



Differences between

Active Transportation and Recreation Facilities in Kansas

Transportation and recreation facilities (such as roads, sidewalks, and trails) provide bicyclists, pedestrians, and other non-motorized transportation and recreation users with the opportunity to recreate; be physically active; and engage in active, healthy, and relaxing ways to travel from one place to another. National, state, and local governments often support these activities by developing, expanding, and improving roads, sidewalks, trails, and other facilities.



Q: Why does the difference between transportation and recreation matter?

A: Practically, bicyclists and pedestrians may not think of transportation and recreation differently since transportation (traveling from one place to another) and recreation (activities done for enjoyment) often overlap. However, understanding the legal distinction and relationship between transportation and recreation can be important to the success of active transportation and recreation initiatives because this distinction often determines what laws govern a particular type of facility or activity; the kind of funding available; and the entity responsible for developing, constructing, and maintaining the facility.

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Different laws may apply to transportation facilities such as roads and sidewalks versus recreation facilities such as trails. For example, Kansas traffic

TRANSPORTATION

The act or process of moving people or things from one place to another.¹

RECREATION

Something people do to relax or have fun; activities done for enjoyment.²

regulations only apply on transportation facilities and do not apply on recreation facilities. Likewise, trail rules generally apply only to the specific trail where these rules are posted. At the same time, some laws apply equally to both types of facilities.

A facility must meet certain criteria in order to be eligible to receive funding for construction, maintenance, and operation. Federal and state laws often specify if the funding can be used to support transportation or recreation.³ For example, certain federal funding for bicycle projects is not available unless the United States Department of Transportation (USDOT) determines that the project will be principally used for transportation, not recreation, purposes.⁴

Different governmental entities are responsible for different types of facilities. Determining which governmental entity is responsible is often tied to who owns the land, where the facility is located, and the purpose of the facility. (See additional discussion of this, below.)

Once a facility is funded and built however, individuals may use it for either transportation or recreation purposes, as long as they follow the laws and rules governing the facility they are using.

Q: What is the difference between a facility constructed for “transportation” and one constructed for “recreation”?

A: The difference between transportation facilities and recreation facilities can be blurry. However, courts and the Federal Highway Administration (FHWA) provide some direction regarding the difference between a transportation purpose and a recreation purpose as follows:

To meet the “transportation purpose” requirement under federal law, a bicycle transportation facility must be more than a closed loop trail within a park that can only be used for recreation purposes; users must be able to get somewhere other than back to their starting point. Beyond this, any bicycle facility providing access from one point to another can and will be used for transportation purposes and is eligible for certain Federal aid funding.⁵

Example:

- A local community wants to construct a paved, multi-use path that circles around a park = **Recreation** (pedestrians and bicyclists can only go around one particular area and cannot get from one destination to another.)

TRANSPORTATION AND RECREATION FACILITIES*

Physical components on which bicyclists, pedestrians, and other non-motorized transportation and recreation users travel and recreate.

Examples of transportation and recreation facilities can include roads, sidewalks, trails, and shared-use paths.

* Please note: These definitions are not legal definitions and may vary in other contexts outside of this resource.

- A local community wants to construct a paved, multi-use path that goes to a park and connects the park with downtown = **Transportation** (pedestrians and bicyclists can use the path to get from one destination to another).

While this distinction between transportation and recreation purposes applies specifically to certain federal funding available for bicycle projects, it provides insight into how to understand the differences between transportation and recreation projects and facilities and how government agencies might approach a particular project or facility. Whether a specific trail, shared-use path, or other facility is eligible for transportation or recreation funding is determined by the parameters of the funding source, on a case-by-case basis.

Q: Who is responsible for different transportation and recreation facilities in Kansas?

A: A wide range of federal, state, regional, and local governmental entities are responsible for developing, funding, constructing, and maintaining transportation and recreation facilities in Kansas.

- **Federal Authorities:** Different federal agencies are responsible for the development, funding, and management of transportation and recreation facilities for bicyclists and pedestrians located on federal land administered by a specific agency. Federal agencies often work closely with state agencies in the management of transportation and recreation facilities used by bicyclists and pedestrians. Federal agencies involved in developing, funding, and managing recreation and transportation facilities in Kansas include the United States Department of Transportation — Federal Highway Administration; the Department of Interior — National Park Service and Bureau of Land Management; the Department of Agriculture — Forest Service; and Army Corps of Engineers. Areas used by bicyclists and pedestrians



in Kansas in which federal agencies are involved include the Lewis and Clark National Historic Trail,⁶ the Cimarron National Grassland,⁷ the Flint Hills Scenic Byway,⁸ and the 110 mile park.⁹

- **State Authorities:** In Kansas at the state level, the Kansas Department of Transportation (KDOT) oversees highways, connected bridges, and bicycle lanes. KDOT also administers federal and state funding for transportation projects.¹⁰ Examples of facilities overseen by KDOT include the Levee Trail¹¹ and the US-59 Amelia Earhart Bridge.¹² The Kansas Department of Wildlife, Parks & Tourism (KDWPT) oversees trails and other facilities on state land and in state parks, and administers federal and state funding for recreation projects.¹³ Facilities overseen by KDWPT include Turtle Creek State Park¹⁴ and Kanopolis State Park.¹⁵
- **Regional Authorities:** Metropolitan Planning Organizations (MPO's)¹⁶ — Federal law

* For more information on MPO's visit: U.S. DEP'T OF TRANSP. (2014), http://www.fhwa.dot.gov/environment/bicycle_pedestrian/overview/policy_accom.cfm.

requires communities with a population of greater than 50,000 to have a Metropolitan Planning Organization (MPO).¹⁷ MPO's are responsible for coordinating the transportation planning efforts for those communities. Kansas MPO's include: Mid-America Regional Council for the Kansas City area, Lawrence-Douglas County Metropolitan Planning Office, Wichita Area Metropolitan Planning Organization, Metropolitan Topeka Planning Organization, St. Joseph Area Transportation Study Organization,¹⁸ and Flint Hills Metropolitan Planning Organization.¹⁹ Examples of facilities for which MPO's are responsible include the Turkey Creek Streamway Trail,²⁰ the Katy Trail State Park,²¹ and the Rock Island Corridor.²²

- Local Authorities:** County and city governments (and township leadership to a limited extent)²³ generally have authority over transportation and recreation facilities and programs within their boundaries and on property they govern. Specific local departments in charge of certain aspects of a particular facility may vary. County and city governments include several departments that may have some level of

responsibility or authority over a transportation or recreation facility or program within its boundaries. In addition to the overlapping responsibilities noted in each county and city below, departments overseeing transportation may collaborate with recreation departments, and vice versa.

- County:** The governing body of a county, the Board of County Commissioners, is the ultimate decision-making authority regarding transportation and recreation projects on county land and facilities within the county.²⁴ The Board has exclusive power to enact, amend, and repeal public policies; to levy and apportion taxes, make appropriations, and adopt budgets; to establish strategic plans to guide organizational performance; and to appoint the County Manager and certain offices, boards and commissions.²⁵ The Board is comprised of individuals who represent different districts within the county made up of townships and cities. County governments are often separated into different divisions of expertise to assist in administrative functions, including divisions that deal with transportation and recreation projects, like public works departments and parks and recreation departments.

Examples of County Authority over Transportation and Recreation Facilities in Kansas

County	Transportation Authority	Recreation Authority
Dickinson ²⁶	Responsibility for certain aspects of county roads, bridges, and other transportation facilities within Dickinson County may be a combination of the County Planning & Zoning Division, the Road & Bridge Division, and others.	Responsibility for Dickinson County trails, shared-use paths, and other recreation facilities may overlap between the Environmental Services Division, the Geographic Information Systems Department, the Planning & Zoning Division, and others.
Johnson ²⁷	Responsibility for county transportation facilities and programs likely comes from a combination of the Transit Department, the Public Works & Infrastructure Department, the Planning & Development Department, and others.	Responsibility for recreation facilities within Johnson County likely comes primarily from the Park & Recreation District, with certain input from the Planning & Development Department, the Environmental Department, and others.
Harvey ²⁸	Responsibility for Harvey County transportation facilities is likely a combination of the Transportation Department, the Road & Bridge Department, the Planning & Zoning Division, and others.	Responsibility for recreation facilities within Harvey County may overlap between the Parks Department, the Conservation District, the Environmental Department, and others.

- **City:** The governing body of a city is generally responsible for transportation and recreation projects on city land.²⁹ A city's governing body is often the City Council. General responsibilities of a City Council include establishing and setting the policy of the city and hiring a city manager to carry out the policies and laws of

the city, administer the approved budget, serve as the chief administrative officer of the city, and conduct the daily business of the city.³⁰ A city's authority and responsibility over transportation and recreation within its boundaries may vary depending on the city's population size.³¹

Examples of City Authority over Transportation and Recreation Facilities in Kansas

City	Transportation Authority	Recreation Authority
Hutchinson ³²	Responsibility for Hutchinson County's transportation facilities and programs may be a combination of the Engineering Department, the Planning & Zoning Division, the Public Works Department, and the Street Department.	Responsibility for Hutchinson's recreation facilities falls to the Parks & Recreation Department; with potential overlap with the Planning & Zoning Division; the Public Works Department; and the Water, Sewer, & Wastewater Department.
Beloit ³³	Responsibility for Beloit's transportation facilities and programs primarily belongs to the city's Transportation Department.	Responsibility for Beloit's parks and recreation and belongs to the city's Parks and Recreation Department.

Q: What types of funding are available for transportation and recreation facilities?

Funding of both transportation and recreation facilities is complicated and may include different layers of government, from federal to state to local. In general, funding for a particular facility may exist in a program dedicated to transportation or recreation — or exist in other programs that focus on health, the environment, and other topics.* The following federal funding programs play primary roles in funding bicycle and pedestrian projects:³⁴

- Transportation Alternatives Program (TAP)³⁵
- Surface Transportation Program (STP)³⁶
- National Highway Performance Program (NHPP)³⁷
- Highway Safety Improvement Program (HSIP)³⁸
- Railway-Highway Crossings Program³⁹

* For example, National Highway System (NHS) funds must benefit NHS corridors; Highway Safety Improvement Program (HSIP) funds must benefit safety; Congestion Mitigation/Air Quality Program (QMAQ) funds must benefit air quality; and Federal Lands Highway Program (FLH) funds must provide access to or within Federal lands.

- Congestion Mitigation/Air Quality Program (QMAQ)⁴⁰
- Tribal Transportation Program (TTP)⁴¹
- Federal Lands Transportation Program (FLTP)⁴²
- Federal Lands Access Program (FLAP)⁴³
- State & Community Highway Safety Grant Program (also known as the 402 Safety Program)⁴⁴

Other federal and Kansas-specific funding programs may be available. Eligibility for a certain project is determined on a case-by-case basis and is often left to the discretion of a program's state administrator.

Q: Is there a funding program specifically designed to support transportation alternatives such as bicycling and walking?

The federal Transportation Alternatives Program was established in 2012 to provide funding for programs and projects defined as transportation alternatives.⁴⁵ TAP is a combination of three former federal programs — the Recreational Trails Program, the Transportation Enhancement Program, and the Safe Routes to School (SRTS) Program. Each state



is required to set aside a portion of its TAP funds for projects relating to recreation trails. Continuing SRTS activities is optional.⁴⁶

A transportation alternative project is any of the following:⁴⁷

- Construction, planning, and design of on and off-road trail facilities for bicycles and pedestrians.
- Construction, planning, and design of infrastructure related projects that provide a safe route for non-motorized transportation users.
- Conversion and use of abandoned railroad corridors for bicycle and pedestrian trails.
- Construction of turnouts, overlooks, and viewing areas.
- Community improvement activities.
- Environmental mitigation activity.

Q: What are different kinds of transportation and recreation facilities?

A: There are many kinds of transportation and recreation facilities identified by federal, state, and local laws. Whether a particular facility is eligible for funding typically depends on if it meets certain criteria for a funding program's assistance. The following tables include definitions most commonly used for bicycle and pedestrian travel provided by Kansas state law, the *Kansas State Trails Plan*,⁴⁸ and other nationally recognized organizations. Legal definitions are important for both funding and authority purposes. For example, if a particular Kansas program funds "sidewalks," it likely means "the portion of a street between the curb lines intended for use by pedestrians" is eligible for funding from that program, unless the program's eligibility requirements specify otherwise.

Kansas Facilities Used By Pedestrians & Bicyclists	
Facility	Definition
Sidewalk	The portion of a street between the curb lines, or the lateral lines of a roadway, and the neighboring property lines intended for use by pedestrians. ⁴⁹
Intersection	The area where vehicles traveling on different roads joining at any angle may come in conflict; or The area within the connection of the side-by-side curb lines or, if none, then the side-by-side boundary lines of the roadways where two roads join one another at (or approximately at) right angles. The junction of an alley with a street or highway is not considered an intersection. ⁵⁰
Crosswalk	The part of a roadway at an intersection that is between the edges of sidewalks on opposite sides of the highway beginning from the curbs, or if no curbs, from the edges of the roadway; or Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other surface markings. ⁵¹
Roadway	The portion of a highway improved, designed, or ordinarily used for vehicular travel, not including the shoulder. ⁵²
Street	The entire width between the boundary lines of every way publicly maintained when any part is open to the public for purposes of vehicular traffic. ⁵³
Highway	The entire width between the boundary lines of every way publicly maintained when any part is open to the public for purposes of vehicular travel. ⁵⁴
Trail*	U.S. Access Board — A pedestrian route developed primarily for outdoor recreation purposes. A pedestrian route developed primarily to connect elements, spaces, or facilities within a site is not a trail. ⁵⁵ <i>Kansas State Trails Plan</i> — A route that is designed, designated, or constructed for recreation pedestrian use or provided as a pedestrian alternative to vehicular routes within a transportation system. ⁵⁶ Trails include, but are not limited to, a trail through a forested park, a shared-use path, or a back country trail. Trails do not include pathways such as sidewalks, pathways in amusement parks, commercial theme parks, carnivals, or between buildings on college campuses. ⁵⁷
Shared/Multi-Use Path*	A bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way. ⁵⁸

* Please note: The term shared-use path is sometimes used interchangeable with trail, multiuse trail, bike path, hiker and biker trail, or other similar term. While the actual term used may not practically matter for those using a specific trail or shared-use path, it may be important to understand the official or technical differences between these terms to determine what laws apply, what funding is available to support the path or trail, and what governmental entity is responsible for the path or trail. The definition of shared or multi-use path provided here reflects a general framework adopted by national experts, recognizing that there may be variation in how the terms trail and shared or multi-use path are used in different settings.

TYPES OF PATH USERS

Path users are generally non-motorized and may include but are not limited to: traditional bicyclists, recumbent bicyclists, bicyclists pulling trailers, tandem bicyclists, in-line skaters, roller skaters, skateboarders, kick scooter users, and pedestrians. Pedestrians include walkers, runners, people using wheelchairs (both non-motorized and motorized), people with baby strollers, people walking dogs, and others. Paths are most commonly designed for two way travel.⁵⁹



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Endnotes

- ¹ *Transportation*, MERRIAM-WEBSTER, <http://www.Merriam-Webster.com/dictionary/transportation> (last visited May 16, 2014).
- ² *Recreation*, MERRIAM-WEBSTER, <http://www.Merriam-Webster.com/dictionary/recreation?show=0&t=1389207624> (last visited May 16, 2014).
- ³ See generally *How Federal Transportation Benefits Public Parks and Recreation*, NAT'L RECREATION AND PARK ASS'N (2009), <http://www.nrpa.org/uploadedFiles/nrpa.org/Advocacy/Resources/Report-Federal-Transportation-Public-Parks-Recreation-Funding-Benefits.pdf>; See also *Tools to Increase Biking and Walking*, ADVOCACY ADVANCE, http://www.advocacyadvance.org/site_images/content/Kansas_Funding_Profile.pdf (last visited June 6, 2014).
- ⁴ 23 U.S.C. § 217(i) (2014).
- ⁵ *Friends of Potter Marsh v. Peters*, 371 F.Supp.2d 1115, 1120 (D. Alaska 2005).
- ⁶ *National Scenic and Historic Trails*, U.S. DEP'T OF THE INTERIOR — BUREAU OF LAND MGMT. (last updated Mar. 13, 2014), http://www.blm.gov/wo/st/en/prog/blm_special_areas/NLCS/Trails.html.
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- ¹⁵ *Kanopolis State Park*, KAN. DEP'T OF WILDLIFE, PARKS, AND TOURISM, <http://kdwpt.state.ks.us/State-Parks/Locations/Kanopolis> (last visited June 6, 2014).

- ¹⁶ See *United States Department of Transportation Policy Statement on Bicycle and Pedestrian Accommodation Regulations and Recommendations*, FED. HIGHWAY ADMIN. (2014), http://www.fhwa.dot.gov/environment/bicycle_pedestrian/overview/policy_accom.cfm.
- ¹⁷ 23 C.F.R. § 450.310 (2014).
- ¹⁸ *Metropolitan Planning Organizations*, KAN. DEP'T OF TRANSP., <https://www.ksdot.org/burtransplan/burovr/mpo.asp> (last visited May 16, 2014).
- ¹⁹ *2013 Year-end Report*, FLINT HILLS: METRO. PLANNING ORG., www.flinthillsregion.org/fhmpo (last visited May 16, 2014).
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- ²³ See KAN. STAT. ANN. §§ 68-124, 68-131, 80-101 (2013).
- ²⁴ See, e.g., KAN. STAT. ANN. §§ 19-101, 19-101(a), 19-212, 68-102, 68-151(j), 68-161 (2013).
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- ²⁶ See *Administrative & Emergency Services*, DICKINSON CNTY., <http://www.dkcoks.org/index.aspx?nid=72> (last visited May 16, 2014).
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- ³² *City Departments*, CITY OF HUTCHINSON, <http://www.hutchgov.com/departments> (last visited May 16, 2014).
- ³³ *Departments*, CITY OF BELOIT, <http://www.beloitks.org/departments> (last visited May 16, 2014).
- ³⁴ See 23 U.S.C. §§ 217, 104 (2014).
- ³⁵ See 23 U.S.C. §§ 213(b), 101(a)(29) (2014); See also *Transportation Alternatives Program (TAP)*, FED. HIGHWAY ADMIN. (last updated Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/tap.cfm>.
- ³⁶ 23 U.S.C. § 133 (2014); See also *Surface Transportation Program (STP)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/stp.cfm>.
- ³⁷ 23 U.S.C. § 119 (2014). See also *National Highway Performance Program (NHPP)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/nhpp.cfm>.
- ³⁸ 23 U.S.C. §§ 130, 148 (2014); See also *Highway Safety Improvement Program (HSIP)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/hsip.cfm>.
- ³⁹ 23 U.S.C. § 130 (2014); See also *Railway-Highway Crossings Program*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/rhc.cfm>.
- ⁴⁰ 23 U.S.C. § 149 (2014); See also *Congestion Mitigation and Air Quality Improvement Program (CMAQ)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/cmaq.cfm>.
- ⁴¹ 23 U.S.C. §§ 201, 202 (2014); See also *Tribal Transportation Program (TTP)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/ttp.cfm>.
- ⁴² 23 U.S.C. §§ 201, 203 (2014); See also *Federal Lands Transportation Program (FLTP)*, FED. HIGHWAY ADMIN. (Sept. 12, 2013), <http://www.fhwa.dot.gov/map21/factsheets/fltp.cfm>.
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- ⁴⁴ 23 U.S.C. § 402 (2014).

- ⁴⁵ *Transportation Alternatives Program (TAP) Guidance*, FED. HIGHWAY ADMIN., <http://www.fhwa.dot.gov/map21/guidance/guidetap.cfm> (last visited May 16, 2014).
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- ⁴⁷ 23 U.S.C. § 101 (2014).
- ⁴⁸ *See generally Kansas State Trails Plan*, KAN. DEP'T OF WILDLIFE, PARKS, AND TOURISM, (2008), <http://www.kdwpt.state.ks.us/news/State-Parks/2008-Trails-Plan>.
- ⁴⁹ KAN. STAT. ANN. § 8-1465 (2013).
- ⁵⁰ KAN. STAT. ANN. § 8-1428 (2013) (Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway by an intersecting highway is a separate intersection. In the event the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is also a separate intersection).
- ⁵¹ KAN. STAT. ANN. § 8-1411 (2013).
- ⁵² KAN. STAT. ANN. § 8-1459 (2013) (In the event a highway includes two or more separate roadways the term “roadway” refers to each roadway separately but not to all roadways collectively).
- ⁵³ KAN. STAT. ANN. § 8-1473 (2013).
- ⁵⁴ KAN. STAT. ANN. § 8-1424 (2013).
- ⁵⁵ *Text of Final Guidelines*, U.S. ACCESS BD., <http://www.access-board.gov/guidelines-and-standards/recreation-facilities/outdoor-developed-areas/final-guidelines-for-outdoor-developed-areas/text-of-the-guidelines> (last visited May 16, 2014).
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