

ORDINANCE NO. 2015-13

AN ORDINANCE VACATING  
A PORTION OF ATRIUM DRIVE WITHIN THE PROPOSED PROMENADE AT  
CASTLE ROCK PLANNED DEVELOPMENT PLAN; AND PROVIDING FOR ITS  
EMERGENCY ADOPTION ON SECOND AND FINAL READING

**WHEREAS**, it is appropriate to vacate a portion of Atrium Drive as more particularly described in the attached *Exhibit 1* (“Vacated Area”), with the reservation of certain continued use and occupancy rights over the Vacated Area; and

**WHEREAS**, the Vacated Area has existing public and private utility facilities and accordingly, the Town will reserve continued access and use rights over the Vacated Area to permit the ongoing access and maintenance of such public and private facilities; and

**WHEREAS**, the Vacated Area is currently needed for public access, and accordingly, the Town will reserve temporary access rights over the Vacated Area to permit public use of the Vacated Area until the new alignments for Castlegate West Drive and Atrium Way are constructed and accepted by the Town;

**WHEREAS**, it is necessary to adopt this ordinance on an emergency basis on second and final reading in order for subsequent land use approvals to be granted at the earliest possible time.

**NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:**

**Section 1. Vacation.** The existing platted right-of-way within the Vacated Area is vacated pursuant to Part 3, Chapter 2, Title 43, C.R.S., subject to all matters of record, effecting upon the concurrent recordation of this Ordinance and Ordinance No. 2015-09 in the Douglas County public records.

**Section 2. Reservation of Easement for Utilities.** Pursuant to §43-2-303(3), C.R.S., the Town, for itself and other utility providers with facilities in the Vacated Area, reserves a permanent easement over the entirety of the Vacated Area, for access, maintenance, repair, and replacement of water, wastewater, storm water drainage, natural gas, electricity, cable television, telephone/fiber and/or any other similar lines or appurtenances.

**Section 3. Reservation of Easement for Temporary Public Access.** The Town reserves a temporary easement over the entirety of the Vacated Area, for public access, to remain in place until the extensions of Castlegate Drive West and Atrium Way are constructed and accepted by the Town. Once the easement is terminated, the Town will convey its interest in the easement by quit claim deed to the owner of the fee estate encumbered by the temporary easement.

**Section 4. Vesting of Ownership.** Ownership of the vacated roadway right of way shall vest in accordance with the provisions of §43-2-302, C.R.S., as shown on *Exhibit 1*.

**Section 5. Severability.** If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect the remaining provisions of this ordinance.

**Section 6. Emergency Clause.** For the reasons stated in the recitals to this Ordinance, it is declared that an emergency exists and it is necessary for the preservation of the immediate public health and safety for this Ordinance to take effect upon its adoption.

**Section 7. Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

**APPROVED ON FIRST READING** this 17th day of March, 2015 by a vote of 7 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

**PASSED, APPROVED AND ADOPTED AS AN EMERGENCY ORDINANCE** this 21<sup>st</sup> day of July, 2015, by a vote of the Town Council of the Town of Castle Rock, Colorado of \_\_\_\_ and \_\_\_\_ constituting the extraordinary majority required by Section 2.02.100 of the Castle Rock Municipal Code.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Sally A. Misare, Town Clerk

\_\_\_\_\_  
Paul Donahue, Mayor

**Approved as to form:**

**Approved as to content:**

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Robert J. Slentz, Town Attorney

\_\_\_\_\_  
Bill Detweiler, Development Services Director