

## IMPACT STATEMENT

**Legislation title:** Declare intent to pilot the Community-Initiated Neighborhood Trails Process which would allow community organizations to identify and improve undeveloped right-of-ways to trail standards. (Resolution)

**Contact name:** Sara Schooley

**Contact phone:** 503.823.4589

**Presenter name:** Sara Schooley

### **Purpose of proposed legislation and background information:**

The City of Portland has undeveloped right-of-ways (ROWs) in many parts of the city that some residents are interested in turning into urban trails. Urban trails have been identified in the City's transportation policy, and can assist the City in completing a pedestrian network that serves short trips and transit, improves the quality of the pedestrian environment, increases pedestrian safety and convenience, and encourages walking. The City's pedestrian transportation policies can be found in the Pedestrian Master Plan (1998), the Transportation System Plan (2007), and the Draft Comprehensive Plan, (2015).

While some trails have already been built on unimproved ROWs, issues have arisen about how the locations of the trails are chosen, required permitting of improvements, and neighborhood support of the trails. This process looks to better consider these factors and put together a simple and fair method for community groups that may be interested in expanding the City's trail system.

Lastly, the Community-Initiated Neighborhood Trails Process also looks to be consistent with and supportive of the Southwest Urban Trails Plan (2000), filling in the details of the "more formal public process" referenced in the plan for situations where there may be opposition to the trails (pg. 21, [portlandoregon.gov/transportation/article/222843](http://portlandoregon.gov/transportation/article/222843)).

### **Financial and budgetary impacts:**

There is no dedicated funding associated with the Community-Initiated Neighborhood Trails Process. There will be additional roles that staff will have to take on, although given the time staff take mitigating current neighborhood trails issues that this process will hopefully remedy, the increase in total workload is predicted to be negligible. The following staff may take on the anticipated roles:

- PBOT Pedestrian Coordinator: Helps the community organization understand the process and serves as the key point of contact.
- PBOT Permitting Staff: Will assist with design review and encroachment permitting
- BDS Staff: Will review the proposal and require the applicable permitting, if necessary
- BDS, BPS, BES, and Parks: Will review the initial proposal to see if there are any conflicts with current projects or efforts. May be involved further depending on the proposed trail location.

- ONI Crime Prevention: Will be available to assist neighbors conduct evaluations of their property if there are security concerns.

It is not anticipated that there will be any staffing changes.

We are proposing this process as a one-year pilot. We can track workload and staff time dedicated to this process to get a more accurate prediction of what future years may hold.

### **Community impacts and community involvement:**

This process could impact neighbors throughout the City, both those that live along unimproved ROWs that may be proposed for trail improvements and those that would like a more formalized trail network in their neighborhoods for their use. The impacted residents range in demographics and socioeconomics.

In creating the process, PBOT staff first worked with inter-bureau staff from the Bureau of Environmental Services, Bureau of Development Services, Portland Parks and Recreation, City Attorney, Office of Neighborhood Development, and the Offices of Commissioners Novick and Fritz. Once the first draft of the process was developed, it was sent out for feedback through the SWNI Newsletter (lead article in the December issue - [http://www.spiritone.com/~swni123/December\\_2014.pdf](http://www.spiritone.com/~swni123/December_2014.pdf)), Neighborhood Associations, trails and walking organizations, Safe Routes to School, and the Pedestrian Advisory Committee. PBOT staff also presented on the process at a SW Trails meeting, the SWNI Land Use and Transportation Committee, the Pedestrian Advisory Committee, Metro's Regional Trails Forum, and at neighbors' homes by request. PBOT also created a project website at [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails).

The first round of feedback lasted from November 2014-February 2015; we received over 175 comments.

From these comments, we made the following changes to the process, among others:

- Updated the "Public Involvement and Neighborhood Support" section to reflect multiple comments including petition requirements, percentages needed for approval, and timeline of community involvement.
- Decreased the number of locations that the proposed trails would need to be connected to from two to one.
- Clarified permitting requirements and maintenance responsibility of the initiating organization.

The full list of comments and how they were addressed can be found at <http://www.portlandoregon.gov/transportation/article/525170>.

We released an updated version of the Community-Initiated Neighborhood Trails Process in April of 2015. We sent the updated process to all those that received the first draft and all those that commented on the first draft. In addition, PBOT sent out an informational flyer to over

8,500 residents and property owners that live along ROWs that are classified as “impassible” by PBOT. We received over 150 comments from this second outreach effort.

From these comments, we made the following major changes:

- Simplified the petition requirements in the “Public Involvement and Neighborhood Support” section. Removed the Neighborhood Association as an approval body for the process.
- Increased the number of days before petition submittal that neighbors and the neighborhood association needs to be notified by the initiating organization

Throughout the outreach for the process, the website was updated with any applicable documents, updated drafts, and ways to comment. Between November 2014 and June 2015, there were nearly 13,000 visits to the website; 5,000 of these were during the second comment period in April.

For more information on public involvement opportunities for the Community-Initiated Trails Process, contact Sara Schooley at 503.823.4589 or [sara.schooley@portlandoregon.gov](mailto:sara.schooley@portlandoregon.gov).

#### Upcoming Testimony

It is expected that SW Trails will testify at Council. In general, they would prefer to reduce the steps that would be required to designate a ROW for trail improvements, especially in terms of public involvement. They may also ask for dedicated funding for trail building and maintenance.

Residents that live along unimproved ROWs might also testify either for or against trails (note necessarily the process). For those testifying for trails, they may ask for assurance of maintenance (which is covered in the process). For those against trails, they may testify that trails would make their neighborhoods less safe, reduce privacy, and/or cause environmental degradation.

We have addressed the safety and privacy concerns through our work with the Office of Neighborhood Involvement; a brochure about the steps homeowners can take can be found at <http://www.portlandoregon.gov/transportation/article/530655>. For those testifying about environmental concerns, the process addresses them through Environmental Permitting. We can have a Bureau of Development Services staffer at the Council hearing to address questions on permitting.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

- YES: Please complete the information below.
- NO: Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

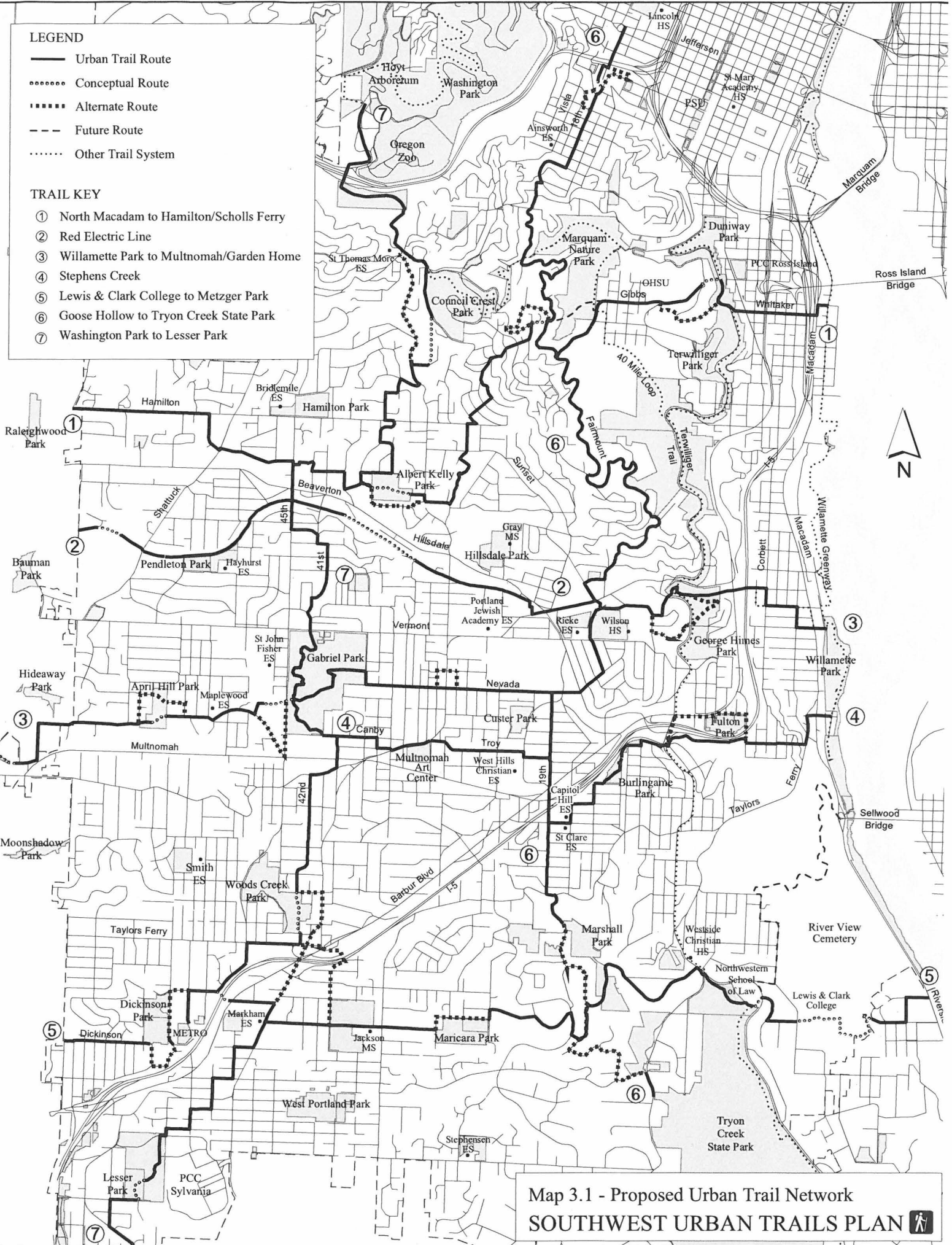
KK 9-22-15


**LEGEND**

- Urban Trail Route
- ..... Conceptual Route
- ..... Alternate Route
- - - Future Route
- ..... Other Trail System

**TRAIL KEY**

- ① North Macadam to Hamilton/Scholls Ferry
- ② Red Electric Line
- ③ Willamette Park to Multnomah/Garden Home
- ④ Stephens Creek
- ⑤ Lewis & Clark College to Metzger Park
- ⑥ Goose Hollow to Tryon Creek State Park
- ⑦ Washington Park to Lesser Park

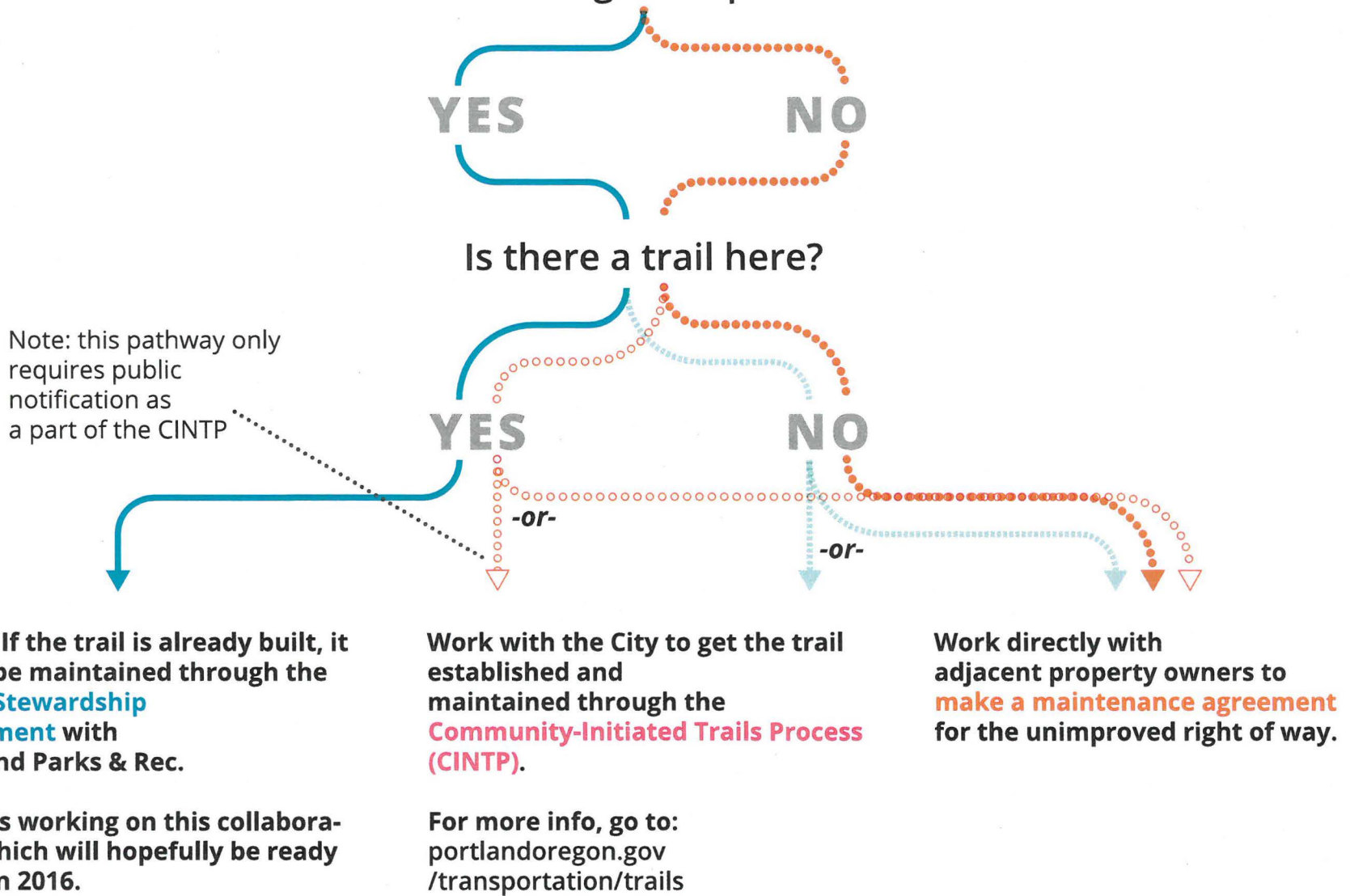


Map 3.1 - Proposed Urban Trail Network  
**SOUTHWEST URBAN TRAILS PLAN** 



While on a (st)roll through your neighborhood, you find yourself on an unimproved PBOT right of way. If you—or a community group—are interested in making this an official trail, answer the following:

Should there be a trail here according to Map 3.1 of the SW Urban Trails Plan?\*



\*Have more questions? Call PBOT at 503.823.4589 or email [trails@portlandoregon.gov](mailto:trails@portlandoregon.gov)

## Get neighbors involved

Activity support is an effort to promote the presence of responsible pedestrian users in a given area. What you can do:

- Encourage immediate neighbors to walk the trail on a regular basis.
- Start a Foot Patrol trained by the City of Portland's Crime Prevention Program. Neighbors volunteer to walk in a small group along the trail, be a friendly presence and report problems, where necessary.
- Call the police when you see suspicious activity. Call 9-1-1 for immediate threats to life or property or a crime in progress. Otherwise, contact the police non-emergency number at 503-823-3333.

## Maintain the trail

The strategies that you employ above are only as good as your commitment to maintain them. Steps you can take:

- Repair burned out lights, trim vegetation regularly, and pick up litter and debris.
- Eliminate trip hazards along the path whether that includes uneven surfaces, rocks, or ruts along the path.
- Work with PBOT to see if a dog bag dispenser and garbage receptacle can be installed to discourage waste being left on the path.
- Report all graffiti. If it's on your property, take a picture, report it and remove it immediately. See [www.portlandoregon.gov/oni/graffiti](http://www.portlandoregon.gov/oni/graffiti) for more info.

## City of Portland Contacts

For questions and information about the Community Initiated Neighborhood Trails Process:

- Visit [www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)
- Contact the Trails Program with the Portland Bureau of Transportation at 503-823-7736

For help with crime and livability issues in Portland, contact the City of Portland's Crime Prevention Program:

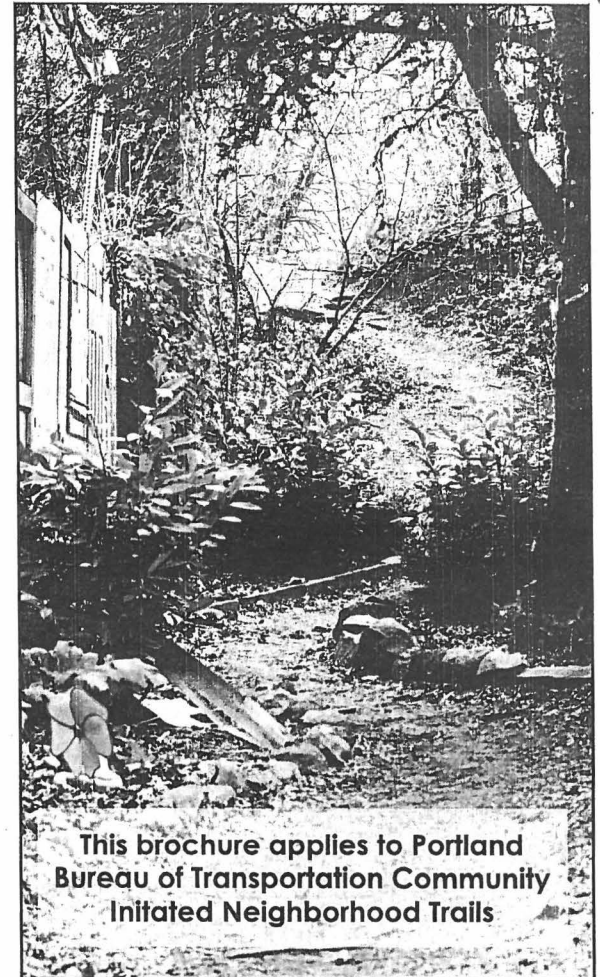
- Visit [www.portlandoregon.gov/oni/cp](http://www.portlandoregon.gov/oni/cp)
- Call 503-823-4064
- Email [onicpa@portlandoregon.gov](mailto:onicpa@portlandoregon.gov)

For ADA Title II or Civil Rights Title VI accommodations, translation/interpretation services, complaints, or for additional information, call 503-823-5266, TTY: 503-823-6868, or use Oregon Relay Service: 711.



# A Path to Trail Safety

*What volunteers and homeowners can do to improve their neighborhood trail*



**This brochure applies to Portland Bureau of Transportation Community Initiated Neighborhood Trails**



The City of Portland encourages neighbors and community volunteers to incorporate safety in the design of a trail to attract more neighbors and deter potential issues. Ideally the design will encourage users to:

- Move along the path,
- Stay on the trail and not unknowingly trespass onto private property,
- Engage in appropriate behaviors and be mindful of the residents living in the area.

The following recommendations are intended to create safer trails for users and neighbors, but not to prevent people from using trails on public rights-of-ways.

### Improve trail visibility

Opening up sightlines on the trail eliminates hiding places for people and allows neighbors and trail users to observe and report suspicious activity. The following are ways to improve visibility:

- Trim vegetation and limb up trees on your property and on the path so that trail activities can be observed. Volunteers must obtain permission from the owner to trim vegetation on private property. If the trail is located in an Environmental Zone, you will need to contact the Bureau of Development Services for guidance at 503-823-7526.
- Remove any structures or features that block visibility to the trail such as a shed or wood pile.
- If possible, light pathways that are adjacent to a dwelling. Add motion detector lighting that illuminates the

pathway, but doesn't encroach onto your neighbors' property. Because you are lighting a natural area, consider limiting the detection area and sensitivity so that lighting isn't activated by woodland critters and there is a minimal impact on their habitat.



### Secure your property

By securing your property, you are decreasing criminal accessibility. Some steps you can take:

- Consider installing a wrought iron, good neighbor-style, or chain link fence that allows you to see the adjacent trail.
- Secure gates to your yard that are accessible from the trail.
- Control access by planting non-invasive shrubs along entry points to your private property; see the Portland Plant List at [portlandoregon.gov/bes/plantlist](http://portlandoregon.gov/bes/plantlist). You must maintain these plants so that they don't block the trail or visibility. Some home owners will install a fence a few feet in from the property line and plant vegetation against the structure. Choose

thorny vegetation to mitigate graffiti and prevent access.

- For sheds or storage units accessible from a trail, install locks and secure tools and ladders as you would in your front yard.

### Define the trail

When you provide a clear designation between public, private, and semi-private areas, it defines an area's intended use and makes it clear when someone trespasses. Taking care of your property and the area around it conveys a sense of active "ownership" and communicates that illegal acts will be noticed and addressed.

- Clean up the area by weeding, picking up litter and pruning bushes and trees so that the trail looks well-kept. For permitted trails, there will be designated group who will maintain the trail. Contact information for this group will be posted on trailhead signs.
- Create uniformity along the trail so that it is well-defined. For example, if gravel is used on one part of the trail, it should be used throughout the path. Maintaining a consistent width will also further define where the path starts and ends.
- For a home near the trail, add some low growing non-invasive vegetation, fencing, or texture changes at the property line to indicate the transition to private property.

For crime prevention advice, contact the City of Portland's Crime Prevention Program at 503-823-4064, [onicpa@portlandoregon.gov](mailto:onicpa@portlandoregon.gov).





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**PORTLAND BUREAU OF TRANSPORTATION**

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185  
Fax 503.823.7576 TTY 503.823.6868 [www.portlandoregon.gov/transportation](http://www.portlandoregon.gov/transportation)

**Steve Novick** Commissioner **Leah Treat** Director

To: Portland City Council  
From: Sara Schooley, Pedestrian Coordinator, Portland Bureau of Transportation  
Date: November 2, 2015  
Subject: Proposed Amendments and ORS105.668 Clarifications per Council Request for the Community-Initiated Neighborhood Trails Process

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## UPDATE (November 4, 2015)

Council altered proposed amendment #4; those changes are reflected below in red. Amendments 1 and 2 were previously approved on October 14, 2015. The remaining amendments were approved on November 4, 2015.

## Background

On October 14, 2015, the Portland Bureau of Transportation (PBOT) brought a Resolution to Council asking to declare the intent to pilot the Community-Initiated Neighborhood Trails Process. The pilot process would allow community organizations to identify and improve undeveloped right-of-ways (ROW) to trail standards. During the agenda item, Council proposed five amendments and requested clarification on ORS 105.668, Immunity for Certain Landowners. Commissioner Novick's Staff worked with the City Attorney and PBOT staff to provide the following direction for the amendments and further explanation for ORS 105.668.

## Proposed Amendments

The following details the amendments put forth and the actions to be completed by staff before the Community-Initiated Neighborhood Trails Process begins in January 2016.

Amendment #1. Change "standards" to "guidelines" (proposed by Commissioner Novick)  
*This change was supported in testimony by SW Trails and adopted by Council at the October 14, 2015 hearing.*



The Portland Bureau of Transportation fully complies with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations, complaints and information, call (503) 823-5185, City TTY (503) 823-6868, or use Oregon Relay Service: 711.

In Step 4 of the process, currently titled "Design must meet current City of Portland "Recreational Trail" standards," change references of "standard" to "guidelines" to align with Portland Parks and Recreation language. This change would be made in the title of the Step and in the first sentence of the explanation.

Amendment #2. Define inspection attendees (proposed by Commissioner Novick)

*This change was supported in testimony by SW Trails and adopted by Council at the October 14, 2015 hearing.*

In Step 6 of the process, "Approval and Construction," change first sentence as follows: "The trails organization shall contact PBOT once construction is complete so staff with a representative(s) of the applicant have the opportunity to inspect the trail and any structures that were built."

Amendment #3. Availability of information to community members who may be unable to understand outreach materials provided in English (proposed by Commissioner Fritz)

*The basis of this amendment was submitted by Arlene Kimura via oral testimony.*

At the end of Step 3 - Public Involvement and Neighborhood Support, add the following text:

"When a trail proposal has received preliminary approval by City bureaus, a letter will be sent to each property owner adjacent to an unbuilt and unimproved right-of-way explaining the proposed trail location, identifying the applying organization, explaining the current responsibilities for those owning property adjacent to an unimproved right-of-way, providing a reference to ORS105.668 (Immunity for Certain Landowners), summarizing the Community-Initiated Neighborhood Trails Process, and providing information on how to submit feedback. This letter will include information on how to obtain these details in the languages commonly used in the area (as identified by the Office of Neighborhood Involvement and the Bureau of Planning and Sustainability) – a template for this letter will be made available on the PBOT website when the program launches in January 2016."

If requests are made for translation or interpretation services, the applying organization will work with PBOT to ensure that the requesting resident's questions are answered.

Amendment #4. Clarification of the role of PBOT's Director and the advisory nature of the Trails Process (proposed by Commissioner Fritz).

*The basis of this amendment was submitted by multiple residents' testimony.*

At the end of the “Background” section step 3, add the following text:

“It is important to remember that the ~~Director of~~ Commissioner-in-Charge of the Portland’s Bureau of Transportation has the ultimate say in deciding the best use of specific ROWs. This process was developed to provide a consistent method for those interested in converting an unimproved ROW into a trail to demonstrate need, community desire, and technical feasibility for a trail to the Bureau. The ability to complete the steps outlined in the process will be ~~the primary~~ a major determinant in whether or not PBOT will allow a group to move forward with building a trail. With that being said, this process should be considered “advisory,” as the Commissioner-in-Charge of the Portland’s Bureau of Transportation ~~PBOT Director~~ has the final authority on how ~~bureau owned~~ public ROWs are used.”

This amendment was proposed by Commissioner Fritz, inspired by testimony from individuals who believed the process implied that neighbors could “veto” the approval of an unimproved ROW as a trail.

Amendment #5. Reference ORS 105.668 in the Q&A titled: *Unimproved Right-of-Ways: What to do?* (proposed by Commissioner Novick).

Staff will be adding a section to the Q&A for individuals that own property next to an unimproved ROW that details the benefits of having an adjacent unimproved ROW developed to trail standards and permitted through the Community-Initiated Neighborhood Trails Process. One of these benefits could potentially be lessened liability as a result of ORS 105.668, Immunity for Certain Landowners.

The circumstances of every situation will be unique. Accordingly, providing specific details is not feasible. Indeed, this could amount to staff providing legal advice to individuals. Instead, staff recommends providing the following information on ORS 105.668 as set forth below.

### ORS 105.668 Immunity for Certain Landowners

ORS 105.668 (Immunity for Certain Landowners, more commonly known as “Recreational Immunity”) provides immunity from liability from negligence claims for personal injuries or property damage arising from using a trail or unimproved right of way by pedestrian, cyclists or horse riders. This immunity applies to officers, employees or agents of cities with a population over 500,000, the owners of property in such cities abutting the public easement or unimproved right of way, or nonprofit corporations and its volunteers for construction and maintenance of the trail in cities larger than 500,000.



This statutory immunity does not extend to injuries or damages arising from gross negligence or from intentional torts. These exceptions from immunity are not uncommon – the Legislature has similar exceptions from liability for donations to food banks (ORS 30.890), or providing outreach services to the homeless (ORS 30.811). In these and other cases, the legislature is intending to extend protection from liability to good-faith actors, but not to those acting with wanton disregard for the safety of others. With that being said, this statutory immunity addresses liability. It doesn't prevent someone from filing a lawsuit.

While ORS 105.668 clarifies responsibility from liability for injury or property damage arising from the use of a trail or structures in the public ROW, there are questions about the degree of liability contingent upon various circumstances. The proposed process for getting permits and developing maintenance agreements would further clarify immunity and responsibility by providing a framework for asking the City to formally recognize unimproved ROWs as a trail. By reviewing and approving the plans, the City establishes uniform standards and expectations. The permit process addresses City Code requirements regarding construction in the right of way, and provides guidance on the current and necessary use of the unimproved right of way.