



MYRTLE CREEK CITY COUNCIL
REGULAR COUNCIL MEETING AGENDA
MYRTLE CREEK COUNCIL CHAMBER

AGENDA PACKET 4/2/2024

All city public meetings are being digitally recorded for sound and video camera surveillance.

The City Council of the City of Myrtle Creek will meet on **Tuesday, April 2, 2024, at 5:30 PM** in the Myrtle Creek Council Chamber, 207 NW Pleasant Street, Myrtle Creek, Oregon.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for other accommodations for persons with disabilities, or for remote access should be made at least 48 hours in advance of the meeting to the City Recorder at 541-863-3171.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the study session and or/meeting.

REGULAR COUNCIL MEETING – 5:30 PM

Anyone wishing to speak on an agenda item should complete a Public Comment Form and give it to the City Recorder. Public Comment Forms are located at the entrance to the meeting place. Anyone commenting on a subject not on the agenda will be called upon during the “Citizens Heard on Non-Agenda Items” section of the agenda. Comments pertaining to specific agenda items will be taken at the time the matter is discussed by the City Council.

- 1. Call to Order/Roll Call**
- 2. Pledge of Allegiance**
- 3. Public Presentations** – *Items that do not require immediate council action, such as presentations, discussions of potential future action items.*
- 4. Citizens Heard on Non-Agenda Items**
- 5. Consent Agenda** – *Requires a motion*
The consent agenda consists of items of a repeating or routine nature considered under a single action. Any Councilor may have an item on the consent agenda removed and considered separately upon request.
 - 5.1 Approval of minutes of the Regular City Council Meeting for March 19, 2024
- 6. Regular Agenda**
Citizens will be provided the opportunity to offer comments on action items after staff has

given their report and if there is an applicant, after they have had the opportunity to speak. Action items are expected to result in motions, resolutions, orders, or ordinances.

6.1 SB 1576 Recreational Immunity

7. City Administrator Report

8. Mayor and Councilor – Committee Reports and Councilor Comments

9. Executive Session

The Myrtle Creek City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660 but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

10. Adjournment



CITY OF MYRTLE CREEK

REGULAR MEETING OF THE CITY COUNCIL

DATE: March 19, 2024

PLACE: Council Chambers, 207 NW Pleasant St., Myrtle Creek, Oregon

PRESIDING OFFICER: Mayor Matthew Hald

COUNCILORS PRESENT: Councilors: Robert Chaney, Sr., Luke Dillon, Diana Larson, Susan Harris, Bill Burnett

COUNCILORS ABSENT:

A quorum was present throughout the meeting.

STAFF IN ATTENDANCE: City Administrator Lonnie Rainville, City Recorder Joanna Bilbrey, Finance Officer Lesley Hiscocks, Police Chief Jonathan Brewster, Fire Chief Manie Pires

CALL TO ORDER: Mayor Matthew Hald called the March 19, 2024 meeting to order at 5:30 PM

PUBLIC PRESENTATION

Mike Sherwood

CITIZENS HEARD ON NON-AGENDA ITEMS

Michael Sherwood – Springbrook Road Maintenance

Michael Sherwood presented to City Council the maintenance needs for Springbrook Road. Council consensus was to let the City Administrator work with the Springbrook Road District for maintenance needs with a cap of \$3500 to maintain the road.

Jamie Phillips – Downtown Parking

Jamie Phillips addressed the Council in regards to opening up the discussion again for downtown parking. The City Administrator shared that he could review the options and bring it back to Council in May or June.

CONSENT AGENDA

Parts I & II

Motion was made by Councilor Harris and seconded by Councilor Larson to approve Consent Agenda Parts I & II as presented in the March 19, 2024, council packet. Discussion: None
Vote: Motion passed unanimously.

DEPARTMENT REPORTS

Community Development Department

City Administrator Lonnie Rainville submitted the Community Development Department Report into record as written. No public comments have been received regarding the zone change request for a parcel on Division.

Finance Report

Finance Officer Lesley Hiscocks submitted the Finance Report into record as written.

Police Department

Police Chief Jonathan Brewster submitted the Police Department Report into record as written. Questions were asked about the new speed signs. Chief Brewster shared that the signs will be moved around town. They are put up for two weeks at a time, one week without being lit up and one week with the signs on so that data can be collected as to their effectiveness. The Police Chief and City Administrator shared that the County is going to be more aggressive with the condemning and tearing down of the Rose Motel.

Fire Department

Fire Chief Manie Pires submitted the Fire Department Report into record as written. The Fire Chief shared that the golf tournament is scheduled for June 8, 2024.

Public Works

City Administrator Lonnie Rainville submitted the Public Works Department Report into record as written. Council requested attention to the water running from the corner of Umpqua Bank at First and Pleasant. The City Administrator shared that the City is creating an annual plan for fire hydrant maintenance and that we will begin the third week of April with the flushing of the city's hydrants. Notices will be published in the paper, the City website, and on Facebook notifying residents of the activity.

REGULAR AGENDA

Advisory Board Animal Code Review

The City Administrator presented a scope of the possible creation of an Animal Code Review Board. It was suggested and agreed by Council to have legal input. The scope includes a schedule of the process for the creation of the board and the selection of board members. The meetings would start in June. The proposed Advisory Board would consist of seven members including two councilors and five members with the Councilors being non-voting members. The Advisory Board would need to follow the public meeting laws. Councilor Larson would like to see Lee Bartholomew with knowledge of Douglas County

Animal Control be consulted. The City Administrator will work to schedule the City Attorney to be in attendance for the April 16, 2024 meeting.

“If I Were Mayor” Contest

The “If I Were Mayor” contest was opened to the 4th and 5th grade students at Myrtle Creek Elementary School. One entry was submitted by Ruby LaFever. The first place prize is a \$50 gift card to Fred Meyer and her drawing will be forwarded to the Oregon Mayor’s Association for the state wide contest.

Request from Myrtle Creek Lions Club for a donation to the Hanging Flower Basket Project

Motion was made by Councilor Chaney to donate \$500 to the Myrtle Creek Lions Club for the Hanging Flower Basket Project. Motion was seconded by Councilor Burnett. Discussion: none

Vote: Motion passed unanimously.

CITY ADMINISTRATOR REPORT

City Administrator Lonnie Rainville commended Finance Officer Lesley Hiscocks for the work done compiling the information for the City Budget. It will be presented at the Budget Training Workshop on April 8th.

The funding bill that had the 2.38 million appropriation for the City passed the Senate so we should see the money to upgrade the water plant which will ensure we have the redundancy that we need.

The funding for the water tank did not make it through due to time constraints, we will submit it again for next year’s session. The repainting of the south tank will still take place.

We made an offer and it was accepted for the Wastewater Treatment Plant Operator I position. With this hire the City is now fully staffed.

Fire Hydrant flushing is being scheduled along with hydrant repair. The City Administrator commended Public Works Superintendent Zach Potter for his work in getting the City back in shape.

The City will be conducting the Spring Clean up May 6th through the 10th. This falls under part of the City’s TMDL Plan. We will be adding a fall leaf pick up this year during the second week of November.

MAYOR AND COUNCILOR – COMMITTEE REPORTS and COUNCILOR COMMENTS

Student Representative Marlee Rogers shared that the National Honors Society went on a trip to three Ronald McDonald houses and handed out 90 blankets to families. ASB organized a trip for students with a 3.0 gpa and better to Parkland Skating. Spring sports are beginning. Coffenberry held a vaccination clinic for families conducted by Aviva Health. Myrtle Creek Elementary School had access to Roseburg’s Brains & Screens event. Erica Bear was selected as the new South Umpqua School District Superintendent and will begin on July 1, 2024. Councilor Chaney shared that the Citizen of the Year Banquet is this weekend. Councilor Harris shared that this will be the 66th Citizen of the Year Banquet. Councilor Larson shared details from the Small Cities meeting. A lot of information was shared about grant money available for electric and solar power. Councilor Burnett shared that the

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Energy Trust has money for large grants for solar power and rebuilds. He also shared that there is an LOC webinar tomorrow.

ADJOURNMENT

Mayor Matthew Hald adjourned the regular meeting of the City Council for March 19, 2024 at 7:02 P.M.

Matthew Hald, Mayor

Attest:

Joanna Bilbrey
City Recorder

Enrolled

Senate Bill 1576

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with presession filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Senator Floyd Prozanski)

CHAPTER

AN ACT

Relating to civil matters; creating new provisions; amending ORS 17.095, 105.668, 105.672, 105.688 and 646A.589; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 646A.589 is amended to read:

646A.589. (1)(a) The Attorney General may serve an investigative demand upon any person that possesses, controls or has custody of any information, document or other material that the Attorney General determines is relevant to an investigation of a violation of ORS 646A.570 to 646A.589 or that could lead to a discovery of relevant information. An investigative demand may require the person to:

- (A) Appear and testify under oath at the time and place specified in the investigative demand;
- (B) Answer written interrogatories; or
- (C) Produce relevant documents or physical evidence for examination at the time and place specified in the investigative demand.

(b) The Attorney General shall serve an investigative demand under this section in the manner provided in ORS 646.622. The Attorney General may enforce the investigative demand as provided in ORS 646.626.

(2)(a) An attorney may accompany, represent and advise in confidence a person that appears in response to a demand under subsection (1)(a)(A) of this section. The person may refuse to answer any question on constitutional grounds or on the basis of any other legal right or privilege, including protection against self-incrimination, but must answer any other question that is not subject to the right or privilege. If the person refuses to answer a question on grounds that the answer would be self-incriminating, the Attorney General may compel the person to testify as provided in ORS 136.617.

(b) The Attorney General shall exclude from the place in which the Attorney General conducts an examination under this subsection all persons other than the person the Attorney General is examining, the person's attorney, the officer before which the person gives the testimony and any stenographer recording the testimony.

(3)(a) The Attorney General shall hold in confidence and may not disclose to any person any documents, including data protection assessments, answers to interrogatories and transcripts of oral testimony, except that the Attorney General may disclose the documents to:

- (A) The person that provided the documents or the oral testimony;
- (B) The attorney or representative of the person that provided the documents or oral testimony;

(C) *[Employees of]* **Persons employed by** the Attorney General; or

(D) An official of the United States or of any state who is authorized to enforce federal or state consumer protection laws if the Attorney General first obtains a written agreement from the official in which the official agrees to abide by the confidentiality requirements of this subsection.

(b) The Attorney General may use any of the materials described in paragraph (a) of this subsection in any investigation the Attorney General conducts under this section or in any action or proceeding the Attorney General brings or initiates in a court or before an administrative agency in connection with the investigation.

(4)(a) The Attorney General may bring an action to seek a civil penalty of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or to enjoin a violation or obtain other equitable relief. The Attorney General shall bring the action in the circuit court for Multnomah County or the circuit court of a county where any part of the violation occurred.

(b) A court may award reasonable attorney fees, expert witness fees and costs of investigation to the Attorney General if the Attorney General prevails in an action under this subsection. The court may award reasonable attorney fees to a defendant that prevails in an action under this subsection if the court finds that the Attorney General had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(c) The Attorney General shall deposit the proceeds of any recovery under this subsection into the Department of Justice Protection and Education Revolving Account, as provided in ORS 180.095.

(5) Before bringing an action under subsection (4) of this section, the Attorney General shall notify a controller of a violation of ORS 646A.570 to 646A.589 if the Attorney General determines that the controller can cure the violation. If the controller fails to cure the violation within 30 days after receiving the notice of the violation, the Attorney General may bring the action without further notice.

(6) The Attorney General shall bring an action under subsection (4) of this section within five years after the date of the last act of a controller that constituted the violation for which the Attorney General seeks relief.

(7) The remedies available to the Attorney General under subsection (4) of this section are in addition to and not in lieu of any other relief available to the Attorney General or another person under other applicable provisions of law. A claim available under another provision of law may be joined to the Attorney General's claim under subsection (4) of this section.

(8) The Attorney General has exclusive authority to enforce the provisions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other laws of this state, do not create a private right of action to enforce a violation of ORS 646A.570 to 646A.589.

SECTION 2. ORS 646A.589, as amended by section 11, chapter 369, Oregon Laws 2023, is amended to read:

646A.589. (1)(a) The Attorney General may serve an investigative demand upon any person that possesses, controls or has custody of any information, document or other material that the Attorney General determines is relevant to an investigation of a violation of ORS 646A.570 to 646A.589 or that could lead to a discovery of relevant information. An investigative demand may require the person to:

(A) Appear and testify under oath at the time and place specified in the investigative demand;

(B) Answer written interrogatories; or

(C) Produce relevant documents or physical evidence for examination at the time and place specified in the investigative demand.

(b) The Attorney General shall serve an investigative demand under this section in the manner provided in ORS 646.622. The Attorney General may enforce the investigative demand as provided in ORS 646.626.

(2)(a) An attorney may accompany, represent and advise in confidence a person that appears in response to a demand under subsection (1)(a)(A) of this section. The person may refuse to answer any question on constitutional grounds or on the basis of any other legal right or privilege, including protection against self-incrimination, but must answer any other question that is not subject to

the right or privilege. If the person refuses to answer a question on grounds that the answer would be self-incriminating, the Attorney General may compel the person to testify as provided in ORS 136.617.

(b) The Attorney General shall exclude from the place in which the Attorney General conducts an examination under this subsection all persons other than the person the Attorney General is examining, the person's attorney, the officer before which the person gives the testimony and any stenographer recording the testimony.

(3)(a) The Attorney General shall hold in confidence and may not disclose to any person any documents, including data protection assessments, answers to interrogatories and transcripts of oral testimony, except that the Attorney General may disclose the documents to:

(A) The person that provided the documents or the oral testimony;

(B) The attorney or representative of the person that provided the documents or oral testimony;

(C) [Employees of] **Persons employed by** the Attorney General; or

(D) An official of the United States or of any state who is authorized to enforce federal or state consumer protection laws if the Attorney General first obtains a written agreement from the official in which the official agrees to abide by the confidentiality requirements of this subsection.

(b) The Attorney General may use any of the materials described in paragraph (a) of this subsection in any investigation the Attorney General conducts under this section or in any action or proceeding the Attorney General brings or initiates in a court or before an administrative agency in connection with the investigation.

(4)(a) The Attorney General may bring an action to seek a civil penalty of not more than \$7,500 for each violation of ORS 646A.570 to 646A.589 or to enjoin a violation or obtain other equitable relief. The Attorney General shall bring the action in the circuit court for Multnomah County or the circuit court of a county where any part of the violation occurred.

(b) A court may award reasonable attorney fees, expert witness fees and costs of investigation to the Attorney General if the Attorney General prevails in an action under this subsection. The court may award reasonable attorney fees to a defendant that prevails in an action under this subsection if the court finds that the Attorney General had no objectively reasonable basis for asserting the claim or for appealing an adverse decision of the trial court.

(c) The Attorney General shall deposit the proceeds of any recovery under this subsection into the Department of Justice Protection and Education Revolving Account, as provided in ORS 180.095.

(5) The Attorney General shall bring an action under subsection (4) of this section within five years after the date of the last act of a controller that constituted the violation for which the Attorney General seeks relief.

(6) The remedies available to the Attorney General under subsection (4) of this section are in addition to and not in lieu of any other relief available to the Attorney General or another person under other applicable provisions of law. A claim available under another provision of law may be joined to the Attorney General's claim under subsection (4) of this section.

(7) The Attorney General has exclusive authority to enforce the provisions of ORS 646A.570 to 646A.589. ORS 646A.570 to 646A.589, or any other laws of this state, do not create a private right of action to enforce a violation of ORS 646A.570 to 646A.589.

SECTION 3. A court record relating to the settlement of a minor's claim approved under ORCP 27 I is confidential and may not be disclosed, except pursuant to a court order issued for good cause shown. Good cause for purposes of this section includes, but is not limited to, a showing that the claimant is no longer a minor.

SECTION 4. ORS 17.095 is amended to read:

17.095. (1) A public body, or officer, employee or agent of a public body, who is a defendant in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, may not enter into any settlement or compromise of the action if the settlement or compromise requires that the terms or conditions of the settlement or compromise be confidential.

(2) Notwithstanding subsection (1) of this section:

(a) A public body, or officer, employee or agent of a public body, may enter into a settlement or compromise that requires the terms or conditions to be confidential if federal law requires terms or conditions of that settlement or compromise to be confidential. Only terms and conditions that are required to be confidential under federal law may be confidential in the settlement or compromise.

(b) A court may order that the terms or conditions of a settlement or compromise that reveal the identity of a person be confidential if:

(A) The person whose identity is revealed is a victim of sexual abuse or is under 18 years of age; and

(B) The court determines, by written findings, that the specific privacy interests of the person outweigh the public's interest in the terms or conditions.

(c) A court record relating to the settlement of a minor's claim is confidential when required by section 3 of this 2024 Act.

(3) Any public body, or officer, employee or agent of a public body, who is a defendant in an action under ORS 30.260 to 30.300, or who is a defendant in an action under ORS 294.100, shall file with the court a full and complete disclosure of the terms and conditions of any settlement or compromise of the claims against the public body, its officers, employees or agents. The disclosure shall be filed prior to the dismissal of the action.

(4) For the purposes of this section:

(a) "Action" means a legal proceeding that has been commenced as provided in ORCP 3; and

(b) "Public body" has that meaning given in ORS 30.260.

SECTION 5. ORS 105.668 is amended to read:

105.668. (1) As used in this section:

(a) "Local government" has the meaning given that term in ORS 174.116.

[(a)] **(b) "Structures"** means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.

[(b)] **(c) "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] **local government** with jurisdiction over the public right of way and for which the [city] **local government** has not expressly accepted responsibility for maintenance.

(2) In a city with a population of 500,000 or greater, a personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or 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:

[(a) *A city with a population of 500,000 or more;*]

(a) The city;

(b) The officers, employees or agents of [a city with a population of 500,000 or more] **the city** to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement[,] or unimproved right of way[, in a city with a population of 500,000 or more] **in the city;** or

(d) 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 in [a city with a population of 500,000 or more] **the city.**

(3) [Notwithstanding the limit in subsection (2) of this section to a city with a population of 500,000 or more, by adoption of an ordinance or resolution, a city or county] **A local government** to which subsection (2) of this section does not apply may opt to limit liability in the manner established by subsection (2) of this section **by ordinance, resolution, rule, order or other regulation** for:

[(a) *The city or county that opts in by ordinance or resolution;*]

(a) The local government;

(b) The officers, employees or agents of the [city or county that opts in] **local government** to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement[,] or unimproved right of way[, in the city or county that opts in by ordinance or resolution; and] **in the local government; or**

(d) 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 in the [city or county that opts in] **local government.**

(4) [The immunity granted by this section from a private claim or right of action based on negligence] **This section** does not grant immunity from liability:

(a) Except as provided in subsection (2)(b) or (3)(b) 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.

(b) For [personal injury or property damage resulting from] gross negligence or [from] reckless, wanton or intentional misconduct.

(c) For an activity for which [a person] **the actor** is strictly liable without regard to fault.

SECTION 6. ORS 105.672 is amended to read:

105.672. As used in ORS 105.672 to 105.696:

(1) "Charge":

(a) Means the admission price or fee requested or expected by an owner in return for granting permission for a person to enter or go upon the owner's land.

(b) Does not mean any amount received from a public body in return for granting permission for the public to enter or go upon the owner's land.

(c) Does not include the fee for a winter recreation parking permit or any other parking fee of \$15 or less per day.

(2) "Harvest" has that meaning given in ORS 164.813.

(3) "Land" includes all real property, whether publicly or privately owned.

(4) "Owner" means:

(a) 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;

(b) An officer, employee, volunteer or agent of a person described in paragraph (a) of this subsection, while acting within the scope of assigned duties; and

(c) A director, partner, general partner, shareholder, limited liability company member, limited liability partner or limited partner of a person described in paragraph (a) of this subsection.

(5) "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.

(6) "Special forest products" has that meaning given in ORS 164.813.

(7) "Woodcutting" means the cutting or removal of wood from land by an individual who has obtained permission from the owner of the land to cut or remove wood.

SECTION 7. ORS 105.688 is amended to read:

105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided by ORS 105.682 apply to:

(a) All land, including but not limited to land adjacent or contiguous to any bodies of water, watercourses or the ocean shore as defined by ORS 390.605;

(b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on the land described in paragraph (a) of this subsection;

(c) All paths, trails, roads, watercourses and other rights of way, while being used by a person to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest products, that are on land adjacent to the land that the person intends to use for recreational pur-

poses, gardening, woodcutting or the harvest of special forest products, *[and that have]* **provided that:**

(A) The right of way has not been improved, designed or maintained for the specific purpose of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest products; *[and]* **or**

(B)(i) The right of way has been improved, designed or maintained to provide access for recreational purposes, gardening, woodcutting or the harvest of special forest products;

(ii) The right of way is not a highway maintained under ORS 810.010; and

(iii) The improvement, design or maintenance was completed in a manner that does not constitute:

(I) Gross negligence or reckless, wanton or intentional misconduct; or

(II) An activity for which the actor is strictly liable without regard to fault; and

(d) All machinery or equipment on the land described in paragraph (a) of this subsection.

(2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement to a public body to use the land.

(3) Except as provided in subsections (4) to (7) of this section, the immunities provided by ORS 105.682 do not apply if the owner makes any charge for permission to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(4) If the owner charges for permission to use the owner's land for one or more specific recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to any use of the land other than the activities for which the charge is imposed. If the owner charges for permission to use a specified part of the owner's land for recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(5) The immunities provided by ORS 105.682 for gardening do not apply if the owner charges more than \$25 per year for the use of the land for gardening. If the owner charges more than \$25 per year for the use of the land for gardening, the immunities provided by ORS 105.682 apply to any use of the land other than gardening. If the owner charges more than \$25 per year for permission to use a specific part of the owner's land for gardening and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner charges more than \$75 per cord for permission to use the land for woodcutting. If the owner charges more than \$75 per cord for the use of the land for woodcutting, the immunities provided by ORS 105.682 apply to any use of the land other than woodcutting. If the owner charges more than \$75 per cord for permission to use a specific part of the owner's land for woodcutting and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(7) The immunities provided by ORS 105.682 for the harvest of special forest products do not apply if the owner makes any charge for permission to use the land for the harvest of special forest products. If the owner charges for permission to use the owner's land for the harvest of special forest products, the immunities provided by ORS 105.682 apply to any use of the land other than the harvest of special forest products. If the owner charges for permission to use a specific part of the owner's land for harvesting special forest products and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(8) Notices under subsections (4) to (7) of this section may be given by posting, as part of a receipt, or by such other means as may be reasonably calculated to apprise a person of:

(a) The limited uses of the land for which the charge is made, and the immunities provided under ORS 105.682 for other uses of the land; or

(b) The portion of the land the use of which is subject to the charge, and the immunities provided under ORS 105.682 for the remainder of the land.

SECTION 8. ORS 105.668, as amended by section 5 of this 2024 Act, is amended to read:

105.668. (1) As used in this section:

(a) "Local government" *[has the meaning given that term in ORS 174.116]* **means a city or county.**

(b) "Structures" means improvements in a trail, including, but not limited to, stairs and bridges, that are accessible by a user on foot, on a horse or on a bicycle or other nonmotorized vehicle or conveyance.

(c) "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 local government with jurisdiction over the public right of way and for which the local government has not expressly accepted responsibility for maintenance.

(2) In a city with a population of 500,000 or greater, a personal injury or property damage resulting from use of a trail that is in a public easement or in an unimproved right of way, or from use of structures in the public easement or unimproved right of way, by a user on foot, on a horse or 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:

(a) The city;

(b) The officers, employees or agents of the city to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement or unimproved right of way in the city; or

(d) 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 in the city.

(3) A local government to which subsection (2) of this section does not apply may opt to limit liability in the manner established by subsection (2) of this section by ordinance, resolution, rule, order or other regulation for:

(a) The local government;

(b) The officers, employees or agents of the local government to the extent the officers, employees or agents are entitled to defense and indemnification under ORS 30.285;

(c) The owner of land abutting the public easement or unimproved right of way in the local government; or

(d) 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 in the local government.

(4) This section does not grant immunity from liability:

(a) Except as provided in subsection (2)(b) or (3)(b) 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.

(b) For gross negligence or reckless, wanton or intentional misconduct.

(c) For an activity for which a person is strictly liable without regard to fault.

SECTION 9. ORS 105.672, as amended by section 6 of this 2024 Act, is amended to read:

105.672. As used in ORS 105.672 to 105.696:

(1) "Charge":

(a) Means the admission price or fee requested or expected by an owner in return for granting permission for a person to enter or go upon the owner's land.

(b) Does not mean any amount received from a public body in return for granting permission for the public to enter or go upon the owner's land.

(c) Does not include the fee for a winter recreation parking permit or any other parking fee of \$15 or less per day.

(2) "Harvest" has that meaning given in ORS 164.813.

(3) "Land" includes all real property, whether publicly or privately owned.

(4) "Owner" means:

(a) 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;

(b) An officer, employee, volunteer or agent of a person described in paragraph (a) of this subsection, while acting within the scope of assigned duties; and

(c) A director, partner, general partner, shareholder, limited liability company member, limited liability partner or limited partner of a person described in paragraph (a) of this subsection.

(5) "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.

(6) "Special forest products" has that meaning given in ORS 164.813.

(7) "Woodcutting" means the cutting or removal of wood from land by an individual who has obtained permission from the owner of the land to cut or remove wood.

SECTION 10. ORS 105.688, as amended by section 7 of this 2024 Act, is amended to read:

105.688. (1) Except as specifically provided in ORS 105.672 to 105.696, the immunities provided by ORS 105.682 apply to:

(a) All land, including but not limited to land adjacent or contiguous to any bodies of water, watercourses or the ocean shore as defined by ORS 390.605;

(b) All roads, bodies of water, watercourses, rights of way, buildings, fixtures and structures on the land described in paragraph (a) of this subsection;

(c) All paths, trails, roads, watercourses and other rights of way, while being used by a person to reach land for recreational purposes, gardening, woodcutting or the harvest of special forest products, that are on land adjacent to the land that the person intends to use for recreational purposes, gardening, woodcutting or the harvest of special forest products, provided that[.]

[(A)] the right of way has not been improved, designed or maintained for the specific purpose of providing access for recreational purposes, gardening, woodcutting or the harvest of special forest products; [or] **and**

[(B)(i) *The right of way has been improved, designed or maintained to provide access for recreational purposes, gardening, woodcutting or the harvest of special forest products;*]

[(ii) *The right of way is not a highway maintained under ORS 810.010; and*]

[(iii) *The improvement, design or maintenance was completed in a manner that does not constitute;*]

[(I) *Gross negligence or reckless, wanton or intentional misconduct; or*]

[(II) *An activity for which the actor is strictly liable without regard to fault; and*]

(d) All machinery or equipment on the land described in paragraph (a) of this subsection.

(2) The immunities provided by ORS 105.682 apply to land if the owner transfers an easement to a public body to use the land.

(3) Except as provided in subsections (4) to (7) of this section, the immunities provided by ORS 105.682 do not apply if the owner makes any charge for permission to use the land for recreational purposes, gardening, woodcutting or the harvest of special forest products.

(4) If the owner charges for permission to use the owner's land for one or more specific recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to any use of the land other than the activities for which the charge is imposed. If the owner charges for permission to use a specified part of the owner's land for recreational purposes and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(5) The immunities provided by ORS 105.682 for gardening do not apply if the owner charges more than \$25 per year for the use of the land for gardening. If the owner charges more than \$25 per year for the use of the land for gardening, the immunities provided by ORS 105.682 apply to any use of the land other than gardening. If the owner charges more than \$25 per year for permission

to use a specific part of the owner's land for gardening and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(6) The immunities provided by ORS 105.682 for woodcutting do not apply if the owner charges more than \$75 per cord for permission to use the land for woodcutting. If the owner charges more than \$75 per cord for the use of the land for woodcutting, the immunities provided by ORS 105.682 apply to any use of the land other than woodcutting. If the owner charges more than \$75 per cord for permission to use a specific part of the owner's land for woodcutting and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(7) The immunities provided by ORS 105.682 for the harvest of special forest products do not apply if the owner makes any charge for permission to use the land for the harvest of special forest products. If the owner charges for permission to use the owner's land for the harvest of special forest products, the immunities provided by ORS 105.682 apply to any use of the land other than the harvest of special forest products. If the owner charges for permission to use a specific part of the owner's land for harvesting special forest products and the owner provides notice in the manner provided by subsection (8) of this section, the immunities provided by ORS 105.682 apply to the remainder of the owner's land.

(8) Notices under subsections (4) to (7) of this section may be given by posting, as part of a receipt, or by such other means as may be reasonably calculated to apprise a person of:

(a) The limited uses of the land for which the charge is made, and the immunities provided under ORS 105.682 for other uses of the land; or

(b) The portion of the land the use of which is subject to the charge, and the immunities provided under ORS 105.682 for the remainder of the land.

SECTION 11. (1) The amendments to ORS 105.668, 105.672 and 105.688 by sections 5 to 7 of this 2024 Act apply to actions for personal injury, death or property damage commenced on or after the effective date of this 2024 Act, and before January 2, 2026.

(2) The amendments to ORS 105.668, 105.672 and 105.688 by sections 8 to 10 of this 2024 Act become operative on January 2, 2026, and apply to actions for personal injury, death or property damage commenced on or after January 2, 2026.

(3) An ordinance, resolution, rule, order or other regulation under ORS 105.668 (3) that is adopted by a local government other than a city or county is not effective after January 2, 2026.

SECTION 12. This 2024 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2024 Act takes effect on its passage.

Passed by Senate February 22, 2024

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House March 5, 2024

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Dan Rayfield, Speaker of House

Received by Governor:

.....M.,....., 2024

Approved:

.....M.,....., 2024

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Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M.,....., 2024

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LaVonne Griffin-Valade, Secretary of State