

## **TITLE 12: OPEN SPACE AND TRAILS**

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## **TITLE 12: OPEN SPACE AND TRAILS**

### CHAPTER 12.04: GENERAL REGULATIONS

#### SECTIONS:

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- 12.04.060 MANAGEMENT PLANS
- 12.04.070 PERMITS—SPECIAL REVIEW OF USES ON OPEN SPACE PROPERTIES
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- 12.04.110 POSTING

#### 12.04.010 ACQUISITION OF OPEN SPACE AND TRAILS PROPERTIES

The trails, trailhead parking lots, open spaces and attendant facilities and structures that are named as Open Space or Trails through Resolution or Ordinance of the Pitkin County Board of Commissioners are declared to be Pitkin County Trails and Open Space Properties; and further, that properties acquired by funds designated for the Open Space and Trails Program are declared to be Pitkin County Open Space and Trails Properties, and further, that properties may be added to or deleted from the inventory of Pitkin County Trails and Open Space Properties according to applicable statutes, including, but not limited to, Article 13, section 5.3 of the Pitkin County Home Rule

Charter and by Ordinance or Resolution of the Board of County Commissioners. *(Ord. 01-04 (part): Ord. 93-25 (part): Ord: 30-05 (repealed and re-enacted) prior code Title IX § 1-1)*

#### 12.04.020: DESIGNATION OF OPEN SPACE AND TRAILS FACILITIES

Open Space and Trails properties and facilities will be identified by specific action of the Board of County Commissioners, through Ordinance or Resolution, identifying open space and trails facilities as such. Such facilities will include, but not be limited to, County owned and maintained trails, trailheads, parking areas, signs, mining claims, open spaces, parks, river access points for boating or fishing purposes, fishing easements, bridges, wildlife areas, and easements obtained for the purposes of wildlife habitat preservation, scenic preservation, agriculture, access to public lands or for other purposes identified by the County. As otherwise set forth in Article 13 of the Pitkin County Home Rule Charter, Section 1.3, Open Space and Trails funds are not available for maintenance or management purposes for those County properties not either purchased with Open Space Funds or designated to the Open Space and Trails program pursuant to this Article. Non-designated properties otherwise owned by Pitkin County shall be managed by the General Fund through the Asset Management Division. *(Ord. 01-04 (part): Ord. 93-25 (part): Ord: 30-05 (repealed and re-enacted) prior code Title IX § 1-2)*

#### 12.40.030: RESTRICTIONS ON TRAIL USE

The following restrictions apply to all trails owned in fee simple by the Pitkin County, and to all trail easements except where such restrictions are limited by the express terms of the trail easement.

- A. Motorized vehicles restricted. No motorized vehicles whatsoever, including automobiles, trucks, farm or agricultural vehicles, motorcycles, motorbikes, motor scooters, go-carts, snowmobiles, motorized bicycles, mopeds or all-terrain vehicles will be allowed on any county trail at any time. The following vehicles and uses are exempted from this prohibition:
  - 1. County maintenance vehicles, ambulance, law enforcement, fire or other emergency vehicles will be allowed to enter onto County trails in the course of carrying out their normal duties.
  - 2. Snowmobiles or snowcats may be allowed onto County trails to set cross country ski tracks or to otherwise install or maintain Nordic trails with approval of the Open Space Land Steward.

3. Construction or maintenance vehicles owned and operated by private contractors may enter onto County trails subject to specific permission as set forth in Section 6.02 of the Asset Management Plan as may be amended from time to time.
  4. Agricultural, ranch or personal vehicles belonging to specific owners, their employees or assigns, may enter onto County trails subject to the terms of easements or agreements between the County and individual landowners.
- B. Allowed Uses. Bicycles, pedestrians, skates, skateboards, nonmotorized scooters, and baby strollers are allowed on all trails at all times unless specifically prohibited and posted otherwise. All trail users will travel at safe speeds at all times.
- C. Right of Way. In areas of mixed use, i.e. horses, bicycles and pedestrians, equestrians have the right of way in all circumstances. All traffic is to yield to equestrians. Bicycle or other wheeled traffic is to yield to pedestrians.
- D. Fires Prohibited. Fires are prohibited at any location and at all times within trails, trail easements or trail facilities, including, but not limited to, parking areas, trail shoulders and borders, bridges and structures, except for management purposes as authorized by the County Land Steward, and/or for irrigation ditch maintenance, and in accordance with all other applicable laws.
- E. Trespass Prohibited. It is prohibited to trespass from trails onto adjacent private lands. Trails may be subject to seasonal closures and the use of such when so posted shall constitute a trespass.
- F. Equestrian Use. Equestrian use is restricted to unpaved trail areas unless otherwise posted. Horse traffic is restricted to walk or trot speeds. Horses must be under control at all times. Buggies, carts, or other horse-drawn vehicles are prohibited from all trails.
- G. Stop Required. Trail users shall stop at all road and driveway crossings and yield to any motorized traffic, except where the trail right of way takes precedence over a driveway crossing, in which case driveway users shall yield to trail users. Trails and highways will be posted with informational signs designating intersections.
- H. Dogs. Wherever Dogs are allowed on trails, they must be leashed at all times, with a leash extended no greater than 6 feet in length. A single person may walk

no more than three dogs. Those persons attending dogs on trails must carry a receptacle, such as a plastic bag, for removal of excrement. Trails will be posted if dogs are prohibited. Trails may be closed to dogs by action of the Board of County Commissioners. (*Ord. 01-04 (part): Ord. 93-25 (part): Ord. 30-05 (repealed and re-enacted) prior code Title IX § 2-1*)

#### 12.04.040: RESTRICTIONS ON OPEN SPACE USE

The following restrictions apply to all open space owned in fee simple by Pitkin County. These restrictions also apply to public use provided in any conservation easement held by Pitkin County, unless superseded by the specific terms of the conservation easement in question. Nothing contained herein limits or otherwise modifies rights reserved to the owner of fee simple property subject to a conservation easement held by Pitkin County.

- A. **Camping Prohibited.** Overnight camping is prohibited on Open Space and Trails properties.
- B. **Commercial Activities Limited.** Commercial activities, provision of services, or any activity for which a fee may be charged are prohibited on any Open Space land except when specifically authorized pursuant to a Special Use Review as set forth in Article 3.
- C. **Closed Areas.** Entry onto or use of Open Space lands posted as closed is prohibited.
- D. **Fires Restricted.** Fires are permitted in designated grills or firepots only. Fires are prohibited in all other locations. Fires are prohibited in all locations between the hours of 12:00 AM and 5:00 AM, MST. It is unlawful to burn fires in any location at any time in a careless manner, to leave a fire unattended, to burn any explosive or toxic materials, or to fail to extinguish fires completely. This provision shall not prohibit fires authorized by the County for land management purposes, or fires used for irrigation ditch maintenance.
- E. **Hand-Gliding Restricted.** Hang-gliding or operation of any motorized or non-motorized aircraft, glider, parachute, paraglider, or balloon for landing or take-off is prohibited except pursuant to special use permit pursuant to Article 3 and section 3- the Pitkin County Code.
- F. **Motorized Vehicles Restricted.** Motorized vehicles are restricted to parking areas,

driveways and other areas specifically posted for motor vehicle occupancy. Parking in any posted "no parking" area is prohibited. The exception to this shall be County or other maintenance or construction vehicles specifically authorized for access pursuant to Section 6 of the Asset Management Plan, emergency vehicles acting in the line of duty, or private vehicles specifically authorized under Section 2-4 or Article 3 or authorized by previous written access easement.

- G. Domestic Animals Prohibited. Domestic animals are prohibited on Open Space properties except where specifically permitted pursuant to an agricultural lease, or for land management purposes authorized by the County. It is unlawful to chase or molest any livestock on Open Space properties. All gates, fences, and other entry points must be closed in areas where livestock is permitted.

#### 12.04.050: GENERAL RESTRICTIONS APPLICABLE TO ALL OPEN SPACE AND TRAILS PROPERTIES

The following restrictions apply to all open space owned in fee simple by Pitkin County. These restrictions also apply to public use provided in any conservation easement held by Pitkin County, unless superseded by the specific terms of the conservation easement in question. Nothing contained herein limits or otherwise modifies rights reserved to the owner of fee simple property subject to a conservation easement held by Pitkin County.

- A. Hunting. All Open Space and Trails Properties are closed to hunting unless specifically authorized by the Open Space and Trails Board, and in accordance with other applicable laws.
- B. Firearms. It is forbidden to discharge firearms or projectile weapons on any Open Space or Trails Properties unless hunting is specifically authorized by the Open Space and Trails Board, and in accordance with other applicable laws. The exception to this will be law officers discharging weapons in the line of duty.
- C. Disorderly Conduct Prohibited. Disorderly conduct of any kind is prohibited on Open Space and Trails Properties. Disorderly conduct includes, but is not limited to, making any coarse, annoying, derisive or obviously offensive utterance, gesture or display which tends to incite an immediate breach of the peace. Also fighting, littering or abandonment of private property, making excessive or amplified noise that would tend to disturb the peace and quiet of adjacent residents or occupants, or any other activity that deliberately infringes on the ability of others to use or enjoy open space or trails facilities.

- D. Hazardous Activities Prohibited. Hazardous activities of any kind are prohibited on Open Space and Trails Properties. Hazardous activities are defined as those activities which might constitute or contribute to a hazard to the safety of any person. Such activities include, but are not limited to, use of fireworks or other explosives, use of remote-controlled craft, and launching of missiles. Exceptions or additions to these restrictions may be made in specific locations or circumstances pursuant to Special Use Review under Article 3 and posted accordingly.
- E. Boating Restricted. Boat launching and landing is limited to sites designated for that purpose. Man-made structures for boating such as access ramps, docks, kayak courses, or buoys are prohibited except in locations specifically authorized by a Management Plan enacted pursuant to Article 4.5, or pursuant to a Special Use review under Article 3.
- F. Vandalism Prohibited. Vandalism, property damage or removal of resources or facilities is prohibited on any Open Space or Trails Property. It is unlawful to remove, damage, deface, mutilate or destroy any structure, poster, sign, marker, fence, gate furniture, vegetation, rock, or any object of scientific or historic value or interest.
- G. Dogs and Pets Restricted. Dogs, cats, and other pet animals must be leashed on trails. Posted leash laws or more restrictive leash laws within other jurisdictions (i.e. within municipal boundaries) must be obeyed. Owners of uncontrolled dogs observed on Open Space or Trails Properties will be subject to penalty under these regulations. Dogs or other animals are prohibited in areas specifically posted for such prohibition. Dogs observed molesting or menacing any person, wildlife or livestock may be destroyed. Dog waste must be picked up and disposed of in a trash receptacle or off-site by owners or keepers.
- H. Fishing Restricted. Fishing is permitted according to the regulations of the Colorado Division of Wildlife, except where otherwise posted and prohibited in a management plan enacted pursuant to section 2-4. A valid fishing license is required. Fishing access is by designated trails only.
- I. Wildlife Protected. Wildlife is protected on all Open Space and Trails Properties. Hunting, trapping, chasing, molesting, harming, removing, killing or otherwise disturbing wildlife on Open Space and Trails Properties is prohibited at all times and under all circumstances, with the exception of hunting authorized by the Open Space and Trails Board and in accordance with other applicable laws, and fishing (See Paragraph 2-3.8., above). Damaging or destroying the habitat of any species

of wildlife is prohibited. Removing or destroying, native plants, bird or reptile eggs is prohibited. Nothing in this section shall prohibit trapping for research, management and monitoring purposes as authorized by the County Land Steward.

- J. Littering and Waste Disposal Prohibited. Any disposal, depositing or abandonment of trash, garbage, litter, waste paper, waste food products, human or animal wastes, toxic materials, oil and other mechanical waste products, animal parts, fire ash or other combustion byproducts, or other waste products on Open Space or Trails Properties other than in designated containers and locations is prohibited.
- K. Structures, Storage of Materials, and Notices Prohibited. Construction of any kind not specifically authorized by the Open Space Director is prohibited. Activities prohibited include, but are not limited to, excavations, ground clearing or grading, erection of permanent or temporary structures, erection of signs, posting of bills, notices or posters, storage of items, fencing or clearing of vegetation. *(Ord. 01-04 (part): Ord. 93-25: Ord: 30-05 (repealed and re-enacted) prior code Title IX § 2-3)*

#### 12.04.060: MANAGEMENT PLANS

The Board of Open Space Trustees may adopt individualized management plans for specific Open Space and Trails Properties, to set forth management policies and objectives. If a management plan imposes restrictions that are different from those set forth in this Title, and are to be enforced under Article 6 below, the management plan must be adopted by the Board of County Commissioners pursuant to an ordinance. In that event, the ordinance adopting a management plan shall include a provision that it is governed by Title 12 of the Pitkin County Code and that violation of its terms and conditions shall be enforced under the provisions of this regulation as if they were set forth herein. *(Ord. 01-04 (part): Ord. 93-25 (part): Ord: 30-05 (repealed and re-enacted) prior code Title IX § 2-4)*

#### 12.04.070 PERMITS—SPECIAL REVIEW OF USES ON OPEN SPACE PROPERTIES

This Section establishes review standards for Uses of Open Space Properties allowed only by permit. The County may approve, approve with conditions, or deny applications for special uses of Open Space Properties pursuant to section 3-210 of the Pitkin County Land Use Code.

- A. Prior to submitting an application for a Special Use pursuant to section 3-210 of the Pitkin County Land Use Code, the applicant shall obtain a written certification from the Director of Open Space and Trails regarding the consistency of the proposed use with the following.
  - 1. The Management Plan for the open space property in question, if available.
  - 2. The provisions of Title IX, Article 2, of the Pitkin County Land Use Code
  - 3. The protection of the conservation values of the Open Space Property on which the use is proposed.
  
- B. In responding to requests pursuant to this Article, the Open Space Director shall consult with the County Wildlife Biologist and/or other persons with requisite expertise to evaluate the impact of the proposed use on the conservation values of the Open Space Property.
  
- C. The Open Space Director may condition a certification of consistency on the applicant agreeing to provide a surety bond in favor of the County in the event that a Special Use Permit is granted, in the amount of at least two thousand dollars (\$2000.00), or other amount to be determined by the Open Space Director, or his/her designee. All Financial Security will be held for the duration of any special use permit. The bond will be conditioned upon:
  - 1. Faithful compliance with the terms of a special use permit, regulations, and ordinances of Pitkin County.
  - 2. The restoration and clean up of any site affected by the special use. Any revegetation needed to restore the site shall conform to the adopted Pitkin County Landscape Guidelines
  
- D. The Open Space Director may condition certification on the applicants agreement to pay a use impact fee which is commensurate with the additional maintenance costs associated with the proposed use.
  
- E. The Open Space Director shall make a written response either certifying the consistency of the proposed special use with or without conditions, or determining the proposed special use is not consistent, within 45 days of receiving a written request for certification. An applicant may appeal the determination of the Open Space Director to the Board of County Commissioners within 15 days of receipt of

the determination. The Board of County Commissioners must issue a final determination within 30 days of hearing an appeal pursuant to this section.

- F. Notwithstanding Section 3-1.1, non-commercial organized recreational users, as called out in the 2000 North Star Management Plan, and other management plans as may be adopted pursuant to section 2-4, may obtain a special use permit directly from the Open Space and Trails Department based on a finding of consistency made pursuant to this Article without applying under section 3-210. *(Ord. 01-04 (part): Ord. 93-25 (part): prior code Title IX § 3-1)*

#### 12.04.080: EASEMENTS AND AGREEMENTS

The terms and conditions of Conservation or Trail Easements or other approved agreements between the County and private property owners are incorporated into these regulations by reference. To the extent of any conflict between these regulations and the terms of conservation easements or trail easements, the terms of such easements will control. Those terms and conditions shall be enforced under the provisions of this regulation as if they were set forth herein. *(Ord. 01-4 (part): Ord. 93-25 (part): Ord. 30-05 (repealed and re-enacted): prior code Title IX Art. 4)*

#### 12.04.090: AMENDMENT OF RULES AND REGULATIONS

These rules and regulations may be amended from time to time by the Pitkin County Board of County Commissioners in consultation with the Open Space and Trails Board. These rules shall apply to existing Open Space and Trails Properties and to such trails and open space properties as may be acquired by the Pitkin County Open Space and Trails Program from time to time or designated by the County as being subject to these rules. *(Ord. 01-4 (part): Ord. 93-25 (part): Ord. 30-05 (repealed and re-enacted) prior code Title IX Art. 5)*

#### 12.04.100: VIOLATIONS, ENFORCEMENT AND PENALTIES

- A. Unlawful Activity. It shall be unlawful to engage in any activity that is in violation of the Article 2 or Article 3 of this ordinance.
- B. Penalty. Violation of this ordinance is a class 2 petty offense, punishable by a fine of \$100.00 for the first offense, \$500.00 for the second offense, and \$1000.00 for the third and subsequent offenses. Violations of hunting related regulations are punishable by a fine of \$1000.00 for each offense.

- C. Criminal Enforcement The Director of Pitkin County Open Space and Trails, Open Space and Trails Land Steward, Open Space and Trails Ranger, the Pitkin County Wildlife Biologist, Pitkin County Zoning Officer, the Pitkin County Community Development Director, Pitkin County Engineer, or any law enforcement officer may follow the penalty assessment procedure provided in Section 16-2-201, C.R.S. for any violation of this ordinance, or may enforce the provisions of this ordinance by filing and service of summons and complaint in accordance with county court procedures. In the event the penalty assessment procedure is followed, the penalty shall be the as set forth in 3B, and such assessment shall also include a surcharge required by C.R.S. Section 30-15-402(2). A person who violates this ordinance three (3) or more times in the space of one (1) year shall be subject to imprisonment for no more than ninety days per offense pursuant to C.R.S. 30-35-201 C.R.S. and Article 12 of the Pitkin County Home Rule Charter. Each day a violation of this ordinance continues shall constitute a separate offense.
- D. Civil Enforcement – In the event of any activity in violation of this Ordinance, the County Attorney, in addition to other remedies provided by law or specified herein, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, or abate any unlawful activity, or to remove any improvements on construction resulting from such unlawful activity. In the event that such unlawful activity has damaged any county property, the violator shall be liable for any damage to county property resulting from any such unlawful activity, including, but not limited to, compensation for staff time and for use of county equipment to repair such damage. Any civil action or proceeding can include a claim to recover all such money damages. *(Ord. 01-4 (part): Ord. 93-25 (part): Ord. 30-05 (repealed and re-enacted) prior code Title IX Art. 6)*

#### 12.04.110: POSTING

These regulations, or a summary thereof, will be posted at visible locations on Open Space and Trails Properties. Full text of these regulations shall be available for public inspection at the offices of the County Open Space and Trails Director, Land Steward and the Pitkin County Open Space and Trails Program. *(Ord. 01-4 (part): Ord. 93-25 (part), Ord: 30-05 (repealed and re-enacted): prior code Title IX Art. 7)*