

Public Recreation Easements

What is a Public Recreation Easement?

[Alaska Statute 34.17.100](#) (full text below) created [Public Recreational Easements](#) (PREs). PREs are designed to protect from liability those landowners who allow the public, at no cost, to cross their property for recreation. Landowners specify what kind of recreational activities are allowed, where, and for how many years—even as long as “in perpetuity” (which means forever).

PREs reference [Alaska Statute 09.65.200 \(“Tort Immunity For Personal Injuries or Death Occurring On Unimproved Land”\)](#). This law states landowners who allow recreational use of their property without charging fees are not liable for injuries or damages, “...except for an act or omission that constitutes gross negligence or reckless or intentional misconduct.” This means you are protected from most legal claims related to recreational use of your unimproved land.

Where are Public Recreational Easements used? All 50 states in the United States have some form of legislation allowing public recreational easements on private property. These are often referred to as “recreational use statutes,” which means that every state has the potential for property owners to establish public recreational easements on their land. Alaska created its statute PRE statute in 2022.

How long does a Public Recreational Easement on my property last?

It can last as long or as briefly as you like. You specify the duration of the Public Recreational Easement on the PRE form you file with the Alaska [Recorder’s Office](#). If you do not specify a duration, the PRE remains in effect until legally terminated or amended.

Does the easement stay with the property if I sell it? If you establish the easement “in perpetuity,” the easement continues regardless of ownership. If you specify an end date, the easement ends on that date unless a new easement is recorded.



Citizens have found that contributing to a trail system supports healthy recreation and can enhance property values in surrounding and nearby areas.



Can I change my mind about how long I want a Public Recreational Easement on my land?

You can change your Public Recreational Easement anytime after the ending date you specified in the easement you filed. If you specified the easement was “in perpetuity,” it will not end. The purpose of an easement recorded in perpetuity would not be protected forever if the easement could be changed to adversely affect or change its recorded purpose.

Are there restrictions associated with a Public Recreational Easement?

Landowners cannot charge fees for recreational use under the liability protections of **§09.65.202**.

I understand I am not liable for people on my Public Recreational Easement trail, but what if they are off the trail, but on my land, and they get hurt? Am I liable?

The tort (wrongdoing) protection is for all unimproved land you own that you include in the Public Recreational Easement. You could place your entire parcel in a Public Recreational Easement or identify just a trail corridor. The tort protection applies to the area you describe. If someone leaves the trail but remains on your land and is injured, you are likely not liable as long as:

- The land is unimproved.
- You do not charge a fee for recreational use.
- The injury is not caused by gross negligence, reckless conduct, or intentional harm on your part.

If I let people use a trail across my land, could the public then claim it is a historic trail and take possession of the trail from me by claiming a “prescriptive easement”?

No, under Alaska law, allowing public use of a trail across your land through a public recreational use easement or similar arrangement does not create grounds for a prescriptive easement or allow the public to claim possession of the trail as a historic trail.

How can I set up a Public Recreation Easement? Is it hard to do?

No, it's really simple. You fill out a 2 page application (<https://dnr.alaska.gov/mlw/cdn/pdf/forms/Public-Recreation-Easement.pdf>) and file the form for free at the Alaska Recorder’s Office. (This is a “no fee” filing.) Your easement may need to be surveyed if only a portion of the parcel is being designated in the

recreational easement, but a survey is not required. A landowner can simply describe the easement as "50ft north of the property boundary....."

Are there any tax benefits to setting up a Public Recreational Easement?

Yes, there are potential tax benefits to establishing a public recreational easement in Alaska as described above. Specifically, §09.65.202(f)(1)(B) mentions "property tax relief in exchange for a landowner's agreement to open land for a recreational activity." This means that landowners who dedicate a portion of their property for public recreational use by recording a public recreational use easement might qualify for reduced property taxes. Consult with a tax professional or legal expert familiar with Alaska's easement laws for more detailed information.

Preservation of Open Space

Public recreational easements preserve natural spaces by legally restricting harmful development, encouraging conservation, and supporting sustainable recreational use. They prevent land fragmentation, maintain ecological integrity, and promote public stewardship, ensuring long-term protection of natural and scenic values.

Recreational Use Statutes: Alaska
A.S. §§ 09.65.200-202 ; § 34.17.055-100

(Current with amendments received through July 9, 2022 of the 2022 Second Regular Session of the 32nd Legislature.)

§ 09.65.200. Tort immunity for personal injuries or death occurring on unimproved land.

(a) An owner of unimproved land is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages for the injury to or death of a person who enters onto or remains on the unimproved portion of land if

- (1) the injury or death resulted from a natural condition of the unimproved portion of the land or the person entered onto the land for recreation; and
- (2) the person had no responsibility to compensate the owner for the person's use or occupancy of the land.

(b) This section does not enhance or diminish rights granted under former 43 U.S.C. 932 (R.S. 2477).

(c) In this section, "unimproved land" includes land that contains

- (1) a trail;
- (2) an abandoned aircraft landing area; or
- (3) a road built to provide access for natural resource extraction, but which is no longer maintained or used.

§ 09.65.202. Tort immunity for landowners' allowing recreational activity; adverse possession.

(a) A landowner that allows a recreational activity on the landowner's land without charge does not, by allowing that activity,

- (1) owe a duty of care to maintain the land safe for entry or use for a recreational activity or to eliminate, alter, or control the inherent risks of a recreational activity;
- (2) owe a duty to warn persons using the land for a recreational activity of any dangerous condition, known or unknown, apparent or hidden;
- (3) owe a duty to curtail or prevent use of the land for recreational activities;
- (4) implicitly ensure that the land is safe for any purpose;
- (5) confer a legal status, such as invitee or licensee, to which a special duty of care is owed; or
- (6) assume responsibility for any injury to persons or property.

(b) This section applies only during the time that a landowner allows recreational use under a recorded grant of a public recreational use easement as required in AS 34.17.100.

(c) This section does not apply to a civil action

- (1) if the landowner collects a charge for entry on the land for a recreational activity; or
- (2) that is based on intentional, reckless, or grossly negligent conduct of the landowner.

(d) This section may not be construed to conflict with, nor does it have any effect on, a liability release agreement between a participant in a recreational activity and a landowner.

(e) Except as provided for under AS 09.45.052(d), land use allowed by a landowner for a recreational activity without charge may not form the basis of a claim for adverse possession, prescriptive easement, or a similar claim.

(f) In this section,

(1) "charge" means a fee or admission price imposed for access to or use of land, a recreational activity, a service, an entertainment, or another activity, except that the following is not considered a "charge":

(A) consideration received by the landowner from the state or political subdivision for land leased or dedicated to the state or political Subdivision;

(B) property tax relief in exchange for a landowner's agreement to open land for a recreational activity; or

(C) a contribution in kind, service, or cash from a user if all of the contribution is used to improve access or trails, to remedy or reduce damage, to provide warning of a hazard, or to remove a hazard from the Land;

(2) "land" includes private

(A) unimproved land;

(B) improved land, exclusive of buildings, structures, machinery, or equipment on the land;

(C) ways or land subject to an easement or right-of-way;

(D) roads and trails;

(E) water and watercourses on or running through the land;

(3) "landowner" means a private person who owns land;

(4) "private person" has the meaning given in AS 09.55.240;

(5) "recreational activity" has the meaning given "sports or recreational activity" in AS 09.65.290.

§ 34.17.055. Tort immunity from personal injuries or death arising out of the use of land subject to a conservation easement.

(a) In addition to the immunity provided by AS 09.65.200, an owner of land, a portion of which is subject to a conservation easement that is 50 feet or less in width, that has been granted to and accepted by the state or a municipality, and that provides public access for recreational purposes on the land subject to the conservation easement is not liable in tort, except for an act or omission that constitutes gross negligence or reckless or intentional misconduct, for damages to a person who uses the easement to enter onto or remain on the land if

(1) the person had no responsibility to compensate the owner for the person's use of the easement or the land; and

(2) the damages arise out of the person's use of the easement for recreational purposes on the land.

(b) The immunity under (a) of this section extends to the grantee of the conservation easement providing public access to the land for recreational purposes.

§ 34.17.060. Definitions.

In AS 34.17.010 - 34.17.060,

(1) “conservation easement” means a nonpossessory interest of a holder in real property imposing limitations or affirmative obligations to retain or protect natural, scenic, or open space values of real property, ensure its availability for agricultural, forest, recreational, or open space use, protect natural resources, maintain or enhance air or water quality, or preserve the historical, architectural, archaeological, or cultural aspects of real property;

(2) “holder” means

(A) a governmental body empowered to hold an interest in real property under the laws of the state or the United States; or

(B) a nonprofit corporation, charitable corporation, charitable association, or charitable trust exempted from taxation under 26 U.S.C. 501(c)(3) and empowered to retain or protect the natural, scenic, or open space values of real property, ensure the availability of real property for agricultural, forest, recreational, or open space use, protect natural resources, maintain or enhance air or water quality, or preserve the historical, architectural, archaeological, or cultural aspects of real property;

(3) “third-party right of enforcement” means a right provided in a conservation easement to enforce any of its terms granted to a governmental body, nonprofit corporation, charitable corporation, charitable association, or charitable trust that is not a holder.

§ 34.17.100. Public recreational use easements.

(a) A public recreational use easement may be created for the purposes of AS 09.65.202 by recording the grant of the easement in the recorder's office for the recording district where the land affected by the easement is located. The grant of the public recreational use easement must

(1) be on a form provided by the Department of Natural Resources;

(2) identify the land affected;

(3) set out restrictions, conditions, or reservations affecting the easement, including terms addressing duration or termination of the easement, if any; and

(4) state that the purpose of the easement is to make the land available for public recreational activity.

(b) The easement granted under (a) of this section may be a conservation easement under AS 34.17.010--34.17.060 (Uniform Conservation Easement Act).



**Public Recreational Easement
(AS 34.17.100)**

The grantor,

_____ ,

(Name or names and place of residence)

hereby grants a public recreational use easement to the public under
AS 34.17.100 in the following described real estate:

_____ ,

located in the _____ Recording District, State of
Alaska, for the purpose of making the described real estate available
for public recreational activities.

This Easement is subject to the following restrictions, conditions,
or reservations, if any (attach additional page if necessary):

_____ .

This easement is subject to the following terms, if any, addressing duration or termination of the Easement (it is not necessary to specify a duration or terms of termination):

This Easement is granted in perpetuity; or

This Easement is granted for a limited time (specify term): _____; or

This Easement terminates when the following events happen: _____; or

Other (specify): _____.

Dated this ____ day of _____, 20__.

STATE OF ALASKA

This instrument was acknowledged before me on this ____ day of _____, 20__, by

_____.

Notary Public in and for the State of Alaska

Notary Seal Here

After Recording Return To:

RECORDER PLEASE NOTE: THIS IS A NO
CHARGE DOCUMENT UNDER AS 40.17.030(e).