

## Vermont Mountain Bike Association

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### Vermont Mountain Bike Association – New Trail Playbook

Riders gathering to build trail together is a cornerstone of Vermont mountain bike culture.. This document endeavors to assist the trail building process in a way that enriches and protects the commitment and involvement of chapters and volunteers.

Creating sustainable riding opportunities in Vermont requires an acknowledgment of private projects while recognizing that many out-of-state riders travel to Vermont to ride;; most are not members or trail day volunteers. In order to remain sustainable, the sport’s popularity must be met with a blend of successful advocacy and resources.

Trail diversity is critical to the sustainability of riding in Vermont. VMBA supports this important element through successful public land advocacy, trail building education, private landowner representation and the VMBA chapter trail grant. Through these association efforts the work of chapters and their trail day volunteers is preserved, landowners are shown respect and private projects are better protected.

The Playbook is divided into three sections. Section one will isolate the steps of proposing a new trail on each land type. Links to documents attached to these steps will be incorporated. Section two will outline the nuances attached to each source of funding potential. Lastly, section three will explain the insurance, landowner protections and Act 250.

It is the hope that this document will provide much needed clarity associated with correspondents, land type, permitting, funding, new trail/maintenance and timelines.

### **SECTION ONE: New Trails on Public & Private Land**

#### **1a. FORESTS PARKS & RECREATION**

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The key to success with FPR is consistently communicating with your District Coordinator. It's a required step to build on state land and will pay off as your Chapter develops. Your Coordinator knows the nuances of the long-range forestry plan and can quickly identify whether or not a planned route crosses any sensitive areas. Communicating about the forestry plan and sensitive areas upfront will save you a lot of time.

### **FPR coordinators by Region**

Springfield District: Tim Morton: 802-777-6899 or [tim.morton@vermont.gov](mailto:tim.morton@vermont.gov)  
Rutland District: Lisa Thornton: 802-777-7480 or [Lisa.Thornton@vermont.gov](mailto:Lisa.Thornton@vermont.gov)  
Essex District: Jason Nerenberg: 802-498-4342 or [Jason.nerenberg@vermont.gov](mailto:Jason.nerenberg@vermont.gov)  
Barre District: Brad.Greenough: 802-476-0174 or [Brad.Greenough@vermont.gov](mailto:Brad.Greenough@vermont.gov)  
St. Johnsbury District: Lou Bushey: 802-751-0136 or [lou.bushey@vermont.gov](mailto:lou.bushey@vermont.gov)  
Statewide or General Inquiries: Jessica Savage: 802-249-1230 or [jessica.savage@vermont.gov](mailto:jessica.savage@vermont.gov)

### **Proposing a New Trail on FPR Land**

Keep in mind - there are pre-proposals and full proposals for new trail projects and a different combination of pre-applications and full applications for RTP funding. Securing approval for the project precedes acquiring funding. If working on private land, public funding is available only after securing a land access agreement with the landowner.

1. Contact your district coordinator and share your plans. Ask them to let you know if the planned route falls within any sensitive areas (they have this information) – if it does, plan around it.
2. Fill out the [Pre-Proposal Form](#). The pre-proposal form will likely trigger a [Section 106 \(Historical Preservation\)](#) review. VMBA has developed an arrangement with the State that assures the State will pay for this review and that MTB projects will receive field review priority each spring
3. Submit the pre-proposal to your district coordinator – you will receive a response within 30 days
  - a. Criteria
    - Is there a Long Range Management Plan (LRMP) in place or an Interim Stewardship Plan? FPR provides a [list of planning documents by region](#) to review. Would your plans require any shifts? Are there any known sensitivities (deer bedding, rare, threatened or endangered species) in the area?
    - Does the project meet the goals of the property?
    - Is the project aligned with [FPR's policies and regulations](#)?
    - Is the project a new use for the property? If so then the project may trigger a public input process and/or an amendment to

the long range management plan. Be aware of this possibility as it may significantly impact the timeline. Your best bet is always to stay in close contact with your district representative.

4. If the project is feasible, your Chapter will be invited to submit a [full proposal](#). Criteria include:
  - a. Resource constraints
  - b. Management conflicts
  - c. Impacts on adjacent parcels
  - d. Project design standards
  - e. The Chapter's capacity to maintain the resource
  - f. Funding and/or fundraising capacity
  - g. Public demand
  - h. Demonstrated lack of regional public supply for mountain biking
  - i. Agreements
5. Once a full proposal is submitted to you will get a response within 60 days. **This is not final approval** – it's a response from the state that will include the next steps. There is a long list of things being reviewed at this step:
  - a. Resource assessment
  - b. Site visits
  - c. Public involvement where appropriate
  - d. Amendments to LRMP
  - e. Agency of Natural Resources review
  - f. Town involvement
  - g. Feasibility study
  - h. Design, engineering and planning
  - i. Timeline shifts
  - j. Modifications to the proposal

Once approval is achieved the project will be incorporated into the District Annual Stewardship Plan, which is put together in late fall/early winter..

**PLEASE NOTE** - The Annual Stewardship Plans are typically complete by **March 1st** each year. Keep this date in mind when planning how you will approach securing funding opportunities over the next calendar year.

## **1b. UNITED STATES FOREST SERVICE**

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Similar to FPR, success with the Forest Service is achieved through consistent communication. The agency reviews countless proposals to add, reroute and eliminate trails every year. Also like FPR, the Forest Service prefers to work with an organized association and their chapters. In doing so, the Agency knows the

community partner has the support and backing of a strong organization, which, in turn, allows the local chapter to remain focused on developing and maintaining great trail.

When developing a new proposal the Forest Service requires that chapters take some time to consider the following:

- Why is the proposal needed within the context of the existing network?
- Are there existing trails in the area of interest that could meet your needs?
- Could our interest be met on other public or private lands?

Beyond general access and trail availability chapters there are a number of other factors that need consideration:

- Does the proposal align with USFS Management Plan and the GMNF Comprehensive Trail Strategy?
  - [USFS Management Plan](#):
  - [GMNF Comprehensive Trail Strategy](#)
- Does the proposed activity align with the Forest Plan Standard and Guidelines?

There are also a number of economic and environmental factors that require consideration:

- What are the anticipated use levels and can the proposal support those levels considering: sustainable trail design/location as well as support the infrastructure (parking etc.)
- Are there safety concerns and/or potential user conflicts?
- Does the Chapter have enough volunteer labor to commit to long-term maintenance?
- Short and long-term financial needs – what is the plan to fund the project? If the chapter is relying on grants, does the group have the capacity to write effective grants?

Proposals addressing the entirety of the above lists are to be submitted to the District Recreation Program Manager for the unit where the proposal is located (Manchester or Rochester/Middlebury).

Submitted proposals are reviewed by district staff and pay particular attention to items listed above in addition to:

- What is the trail's purpose and how does it meet new/greater demands, connect users to services and other attractions?
- Are there duplicate trails opportunities within the area and/or on other nearby private or public lands?
- Is a Special Use Permit required?

- Does the submission indicate that the project would meet the Forest Service National Quality Standards

Please Note – it's up to the District Ranger as to whether or not the proposal will go forward. If successful, the USFS will outline the National Environmental Policy Act (NEPA) analysis process. The NEPA process will take at least six months and up to multiple years depending on the complexity and location of the project. As part of this phase other important items are defined including funding options, construction timelines and maintenance agreements.

## **1c. PRIVATE LANDOWNERS**

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Private landowners have played a central role in public recreation in Vermont for decades. Currently, private landowners host over 70% of the trails maintained by VMBA Chapters. To honor the effort put forth by Chapters and volunteers and protect landowners, Chapters are strongly encouraged to utilize the [VMBA Private Landowner Access Agreement](#). The purpose of the agreement is twofold. First, it isolates roles and responsibilities between landowners and Chapters. Secondly, it leaves the opportunity open to utilize public funding on private land – this requires a minimum of a 10-year access agreement. The agreement does not require an easement, which commonly serves as a barrier to private land access.

Before moving forward with a private landowner chapters are encouraged to gain an understanding of four important documents:

- Vermont's Landowner Liability Act
- VMBA landowner insurance coverage
- Act 250 and its role in new trail development on private land
- VMBA Private Landowner Access Agreement

This combination of documents is intended to lower the barriers to Chapters developing fruitful, long-term relationships with private landowners. The goal is to understand the nuances so that access can be discussed in a way that is well informed and mutually supportive.

Before seeking an access agreement, there are several things Chapter representatives should keep in mind while speaking with a potential landowner partner:

- What does the landowner know about mountain biking?
- Does the landowner want trails open to the public?

- Does his/her land connect to another parcel where trails exist? If so, are they aware that riders may be accessing their property via a trailhead not located on their land?
- Does the landowner engage in timbering operations? If so, does the chapter have access to the management plan to avoid building where machinery will be used?
- Parking – where does the chapter propose riders park to access the trails?
- Kiosks – is the landowner agreeable to the chapter establishing a welcoming trailhead? This is key to informing riders of the Chapter’s hard work and is a powerful step in educating the public as to the landowner’s use preferences.

## **SECTION TWO: Funding Sources**

This section will outline the most common sources of funding available to chapters including Recreation Trails Program (RTP), Building and General Services (BGS), Land Water and Conservation Funds (LWCF), VMBA Chapter Trail Grant, and Chapter generated funding.

**Recreation Trails Program (RTP)** funding is a program funded by the Department of Transportation’s Federal Highway Administration. Administered at the state level by the Department of Forests Parks and Recreation, the funding is meant to assist the state and its partners to develop and maintain recreational trails; both motorized and non-motorized.

When the funds are delivered to Vermont, they are divided in a couple different ways. Roughly 50% of the funds are dedicated to “internal projects.” These projects are identified by the district coordinators and ranked among all other internal projects across the state. **Tip: communicating regularly with your District Coordinator can get your project on this list.**

40% of the RTP funding must go towards motorized recreation. A big portion goes to VAST and some is awarded to VASA. The balance falls to the “competitive grant pool.” The RTP program requires a 20% match by the applicant. Chapters often secure these matches through events, membership, VMBA grants, and sponsorships. Volunteer time also counts towards the match – every “unskilled” volunteer hour accounts for an hour of minimum wage. “Skilled” hours account for what a person would have been paid to professionally do similar work per hour

### **RTP funds for PUBLIC land trails**

In order to submit an RTP grant your trail project must have been approved through the steps outlined on page two. RTP funding is a two-phase process - a pre-

application and a full application. Pre-applications are due by Nov. 1<sup>st</sup> each year. Full applications are due by Feb. 1<sup>st</sup>. Awardees are announced in May and funds are sent to chapters in July.

### **RTP funding for PRIVATE land trails**

Chapters are strongly encouraged to seek appropriate approvals and permits regardless of the funding source and land type (permits are covered in the next section). To use public funds to build on private land, the Chapter must acquire a 10-year access agreement, which assures the public they will have access for a minimum of 10 years. VMBA has developed an access agreement that Chapters are to use, which eliminates the need to secure an easement to build trail, a common deal-breaker for landowners. The Access Agreement can be found [HERE](#). The same application process and calendar dates apply to RTP funds used on private land trails.

Projects on private land that utilize chapter generated funding and expertise are often constructed faster, but come with their own unique challenges. For example, some landowners are excited about trails on their land, but don't want them mapped or advertised, making it tough to generate local/statewide excitement among riders that would otherwise have supported your projects. More importantly, a landowner unwilling to give a Chapter an access assurance may change their minds one day and shut off access leaving the chapter with potentially thousands of hours of building time down the tubes.

### **Building and General Services funds (BGS)**

The Dept. of Buildings and General Services exists primarily to provide the facilities and services required for all state agencies and departments to accomplish their missions – this includes FPR and recreational facilities.

The Dept. hosts the Recreational Facilities Grant each year as part of its Building Communities Grants Program.. It is important to understand how (and why) this funding pool differs from RTP funding. The RTP program is a federally funded program and the funds arrive to VT with a few distribution requirements – 40% must go to motorized recreation, for example. Conversely, the BGS pool is funded through Vermont state taxes.

The BGS funds dedicated to recreational facilities regularly averages \$100,000 each year. While the RTP funds require a 20% match, BGS funds require a 50/50 match. Each project may apply for up to \$25,000 one time annually for a single project.

The grant is announced in late August each year. Applications are due by the end of October and awards are announced in November each year. This timing is particularly important as BGS funds can be used as part of a chapter's 20% RTP match (full RTP proposals are due on Feb 1<sup>st</sup>) – as such, it behooves the chapter to develop an annual trail plan that includes timelines, projects approvals and synching up funding sources. RTP funds cannot be used to match BGS funds. Please stay current on this grant opportunity by checking [BGS's web site](#).

### **Land, Water and Conservation Fund (LWCF)**

The LWCF was created in 1965 to support the protection of natural areas, water resources and cultural heritage, and to provide recreational opportunities for all Americans. This is an impressive fund both in sum and accomplishment. It afforded the protection of American natural treasures such as the Rocky Mtn. National Park, Grand Canyon and thousands of forests, community parks, rivers and lakes.

It is funded through the taxation of offshore drilling operations. The idea is to deplete these reserves and protect water and land elsewhere to be appreciated by the public. Each year this fund channels roughly \$900 million dollars in oil company royalties to protect public access to all sorts of recreation including mountain biking.

Eligible applicants are state or municipal entities such as schools, parks or other facilities owned by a city or town. If your chapter is interested in these funds, you would need to work with an eligible landowner. These funds can be used to acquire and/or develop land for outdoor recreation purposes.

These funds require a 50/50 match from applicants. Project applications are scored and ranked by a 5-member project ranking committee following an Open Project Selection Process (OPSP). The recommendations are reviewed and approved by the ranking committee. The strength of applications is largely based on the extent to which a local and/or regional need is met. These needs are identified in the [Vermont Statewide Comprehensive Outdoor Recreation Plan](#).

Grantees must agree to develop, operate and maintain the development to acceptable national park Service standards for public outdoor recreation. Grants are subject to NPS approval. Links to the pre and full applications for this grant can be found [HERE](#).

For more information, contact Jessica Savage at [Jessica.savage@vermont.gov](mailto:Jessica.savage@vermont.gov) or 802-249-1230.



## The VMBA Chapter Trail Grant

Chapters officially united as a riding community in 2014. Chapters willingness to partner led to the statewide chapter program and collaborative membership. In turn, the role of mountain biking in Vermont has evolved to thoughtfully embrace growing participation while preserving the root character of building/riding in Vermont. To ensure this important work continues VMBA is proud to support the work of chapters as they facilitate connections between riders, landowners, public land managers, local businesses and visiting riders.

The VMBA chapter trail grant is fueled through riders' participation in membership. The VMBA grant is a great opportunity to match other grant pursuits that require matches. For example, a chapter may use a \$4000 VMBA grant as a 20% match for a \$20,000 RTP proposal. The eligibility requirements include:

- Recipient must be a VMBA chapter in good standing
- The award must be used on trails that are sanctioned by the land manager and that are open access and sustainably constructed
- Chapter must agree to maintaining a timeline, receipts and volunteer hours associated with the grant project
- Chapter must spend the grant in full by the following October 31st
- Allow VMBA to take/use photos

## **SECTION THREE: Act 250, Vermont Trails System (VTS), 10-year Access Agreement, Landowner Liability, & VMBA Insurance**

In concert these documents comprise the "Landowner Relations Package." The intent is to encourage an informed dialogue between chapters and landowners. The hope is that inconsistencies surrounding Act 250, liability and easement requirements can be quickly eliminated and an open conversation about trails can begin.

### **Act 250**

Act 250 is administered by the Natural Resources Board. The [Office of Planning](#) in the Agency of Natural Resources reviews Act 250 permits, provides evidence and recommendations regarding project impacts on natural resources and the environment to the Natural Resources Board. The Act has a storied history of controversy in Vermont.

To date, the Act does not include criteria that accurately reflect the impacts of trail development. The coordinators do not share an ecological or philosophical alignment of how their own jurisdiction applies to recreation trails. Despite this

reality, no meaningful progress has been made in light of the overwhelming demand for more recreation trails, their capacity to enrich the lives of Vermonters or the economic impact trails have been proven to have on the Vermont economy.

There are two primary designations relative to Act 250. A landowner can choose to host “private trails” which only means that they have declined being included in the Vermont Trails System (VTS). The alternative is for the landowner to host “public trails” on their land. This is a meaningful difference.

**Private designation:** If the landowner’s land is 10 or more acres, there is a higher chance of triggering Act 250. Private trails are not public funding eligible.

**Public designation:** The chapter must physically disturb 10 acres of land before being in jeopardy of triggering Act 250. 10 acres at 2’ wide is roughly 40 miles of trail – per landowner. “Public” also ensures that the project is public funding eligible and will be a part of the VT Trails System.

There are [10 criteria](#) against which development projects are evaluated by District Commissions, who decide whether or not projects should fall under Act 250 jurisdiction. Due to the subjective nature of District Commissioner decision making and lack of clear standards, VMBA cannot advise further about how/when/why projects would trigger the jurisdiction.

### The Vermont Trails System

The Vermont Trails System (VTS) is a statewide inventory of the recreation trail opportunities available for public use. Those trails obtaining this designation must have organizational representation on the Vermont Trails and Greenways Council.

**NOTE:** the trails in the VTS must have a map on file with the state. The chapter does not need to publish any maps. Landowners must be told that there will be map on file with the state. Additionally, if any citizen requests access to a map the state will release the file. These requests are very rare. This is the exchange in place that supports a more favorable Act 250 jurisdiction.

### 10-Year Access Agreement

The 10-year access agreement is meant to serve as an assurance that the public will have access to any trail resource constructed with public funds. The agreement can be utilized in place of an easement. **VMBA was the first state organization in the country to secure this arrangement for its Chapters.**

*NOTE: If your Chapter isn’t using public money to construct trails a 10-year access agreement with the landowner isn’t required. However, without a formal*

*agreement chapters risk losing access after spending resources on a project (landowner changes their mind one day). It is strongly recommended that chapters have access agreements with all landowners to assure both landowner and chapter desires are protected.*

The access agreement replaces the need for an easement. In many cases landowners view easements as a hindrance in the event they wish to sell the land. Historically, this concern led to numerous handshake deals on private land. Access to some of Vermont's very best riding remains under this sort of arrangement. VMBA has no issue with this history as long as all building activities are in alignment with the wishes of the landowner.

Easements require land record alterations, whereas an access agreement does not. Eliminating the easement requirement creates two important opportunities. First, it's easier to develop a formal relationship with the landowner to protect chapter effort. Also, it opens the possibility of utilizing public funds for trail projects on private land. The caveat is that once public funding is pursued, the project is open to archeological review and Act 250 jurisdiction – neither are a deal breaker. VMBA is able to offer this to chapters through an organizational assurance to Forests Parks & Recreation. In partnership with the local chapter, VMBA will insure public funds used for projects on private land. [10-Year Access Agreement](#)

### **Landowner Liability in Vermont**

The Landowner Liability Statute (LLA) was updated in 1998 to promote recreation and protect private landowners from claims by users enjoying recreation on their land. The link included here provides a description of the statute and how it relates to mountain biking specifically. Click [HERE](#) to learn more about the Vermont Landowner Liability Act.

### **VMBA Insurance**

VMBA's insurance is a meaningful layer of the Landowner Relations Package. It provides an added level of assurance to landowners when speaking with Chapters. In reality, the insurance doesn't play a strong role in lowering a landowner's exposure – the Landowner Liability Act is all the assurance they need from a liability perspective. Nonetheless, landowners appreciate that Chapters have insurance.

The VMBA insurance does cover the directors and officers of each chapter, riders, landowners, and trail day volunteers. It also covers events up to 500 people, which is handy if a chapter event brings in partners. For example, a landowner or a Town may request a certificate of insurance as part of an event. A full summary of the policy is available [HERE](#).

**There are limitations to the insurance coverage:**

- Races are covered, but all participants must sign a waiver
- VMBA will not engage the insurance if a rider brings action if injured while riding illegal trails – the insurance covers sanctioned trails only (sanctioned trail is defined as those the chapter built and currently maintains
- Our insurance will not cover other nonprofits or commercial entities not explicitly named our our insurance (e.g. the Chapters). For example, our insurance will not cover a major beer company because they're playing a role in a Chapter's event.
- If a Chapter gains access to a Town Forest, the insurance covers riding activity on those trails – it doesn't cover the Town Forest in perpetuity (the Town, random dog walker, sugaring operation and logging company all need their own insurance).
- If a Chapter hosts an event and any vendor is demoing any type of equipment, the Chapter is required to get an insurance Accord naming the Chapter and VMBA as an additional insured – do not host demos without this in place.
- A document summarizing VMBA's insurance coverage is available in the Chapter Resources Library section of the VMBA website.

The VMBA insurance is a shared Chapter benefit. It's an aggregate policy, meaning that when the liability coverage limit is met – there is no more coverage that calendar year. Our policy works for two reasons - landowners' liability is limited under the law and Chapters are smart about mitigating risk. Please reach out to the office with any questions.

Chapters may request certificates of insurance (COI) at any time. Please reach out to the office at least three weeks ahead of your event for assistance with this process.

# **BUILD ON. RIDE ON.**