

RESOLUTION NO. 10 FOR 2024

A RESOLUTION LIMITING CERTAIN CLAIMS ARISING FROM RECREATIONAL USE OF PUBLIC TRAILS AND/OR STRUCTURES IN PUBLIC EASEMENTS AND UNIMPROVED RIGHT-OF-WAY IN THE CITY OF SWEET HOME.

WHEREAS, ORS 105.672 to 105.688 provide certain immunities for owners of publicly-owned and/or privately-owned land when landowners allow such land to be used for recreational purposes; and

WHEREAS, the “recreational immunity law,” ORS 105, has been modified by the Oregon State Legislature numerous times including an important change through the 2024 session Senate Bill 1576 which became effective March 27, 2024; and

WHEREAS, ORS 105.668(2) limits certain lawsuits against a city, adjacent property owner(s), and certain non-profit groups and their volunteers that arise from recreational use of trails or structures in public easements or unimproved rights-of-way; and

WHEREAS, the immunities from liability contained in ORS 105.668(2) apply only to cities with a population of 500,00 or more; and

WHEREAS, ORS 105.668(3) authorizes cities with a population of less than 500,000 to take advantage of the immunities provided in ORS 105.668(2) by adopting either an Ordinance or Resolution to “opt in” to the provisions under ORS 105.668; and

WHEREAS, the City of Sweet Home owns, operates, and maintains a public trail system; and

WHEREAS, public trails are an important public amenity that provide recreational opportunities and support a healthy community; and

WHEREAS, the City encourages private property owners to dedicate easements to the public for use as recreational trails; and

WHEREAS, the City encourages private groups and volunteers to construct and maintain certain public trails and/or structures in public easements and/or unimproved rights-of-way; and

WHEREAS, the City believes it is important to protect and support the activities of City, private parties, community groups, and volunteers that make the trails available for public use; and

WHEREAS, the City desires to adopt the immunities from liability provided under ORS 105.668 to further the public interest by protecting and supporting efforts and activities of the City, property owners, and parties that create and maintain trails and make such trails available for public use;

NOW, THEREFORE, the City of Sweet Home resolves as follows:

1. Findings. The above recitals are hereby incorporated as findings.
2. Limitation on Liability. Pursuant to ORS 105.668(3), the City hereby adopts the limitation on liability provided under ORS 105.668(2). Without otherwise limiting the generality of the immediately preceding sentence, personal injury and/or property damage resulting from and/or arising out of the use of a trail that is in a public easement and/or unimproved right-of-way, and/or from the use of structures in a public easement and/or unimproved right-of-way, by a user on foot, horseback, bicycle, and/or other non-motorized vehicle or conveyance, does not give rise to a private claim or right of action based on negligence against any of the following: (a) City of Sweet Home; (b) City's officers, employees, and/or agents to the extent the officers, employees, and/or agents are entitled to defense and indemnification under ORS 30.285; (c) the owner(s) of land abutting the public easement or unimproved right-of-way; and/or (d) a non-profit corporation and its volunteers for the construction and maintenance of the trail or the structures in a public easement or unimproved right-of-way. For purposes of the Resolution, "structures" means improvements in a trail, including, without limitation, stairs and bridges, that are accessible by a user on foot, horse, bicycle, and/or other non-motorized vehicle or conveyance; "unimproved right-of-way" means a platted or dedicated public right-of-way over which a street, road, or highway has not been constructed to the standards and specification of the City and for which the City has not expressly accepted responsibility for maintenance.
3. Exceptions. The immunities granted under Section 2 of this Resolution from a private claim or right of action based on negligence do not grant immunity from liability for the following: (a) except as provided in Section 2(b), to a person that receives compensation for providing assistance, services, and/or advice in relation to conduct that leads to a personal injury or property damage; (b) for personal injury or property damage resulting from gross negligence and/or reckless, wanton, or intentional misconduct; and/or (c) for an activity for which a person is strictly liable without regard to fault.
4. Severability. For purposes of this Resolution, the singular includes the plural and the plural includes the singular; the word "or" is not exclusive and the words "include," "includes," and "including" are not limiting. Any reference to a particular law, statute, rule, regulation, code, or ordinance includes the law, statute, rule, regulation, code or ordinance as now in force and hereafter amended. The provisions of this Resolution are severable. If any section, subsection, sentence, clause, and/or portion of this Resolution is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this resolution.

This Resolution shall be in full force and effective immediately upon passage by the City Council and signature of the Mayor.

PASSED by the City Council and approved by the Mayor this 14th day of May, 2024.

Mayor

ATTEST:

City Manager - Ex Officio City Recorder