

Commissioner Chandler-Henry moved adoption
of the following Resolution:

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF EAGLE, STATE OF COLORADO**

RESOLUTION NO. 2021 - 027

**RESOLUTION CREATING THE EAGLE COUNTY OPEN SPACE RULES AND
REGULATIONS**

WHEREAS, the Eagle County Open Space Program was created to acquire and protect outstanding natural lands, wildlife habitat, historic ranches and scenic areas; and

WHEREAS, since Eagle County created the Eagle County Open Space Program by virtue of its voters approving the County Ballot Referendum 1H on November 5, 2002, Eagle County has successfully acquired or protected 13,200 acres and manages approximately 3,000 acres of land that possess unique attributes including, but not limited to, significant wildlife habitat, scenic qualities, opportunities for recreation and connections to adjacent public lands, and preservation of ranching and agriculture in Eagle County; and

WHEREAS, Eagle County desires to continue to offer the lands it manages for its constituents' and visitors' enjoyment (3,000 acres) while maintaining these important unique attributes; and

WHEREAS, in order to do so, Eagle County believes that adoption of the Eagle County Open Space Rules and Regulations, attached here as Exhibit A, will enable the Eagle County Open Space Program to be successful in fulfilling the aforementioned desire; and

WHEREAS, the Board of County Commissioners ("Board") desires to adopt the Eagle County Open Space Rules and Regulations and is authorized to do so pursuant to C.R.S. §§ 29-7-101(2) and 30-11-101(2), as amended.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Eagle, State of Colorado:

THAT, the Board adopts the Eagle County Open Space Rules and Regulations attached as Exhibit A; and

THAT, the Board hereby finds, determines and declares that this Resolution is necessary for the public health, safety and welfare of the residents of the County of Eagle, State of Colorado.

MOVED, READ AND ADOPTED by the Board of County Commissioners of the County of Eagle, State of Colorado at its regular meeting held May 11th, 2021.

COUNTY OF EAGLE, STATE OF COLORADO
By and through its Board of County Commissioners



Attest:

DocuSigned by:
Regina O'Brien
F9D82F246896440...

Clerk to the Board

DocuSigned by:
Matt Scherr
81E782D718E0473
Matt Scherr, Chair

DocuSigned by:
Kathy Chandler-Henry
96A6977FE884483
Kathy Chandler- Henry, Commissioner

DocuSigned by:
Jeanne McQueeney
CA4AC12FE884483
Jeanne McQueeney, Commissioner

Commissioner McQueeney seconded adoption of the foregoing resolution. The question having been called the vote was as follows:

Commissioner Scherr	Aye
Commissioner Chandler-Henry	Aye
Commissioner McQueeney	Aye

This resolution passed by 3/0 vote of the Board of County Commissioners of the County of Eagle, State of Colorado.

EXHIBIT A

Eagle County Open Space Rules and Regulations

1. **Intent:** The rules and regulations included in this Resolution are intended to protect and preserve natural resource values and ensure public safety at Open Space, as defined below. The Board of County Commissioners of Eagle County, Colorado ("BoCC") intends, by adopting this Resolution, that Open Space will be used by the public in a manner that protects resources; that recognizes the rights, health, and safety of others in the community; and that requires Users to be held liable for their actions that are considered violations within the provisions of this Resolution.
2. **Scope:** These rules and regulations shall apply to all Open Space as defined herein. Nothing contained herein limits or otherwise modifies rights reserved to the owner of fee simple property subject to a conservation or public access easement held by Eagle County. These rules and regulations shall in no way limit application and enforcement of any Resolution, Ordinance, Applicable Conservation Easement, or any federal, state or local law.
3. **Violation:** It shall be unlawful for any User to violate any provision of these rules and regulations.
4. **Definitions:** As used in this Resolution the following terms shall have the following meanings.
 - 4.1. "**Control**" means supervision of, and influence over, any Pet Animal sufficient to prevent the violation of any of the provisions of this Resolution.
 - 4.2. "**Demonstrable Control**" means control of a Pet Animal by the physical presence of the Owner so that such Pet Animal is controlled and obedient to a person competent to restrain the Pet Animal by command, and the Owner demonstrates that control to any person as requested, and prevents Unwanted Contact with other people or animals.
 - 4.3. "**Director**" means Director of the Eagle County Open Space Department.
 - 4.4. "**Hunt**" means to pursue, attract, stalk, lie in wait for, or attempt to shoot, wound, kill, trap, capture, collect, or take wildlife. "Hunt" does not include stalking, attracting, searching, or lying in wait for wildlife by an unarmed person solely for the purpose of watching or taking photographs of wildlife.
 - 4.5. "**Livestock**" means cattle, horses, mules, burros, sheep, poultry, swine, llama, goats, and any other Animal, when used for working purposes or raised for food or fiber production or hunting.
 - 4.6. "**Open Space**" means any property or facilities owned, leased or otherwise managed, operated, under permit, trail easement, leased by Eagle County, Colorado, or property or facilities designated as open space by the BoCC. Open Space includes, but is not limited to, trails, waters, buildings, structures, roads, parking lots, or facilities on such lands.
 - 4.7. "**Pet Animal**" means dogs, cats, rabbits, guinea pigs, hamsters, mice, rats, gerbils, ferrets, birds, fish, reptiles, amphibians, and invertebrates, or any species of wild or domestic or hybrid animal sold, transferred, or retained for the purpose of being kept as

a household pet, except Livestock or Feral Cats. "Pet Animal" does not include an animal used for working purposes on a farm or ranch or a working dog in the process of being worked.

4.8. "User" means any person on Open Space that uses it in any manner permitted by these rules and regulations including, but not limited to, bicycling, jogging, walking, hunting, equestrian, skiing, rafting, kayaking, and fishing.

5. Resource Protection:

5.1. Vandalism, property damage or removal of natural resources or facilities is prohibited on any Open Space.

5.1.1. It shall be unlawful to alter, move, remove, damage, deface, mutilate or destroy any structure, poster, sign, marker, kiosk, fence, gate, furniture, vegetation, rock, or any object of scientific or historical value or interest.

5.1.2. It shall be unlawful to install or replace rock bolts or other fixtures, plant trees or any other type of landscape material, alter, establish, or construct trails or other facilities for public or private use without expressed written consent and permission from the Director or his/her designee.

5.2. Any disposal, depositing or abandonment of trash, garbage, litter, waste paper, waste food products, human or animal wastes, garden waste, landscape waste, toxic materials, oil and other mechanical waste products, animal parts, fire ash or other combustion byproducts, or other waste products on Open Space or other than in designated containers and locations is prohibited.

5.3. Storage of private property and/or installation of items such as, but not limited to, geocaches, rails, ramps, jumps, trailers without prior expressed written consent and permission from the Director or his/her designee, is strictly prohibited.

5.4. Traveling off designated trails by bicycle or other mechanized means is prohibited at all times.

6. Wildlife, Hunting, and Fishing:

6.1. It shall be unlawful for any User to feed, hunt, trap, pursue, molest, harass, bait, attract, disturb or kill any wildlife at any time and under all circumstances, on any Open Space with the exception of:

6.1.1. Designated areas where hunting is authorized by a site-specific management plan approved by the BoCC. All hunting Users must be appropriately licensed through Colorado Parks and Wildlife ("CPW").

6.1.2. Written permission from the Director or his/her designee and approval from CPW Wildlife Manager(s) for purposes of scientific studies, research, wildlife census, education, or interpretation.

6.2. Fishing is allowed strictly in accordance with all applicable state and local regulations except where otherwise posted and prohibited. All fishing users must be appropriately licensed through CPW.

6.3. Shed hunting or the collection of animal antlers, horns, or other body parts is prohibited on any Open Space with the exception of:

- 6.3.1. Designated areas where shed hunting is authorized by a site-specific management plan approved by the BoCC and during the State of Colorado's allowed season for shed hunting from May 1st to December 31st.
- 6.3.2. Written permission from the Director or his/her designee and approval from CPW Wildlife Manager(s) for purposes of scientific studies, research, wildlife census, education, or interpretation.

7. Firearms, Weapons, and Fireworks:

- 7.1. It is unlawful to discharge firearms or projectile weapons on any Open Space unless hunting or a specified allowable use is specifically authorized by the site management plan and in accordance with other applicable laws. The intent is not to supersede C.R.S. § 18-12-101 *et seq.*
- 7.2. Users crossing Open Space to an approved and legal hunting area must travel with firearms completely unloaded and/or arrows not be nocked unless hunting is allowed on Open Space.

8. Hours of Operation:

- 8.1. Open Space is open from sunrise to sunset with the exception of areas designated for camping or posted otherwise. Further exceptions are only given by special use permits or expressed written consent and permission from the Director or his/her designee.

9. Commercial Use / Special Events and Programming:

- 9.1. Commercial activities on Open Space, without expressed written consent and permission from the Director or his/her designee or commercial activity permit, are strictly prohibited. All approved activity is subject to the Commercial Activity Rule attached hereto and incorporated herein as Attachment A, as amended from time to time. For purposes of these rules and regulations, commercial activities are defined as activities that provide any service or product including, but not limited to, guiding, training, photography, instructing, outfitting, or any event for which a fee is charged.
- 9.2. It shall be unlawful to hold any public or private organized activity or event, including but not limited to races, tours, parties, programs, and/or activities without expressed written consent and permission from the Director or his/her designee or Special Event and Program permit. Permit processes and requirements are set forth in the Special Events and Program Rule attached hereto and incorporated herein as Attachment B, as amended from time to time.

10. Pet Animals / Livestock:

10.1. Pet Animals

- 10.1.1. Pet Animals must be physically leashed using a leash at all times unless otherwise posted or designated on the Animal Control Map pursuant to Eagle County's Resolution Concerning the Control, Licensing, Impoundment and Disposition of Animals, as amended from time to time.
- 10.1.2. It shall be unlawful, considered a failure to Control a Pet Animal when such Pet Animal is not under Demonstrable Control in areas not requiring a leash.

- 10.1.3. A single person may walk no more than three Pet Animals.
- 10.1.4. Users shall pick up Pet Animal waste immediately and either carry it until off Open Space or dispose of it in a trash receptacle on Open Space. Users leaving the scene of Pet Animal waste is considered a failure to remove such waste and is prohibited.
- 10.1.5. It shall be unlawful to fail to Control any Pet Animal so as to prevent such animal from running after, chasing, pursuing, biting, attacking, or in any other way threatening Livestock or wildlife on Open Space.
- 10.1.6. Users shall not leave Pet Animals unattended on Open Space.
- 10.2. Livestock
 - 10.2.1. Livestock are prohibited on Open Space except horses and pack animals such as llamas, burros and the like on specified trails and/or areas used for the purpose of recreation or use identified in a management plan, or where specifically permitted pursuant to an agricultural lease, or for land management purposes authorized by the BoCC. Such animals must be under Control at all times.
 - 10.2.2. It is unlawful for any user or to pursue, molest, harass, disturb or kill Livestock on Open Space.

11. Closed Areas:

- 11.1. It shall be unlawful for any unauthorized User or his/her Pet Animal(s) to enter, use, occupy any closed (including seasonal closures) Open Space, or any seasonally closed facility, trail, or any portion thereof, during the time such Open Space, or any portion thereof, is closed to entry, use or occupancy.
 - 11.1.1. The Director or his/her designee, in the exercise of full discretion, may determine at any time that a portion or all of any Open Space shall be temporarily or seasonally closed to the public and/or Pet Animals based upon, but not limited to, any of the following grounds, such as: wildlife, natural resource, historic resource, or vegetation protection concerns, management actions, contractual agreements, protection of the public health, safety, and welfare, and natural disasters.
- 11.2. The BoCC, in its own discretion, may designate Open Space closures of a temporary, permanent, or indefinite nature.

12. Camping / Fires:

- 12.1. Camping is permitted on Open Space only at designated campsites.
- 12.2. Fires are permitted on Open Space only at designated campsites or where explicitly permitted by applicable management plan. Fires may occur for maintenance and land management purposes as authorized by the Director or his/her designee including, but not limited to, irrigation ditch maintenance, vegetation and noxious weed management, and prescribed fires.
 - 12.2.1. Campfires are permitted on Open Space only at designated campsites. Campfires must be kept within installed fire rings or firepans (see 12.2.2). It is unlawful to burn campfires during any applicable fire restriction.
 - 12.2.2. Firepans may be used at designated campsites only if a metal fire ring is not present. The firepan must be a minimum 12 x 12 x 3 inches and 4 inches off the

ground. Users shall possess an accompanying fire blanket approximately 60 x 72 inches. Users shall carry out all ash and fire residue when using a firepan.

- 12.3. Users may stay at an Open Space designated campsite for a maximum of three (3) days within a fifteen (15) day period unless such designated campsite is posted otherwise.
- 12.4. Users must comply with any site specific regulatory signage and booking requirements.
- 12.5. All Users at Open Space, including designated campsites, must pack out all refuse. Solid human waste must be removed using a portable toilet system capable of transporting human waste. Contents of the portable toilet system must be emptied in compliance with federal, state and local laws. It is unlawful to leave human waste on lands or in waters on Open Space.

13. Road and Trail Use:

- 13.1. Unless otherwise posted, equestrians have the right of way in all circumstances in mixed use areas (i.e. horses, bicycles and pedestrians). All traffic shall yield to equestrians. Bicycle or other wheeled traffic shall yield to pedestrians. Pedestrians and bikers moving downhill must yield to pedestrians and bikers moving uphill. Yielding the right-of way requires slowing down to a safe speed, being prepared to stop, establishing communication, and passing safely.
- 13.2. The Director or his/her designee may institute restrictions on specific trails or other Open Space areas when such restrictions are necessary for resource protection or safety related issues.
- 13.3. Users must utilize designated river access points if a trail system designates such points.
- 13.4. It shall be unlawful to exceed the speed of twenty (20) miles per hour, or as otherwise posted, on all roadways and parking areas on any Open Space.

14. Vehicle, Motorized, and Equestrian Activity:

- 14.1. It shall be unlawful to operate any motorized vehicle on Open Space, except on designated trails, roadways, and parking lots allowing their use. Emergency, maintenance, and patrol vehicles are specifically excluded from this prohibition.
- 14.2. Launching of motorized watercraft is prohibited at Open Space sites unless posted.
- 14.3. It shall be unlawful to park motorized or mechanized vehicles or trailers where prohibited or on Open Space not designated or established for such parking.
- 14.4. Electronic motorized devices and modes of transportation are prohibited on Open Space unless expressly approved in an associated management plan or otherwise posted except for mobility devices by persons with mobility impairments used for accessing Open Space. Prohibited devices include, but are not limited to electronically powered: bikes (E-bikes); scooters; motorcycles; and all-terrain or off highway vehicles.
- 14.5. Equestrian activity is permitted only on those routes officially designated and signed to permit such use. Horse traffic is restricted to walk or trot speeds. Use of buggies, carts, or other horse-drawn vehicles is prohibited on all trails.

15. Miscellaneous Prohibited Activities:

- 15.1. It shall be unlawful to violate any posted regulatory signage including, but not limited to signage posted at parking lots, trails, and kiosks.
- 15.2. If Open Space, such as campsites or day use parking lots, requires a permit, fee, or reservation, it must be paid and processed as applicable before occupying the Open Space. It is unlawful to park, camp, or occupy a permitted or fee area without paying an associated fee, and/or possessing the appropriate permit or reservation.
- 15.3. It shall be unlawful to launch any watercraft on any Open Space, except at designated launch areas.
- 15.4. Weddings or private parties are not permitted on Open Space.
- 15.5. Occupying a recreation site on Open Space for other than primarily recreational purposes is prohibited.
- 15.6. It shall be unlawful to launch or operate any motor or non-motorized aircraft on or from Open Space without expressed written consent and permission from the Director or his/her designee. Such aircraft may be, but are not limited to: aerial drones; hang-gliders; model airplanes; gliders; parachutes; paragliders; or balloons.
- 15.7. It shall be unlawful for anyone to possess or discharge any type of fireworks or model rockets on Open Space.
- 15.8. It shall be unlawful to golf or hit golf balls on or onto any Open Space.

16. Disorderly Conduct:

- 16.1. It shall be unlawful for any person to engage in disorderly conduct or any activity within Open Space which interferes with the health, safety and welfare of users or neighbors in the area.

17. Interference:

- 17.1. It shall be unlawful to interfere or attempt to interfere with any Eagle County staff who is acting in the performance of their duties on Open Space or to give false or misleading information with the intent to mislead said person in the performance of their duties.

18. Exceptions to the Rules and Regulations:

- 18.1. Exceptions to these rules and regulations may be granted by the Director or his/her designee for activities that involve the management, maintenance, or protection of Open Space, provided these activities are undertaken or overseen by the Director or his/her designee.

19. Enforcement:

- 19.1. Violation of any rule or regulation shall be a class 2 petty offense as provided for in C.R.S. § 29-7-101(2) and 30-11-101(2), as amended, and punishable by fine or as otherwise provided by law. Any person who violates any of these rules and regulations may be expelled or barred from Open Space areas.
- 19.2. Eagle County Open Space Department staff designated by the BoCC as allowed by C.R.S. § 29-7-101(3), Eagle County Sheriff, Undersheriff, and Deputies may follow the penalty assessment procedure provided in C.R.S. § 16-2-201 for any violation of these rules and regulations, or may enforce the provisions of this Resolution by filing and service of summons and complaint in accordance with county court procedures. A penalty assessment notice may be placed on an unattended vehicle that is parked in apparent violation of these rules and regulations. A penalty assessment notice placed on a vehicle shall contain the license plate number and state of registration of the vehicle in lieu of the identification of the offender. In the event the penalty assessment procedure is followed, the penalty shall be the as set forth in Section 20 of this Resolution.
- 19.3. In the event of any activity in violation of these rules and regulations, 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, or contractor, time and for use of county, or contractor, equipment to repair such damage. Any civil action or proceeding can include a claim to recover all such money damages.

20. Schedule of Fines:

- 20.1. Any violation of these rules and regulations shall constitute a class 2 petty offense and punishable by the following fine schedule:
- \$150.00 for the first offense
 - \$200.00 for the second offense
 - \$300.00 for the third or further offense plus a mandatory court summons
- 20.2 The fines, in the amounts prescribed in section 20.1, shall apply to any such violation of this Resolution, and shall be applied either through the penalty assessment procedure of C.R.S § 16-2-201, or by the court after conviction, in which case the court shall also assess the appropriate court costs.

21. Disposition of Fines:

All fines and forfeitures for the violation of this Resolution and these rules and regulations, and all monies collected by the court for the violation thereof shall be paid to the Eagle County Treasurer's Office and be transferred to the Open Space Fund.

22. Incorporation and Severability:

If any provisions of this Resolution or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable the remainder of this Resolution and the application of such provision to parties or circumstances other than those to which it is invalid or unenforceable shall not be affected thereby and each provision of this Resolution shall be valid and be enforced to the fullest extent permitted by law.

23. Title:

This Resolution shall be known as the Eagle County Open Space Rules and Regulations Resolution of 2021.

24. Effective Date:

All provisions of this Resolution shall be effective upon its execution by the Board of County Commissioners for Eagle County, Colorado.

ATTACHMENT A
Eagle County Open Space Commercial Activity Rule

1. Intent: Eagle County creates this rule to establish an equitable process for Users to request and the County to approve Commercial Activity use on Open Space as defined herein. The rule provides a process for Users to obtain permission to conduct Commercial Activity on Open Space so long as such use will not conflict with the public's use of Open Space; is not prohibited by conservation easement or management plan; or does not devalue or diminish the conservation values of Open Space. Commercial Activities will not take precedence over the enjoyment of Open Space by Eagle County's residents and visitors. If a Commercial Operator chooses to avail itself of using Open Space in compliance with this rule, it must conduct its use in a manner that protects natural resources, recognizes recreational and educational opportunities, and celebrates conserved lands in Eagle County.

2. Scope: This rule shall apply to all Commercial Activity held on Open Space as defined herein. The scope of these rules do not apply to any Special Events or Programs as defined below or as stated in the Special Event and Programming Rule. For Users that wish to conduct Commercial Activities in addition to Special Events and Programs, such Users may need to obtain permits for both the Commercial Activity and Special Event or Program. The Commercial Activity rule and permitting procedures contained herein may be changed, updated, or modified at any time by Eagle County.

3. Violation: Violations of the Commercial Activity Rule shall be subject to Eagle County Open Space Rules and Regulations 9.1 which states Commercial Activities on Open Space, without the prior, express written consent and permission from the Director or his/her Designee or commercial activity permit, are strictly prohibited. The Commercial Activity Rule is incorporated by reference into the Eagle County Open Space Rules and Regulations and sections 19.1, 19.2, and 19.3 and dictates enforcement and fees for violations that may be assessed in accordance with Eagle County Open Space Rules and Regulations, and dictates enforcement and fees for violations that may be assessed in accordance with Eagle County Open Space Rules and Regulations section 20. Additionally, violations of Eagle County Open Space Rules and Regulations, documented complaints, damages to natural resources by Commercial Users, and/or violations any conditions or terms of the applicable Commercial Activity permit will be considered during the application process for subsequent years and may result in the denial or limitation of Commercial Activities on Open Space.
 - 3.1. Appeals: Revocation or temporary suspension of Commercial Activity permits may be appealed by Commercial Operators by submitting a formal letter of appeal with five (5) days of formal acknowledgement of revocation or suspension. Appeal review will be a staff level review and may require additional resources and/or documentation by the Commercial Operator.

During the term of any permit suspension, the Commercial Operator shall not conduct any operations. Staff also has the ability to issue a notice to correct any

continuing violation in lieu of a suspension or revocation. Commercial Operators will comply with notices to correct issued by staff within ten (10) days of receipt of notification. Failure to timely correct such violations is grounds for immediate suspension or revocation.

Any staff decision regarding an application, permit renewal application, suspension or revocation shall be in writing specifying the reasons for the decision. Within ten (10) days of a decision, the applicant or permit holder may request that staff reconsider its decision by submitting a letter to Eagle County clearly stating the grounds for the request. In response, the Director may deny the request or issue a revised decision.

The decision of the Director under this Rule shall constitute a final administrative officer or agency decision appealable to the Eagle County Board of County Commissioners. No additional hearing or appeal rights shall be provided to applicants under this Rule. At all times, the permit holder or applicant bears the burden of proving it has not committed a violation or is qualified to hold a permit by a preponderance of the evidence standard. If an appeal is filed, the Director's decision shall be stayed until such appeal is finally resolved by the Board.

4. Definitions:

- 4.1. "Commercial Activities" are defined as activities that provide any service or product including, but not limited to, guiding, training, photography, instructing, outfitting, or any service for which a fee is charged. Programs and Special Events as defined in 4.7 and 4.8 herein do not require a Commercial Activity Permit.
- 4.2. "Commercial Operator" is a person or entity who facilitates an exchange of money for goods or services rendered on Eagle County Open Space or by access facilitated by Eagle County Open Space properties.
- 4.3. "Commercial User" is any person on Open Space who paid a fee to a permitted Commercial Operator or staff of a permitted Commercial Operator that uses Open Space in any manner permitted by rules including, but not limited to, bicycling, jogging, walking, equestrian, skiing, rafting, kayaking, hunting, and fishing
- 4.4. "Designee" is an Eagle County Open Space Department staff member designated by the "Director" and/or BoCC.
- 4.5. "Director" is the Director of the Eagle County Open Space Department
- 4.6. "Open Space" means any property or facilities owned, leased or otherwise managed, operated, under permit, trail easement, leased, or designated as Open Space by the Eagle County Board of County Commissioners including, but not limited to, trails, waters, buildings, structures, roads, parking lots, or facilities on such lands by Eagle County, Colorado.

- 4.7. "Program" means an educational program that is curriculum driven and generally supports the mission of Eagle County Open Space. Programs have 25 or fewer participants.
 - 4.7.1. Educational programs that fit the definition of a "program" but exceed 25 participants may be permitted on a case by case basis.
- 4.8. "Special Event" means a community event that requires a larger amount of oversight from Eagle County Open Space staff for which a fee may be charged. Special Events are events that exceed 25 participants.
- 4.9. "User" is any person on Open Space that uses it in any manner permitted by rules including, but not limited to, bicycling, jogging, walking, equestrian, skiing, rafting, kayaking, hunting, and fishing.

5. Commercial Use Permitting Procedure: The procedure outlined below is intended to inform the written consent and/or permit process for Commercial Activities for all Open Space.
 - 5.1. Applicants must fill out an online Application: [Application is available online here.](#) (Appendix A) or contact the Eagle County Open Space Department to facilitate completion of such form.
 - 5.2. All Commercial Operators must submit an application annually to Eagle County Open Space on or before March 15th for the year the Commercial Activity will take place.
 - 5.3. Commercial Activity applications must be signed by an authorized agent of the Commercial Operator.
 - 5.4. A Commercial Activity Application must include, but is not limited to, the following components:
 - 5.4.1. *Operating Plan* that includes the following: Proposed activity description; anticipated number of users and size of groups; specific dates, timing, or frequency of proposed activities; client safety plan; natural resource protection plan; and parking plan.
 - 5.4.2. *Maps* of where the proposed activities will occur on Open Space.
 - 5.4.3. Signed *Stewardship Affidavit* (Appendix B).
 - 5.4.4. *Outfitter License (if applicable)*.
 - 5.4.5. *Application Fee* in accordance with the fee schedule.
 - 5.5. Approval/ Denial: Eagle County will provide Commercial Operators a "permit" (Appendix C) for the proposed activities if its review determines the proposed activities to be in accordance with property specific conservation easements, management plans, and/or standards that do not diminish the conservation values and public benefits of Open Space, as determined by Eagle County staff. Eagle County reserves the right to establish capacity limits, designated areas, or implement other management actions that may limit Commercial Activities to enhance and protect Eagle County Open Space properties. Within fourteen (14) days of permit issuance, the Commercial Outfitter shall provide a Certificate of

Insurance listing Eagle County, Colorado as additionally insured in accordance with the insurance requirements found in Appendix E.

- 5.5.1. Transfers: Permits for Commercial Activity are non-transferable and are intended for a specific use(s) by a specific Commercial Operator. If a Commercial Operator transfers ownership of a business or organization that is permitted for Commercial Activity on Open Space, the new Commercial Operator will have thirty (30) days to submit a new Commercial Activity Application if they intend to operate Commercial Activities on Open Space.

- 5.6. End of season reporting: All permitted Commercial Operators on Eagle County Open Space will report the total number of Users and total gross receipts from Commercial Activities generated on Open Space properties on or by February 15th for the preceding permit season (Appendix D). Non-compliance with end of season reporting may be cause for denial of Commercial Activity application in subsequent years.

- 5.7. Renewal: Applications for Commercial Activity on Open Space are required annually.

- 5.8. Review standards:
Eagle County will annually review the Commercial Operator for compliance with permitting requirements, specific Open Space property rules and regulations, and other criteria as deemed necessary. Eagle County reserves the right to suspend or deny approval for Commercial Activities due to non-compliance with Commercial Activities permit conditions and/or repeated violations of rules and regulations.

- 5.9. Fee schedule: In order to recover administrative and management costs, Eagle County developed a fee schedule for reviewing Commercial Activity Permit Applications. Eagle County reserves the right to modify or alter the fee schedule at any time, in its sole discretion. Commercial Activity Application Fees are due upon issuance of permit.

Commercial Activity Application Fee (tentatively beginning in 2022)	\$150.00
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- 5.9.1. Staff developed the Fee schedule based upon estimated application review time, program oversight and program implementation and are intended to cover the administrative costs of overseeing and implementing the Commercial Use policy on Open Space.

5.9.2. Application fees shall be paid to the Eagle County Treasurer's Office and be transferred to the Open Space Fund.

6. Exceptions and clarifications:

- 6.1. Organized group activities hosted by registered 501(c)(3) organizations or local governments including Programs and Special Events that are not Commercial Activities, and have received approval for a Special Event or Program from Eagle County are not subject to the Eagle County Commercial Activity Rule.
- 6.2. Commercial Activities where Eagle County is the primary sponsor or host are exempt from the application fee.
- 6.3. If a registered 501(c)3 organization operates a "fee for service" model where it collects registration fees or charges a fee for Special Events or Programs, additional permits may be needed.
- 6.4. Eagle County desires to provide consistent access to Open Space for all of its Users, including its residents, visitors as well as Commercial Operators where deemed appropriate. Should conflicts arise, Commercial Operators shall be prepared to work with Open Space to mitigate the conflict.

7. Refunds: Commercial Activities application fees are non-refundable.

Appendix A
Commercial Activity Application
Online here: <https://forms.gle/VHmFa3746LXi9s7y6>
(draft)

Contact person (Authorized Agent): _____

Business Name: _____

Applicant/ business address: _____

Phone Number- Business: _____ Contact cell phone: _____:

Email: _____ Website: _____

Please select the Open Space property where you would like to operate Commercial Activities. Please note unlisted trails, properties, or access points are either closed to Commercial Activities or not within Eagle County Open Space's jurisdiction. Please contact the Open Space department if you have questions about individual properties.

Operating Plan: (Please upload your current operating plan here or provide a brief summary of proposed Commercial Activities on Open Space including but not limited to: Overview of Commercial Activities to take place on Open Space, estimated of number of users annually on Open Space, group sizes, specific dates and/or times and frequency of use, plans addressing client safety and natural resource protection, and a parking plan).

Maps: (Please upload maps of where your proposed commercial activity will take place- If you are proposing to only use the boat ramps at the selected properties, you may skip this section.)

Special Events/Programs: Do you intend to host Special Events or Programs on Open Space? Separate written permission may be needed. Y/N

By submitting this application the contact person and Commercial Operator listed above hereby agrees to abide by all posted rules and regulations on site as well as rules and regulations that are presented in the Eagle County Open Space Rules and Regulations. Violations of Eagle County Open Space Rules and Regulations may result in revocation of the issued permit and/or denial of future Commercial Activity permits.

By submitting this application, I acknowledge that if a Commercial Activity permit or written permission is granted, I will be required to maintain adequate records and report annually, to Eagle County, the number of users on Eagle County Open Space associated with the proposed Commercial Activity as well as the total amount of gross receipts generated on Open Space by Commercial Activities as permitted by the Commercial Activity permit.

By submitting this application, I acknowledge that if Eagle County issues a Commercial Activity permit to me, I will provide to Eagle County a current Certificate of Insurance naming Eagle County Government as additionally insured.

By submitting the application, I acknowledge that if a permit is granted, all users associated with the Commercial Activity proposed herein are aware of, and will abide by the Eagle County Open Space Rules and Regulations, included but not limited to resource protection, operating hours, and any and all conditions stated in the permit.

Additionally, I certify that I have read and understand the Eagle County Open Space Stewardship Agreement for Commercial Activities and understand that documented violations of the stewardship agreement may result in revocation of the issued permit and/or denial of future Commercial Activity permits.

I hereby certify that I am of legal age and am authorized to do business in the State of Colorado. I have personally examined the information contained in this application and certify that this information is correct to the best of my knowledge. I hereby acknowledge that this is an application only, and that the use and occupancy of Open Space is not authorized until a Commercial Activity permit or written permission is signed and issued by an authorized officer.

Applicant

_____/_____/_____
Date

Appendix B
Eagle County Open Space Commercial Operator Stewardship Agreement

Eagle County Government acquires and manages properties based on the Open Space Conservation Criteria as provided in Eagle County Resolutions 2004-015 and 2003-97, establishing the Eagle County Open Space fund. All Commercial Activities undertaken on Open Space recognize the values inherent in these Conservation Criteria and Commercial Operators understand their operations must not conflict with any stated purposes for acquiring and preserving Open Space and any and all posted rules and regulations, not limited to the rules and regulations listed in the Eagle County Open Space Rules and Regulations. Additionally, it is Eagle County's goal for all Commercial Activities, including guests and staff, to follow Leave No Trace principles including, but not limited to the removal of human waste, natural resource protections (including wildlife), and the consideration of other users. By checking the box below, the Commercial Operator named on this application pledges to conduct its operations and educate staff and clientele in a way that: protects Eagle County's natural resources; prevents and/or attempts to prevent conflicts between other commercial users and/or the public enjoyment of Open Space; and follows Leave No Trace principles.

Appendix C
Eagle County Open Space Commercial Activity Permit (draft)

___/___/___, 20__

RE: 20__ Commercial Activity Authorization

Dear: _____

This letter is intended to serve as authorization for the conditional use of Open Space for Commercial Activities for 20__ by (Commercial Operator). This authorization is required by the Eagle County Open Space Rules and Regulations Resolution. All conditions, rules and regulations, and additional agreements are stated in the Commercial Activity application, which was signed by _____ on behalf of _____ on _____

Eagle County will require annual reports of Commercial User numbers on Open Space as well as the total amount of gross receipts generated on Open Space by Commercial Activities allowed under this permit. The log formats have been provided. Completed log forms can be submitted by email, mail or in person either monthly or annually. All reports for 20__ are due by February 15th, 20__.

Authorized Use: _____ is authorized to use Open Space, easements and river access areas, including boat launches, in 2021 for Commercial Activities as submitted to Eagle County by the applicant on __/__/__. The authorized use includes:

Failure to comply with the above requirements or any Eagle County Open Space Rules and Regulations may result in the revocation of this authorization, fines, or other legal actions. Any violation of Eagle County Open Space Rules and Regulations contained within this permit or any established conditions of Commercial Activity may be taken into consideration when reviewing subsequent applications for commercial use and may result in the denial or limited use of Open Space for commercial activities.

Eagle County staff appreciates your efforts to be a good steward of Open Space.

Please contact me with any questions, comments, or concerns.

Sincerely,

Peter Suneson
Outreach & Education Specialist
Eagle County Open Space
(o) 970-328-8637
(c) 970-401-1054

**Appendix D
Eagle County Open Space Commercial Use Log
(example)**

Commercial Operator: _____

Date Submitted: / /

Date	Location	Use/Activity	# of users served	notes	Revenue generated
1/1/20	Eagle River Preserve	Guided fly fishing	4		\$400.00
6/1/20	Two Bridges	rafting	8	Parking full at 8am	\$250.00

Gross receipts generated on Open Space during permit year 20__ \$ _____

By signing below, I acknowledge that the number of users and total revenue generated via trips on Open Space associated with permitted commercial activities is represented accurately to the best of my knowledge.

Signed

Date

Business name: _____

Appendix E Insurance Requirements

Insurance. Commercial Operator agrees to provide a Certificate of Insurance evidencing the following and maintain at Commercial Operator's sole cost and expense, the following insurance coverage with limits of liability not less than those stated below:

a. Types of Insurance.

- i. Workers' Compensation insurance as required by law.
- ii. Auto coverage with limits of liability not less than \$1,000,000 each accident combined bodily injury and property damage liability insurance, including coverage for owned, hired, and non-owned vehicles.
- iii. Commercial General Liability coverage to include premises and operations, personal/advertising injury, products/completed operations, broad form property damage with limits of liability not less than \$1,000,000 per occurrence and \$1,000,000 aggregate limits.

b. Other Requirements.

- i. The automobile and commercial general liability coverage shall be endorsed to include Eagle County Government, its associated or affiliated entities, its successors and assigns, elected officials, employees, agents and volunteers as additional insureds.
- ii. Commercial Outfitter's certificates of insurance shall include subcontractors, if any as additional insureds under its policies or Commercial Outfitter shall furnish to Eagle County Government separate certificates and endorsements for each subcontractor.
- iii. The parties hereto understand and agree that Eagle County Government is relying on, and does not waive or intend to waive, the monetary limitations or rights, immunities and protections provided by the Colorado Governmental Immunity Act, as from time to time amended, or otherwise available to Eagle County Government, its affiliated entities, successors or assigns, its elected officials, employees, agents and volunteers.

ATTACHMENT B
Eagle County Open Space Special Event and Program Rule

1. **Intent:** Eagle County creates this rule to establish an equitable process for Users to request and the County to approve Special Events and Programs on Open Space as defined herein. The rule provides a process for Users to obtain permission to conduct Special Events and Programming on Open Space that will not devalue or diminish the conservation values of Open Space. Open Space desires that these rules enable the public and partnering agencies, non-profits, and municipalities to use Open Space in a manner that protects natural resources, provides educational opportunities, and highlights Eagle County's conserved landscapes.
2. **Scope:** The rule and processes shall apply to all Special Events and Programs held on Open Space as defined herein. The scope of the rules and processes defined below do not apply to any Commercial Activities as defined herein and as stated in the Commercial Activity Rule. Programs and events that include commercial activities may require a separate Commercial Activity permit or expressed written consent and permission from the Director or his/her designee. Nothing included in these rules are intended to supersede special event provisions as listed in the Eagle County Land Use Code. The Special Event and Programming rule and permitting procedures contained herein may be changed, updated, or modified at any time by Eagle County.
3. **Violation:** Violations of the Special Event and Program Rule shall be subject to Eagle County Open Space Rules and Regulations 9.2 which states it shall be unlawful to hold any public or private organized activity or event, including but not limited to races, tours, weddings, parties, programs, and/or activities without a special event and program permit or expressed written consent and permission from the Director or his/her designee. The Special Event and Programming Rule is incorporated by reference into the Eagle County Open Space Rules and Regulations sections 19.1, 19.2, and 19.3, and dictates enforcement and fees for violations that may be assessed in accordance with Eagle County Open Space Rules and Regulations section 20.
4. **Definitions:**
 - 4.1. "Commercial Activities" are defined as activities that provide any service or product including, but not limited to, guiding, training, photography, instructing, outfitting, or any service for which a fee is charged. Programs and Special Events as defined in 4.7 and 4.8 herein do not require a Commercial Activity Permit.
 - 4.2. "Commercial Operator" is a person or entity who facilitates an exchange of money for goods or services rendered on Eagle County Open Space or by access facilitated by Eagle County Open Space properties.
 - 4.3. "Commercial User" is any person on Open Space who paid a fee to a permitted Commercial Operator or staff of a permitted Commercial Operator that uses Open Space in any manner permitted by rules including, but not limited to, bicycling, jogging, walking, equestrian, skiing, rafting, kayaking, hunting, and fishing

- 4.4. "Designee" is an Eagle County Open Space Department staff member designated by the "Director" and/or BoCC.
- 4.5. "Director" is the Director of the Eagle County Open Space Department
- 4.6. "Open Space" means any property or facilities owned, leased or otherwise managed, operated, under permit, trail easement, leased, or designated as Open Space by the Eagle County Board of County Commissioners including, but not limited to, trails, waters, buildings, structures, roads, parking lots, or facilities on such lands by Eagle County, Colorado.
- 4.7. "Program" means an educational program that is curriculum driven and generally supports the mission of Eagle County Open Space. Programs have 25 or fewer participants.
 - 4.7.1. Educational programs that fit the definition of a "program" but exceed 25 participants may be permitted on a case by case basis.
- 4.8. "Special Event" means a community event that requires a larger amount of oversight from Eagle County Open Space staff for which a fee may be charged. Special Events are events that exceed 25 participants.
- 4.9. "User" is any person on Open Space that uses it in any manner permitted by rules including, but not limited to, bicycling, jogging, walking, equestrian, skiing, rafting, kayaking, hunting, and fishing.
5. Special Event and Program Procedure:

The procedure outlined below is intended to inform the written approval and/or permitting process for Special Events and Programs for all Open Space.
- 5.1. Applicants must fill out an online Special Event and Program request form or contact the Eagle County Open Space Department to facilitate completion of such form (Appendix A).
- 5.2. Eagle County must receive Special Event requests no less than 60 days prior to the proposed Special Event. In its sole discretion, Eagle County staff may accept such requests closer to the event or program date.
- 5.3. Eagle County must receive Programming requests no less than 14 days prior to the proposed Program. In its sole discretion, Eagle County staff may accept such requests closer to the event or program date.
- 5.4. Required documentation for Special Events and Programs may include: organizer contact information, overview of proposal, safety plan, parking plan, other required permits or licenses, and certificate of insurance.
- 5.5. Eagle County staff will conduct an initial review to determine consistency with any property management plan and conservation easement using the proposed Program or Event rubric (Appendix C).
- 5.6. If County staff determines, through the initial review, that the Special Event or Program does not negatively affect conservation values, operating or management plans, or other criteria the County deems necessary, the Special Event or Program or proposal will proceed and the County may charge applicable fees in accordance with the fee schedule.

- 5.7. Eagle County will communicate with the conservation easement holder or other parties as required in property specific management plans to obtain support if necessary. Staff will obtain a formal letter of approval from the conservation easement holder, if necessary.
- 5.8. Staff will direct applicants to other parties to obtain support, if necessary. This may include adjacent landowners, known parties, and other partner organizations. It may be necessary for the applicant to show support from identified interests.
- 5.9. Staff will review comments from other parties if required by property specific management plans.
- 5.10. Staff will provide an approval or denial communicated to the applicant. The approval will be in the form of a permit (Appendix B). Approval may be contingent on notifying emergency services, food/vendor/liquor license requirements, parking plans, and safety elements.
- 5.11. If approved, Staff will add the Special Event or Program to Open Space Programming and Events Calendar.
- 5.12. After the Special Event or Program, the organizer shall provide the participant numbers to staff.
- 5.13. Eagle County completes an evaluation after the Special Event or Program (Appendix D).

6. Fee Schedule: In order to recover administrative and management costs, Eagle County has developed a fee schedule for Special Events and Programs. Eagle County reserves the right to modify or alter the fee schedule at any time, in its sole discretion.

Special Events	26-100 participants	101-250 participants	250+ participants
Application Fee	\$100.00	\$150.00	\$200.00

Programs	0-25 annual programs	25+ annual programs
Annual Fee	0\$	\$100.00

- 6.1. Exceptions. Eagle County Open Space reserves the right to waive or modify application fees for specific Special Events and Programs in its sole discretion. Registered 501(c)(3) organizations, school groups, metro districts, and local government agencies may request a fee waiver by submitting a request in writing to the Open Space department.. Any Special Event or Program where Eagle County is the primary organizer is exempt from fees.
- 6.2. If a registered 501(c)(3) organization operates Special Events or Programs using a "fee for service" model where it collects registration fees or charges a fee for such Special Events or Programs additional permits may be required as documented in the Commercial Activity rule

6.3. Payment for Special Events is due upon issuance of permit. Annual payments for Programs are due prior to hosting and/or scheduling the 25th annual program.

7. Cancellation Policy: Organizers should communicate Special Event and Program cancellations to Open Space staff as soon as possible. Refunds may be given for Special Events that are cancelled at least two weeks prior to the scheduled date.

Appendix A
Program and Special Event Application
Online: <https://forms.gle/C99Kuerqs4pvarXc9>
(Draft)

Contact Person: _____ Email: _____ Phone: _____

Host organization (organizer): _____

Special Event or Program Overview: *(Please briefly describe the program you are interested in hosting at the _____ Open Space . Please include whether your proposal fits the definition of a "Special Event" or "Program").*

Proposed Date: ____/____/____

Proposed Time: _____ to _____
(start and end)

Any specific scheduling considerations?:
(is this a series, do you have back up dates, etc...)

Total number of participants: _____
(include staff)

Is there a cost to attend this program or event? Y/ N
(circle one)

Please briefly describe the safety plan in the event of an emergency during the event/ program:

What is the parking plan for participants?

Please describe any potential impacts to vegetation and wildlife from your proposal, and what will be done to minimize the impacts.

Please describe any potential impacts to adjacent landowners, and what will be done to

minimize impacts.

Access to and enjoyment of Open Space property by the general public must be maintained during the approved Special Event or Program. Please comment on the extent to which the proposal would interfere with, compromise, or diminish the ability for others to use the property.

Please comment on the consistency of your proposal with the vision of passive recreation and educational opportunities on Eagle County Open Space.

Cancellation Policy: Special Events or Programs may not be conducted if severe weather renders trails or open space susceptible to significant natural resource damage. Eagle County Open Space reserves the right, in their sole discretion to cancel programs to protect natural resources. In these situations, Open Space will attempt to work with organizers to reschedule or move the event. If a suitable alternative can not be reached, the application fee may be refunded. Organizers who wish to cancel an event or program for any reason are asked to contact Open Space as soon as possible. Cancellation requests that are received within two weeks of the proposed event or program date, will not be eligible for refunds. For cancellation requests that are received two weeks in advance of the scheduled program or event, refunds may be given.

Eagle County Open Space may require participants to sign an Assumption of Risk and Release and/or require event organizers to supply a Certificate of Insurance listing Eagle County as additionally insured.

ECOS staff will do their best to ensure a successful event or program. Please provide complete information to ensure a thorough review process. Special Event and Program applicants will receive a confirmation when the application is submitted. Follow up response from Eagle County Open Space may include a request for more information, suggested modifications to the proposed use, and/ or issuance of permission or denial for reasons that will be explained.

Special Event application fees are as follows and are due when the Special Event permit or letter of authorization is issued.

26-100 participants-\$100.00
101-250 participants- \$150.00
250+ participants- \$200.00

Fees for programming may be assessed for organizations that host more than 25 programs annually.

By submitting this application the contact person and host organization listed above hereby agrees to abide by all posted rules and regulations on site as well as all Eagle County Rules and Regulations. Violations of rules and regulations may result in the denial of future programming or special event requests and/or any costs to be recovered from event organizers for damages during a program or special event as permitted by Eagle County Rules and Regulations.

Organizer/ primary contact

Date

Organization

**Appendix B
Permit for Special Event or Program
(draft)**

Hi, _____

Eagle County Open Space is pleased to approve the below request for a [Special Event or Program] at the <XXXXXXXXXXXX> on <XXXXXXXX>. Below is an overview of the approved [Special Event or Program]. Please report back to Open Space the number of participants within a week after the [Special Event or Program]. We look forward to seeing your group on Eagle County Open Space!

Special Event/Program Organizer: _____

Date Requested: ____ / ____ / ____

Time: _____

Number of participants: _____ -

Special Event/Program overview:

Comments from Eagle County Open Space:

Upon submitting the application for the Special Event or Program, you agreed to abide by all posted and property specific rules and regulations, any staff conditions agreed to for this request, and all Eagle County Open Space Rules and Regulations. Failure to comply with written rules, staff requests, and/or additional county requirements shall be cause for denial for subsequent event or program applications. By receiving this letter of authorization, you affirm your agreement to all Open Space rules and regulations.



Peter Suneson
 Outreach & Education Specialist
 Eagle County Open Space
 (o) 970-328-8637
 (c) 970-401-1054
<http://www.eaglecounty.us/openspace/>

Appendix C
Special Event and Program rubric for approval and denial
(draft)

The following rubric was developed to help Eagle County Open Space evaluate Special Events and Programs on Open Space properties to ensure resource protection, satisfactory public user experiences, and consistency with other Eagle County Open Space purposes and values.

Number	Question	Satisfactor y Response?	Notes
1	Contact Information Contact info, type of entity, person authorized for contract (organizer)		
2	Experience and Qualifications Has the group successfully conducted programs on Open Space previously?		
3	Proposed Operation Does the proposed use fit within the conservation values of the Open Space		
4	County and Public Interaction Ability to work with County as a partner and any effects to the general public on open space during the event.		
5	Type of host commercial, non-profit, government, school, etc... are there fees being charged associated with this Special Event or Program?		
6	Resource Protections Has the group thoroughly addressed resource protection, stewardship, and impacts to wildlife?		
7	Logistics Is there a parking plan, will this be advertised to the public, will the event result in additional costs to Eagle County. What is the total # of participants expected		
8	Timeliness Was the proposal received allowing time to contact neighbors, vested interests, etc...		

**Appendix D
Special Event and Program Evaluation Form
(draft)**

This form is used by Eagle County after the Special Event or Program to document any uses inconsistent with the conservation values or property specific management plan.

Number	Criterion	Satisfactory/ Unsatisfactory	Rationale/Notes
1	Contact Information Contact information provided (organizer)		
2	Experience and Qualifications Has group successfully conducted programs on Open Space previously?		
3	Proposed Operation Did the observed program resemble the proposed program		
4	County and Public Interaction Were there any conflicts with other users or was access or experience diminished		
6	Resource Protections Did the program/ event compromise any resource protections. Were they stewards of Open Space. Were there wildlife impacts?		
7	Logistics Was the advertising consistent with the program and Open Space values?		
8	Timeliness Was the proposal received allowing time to contact neighbors, vested interests, etc...Did the organizer report participant numbers in a timely fashion		