

ORDINANCE NO. 2016-023**AN ORDINANCE VACATING A PORTION OF VALLEY VIEW DRIVE (WEST OF MCMURDO GULCH); AND PROVIDING FOR ITS EMERGENCY ADOPTION ON SECOND AND FINAL READING**

WHEREAS, it is appropriate to vacate a portion of Valley View Drive (west of McMurdo Gulch), 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,

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 Valley View Drive is constructed and accepted by the Town; and

WHEREAS, the Vacated Area has existing public and private utilities and related appurtenances. Accordingly, the Town must reserve continued access and use rights over the Vacated Area to permit the ongoing access and maintenance of such public utilities and related appurtenances; and

WHEREAS, in order to meet construction schedules and timely construct the relocated portion of Valley View Drive, it is necessary to adopt this ordinance on an emergency basis on second and final reading.

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

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 and the reservations set forth in Sections 2 and 3. The vacation shall take effect upon the concurrent recordation of this Ordinance in the Douglas County public records.

Section 2. 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 new alignments for Valley View Drive is constructed and accepted by the Town. Once the easement is terminated, the Town shall convey its interest in the easement by quit claim deed to the owner of the fee state encumbered by the temporary easement.

Section 3. 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 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.

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. 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.

Section 7. 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 immediate preservation of the public peace, health or safety for this Ordinance to take effect upon its adoption.

APPROVED ON FIRST READING this 16th day of August, 2016 by a vote of 6 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 ON SECOND AND FINAL READING this 6th day of September, 2016, by the Town Council of the Town of Castle Rock, Colorado by a vote of ____ for and ____ against 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:

Robert J. Slentz, Town Attorney

Bill Detweiler, Director of Development Services