

Chapter 11.06

Recreational Immunity

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11.06.010 Title.

The Mosier Municipal Code Chapter 11.06 and the sections and subsections that are hereafter set forth may be referred to as the "Recreational Immunity Ordinance."

11.06.020 Purpose.

The purpose of this Chapter is to encourage and facilitate the construction, maintenance, and public use of trails, paths, and unimproved rights-of-way that support walking, biking, and other forms of nonmotorized recreation and recreational use within the City of Mosier. This Chapter is also intended for the City and other persons that maintain or provide access to these areas to benefit from the protections provided under ORS 105.668 and limit liability from private negligence claims.

11.06.030 Definitions.

The following definitions apply to the terms used within this Chapter.

- A. "Owner" means the possessor of any interest in any land, including but not limited to the holder of any legal or equitable title, a tenant, a lessee, an occupant, the holder of an easement, the holder of a right of way, or a person in possession of the land. The term also includes an officer, employee, volunteer, or agent of any person herein described, while acting within the scope of their duties; and a director, partner, shareholder, or member of a person described herein.
- B. "Public easement" means a platted or dedicated easement for public access that is accessible by a user on foot, horseback, equine, bicycle, or other similar conveyance.
- C. "Recreational purposes" includes but is not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, walking, running, bicycling, nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project.
- D. "Structures" means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on an equine, or on a bicycle or other nonmotorized vehicle or conveyance.

- E. “Trail” means a travel way for pedestrians, bicycles, and other non-motorized means of travel and any path or right-of-way that is intended to be used for recreational purposes or that is being used by a person to access land for recreational purposes.
- F. “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.

11.06.040 Limitation on liability.

- A. Personal injury or property damage resulting from the use of a trail that is in a public easement or an unimproved right-of-way, or from the use of structures in the public easement or unimproved right-of-way, by a user on foot, on an equine, 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 Mosier;
 - 2. The City of Mosier officers, employees, or agents, to the extent that the officers, employees, or agents are entitled to defense and indemnification under ORS 30.285;
 - 3. The owner(s) 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 Chapter does not include immunity for:
 - 1. A person (other than a person identified in 11.06.040(A)(2)), who receives compensation for assistance, services, or advice in relation to the conduct that leads to the personal injury and/or property damage.
 - 2. Acts of gross negligence, or from reckless, wanton, or intentional misconduct.
 - 3. An activity for which a person is strictly liable without regard to fault.