

**TOWN OF PARADISE
ORDINANCE NO. 539**

**AN INTERIM URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF PARADISE ENACTING A MORATORIUM ON THE
ESTABLISHMENT OF FENCES, GATES OR BARRIERS WITHIN OR ACROSS PRIVATE ACCESS
EASEMENTS**

The Town Council of the Town of Paradise, State of California does hereby **ORDAIN AS FOLLOWS:**

SECTION 1. Findings. The Town Council finds and declares as follows:

- a) Paradise Municipal Code section 17.06.600 E. 4. states, in pertinent part, as follows:

“No fences shall be installed within public or private rights-of-way or access easements.”
- b) The Community Development Director and Town Attorney have opined that a gate would also be prohibited within a private access easement because it is a component of a fence.
- c) The Paradise Planning Commission has interpreted that a gate within a private access easement does not violate the prohibition against fences.
- d) The Planning Commission interpretation has been appealed to the Town Council.
- e) The installation of a gate within a private access easement could foreseeably interfere with Town public safety services in a manner that would delay or prevent first responders from delivering medical, police and fire services relating to emergencies.
- f) The installation of a gate within a private access easement without the prior consent of all users of the easement could create a barrier to their egress from their respective residences in times of wildland fires.
- g) Although section 503.6 of the California Fire Code, as amended and adopted by the Town of Paradise, sets forth requirements for the function of security gates, including those within or across private access easements, it does not specify or imply any required location(s) for such gates.
- h) Based on all the foregoing findings, the Town Council finds that there is a current and immediate threat to the public health, safety and welfare relating to emergency services and that the unregulated installation of a gate within a private access easement would result in that threat to the public health, safety and welfare of the Town’s residents.

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- i) To study whether or not it is necessary to adopt regulations relating to the installation of fences, including gates, it is in the public interest to thoroughly study all the aspects of this subject matter before any additional gates are installed within or across a private access easement in the Town.

SECTION 2. Definitions. For the purpose of this ordinance, the following terms shall have the following meanings:

- a) "Fence" shall mean any barrier or structure consisting of any material, including a gate across or within any public right-of-way or private access easement.
- b) "Person" shall include: Any natural person, association, corporation, cooperative, partnership, limited liability company, or any other business entity.

SECTION 3. Prohibitions. During the term of this interim urgency ordinance, no person shall cause or permit the establishment, development, construction or enlargement of any fence, gate or any other barrier within or across a private access easement within the Town of Paradise.

SECTION 4. Report. The Town Manager is directed to conduct a study concerning placement of gates within private access easements and emergency services and whether it is necessary to regulate the installation of gates within private access easements and to issue a written report describing the measures taken by the Town to alleviate the conditions which have led to the adoption of this ordinance, at least 10 days prior to the expiration of this ordinance.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is for any reason held to be invalid by a court or competent jurisdiction, such provision shall be deemed severable, and the invalidity thereof shall not affect the remaining provisions or other applications of the ordinance, which can be given effect without the invalid provision or application thereof.

SECTION 6. Urgency, Duration and Publication. This ordinance is adopted by the Town Council pursuant to the California Constitution, article XI, section 7 and Government Code section 65858 by a four-fifths or greater vote, as an urgency measure to protect the public health, safety and welfare, and shall take effect immediately. The reasons for such urgency are set forth in Section 1 above. This ordinance shall expire and be of no further force or effect 45 days after its adoption, unless it is extended by the Town Council pursuant to California Government Code section 65858. Before the expiration of 15 days after the adoption of this ordinance, it

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shall be published once, with the names of the members of this Council voting for or against the same in a newspaper of general circulation published in the Town of Paradise.

PASSED AND ADOPTED by the Town Council of the Town of Paradise, County of Butte, State of California, on this 19th day of March, 2014 by the following vote:

AYES: Greg Bolin, Steve "Woody" Culleton, Jody Jones, John J. Rawlings and Scott Lotter, Mayor

NOES: None

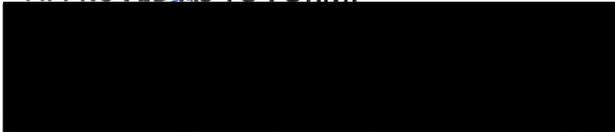
ABSENT: None

ABSTAIN: None



Scott Lotter, Mayor

APPROVED AS TO FORM:



DWIGHT L. MOORE, Town Attorney

ATTEST: *March 20, 2014*



JOANNA GUTIERREZ, Town Clerk