



Public Trails on Private Property

The Legend of the Toadstrangler Trail

The legend of the Toadstrangler Trail started in April 2021 following a KSU Extension webinar presentation by Elizabeth Burger. The webinar motivated members of the Rossville Community Foundation (RCF) to begin working on plans to build trails in Rossville. An RCF board member offered his private property for a public trail if we could work out potential liability issues.

We started working with the City of Rossville to develop a lease agreement between the private landowner and the City in order to protect the landowner from liability concerns. The discussions turned into a protracted legal marathon ending May 1, 2023, with a signed agreement. Along the way, we learned a lot of lessons...

Lessons Learned – Layers of Protection*

1. Common Sense -- Ask for assistance or recommendations from Kansas trail resources Mike Goodwin (KTC) and Elizabeth Burger (Sunflower Foundation)
2. Statutory Protection -- Kansas Agritourism Promotion Act Registration process (**K.S.A. 32-1430**) <https://www.travelks.com/travel-industry/programs-and-resources/agritourism/> FREE service and the very helpful Program Manager is Kelsey Wendling kelsey.wendling@ks.gov **AND K.S.A 58-3201 “Limiting liability of property owners to persons entering premises for recreational purposes.** The purpose of this act is to encourage owners of land to make land and water areas available to the public for recreational purposes by limiting their liability toward persons entering thereon for such purposes.”
3. Warning Signage -- Once approved as a registered agritourism business, warning signs may be purchased and posted at your site. This signage states that participants at the site business are assuming the responsibility of inherent risks. Specific wording is required by the statute.
4. Waivers/Releases -- Not generally practical for trails but possibly useful for events (5K run/walk).
5. Business Entity -- Forming an LLC, C-Corp., etc
6. Contracts, Leases, or other legal agreements -- Requires competent legal advice for parties to establish mutually agreeable terms. Seek a second legal opinion outside your community if needed.
7. Agritourism Liability Insurance or Personal Liability Umbrella Policy -- Check with an insurance agent to determine coverage, it can be problematic. This was the main sticking point for our lease agreement negotiations. The City of Rossville finally agreed to “enact a resolution proclaiming the Toadstrangler Trail is a recreational use facility under the jurisdiction of the City of Rossville with all the protections of the Kansas Tort Claims Act, K.S.A 75-6104(0).” The City also agreed to provide liability insurance consisting of a policy with \$500,000 policy limits, with the landowner included as an additional insured on the policy.

We are willing to provide a copy of the lease agreement and the name of our helpful attorney upon request.

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*From <https://www.travelks.com/travel-industry/programs-and-resources/agritourism/getting-started/>