

RESOLUTION NO. 5311-17

A RESOLUTION SUPPORTING RECREATIONAL IMMUNITY LEGISLATION.

WHEREAS, in 1995, the Legislative Assembly enacted the Public Use of Lands Act, ORS 105.672 *et seq.*, and declared it to be the public policy of the State of Oregon to encourage landowners to make their land available to the public for recreational purposes by limiting landowners' liability when they make their land available for use by the public at no charge; and

WHEREAS, recreational purposes include, but are not limited to, park recreation, sports, hiking, nature study, outdoor educational activities, water sports, viewing or enjoying historical, archaeological, and scenic sites, fishing, camping, picnicking, swimming, boating, camping, and volunteering for any public purpose project; and

WHEREAS, the Public Use of Lands Act has increased the availability of land for free recreation by citizens and visitors alike by limiting liability to cities, counties, park districts, irrigation districts, schools and private landowners; and

WHEREAS, in *Johnson v. Gibson*, the Oregon Supreme Court held that when the Legislature enacted the Public Use of Lands Act, it intended to immunize only the landowner, and not the employees, agents, and volunteers of the landowner; and

WHEREAS, as a result of this ruling, public landowners' are not immune from tort liability under the Public Use of Lands Act because public employers are statutorily required under the Oregon Tort Claims Act to defend and indemnify their officers, employees, and agents, and the ruling may also impact the immunity of private landowners; and

WHEREAS, landowners will likely face increased insurance premiums for this new risk exposure and/or have to close property or amenities to reduce such risk.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TUALATIN, OREGON, that:

**Section 1.** The City of Tualatin supports the enactment of legislation in the 2017 Session of the Oregon Legislative Assembly to provide recreational immunity to landowners and the landowners' officers, employees, agents, and volunteers who are acting within the scope of their employment or duties, so as to enhance Oregonians' access to lands for recreational use and enjoyment.

**Section 2.** This resolution is effective upon adoption.

Adopted by the City Council this 27<sup>th</sup> day of February, 2017.

CITY OF TUALATIN OREGON

BY 

Mayor

APPROVED AS TO FORM

BY 

City Attorney

ATTEST

BY 

City Recorder