

**TOWN OF PARADISE  
ORDINANCE NO. 541**

**AN ORDINANCE EXTENDING INTERIM URGENCY ORDINANCE NO. 539  
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 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.
- f) 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.
- g) On March 19, 2014, the Town Council adopted Ordinance No. 539 as an interim urgency ordinance that enacted a moratorium on the establishment of fences, gates or barriers within or across private access easements.
- h) On April 8, 2014, the Town Council concurred with the Town Manager’s report concerning measures to alleviate the conditions relating to adoption of Ordinance No. 539.

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- i) On April 8, 2014, after considering the options in the Town Manger’s report, the Town Council adopted a motion, based on Option No. 1, to direct the Planning Commission to consider adopting a resolution recommending Town Council adoption of text amendments to Paradise Municipal Code Title 17 concerning the regulation of fences within or across private roadway easements.
- j) On April 12, 2014, pursuant to Government Code section 65090, the Town Clerk provided a 10 day public notice that the Town Council would hold a public hearing to consider adopting this ordinance.
- k) After holding a public hearing on April 22, 2014, based on direction of the Town Council to amend Paradise Municipal Code Title 17, it is necessary to extend the moratorium until such amendments are in effect relating to the installation of fences, barriers, including gates, before any additional gates are installed within or across a private access easement in the Town.
- l) 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 fences, barriers or gates within a private access easement would result in that threat to the public health, safety and welfare of the Town’s residents.

**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, maintenance, operation, or enlargement of any fence, gate or any other barrier within or across a private access easement within the Town of Paradise.

**SECTION 4.** 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.

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**SECTION 5.** 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 10 months and 15 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 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.

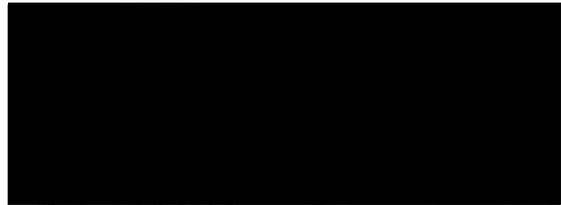
**PASSED AND ADOPTED** by the Town Council of the Town of Paradise, County of Butte, State of California, on this 22nd day of April, 2014 by the following vote:

**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:**

4.22.2014



JOANNA GUTIERREZ, Town Clerk