

CHAPTER 1228
Bear Creek Greenway Plan

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CROSS REFERENCES:

County parks and recreation areas generally - see ORS 275.320, 275.330, 275.370;
S.U.& P.S. Ch. 1064

Development of recreational use of lands by Jackson County; application for State
funds - see ORS 390.250

Use of funds to acquire land interests; conditions of grants - see ORS 390.255

Application of Willamette River Greenway laws; restriction on condemnation to
acquire lands - see ORS 390.260

County Fairgrounds and Exposition Park - see S.U. & P.S. Ch. 1066

Comprehensive Plan - see P. & Z. Ch. 1226

1228.01 ADOPTION.

The Bear Creek Greenway Plan, developed by the Roads and Parks Department and providing management policies and guidelines for the management and preservation of the Bear Creek Greenway, is hereby adopted.

The Bear Creek Greenway Plan shall serve as a primary background and support document to the Natural and Historic Resources Element of the Jackson County Comprehensive Plan.

(Order 487-82. Passed 12-1-82; Ord. 2003-4. Passed 1-22-03; Ord. 2007-2. Passed 1-31-07.)

1228.02 PURPOSE.

These Rules are promulgated by the Jackson County Board of Commissioners to establish common enforceable regulation of activities throughout the Bear Creek Greenway Corridor. The provisions of this Chapter, unless agreed otherwise, are not intended to preempt any other local government law, ordinance, rule, or regulation, or any property transaction, easement, covenants or similar agreement between any local government and those adjacent landowners with whom those agreements were made.

(Ord. 99-41. Passed 11-10-99.)

1228.03 DEFINITIONS.

For the purposes of Sections 1228.02 to 1228.09, unless the context requires otherwise, the following definitions apply:

- (a) “Camp” means to set up, occupy, or to remain in or at a campsite.
- (b) “Campsite” means any place where any bedding, sleeping bag or other material used for bedding purposes, or any stove or fire, is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, box, lean-to, shack or any other structure, or any vehicle or part thereof.
- (c) “Bear Creek Greenway Corridor (Greenway)” means that publicly-owned 20-mile corridor of parks, trails, and adjacent land and waters that is located running north and south and includes sections of Bear Creek between North Mountain Avenue in the City of Ashland to Seven Oaks Interchange in the City of Central Point.
- (d) “Bicycle” has the meaning given that term in ORS 801.150.
- (e) “Destructive device” means any device with an explosive, incendiary or poison gas component, including but not limited to a bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or any combination of parts either designed or intended for use in converting any device into any destructive device described in this paragraph and from which a destructive device may be readily assembled.
- (f) “Dwell” means to regularly or intermittently remain for such a period of time at or near a particular location, premises or area so as to create a circumstance normally or reasonably associated with inhabiting, living, or assuming a possessory interest in such area.
- (g) “Firearm” has the meaning given that term in ORS 166.210.

- (h) “Fireworks” has the meaning given that term in ORS 480.110.
- (i) “Greenway Authority” means a unit of local government, its designees, or its employees, who have lawful control of regulating use of the Greenway by nature of jurisdiction, ownership, tenancy, or official position.
- (j) “Horse,” in addition to its ordinary meaning includes mules, donkeys and other <skip> animals.
- (k) “Keeper” means a person who owns, possesses, controls or otherwise has charge of a companion animal, as that term is defined in ORS 164.055(2)(a).
- (l) "Livestock" means equines, cattle, sheep, goats, llamas, alpacas and swine.
- (m) “Occupy” or “Occupancy” means the purpose for which a premises or structure, or parts thereof, is used or intended to be used. The definition of “Occupy” is not limited to human or animal inhabitation and can include the improvement, development, or the placement of a structure or building on a premises, or any condition thereof.
- (n) “Open to the public” means premises that, by their physical nature, function, custom, usage, notice or lack of notice, or other circumstances at the time, would cause a reasonable person to believe that no permission to enter or remain is required.
- (o) “Possess” has the meaning given that term in ORS 161.015.
- (p) “Premises” includes any real property, facility, structure, shelter or building whether privately or publicly owned.
- (q) “Skate” or “Skating” means roller skating, skate boarding or roller blading, or otherwise the use or application of a similar contrivance propelled exclusively by human power.
- (r) “Weapon” means any instrument, article or substance specifically designed for and presently capable of causing death or serious physical injury. A weapon includes any knife having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, any dirk, dagger, ice pick, slingshot, metal knuckles, or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person. A “deadly” weapon has the meaning given that term in ORS 161.015(2).

(Ord. 99-41. Passed 11-10-99.)

1228.04 INTENDED USES.

The Greenway is intended for multiple use for recreational and non-motorized transportation activities. None of the provisions of the Bear Creek Greenway Ordinance relieves the pedestrian or relieves the cyclist, skater, or equestrian from the duty to exercise due care concerning other users of the Greenway or adjacent land owners.

- (a) All Greenway users should maintain their own common or standard lane of travel without impeding travel of other users.
- (b) Bicyclists and skaters yield to all other trail users, and hikers yield to equestrians.
- (c) Unless otherwise marked, Greenway users are permitted only on paths or paved trails specifically designed for such use.
- (d) Companion animals are allowed if on a leash no longer than six feet and in strict control of its keeper. Keeper shall remove the animal's waste.
- (e) All users are expected to observe and obey all Oregon State and Greenway traffic, as well as informational, warning, and closure signs.
- (f) All persons within the Greenway will be held responsible for any damage they cause. Parents or guardians will be held responsible for the damage caused by their children under the age of 18 years old, whether or not the parent or guardian is present.

(Ord. 99-41. Passed 11-10-99.)

1228.05 AUTHORITY; CLOSURE OF GREENWAY; USE LIMITATIONS.

- (a) The Greenway Authority is hereby authorized to establish and post regulations governing the use of the Greenway which are not inconsistent with regulations contained in Jackson County Code Sections 1228.02 to 1228.09 and which promote public health and safety and the preservation of property.
- (b) The Greenway Authority is hereby authorized to close to public use the Greenway corridor or any portion thereof, restrict the times when the same shall be open to such use and limit or prohibit any recreational use whenever such action is necessary to protect the health or safety of the public or the safety of the Greenway or its facilities. Causes for Greenway closure or limitations on Greenway use include, but are not limited to, scheduled public events, fire hazard, dangerous weather or water conditions, sanitary protection of the watershed, park construction or repairs, conservation of fish and wildlife, unsafe or overcrowded shoreline, ramp, parking or road conditions, the prevention of damage to the Greenway or any of its facilities or any dangerous, unsafe or unhealthful condition.

(c) Unless otherwise posted, Greenway closure shall occur between the hours of 10:00 p.m. and 6:00 a.m. except as follows:

- (1) Pedestrians crossing the Greenway on a paved section of the path;
- (2) Participants or spectators of an athletic contest or approved public event in Greenway areas;
- (3) Persons attending a scheduled event in a Greenway building designated for community recreation or instruction; or
- (4) Government employees during the course of official activities.

(d) The Greenway Authority shall have the authority to eject from the Greenway any person acting in violation of regulations contained in Sections 1228.02 to 1228.09.

(Ord. 99-41. Passed 11-10-99.)

1228.06 REGULATIONS; PROHIBITIONS.

All regulations of the Greenway shall apply to and be in full force and effect within the Greenway area unless otherwise specifically authorized by Sections 1228.02 to 1228.09 or by declaration of the Greenway Authority or local unit of government independent of each other as a representative of each applicable jurisdictional boundary affected by the Greenway.

(a) Closure. No person shall enter the Greenway or area which has been closed if notice of prohibited entry has been posted.

(b) Basic Speed Rule.

(1) A person commits a violation of the basic speed rule if the person drives bicycles, skates or rides a horse upon the Greenway at a speed greater than is reasonable and prudent, having due regard to all the following:

- A. The traffic.
- B. The surface and width of the pathway.
- C. The hazard at intersections.
- D. Weather.
- E. Visibility.
- F. Any other conditions then existing.

(E.Ord 2003-29. Passed 10-15-03; P. Ord 2003-28. Passed 10-29-03.)

(2) In no case shall a person drive a bicycle, skate or ride a horse in speeds in excess of fifteen (15) miles per hour, unless otherwise posted.

(c) Obstruction of the Right of Way. No person, unless specifically authorized, shall:

(1) Stand, gather with others upon any street, street crossing, sidewalk, trail or area within the Greenway in a manner that obstructs free passage of users of the Greenway; or

(2) Place, cause to be placed, or permit to remain on any street, sidewalk, trail or area within the Greenway anything that obstructs or interferes with such area or interferes with the normal flow of users of the Greenway.

(d) Vehicles/horses.

(1) No unauthorized person shall operate, park, stand or use any motorized vehicle, or ride or lead a horse within the Greenway, except in areas provided, maintained or designated for such purpose.

(2) Horses are permitted only on posted equestrian trails, where located.

(3) The provisions of Subsections (1) and (2) of this Section do not apply to governmental officials or their agents acting within their official capacity.

(e) Animals.

(1) Companion animals are allowed if on a leash no longer than six feet and in strict control of its keeper.

(2) No person within the Greenway shall allow any pet or animal in his or her custody:

A. to annoy or molest any person; or

B. to be tied up and left unattended; or

C. except for areas provided, maintained or designated for such purpose, to deposit its waste on any street, sidewalk, trail or managed landscape area unless the person immediately removes the waste from the area.

(3) No horse or pack animal shall be tied, secured or hobbled in such a manner as to injure any tree, shrub or Greenway improvement.

(4) No person shall cause or knowingly permit livestock within the Greenway.

(f) Access to Private Lands. No person shall use the Greenway to gain unauthorized access to private property adjacent or otherwise to the Greenway.

(g) Property Destruction. No unauthorized person shall:

- (1) Pick, cut, mutilate, blaze, paint or remove any flowers, shrubs, foliage, trees or plant life, or property of any kind, within the Greenway area without written permission therefor from the Greenway Authority;
- (2) Mutilate, deface, damage, move or remove any Greenway equipment, including but not limited to streets, sidewalks, bicycle paths or any part of the public right-of-way, tables, benches, buildings, signs, markers, plaques, barriers, fountains, faucets, traffic recorders or other structures or facilities of any kind within the Greenway area; or
- (3) Dig, dredge, deface or remove any dirt, stones, rocks, artifacts or other substances, make any excavation, quarry any stones or other objects or cause or assist in doing any of such things within the Greenway area, except upon written permission from the Greenway Authority.

(h) Fires.

- (1) Unless specifically authorized, no person shall build, light or maintain any fire, portable gas, gasoline or oil stoves or other portable cooking devices, or leave a fire unattended, throw or deposit any burning substance, or other substance capable of burning or combustion within the Greenway.
- (2) A person shall be responsible for damage resulting from fires caused by said person and for the cost of suppressing such fires.

(i) Offensive littering.

- (1) No person shall:
 - A. Throw, dump, deposit or leave any trash, refuse, garbage, litter, cigarettes or tobacco products, or waste material within the Greenway area, except in receptacles designated by the Greenway Authority for that purpose;
 - B. Bring into the Greenway area any trash, refuse, garbage, litter, waste material or vehicle for the purpose of leaving it therein;
 - C. Wash any clothing or other materials in the waters of any pond or stream, or throw, dump or deposit into such waters, or onto the banks thereof, any trash, refuse, garbage, litter, waste material or other polluting product of any kind. Pollution and waste, for the purpose of this Subsection, are as defined in ORS 468B.005(3) and (7).

(2) In addition to fine imposed pursuant to violation of any provision of this Section, violator is responsible for any and all costs resulting from necessary response, clean up, or damage caused by the act of offensive littering.

(j) Camping.

(1) Unless specifically authorized, no person shall camp or dwell within the Greenway, or under any bridge or viaduct within the Greenway area.

(2) Violation of Subsection (1) of this Section is subject to the rules of notification and removal of persons and property set forth in ORS 203.077 and adopted under Jackson County Code Sections 1078.03 to 1078.09. Standard penalties as set forth in Section 1228.09 shall not be imposed for the first violation of this Section.

(k) Peddlers and Solicitors; Advertising; Signs.

(1) Unless otherwise specifically permitted by the Greenway Authority or other appropriate local governmental authority, no person shall, within the Greenway:

A. Operate a concession, either fixed or mobile, or engage in the business of soliciting, selling or peddling goods, wares, merchandise, liquids or edibles for human consumption;

B. Advertise in any manner, including but not limited to distributing circulars, or using fixed or mobile display; or

C. Erect any sign, marker or inscription.

(2) Unauthorized signing or trail marking is prohibited.

(l) Alcoholic Beverages. Possessing or drinking alcoholic beverages within the Greenway is prohibited.

(m) Firearms, Air Guns and Other Weapons. No person, other than law enforcement officers performing their official duties, shall discharge any firearm, air gun, pellet gun, bow and arrow, slingshot or other projectile propelling device within the Greenway.

(n) Fireworks. No person shall possess or use fireworks or explosives of any type within the Greenway.

(o) Hunting. Unless specifically authorized, no person shall, or attempt, to pursue, hunt, trap, kill or injure any wild bird or animal within, into or out of the Greenway area.

(p) Noise. Loudspeakers, public address systems and amplified musical instruments are allowed within the Greenway only upon approval from the Greenway Authority or other appropriate local governmental authority.

(Ord. 99-41. Passed 11-10-99.)

1228.07 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of Sections 1228.02 to 1228.09 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. 99-41. Passed 11-10-99.)

1228.08 JURISDICTION; ENFORCEMENT.

(a) Persons are subject to the jurisdiction of that unit of local government in which the violation has alleged to have been committed.

(b) Enforcement of this code may be performed by any law enforcement officer whose jurisdictional boundaries include or are adjacent to the Greenway, or by any enforcement personnel as designated by the Greenway Authority.

(Ord. 99-41. Passed 11-10-99.)

1228.09 VIOLATIONS/PENALTY.

(a) Unless provided otherwise, violations of any provision of this ordinance shall, upon conviction, be punished by a fine set by that unit of local government in which the violation has been committed.

(b) Violations committed within the jurisdiction of Jackson County shall, upon conviction, be punished by a fine of not more than \$250.00 per incident.

(Ord. 99-41. Passed 11-10-99.)