

*As Amended*

# Community-Initiated Neighborhood Trails Process

1-year pilot project – beginning January 2016

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## Background

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, encourages walking, and explores a range of funding options for pedestrian improvements. The City's pedestrian transportation policies can be found in the [Pedestrian Master Plan \(1998\)](#), the [Transportation System Plan, Pedestrian Modal Plan \(2007\)](#), and the [Draft Comprehensive Plan, Chapter 9 \(2015\)](#).

While some trails have already been built on unimproved ROWs, issues have arisen about how the locations of the trails are chosen, 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.

That said, the Director of Portland's Bureau of Transportation has the ultimate say in what the best use of specific ROWs are. Even if a group is interested in turning an unimproved ROW into a trail, the PBOT Director may deny the request because of other demands on or issues with the specific ROW. The Community-Initiated Neighborhood Trails Process will provide a set of clear steps for groups to follow for ROWs that the Director deems appropriate for trails.

## Benefits of Trails

PBOT has many miles of ROW throughout the City that remain undeveloped. While some of these ROWs are merely undeveloped because adjacent properties have yet to be developed (or redevelop under our current frontage improvement policies – e.g., much of East Portland, which was annexed into the City after much of its development), some ROWs may not be 'fit' for development. The determination of whether a ROW is 'fit' may depend on terrain, environmental protection zones, other ROW needs (e.g., water, sewer), and erosion potential, among others.

Yet, even though these ROW's might be unreasonable for development into built-out roads, they may offer opportunities for valuable, and currently unmet, connections. Trails are a way to improve the connectivity while keeping the costs lower than what would be needed for full sidewalk or road improvements. Trails are also valuable as a way to provide a connection without altering the aesthetics or 'place' that a ROW may go through, whether that be through the woods or in a neighborhood that has a rural feel.

## Community-Initiated Work

The City strives to work hand-in-hand with community members and groups to ensure that our efforts meet the needs of those we aim to serve. While many of these efforts are led by the City, there are also some that are led by community groups with the City in a support role. These sorts of efforts take advantage of community interest, knowledge, resources, and passion, while potentially keeping costs low(er) for the City and the public. Building trails in this manner also may foster community-building and a sense of responsibility and ownership.

There are a few reasons for these cost savings, including, but not limited to:

1. Volunteers are the main labor source
2. Project schedule is not as reliant on PBOT staff availability or resources
3. Trails built by community groups may not need to meet as strict of design standards as would be required if the City built the trail, which may lower costs.<sup>1</sup>

For these reasons, among others, PBOT supports and encourages community-initiated work in the appropriate circumstances. This process looks to identify what these circumstances are for community-initiated trail work.

### Immunity for Certain Landowners

In 2011, House Bill 2865 (ORS 105.668) was passed to gain “immunity for certain landowners.” Before extending immunity to certain landowners and nonprofits, there was the potential for either the adjacent property owner or the organization which built the trail (e.g., SW Trails) to be liable if anyone on the trail was injured.

ORS 105.668 adds clarification to ORS 105.682 that personal injury or property damage resulting from the use of a permitted public trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way may not give rise to an action based on negligence against any of the following entities:

1. A city with a population of 500,000 or more;
2. The officers, employees, or agents of such a city;
3. The owner of any land abutting a public easement or unimproved right-of-way over which the trail extends; or
4. A nonprofit corporation or its volunteers for the construction and maintenance of such a trail in a city of 500,000 or more.

The immunity granted by HB 2865 was a key victory in allowing and encouraging community partnerships for trail building, as well as addressing concerns of adjacent landowners, nonprofits and volunteers being exposed to potential liability from users of the trails.

The Community-Initiated Neighborhood Trails Process looks to formalize trail building by community groups so that ORS 105.668 can apply. As such, any trails previously constructed without the necessary permits, must go through this process before immunity is granted. More information about ORS 105.668 can be found at <http://www.oregonlaws.org/ors/105.668>.

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<sup>1</sup> For more information, see the section on Shared Use Paths and Trails in the Accessibility Guidance for Bicycle and Pedestrian Facilities, Recreational Trails, and Transportation Enhancement Activities - [http://www.fhwa.dot.gov/environment/recreational\\_trails/guidance/accessibility\\_guidance/accessibility.cfm#design](http://www.fhwa.dot.gov/environment/recreational_trails/guidance/accessibility_guidance/accessibility.cfm#design).

## Process Framework

The importance of trails as a piece of Portland's transportation system is detailed in Chapter 6: Transportation of our current Comprehensive Plan. Specifically, trails are mentioned in the following policies:

- *6.22.E. Pedestrian Transportation.* Develop a citywide network of pedestrian trails that increases pedestrian access for recreation and
- *6.41.E. Southwest Transportation District.* Use the Southwest Urban Trails Plan as a guide to dedicating and developing trail segments in Southwest.

In addition, there is support for trails in the City's Pedestrian Master Plan and Metro's Regional Active Transportation Plan. The Community-Initiated Trails Process looks to draw from these policies to build a framework. Specifically, PBOT is looking for the City's Community-Initiated Trails Process to address:

- **Purpose of Trail.** City policy aims to support a broad range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The City's support of transitioning an unimproved ROW to a trail depends on how an improved ROW may help meet these goals.
- **Connectivity.** The City's transportation system aims to increase connectivity to transit, employment, education, recreation, and services (e.g., grocery stores, community centers). The City's support of a trail will weigh heavily on whether an improved ROW increases connectivity.
- **Public Involvement and Resident Support.** While the ROW is public space, it is important that the neighbors are supportive of the potential improvements. Nearby residents will serve as the primary users of the trail and have the opportunity to have their feedback considered in whether the ROW is appropriate for a trail and the design of the trail, among other factors.
- **Trail Design.** If a ROW is improved to recreational trail standards by a party other than the City (e.g., SW Trails), it may not need to meet the same standards that would be necessary if the City was improving the ROW. That said, there are still trail standards that will need to be met (As of July 2014, PBOT would recommend following Portland Parks Trail Type B standards - <http://atfiles.org/files/pdf/PortlandTrailDesign.pdf>) and potential environmental mitigation depending on the specific location.
- **Permitting.** The organization initiating the trail will need to obtain the permits required for the trail construction. Further discussion of permitting is included later in this process.
- **Maintenance.** If a ROW is improved to recreational trail standards by a party other than the City, this party will be responsible for the maintenance of that ROW. If the trail condition degrades to the point where the City Engineer deems the conditions to be unsafe for the public, PBOT shall formally inform the group responsible for maintenance of the deficiencies and if they are not resolved in the time frame set forth in the maintenance agreement, PBOT may post trails as closed.
- **Funding.** In the current financial state, the City of Portland does not have funds to dedicate to improve or maintain trails. It will be up to the party interested/acting on improving the trail to fund the surveying, engineering, material, and building of the trail through grants, fundraising, or other means. If the other requirements of the trail are met (purpose, accessibility, resident support, design, and maintenance) and the trail applicant is a not-for-profit organization, PBOT will waive the costs for encroachment permitting.

## Proposed Process for Community-Initiated Improvements to ROW to Trail Standards

PBOT staff have created the following system to help interested applicants evaluate if a ROW is appropriate for trail improvement and, if desired, how to move forward with the improvements.

Step 1. Check with public agencies to see if there are any ROW improvements planned or any issues with development in the ROW.

Some PBOT ROWs have utilities, such as water mains or sewer, underground. Before pursuing a trail, it is important to check with other public agencies to ensure that improving the ROW would not cause issues with the function or maintenance to utilities, if present.

To find out whether there are any plans for or utilities present in the ROWs, contact the following:

- PBOT Trails Program: [trails@portlandoregon.gov](mailto:trails@portlandoregon.gov)

Step 2. Determine if or how the proposed trail would increase connectivity.

In order for the improvement of the ROW to be eligible for the PBOT process, it must increase pedestrian connectivity to at least one of the following:

1. Transit
2. Places of Work
3. Schools
4. Public Parks and Open Space
5. Other Services (grocery stores, community centers, churches, etc.)

The proposed trail must provide a more direct, comfortable, or significantly safer (e.g., does not require crossing busy roads) route than existing infrastructure allows to meet this requirement. It may be safer than crossing busy roads or walking along roads with restricted sight distance, narrow shoulders, and no or intermittent pedestrian facilities.

Step 3. Public Involvement and Neighborhood Support.

Portland City government works best when community members and government work as partners. The City has taken a holistic approach to public involvement and has developed Public Involvement Principles,<sup>2</sup> which aim to:

- ensure better City decisions that more effectively respond to the needs and priorities of the community.
- engage community members and community resources as part of the solution,
- engage the broader diversity of the community—especially people who have not been engaged in the past,
- increase public understanding of and support for public policies and programs, and
- increase the legitimacy and accountability of government actions.

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<sup>2</sup> The complete Public Involvement Principles can be found at <https://www.portlandoregon.gov/oni/article/312804>

PBOT looked to the foundation of the City's Public Involvement Principles to help design the "Public Involvement and Neighborhood Support" requirement for the Community-Initiated Neighborhood Trails Process.

When determining whether a ROW is appropriate for trail improvements, PBOT will first let a multi-bureau team look at the ROW to determine if there are any fatal flaws with allowing the ROW to be improved to trail standards. The bureau review team consists of staff at PBOT, the Bureau of Environmental Services, Parks, Office of Neighborhood Involvement, Bureau of Development Services, and any Bureaus that may own property near the proposed ROW.

Once the ROW has received internal vetting, PBOT will look to the community that is impacted by the potential trail to help decide whether the trail gets built, how the trail is designed, and ensure that the trail is maintained and held to a high standard. As such, this process incorporates the.

It is important that the neighbors adjacent to and near to the ROW are knowledgeable and, ideally, supportive of the conversion of the ROW to a trail. The adjacent neighbors will be the "eyes" of the trail, helping the submitting trails organization stay abreast of maintenance and safety issues. It is also important to have broader neighborhood support since those living in the neighborhood will be the primary users of the trail.

In 2000, the SW Urban Trails Plan was adopted by City Council after conducting public outreach (the specifics of the public outreach can be found on page 5 of the plan). At neighborhood association and community meetings, stakeholders identified the potential pedestrian routes in Southwest Portland (Appendix A of the SW Trails Plan) which, through criteria-driven evaluation, public open houses, and trail inventory and analysis, was condensed into the "Proposed Urban Trail Network (Map 3.1 in the SW Trails Plan).

We realize that trail organizations may request to improve ROWs that are identified as part of the adopted Proposed Urban Trail Network as well as ROWs that have not been identified. PBOT staff has created two different processes depending on whether the trail has been identified as a Proposed Urban Trail.

**If the ROW is identified as a "Proposed Urban Trail" in an adopted City transportation plan** (e.g., Map 3.1 of the SW Trails Urban Trails Plan, Transportation System Plan, etc.), the applying trail organization will not have to document resident support. Instead, the applying trails organization must notify residents within ¼ mile of the trail and the appropriate neighborhood association of upcoming improvements, and offer an opportunity to provide feedback. PBOT staff will assist in this effort by providing the necessary addresses to be notified, templates for notification documents, and comment gathering.

**If the ROW is NOT identified as a "Proposed Urban Trail" in an adopted City transportation plan,**<sup>3</sup> the applicant needs to show resident support for creating a trail before the necessary permits will be issued. PBOT acknowledges that individual residents will have varied opinions as to whether they would like the ROW to become a trail. As such, this process allows for a variety of resident approval methods:

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<sup>3</sup> This requirement would apply to "demand trails" or existing paths that have never been officially permitted as a trail

Options	Adjacent <sup>4</sup> Neighbors	Households <sup>5</sup> within ¼ mile of ROW	Neighborhood Association
Method	Petition	Petition	Letter
1	75%		
2		At least 50% of households	
3	50%		Approved Letter of Support

In order to successfully move forward on improving a ROW, the applying organization needs to meet one option specified above. PBOT staff will assist the applying organization in developing the petition for and identifying the properties adjacent to and within ¼ mile of the ROW.

At least one month before the petition and/or letter is submitted, the applying organization needs to host an open house or meeting. The open house could be facilitated as an information meeting, design charette, or however else the applying party deems useful. The open house must be open to the public, in a public building, ADA accessible, facilitated by the applying party, and attended by a PBOT Staff member. All households within ¼ mile of the ROW and the neighborhood association shall be notified of the public meeting at least thirty days before the meeting occurs. In addition, signage about the meeting should be posted at the proposed trail's beginning and end.

In summary, the outreach timeline for proposed trails NOT on SW Urban Trails Plan Map 3.1 is below:

Action	Requirements	PBOT Assistance and/or Role	Minimum Days Before Petition Submittal
Notification of Neighborhood Associations & Households within ¼ mile of ROW	<ul style="list-style-type: none"> <li>Mailing to households</li> <li>Email to Chair of Neighborhood Association</li> <li>Must announce open house/public meeting time, place, and where to go for more information</li> <li>Posting at either end of the proposed ROW</li> </ul>	<ul style="list-style-type: none"> <li>PBOT will provide applicable addresses and a mailing template, if requested</li> <li>PBOT will provide link to website or resources on the PBOT website</li> </ul>	60
Open House/Public Meeting	<ul style="list-style-type: none"> <li>Must be open to the public, in a public building, ADA accessible, facilitated by the applying party, and attended by the PBOT Staff member</li> </ul>	<ul style="list-style-type: none"> <li>PBOT staffer will attend meeting</li> </ul>	30
Petition Submittal	<ul style="list-style-type: none"> <li>Petition must be signed by the property owners</li> </ul>	<ul style="list-style-type: none"> <li>PBOT will provide a list of adjacent properties and properties within ¼ mile, if requested</li> <li>PBOT will provide a petition template</li> </ul>	0

If the proposed trail are on private property, the applying organization must obtain written permission from the property owner(s) before the trail is permitted.

<sup>4</sup> "Adjacent Neighbors" are those who own property adjacent the ROW.

<sup>5</sup> Each household will have one "vote." This "vote" will be from the property owner.

When a trail proposal has received preliminary approval by City Bureaus, a letter will be sent to each property owner adjacent to an 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 trails website ([www.portlandoregon.gov/transportation/trails](http://www.portlandoregon.gov/transportation/trails)).

It is important to remember that the Commissioner-in-Charge of the Portland 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 outlines in the process will be 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 Bureau of Transportation has the final authority on how public ROWs are used.

#### Step 4. Design must meet current City of Portland “Recreational Trail” guidelines.

Any proposed trail must, at minimum, meet existing City of Portland “Trail Type B” guidelines as detailed in Trail Design Guidelines for Portland’s Park System (2009)<sup>6</sup> and only use materials on the approved list.<sup>7</sup> In addition, there may be additional environmental factors that will need to be addressed through design to mitigate storm water, environmental impacts, or erosion. The applying organization must submit survey information, engineering design drawings for the proposed trail, a materials lists, etc. as required by the Bureau of Development Services.

In addition, each trail should be clearly marked with signage that, at minimum, describes the difficulty of the trail, the destinations that the trail reaches, trail-use rules, and contact information for trail maintenance or other issues.

#### Step 5. Obtain the applicable permits and Bureau review.

Once the trail meets the requirements of access, resident support, and design standards, the initiating organization must apply for the appropriate City permits and state permits if applicable. PBOT and Bureau of Development Services permitting staff will assist in defining which permits are necessary per the proposed engineering design drawings submitted.

If the trails are being proposed by a not-for-profit agency, the encroachment permit fees will be waived. Fees associated with other permits and review that may be needed, such as structural, environmental, unmapped floodway, drainage reserve, etc. will not be absorbed by or paid for by PBOT. The costs and potential to waive fees for these permits are at the discretion of the bureaus that require these permits. In order to better understand what permits may be required and costs of these permits, the applying

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<sup>6</sup> The Trail Design Guidelines for Portland’s Park System (2009) can be found at <https://www.portlandoregon.gov/parks/38306?a=250105>

<sup>7</sup> An update to this list is planned for Summer 2015

organization is encouraged to visit the Bureau of Development Services Service Counter as early as possible.

Each permit shall be accompanied by a maintenance plan that will be created collaboratively by PBOT staff and the applying organization. Regular maintenance tasks shall be defined and individuals/groups shall be identified as to what tasks they are responsible for. The maintenance plan will also state how violations of the trail will be reviewed, time periods to remedy violations, and enforcement methods. PBOT will not be held responsible for funding or completing maintenance work on a trail that is created through this process.

There are "Trail Exemptions" that would reduce and potentially eliminate the needs for environmental permitting (Title 33.430, Environmental Zones). The requirements to meet these exemptions include:

- Trails must be confined to a single ownership or be within a public trail easement;
- Trail widths must not exceed 30 inches, stair width must not exceed 50 inches, and trail grade must not exceed 20 percent except for the portion of the trail containing stairs;
- Plant trimming must not exceed a height of 8 feet and a width of 6 feet
- No native trees 6 or more inches in diameter and no native shrubs larger than 5 feet tall may be removed;
- Trails must not be paved; and
- Trails must be at least 15 feet from the top of bank of all water bodies.<sup>8</sup>

These exemptions, if applicable, will be confirmed by BDS staff before construction can begin.

#### Step 6. Approval and Construction

Once the trail applicant receives the necessary permits, construction may begin. The applying organization shall inform PBOT when the construction will occur and send notices to surrounding households. PBOT will provide the addresses for the households that need to be notified as well as a template for the notification. The applicant is encouraged to invite adjacent residents, neighbors, and area residents to participate in trail maintenance and construction to create and foster community-building, collaboration, and a sense of shared responsibility and trust in the trail's future.

The trails organization shall contact PBOT once construction is complete to so staff with a representative(s) of the applicant have the opportunity to inspect the trail and any structures that were built. The completed trail may be added to PBOT's trails maps (although the trail will not become an asset of PBOT since maintenance will be continued to be performed by the trails organization) and, upon a successful inspection, may be allowed for publication in the applying trail organization's media and map publications.

#### Mutual Respect

PBOT realizes that all public ROW (improved or unimproved) is open to the public. That said, there are many ROWs in the City that are not suitable for large amounts of pedestrian traffic either because the terrain is not safe or maintained for walking or there are sensitive environmental conditions that would necessitate improvements before increased pedestrian traffic could be allowed. The Community-

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<sup>8</sup> These exemptions can be found at <https://www.portlandoregon.gov/bps/article/53343> under "33.430.080 Items Exempt From These Regulations."



Initiated Trails Process aims to identify unimproved ROWs that could serve as trails, and ensure that they are safe and environmentally protected to allow for pedestrian traffic.

We hope, that through this process, a sense of respect between trail users and adjacent property owners will develop. If a trail is approved through this process, we hope that the adjacent property owners will understand that their adjacent ROW provides connectivity through their neighborhood and will work with trails organizations to maintain a safe and welcoming trail. PBOT also welcomes adjacent property owners to work with the Office of Neighborhood Involvement Crime Prevention Coordinators if they would like additional resources for ensuring the security of their property using Crime Prevention Through Environmental Design (CPTED) principles.

We also hope that if a trail is not approved through this process, that the applying trails organization will respect the voices that denied the trails' development, whether those voices come from PBOT, the adjacent property owners, or the neighborhood. If a trail is not accepted for improvement, we would hope the trails organization would not advertise the unimproved ROW as a trail and not encourage large-scale use of the area. Instead, we would encourage the trails organization to look for another valuable connection that would improve transportation options have broader neighborhood support.