

**TOWN OF CASTLE VALLEY, UTAH**

**ORDINANCE 2020-1**

**AN ORDINANCE REGULATING EXCAVATION AND CONSTRUCTION WITHIN, AND PROHIBITING THE OBSTRUCTION OF, BLOCKING, OR INTERFERENCE WITH, THE PUBLIC RIGHT-OF-WAY WITHIN THE TOWN, AND REPEALING AND REPLACING ORDINANCE 00-1**

**WHEREAS**, Utah Code § 10-8-11 permits the Town to regulate the use of streets, alleys, and avenues; and

**WHEREAS**, the Town Council of the Town of Castle Valley finds that all persons are entitled to access along and over the public rights-of-way within the Town; and

**WHEREAS**, unregulated interference with access to public rights-of-way should be prohibited; and

**WHEREAS**, construction activity using the public rights-of-way or improving portions of properties within public rights-of-way should be subject to regulation by the Town to protect emergency vehicle ingress and egress and the rights of the public to use the public rights-of-way.

**NOW THEREFORE BE IT ORDAINED BY THE TOWN OF CASTLE VALLEY, UTAH:**

**1. OBSTRUCTIONS:**

- A. Subject to permit, a public right-of-way may be maintained by an adjacent property owner; provided, however, that no Improvements may be placed or permitted to remain in the right-of-way that could interfere with the Town's maintenance of or access to utilities, drainage channels and general right-of-way. The Town shall not be held liable or responsible for any Improvements placed by an adjacent property owner in a public right-of-way, regardless of approval by permit.
- B. It shall be unlawful to install, construct, or place any Improvement on, through, across, or within any public right-of-way or otherwise obstruct, block, interfere with any public right-of-way within the Town of Castle Valley, whether the right-of-way is established by plat or otherwise, without having first obtained a Right-of-Way Encroachment Permit from the Town.
- C. As used herein, Improvement shall mean structures of any kind, whether permanent or temporary, including fencing, solar collectors and related facilities, antennas and related facilities and utilities and related facilities; landscaping of any kind, including vegetation, trees, hedges, shrubs, bushes, and rock work; excavation, fill, ditch, diversion dam or any other device which affects or alters the natural flow of surface or subsurface water from upon, under, or across any portion of the Property; and other materials.

**2. PERMIT REQUIREMENTS:**

- A. Every application for a Right-of-Way Encroachment Permit shall be submitted to either the Town Clerk or Building Permit Agent on an application form to be provided by the Town, with a required application and processing review fee as required by the Town's Fee Schedule. No application shall be deemed permitted until signed by the Town Road Department Manager.
- B. Every applicant for a Right of Way Encroachment Permit shall provide, with the permit application, a Temporary Traffic Control Plan in writing which demonstrates that emergency access to all properties and structures along the public right-of-way will not be impaired or obstructed by the applicant's proposed activity and that all property owners shall have reasonable access to each lot at all times during the applicant's proposed activity.
- C. Each application for an excavation or construction within a public right-of-way in the Town shall be accompanied by a cash or surety bond, if deemed necessary by the Town, to assure the restoration of the right-of-way to its pre-excavation activity status with a portion of the bond held for a period of six (6) months to assure the Town that adequate security is provided to repair any settling or other residual damages to the right-of-way and is repaired in a timely manner. The amount of the cash or surety bond shall be 125% of the higher of two (2) bids obtained by the owner from two (2) licensed contractors in order to restore the right of way to its pre-excavation condition.
- D. Each permit application shall be reviewed as directed by the Mayor or the Road Department Manager to assure that the activity described therein and the Temporary Traffic Control Plan proposed by the applicant meet the requirements of this Ordinance, State and Federal law, and the need of public safety. The Mayor or Road Department Manager may request review of the application by other personnel of the Town to assure that the public interest will be protected if the application is granted.

3. TOWN RESOURCES:

The Town may at its discretion and according to its terms make available to the permittee the temporary use of the Town's traffic control devices and personnel. The Town reserves the right to charge use fees as established by ordinance by the Town.

4. PENALTIES AND FINES:

A. Criminal Penalty and Imprisonment: every person who violates this Ordinance is guilty of a Class B misdemeanor and may be punished by a criminal penalty not to exceed the maximum Class B misdemeanor fine under Utah Code § 76-3-301 or a term of imprisonment of up to six (6) months, or both. Each infraction shall constitute a separate violation, subject to Utah Code § 10-3-703.

B. Civil Penalty: Alternatively the Town Council may impose a civil penalty for each violation of this Ordinance by a fine equal to the maximum Class B misdemeanor fine under Utah Code 76-3-301.

5. SAVINGS CLAUSE:

Ordinance No. 00-1 is hereby repealed and replaced in its entirety by this Ordinance; provided, however, that Ordinance No. 00-1 shall remain in full force and effect to discipline a person who violated Ordinance No. 00-1 prior to the effective date of this Ordinance.

6. EFFECTIVE DATE:

This Ordinance will become effective immediately upon passage by the Town Council of the Town of Castle Valley, Utah with regard to all existing and future encroachments.

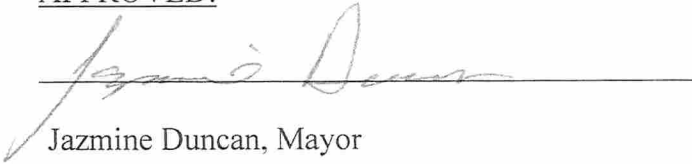
Passed, Adopted and Approved by the Town Council of the Town of Castle Valley, Utah this 17<sup>th</sup> day of June, 2020.

Those voting aye: Mayor Duncan, Council Members: Gibson, Hill, Holland and O'Brien.

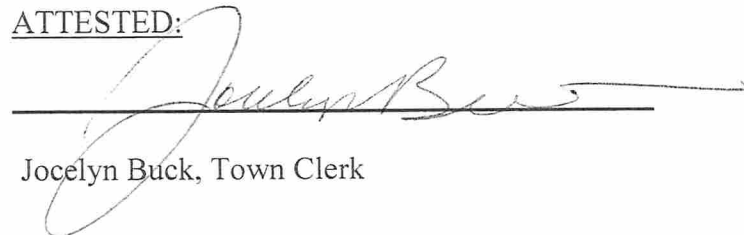
Those voting nay: None

Those Absent: None

APPROVED:

  
Jazmine Duncan, Mayor

ATTESTED:

  
Jocelyn Buck, Town Clerk

**OFFICIAL COPY**  
CV Recorder 