



RESOLUTION 16-66

ADOPTING RULES AND REGULATIONS FOR THE PROTECTION, USE AND MANAGEMENT OF THE CLEAR CREEK GREENWAY IN CLEAR CREEK CANYON (US 6 MM 257.1-260.2)

WHEREAS, Clear Creek County has recently improved certain real property, hereinafter described and known as the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) (more specifically identified below), for public open space and public recreation purposes; and

WHEREAS, the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is a "recreational facility" within the meaning of §29-7-107, CRS; and

WHEREAS, the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is under the management of the Clear Creek County Open Space Commission; and

WHEREAS, the Clear Creek County Board of County Commissioners acknowledges the need for rules and regulations to ensure the proper protection, use and management of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2); and

WHEREAS, these rules and regulations have been recommended by the Clear Creek County Open Space Commission to the Clear Creek County Board of County Commissioners, which acknowledges that community input is both necessary and appreciated in formulating rules and regulations with regard to the protection, use and management of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2); and

WHEREAS, pursuant to §29-7-101, CRS, Clear Creek County has the power, authority and jurisdiction to enact such rules and regulations respecting the protection, use, and management of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) as may be deemed by the Board of County Commissioners to be in the best interests of the county and its inhabitants; and

WHEREAS, recreational use of lands is an important aspect to the quality of life of the residents of and visitors to Clear Creek County; and



WHEREAS, the impacts on such lands need to be minimized in order to preserve and maintain the quality of the experience in Clear Creek County.

NOW, THEREFORE, BE IT RESOLVED BY The Board of County Commissioners of the County of Clear Creek, Colorado that the following Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) Rules and Regulations are adopted:

Section 1: Definitions

Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) means that land owned by Clear Creek County and described in certain Deeds for Parcel Number 183336300901 and Parcel Number 183336300900 and 300 yards south of the high water mark on the north side of Clear Creek in Parcel Numbers 196302100952, 196302200901, and 183334400901 recorded in the real estate records of Clear Creek County, Colorado, and designated for management by Open Space Commission by Resolution and in Colorado Department of Transportation right-of-way as defined by Memorandum of Understanding US 6 Right of Way – Clear Creek Greenway (Book 885 Page 518).

Campfire means a fire, not within any building, mobile home, or living accommodation mounted on a motor vehicle, which is used for cooking, personal warmth, lighting, ceremonial or esthetic purposes. Fire includes campfires.

Camping means the temporary use of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) for the purpose of overnight occupancy without a permanently fixed structure.

County means Clear Creek County government.

Damaging means to injure, mutilate, deface, destroy, remove, cut, chop, girdle, dig, excavate, kill or in any way harm or disturb.

Firearm means any pistol, revolver, rifle, or other weapon of any description from which any shot, projectile, or bullet may be discharged.

Motor vehicle includes any self-propelled device by which persons or property may be moved, carried, or transported from one place to another by land, water, or air, but excludes wheelchairs.



Person means natural person, corporation, company, partnership, trust, firm, or association of persons.

Special Activity Permit means a written permit which allows occupancy or use rights or privileges on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2).

Stove fire means a campfire built inside an enclosed stove or grill, a portable brazier, or a pressurized liquid or gas stove, including a space heating device.

Section 2: Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) Rules and Regulations

2.1.1 *Permitted Activities*

The following recreational activities are permitted on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2):

- a. Fishing and Creek access.
- b. Walking, biking, climbing.
- c. Picnicking.
- d. Recreational gold panning.
- e. Rafting and kayaking.
- f. Dogs on leash.
- g. Use of Other Power-Driven Mobility Devices (OPMD) as provided Attachment A.

This list of activities is not exclusive.

2.1.2 *Hours of Use*

All permitted or otherwise legal activities are permitted only between the period one hour before sunrise and one hour after sunset, daily. Any use outside that period of time is prohibited and a trespass.

2.2 Prohibited Activities

The following activities by any person are prohibited on the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2):

2.2.1 Fire:

- a. The construction, ignition, or use of any fires, including, without limitation, campfires or stove fires, is prohibited.



- b. Carelessly or negligently throwing or placing any ignited substance or other substance that may cause a fire is prohibited.
- c. Causing timber, trees, slash, grass or brush to burn is prohibited
- d. All other fires, including smoking, may be eliminated, curtailed, or otherwise further regulated by order of the Clear Creek County Sheriff, Fire Chief, or other responsible County official in the event it is determined, in conformance with any fire ban ordinance promulgated by Clear Creek County, that a fire hazard restriction or closure is necessary and/or warranted.

2.2.2 Natural and Cultural Resources:

- a. Damaging any natural feature or other property of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited.
- b. Removing any natural feature or other property of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited, except as approved by the Clear Creek County Board of County Commissions and/or Open Space Commission.
- c. Cutting or otherwise damaging or removing any plant materials without a special activity permit is prohibited.
- d. Using any pesticide except for personal use or as provided by Special Activity Permit is prohibited.
- f. Digging in, excavating, disturbing, injuring, destroying, removing or in any way damaging any property, without a Special Activity Permit, is prohibited.

2.2.3 Uses:

- a. Constructing, placing, or maintaining any kind of trail, structure or other improvement on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) without a Special Activity Permit is prohibited.
- b. Overnight use is prohibited.
- c. Camping within Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited within 300 yards of Clear Creek.
- d. Selling or offering for sale, bartering or trading any merchandise or conducting any business activity or service which uses Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) land or resources without a Special Activity Permit is prohibited.
- e. Discharge of a firearm is prohibited.



- f. Abandoning any personal property on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited.
- g. Disseminating, posting, placing or erecting any paper, notice, advertising material, sign, handbill, petition or similar written and/or graphic matter on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited.
- h. Operating or using, without a permit or license, any devices on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) which produce noise in such a manner and at such a time so as to unreasonably disturb any person is prohibited.
- i. The possession and/or use of fireworks on Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited.
- j. Overnight parking in Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited.

2.2.4 Trails:

Damaging and leaving in damaged condition, or blocking, restricting or otherwise interfering with the use of a road, trail, parking area or creek access or gate within the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited, except for administrative or management purposes by members of any Clear Creek County agency and/or County designees.

2.2.5 Motor Vehicles:

Possessing or using any motorized vehicle on any road, trail or property located within the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) is prohibited, unless within an area specifically designated and posted for vehicular use or under Special Activity Permit or for management purposes by County agencies and/or County designees.

2.2.6 Special Events:

No gatherings of more than twenty (20) person (in attendance or expected) shall be permitted within the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2) without a Special Activity Permit.

Section 3.0: Special Activity Permit:



When in its judgment such authorization is in the best interest of preserving the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2), the Clear Creek County Open Space Commission may authorize by written Special Activity Permit uses otherwise prohibited in these rules and regulations. Said Special Activity Permits must be in writing and may only be issued by the Clear Creek County Open Space Commission.

Section 4.0: Enforcement

4.1 Penalty Assessment:

More restrictive statutes and County ordinances may apply to activities in and to the use of the Clear Creek Greenway in Clear Creek Canyon (US 6 MM 257.1-260.2), notwithstanding anything to the contrary contained in these rules and regulations. Unless a penalty is otherwise established in the Colorado Criminal Code, Clear Creek County Ordinances, or other laws, for the violation of conduct which is also prohibited by these rules and regulations, any person who violates any provision of these rules and regulations commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars for each separate violation.

4.2 Procedure:

The penalty assessment procedure provided in C.R.S. Section 16-2-201 may be followed by any arresting law enforcement officer for any violation of these rules and regulations.

Section 5.0: Amendment:

The Board of County Commissioners reserves the right to amend or adopt additional rules and regulations and/or use closures as it deems necessary, from time to time.

BE IT FURTHER RESOLVED that the foregoing Rules and Regulations shall be in force and effect beginning December 2016.

ADOPTED this _____ day of _____, 2016, at a regularly scheduled meeting of the Clear Creek Board of County Commissioners.



Phil Buckland

Phil Buckland, Chairman

Tim Mauck

Tim Mauck, Commissioner

Peter Monson

Peter Monson, Commissioner

ATTEST:

E. L. Lutter

Deputy Clerk and Recorder

Approved as to form:

Robert W. Loeffler

Robert W. Loeffler, County Attorney



Attachment A
CLEAR CREEK COUNTY OPEN SPACE GUIDELINES
FOR USE OF “OTHER POWER-DRIVEN MOBILITY DEVICES”
ON CCCOS PROPERTIES

A. INTRODUCTION

1. These Guidelines (“Guidelines”) address the use of other power-driven mobility devices (“OPDMDs”) by individuals with mobility disabilities on (1) properties owned by Clear Creek County (the “County”) and managed by the Clear Creek County Open Space (“CCCOS”).
2. The use of OPDMDs on CCCOS Properties is governed by 42 U.S.C. 126, Subchapter II, Part A of the Americans with Disabilities Act of 1990, as amended (the “Act”), and 28 C.F.R. Part 35, as amended by the final rule published on September 15, 2010. These Guidelines specifically pertain to the provisions of Sections 35.101 through 35.150 of 28 C.F.R. Part 35 (the “Regulations”). The relevant provisions of the Act and the Regulations are included in the Appendix to these Guidelines.
3. An OPDMD is defined in Regulation §35.150 as “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 of this section.” This Regulation also defines a “wheelchair” as “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.”
4. CCCOS is required to “make reasonable modifications in its policies, practices, or procedures to permit the use of [OPDMDs] by individuals with mobility disabilities, unless [CCCOS] can demonstrate that the class of [OPDMDs] cannot be operated in accordance with legitimate safety requirements that the public entity has adopted pursuant to § 35.130(h).” Regulation §35.137(b)(1). CCCOS is not required to make modifications that “would fundamentally alter the nature of [its] service, program, or activity” (Regulation §35.130(b)(7)); and the Regulations do not require CCCOS “to permit an individual to participate in or benefit from the services, programs, or activities of [CCCOS] when that individual poses a direct threat to the health or safety of others.” Regulation §35.139(a).



10. An OPDMD must remain on trails except to the extent necessary to yield to other users. An OPDMD must be capable of being turned around within the trail tread in a safe manner.
11. Due to varying conditions on CCCOS Properties and to ensure safety and/or natural resource protection, CCCOS recommends that an OPDMD user contact CCCOS at 303-679-2305 to confirm that an OPDMD is permitted on a particular trail.
12. With these Guidelines, CCCOS is not representing that the CCCOS Properties are safe for use by an OPDMD and it is not assuming any liability. Certain risks are inherent in the use of CCCOS Properties and all users must exercise reasonable care.