

**ORDINANCE NO. 1290**

**AN ORDINANCE ESTABLISHING CHAPTER 92.60 OF THE PRINEVILLE MUNICIPAL CODE LIMITING LIABILITY FOR USE OF CERTAIN RECREATIONAL PROPERTY AND DECLARING AN EMERGENCY**

**Whereas**, ongoing litigation relating to recreational immunity has severely limited the statutory protections afforded to local jurisdictions, including the City of Prineville (“City”).

**Whereas**, due to the uncertainty of a potential legislative resolution to this concern, the City in conjunction with its insurance provider, has begun taking steps necessary to protect the City from potential liability relating to recreational locations, including trails.

**Whereas**, the statutory liability limitation contained in ORS 105.668 automatically applies to cities with a population greater than 500,000 but requires small municipalities to affirmatively adopt the liability limitation to be afforded such protections.


**Whereas**, the proposed Chapter 92.60 of the Prineville Municipal Code is attached hereto as Exhibit A.

**Whereas**, due to the recent case law developments relating to the applicability of recreational immunity to local jurisdictions, and the potential liability exposure to the City of Prineville, the City Council believes that a state of emergency exists, and this Ordinance should become effective immediately upon passage.


**NOW, THEREFORE, THE PEOPLE OF THE CITY OF PRINEVILLE DO ORDAIN AS FOLLOWS:**

1. Prineville Municipal Code Chapter 92.60 entitled “Liability Limitation Resulting From Use of Trails In A Public Easement Or Unimproved Right-of-Way Under ORS 105.668,” is hereby established, as outlined in the attached Exhibit A.
2. This Ordinance, being necessary for the immediate preservation of public peace, health, and safety of the City of Prineville, an emergency is declared to exist, and this Ordinance shall be in full force and effect immediately upon its passage.

Presented for the first time at a regular meeting of the City Council held on May 14, 2024, and passed unanimously therein.

  
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Rodney J. Bebee, Mayor

ATTEST:

  
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Lisa Morgan, City Recorder

**Chapter 92.60**  
**Liability Limitation Resulting From Use of Trails in a Public Easement or Unimproved**  
**Right-of-Way Under ORS 105.668**

**92.60 Definitions.** As used in this chapter, the following definitions apply:

- A. **Public easement** means a platted or dedicated easement for public access that is accessible by a user on foot, horseback, bicycle or other similar conveyance, but does not include a platted or dedicated access easement over private streets.
- B. **Structures** means improvements in a trail, including, but not limited to stairs and bridges, that are accessible by a user on foot, horseback, bicycle or other nonmotorized vehicle or conveyance.
- C. **Trail** means a travel way for pedestrians and bicycles that is separate from automobiles and includes a multi-use path or multi-use trail, but does not include a bike lane, shoulder bikeway, or shared roadway.
- D. **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 specifications of the City with jurisdiction over the public right-of-way and for which the City has not expressly accepted responsibility for maintenance but does not include a platted private street.

**92.65 Liability Limited.**

- A. A 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 other nonmotorized vehicle or conveyance does not give rise to a private claim or right of action based on negligence against:
  - 1. The City of Prineville;
  - 2. The City of Prineville's officers, employees or agents to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;
  - 3. The owner of land abutting the public easement or unimproved right-of-way; or
  - 4. A nonprofit corporation and its volunteers for the construction and maintenance of the trail or structures in a public easement or unimproved right-of-way.
- B. The immunity granted by this subsection A(2) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage:
  - 1. Except as provided in subsection A(2) of this section, to a person that receives compensation for providing assistance, services or advice in relation to conduct that leads to a personal injury or property damage;

2. For personal injury or property damage resulting from gross negligence or from reckless, wanton or intentional misconduct; or
3. For an activity for which a person is strictly liable without regard to fault.