

ORDINANCE A-256

AN ORDINANCE TO LIMIT LIABILITY FOR RECREATIONAL USE OF CERTAIN CITY PROPERTY AND DECLARE AN EMERGENCY FOR ADOPTION.

WHEREAS, recent court rulings relating to recreational immunity have demonstrated that units of local government can be exposed to significant claims arising from the public's use of trails, footpaths, or structures in unimproved rights of way; and

WHEREAS, ORS 105.668 provides that units of local government may limit their liability for public use of trails or structures located within a public easement or in an unimproved right of way ("recreational immunity"); and

WHEREAS, while the statutory liability limitation contained in ORS 105.668 automatically applies to cities with a population greater than 500,000, the limitation does not apply to smaller municipalities unless the local government opts into such immunity by adoption of an ordinance, resolution, rule, order, or other regulation; and

WHEREAS, the City of Coburg desires to opt into the immunity provided under ORS 105.668;

THE CITY OF COBURG ORDAINS AS FOLLOWS:

Section 1. Title, Definitions.

- A. **Short Title.** The Ordinance may be referred to as the City of Coburg's Recreational Liability Regulation.
- B. **Purpose of the Recreational Liability Regulation.** By adopting these Recreational immunity Regulations, it is the City's intent to limit the City's liability for public use of both trails and any structures located within a public easement or in an unimproved right of way.
- C. **Definitions.** As used in this Ordinance, the following means:

Public easement. An easement dedicated to the public within the City's jurisdiction that is accessible by a user on foot, horseback, bicycle, or other similar conveyance.

Structure. A constructed improvement on a trail, and includes but is not limited to, stairs and bridges that are accessible by a user on foot, horseback, bicycle, or other similar conveyance.

Trail. A improved or unimproved travel way for pedestrians and bicycles that is separated from automobile traffic, and includes but is not limited to, a simple earthen walkway, graveled path, multi-use path, or multi-use trail.

Unimproved right of way. A dedicated public right of way over which a street, road, or highway within the City’s jurisdiction that has not been constructed to the standards and specifications of the City and for which the City has not expressly accepted responsibility for maintenance. Unimproved right of way does not include a private road or street.

Section 2. Liability Limited.

Personal injury or property damage resulting from use of a trail that is in a public easement or an unimproved right-of-way, or from use of structures in a public easement or unimproved right of way, by a user on foot, on a horse, on a bicycle, or on another nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:

- A. The City of Coburg;
- B. The officers, employees, or agents of the City, to the extent such officers, employees or agents are entitled to defense and indemnification under ORS 30.285;
- C. The owner of land abutting the public easement or unimproved right of way in the City;
Or
- D. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right of way in the local government.

Section 2. Declaration of Emergency.

This Ordinance is necessary for the immediate preservation of public peace, health, and safety in the City of Coburg. An emergency is declared to exist, and upon passage and approval by the Mayor, it shall be in full force and effect immediately on June 25, 2024.

First Reading by title and public hearing was held on June 25, 2024. City Council unanimously voted to waive the Second Reading.

ADOPTED by the **City Council** of the **City of Coburg** this 25th day of June, 2024.

APPROVED by the Mayor of the City of Coburg this 25th day of June, 2024.

Nancy Bell, Mayor

ATTEST: _____
Sammy L. Egbert, City Recorder