ORDINANCE NO. 2016-20

AN ORDINANCE OF IVINS CITY, UTAH, AMENDING CHAPTER 1 OF TITLE 11 OF THE IVINS CITY CODE TO ESTABLISH A PROCEDURE TO MAKE A PRIVATE STREET PUBLIC

WHEREAS, the Ivins City Council desires to amend Chapter 1 (Streets and Sidewalks) of Title 11 (Public Ways & Property) to establish a procedure to make streets that were originally constructed as private streets become public streets; and

WHEREAS, in so doing, the Ivins City Council desires that the procedure demonstrate that there is good cause for making such private streets public, that would be in the public interest to do so and to memorialize prior criteria the city has considered when evaluating if a private street had been constructed to a sufficient standard to even be considered being taken over by the city as a public street;

NOW, THEREFORE, BE IT ORDAINED BY THE IVINS CITY COUNCIL that Chapter 1 of Title 11 of the Ivins City Code be amended to add the following:

TITLE 11

PUBLIC WAYS AND PROPERTY

CHAPTER 1

STREETS AND SIDEWALKS

* * *

PART 4

PROCEDURE FOR MAKING PRIVATE STREETS PUBLIC STREETS

11.01.401 Application Required.

(1) A homeowners' association seeking to have one or more street(s) originally constructed as private streets to become public streets to be henceforth owned and maintained by the city shall file a petition with the city that is signed by the homeowners' association president and includes the following:

a) the fee required by the city's consolidated fee schedule;

b) a copy of the subdivision's Covenants, Conditions and Restrictions;

c) a copy of the requisite number of signatures voting to approve making the private streets within the subdivision public.

d) a complete history of pavement management including the dates of each type of treatment; and

e) for streets installed prior to 2005, a written report from an approved testing laboratory reporting data from core samples taken of the asphalt – the City Engineer shall determine what data is required for the report.

(2) In the event the private streets are owned by persons or entities other than a homeowners' association, then the owner(s) shall all sign and file a petition with the city with all of the requirements set forth in subparagraphs (a) through (e) above.

11.01.402 Application Review. Upon acceptance of a complete petition, staff (as the Technical Review Committee) shall consider whether the petition meets the following criteria before making a recommendation to the City Council:

a) whether the street(s) meet the fire code as adopted by the city;

b) whether the street(s) meet a current street cross-section in the city's adopted Transportation Master Plan;

c) whether the street(s) were installed per city specifications;

d) whether the street(s) were regularly and properly maintained since they were installed to the present;

e) the date the street(s) were last crack sealed and slurried;

f) the year the street(s) were installed.

g) whether the street(s) passed a current staff inspection and/or made all of the repairs noted on a punch list following such an inspection.

11.01.403 Public Hearing Required. Once the Technical Review Committee has made its recommendation, the City Recorder shall schedule a public hearing before the City Council in accordance with Section 10-9a-208 of the Utah Code and the City Council shall determine whether:

a) good cause exists for the city to make the private street(s) public; and

b) neither the public interest nor any person will me materially injured by making the private street(s) public.

11.01.404 Findings; Decision; Transfer. Only upon the City Council making the findings required above may the City Council make a decision to allow the city to make public any street(s) originally constructed as private. Upon such a decision becoming final, the record owner(s) of the private street(s) allowed by the final decision to become public shall prepare, sign and submit to the city for recording a dedication plat and/or warranty deed naming Ivins City as Grantee and transferring an unencumbered interest in the street(s) being made public as proven by a title report issued not more than 30 days prior to submission of the foregoing documents to the city.

Severability. If any section/portion of this ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

Effective Date: This Ordinance shall become effective immediately upon passage and publication.

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PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THIS _____ DAY OF _____, 2016 BY THE FOLLOWING VOTE:

	AYE	NAY	ABSTAIN	ABSENT
Dennis Mehr	_____	_____	_____	_____
Cheyne McDonald	_____	_____	_____	_____
Jenny Johnson	_____	_____	_____	_____
Steven Roberts	_____	_____	_____	_____
Ron Densley	_____	_____	_____	_____

_____
Chris Hart, Mayor

ATTEST:

_____
Kari Jimenez, City Recorder