Regulation of Shared Use Trails in Pacific

# Background:

While the Interurban Trail has existed in Pacific for decades, the existing trail was built as a King County facility, governed by King County Code 7.12.295 Trail use.

In recent years, Pacific has added shared-use trail segments along Stewart Road and Valentine Ave S, and the City is about to open a new extension of the Interurban Trail connecting King County’s Interurban Trail to the City’s Stewart Road Trail. But to date, Pacific does not have a code equivalent to KCC 7.12.295. Pacific Municipal Code Chapter 12.08 addresses facilities “developed and used for public recreational purposes,” including “bicycle and bridle paths, motor vehicle drives.” But the Interurban is not a bicycle path, a bridle path, or a motor vehicle drive.

In addition, the Interurban is not a recreational-only facility. City planning documents, grant applications, and policy documents all recognize it as a nonmotorized transportation facility as well as a recreational one. King County’s past user surveys on the existing Interurban show transportation users often outnumber recreational ones. The Washington State Supreme Court has recognized the Interurban Trail as a highway open to public travel (Pudmaroff v. Allen). Mercer Island has paid millions for treating its segment of the I-90 Trail as recreational rather than a transportation facility (Camicia v. City of Mercer Island).

I believe the City of Pacific should adopt ordinance officially recognizing shared use trails as both recreational and transportation facilities, regulating their use, and establishing a duty of care for all trail users. I would propose adding these regulations to PMC Chapter 12.08, Park Rules, since most people think of trails as part of the parks system, even when using them for transportation.

Below is proposed language for an ordinance, drawing heavily on KCC 7.12.295, Seattle trail regulations, and more recent revisions to the RCW around electric-assist bicycles and other motorized users. But, while I’m quite familiar with bicycle laws, I should note I am not a lawyer, nor do I play one on TV.

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| Proposed Language | Discussion |
| Whereas the City of Pacific maintains shared use trails for both transportation and recreational use, and whereas public safety requires reasonable regulation of the use of these trails as authorized by RCW 35.75.010, now, therefore, the City Council adopts the following additions to PMC Chapter 12.08, Park Rules. | Sets out the situation:   * Pacific owns shared-use trails * Public safety requires traffic regulation on them * State law allows Pacific to regulate them |
| **12.08.015 Shared Use Trail – Definition**  “Shared Use Trail” means a paved path, track or right-of-way built for travel and recreation by pedestrians, bicycles, and other modes of transportation other than motor vehicles, other than a sidewalk or walkway constructed for the exclusive use of pedestrians. | Need to define what trails/paths are covered as transportation facilities – not footpaths within parks or soft-surface trails, not pedestrian-only paths around buildings, only paved paths that are intended for travel by pedestrians, bicycles, etc.  Shared use paths are not clearly covered as “parks” by current PMC language – they are neither bicycle paths nor bridle trails. |
| **12.08.090 Shared Use Trail – Motor Vehicles Prohibited**  No person shall operate a motor vehicle upon a shared use trail except as authorized for emergency services or maintenance. | Need to clearly prohibit motor vehicles – current language of PMC refers to “motorized vehicles,” which includes certain vehicles that currently are allowed on shared use paths. (Class 1 and Class 2 electric assist bicycles and EPAMDs/“Segways” are “motorized” but not “motor vehicles.”) |
| **12.08.100 Shared Use Trail – Use by Motorized Devices**  Shared-use trails shall be open to the following motorized devices, as defined in Chapter 46.04 RCW:   1. Electric personal assistive mobility devices 2. Class 1 and Class 2 electric-assist bicycles 3. Class 3 electric-assist bicycles provided that the bicycle’s electric assist is unavailable at speeds of 20 mph or more while on the shared use trail | Class 1 and Class 2 electric-assist bicycles have power assist limited to 20 mph under state law. (RCW 46.04.169). They are allowed on shared-use paths under state law, but may be restricted by local jurisdictions.  Where local jurisdictions adopt new restrictions, they must be continuous among jurisdictions for the length of any trail – e.g., to add restrictions to e-bikes on the Interurban Trail, we would need to have all jurisdictions along the Interurban adopt the same restrictions. Currently, there is no restriction posted on the existing Interurban Trail, so only allowing Class 1 and Class 2 e-bikes is consistent.  Class 3 e-bikes may have a maximum power assist speed of 28 mph. They are prohibited on shared use paths by default under state law, but local jurisdictions may allow them. For consistency with Class 1 and Class 2 e-bike regulation, I would propose allowing them, but only when their electric assist is limited to the same 20 mph as Class 1 and Class 2 bikes. (Not all Class 3 e-bikes offer this setting, it’s not required by the RCW, but for enforcement purposes, speed over 20 mph can also be addressed as a speeding violation.) |
| **12.08.110 Shared Use Trail – Traffic Control Devices**   1. The Director shall place and maintain traffic-control devices upon shared use trails as necessary to regulate traffic under ordinances of the city or under state law, or to guide or warn traffic. Such traffic controls shall comply with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) as adopted by the Washington State Department of Transportation. 2. Where traffic control devices have been placed and maintained in accordance with these requirements, no trail user shall disobey the directions of such devices. 3. No person shall erect or display any unauthorized sign or device purporting to control traffic or other use of a shared use trail. | Need to:  1. Grant authority to place traffic controls,  2. Set standards for traffic controls,  3. Require obedience to traffic controls by trail users,  4. Prohibit fake traffic controls  MUTCD is the state-adopted standard for traffic control devices. (RCW 47.36.030) Title 23 of the Code of Federal Regulations, Part 655.603, sets MUTCD as the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel.  Local jurisdictions with noncompliant trail controls have paid millions for injuries, e.g. Mercer Island paid over $7 million in damages and legal costs for an improper bollard on the I-90 Trail. King County also has had issues with its Parks staff installing unauthorized controls that led to injuries, e.g., *Schwartz v. King County*, where an illegally-installed bollard left a cyclist quadriplegic. The county’s failure to follow MUTCD standards for marking trail hazards such as bollards was a major factor in this lawsuit.  King County has had repeated issues elsewhere with trail neighbors installing unauthorized stop signs and bogus speed limits, so I would include a prohibition on unauthorized traffic controls. |
| **12.08.120 Shared Use Trail – Speed Limits**   1. No person shall travel on a shared use trail at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so controlled as may be necessary to avoid colliding any person who is complying with the law and using reasonable care. Travel at speeds in excess of 20 miles per hour shall constitute in evidence a prima facie presumption that the person violated this section. 2. Every user shall, consistent with the requirements of subsection (1) of this section, move at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding trail, and when special hazard exists by reason of weather or trail conditions. 3. When the Director determines on the basis of an engineering and traffic investigation that a speed of 20 mph is greater than is reasonable and safe on any section of shared use trail, the Director may determine and declare a reasonable and safe maximum limit thereon, and when appropriate signs giving notice thereof are erected, no user shall exceed the speed posted. | A and B are based on the “Basic Rule” for speeds under state law (RCW 46.61.400) and are the basis of King County’s current speed regulation for regional trails. Bicycles are not required to have speedometers, so “reasonable and prudent” may have more teeth than a specific speed. If a trail is crowded with pedestrians, so that even 5 mph is unsafe, then 5 mph is also illegal under those conditions under B.  The default 20 mph reasonable and prudent speed is consistent with the City’s adopted engineering standards for trails, representing non-athletic adults on upright bicycles. (Racers can go much faster, but shouldn’t do so on trails – fast bikes belong on the road.)  20 mph is also the maximum power-assist speed of Class 1 and Class 2 electric-assist bicycles, allowed by state law on shared use trails.  Bicycles are not generally required to have speedometers, **with the exception of Class 3 electric-assist bicycles**, which must always have speedometers. Because it is easy to travel at unsafe speeds on Class 3 e-bikes, a stated 20 mph speed limit could be a reasonable reinforcement of the requirement to limit Class 3 bikes to 20 mph.  Some trail segments may require lower speeds, such as narrower, older trails, corners with poor visibility, or areas with lots of pedestrian traffic. Lower speeds can be posted using standard speed limit signs if engineering supports them. |
| **12.08.130 Shared Use Trails – User Conduct**   1. USING A TRAIL. Every person using a trail shall stay as near to the right-hand side of the trail as is safe, excepting those movements necessary to prepare to make or make turning movements, or while overtaking and passing another user moving in the same direction. 2. REGARD FOR OTHER TRAIL USERS. Every user shall exercise due care and caution to avoid colliding with any other trail user. All users shall travel in a consistent and predictable manner. 3. OBSTRUCTING TRAIL PROHIBITED. No person shall sit or lie upon a shared use trail, or place any object or substance upon the trail, so as to impede the normal and reasonable movement of trail users. 4. GROUPS ON TRAIL. No group of trail users, including their animal(s), shall occupy more than one half of the trail as measured from the right side, so as to impede the normal and reasonable movement of trail users. 5. AUDIBLE SIGNAL WHEN PASSING. Every user shall give an audible warning signal before passing another trail user. The signal must be produced in such a manner as to allow adequate time for response. The signal may be given by voice, bell, or horn. 6. OVERTAKING TRAIL USERS ON THE LEFT. Any trail user overtaking another trail user proceeding in the same direction shall pass to the left of such overtaken user at a safe distance to clearly avoid coming into contact, and shall stay to the left until safely clear of the overtaken user. 7. ENTERING AND CROSSING TRAIL. Trail users entering or crossing the trail at uncontrolled points shall yield to traffic on the trail. 8. LIGHTS ON TRAIL USERS.    1. All vehicles and devices using the trail from one‑half hour before sunset to one‑half hour before sunrise shall bear a white headlight visible at least 500 feet to the front, and a red rear reflector or light visible at least 500 feet to the rear.    2. To avoid excessive glare for oncoming users, headlights shall be aimed so that none of the high intensity portion of the light shall at a distance of twenty-five feet ahead project higher than the center of the lamp from which it comes.    3. No trail user shall display any light prohibited by RCW 46.37.280 - Special restrictions on lamps. 9. REGARD FOR EQUESTRIAN USERS ON TRAIL. Trail users shall exercise extreme caution to prevent frightening horses with sudden noise or movement and shall always yield right of way to horses and warn equestrian users when approaching from behind and attempting to pass. 10. REGARD FOR ADJACENT PROPERTY OWNERS. Trail users should respect private lands adjacent to county trails and shall stay on trails to avoid trespassing on or interfering with adjacent private property. Trail users shall avoid unreasonable noise during hours of darkness. | These are basic “rules of the road” for trails, mostly taken from existing King County trail use code.  A few tweaks from the County’s code:  “C. OBSTRUCTING TRAIL PROHIBITED” is not in County code. This addresses both blocking the trail with objects and sitting or lying on the trail so as to obstruct use. Overly broad laws against loitering that essentially criminalize homelessness cannot survive court challenges, but narrowly tailored “sit/lie” laws can be used to keep public rights of way open.  “H. LIGHTS ON TRAIL USERS” modifies King County’s rules to:   1. be consistent with state laws on bicycle lighting 2. extend lighting requirements to vehicles other than bicycles (EPAMDs, foot scooters, etc.) 3. regulate headlight glare 4. prohibit lights that are illegal under state law (red lights in front, flashing headlights, etc.)   “J. REGARD FOR ADJACENT PROPERTY OWNERS” adds a prohibition on “unreasonable noise” during hours of darkness. King County does not currently have this rule, but is evaluating adding it to their Trail Use code. |
| **12.08.140 Shared Use Trail – Hours of Operation**   1. Shared use trails shall be open to public travel 24 hours per day. 2. No person shall loiter upon a shared use trail, or sit or lie upon or within ten feet of a shared use trail, from one‑half hour before sunset to one‑half hour before sunrise. 3. Use of recreational amenities located along or adjacent to shared use trails shall be subject to hours posted in accordance with PMC 12.08.030. | Shared use trails are both transportation and recreation infrastructure. 24 hour travel is consistent with the City’s comprehensive plan, which considers trails to be transportation infrastructure. The proposed language in A maintains 24 hour access for public travel, while allowing restricted hours for other uses.  B restricts non-travel use of the trail itself during hours of darkness, while C allows posted hours for other amenities.  B is intended to comply with rulings around homelessness and loitering, but realistically, trails will remain a popular place for homeless camping. The trail right of way is much wider than the paved trail itself, so B targets people near the trail close enough to be a hazard to other users. |

# References:

King County Code – Trail Use is KCC 7.12.295:  
<https://www.kingcounty.gov/council/legislation/kc_code/10_Title_7.aspx>

Seattle DOT – Bicycle Rules  
<https://www.seattle.gov/transportation/projects-and-programs/programs/bike-program/rules-of-the-road>

Electric-Assist Bicycle definitions:  
<http://app.leg.wa.gov/RCW/default.aspx?cite=46.04.169>

Electric-Assist Bicycles, EPAMDs, scooters, etc. – State rules on operation and local regulation:  
<https://app.leg.wa.gov/RCW/default.aspx?cite=46.61.710>

Summary of Washington Bicycle Laws:  
<http://wabikes.org/growing-bicycling/washington-bike-laws/bicycle-laws-safety-revised-code-of-washington-state-bicycle-related/>