



REQUEST FOR COUNCIL ACTION

Title: Request for Council Action – Limiting Claims Arising from Recreational Use of Public Trails & Structures

Preferred Agenda: May 14, 2024

Submitted By: Cecily Hope Pretty, Administrative Services Director

Reviewed By: Kelcey Young, City Manager
Blair Larsen, Community & Economic Development Director
Robert Snyder, City Attorney

Type of Action: Resolution Motion Roll Call Other

Relevant Code/Policy: Park System Master Plan

Towards Council Goal: Infrastructure, Be an Effective and Efficient Government, Rejuvenate Essential Services, Economic Strength

Attachments: Resolution No. 10 for 2024

Purpose of this RCA:

To seek City Council approval to adopt language limiting the City’s liabilities related to recreational use of public trails and/or structures in public easements and unimproved right-of-way in the City of Sweet Home.

Background/Context:

In 2023, the Oregon Court of Appeals issued a decision in *Fields v. City of Newport* that posed significant challenges to the historically understood definitions of recreational immunity in the state and opened municipalities up to significant liabilities related to their public trails and structures. While Governor Kotek signed temporary legislation in the 2024 Legislative Session to restore some immunity to cities, ORS 105.668 provides a mechanism via adoption of an ordinance or resolution for cities with a population under 500,000 to “opt in” to certain liability protections. To date, the City of Sweet Home has not opted in to these protections, which would significantly limit potential claims related to the use of public trails and/or structures in public easements and unimproved right-of-way within City limits.

The Challenge/Problem:

Without adopting a resolution or ordinance as allowed by ORS 105.668(3), the City remains open to legal liabilities related to claims resulting from recreational use of public trails and structures.

Stakeholders:

1. **Citizens:** Citizens will benefit from City policy that limits negative financial impact.
2. **City Council:** City Council has the power to limit liabilities and ensure that public facilities remain open for public use without concern for claims.
3. **City Staff:** Staff can continue to develop the public trail system without undue concern for claims related to use of public trails and structures.

Issues and Financial Impacts:

There are no issues identified. The financial impact of approval is positive in limiting potential lawsuits against the City.

Elements of a Stable Solution:

A decision that takes advantage of benefits in existing laws and protects the City of Sweet Home from unnecessary liabilities.

Options:

1. Do Nothing: The City will continue to be subject to certain liabilities related to recreational use.
2. Amend the resolution: Propose alternative language to modify the resolution.
3. Approve the resolution: Move to approve Resolution No. 10 for 2024 limiting claims arising from recreational use of public trails or structures.

Recommendation:

Staff recommends Option 3: Move to approve Resolution No. 10 for 2024 limiting claims arising from recreational use of public trails or structures.