

ORDINANCE NO. 9233

AN ORDINANCE ADDING DIVISION 12, CHAPTER 1 TO TITLE 8 OF
THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING
TO DEFENSE AND INDEMNIFICATION FOR TRAIL EASEMENTS

The Board of Supervisors of the County of San Diego ordains
as follow:

Section 1. Purpose. Having a quality system of non-motorized recreational trails in the County is a valuable public amenity. The County desires to establish a quality trail system that is balanced with a respect for the rights of private property owners. Many property owners are concerned that they will be subject to lawsuits if a person is injured on a trail traversing or adjacent to their property. It is the intent of this ordinance to provide defense and indemnification to the grantor of an easement for recreational trail uses or an owner of land adjacent to a trail which has been or is dedicated and accepted by the County for public use as a recreational right-of-way from all claims, demands or liability for injuries to a person or property that occurs on such trail when used for recreational purposes with certain specified exceptions.

Section 2. Division 12, Chapter 1 is hereby added to the San Diego Code of Regulatory Ordinances to read as follows:

Sec. 812.101. TITLE. This division shall be known and may be cited as the "Trail Defense and Indemnification Ordinance".

Sec. 812.102. PERSONS AFFECTED. The owner of any parcel of land on which, or adjacent to 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 and expressly accepted by the County of San Diego on behalf of the public, is eligible for the benefits of this chapter.

Sec. 812.103. INDEMNITY. The County of San Diego will defend and indemnify an owner of a parcel of land as described in this chapter, from all claims, demands or liability for injury to person or property that occurs on the trail, or incidental to use of 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.

Sec. 812.104. COOPERATION OF PROPERTY OWNER. Property owner shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense. County's obligation to defend or indemnify owner from and against any claim, demands or liability for injury to person or property shall terminate if property owner does not cooperate with the County in its defense of the action.

Section 3. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 12th day of July, 2000.