

**58-3212. Duties of responsible party.** (a) The responsible party, at all times after transfer of the deed to the responsible party, shall:

- (1) Perform the duties imposed by K.S.A. 2-1314 and amendments thereto along the recreational trail;
- (2) provide for the safety, use and accessibility of existing easements, utility facilities and access licenses along the recreational trail;
- (3) provide for trail-user education and signs regarding trespassing laws and safety along the recreational trail;
- (4) provide for litter control and the enforcement of laws prohibiting littering along the recreational trail, including but not limited to trail-user education and signs about laws prohibiting littering and the provision of trash receptacles and the cleanup of trash and litter;
- (5) develop and maintain the recreational trail in a condition that does not create a fire hazard;
- (6) designate the recreational trail for nonmotorized vehicle use with exceptions only for motorized wheelchairs and maintenance, law enforcement and emergency vehicles;
- (7) prohibit hunting or trapping on or from the recreational trail;
- (8) provide for law enforcement along the recreational trail;
- (9) grant easements to adjacent property owners to permit such owners to cross the recreational trail in a reasonable manner consistent with the use of the adjacent property and with K.S.A. 66-301 through 66-303, and amendments thereto;
- (10) (A) maintain any existing fencing between the trail and adjacent property; (B) maintain any future fencing installed between the trail and adjacent property; (C) install between the trail and adjacent property fencing corresponding in class to that maintained on the remaining sides of such adjacent property; and (D) on request of an adjacent property owner, pay one-half the cost of installing fencing between the trail and such property owner's adjacent property with a fence of the class requested by such property owner, if not all remaining sides of such property are fenced; and
- (11) (A) maintain the trail; (B) maintain all bridges, culverts, roadway intersections and crossings on the trail, essential to the reasonable and prudent operation of the trail or needed for drainage, flood control or the use of easements for crossing the trail between adjacent properties, or cause maintenance thereof by other parties that have assumed contractual responsibility therefor; and (C) install and maintain any warranted traffic signs on the trail.

(b) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located a bond or proof of an escrow account in a Kansas financial institution, as defined by K.S.A. 16-117 and amendments thereto, payable to the county. The bond or proof of an escrow account shall be filed at the time of transfer of the deed to the responsible party and annually thereafter. The bond or escrow account shall be conditioned on the responsible party's performance, and shall be in an amount agreed upon between the responsible party and the county commission as sufficient to fully cover the annual costs, of:

- (1) Weed control along the trail, as required by subsection (a)(1);
- (2) litter control along the trail, as required by subsection (a)(4);
- (3) maintenance of the trail in a condition that does not create a fire hazard, as required by subsection (a)(5);
- (4) installation and maintenance of fencing between the trail and adjacent property within the county, as required by subsection (a)(10); and
- (5) installation and maintenance of signs along the trail, as required by subsections (a)(3), (a)(4) and (a)(11)(C).

If separate bonds are submitted to or escrow accounts established for the various counties through which the trail transverses, the annual costs listed above shall be only for that portion of the trail located within the particular county that is the holder of the bond or beneficiary of the escrow. A responsible party may submit a single bond or escrow account with multiple counties respectively as coobligees or cobeneficiaries, but in that event the annual costs used in computation of the bond amount shall be for the entire trail length.

(c) If the responsible party is not a governmental entity, the responsible party shall file with the county clerk of each county where a portion of the recreational trail is or will be located, proof of liability insurance in an amount agreed upon between the responsible party and the county commission as sufficient. Such proof shall be filed at the time of transfer of the deed to the responsible party and annually thereafter.

(d) The provisions of this section shall apply to all recreational trails, regardless of when approval to enter into negotiations for interim trail use is or was received from the appropriate federal agency.

(e) The provisions of this section may be modified or supplemented by any city governing body for recreational trails within the corporate limits of such city in the manner provided by K.S.A. 12-137 *et seq.* and amendments thereto. If a city governing body adopts requirements in addition to those provided by this section, the city shall pay all costs of compliance with such additional requirements.

**History:** L. 1996, ch. 223, § 2; July 1.