

"APPENDIX A"

ORDINANCE NO. 22.34

**AN ORDINANCE ADDING NEW CHAPTER 9.20 OF THE TUOLUMNE COUNTY
ORDINANCE CODE TO PROVIDE INDEMNIFICATION FOR LANDOWNERS WHOSE
PROPERTY IS ENCUMBERED BY RECREATIONAL TRAILS**

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The Board of Supervisors of the County of Tuolumne ordains as follows:

SECTION 1: A new Chapter 9.20 is added to the Tuolumne County Ordinance Code to read as follows:

9.20.010 Purpose. The County of Tuolumne recognizes that the provision of adequate, accessible recreational trails is important to the social, psychological and physical well-being of its residents, affords economic opportunities for businesses and allows a low impact enjoyment of the County's natural environment. Providing indemnification for property owners whose land is traversed by recreational trails recognizes the importance of these trails to the County's quality of life, to recognize and minimize the potential effects the trails have on adjoining property, and to encourage trail dedication and use by alleviating property owner liability concerns.

9.20.020 Trails affected. The owner of any parcel of land on which a trail has been or is expressly dedicated for public use as an equestrian, pedestrian, or other type of non-motorized recreational right of way, by final or parcel map, or otherwise, and expressly accepted by the County of Tuolumne on behalf of the public, is eligible for the benefits of this chapter.

9.20.030 Indemnity. The County of Tuolumne will indemnify an owner of a parcel, as described in this chapter, from all claims, demands or liability for injury to person or property that occurs on the trail when used for any recreational purpose, excluding injury occurring in any of the following circumstances:

- A. The owner's willful or malicious failure to guard or warn against a dangerous condition, use, structure or activity;
- B. where permission for recreational use was granted for a consideration other than the benefit received at the time of dedication;
- C. where the person suffering injury was expressly invited by the owner to use the trail for a recreational purpose rather than merely permitted to use it;
- D. where the person suffering injury is a member of the owner's household.

The forgoing ordinance introduced on the 3 day of March, 1998, and adopted at a regular meeting of the Board of supervisors of the County of Tuolumne, State of California, on this 10 day of March, 1998, by the following vote, to wit:

AYES: Rotelli, Marks, Johnston, Plad
NOES: none
ABSTAIN: none
ABSENT: Donner

Larry A. Rotelli
LARRY A. ROTELLI, Chairman
Board of Supervisors,
County of Tuolumne,
State of California

ATTEST: EDNA M. BOWCUTT
Clerk to the Board of Supervisors

by Edna M. Bowcutt (SEAL)

APPROVED AS TO LEGAL FORM:

County Counsel
County of Tuolumne

by Paul Griebel Feb. 11, '98
PAUL GRIEBEL, Deputy Date

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COUNTY OF TUOLUMNE
PLANNING DEPARTMENT

ORDINANCE NO. 2117

AN ORDINANCE AMENDING TITLE 17 TO ADD DEFINITIONS FOR EASEMENT AND RIGHT-OF-WAY AND TO PROHIBIT OBSTRUCTION OF THE PURPOSE FOR WHICH AN EASEMENT OR RIGHT-OF-WAY WAS INTENDED AND TO AMEND SECTION 16.04.220 TO PROVIDE A CONSISTENT DEFINITION FOR EASEMENT

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The Board of Supervisors of Tuolumne County ordains as follows:

SECTION 1: Section 16.04.220 of the Tuolumne County Ordinance Code is amended to read as follows:

16.04.220 Easement. An interest in real property giving a person or public entity other than the owner of a parcel, a right to use that parcel, or a portion, or to prevent the owner's use, for some specific purpose. Such specific purposes may include streets, alleys, bicycle paths, pedestrian facilities, equestrian trails, sanitary sewers, drainage, utilities or other public or private uses.

SECTION 2: A new Section 17.04.315 is added to the Tuolumne County Ordinance Code to read as follows:

17.04.315 Easement. "Easement" means an interest in real property giving a person or public entity other than the owner of a parcel, a right to use that parcel, or a portion, or to prevent the owner's use, for some specific purpose. Such specific purposes may include streets,

alleys, bicycle paths, pedestrian facilities, equestrian trails, sanitary sewers, drainage, utilities or other public or private uses.

SECTION 3: A new Section 17.04.695 is added to the Tuolumne County Ordinance Code to read as follows:

17.04.695 Right-of-way. "Right-of-way" means an easement to pass over an affected parcel. Rights-of-way may include the land on which public roads, railroads, public utilities, bicycle paths, pedestrian facilities or equestrian trails are located.

SECTION 4: Section 17.56.110 of the Tuolumne County Ordinance Code is amended to read as follows:

17.56.110 Obstructions of easements.

- A. Except as otherwise provided herein, no person shall place or erect, nor shall any owner of record, or anyone known to be in possession, of a parcel of land fail or refuse to remove from that parcel, any structure or object which obstructs the purpose for which an easement or right-of-way of record was created. The owner of record, or anyone known to be in possession, of the parcel on which the easement or right-of-way is located shall be responsible for maintaining the easement or right-of-way free from prohibited obstructions.
- B. Prior to issuance of an entitlement from the County to construct a structure within an easement or right-of-way

which has the potential to obstruct the purpose for which the easement or right-of-way was intended, the applicant for the entitlement shall submit to the jurisdictional agency, written permission for the construction of the structure from all parties with the right of use of the easement or right-of-way.

- C. A structure authorized by the issuance of an entitlement described in subdivision B is exempt from the provisions of subdivision A.

SECTION 5: All Ordinances of the County of Tuolumne or portions thereof in conflict herewith are hereby repealed.

SECTION 6: If any provision of the Ordinance or the application thereof to any person or circumstances is for any reason held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or applications thereof, and to this end, the provisions of this Ordinance are severable.

SECTION 7: This Ordinance shall take effect thirty (30) days after its adoption. The Clerk of the Board of Supervisors is hereby authorized and directed to publish a summary of this ordinance in the Union Democrat, a newspaper of general circulation printed and published in the County of Tuolumne, State of California, prior to fifteen (15) days after its passage.

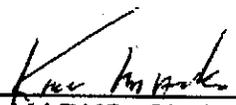
The foregoing Ordinance introduced on the 24 day of October, 1995, and passed and adopted at a regular meeting of the Board of Supervisors, State of California, on this 7 day of November, 1995, by the following vote, to wit:

AYES: Rotolo, Rountree, Marks, De Bernardi, Holman

NOES: none

ABSTAIN: none

ABSENT: none



KEN MARKS, Chairman,
Board of Supervisors,
County of Tuolumne,
State of California

ATTEST: EDNA M. BOWCUTT,
Clerk of the Board of Supervisors

By Edna M. Bowcutt (SEAL)

APPROVED AS TO LEGAL FORM:
County Counsel, County of Tuolumne

By Paul Griebel
Paul Griebel, Deputy County Counsel