign at times if it's busy and they aren't supposed to be down by Tierra del Mar so it's kind of a shield or wake up for tourists. Although I can't walk far I do enjoy walking around that area and

if I need to go further down on the beach I take the car and go further down than walk that area. I love and care for the beach very much.”

Brenda Sours

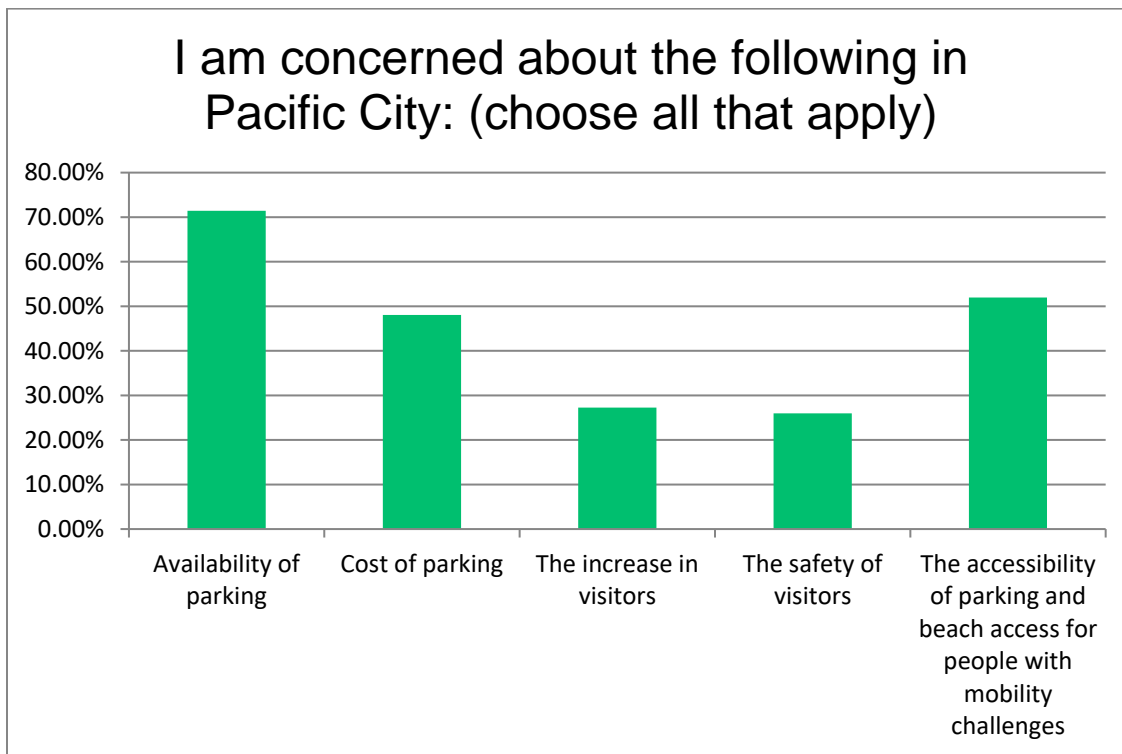
“I am opposed to the vehicle restrictions proposed at Cape Kiwanda and north to the mouth of sand lake. This would have a negative affect on my family's tradition of parking on the beach. There would be a negative economic impact on the businesses in Pacific City. There is a shortage of parking in Pacific City as it is. By closing the vehicle access to the beach will deter people from coming to Pacific City. Some of my best memories are driving down on the beach in Pacific City with my parents. I now have my own family and would like to continue taking my wife and kids to the same spot.”

Eric Creighton

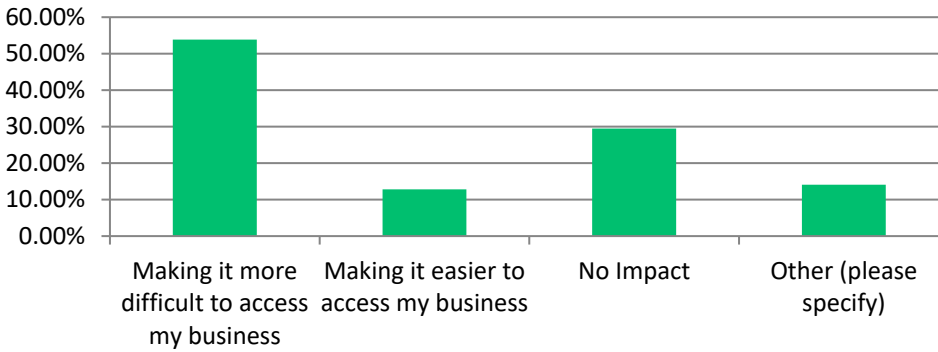
“My son and I traveled to Pacific City this summer. I had planned on parking on the beach and then visiting some of the local establishments for lunch. When we arrived all of the vehicle access to the beaches were closed and there was no place to safely/legally park in town. We ended up leaving Pacific City and traveled down to Lincoln County to have lunch. I believe that closing of vehicle access to your beaches will end up having a negative impact on the local community. I hope that you reconsider these closures.”

Daryl Keenan

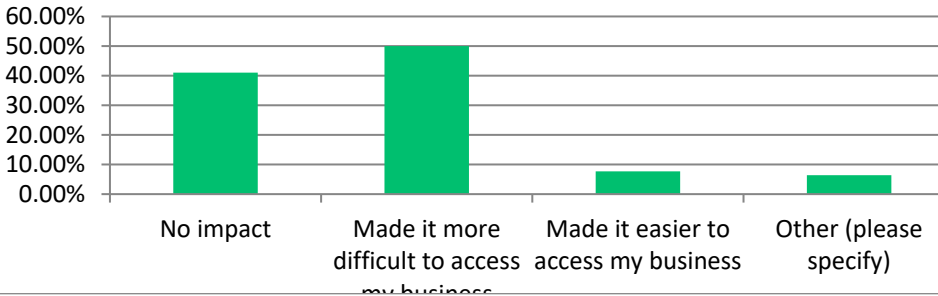
Survey results from business owners:



I believe the proposed rules will impact my business by: (choose all that apply)



Restrictions on parking on south of the boat ramp at Cape Kiwanda during 2020 had the following impact on my business:



My business is located:

