
8.15 REGULATION OF PRIVATE USE OF GREENWAYS, PARK LANDS, AND THE SOUTHWEST PATH.

(1) Greenways and Park Lands.

- (a) Public Nuisance. Private use of City-owned or leased greenways and park lands including, but not limited to, fences, retaining walls, outbuilding sites, dog runs, play equipment and gardens, storage of piers, boat hoists, or other private personal property, planting or pruning of trees and shrubs, mowing of grass on park lands, chemical treatment of grass on park lands or greenways, or mowing of grass on greenways when posted for no mowing is a public nuisance and is prohibited unless approval to use City-owned or leased greenways is obtained pursuant to Subdivision (b) or the private use is pursuant to a valid permit issued under Sec. 8.10 or Sec. 8.33, MGO. (Am. by Ord. 12,992, 1-25-02; Ord. 13,177, 11-5-02; ORD-10-00109, 11-17-10; ORD-13-00109, 6-12-13; Am. by ORD-18-00121 , 12-3-18)
- (b) The City Engineer may approve planting native grasses and/or forbs or removal of invasive species in a City-owned or leased greenway, provided that:
1. the applicant is the owner of land abutting the greenway where the use is proposed;
 2. the City's ability to maintain the greenway is not adversely impacted by the proposed use;
 3. the applicant pays to the City Treasurer a fee of one hundred twenty-five dollars (\$125);
 4. the applicant agrees to indemnify, defend, and hold harmless the City and its officers, employees and agents against all loss or expense by reason of any claim or suit, or of liability imposed by law upon the City or its officials, agents, or employees for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising from, in connection with, caused by or resulting from activities related to an approved use of a greenway, whether caused or contributed to by the negligent acts of the City, its officials, employees, or agents.

The approval may contain conditions, including but not limited to, the duration of the approval and the geographic limits for the proposed use. The applicant shall notify all property owners within one hundred (100) feet of the greenway where the proposed use is located at least three (3) days prior to the date the proposed use begins. (Cr. by ORD-06-00175, 12-8-06)

(2) Southwest Path. The Southwest Path, running 4.22 miles northeasterly from approximately 370 feet south of Lovell Lane to Randall Avenue, is State of Wisconsin owned rail bed and is the subject of an interim trail use agreement between the City and the State of Wisconsin. Under this agreement, the City has assumed responsibility for preserving public order upon the path corridor and for resolving matters concerning trespass upon and from the path property to adjacent private property. Under the interim trail use agreement and this subsection, certain encroachments may be authorized with State of Wisconsin Department of Transportation approval or notification, including by permits and specified documentation. It is the responsibility of the property owner to obtain the necessary permission from the State of Wisconsin for any such encroachment.

- (a) Public Nuisance. Except as set forth in (b), private use of the Southwest Path right-of-way, including, but not limited to, fences, retaining walls, sheds or other outbuildings, gardens and/or other landscaping, stairs, hardscape features, play structures and equipment, parking of vehicles or storage of personal property, is a public nuisance and is prohibited.
- (b) Exceptions. Provided that they comply with any other applicable City ordinance requirements, the following encroachments may be authorized within the Southwest Path corridor:

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1. Landscaping. Ornamental plantings, such as grasses, flowers, shrubs, and trees are allowed, except within 15 feet of the path surface or within 16 feet above the path surface. In addition, any tree that will be over 20 feet tall requires the approval of the City Forester. Mulch may be used as a landscaping feature.
 2. Gardens. Vegetable gardens, including any associated protective fencing or cages, are authorized with State documentation and notification.
 3. Fences. Permanent fencing is only allowed with a State issued permit. Temporary fencing not exceeding 30 inches tall that is used to delineate a garden and that does not run the full length of a property line is authorized without special approval, provided it is removed annually. Temporary construction fencing is allowed if it is needed to protect or secure a construction site.
 4. Stairs. Stairs are only allowed with a State issued permit.
 5. Retaining Walls. Retaining walls are permissible without special approval by the State if the wall is 24 inches or less and is not poured concrete or mortared stone/masonry. A wall higher than 24 inches may require State documentation and notification or a State permit depending on the circumstances. A retaining wall that includes poured concrete or mortared stone/masonry is only allowed with a State issued permit.
 6. Outbuildings. Outbuildings, including buildings or structures of any type, such as sheds, chicken coops, and garages, whether they include a foundation or not, are only allowed with a State issued permit. No such outbuilding shall be used for human habitation.
 7. Foot Paths. Unpaved foot paths connecting the adjoining property to the path are allowed without special State approval. Small stepping stones, installed at grade, may be used for this purpose.
 8. Hardscape. The use of wood, stone, concrete, masonry or other hard landscaped materials to construct patios, decks, fire pits, and paths are only allowed with a State issued permit.
 9. Parking Areas. Parking areas are only allowed with a State issued permit.
- (c) Notwithstanding the exceptions in (b) above, any private encroachment that interferes with the operation, maintenance or future construction of the path or appurtenances, or that presents a safety hazard to path users, as determined by the City Engineer or the Director of Building Inspection Division, is a public nuisance and is prohibited.

(Am. by ORD-21-00070 , 11-17-2021)

- (3) Bicycle-Sharing Facilities. It shall not be a violation of this ordinance for bicycle-sharing facilities that are part of a City-sponsored bicycle-sharing program, as those terms are defined in Sec. 10.33, MGO, to be placed on City-owned or leased greenways and park lands or the Southwest Bike Path, provided that the owner of the facility has a valid bicycle-sharing facility privilege under Sec. 10.33 for the location and the Board of Parks Commissioners and/or the City Engineer, or their designees, as the case may be, approve the actual location of the bicycle-sharing facilities that will be located on City-owned or leased greenways and park lands or the Southwest Bike Path. (Cr. by ORD-11-00044, 3-23-11)
- (4) Abatement. If the City determines that a public nuisance exists pursuant to (1) or (2), notice to remove such public nuisance or cease such public nuisance activity shall be sent to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. If the public nuisance is not removed within the time specified in the notice, the City shall remove the public nuisance or cause it to be removed. The cost of abatement shall be assessed as a special charge to the owner, occupant, or person causing, maintaining, or permitting the public nuisance. Any property held by the City after

removal is subject to disposal thirty (30) days after a notice of removal is mailed to the owner, occupant or person causing, maintaining, or permitting the public nuisance. (Renumbered by ORD-06-00175, 12-8-06; ORD-10-00109, 11-17-10; Renum. by ORD-11-00044, 3-23-11)

- (5) Appeal. Any person aggrieved by a determination that a public nuisance exists may appeal within fifteen (15) days of the mailing of the notice to remove the public nuisance or cease such public nuisance activity. Appeal shall be to the Board specified on the notice and will be either the Board of Public Works or the Board of Park Commissioners, depending on which Board has the control and management of the public property at issue. All requests for appeal shall be filed with the City Clerk and must inform the Board of the reasons for the appeal. Within thirty (30) days, the Board shall hold a hearing at which the parties may offer testimony and documents. Within twenty (20) days of the hearing, the Board shall affirm, modify, or reverse the determination that a public nuisance exists. Appeal from the action of the Board shall be to Circuit Court within thirty (30) days of the determination of the Board. (Renumbered by ORD-06-00175, 12-8-06; ORD-10-00109, 11-17-10; Renum. by ORD-11-00044, 3-23-11)
- (6) Penalty. Any person violating this ordinance shall, upon conviction thereof, be subject to a forfeiture of not less than ten dollars (\$10) nor more than five hundred dollars (\$500). Each day such violation continues shall be considered a separate offense. In addition to any other penalty imposed by this ordinance, the City Attorney may maintain an action pursuant to Wis. Stat. ch. 823, to abate the nuisance. (Cr. by Ord. 5672, 11-17-76; Am. by Ord. 12,836, 6-26-01; Renumbered by ORD-06-00175, 12-8-06; Renum. by ORD-11-00044, 3-23-11)

(Section 8.15 Am. by ORD-08-00019, 2-23-08)