

**TOWN OF GRAND LAKE  
BOARD OF TRUSTEES  
ORDINANCE NO. 13-2022**

**AN ORDINANCE VACATING A PORTION OF THE ELLSWORTH STREET RIGHT  
OF WAY WITHIN THE TOWN OF GRAND LAKE AND RESERVING CERTAIN  
UTILITY EASEMENTS THEREON**

**WHEREAS**, the Board of Trustees of the Town of Grand Lake, Colorado, pursuant to Colorado statute is vested with the authority of administering the affairs of the Town of Grand Lake, Colorado; and

**WHEREAS**, section 31-15-702(1)(a)(I), C.R.S. grants the Board of Trustees the power to lay out, establish, open, alter, widen, extend, grade, pave or otherwise improve streets and vacate the same; and

**WHEREAS**, section 43-2-303(a), C.R.S. provides that a town may vacate by ordinance any roadway or part thereof located within the corporate limits of the town, subject to the provisions of the charter of such town, the state constitution and the statutes of the state of Colorado; and

**WHEREAS**, certain streets and right of ways for public use were dedicated to the Town of Grand Lake, Colorado, including Ellsworth Street; and

**WHEREAS**, the Town received an Application from Francis Heckendorf III and Kirsten Heckendorf (collectively the “Applicant”) to vacate a portion of such Ellsworth Street more particularly described in **Exhibit A** (the “Vacated ROW”), attached hereto and incorporated herein; and

**WHEREAS**, the Property adjoins real property owned by the Applicant; and

**WHEREAS**, the Applicant is currently unable to obtain proper property insurance for a structure that has been on the Property in excess of fifty years based on, among other things, setback requirements and adjoining land ownership requirements; and

**WHEREAS**, the Town is not currently utilizing the Vacated ROW for any governmental purpose, and does not anticipate the need to utilize it in the foreseeable future for any governmental purpose; and

**WHEREAS**, vacating the Vacated ROW would not negatively alter the existing circumstances surrounding the Property, but would permit a resident of the Town to obtain insurance protecting a historic structure within the Town; and

**WHEREAS**, the Applicant has agreed to reimburse the Town for survey expenses incurred in connection with the Application; and

**WHEREAS**, following proper notice, the Application was presented to and considered by the Planning Commission at a Public Hearing at its regular meeting on October 5, 2022; and

**WHEREAS**, the Planning Commission recommended vacating the Vacated ROW; and

**WHEREAS**, the Board of Trustees held a properly noticed public hearing regarding the Application on October 10, 2022; and

**WHEREAS**, based on the Application, the representations of the Applicant to the Board of Trustees and the comments of the public, the Planning Commission recommendation, the Board of Trustees finds as follows:

1. The Applicant has paid an appropriate fee and deposit.
2. The Applicant has not been required to sign an agreement for services for this Application based on the recommendation of staff.
3. The Applicant has provided a plat of the proposed vacation including the surrounding properties.
4. The Applicant has provided a letter explaining the justification for the vacation.
5. The Applicant has provided all pertinent information requested by Town staff.
6. The Planning Commission and the Board of Trustees hearings were properly noticed, including certified letters being sent to all property owners within two hundred feet of any portion of the Property.
7. Vacating the Vacated ROW will not leave any adjoining land without an established public or private-access easement connecting the same with another established public road.
8. The Town shall reserve a perpetual, non-exclusive easement over, across, upon, and under the Property for the continued use, repair, replacement, and maintenance, of existing sewer, gas, water, or similar pipelines and appurtenances, as well as, existing electric, telephone, and similar lines and appurtenances.
9. No private rights will be injured or endangered by this vacation, the public will not suffer loss or inconvenience by this vacation, and the Property is not presently needed for transportation purposes nor will it need to be used by the Town or the public; provided, however, the utility easement set forth in Section 8, above, shall be reserved.

10. In no event shall vacating the Vacated ROW alter or limit the public or emergency access deemed appropriate by the Town, or limit the right of the Town to post appropriate signage indicating such public or emergency access.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE, COLORADO, THAT:**

1. The Town of Grand Lake hereby vacates the Property, more particularly described on Exhibit A, attached hereto. Title to the Property shall vest pursuant to section 43-2-302(1)(b), C.R.S. in the owners of land abutting the vacated portion of land and shall vest, subject to the same encumbrances, liens, limitations, restrictions, and estates as the land to which it accrues.

2. The Town hereby retains a perpetual, non-exclusive easement over, across, upon, and under the Property for the continued use, repair, replacement, and maintenance, of existing sewer, gas, water, or similar pipelines and appurtenances, as well as, existing electric, telephone, and similar lines and appurtenances.

3. The vacation provided for herein shall not become effective until this Ordinance is recorded with the Office of the Clerk and Recorder of Grand County, Colorado by the Town.

4. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part hereof irrespective of the fact that any one part or parts are declared unconstitutional or otherwise invalid.

**INTRODUCED, PASSED AND ADOPTED AT A REGULAR MEETING OF THE BOARD OF TRUSTEES OF THE TOWN OF GRAND LAKE THIS 10<sup>th</sup> DAY OF OCTOBER, 2022.**

Votes Approving: \_\_\_\_\_  
Votes Opposed: \_\_\_\_\_  
Absent: \_\_\_\_\_  
Abstained: \_\_\_\_\_

**ATTEST:**

**BOARD OF TRUSTEES OF THE  
TOWN OF GRAND LAKE, COLORADO**

\_\_\_\_\_  
Alayna Carrell  
Town Clerk

By: \_\_\_\_\_  
Steve Kudron  
Mayor