

# Appendix E: Protection, Maintenance & Management

Protecting, maintaining and managing the Region 2000 Greenways and Blueways system will require a commitment by individual jurisdictions to build and maintain specific segments as well as a coordinated effort among the parties to bring the components together into a seamless system. Private sector organizations and individuals must also be involved in the planning and management of the regional facilities. The following text defines key aspects of operating and managing the Region 2000 facilities. The sections are broken up in the following manner:

## 1) Protection Policies

Includes subsections on the acquisition of rights, public access, and naming of trail segments

## 2) Maintenance Policies

Includes subsections on stewarding land and trail upkeep

## 3) Management Policies

Includes subsections on screening, management agreements, access agreements, safety and security, emergency response, risk management, and user rules/regulations

Over the course of time, local communities in the region will encounter a variety of issues that are important to the successful management and operation of the system. The implementation of this regional system of greenways and blueways will require coordinated individual efforts to plan, finance, build, operate and maintain various segments of the regional system. As individual partners take on these tasks, the following policies will help them respond to a variety of implementation issues. Other, locally-specific, problems and issues may arise during the long-term development of the regional system, requiring the adoption of additional policies.

The text in this section offers a menu of tools that landowners, land conservation organizations and local governments can use to establish the specific physical boundaries of the system. In the event that certain parcels of land are considered vital to the overall regional system, mechanisms defined herein enable local governments to purchase or negotiate for the dedication of certain property rights. Dedication should be negotiated in a manner that is consistent with local, state and Federal

## Overview

## Protection Policies

laws that permit and govern such action. Many approaches are available for securing the protection of a piece of land

### **Protection Through Management Plans**

The resources of a specific parcel of land may be conserved through an established set of policies called a management plan. These plans are typically prepared for government-owned lands. In addition, agencies can work together to establish management plans for lands under their control. Management plans should identify valuable resources; determine compatible uses for the parcel; determine administrative needs of the parcel, such as maintenance, security and funding requirements; and recommend short-term and long-term action plans for the treatment and protection of the resources.

### **Protection Through Regulation**

The second method of protecting land is through government regulation. Regulation is defined as the government's ability to control the use and development of land through legislative powers. The following types of development ordinances are regulatory tools that can meet the challenges of projected growth and development while also protecting critical natural resources.

### **Dedication/Density Transfers**

Also known as incentive zoning, this mechanism allows greenways to be dedicated to the local government in return for allowances of increased density on the development of a property. The potential for improving or subdividing part or all of a parcel, as permitted by a local government's land use development laws, can be expressed in dwelling unit equivalents or other measures of development density or intensity. Known as density transfers, these dwelling unit equivalents may be relocated to other portions of the same parcel or to contiguous land that is part of a common development plan. Dedicated density transfers can also be conveyed to subsequent holders if properly noted in transfer deeds.

### **Negotiated Dedications**

A local government may ask a landowner to enter into negotiations for portions of a parcel that are deemed to have special protection value. For example, the local government may ask for the dedication of land for greenways when landowners subdivide property (a minimum size would be determined by the local government). Such dedications should be proportionate to the relationship between the impact of the subdivision on community services and the percentage of land required for dedication - as defined by the US Supreme Court in *Dolan v. Tigard*.

### **Fee-in-Lieu**

To complement negotiated dedications (or in place of them), a fee-in-lieu program may be appropriate. Based on the density of development, this program allows a developer the alternative of paying money for the development/protection of land in-lieu of dedicating land for a greenway.

### **Greenway Development Exactions**

An exaction is a condition of development approval that requires a developer to provide or contribute to the financing of public facilities at their own expense. In this case, a developer may be required to build a greenway facility as a condition of developing a certain number of units because the development will create need for new greenspace.

### **Reservation of Land**

A reservation of land does not involve any transfer of property rights but simply constitutes an obligation to keep property free from development for a stated period of time. Reservations are normally subject to a specified period of time, such as six or 12 months. At the end of this period, if an agreement has not already been reached to transfer certain property rights, the reservation expires.

### **Buffer/Transition Zones**

This mechanism recognizes the problem of reconciling potentially incompatible land uses by preserving lands that function as buffers or transition zones between uses. Care must be taken to ensure that use of this mechanism is reasonable and will not destroy the value of a property.

### **Overlay Zones**

An overlay zone and its regulations can be established in addition to the zoning classification and regulations already in place. Overlay zones are superimposed over existing zoning to add specific regulations to a particular area. Because greenways are long linear corridors that can span an entire community or region, an overlay zone can be an effective method for achieving uniform control of land development and continuity in environmental protection practices.

### **Rezoning Petitions**

Petitions for the rezoning of parcels that are adjacent to or include areas identified as potential conservation sites should be recommended by local government planning agencies for inclusion into the regional trail system. The planning agency can encourage or negotiate for the dedication of those areas as part of the rezoning process.

### **Protection Through Non-Regulatory Acquisition**

The third method of protecting lands that are important components of the regional greenways and blueways system is through private or public level acquisition processes outside the regulatory area.

### **Donation/Tax Incentives**

A local government agency agrees to receive full title to a parcel of land at virtually no cost. In most cases, the donor is eligible to receive federal tax deductions on personal income as previously described under conservation easements. In addition, property owners may be able to avoid inheritance taxes, capital gains taxes and recurring property taxes through land donation.

### **Fee Simple Purchase**

This is a common method of acquisition where a local government agency or non-profit land trust purchases property outright. Fee simple ownership conveys full title to the land and the entire “bundle” of property rights including the right to possess land, to exclude others, to use land or sell land.

### **Easement Purchase**

This mechanism is the fee simple purchase of an easement. Full title to the land is not purchased, only those rights granted in the easement agreement. Therefore the easement purchase price is less than full title value.

### **Easements**

Easements are land management agreements in which a community receives less than full interest in a parcel of land in order to protect a valuable resource. These agreements establish legally binding contracts or a mutual understanding of the specific use, treatment and protection that certain lands will receive. Property owners who grant easements retain all rights to the property except those that have been granted by the easement. The property owner is responsible for all taxes associated with the property, less the value of the easement granted. Easements are generally restricted to certain portions of property, although in certain cases an easement can be applied to an entire parcel of land. Easements are transferable through title transactions, thus the easement remains in effect in perpetuity. Three types of easements are:

#### **Conservation Easements**

This type of easement generally establishes permanent limits on the use and development of land to protect the parcel’s natural resources. Dedicated conservation easements can qualify for federal income tax deductions. Tax deductions are allowed by the federal government for donations of certain conservation easements. The donations may reduce the donor’s taxable income.

#### **Preservation Easements**

This type of easement is intended to protect the historical integrity of a structure or important elements of the landscape by sound management practices. Preservation easements may qualify for the same federal income tax deductions as conservation easements.

#### **Public Access Easements**

Right of public access easements provide the general public with the right to access and use a specific parcel of property. Both conservation easements and preservation easements may contain clauses for the right of public access and still be eligible for tax benefits.

### **Purchase/Lease Back**

A local government agency or non-profit land trust can purchase a piece of land and then lease it back to the seller for a specified period of time. The lease may contain restrictions regarding the use and development of the property.

### **Bargain Sale**

A property owner can sell property at a price less than the appraised fair market value of the land. Sometimes the seller can derive the same benefits as if the property were donated. Bargain sale is attractive to sellers when the seller wants cash for the property, the seller paid a low cash price and thus is not liable for high capital gains tax, and/or the seller has a fairly high current income and could benefit from a donation of the property as an income tax deduction.

### **Option/First Right of Refusal**

A local government agency or non-profit land trust can establish an agreement with a public agency or private property owner to provide the right of first refusal on a parcel of land that is scheduled to be sold. This form of agreement can be used in conjunction with other techniques, such as an easement, to protect the land in the short term. An option would provide the agency with sufficient time to obtain capital to purchase the property or successfully negotiate some other means of conserving a parcel. Often, an option involves a payment to the property owner to protect the land from sale during the time that the local government or land trust is working to complete the purchase.

### **Purchase of Development Rights**

A voluntary Purchase of Development Rights (PDR) program involves purchasing the development rights from a private property owner at a fair market value. The landowner retains all ownership rights under current use, but exchanges the rights to develop the property for cash payment. Under this agreement the community holds the development rights, but the landowner continues to own and manage the land and its resources. This permanently protects the land from development without the expense of buying the land outright.

### **Condemnation**

The practice of condemning private land for use as an element of the Region 2000 Greenways and Blueways system should be viewed as a last resort policy by local governments. Using condemnation to acquire property or property rights can be avoided if strong private and public support for the regional system is present. Condemnation should be seldom used for the purpose of dealing with an unwilling property owner.

It is recommended that the right of eminent domain be exercised by a local government only if all of the following conditions exist:

- a) the property is valued by the local government and is part of the regional greenways and blueways system and is regarded as an environmentally sensitive parcel of land, necessary for the protection

## Maintenance Policies

- of life due to flooding threats, significant natural resource, or critical parcel of land, and as such has been defined by the local government as an irreplaceable property;
- b) that written scientific justification for the local government's claim that the property possesses such value should be prepared and offered to the property owner;
  - c) that all efforts to negotiate with the property owner for the management, regulation and acquisition of the property have been exhausted and that the property owner has been given reasonable and fair offers for compensation and has rejected all offers;
  - d) that due to the ownership of the property, the time frame for negotiating the acquisition of the property will be unreasonable, and in the interest of pursuing a cost effective method for acquiring the property, the local government has deemed it necessary to exercise the right of eminent domain.

Note: Condemnation can be used quite successfully with willing sellers/donators, when the ownership records are very complex. For example, when a number of heirs have inherited shared rights to a parcel. In this situation, a friendly condemnation can be a useful tool for getting around lengthy land acquisition procedures.

### Right of Public Access and Use of Trail Lands

The general public should have access to and use of the lands that support trail development, and that are owned by local governments or private sector owners that support such use, or on land that a local government has secured the right of public access and use. All access and use should be governed by a Greenway Trail Ordinance (a sample is provided later in this chapter). The use of all trails should be limited to non-motorized uses, including hiking, bicycling, running, jogging, wheelchair use, skateboarding, in-line skating (roller blading), equestrian use (where applicable), mountain biking, and other uses that are determined to be compatible with Region 2000 trails.

### Naming of Trail Segments

Trail corridors are typically named for the significant natural features that are found within the corridor. They are often named after an individual or individuals if these persons are distinguished within a local community, or if these persons have contributed a substantial gift toward a facility's development within that corridor segment.

The regional facilities should be maintained in a manner that promotes safe use. Trail facilities should be managed by partnered, local governments, private sector partners, or their designees. Trail maintenance should include the removal of debris, trash, litter, obnoxious and unsafe man-made structures, and other foreign matter. Trailheads, points of public access, rest areas and other activity areas should be maintained in a clean and usable condition. The primary concern regarding maintenance should always be public safety.

All trail surfaces should be maintained in a safe and usable manner at all times. Rough edges, severe bumps or depressions, cracked or uneven pavement, gullies, rills and washed out treads should be repaired in a timely manner. Volunteer vegetation occurring in the tread of the trail should be removed in such a manner so that the trail surface is maintained as a continuous, even and clean surface.

## Stewarding Land

Property owned or used by local governments or private sector organizations for the Region 2000 system shall be maintained in a condition that promotes safety for trail users, as well as safe, enjoyable use for adjacent property owners. To the extent possible, the property shall also be maintained in a manner that enables the corridor to fulfill multiple functions (i.e. passive recreation, alternative transportation, stormwater management and habitat for wildlife). Property that is owned or managed by other entities should be managed and maintained in accordance with the policies of that public body responsible for the affected parcel.

Vegetation within greenway corridors should be managed to promote safe use (where applicable), serve as wildlife habitat, buffer public trail use from adjacent private property (where applicable), protect water quality, and preserve the unique aesthetic values of the natural landscape. Removal of native vegetation should be done with discretion and removal of exotic species should be accomplished in a systematic and thorough manner. At times, and in appropriate locations, local governments may choose to use control burns or approved herbicides and pesticides to manage lands and vegetation in public ownership.

## Trail Upkeep

Vegetation adjacent to trails should be managed as necessary to maintain clear and open lines of sight along the edge of the trail, and eliminate potential hazards that could occur due to natural growth, severe weather or other unacceptable conditions. To promote safe use of any trail, all vegetation should be clear-cut to a minimum distance of three (3) feet from each edge of a trail. Selective clearing of vegetation should be conducted within a zone that is defined as being between three (3) to ten (10) feet from each edge of a trail. At any point along a trail, a user should have a clear, unobstructed view along the centerline of a trail 300 feet ahead and behind his/her position. The only exception to this policy should be where terrain or curves in the natural landscape of a trail serve as the limiting factor.

Local governments or their designated agent should be responsible for the cutting and removal of vegetation. Removal of vegetation by an individual or entity other than the local government or its designee shall be deemed unlawful and subject to fines and/or prosecution.

## Management Policies

It may also be necessary for local governments to conduct wildlife management programs on lands that are publicly owned. This should be accomplished in a manner that is in keeping with accepted laws, professional practices and/or recommended strategies that are provided to local governments by wildlife management experts.

Protecting a piece of property is the first step, but once it is protected, it must be managed effectively to ensure that it continues to provide the intended natural area protection, continues to be safe for users, and does not get used for inappropriate purposes. It is worth spending some time thinking through larger stewardship issues as a community and as a land managing agency. Determining ahead of time how the land under your watch will be managed will help determine which lands should be acquired and how they should be used. The following paragraphs address some common management issues that Region 2000 will have to consider.

### Fencing and Vegetative Screening

Local government agencies should work with each landowner on an individual basis to determine if fencing and screening is appropriate or required. A local government may agree to fund the installation of a fence or vegetative screen; however, it should be the responsibility of the adjacent property owner to maintain the fence or vegetative screen in perpetuity, including the full replacement of such fence or screen in the event of failure or deterioration due to any circumstances.

### Adopt-a- Corridor Program

An Adopt-a-Corridor Program should be established by the region to encourage community groups, families, businesses, school groups, civic clubs and other organizations to join in managing the regional system. The region should offer to implement this program for all corridors in the system, and work closely with local organizations to ensure that these groups have adequate support and guidance to manage and maintain trails in a manner that is consistent with the objectives. Written agreements should be developed for each Adopt-a-Corridor entity and keep a current record of the agreement on file. Adopt-a-Corridor entities will be assigned a specific section of the system, defined by parcel, location or milepost. The activities of each organization should be monitored by a regional entity tasked with this type of oversight. Agreements for management should be adaptable to amendment or termination at any time by either party.

### Management Agreements

These should be established between local governments and other public or private organizations wishing to assist with management of designated segments of the system. The objective of these agreements is to define areas of maintenance and management that are compatible with existing

land management activities, especially where greenways intersect with public or private properties and/or rights-of-way. Management agreements spell out specific duties, responsibilities and activities of the local governments and public or private organization that wishes to assist with management activities. The agreements can be amended or terminated at any time by either party.

## Cross Access Agreements

Local governments can use cross access agreements to permit private landowners that have property on both sides of a corridor access to and use of a corridor to facilitate operation and land use activities.

These agreements are based on United States case law and specific experiences from other trail systems throughout the United States. Adjacent landowners generally have the right to use the access at any time. However, access cannot block the right-of-way for trail users, other than for temporary measures such as permitting livestock to cross, or transporting equipment. Adjacent landowners are responsible for acts or omissions that would cause injury to a third party using the trail. If a landowner must move products, materials, livestock or equipment across the trail on a regular basis, appropriate signage should be installed to warn users of the trail to yield for such activities.

Crossing of abandoned or active rail lines, utility corridors and/or roads and highways will require the execution of agreements with companies, local, state or federal agencies and organizations that own the rights-of way. These crossings must provide clearly controlled, recognized, and defined intersections in which the user will be warned of the location. In accordance with the American Association of State Highway Transportation Officials (AASHTO) and the Manual on Uniform Traffic Control Devices (MUTCD), the crossing will be signed with appropriate regulatory, warning and information signs.

## Safety and Security

In order to provide a standard of care that offers reasonable and ordinary safety measures, local governments should work with other regional partners to cooperatively develop and implement a safety and security program for the system. This program should consist of well-defined safety and security policies; identification of trail management, law enforcement, emergency and fire protection agencies; proper posting, notification and education of the trail user policies; and a system that offers timely response to the public for problems that are related to safety and security. The safety and security of the Greenways and Blueways system will need to be coordinated with local law enforcement officials, local neighborhood watch associations, and Adopt-a-Corridor groups.

As part of the safety and security program, Region 2000 Greenways and Blueways partners should:

- 1) Work with law enforcement agencies to establish a Region 2000 Safety and Security Committee that can meet periodically to discuss safety strategies and procedures for segments of the regional system.
- 2) Prepare a Region 2000 Blueways and Greenways Safety Manual and distribute this to management agencies and post it at all major trailheads.
- 3) Post user rules and regulations at all public access points to greenway trails.
- 4) Work with management agencies to develop trail emergency procedures.
- 5) Prepare a safety checklist for the system, and utilize it during field inspections of facilities.
- 6) Prepare a user response form for comments and complaints and provide copies at all trailheads.
- 7) Work with management agencies to develop a system for accident reporting and analysis.
- 8) Conduct a regular maintenance and inspection program, and share the results of these investigations with all management agencies.

## User Rules and Regulations

Trails within all regional corridors should be operated like other parks and greenways within local government jurisdictions, open for public use from sunrise to sunset, 365 days a year, except as specifically designated. Individuals who are found to be using unlighted facilities after dusk and before dawn should be deemed in violation of these hours of operation and treated as trespassers. Where trails are lighted for nighttime use, the rules established within the trail ordinance should govern permitted uses and activities.

Local governments should enforce trespassing laws as defined under the state general statutes for publicly owned lands and facilities.

Local governments should always discourage the general public from using any segment of a greenway trail that is under construction. Trail segments should not be considered officially opened for public use until such time as a formal dedication ceremony and official opening occurs. Individuals who use greenway segments that are under construction without written permission from a local government should be deemed in violation of the system's access and use policy and treated as a trespasser.

## Trail Ordinance

Multi-use conflict is a national problem for community and regional greenways systems. Typically, conflicts are caused by overuse of a trail; however, other factors may be problematic, including poorly designed/ engineered trail alignments, inappropriate user behavior, or inadequate facility capacity. The most effective conflict-resolution plan is a well conceived safety program that provides the individual user with a code of conduct for the community trail, oftentimes called a trail ordinance. Many communities across the United States have adopted progressive trail ordinances to govern public use and keep trails safe for all users. The following rules and regulations are recommended for the Regional Greenways and Blueways system. These rules should be displayed both on brochures and information signs throughout the system.

- 1) Be courteous: All trail users, including bicyclists, joggers, walkers, wheelchairs, skateboarders and skaters, should be respectful of other trail users regardless of their mode of travel, speed, or level of skill. Never spook animals; this can be dangerous for you and other users. Respect the privacy of adjacent landowners. No trespassing allowed from trails, remain on trails at all times.
- 2) Keep right: Always stay to the right as you use the trail, or stay in the lane that has been designated for your user group. The exception to this rule occurs when you need to pass another user.
- 3) Pass on the left: Pass others going in your direction on their left. Look ahead and behind to make sure that your lane is clear before you pull out and around the other user. Pass with ample separation. Do not move back to the right until you have safely gained distance and speed. Faster traffic should always yield to slower on-coming traffic.
- 4) Give audible signal when passing: All users should give a clear warning signal before passing. This signal may be produced by voice, bell or soft horn. Voice signals might include "Passing on your left!" or "Cyclist on your left!" Always be courteous when providing the audible signal. Profanity is unwarranted and unappreciated.
- 5) Be predictable: Travel in a consistent and predictable manner. Always look behind before changing position on the trail, regardless of your mode of travel.
- 6) Control your bicycle: Lack of attention, even for a second, can cause disaster - always stay alert! Maintain a safe and legal speed at all times.
- 7) Do not block the trail: When in a group, including your pets, use no more than half the trail, so as not to block the flow of other users. If your group is approached by users from both directions, form a single line or stop and move to the far right edge of the trail to allow safe passage by these users.
- 8) Yield when entering or crossing trails: When entering or crossing the trail at an uncontrolled intersection, yield to traffic already using the other trail.

- 9) Do not use this trail under the influence of alcohol or drugs: It is illegal to use trails if you have consumed alcohol in excess of the statutory limits, or if you have consumed illegal drugs. Persons who use a prescribed medication should check with their doctor or pharmacist to ensure that it will not impair their ability to safely operate a bicycle or other wheeled vehicle.
- 10) Clean-up your litter: Please keep trails clean and neat for other users to enjoy. Do not leave glass, paper, cans or any other debris on or near the trail. Clean-up after your pets. Pack out what you bring in - and remember to recycle your trash.
- 11) Keep pets on leashes: All pets must be kept on secure and tethered leashes. Keep pets off of adjacent private property.
- 12) Prohibition on campfires: Fires for any purpose are prohibited within the Region 2000 system unless at a park shelter with grill facilities.

### Emergency Response Plan

In order to effectively patrol the system and respond to the potential for fire, flash floods and other natural or human-caused disasters, local governments should adopt an emergency response plan. This plan should define a cooperative law enforcement strategy for all Region 2000 greenways and blueways, based on services that are typically provided by police, sheriff, fire and EMS agencies. Specifically, all trails should be provided with an address system that denotes specific locations along the length of a trail corridor. A site plan that illustrates points of access to each trail corridor should be produced and provided to each emergency response agency. Trails in flash flood areas shall be appropriately signed to warn users. Each trail should be designed to permit access for law enforcement, fire and EMS agencies and vehicles that are not in excess of 6.5 tons gross vehicle weight. A system of cellular-type emergency phones should be located in remote sections of the system, providing users with access to the area 911 Emergency System. All emergency phones should be placed above the 100-year flood elevation to ensure long-term usage.

The emergency response plan should also define the agencies that will respond to 911 calls, and provide easy to understand routing plans and access points for emergency vehicles. For long distance trails, access points for emergency and maintenance vehicles should be located at reasonable distances from trailheads (approximately every 2-3 miles). Trails along the entire system should be designed and developed to support a minimum gross vehicle weight of 6.5 tons.

### Risk Management Plan

The purpose of a risk management plan is to increase safety for the users of the system and reduce the potential for accidents to occur within the system or on lands adjacent to the system. While it is impossible to guarantee that all risk will be eliminated by such a plan, implementation of a plan is in fact a critical step to reduce liability and improve safety. A risk management plan establishes a methodology for greenway management

that is based on current tort liability and case law in the United States related to the development, operation and management of public use greenway lands and facilities.

The ultimate responsibility for managing the regional system, as defined within this plan, rests with local governments. The risk management plan has as its major goals:

- 1) Risk identification: determining where risk (threat to safety or potential loss) exists within the corridor.
- 2) Risk evaluation: conducting appropriate examination of areas defined as a risk and determining the factors that contribute to risk.
- 3) Risk treatment: defining and implementing an appropriate solution to the area of risk in accordance with one of the four options:
  - a) Risk avoidance: prohibiting use of a risk area.
  - b) Risk reduction: limit use of area and repair risk area immediately.
  - c) Risk retention: obtain waivers from all potential users of the risk area.
  - d) Risk transfer: transfer risk area (property) to an agency better suited to manage the area.

The following 16-step plan should be implemented by the local governments to establish a risk management plan for the system.

- 1) Develop a policy statement about risk management.
- 2) Conduct a needs assessment for the greenway program.
- 3) Determine goals and objectives for risk management - what are acceptable and non-acceptable management levels.
- 4) Develop specifications for site and facility development.
- 5) Establish a clear and concise program for risk management.
- 6) Define supervision and responsibility for risk management.
- 7) Define appropriate rules and regulations that govern the use of the trail system.
- 8) Conduct routine/systematic inspections and investigations of the trail system.
- 9) Develop an accident reporting and analysis system.
- 10) Establish procedures for handling emergencies.
- 11) Develop appropriate releases, waivers and agreements for use and management.
- 12) Identify best methods for insuring against risk.
- 13) Develop a comprehensive in-service risk-management training program for employees of local governments.
- 14) Implement a public relations program that can effectively describe the risk management program and activities.
- 15) Conduct periodic reviews of the Risk Management Plan by outside agents to ensure that the plan is up to date.
- 16) Maintain good legal and insurance representation.

## Liability

The design, development, management, and operation of the Region 2000 system must be carefully and accurately executed in order to provide a resource that protects the health and welfare of the public. Liability may occur when a facility has been under-designed to handle its intended volume of use; when management of the facility is poor; or when unexpected accidents occur because the trail manager failed to recognize a potentially hazardous situation. To reduce the possibility and exposure to liability, the local government partners should have in operation the following measures prior to opening the first segment of greenway:

- 1) A thorough maintenance program that provides the appropriate level of care to greenway users;
- 2) A risk management plan that covers all aspects of the system and, as necessary, adjacent landowners;
- 3) A comprehensive working knowledge of public-use laws and recent case history applicable in Virginia.

Trails are no greater liability to local governments than park and recreation, sidewalk or urban open space resources. An existing self-insurance program(s) may be adequate to protect a local government from financial loss that might occur through the development and operation of the greenways and blueways system. Local governments should review their current policies and check coverages to be certain that all aspects of their policies are up-to-date.

Local governments should exercise reasonable care in the design and construction of all greenway facilities to reduce hazardous, public nuisance and life-threatening situations. Recreational use statutes in Virginia serve to reduce the exposure that adjacent landowners might expect to realize from the proximity of trails to private property. In fact, it is very difficult to find any case law in the United States where an adjacent property owner has been sued because a trail user strayed onto the adjacent private property and fell victim to an accident that was caused by the adjacent landowner. Some landowners have claimed that their insurance rates will go up because of the presence of a trail abutting their property. Once again, there is no case history among insurance companies to support this claim. Of course, landowners must not go out of their way to create attractive nuisances that might lure trail users onto their property. Additionally, greenways built along easements are the responsibility of the managing agency, not the property owner, and the liability associated with the trail is with the former.

It is important that no fees be charged to use any portion of the Greenways and Blueways system. Charging fees may impact the way in which the recreational use statutes in Virginia apply to the use of the system. A voluntary donation to the Region 2000 system should generally not affect the recreational use statute.

## Management and Development of Blueways

The water trails, or blueways, that make up part of the Region 2000 system also need appropriate stewardship and management if they are to be desirable destinations. The following list of guiding principles are from the North American Water Trail Association (NAWTA) and provide good guidelines for developing a Region 2000 Blueways management strategy. More information about the NAWTA is available at [www.watertrails.org](http://www.watertrails.org)

### 1) Partnerships - Cooperating and Sharing

A water trail is the product of partnerships among many governmental and non-governmental entities. Together, these groups can create and maintain a successful water trail with broad-based and long-term support.

### 2) Stewardship - (Leave no Trace)

Water trails promote minimum-impact practices that ensure a sustainable future for the waterways and adjacent lands. Water trails embrace the Leave No Trace Code of Outdoor Ethics that promotes the responsible use and enjoyment of the outdoors.

### 3) Volunteerism - Experiencing the Joy of Involvement

Community involvement and volunteerism are the keys to developing a sense of trail stewardship, promoting the trail within the community, encouraging respect for the trail's natural and cultural heritage and ensuring that local governments support the trail's existence.

### 4) Education - Learning by Experience

Through comprehensive trail guides, signage, public outreach, and informative classes, water trail organizations encourage awareness of the natural, cultural, and historical attributes of the trail. Serving as outdoor classrooms, water trails teach through seeing, listening, and touching.

### 5) Conservation - Protecting our Natural Heritage

Water trail activities support the conservation of the aquatic ecosystem and contiguous lands. The water trail community is a watchdog in prevention of environmentally harmful acts, striving to sustain the natural integrity of the trail and preserve the quality of the trail experience.

### 6) Community Vitality - Connecting People and Places

A water trail is a network of recreational and educational opportunities. Hiking trails, bikeways, greenways, museums, historic sites, parks and preserves are connected by water trails creating frontiers for exploration, discovery and enrichment.

### 7) Diversity - Providing Opportunities for All

Water trails are non-exclusive. They benefit the able-bodied and the disabled, the young and the old, the disadvantaged and the advantaged. Broad-based participation in trail activities is achieved through affirmative outreach and recruitment.

### 8) Wellness and Wellbeing - Caring for Self and Others

Fresh air and exercise bring fitness and health to trail users. While actively promoting these benefits, water trail users need reliable and accurate safety information and training to responsibly enjoy and appreciate water trails. Safe use requires a commitment to safe design and sound management.