

CITY OF LEADVILLE, COLORADO
Ordinance No. 2
Series of 2019

**AN ORDINANCE OF THE CITY OF LEADVILLE, COLORADO
VACATING A PORTION OF RIGHT-OF-WAY ADJACENT TO 6TH
STREET UPON PETITION OF PAOLO NARDUZZI**

WHEREAS, Carol Bellhouse has submitted an application on behalf Paolo L. Narduzzi (“Petitioner”), as an abutting property owner to a triangular portion of public right-of-way adjacent to Petitioner’s property and 6th Street, petitioning the City of Leadville (“City”) for vacation of that portion of said public right-of-way, as more specifically described in Exhibit A consisting of 0.076 acres, more or less (the “ROW”); and

WHEREAS, the Petitioner’s request is accompanied by a complete application that has been reviewed by the City; and

WHEREAS, said vacation will not leave any adjoining lands without an established public road or private access easement connection to another established public road; and

WHEREAS, pursuant to Sections 43-2-303(1)(a) and 43-2-303(2)(c), C.R.S., the City of Leadville may divest itself of its right, title or interest in and to the roadway, or any portion thereof, upon the vacation of such roadway by ordinance; and

WHEREAS, the City deems it necessary and in the best interest of the health, safety and welfare of the public to vacate whatever interest the City has in the ROW specifically described herein subject to the terms and conditions provided in this Ordinance; and

WHEREAS, public notice has been properly given of such proposed vacation by publication two times in *The Herald Democrat*, a newspaper of general circulation within the City of Leadville and by mail notification of adjacent property owners and to all public utility companies in accordance with applicable requirements set forth in Chapter 12.16 of the Leadville Municipal Code (“LMC”); and

WHEREAS, the City Council conducted a duly noticed public hearing, at which time evidence and testimony were presented concerning Mr. Narduzzi’s vacation request; and

WHEREAS, the Petitioner has agreed to all conditions recommended by City staff and has agreed to execute all agreements and documents necessary to effectuate the vacation of the ROW described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LEADVILLE, COLORADO:

Section 1. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the City Council.

Section 2. Pursuant to Sections 43-2-303(1)(a) and (2)(c), C.R.S., the City Council hereby vacates the ROW as described in Exhibit A, subject to the following conditions of

approval that must be satisfied prior to recordation of this Ordinance, or at such time as determined by City staff:

- a. The Petitioner will pay all fees and costs incurred by the City and its consultants in reviewing and processing of the vacation application prior to recordation of the vacation Ordinance;
- b. Petitioner shall construct a public sidewalk (“Sidewalk”) along 6th Street adjacent to Petitioner’s property and the ROW prior to recordation of this Ordinance in the real property records of the Lake County Clerk and Recorder;
- c. Prior to the construction of the Sidewalk, the Petitioner must submit to the City construction plans for the Sidewalk, for the City’s review and approval.
- d. If deemed necessary by the City Administrative Services Manager, the Petitioner shall enter into a short form public improvement agreement or letter agreement with the City setting forth Petitioner’s obligations to construct the Sidewalk and the completion deadline for the Sidewalk; and
- e. Petitioner shall execute a Bargain and Sale Deed and Reservation of Easements Agreement in substantially the form attached hereto as **Exhibit B** (the “ROW Conveyance Deed”).

Section 3. Pursuant to C.R.S. § 43-2-303(2)(f), City Council directs the City Clerk to record a certified copy of this Ordinance in the real property records of the Lake County Clerk and Recorder, following the effective date of this Ordinance and following the date on which the City Administrative Services Manager has provided written confirmation to the City Clerk that the Sidewalk has been installed by Petitioner. This Ordinance shall not be recorded unless and until the Sidewalk construction condition has been satisfied.

Section 4. In accordance with Sec. 12.16.050 of the LMC, the ROW Conveyance Deed will reserve rights-of-way or easements for the continued use of existing sewer, gas, water or similar pipelines and appurtenances, for ditches or canals and appurtenances, and for electric, telephone and similar lines and appurtenances. In accordance with Sec. 12.16.060 of the LMC, the City Council desires to reserve a public easement over and across the ROW for the purpose of public access over the Sidewalk and for use of the ROW for snow storage. The reserved rights-of-way or easements shall be as specified in the ROW Conveyance Deed.

Section 5. Following the date on which this Ordinance has been recorded in the Lake County real property records, a copy of this Ordinance shall be delivered to the Lake County Assessor for appropriate action as required.

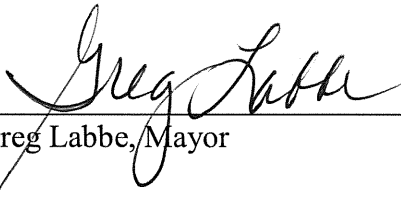
Section 6. In accordance with the provisions of Section 43-2-302(1), C.R.S., title to the lands included within the right-of-way hereby vacated shall vest in the Petitioner, who is the owner of the land abutting the vacated right-of-way. Petitioner shall take title to vacated right-of-way, subject to the conditions of approval contained in this Ordinance and the reservation of any and all public easements as contemplated in Section 4 herein.

Section 7. The Mayor shall be authorized to execute ROW Conveyance Deed conveying the ROW legally described in **Exhibit A** attached hereto, to the Petitioner following the date on which this Ordinance has been recorded. The ROW Conveyance Deed shall be substantially in the form attached to this Ordinance as **Exhibit B**. Any modifications to the form of the ROW Conveyance Deed shall be reviewed and approved by the City Attorney.

Section 8. Severability. Should any one or more sections or provisions of this ordinance enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this ordinance the intention being that the various sections and provisions are severable.

Section 9. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

INTRODUCED, READ, APPROVED AND ORDERED PUBLISHED in full on first reading this 4th day of June, 2019.



Greg Labbe, Mayor


ATTEST:


Bethany Maher, Deputy City Clerk

PUBLISHED in full in The Herald Democrat, a newspaper of general circulation in the City of Leadville, Colorado, on June 13, 2019.


PASSED AND ADOPTED, AS AMENDED, ON FINAL READING AND ORDERED
PUBLISHED IN FULL, AS AMENDED, this 23 day of July,
2019.

CITY OF LEADVILLE, COLORADO



Greg Labbe, Mayor

ATTEST:



Bethany Maher, Deputy City Clerk

PUBLISHED in full, as amended, in *The Herald Democrat*, a newspaper of general
circulation in the City of Leadville, Colorado, on July 25, 2019.