National Park Service
U.S. Department of the Interior

Homestead National Monument of America

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Superintendent's Compendium
Of Designations, Closures, Permit Requirements and Other Restrictions Imposed Under Discretionary Authority.

Approved:
Date: 8/23/16
Mark Engler, Superintendent

A. INTRODUCTION

1. Superintendent's Compendium Described

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

As an example, 36 CFR 1.5(a) *Closures and Public Use Limits* provides the Superintendent certain discretion in allowing or disallowing certain activities. The authority granted by the Section, however, requires the Superintendent to comply with the Administrative Procedures Act (6 USC Section 551), which requires public notice on actions with major impact on visitor use patterns, park resources or those that are highly controversial in nature.

Another example is 36 CFR 1.6 *Permits*, which allows the Superintendent to require a permit for certain uses and activities in the park. This Section, however, requires that a list of activities needing a permit (and a fee schedule for the various types of permits) be maintained by the park.

A final example is 36 CFR 2.1(c) (1) *Preservation of Natural, Cultural and Archeological Resources*, which provides the Superintendent the authority to designate certain fruits, nuts, berries or unoccupied seashells which may be gathered by hand for personal use or consumption. This activity can occur, however, only if a written determination shows that the allowed activity does not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This Compendium should be used in conjunction with Title 36 CFR, Parts 1-7, to more fully

understand the regulations governing the use and enjoyment of all the areas of the National Park System.
A copy of Title 36, CFR, can be purchased from the U.S. Government Printing Office at:

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

The CFR is also available on the Internet at:
http://www.access.gpo.gov/nara/cfr/waisidx_05/36cfrv1_05.html

2. Laws and Policies Allowing the Superintendent to Develop This Compendium

The National Park Service (NPS) is granted broad statutory authority under 16 United States Code (U.S.C.) Section 1 *et.seq.* (Organic Act of 1916, as amended) to "...regulate the use of the Federal areas known as national parks, monuments, and reservations...by such means and measures as conform to the fundamental purposes of the said parks...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment for future generations" (16 U.S.C. Section 1). In addition, the NPS Organic Act allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service" (16 U.S.C. Section 3).

In 1970, Congress amended the NPS Organic Act to clarify its intentions as to the overall mission of the NPS. Through the General Authorities Act of 1970 (16 U.S.C. Sections 1a1-1a8), Congress brought all areas administered by the NPS into one National Park System and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978, Congress amended the General Authorities Act of 1970 and reasserted System-wide the high standard of protection defined in the original Organic Act by stating "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined by Section 1 of this Title, shall be consistent with and founded in the purpose established by Section 1 of this Title, to the common benefit of all people of the United States."

16 U.S.C. Section 1c defines the National Park System as "...any areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

In addition to the above statutory authority, the Superintendent is guided by established NPS policy as found in the *NPS Management Policies* (2006). The Superintendent is also guided by more specific policies promulgated by the Director, National Park Service, in the form of Director's Orders. As stated in the Management Policies, the primary responsibility of the NPS is to protect and preserve our national natural and cultural resources while providing for the enjoyment of these resources by visitor and other users, as long as use does not impair specific park resources or overall visitor experience. The appropriateness of any particular visitor use or recreational experience is resource-based and will vary from park to park; therefore, a use or activity that is appropriate in one park area may not be appropriate in another. The Superintendent is directed to analyze overall park use and determine if any particular use is appropriate. Where conflict arises between use and resource protection, where the Superintendent has a reasonable basis to believe a resource is or would become impaired, than that Superintendent is obliged to place limitations on public use.

3. Consistency of This Compendium with Applicable Federal Law and Requirements

The Superintendent's Compendium is not considered a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. In addition, this Compendium will not have a significant economic effect on a number of small entities nor impose a significant cost on any local, state or tribal government or private organization, and therefore does not fall under the requirements of either the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

The actions and requirements described in this Compendium are found to be categorically excluded from further compliance with the procedural requirements of the National Environmental Policy Act (NEPA) in Department of the Interior (DOI) Guidelines 516 DM 6 and as such, an Environmental Assessment will not be prepared.

4. Development of the Requirements of the Superintendent's Compendium

As outlined above, the NPS has broad authority and responsibility to determine what types of uses and activities are appropriate in any particular National Park System area. The requirements of the Superintendent's Compendium are developed through an analysis and determination process. The decision criteria used during this process are:

- Is there use or activity consistent with the NPS Organic Act and NPS policy?
- Is the use or activity consistent and compatible with the park's enabling legislation, management objectives, and corresponding management plans?
- Will the use or activity damage the park's protected natural and cultural resources and other protected values?
- Will the use or activity disturb or be in conflict with wildlife, vegetation, and environmental protection actions and values?
- Will the use or activity conflict with or be incompatible with traditional park uses and activities?
- Will the use or activity compromise employee or public safety?

5. Applicability of the Compendium

The rules contained in this Compendium apply to all persons entering, using, visiting or otherwise present on federally owned lands, including submerged lands, and waters administered by the NPS within the legislative boundaries of the park. This includes all waters subject to the jurisdiction of the United States, including all navigable waters.

6. Enforcement of Compendium Requirements

NPS Law Enforcement Park Rangers enforce the requirements of the United State Code, 36 CFR, and this Superintendent's Compendium.

7. Penalties for Not Adhering to the Compendium Requirements

A person who violates any provision of the regulations found in 36 CFR, Parts 1-7, or provisions of this Compendium, is subject to a fine as provided by law (18 U.S.C. 3571) up to $5,000 for individuals and $10,000 for organizations, or by imprisonment not exceeding six months (18 U.S.C. 3559), or both, and shall be adjudged to pay all court costs associated with any court proceedings. You may receive a list of fines associated with any particular provision by contacting the Chief Ranger at the park address found below.

8. Comments on the Compendium

The Compendium is reviewed annually and revised as necessary. The park welcomes

comments about its program and activities at any time.

Written comments on the Compendium may be submitted to:

Superintendent
Homestead National Monument of America
8523 W State Hwy 4
Beatrice, NE 68310-6743

9. Effective Date of the Superintendent Compendium

The Superintendent's Compendium is effective on the approval date listed on the first page of this document, and remains in effect until revised for a period up to one year.

10. Additional Information

Some of the terms used in this Compendium may have specific meaning defined in 36 CFR 1.4 *Definitions.*

11. Availability

Copies of the Compendium are available at Homestead National Monument of America, 8523 W State Hwy 4, Beatrice, NE 68310-6743. It may also be found at www.nps.gov/home.

B. SUPERINTENDENT'S COMPENDIUM

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of Homestead National Monument of America. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by italicized print.

I. 36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

Visiting Hours:

- Education Center Regular hours 8:30 am to 5:00 pm weekdays
  9:00 am to 5:00 pm weekends
  Summer hours 8:30 am to 5:00 pm; everyday, Memorial Day to Labor Day

- Education Center parking lot closed sunset to sunrise

- Heritage Center Regular hours 8:30 am to 5:00 pm, weekdays
  9:00 am to 5:00 pm, weekends
  Summer hours 8:30 am to 5:00 pm, everyday, Memorial Day to Labor Day

- Heritage Center parking lot closed sunset to sunrise

- Freeman School parking area is closed from 4:00 pm to 7:30 am

Public Use Limits:

- Visitors are restricted to established hiking/walking trails as identified on park maps and publications. Exceptions: mowed lawn areas of the Freeman School, Heritage Center and Education Center

  Determination: protection of natural and cultural resources and to guard against social trails within the tall grass prairie and woodland areas

- Motorized vehicles are prohibited on the tall grass prairie, woodlands, all trails and grounds, other than emergency or maintenance.

  Bicycle Use limited to paved areas only.

  Determination: uses are prohibited to preserve the historical nature of the monument and for protection of natural and cultural resources.

- Picnicking is prohibited in the following areas: The restored tall grass prairie and woodland areas, all hiking and walking trails. Exceptions may be made at the discretion of the Superintendent pursuant to a Special Use Permit or special park events.

  Determination: picnicking in these areas interferes with the historic scene and the primarily historical purpose of the monument, also to minimize littering issues and the feeding; purposefully or by accident, of monument wildlife.

Closures:

- Interior of Freeman School is closed unless staffed by NPS staff or volunteer.

  Determination: protect historical objects and safeguard building's interior against vandalism

Unmanned Ariel Systems (UAS)

- Launching, landing, or operating an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries of Homestead National Monument of America is prohibited except as approved in writing by the superintendent.

Definition: The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links.) This term includes all types of devices that meet this definition (e.g. model airplanes, quadcopters, drones) that are used for any purpose, including for recreation or commerce.

Determination: Tall grass prairie, buildings and grounds exist to interpret a historic scene and time; use of unmanned aircraft interferes with the natural sounds, scenery, and the primarily historic purpose of the monument. Also, use of unmanned aircraft poses a threat to wildlife and public safety.

(a)(2) The following areas have been designated for a specific use or activity, under the conditions and/or restrictions as noted:

Kite Flying

- Heritage Center, area north and east of the Living Wall.

Flash Photography

- The public is authorized to use flash photography for personal use throughout the park unless otherwise instructed during special exhibits.

First Amendment Activities and/or Printed Material Distribution areas

- Education Center
  The area designated for First Amendment activities or the distribution of printed materials shall be limited to the sidewalk on the north side of the Education Center beginning at point six feet east of the roof pillar and running for a distance of thirty feet.

- Heritage Center
  The area designated for First Amendment activities and/or the distribution of printed materials shall be limited to the sidewalk starting from the east end of the Living Wall continuing east to the end of the sidewalk.

II. 36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

(f) The following is a compilation of those activities for which a permit from the superintendent is required:

- §1.5(d) The following activities related to Public Use Limits:
  - Special Events may require a written permit from the Superintendent
- §2.5(a) Specimen collection (Take plant, fish, wildlife, rocks or minerals)
  - (a) State fishing regulations are adopted.
- §2.23(b) The following special recreation activities (per 36 CFR Part 71):
- §2.38 Explosives:
  - (a) Use, possess, store, transport explosives, blasting agents
  - (b) Use or possess fireworks
- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views of 25 or more people.
- §2.52(c) Sale or distribution of printed material that is not solely commercial advertising
- §2.62 Memorialization:
  - (a) Erection of monuments (Requires approval from Regional Director)
  - (b) Scattering ashes from human cremation
- §3.3 Use of a vessel
- §5.1 Advertisements - (Display, posting or distribution.)
- §5.5 Commercial Photography/Filming:
  - (a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television
  - (b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.

For permit information and applications, contact:
Homestead National Monument of America

Office of the Superintendent
8523 W State Hwy 4, Beatrice, NE 68310
(402) 223-3514

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(b) Hiking or pedestrian traffic is restricted to the trail or walkway as listed in Section 1.5 of this document.

(c)(1), (c) (2) The following fruits, nuts, berries or unoccupied seashells may be gathered by hand for personal use or consumption, in accordance with the noted size, quantity, collection sites and/or use or consumption restrictions:

- Quantity of a one (1) gallon pail, per person, per day of the following may be gathered for personal use or consumption.

walnuts	wild strawberries	plums	asparagus
mulberries	mushrooms	gooseberries	hedge apples
rosehips	elderberries	choke cherries	

hedge apples (3 gallon pail or one traditional grocery bag)

Some special plantings, at the Heritage Center, Heritage Farm Field, may be gathered at higher or lower amounts on a case by case basis.

The quantity shall not exceed the daily use of the immediate family

Determination: collection of small amounts of these items will not adversely affect the park wildlife, the reproduction potential of these species, or otherwise adversely affect park resources.

36 CFR §2.2 - WILDLIFE PROTECTION

(d) The transporting of Game animals lawfully taken outside of Homestead National Monument of America may be transported through the park is permitted under the following conditions and procedures:

- The carcass must be tagged in accordance with state fish and game law.
- Animal carcasses will be subject to inspection at any time by an authorized person.
- Game must be kept out of sight as much as practicable.
- The carcasses of animals legally taken adjacent to Homestead National Monument of America Boundary which have crossed onto park property may be tracked with approval by a commissioned employee (NPS Ranger, Gage County Sheriff Deputy, and or Nebraska Conservation Officer) only.
- When, from adjacent land, the only practical means of egress is on a road through Homestead National Monument of America, and, when the hunter makes one continuous trip to the nearest or most practical exit from the park.

- When a resident of the park transports lawfully taken wildlife in one continuous trip to their residence.

NOTE: Title 16 United States Code §62 specifically provides that mere possession of dead animals or animal parts within a National Park constitutes prima facie evidence that said animal was taken illegally within the park. The responsibility to prove that the animal was taken outside of the park rests, therefore, with the hunter.

Determination: The park does not wish to impede those hunting legally in jurisdictions outside the park, nor the transportation of legally taken game. However, the transportation of game through the park, an area closed to hunting, may elicit visitor complaints and could cause confusion with the park's hunting regulations.

(e) The following areas are closed to the viewing of wildlife with the use of an artificial light:

- All areas within Homestead National Monument of America

Determination: use of artificial light is disruptive to animal species.

36 CFR §2.10 – CAMPING and FOOD STORAGE

- Overnight camping by the visiting public is prohibited in all areas of the monument, unless approved by the Superintendent.

Determination: monument has no area or resources suitable for camping. Volunteers are exempted, when assigned by the Superintendent, to the trailer pad located on the SW corner of the Education Center.

36 CFR §2.11 – PICNICKING

- Certain areas have been closed to picnicking and are listed in section 1.5(a) (1) "Closures".

Conditions for Picnicking:
Trash must be disposed of properly in trash can.

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

Designated Areas:
NONE, unless authorized by the Superintendent

36 CFR §2.15 – PETS

(a)(1) The following structures and/or areas are closed to the possession of pets:

- Restored tall grass prairie, woodland, hiking/walking trails, all buildings and community garden, unless a Service Animal; the Americans with Disabilities Act (ADA) defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability.

NOTE: "Pet" means dogs, cats, or any animal that has been domesticated. [36 CFR §1.4]

Determination: Tall grass prairie, buildings and grounds exist to interpret a historic scene

and time; pets are incompatible with this use. Pets in the prairie and woodland areas pose a threat to wildlife. Pets in the community garden pose a potential pet vs. pet incident or injury to people.

(e) Pets may be kept by park residents under the following conditions:

- In accordance with Housing Management Plan

36 CFR §2.16 – HORSES and PACK ANIMALS

- The use of horses and pack stock on park trails is prohibited. Exception: workhorses associated with park approved special events or mounted ranger work.

  Determination: Trails are constructed for pedestrian use and for historical interpretation. Horses and pack animals are not compatible with these uses. Provide for visitor safety.

36 CFR §2.19 – WINTER ACTIVITIES

- No winter activity (sledding, cross-country skiing, snowshoeing…etc) may leave the designated hiking/walking trails within the monument.

  Determination: protection of cultural and natural resources and visitor safety.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking as noted:

- Smoking is prohibited in all areas and buildings, except paved roads, concrete sidewalks, parking lots and permanent employee residence

  Determination: Smoking is prohibited in park buildings pursuant to other Federal policies and regulations regarding smoking in the workplace. Smoking is prohibited in other areas for fire prevention and to reduce litter.

36 CFR §2.35 –ALCOHOLIC BEVERAGES and CONTROLLED SUBSTANCES

(a)(3)(i) The following public use areas, portions of public use areas, and/or public facilities within the park are closed to consumption of alcoholic beverages, and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal has been broken or the contents of which have been partially removed:

- The consumption, and/or possession of alcoholic beverages is prohibited in all public facilities within Homestead National Monument of America, unless authorized by the Superintendent.

  Determination: public consumption of all beverages is prohibited in all facilities as an incompatible use.

36 CFR §2.38 – EXPLOSIVES

- The possession of and/or use of fireworks, firecrackers or black powder or explosives in the monument is prohibited, unless authorized by the Superintendent.

  Determination: protect natural and cultural resources, reduce fire hazards and for visitor safety.

36 CFR §4.30 – BICYCLES

(a) Park roads and parking areas that are closed to bicycle use are listed in section 1.5 of this document.