

WISCONSIN RECREATIONAL USE STATUTE AND THE PRIVATE LANDOWNER

Protecting Landowners Providing Recreational Opportunities

Communities and trail groups are working hard to create a system of trails for recreation, health, and commuting. Issues arise when the optimal or only route for a trail crosses privately owned land.

Trail users are highly appreciative of landowners allowing trail use on their land. They want to work with landowners to assure the best experience for both groups.

Many landowners are willing to allow people to pass through their property, enjoying the pleasant scenery, but they can have some valid concerns.

The foremost questions the private landowner asks:

1. "What risks do I as a landowner face when allowing access through my property?"
2. Can I as a landowner be held liable if a person using a trail is injured on my land?"

The Wisconsin legislature has enacted a "Recreational Use Statute" to encourage owners and managers to allow public access for recreation use on their lands.

Landowners can be any of the following – owner, tenant, lessee, occupant, or person in control of the premises. The Statute defends both private and public land managers.

Land can include physical land, roadways, water, watercourses, structures, buildings, machinery or equipment attached to the land.

Landowners are not required to keep their premises safe or to warn visitors of hazardous conditions, structures, or activities on their property. However, landowners cannot deliberately endanger people who enter for recreational purposes.

People entering and using privately owned lands for recreational purposes are responsible for exercising due care in their use of the land.

This liability protection is not valid if the landowner collects fees or rent for the use of the land. Exceptions can be, but not limited to, payment for land leased to a government agency that then manages the property or nominal gifts to the landowner.

If you as a landowner allow a trail to cross your property, let the trail organization know that you want to be contacted immediately to address concerns before they have a chance to develop into problems. Addressing it promptly will make a better situation for all.

It has become more common for trail groups to request access to privately held lands for trail use. Most landowners of private and public lands want to grant permission, but they can have questions concerning their risks, liability, and responsibility. State statutes assure landowners protection for allowing access, creating new opportunities for recreation.

Developed with assistance from Rivers, Trails and Conservation Assistance National Park Service
<http://www.nps.gov/rtca> or 505-988-6091

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For more information:

Wisconsin Recreational Use Statute

Wisconsin Statutes Provisions Common to Actions and Proceedings in All Courts Chapter 895. Miscellaneous General Provisions. http://www.law.utexas.edu/dawson/recreate/wi_rec.htm

American Association for Horsemanship Safety

<http://www.law.utexas.edu/dawson/recreate/recreate.htm> or 1-512-488-2220

Equestrian Land Conservation Resource, <http://www.elcr.org> or 1-815-776-0150

International Mountain Bicycling Association, <http://www.limba.com> or 1-888-442-4622

American Whitewater, <http://www.americanwhitewater.org/> or 1-866-BOAT4AW