

W.10.a.

Odn. No. 7-03

FILE NOTE

July 15, 2003

From: D. Williams, Asst. Co. Counsel

Re: Code amendment to prohibit violation of posted restrictions on public land
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The reason for this note is to ensure recognition that the proposed new ordinance is not limited to alcohol possession or use, nor is it limited to the dune areas of Lane County.

As noted in the agenda memo, the impetus of the proposed new section was the USFS request for assistance in addressing problems related to alcohol use in the dunes. The proposed new section has broader applicability. The new section could apply to any public lands in the County. The proposed new section could cover not only alcohol possession or use, but would also cover presence and other presently unspecified activities if there has been advance notice of closure of the area or prohibition of the activity. Its terms could cover the high-risk activity of drinking and ATV use, the activity of backpackers viewing the sunset from the dunes with a bottle of wine, or the presence of a tree-sitter in an area that the USFS has declared closed to the public.

The reason for the heading of the proposed new section 6.040 of the Lane Code, "Violation of Posted Restrictions of Use (Other Public Land)", is that existing code section 6.030 is headed "Violation of Posted Limits of Use", but it applies only to roads and parks.

W. 10. a -

BOARD AGENDA COVER MEMORANDUM

Board meeting Date: July 23, 2003

DATE: July 8, 2003
TO: Board of County Commissioners.
FROM: Jan Clements, Sheriff

AGENDA ITEM, TITLE, OR SUBJECT: IN THE MATTER OF AMENDING CHAPTER 6 OF THE LANE CODE TO ADD A PROVISION PROHIBITING VIOLATION OF POSTED RESTRICTIONS OF USE ON OTHER PUBLIC LAND. LC 6.040

I. MOTION

Removing, substituting and adding language to allow for enforcement of the Federal Alcohol Ban on the Oregon Dunes National Recreation Area (ODNRA) to amend Chapter 6, Section 6.040, of the Lane Code.

II. ISSUE OR PROBLEM

LCSO Deputies are not able to issue citations in support of the ban on alcoholic beverages on the ODNRA at this time because the violation currently is only a violation of the Code of Federal Regulations (CFR), not Oregon State Law or Lane Code.

III. DISCUSSION.

A. Background: On March 19, 2003, at the BCC Regular Meeting, the US Forest Service (USFS) addressed the board to advise that the Oregon Dunes National Recreation Area was implementing a ban on alcoholic beverages effective May 1, 2003. On March 19, 2003, a request was made by USFS Law Enforcement Special Agent Bruce Gainer to have a change to the Lane Code so Sheriff's Deputies had the ability to issue citations for violations they encounter while patrolling the ODNRA. Presently, the violations are only a violation of the Code of Federal Regulations and deputies do not have the authority to write CFR citations for alcohol violations.

B. Analysis: The Sheriff's Deputies who patrol the ODNRA need a tool to gain compliance with the alcohol ban independent of Forest Service Law Enforcement officers, by writing citations into Justice Court for a violation of the Lane Code. The recreating public (citizens and tourists alike) will experience greater satisfaction through enhanced law enforcement. With this Lane Code change, offenders of the alcohol ban will be held accountable through the court system. The positive impact of this level of accountability will be seen on many fronts: 1-Less Disorderly Conduct in dispersed camping areas to include intoxicated campers and ATV enthusiasts who ride ATV's in

violation of the curfew(our experience has shown that more curfew violators are intoxicated after 10:00 PM when the curfew goes into effect); 2-Less garbage in dispersed camping areas from left over alcohol containers;3-Less noise complaints from disorderly camps in the dispersed areas of the ODNRA.

IV. IMPLEMENTATION / FOLLOW-UP

1. Approve.
2. Choose not to approve.

V. ATTACHMENTS

1. Lane Code Chapter 6, Section 6.040
2. Siuslaw National Forest Order 12-18.4 effective May 1st, 2003.
3. Order

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 7-03

IN THE MATTER OF AMENDING CHAPTER 6 OF
LANE CODE TO ADD A PROVISION PROHIBITING
VIOLATION OF POSTED RESTRICTIONS OF USE
(OTHER PUBLIC LAND) (LC 6.040)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 6 of Lane Code is hereby amended by removing, substituting and adding new sections as follows:

REMOVE THIS SECTION

NONE

INSERT THIS SECTION

6.040
located on page 6-2
(a total of 1 page)

Said section is attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to add a provision prohibiting violation of posted restrictions of use (other public land).

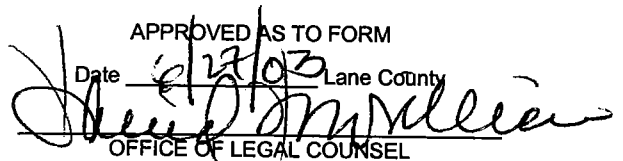
ENACTED this _____ day of _____ 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 6/27/03 Lane County


OFFICE OF LEGAL COUNSEL

(c) Any public boat landing maintained by Lane County or the Oregon Department of Fish and Wildlife.

Posted Limits of Use. Any sign duly posted at the park, Local Access road or County road giving notice of the Board of County Commissioners' order limiting hours or seasons of use.

(3) Exceptions.

(a) Posted limits of use do not apply to persons performing normal and accepted farming practices.

(b) Posted limits of use do not apply to persons acting within the course and scope of their employment for a public or quasi-public agency or as an agent thereof.
(Revised by Ordinance No. 4-88, Effective 6.1.88; 1-00, 4.12.00)

6.040 Violation of Posted Restrictions of Use (Other Public Land).

(1) A person commits the offense of violation of posted restrictions of use (other public land) if the person is on public land not described in LC 6.030 at a time when the land is closed to the public or when specific activity or possession of certain items on the land is otherwise restricted, and notice of the closure or restriction has been posted or otherwise duly promulgated by a governmental unit or agency with authority to impose the closure or restriction.

(2) For purposes of subsection (1) of this section, if the restriction prohibits the possession of alcoholic liquor, then possession of alcoholic liquor includes the possession, control or acceptance of a container of alcoholic liquor, or any portion thereof, or exercising control of such liquor or keeping such liquor in any vehicle, tent, backpack, cooler or other container or conveyance within the boundaries of the posted restriction area.

(3) Violation of LC 6.040 is punishable upon conviction by a fine of not more than \$500.

PROHIBITED NUILITY

6.100 Prohibited Nudity and Penalty.

(1) No person, eight years of age or older, shall on public or private property, expose his or her genitals to another person, except within the boundaries of private property with the permission of the owner of said property, that is screened so that the act cannot be viewed from any other property.

(2) The Board of County Commissioners may designate certain areas as exceptions to LC 6.100(1) above after public notice and after a public hearing has been held with respect to the area to be designated as an exception. The areas so designated shall be posted so that the general public could not enter without being aware of the character of the area. In making such designation after said hearing, the following criteria shall be considered:

(a) Public character of the area.

(b) Traditional use of the area.

(c) Intensity and frequency of area use.

(d) Public safety.

(e) Balancing of interests of all Lane County residents.

(f) Public hearing to receive testimony from proponents and opponents.

(3) The hearing required in LC 6.100(2) above may be held after a minimum 30-day public notice.

||At right margin indicates changes
Bold indicates material being added
~~Strikethrough~~ indicates material being deleted
6.0406.100 Lane Code

LEGISLATIVE
FORMAT
6.100-6.200

(c) Any public boat landing maintained by Lane County or the Oregon Department of Fish and Wildlife.

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- (c) Intensity and frequency of area use.
- (d) Public safety.
- (e) Balancing of interests of all Lane County residents.
- (f) Public hearing to receive testimony from proponents and opponents.

(3) The hearing required in LC 6.100(2) above may be held after a minimum 30-day public notice.

ORDER
ORDER NO. 12-18.4
01/04
Occupancy and Use

SIUSLAW NATIONAL FOREST

Pursuant to 36 CFR 261.50 (a) and (b) the following acts are prohibited within the Siuslaw National Forest. This order is in effect from May 1, 2003 through May 1, 2005, at which time it is subject to review:

Possessing a beverage which is defined as an alcoholic beverage by State law, by persons under 21 years of age, on all land administered by the Siuslaw National Forest. 36 CFR 261.58 (bb).

Possessing a beverage which is defined as an alcoholic beverage by State law, in areas described in the attached exhibit(s). For the purposes of this section, possession of alcoholic beverage includes; 1) containment within a motor vehicle, tent, or other structure, by the owner, operator, or other person, having the authority or control of this location and/or 2) possession on a person or in an area in the immediate control of that person. Possession does not include any lawful consumption prior to entering the described area. 36 CFR 261.58 (bb).

Pursuant to 36 CFR 261.50 (e), the following persons are exempt from this order:

Any Federal, State, or local officer, or member of an organized rescue or fire fighting force in the performance of an official duty.

Persons who are using National Forest land strictly for direct and lawful access to or from private property, or other public land not described in the attached exhibits.

Any other person meeting exemption requirements specified in the order.

Done at Corvallis, Oregon, this

3rd day of March, 2003.

W M Helphinstine
For Gloria Brown
Forest Supervisor
Siuslaw National Forest

Violation of the prohibitions is punishable by a fine of not more than \$5000.00 or imprisonment for not more than 6 months or both. Title 16 USC Section 551.

SIUSLAW NATIONAL FOREST
 ORDER NO. 12-18
 01/04

36 CFR 261.58bb

EXHIBIT 01/04

1. Possessing a beverage which is defined as an alcoholic beverage by State law is prohibited in the area within two hundred (200) feet of Hall Lake and Schuttpelz Lake, T. 23 S., R. 13 W., Sec. 1, Coos County, within the Oregon Dunes National Recreation Area, Siuslaw National Forest.
2. Possessing a beverage which is defined as an alcoholic beverage by State law is prohibited on or within 200 feet of all designated offroad vehicle areas, or within lands administered as such, including dispersed off-road vehicle campsites, on the Oregon Dunes National Recreation Area and Sand Lake Recreation Area, located on the Siuslaw National Forest, within the judicial district of Oregon.

The following developments are exempt from this order:

Hebo Ranger District

Fisherman's Day Use Area
Sandbeach Campground
East Dunes Campground
West Winds Campground

Oregon Dunes NRA

South Jetty Staging	Umpqua Beach Staging Area #2
Siuslaw Vista	Umpqua Beach Staging Area #3
Goosepasture Staging	Eel Creek Campground
South Jetty Beach Parking Lots #1-#6	Umpqua Dunes Trailhead
Tyee Campground	Spinreel Campground
Lodgepole Day Use	Spinreel Staging Area
Lagoon Campground	Hauser Staging Area/Overflow Campground
Waxmyrtle Campground	Horsfall Campground
Stagecoach Trailhead	Horsfall Staging Area
Driftwood II Campground	Sand Tracks Day Use
Siltcoos Beach Parking Lot	Bluebill Trailhead
Carter Lake Campground/Trailhead	Bluebill Campground
Carter Lake Boat Ramp	Wild Mare Campground
Taylor Dune Trailhead	Horsfall Beach Staging Area
Oregon Dunes Overlook	Horsfall Beach Campground
Takenitch Lake Trailhead	
Takenitch/Threemile Trailhead	
Takenitch Campground	
Takenitch Boatramp	
Takenitch Landing Campground	

