

# Clear Creek County Road Use Regulation for Guanella Pass Road

---

Authority: .....	1
Purpose:.....	1
Regulated Activity: .....	2
Definitions: .....	2
Application:.....	2
Use Permit Holder’s Cost-Sharing: .....	3
Performance Guarantees: .....	4
Pre-Project Improvements: .....	5
Use Permit Standards:.....	6
Use Permit Expiration, Suspension or Termination; Enforcement:.....	7

## **Authority:**

Colo. Const. Art XIV, §1  
CRS §30-11-107(h)  
CRS §42-4-106(1), (3)  
CRS §42-4-111(1)(g), (y)  
CRS §43-2-111

## **Purpose:**

The purposes of this regulation are to protect the Guanella Pass Road, and to allow its use at a minimum cost to county taxpayers for upkeep, by requiring that all users pay a fair share for maintenance and upgrading the road, and to protect traffic flow for recreational users of the road because of the impact to the Clear Creek County economy from recreational use of the road.

## **Regulated Activity:**

A. A Project may not use Guanella Pass Road without a Use Permit. Projects shall be designed to mitigate cumulative impacts of haul vehicles on Guanella Pass Road.

## **Definitions:**

A. “Guanella Pass Road” or “road” means the traveled way, shoulders, ditches and side-slopes, right-of-way (including cutslopes and fillslopes), and all facilities within the right-of-way of Guanella Pass Road in Clear Creek County.

A. “Haul” means a one-way trip; “return” trips are counted as separate hauls.

B. “Project” means an activity on a property or properties which entails:

(1) repetitive traffic on a route or routes on Guanella Pass Road which exceeds normal traffic on the route(s) and is estimated to reduce the life of the road on the route(s) one percent or more; (2) traffic by vehicles causing unusual loading on Guanella Pass Road due to the characteristics of the vehicle(s) and what it is (they are) carrying (e.g., length, width, height, weight, number of axles) which is estimated to reduce the life of the road on its (their) route(s) one percent or more; (3) an increase in traffic or change in the type of traffic on Guanella Pass Road; (4) vehicles that cannot safely travel at or maintain travel at the posted speed limits on Guanella Pass Road, including on its switchbacks; (5) vehicles that will obstruct traffic flow in the opposing lane, including on its switchbacks; or (6) vehicles that cannot be quickly cleared from the road to allow bidirectional travel on the road in the event of breakdown.

B. “Public Works” means the County Public Works Director, who is the Road Supervisor identified in state law, or his designee.

## **Application:**

A. Persons engaging in a Project on Guanella Pass Road must apply for a Use Permit with Public Works Department on a form it creates. At a minimum, the application will include the following:

- (1) Location of the Project;
- (2) Name, business address and contact information of the entity which owns or occupies the land on which the Project is occurring;
- (3) Name, business address and contact information for the Project owner’s Project manager.
- (4) Description of the activities occurring on the owner’s land;

- (5) Description of the route(s) to be used on Guanella Pass Road in Project-related travel;
- (6) Description of the vehicles to be used in Project-related travel, including weight, length, width, numbers of axles and spacing of axles, special steering capabilities, and weights of each load (to the extent known);
- (7) Dates and route(s) of each haul (to the extent known); and
- (8) Other information about the Project requested by Public Works.

B. When a Project includes hauls that cannot safely travel at the posted speed limits, vehicles that will obstruct traffic flow in the opposing lane, and/or vehicles that cannot be quickly cleared from the road in the event of breakdown, the application will include a traffic control plan which describes how those impacts will be mitigated.

C. The application fee is \$X.

#### **Use Permit Holder's Cost-Sharing:**

A. The Use Permit Holder shall share in maintenance costs of Guanella Pass Road proportionate to the impacts on the life of the road from its use. The Use Permit Holder will also pay the cost to repair all damage to the road directly or indirectly arising from or relating to its use for the Project.

B. Pre-Project Evaluation. Upon receipt of a complete application, PW will engage consultants to prepare an evaluation of the road's condition on the route to be used, including deflectometer testing, profile testing, and videography.

C. Post-Project Evaluation. Upon notice being given by the Use Permit Holder of the completion of the Project, the pre-Project evaluation will be repeated, using the same methodology to the extent reasonably possible.

D. Evaluations will include traffic counts if there is not recent traffic count data to identify wear from normal, non-Project traffic.

E. These evaluations will be at the applicant's expense. The applicant must deposit the estimated cost of both evaluations to complete its application. If the pre-Project evaluation costs more than estimated, the balance is due within fifteen days after billing, and a Use Permit will not be issued until it has been paid. If the post-Project evaluation costs more than estimated, the balance is due within fifteen days after billing, and the Performance Guarantees will not be released until it has been paid.

F. Maintenance Costs: The Use Permit Holder will pay the estimated cost of the loss of life of the road in excess of normal traffic on Guanella Pass Road calculated from the evaluations, using current costs for road rehabilitation, adjusted for estimated inflation between the time the Project ends and the reconstruction is projected to occur.

(1) After the impact amount has been calculated, the Use Permit Holder will pay the amount of the impact or, if not paid within fifteen days after final calculation billing, or before the expiration of the performance guarantee, the County may draw on the performance guarantee for that amount.

(2) If the amount of the performance guarantee is less than the final impact amount, the Use Permit Holder must pay the balance in cash within fifteen days of the final calculation billing.

(3) The amount of the payment will be deposited in a Road & Bridge Guanella Pass Road Maintenance Fund, established solely for the use of maintaining Guanella Pass Road.

G. Repair Costs: The Use Permit Holder will pay the cost to repair damages identified from the evaluations and from visual inspections.

(1) All repairs require and must be performed in accordance with the Roadway Design and Construction Manual (except that an additional performance guarantee is not required if the Use Permit Holder's performance guarantee for the Use Permit is adequate to cover the cost of repair in the exclusive judgment of Public Works).

(2) The Use Permit Holder promptly will notify Public Works of damage caused to the road by its activities. County will give notice of damages it observes that are not reported by the Use Permit Holder.

(3) Upon giving or receiving notice of damage, the Use Permit Holder promptly will submit a repair plan. If the County agrees, repairs can be postponed until a later time.

(4) If the County does not agree to a delay in performing the repair and the Use Permit Holder does not timely perform the repair, or if a repair fails, the County will perform the repair at the Use Permit Holder's expense. The Use Permit Holder must pay the cost incurred by the County within fifteen days of being invoiced.

### **Performance Guarantees:**

A. A Performance Guarantee is required for all Use Permits. The Performance Guarantee is in part to provide the means of paying or assuring other means of paying the cost of impacts to the life of the road. The Performance Guarantee also is to ensure that, upon completion, suspension or termination of the Project, damages to the road have been restored to their pre-

existing conditions or better before the Project, or as otherwise required by the Use Permit, and remain in that condition, without damage, through the warranty period set forth below. Performance Guarantees will be based on the amounts set forth in the Use Permit Fee Schedule for that portion of the Project that, in the opinion of the Public Works Director, could affect the integrity of the County's road. If appropriate in the exclusive judgment of the Public Works Director, the Performance Guarantee will be in the amount of the contract price(s) for constructing the Project or its equivalent value if the Project is self-constructed.

B. All Performance Guarantees will be (1) in cash, together with an executed Security Agreement, or (2) by Letter of Credit issued by a bank legally doing business in the State of Colorado, in a form approved by the County Attorney, which may be drawn on in the metropolitan Denver area or a bank located in Clear Creek County.

C. A letter of credit Performance Guarantee will be drawn on if the conditions for its release are not satisfied within ten (10) business days before its expiration, unless prior to that time a replacement letter of credit or extension is delivered to the Public Works Department.

D. The Performance Guarantee for maintenance costs will be in an amount equal to 125% of the estimated cost of the impact on the useful life of the road based on the estimated hauls and the traffic impact analysis for the Project.

E. The Performance Guarantee for damages will be in an amount of 125% of the estimated cost of removing and replacing the haul route or the portions of the haul route that are at risk.

F. The Performance Guarantee for damages will be released upon completion of a "warranty period" of twelve (12) months after completion of the repair work or of the Project, whichever occurs last. If the work has failed or is not completed in accordance with approved plans and without damage to the road or right of way, and the Use Permit applicant fails to promptly correct the work, the work will be repaired by the County at the Use Permit applicant's expense. The Use Permit Holder must pay the cost incurred by the County within fifteen days of being invoiced.

(1) Repair work will be deemed complete for purposes of starting the warranty period upon final inspection approval by Public Works, and delivery of an acceptable as-built drawing to Public Works (if required in the repair plans or Use Permit).

### **Pre-Project Improvements:**

If in the judgment of Public Works portions of the road need to be repaired before some or all of the hauls for the Project in order to make the road suitable for the Project, or to mitigate the impact from the Project, the repair will be performed at the Use Permit Holder's expense. The cost of the repair will be payable within fifteen days of the billing. The Use Permit will not be

issued before the repair has been performed and paid for if the repair is required before the Project begins.

### **Use Permit Standards:**

A. A Project must be designed to mitigate cumulative impacts of haul trucks along Guanella Pass Road such that it will remain in as good as or better than existing condition.

B. Guanella Pass Road must be able to accommodate the anticipated traffic with regard to all of the following:

- (1) Road structure (including drainage);
- (2) Road width;
- (3) Geometry of road;
- (4) Sight distance;
- (5) Condition of surface;
- (6) Intersections;
- (7) Road capacity and/or level of service;
- (8) Acceleration/deceleration lanes;
- (9) Non-vehicular uses; and
- (10) Traffic flow.

C. Requirements for repairs, upgrades, development, and maintenance of Guanella Pass Road may be included as a condition of any Use Permit or of any associated land use approval related to a Project. Such roadwork will be at the proponent's expense, unless and to the extent otherwise determined by the Board of County Commissioners.

D. The County has the authority to close Guanella Pass Road to haul traffic or impose restrictions as to the weight of vehicles to be operated on it for a total period not to exceed ninety days in any one calendar year whenever the road, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of haul vehicles thereon is prohibited or the permissible weights thereof reduced. All Use Permits will be subject to such closures without advance notice.

E. Any new points of access to Guanella Pass Road, whether permanent or temporary, for the Project will require a Road Access Use Permit. A road access Use Permit may require acceleration/deceleration lanes be developed as required by the Colorado Department of Transportation (CDOT) and/or the County standards. A review of the CDOT or County Access Use Permit will be requested by the County based upon complaints, hazardous conditions, accident records, pertinent new information, or any other concerns or changes in the area or use that may affect traffic to and from the Project.

F. A copy of the permit must be in each vehicle making a trip pursuant to the Use Permit for the Project. For Projects with a limited number of hauls, the Use Permit Holder will provide a

haul record for each one-way haul identifying the vehicle, vehicle license plate, driver, vehicle weight (with load, if any), height, width, length and axles configuration. Haul records will be submitted to County daily/weekly.

G. All Use Permits include the following conditions:

- (1) Public Works may require that a scale(s) be established and operating at all relevant times to determine the weights of hauls. The scale will be obtained and operated at the Use Permit Holder's expense;
- (2) The Use Permit Holder or contractor shall place traffic control signs along haul routes and at intersections, as specified by Public Works; and
- (3) The Use Permit Holder will be required to pay for stationing emergency services vehicles and personnel to assure the availability of their services unimpeded by Project traffic when appropriate.

H. Haul trucks associated with the Project or development shall not exceed county legal load limits as set forth in the County Road Standards.

I. The Project may be required to limit hours of operation to minimize conflicts with peak traffic hours.

J. The Project may be required to limit hours of operation to minimize the effects of poor visibility, fog, or other environmental or road conditions.

K. The Project may be required to route haul trucks to mitigate significant impacts to commercial, residential, or recreation areas and/or to prevent significant impacts to sensitive wildlife areas.

L. The road shall not be completely blocked at any time.

M. When traffic management is required, traffic shall be directed by use of adequate signage and flaggers according to standards of the Manual on Uniform Traffic Control Devices.

N. The Project may be required to limit traffic generation and/or provide employee shuttles to limit impacts to Guanella Pass Road.

### **Use Permit Expiration, Suspension or Termination; Enforcement:**

A. If the Use Permit Holder fails to pay an invoice for the cost of fees, damages or impacts when due, or if the County elects to draw on a Performance Guarantee, the Use Permit will be suspended until a new Performance Guarantee securing the balance of the performance of the

Project is submitted to the County or the invoice is paid. If the Use Permit remains suspended for more than thirty days, it will be terminated.

B. Public Works may suspend or terminate a Use Permit if its terms are violated. Public Works will give prompt written notice of the suspension or termination, which may include notice by e-mail. The Use Permit Holder may appeal a suspension or termination to the Board of County Commissioners by filing with it a written appeal, explaining and documenting the grounds therefor, within fifteen days of having been given notice of the suspension or termination. An appeal hearing will be set for the next convenient date and the Use Permit Holder will be given notice of it in writing, which notice may be by e-mail.

C. The Use Permit will expire upon the first to occur of:  
(1) the last haul identified in the description of the Project has occurred;  
(2) the Use Permit Holder notifies Public Works in writing the Project is completed; or  
(3) the Use Permit expiration date.

D. The Use Permit Holder's obligations under a Use Permit and these regulations survive the suspension, termination or expiration of a Use Permit.

E. The Use Permit Holder's obligations under a Use Permit, and these regulations, may be enforced by injunction.