

**CITY OF RIFLE, COLORADO
ORDINANCE NO. 5
SERIES OF 2018**

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, APPROVING THE
VACATION OF RIGHT OF WAY DEDICATED ON THE FINAL PLAT FO
HILLTOP ESTATES SUBDIVISION ADJOINING 7TH STREET WITHIN THE
CITY AND RESERVING A UTILITY EASEMENT.

WHEREAS, Elliott W. Hinckley and Brooke L. Hinckley (hereinafter “Owner”) owns certain real property described as Lot 15 Hilltop Estates Subdivision as shown on the final plat therefor recorded with the Garfield County Clerk and Recorder as Reception No. 534343 within the City (hereinafter the “Property”); and

WHEREAS, the Final Plat for Hilltop Estates Subdivision dedicated 10,565 square feet of right-of-way adjoining 7th Street and adjacent to the Property; and

WHEREAS, Owner filed a Petition with the City of Rifle, Colorado, requesting that it vacate the right-of-way adjacent to the Property (hereinafter “right-of-way vacation”), which right-of-way vacation serves no public transportation purpose; and

WHEREAS, the City shall not vacate any easement, right-of-way or roadway if doing so would jeopardize the rights of the public, or any public utility; however, in this case, the proposed right-of-way vacation would not jeopardize the public, any public utility, or deny any owner of access to their property; and

WHEREAS, pursuant to C.R.S. §43-2-303(1)(a), the City Council may vacate any roadway or part thereof located within the corporate limits of the City subject to any provision of the City Charter, the Constitution and the Statutes of the State of Colorado; and

WHEREAS, the City Council finds and determines that the right-of-way vacation is not presently needed for transportation purposes nor will it need to be used by the City or the public; provided, however, a utility easement shall be reserved.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF RIFLE, COLORADO, ORDAINS THAT:

1. Incorporation. The Rifle City Council adopts the foregoing recitals and conclusions as facts and determinations and incorporates them by reference as if set forth in full herein.

2. Vacation and Merger; Reservation of Utility Easement. The right-of-way containing 10,565 square feet dedicated on the Final Plat for Hilltop Estates Subdivision recorded with the Garfield County Clerk and Recorder as Reception No. 534343 is hereby vacated, and this vacated right-of-way shall merge with the adjacent property as provided by C.R.S. §42-3-302; provided, however, there is hereby reserved by the City a non-exclusive easement in, over, under and across the real property vacated, including the perpetual right to enter upon said property at a time that it may see fit, and to construct City-owned infrastructure systems in, over, under and across the real property vacated and to repair, replace, relocate, inspect, operate, and maintain said systems (the "Reserved Utility Easement"). As such, no permanent structures shall be placed on the Reserved Utility Easement and Owner shall be required to remove any temporary structures or fencing in the event the City needs to enter upon and work in the Reserved Utility Easement.

3. Recordation. The right-of-way vacation provided for herein shall not become effective until this Ordinance is recorded with the Office of the Clerk and Recorder of Garfield County by the City.

4. Cost Reimbursement. Owner shall reimburse the City for all legal and engineering fees, expenses, and costs incurred in connection with this right-of-way vacation and Ordinance.

5. Waiver of Defects. In executing this document, Owner waives all objections it may have over the final disposition of the right-of-way vacation and its merger pursuant to state statute, defects, if any, in the form of this document, the formalities for execution, or over the procedure, substance, and form of the ordinances or resolutions adopting this document.

INTRODUCED on May 2, 2018, read by title, passed on first reading with amendment, and ordered published as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on May 16, 2018, passed without amendment, approved and ordered published in full as required by Charter.

Dated this _____ day of _____, 2018.

CITY OF RIFLE, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

OWNER:

Elliott W. Hinckley

Brooke L. Hinckley