

## **ORDINANCE NO. 2019-**

### **AN ORDINANCE VACATING A PORTION OF NORTH PERRY STREET LOCATED IN THE NORTHWEST QUARTER OF SECTION 11, TOWNSHIP 8 SOUTH, RANGE 67 WEST, OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK**

**WHEREAS**, it is necessary to vacate a portion of North Perry Street as more particularly described in the attached *Exhibit 1* (the “Vacated Property”) in conjunction with the planned construction of the Encore CR project, and

**WHEREAS**, the Vacated Property is not a component of any current or planned transportation network, and

**WHEREAS**, the Vacated Property has existing public and private utility facilities, which may include water, sewer, electrical, natural gas and cable television (“Existing Utilities”) and accordingly, the Town will permit continued access to and the right to maintain all existing public and private utilities therein until relocated.

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

**Section 1. Vacation.** The Vacated Property is vacated pursuant to Part 3, Chapter 2, Title 43, C.R.S., subject to all matters of record and subject to the following condition. The vacation shall take effect upon the recordation of this Ordinance in the Douglas County public records. Recordation of the Ordinance is conditioned on the occurrence of the Construction Closing as set forth in Section 4.08 of the Encore CR Downtown Redevelopment and Financing Agreement dated September 3, 2019. If for any reason the Construction Closing does not occur, this Ordinance shall be of no force or effect.

**Section 2. Reservation of Easement for Utilities.** Pursuant to §43-2-303(3), C.R.S., the Town, for itself and providers of the Existing Utilities in the Vacated Property, reserves a temporary utility easement over the entirety of the Vacated Property, for access, maintenance, repair, and replacement of the Existing Utilities until such time that the Existing Utilities are relocated and alternative access is provided. The temporary reserved easement over the Vacated Property will expire upon relocation of all of the Existing Utilities.

**Section 3. 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 4. 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 5. 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 20<sup>th</sup> day of August, 2019 by a vote of \_\_ for and \_\_ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

**PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING** this 3<sup>rd</sup> day of September, 2019 by the Town Council of the Town of Castle Rock by a vote of \_\_ for and against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

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Lisa Anderson, Town Clerk

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Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

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Robert J. Slentz, Town Attorney

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David L. Corliss, Town Manager