

ORDINANCE NO. 20-19

**AN ORDINANCE AMENDING TITLE 9 OF THE WASATCH COUNTY CODE
TO ADDRESS SNOW REMOVAL AND RELATED ISSUES.**

RECITALS

WHEREAS, Utah Code Section 17-50-302 authorizes the County to provide services, exercise powers, and perform functions that are reasonably related to the safety, health, morals, and welfare of their inhabitants, and Utah Code Section 17-50-305 authorizes the County to control and manage county roads; and

WHEREAS, more and more development is taking place in areas that have historically been snow bound through the winter; and

WHEREAS, opening up these historically snow bound areas has significant financial effects on the County because the costs to keep these roads open and safe through the winter months is significantly higher that of roads on the valley floor; and

WHEREAS, it is impossible to keep higher elevation roads clear of snow because the snow becomes deeper and the wind often blows the snow right back on the road right after it is plowed, and the high embankments which form at the higher elevations are substantially more expensive and time consuming to effectively keep clear of snow, creating a safety risk; and

WHEREAS, there is a disproportionate cost to maintaining higher elevation roads because they deteriorate much faster if they are plowed through the winter, as opposed to allowing them to stay snow-packed; and

WHEREAS, opening up these historically snow bound areas causes disproportionately increased cost to the fire and emergency medical transport services offered by special service districts and interlocal entities in Wasatch County because it increases the areas likely to require traditional fire and EMT resources, which areas are in higher elevations that are more dangerous to travel in during the winter months; and

WHEREAS, the County has a few paved roads that become seasonal roads at higher altitude where the snow is deeper and longer lasting, and which connect with public lands at higher altitudes, and which roads through public lands are not plowed by the State or Federal Governments through the winter months; and

WHEREAS, The County has allowed limited situations in the past where groups of individuals representing a group of property owners in a development or home owners associations to contract with the County to maintain higher elevation roads that were paved, or to put bonds in place which allowed these roads to be kept clear by the home owners association; and

WHEREAS, the county legislative body finds that entering into an annual permitting requirements for entering into new, or continuing existing agreements for private entities is essential to protect the health, safety and welfare of the county, its property, and its people so as to ensure the plowing is done safely, in a manner that minimizes risk to county property, and to ensure the private party has sufficient insurance to cover damages they may cause; and

WHEREAS, the county legislative body finds that county will not plow or maintain private roads so as to preserve the limited B and D road funds the County receives from the State to cover those roads that it receives funds for, and so as to not disproportionately bear costs to plow private roads for limited groups of citizens, and so as to allow private owners of roads to bear the liabilities and responsibilities for maintaining those roads; and

WHEREAS, allowing private persons to plow public roads has caused problems for the county and the public safety by gates being left open, and then being locked later in the day, causing people to be locked on the closed road, causing damage to county roads, causing disputes and inequity over who can and cannot use the road, causing people and equipment to plow or snow blow roads in a manner that results in unsafe conditions on the road, by encouraging trespassing on private property as a result of inadequate parking at the gates, and by causing more people to go up on roads to points where there are inadequate turnarounds and parking; and

WHEREAS, the failure to adequately protect the County, the public, and others who may be affected by allowing roads to be cleared of snow by private entities could cause serious health safety and welfare concerns because it is easy for people to be injured or killed on improperly maintained roads, it is easy for public and private property to be damaged by snow removal and problems incident to providing limited access to public roads; and

WHEREAS, with new development, the County desires to help the property owners in higher elevations understand that the roads cannot be used for motor vehicle access through the winter months, but has allowed snowmobile access through the winter months;

NOW THEREFORE, The County Legislative Body of Wasatch County ordains as follows:

SECTION I: Enactment.

The following provisions of Title 9 of the Wasatch County Code is hereby AMENDED to read as follows:

9.02.03: SNOW REMOVAL

A. Definitions: The following definitions apply in this Section:

- DIRECTOR: The director of the public works department.
- PRIVATE PLOW PERMIT: A permit issued by the Director allowing a private person to plow a County road, on certain terms and conditions.
- SEASONAL ROADS: County Roads which are not “plowed by county” on the Winter Maintenance Road Map, in addition to any county gravel or dirt and all class D roads.
- SEASONAL ROAD AREA: The area of the Winter Maintenance Road Map in which the County will not plow or maintain any new roads built, dedicated, or paved after November 1, 2020.
- SNOW SEASON: The period between November 1 through May 31 when the Director closes Seasonal Roads to the motor vehicle public. The Director, based on the snow conditions existing at the time, may start and end the Snow Season earlier or later.
- WINTER MAINTENANCE ROAD MAP or WRP Map: The map which designates paved Seasonal Roads and the Seasonal Road Area, and will be maintained and updated by the Director as outlined in this Section.
- B. The Director shall determine the order, priority and method of snow removal on all county roads. Although the following criteria are intended to guide the director, the final determination shall be in the Director’s discretion:
1. Unpaved Roads. County gravel or dirt roads are Seasonal Roads and shall not be plowed except when determined by the Director due to an exceptional situation or an emergency condition;
 2. New Paved Seasonal Roads. Paved county roads built or dedicated after November 1, 2020 in the Seasonal Road Areas will not be plowed or maintained through the snow season, and shall be designated Seasonal Roads. County roads which are built, dedicated, or paved with less than 150’ frontage after November 1, 2020 will also not be plowed or maintained through the snow season, and shall be designated “Seasonal Roads.”
 3. Historically County-plowed Paved Seasonal Roads. Paved county roads that have historically been plowed by the County, as identified on the WMR Map, will continue to be plowed unless the county legislative body changes the designation to a Seasonal Road due to a finding that health, safety, or welfare or other exceptional situation warrants changing the designation. If any development agreement entered into prior to November 1, 2020 requires the county to plow a road, the road may be added to the WMR Map.
- C. Exceptions. The Director may issue permits to allow historically plowed paved Seasonal Roads to be plowed by private entities. Private Plow Permits are limited to paved Seasonal Roads that have been plowed by private entities with the County’s written permission within the three years immediately preceding the year the service provided under the proposed Private Plow Permit is to begin. A private entity may only plow a County Road if it has a Private Plow Permit, even if it has a pre-existing agreement providing for snow plowing. The Director may issue Private Plow Permits only if all of the

following requirements are met in the application, and are memorialized in the Private Plow Permit:

1. The application for a Private Plow Permit must be received prior to November 1 for the 2020-21 Snow Season, and by August 1 for all following Snow Seasons.
2. The person who plows the roads has demonstrated experience or training with snow plowing on public roads,
3. The entity must have equipment to safely remove the snow from the roads, which may be reviewed and approved by the County,
4. The entity provides proof of insurance, listing Wasatch County as a certificate holder meeting the following requirements:
 - a. For any vehicles which are required to be insured under Utah Code, Comprehensive Automobile Insurance in the amount of \$1,000,000 combined single limit or \$750,000 bodily injury and \$250,000 property damage.
 - b. Workers Compensation at Utah Minimums.
 - c. A minimum of \$1,000,000 of noncontributory CGL per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products-completed operations aggregate. CGL shall include personal injury, medical expenses, death, and property damage. Claims made policies must remain in effect for 3 years from the completion date.
 - d. All insurance policies required shall give Wasatch County 30-days' notice in the event of cancellation and 10 days for non-payment of premium.
 - e. The required insurance coverages shall remain in effect for a minimum of the term of the work and permit, and in addition to requiring proof of required insurance through that term, the County may also require proof the insurance will not expire within 30 days.
 - f. Insurance shall cover any subcontractors as well as the person.
5. The County may require signs to be placed notifying that snow maintenance is private.
6. Snow mobile access may be required by the Director, and at least 4" of snowpack shall be maintained on the road.
7. Indemnify Wasatch County, its officers, and employees for any damages caused by persons' plowing or related activities on the county roads.
8. An annual cash bond shall be provided to Wasatch County in the amount of \$20,000 plus \$2,000 per mile to cover damages caused by snow plowing.
9. The applicant shall demonstrate that parking is available which both provides no fewer spaces than what has been historically available, which is adequate to meet the subdivision's parking needs safely. Said parking must not infringe on any property owner's property rights, and must provide for a safe turn around for the public.

10. If multiple people desire to plow a road for access to the same approved subdivision, all of which meet the criteria for a Private Plow Permit, each shall submit an application meeting all of the requirements of this section. First, if only one applicant has an agreement with the county to plow the road, they shall receive the private Plow Permit for the subdivision if they meet all Private Plow Permit requirements. Second, if only one applicant demonstrates they have procured rights for adequate off street parking to service each improved lot in the subdivision, and they meet all requirements, they shall be awarded the Private Plow Permit. Third, if an applicant is able to prove they are approved by the majority of the property owners in a serviced subdivision, and their application meets all criteria, that person shall be awarded the Private Plow Permit. If the application has not been awarded by these priorities, the County will remove any applications that do not meet the requirements of this section, and will conduct a random drawing of the remaining applications to determine who will be awarded the Private Plow Permit for the Snow Season. The County will not award more than one Private Plow Permit per Snow Season to plow the same subdivision access.
11. If there is insufficient parking to service the whole subdivision, the applicant shall demonstrate to the county that if the permit is awarded to them, they will provide parking to persons equitably. If the application does not provide an equitable distribution, the permit shall not be issued.
12. If it is found the person awarded the Private Plow Permit is not executing the permit as required, is not cooperating in good faith with the County, or if health, safety welfare problems arise, the Public Works Director may terminate the permit for the year.
13. If a Private Plow Permit on an otherwise qualifying road is not awarded, or is revoked, for three years in row, the road shall not longer be eligible for a Private Plow Permit.
14. Any other requirement which helps protect the health, safety, and welfare of the public, and the parties to the permit, may be required by the Public Works Director.
15. Any appeals of decisions regarding the Private Plow permit will be made to the Wasatch County Manager following the same general procedures and timeline as for an Engineering Department permit or enforcement appeal, as outlined in Wasatch County Code Title 14. There will be no appeal to the Board of Adjustment, but an appeal may be made to the District Court for a record review, so long as the appeal is filed within 10 days of the County Manager issuing their written decision.
16. County roads, or the portions thereof, subject to Private Plow Agreements will be shown on the WMR Map.

- D. Map to Be Maintained. The Director shall maintain the WMR Map in an accurate form.
- E. Map Amendments. The WMR Map may be updated from time to time by the county legislative body, following the process for an amendment to the Wasatch County Code. Any WMR Map amendments made in the course of business may be done by the Director.
- F. Notice for Improvements on Property Served by Seasonal Roads: Any developments approved by the County shall include in any development agreement and on the final plat, a statement giving notice of the restrictions on a seasonal road. Any or building permits issued for primary structures on property which require access, whether directly or indirectly, through a Seasonal Road, including Seasonal Roads service by a Private Plow Permit, shall be conditioned on recording a notice of the restriction on a seasonal road on a form provided by the County Building Department. Any failure of the County to enforce this requirement shall not result in the County being required to plow the access road for any property or development. It is recommended that interested persons check the WRM Map and/ or check with the Director to verify whether their property may require access through a Seasonal Road.

- G. The Director shall have authority to negotiate interlocal cooperation agreements with other public entities for maintenance and snow removal on public roads which cover the county's costs. The county may only plow paved county public roads, unless there is an interlocal agreement with a public entity providing the terms on which the county will plow and maintain a public road, or due to a short term emergency. All interlocal agreement requirements under Utah Code shall be met, including the County Manager signing the agreement.
- H. The Director shall have authority to remove vehicles from a county road or public way at the vehicle owner's expense where the vehicle impedes the removal of snow from the county road or public way.
- I. It shall be the duty of every home owners association, property owner, corporation, partnership, or other entity having control over a private road to provide regular and adequate snow removal service on those private roads. The county has no duty to provide snow removal services on private roads.
- E. Snow removal of county roads and public ways in new subdivisions or PUDs will begin only after official acceptance of the roads by the county, as governed by this section, and as governed by any applicable development agreement.
- F. It is the duty of all private property owners and property owners associations to make arrangements for the storage of accumulated snow, either on their own premises or on the premises of another with permission of the other. All private property owners and property owners associations, and their employees, agents, and contractors, shall confine the accumulated snow to their premises or the premises of another with permission of the other. The county is not responsible for removal of accumulated snow from private drives or other private property.

- G. It shall be unlawful for any person to remove snow from private drives or other private property and place or deposit that snow in or on any county roads and public ways.
- H. The county is not responsible for damage to landscaping or mailboxes, which are placed in the right of way or up to the asphalt, during snow removal from county roads and public ways.
- I. Except as provided in this section, it shall be unlawful for any private person or entity to remove snow from county roads or public ways.
- J. Any person who violates the provisions of this section 9.02.03 is guilty of a class C misdemeanor. Each day continuing violation occurs shall be deemed a separate offense.

SECTION II: **Repealer.** If any provisions of the County Code heretofore adopted are inconsistent herewith they are hereby repealed.

SECTION III: **Amendment of Conflicting Ordinances.** To the extent that any ordinances, resolutions, or policies of Wasatch County conflict with the provisions of this ordinance, they are hereby amended to comply with the provisions hereof.

SECTION IV: **Effective Date.** This Ordinance shall become effective immediately upon execution by the Chair of the County Council and the completion of public notice requirements imposed by state statute.

SECTION V: **Severability.** If any section, subsection, sentence, clause, or phrase of this ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, said portion shall be severed and such declaration shall not affect the validity of the remainder of this ordinance.

SECTION VI: **Public Notice.** The Wasatch County Clerk, and ex officio Clerk of the Wasatch County Council, is hereby ordered, in accordance with the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, to do as follows:

- a. Enter at length this ordinance in the ordinance book;
- b. Deposit a copy of this ordinance in the office of the County Clerk;
- c. Publish a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk's office and with the name of the members voting for and against the ordinance, for at least one publication in a newspaper published in and having general circulation in the county; or post a complete copy of this ordinance in nine (9) public places within the County.

APPROVED and **PASSED** this _____ day of _____, 2020.

Attest:

WASATCH COUNTY COUNCIL:

Calvin Griffiths
Wasatch County Clerk / Auditor

Danny Goode, Chair
Wasatch County Council

VOTE

Danny Goode, Chairman _____
Kendall Crittenden _____
Marilyn Crittenden _____
Jeff Wade _____
Mark Nelson _____
Steve Farrell _____
Spencer Park _____

ADOPTION OF ORDINANCE AFFIDAVIT

STATE OF UTAH)
): ss.
COUNTY OF WASATCH)

I, the undersigned, the duly qualified and acting County Clerk of Wasatch County, Utah, and ex officio Clerk of the Wasatch County Council do hereby further certify, according to the records of said Council in my official possession, and upon my own knowledge and belief, that I have fulfilled the requirements of Section 17-53-208, Utah Code Annotated, 1953, as amended, by:

- [] (a) Causing this ordinance to be entered at length in the ordinance book;
- [] (b) Causing three (3) copies of this ordinance to be deposited in the office of the County Clerk;
- [] (c) Causing a short summary of this ordinance, together with a statement that a complete copy of the ordinance is available at the County Clerk’s office and with the name of the members voting for and against the ordinance to be published for at least one publication in *The Wasatch Wave*, a newspaper of general circulation within the geographical jurisdiction of Wasatch County; or posting a complete copy of this ordinance in nine (9) public places within the County.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the official seal of the County Council of Wasatch County, Utah, this ____ day of _____, 2020.

Calvin Griffiths
Wasatch County Clerk / Auditor

SUBSCRIBED AND SWORN to me, a Notary Public, this ____ day of _____, 2020.

Notary Public

Residing in:
My commission expires: