

**A RESOLUTION OF THE CITY OF LEBANON ) RESOLUTION NO. 2011- 33**  
**OPTING IN TO THE RECREATIONAL IMMUNITY )**  
**PROVIDED BY HB 2865 WHEN ALLOWING PUBLIC )**  
**USE OF UNIMPROVED RIGHTS OF WAY (ROWs) )**

WHEREAS, recent legislation was adopted to address a specific situation where there was strong interest in making unimproved ROWs available for public recreation purposes; and

WHEREAS, the city and the owners of the land abutting the ROWs were concerned about liability if users of these pathways were injured and claimed the landowner or ROW owner (or both) were at fault for design, construction, or maintenance of the improvements; and

WHEREAS, HB 2865 was introduced as an attempt to provide immunity from liability to cities with a population of 500,000 or more; and later amended to add a provision whereby smaller counties, as well as smaller cities, could opt in by ordinance or resolution; and

WHEREAS, the City of Lebanon has several trails located in both easements and unimproved ROWs throughout the city; and

WHEREAS, the immunity granted by the legislation lends favorable consideration to the continued public use of the existing trails and any future ROWs made available for similar uses; and

WHEREAS, even if the immunity is not upheld, there seems to be no disadvantage to opting in since a city would be no worse off.

**NOW, THEREFORE, THE LEBANON CITY COUNCIL HEREBY RESOLVES:**

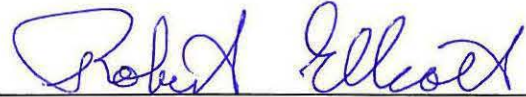
Section 1. The recreational immunity provided by HB 2865 is a consideration in the decision to allow trail use in existing and future ROWs.

Section 2. The City Council hereby opts in to the recreational immunity provided by HB 2865 when allowing public use of unimproved ROWs.

Section 3. This resolution shall take effect immediately upon its adoption.

Adopted by the Lebanon City Council and executed by the Mayor on this 12<sup>th</sup> day of October, 2011, with 5 Yeas and 0 Nays.

CITY COUNCIL OF LEBANON, OREGON



Kenneth I. Toomb, Mayor

Bob Elliott, Council President

ATTEST:



Linda Kaser, City Clerk/Recorder 10/12/2011