

ORDINANCE NO. 2117

**AN ORDINANCE AMENDING TITLE 4 OF THE CENTRAL POINT MUNICIPAL CODE TO
CREATE A NEW CHAPTER 4.02, LIMITED LIABILITY ARISING FROM USE OF TRAILS
AND/OR STRUCTURES IN PUBLIC EASEMENTS AND UNIMPROVED RIGHT-OF-WAY
UNDER ORS 105.668**

FINDINGS:

- A. Pursuant to CPMC, Chapter 1.01.040, the City Council, may from time to time make revisions to its municipal code which shall become part of the overall document and citation.
- B. ORS 105.668(2) limits certain claims and causes of action against a city, adjacent property owner(s) and certain nonprofit groups and their volunteers that arise from recreational use of trails or structures in public easements and/or unimproved right-of-way.
- C. ORS 105.668(3) authorizes cities with populations less than 500,000 to adopt such limitation of liability by ordinance or resolution.
- D. The City owns, operates and maintains a system of public trails and easements for public non-motorized activities such as walking, biking and hiking.
- E. The City Council finds that the City's trails and structures are an important public amenity, and that the public's use of such trails or structures is important for the health and enjoyment of the community, and that such use should be encouraged.
- F. The City finds that adopting the limitation of liability in ORS 105.668(2) will provide the City, adjacent property owners, and nonprofit groups with such protection and will encourage the public's continued use of trails and structures in Central Point's public easements and unimproved rights of way.
- G. Words ~~lined through~~ are to be deleted and words **in bold** are added.

THE PEOPLE OF THE CITY OF CENTRAL POINT DO ORDAIN AS FOLLOWS:

SECTION 1. Title 4 of the Central Point Municipal Code is hereby amended to add Chapter 4.02 entitled "Immunity from Liability Limited from Private Claims Resulting from Use of Trails in Public Easements or Unimproved Right-of-Way" as provided in the attached Exhibit A.

SECTION 2. Codification. Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Recitals A-C)

need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

SECTION 3. Effective Date. The Central Point City Charter states that an ordinance enacted by the Council shall take effect on the thirtieth day after its enactment. The effective date of this ordinance will be the thirtieth day after the second reading.

PASSED by the Council and signed by me in authentication of its passage this 27th day of June 2024.



Mayor Hank Williams

ATTEST:



City Recorder

EXHIBIT A

4.02 Immunity from Liability Limited from Private Claims Resulting from Use of Trails in Public Easements or Unimproved Right-of-Way

4.02.010 Purpose

The city council has determined it is in the public interest to opt into the immunities from liability for public use of trails or structures in public easements/right-of-way that is available to cities under ORS 105.668.

4.02.020 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 public 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, and includes the Greenway, 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.

4.02.030. 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 Central Point;

2. The City of Central Point'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 the structures in a public easement or unimproved right-of-way.

B. The immunity granted by this section from a private claim or right of action based on negligence does not grant immunity from liability:

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.