

**dirswprd@whidbey.com**

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**From:** dirswprd@whidbey.com  
**Sent:** Tuesday, October 8, 2019 1:26 PM  
**To:** 'Flannary Collins'  
**Subject:** RE: Unauthorized trail on district property

Flannary,

Thank you, I appreciate the help.

Regards,

Doug Coutts, CPRP  
Executive Director  
South Whidbey Parks and Recreation District  
(360) 221-6488  
dirswprd@whidbey.com

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**From:** Flannary Collins <fcollins@mrsc.org>  
**Sent:** Tuesday, October 8, 2019 1:25 PM  
**To:** dirswprd@whidbey.com  
**Subject:** RE: Unauthorized trail on district property

Doug:

It sounds like you have done your research so a letter is the next logical step. I would recommend outlining the district expectations with regard to what you specifically mean by "natural state." If the letter does not work, then your agency attorney may have some ideas about civil enforcement. For example, the district has control over its property and can take steps to remove an unauthorized trail and bill the property owner for the cost to return the property to its natural state. The question is, if the property owner doesn't pay, how would the district collect that expenditure? Cities have authority to lien property in situations like this, but I am not aware that districts have that authority. You may need to get a judgment from superior court and collect on that judgment – a long process. Alternatively, maybe the county prosecutor could be of assistance in the event the letter doesn't work. I would check both angles.

Flannary

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**From:** [dirswprd@whidbey.com](mailto:dirswprd@whidbey.com) <[dirswprd@whidbey.com](mailto:dirswprd@whidbey.com)>  
**Sent:** Tuesday, October 8, 2019 1:17 PM  
**To:** Flannary Collins <[fcollins@mrsc.org](mailto:fcollins@mrsc.org)>  
**Subject:** RE: Unauthorized trail on district property

Flannary,

I have already confirmed via GPS that the trail has been constructed on District Property and with a total staff of 3 people in our main office I know that no permit to construct the trail was issued. My thought was to issue a cease and desist letter of some kind. I could call the property owner, but I think a more official approach with a written document

would be preferable. I have attached a draft I put together last week for your review and comment. Please let me know if this approach is a good idea, it seems to coincide with your recommendations.

Regards,

Doug Coutts, CPRP  
Executive Director  
South Whidbey Parks and Recreation District  
(360) 221-6488  
[dirswprd@whidbey.com](mailto:dirswprd@whidbey.com)

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**From:** Flannary Collins <[fcollins@mrsc.org](mailto:fcollins@mrsc.org)>  
**Sent:** Tuesday, October 8, 2019 1:12 PM  
**To:** [dirswprd@whidbey.com](mailto:dirswprd@whidbey.com)  
**Subject:** Unauthorized trail on district property

Doug:

This is an interesting question. I am used to the city context, where the city has its own code enforcement program and, if an individual unlawfully alters city property, the city would proceed through warnings, mitigation, penalties, and litigation, if necessary. For a parks and recreation district, RCW 36.69.130 and .190 authorize the district to adopt - but not enforce - rules and regulations governing the use of district property, facilities or equipment. Rather, violations of district rules and regulations are deemed a misdemeanor, which would be enforced by the sheriff and county prosecutor.

That said, I reviewed your agency's general policies and note that section 3.01.7.2 outlines a process for violations resulting in damage to property. I recommend consulting with your agency attorney on how to best proceed. But, the general approach would be:

1. Confirm the trail was actually built on park district property.
2. Check to see whether the district issued a permit or other approval to build the trail
3. Contact the property owner to alert them to the problem
  - a. Provide them with a copy of the district's general policies
  - b. Outline mitigation steps, e.g., remove trail (or reimburse district for any expenditure involved with removal of the private trail)

If the property owner ignores you, then you may have to go the misdemeanor route via the county prosecutor.

**Flannary P. Collins**  
MRSC Managing Attorney  
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-----Original Message-----

Name: Doug Coutts

Title: Executive Director

Phone: 360 221-6488

Email: dirswprd@whidbey.com

Good Morning,

I have been informed by a neighbor of one of our parks that another neighbor is constructing a trail from their property connecting to an existing trail on our property. This trail looks to be on Park District land and was not authorized by the District. What are the options available to the District?

Regards,

Doug Coutts

Executive Director