# ORDINANCE NO. 2023-11

## AN ORDINANCE OF IVINS CITY, UTAH, AMENDING SECTIONS 15.06.207 & 15.06.208 OF THE SUBDIVISION ORDINANCE AND CHAPTER 9 OF THE ZONING ORDINANCE REGARDING DEVELOPMENT AGREEMENTS

**WHEREAS** the Ivins City Council desires to simplify and become compliant with current state law regarding requirements for Development Agreements; and

**NOW, THEREFORE, BE IT ORDAINED BY THE IVINS CITY COUNCIL** that Sections 15.06.207 & 15.06.208 of the Subdivision Ordinance and Chapter 9 of the Zoning Ordinance be amended as follows:

**Section 1:** Sections 15.06.207 & 15.06.208 of the Ivins City Subdivision Ordinance are hereby amended to now read as follows:

**15.06.207: DEVELOPMENT AGREEMENTS:**

~~(1)~~ Requirements for subdivision development agreements are set forth in Title 16, Chapter 9 of the Ivins City Code.

~~All details, obligations and requirements of the phased subdivision master plan shall be contained in a development agreement. The development agreement shall include all obligations of the developer/property owner and conceptual development approvals for future phases. All subdivision requirements and development standards shall be imposed as part of detailed reviews and approvals of the subdivision preliminary plan and final plat.~~

~~(2) The development agreement shall specify all conditions and requirements that must be met in order to protect and maintain a vested approval for all subsequent phases. For example, the city may impose as a condition precedent to final approval of subsequent phases, the availability and access to water and sewer services and source sufficient to accommodate the subsequent phases. A copy of the phased subdivision master plan showing all phases shall be attached to, and incorporated in, the development agreement. The development agreement shall include the legal descriptions of lands to be dedicated as open space, including trails, easements, buffers, parks, medians and other open space.~~

(Ord. 2006-02, 2006; amd. Ord. 2023-11, 2023)

* * *

**Section 2:** Chapter 9 of the Ivins City Zoning Ordinance is hereby amended to now read as follows:

## CHAPTER 9

## DEVELOPMENT AGREEMENTS

**16.09.101: PURPOSE:** The purpose of this chapter is to ~~more fully~~ implement the general plan and the purposes of ~~all~~ applicable land use ~~ordinances~~ regulations to the extent allowed by state law. A development agreement may be considered by the city council as a method of providing the city with additional control and flexibility in the approval of development projects, commercial and residential, by tailoring development standards and requirements to the unique features of a particular development site. **(**Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

**16.09.102: ELIGIBILITY:** Persons entering into a development agreement with the city council must have a legal or equitable interest in the property that is the subject of the development agreement. (Ord. 2015-15 2005)

**16.09.103: WHEN REQUIRED:** All development applications, including subdivisions, whether residential, commercial ~~and~~ or multi-use, ~~applications~~ shall trigger the requirement for a development agreement to be approved by the city council, regardless of whether it is to be constructed in a single phase or multiple phases. However, a development agreement is not required as a condition for developing land if the city's land use regulations establish all applicable standards for development on the land.
(Ord. 2015-15, 2015; amd. Ord. 2021-11, 2021; amd. 2023-11-2023)

**16.09.104: CONTENT:**

(1) The city should consider the following sections for possible inclusion in any development agreement, as applicable:

(a) Duration of agreement.

(b) Description of the subject property.

(c) Allowed uses.

(d) Maximum density or intensity of the allowed uses and construction requirements including, but not limited to, exterior colors, design guidelines, minimum and maximum building heights and building size.

(e) A subdivision layout or site plan identifying, but not limited to, the location and arrangement of all allowed uses, circulation patterns, and all required dedications and improvements.

(f) A phasing schedule for all project phases and the timing for the provision of all features, dedications and improvements.

(g) A listing of all project features and facilities being voluntarily provided to the city, in addition to those typically required by all land use ordinances.

(h) In high density residential zones (R-1-5 to Multi-Family), developments having twenty-five units or more shall have ~~require in the development agreement~~ a requirement that a minimum of fifty percent (50%) of the units are sold to owner occupants.

(i) A disclaimer that there may not be sufficient water to serve lots and/or phases in the future and that ~~decision~~ water availability analysis will be made at the time of building permit application.

(j) Other conditions, terms, restrictions and requirements for subsequent actions and approvals.

(2) If the development agreement restricts an applicant's rights under clearly established state law, the development agreement must contain a clear disclosure, using bold type and a larger font, of the rights being restricted.
(Ord. 2015-15, 2015; amd. Ord. 2021-11, 2021; amd. 2023-11-2023)

**16.09.105: FORM AND CONSISTENCY:** A development agreement shall be approved by the council with a finding that the development agreement is consistent with state law and the city's land use regulations ~~the general plan~~. (Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

**16.09.106: APPLICABLE PROVISIONS~~,~~ AND REGULATIONS ~~AND POLICIES~~:** ~~Unless otherwise modified by a development agreement,~~ All provisions of a development agreement shall comply with state law and, to the extent allowed by state law, the city's land use regulations.~~, regulations and policies~~ governing the uses of the land, density, design, ~~and~~ improvement and construction standards and specifications~~, and all other requirements and regulations of all other requirements and regulations of all land use ordinances~~ in effect at the time of the execution of the agreement ~~shall apply~~. ~~A development agreement shall not prevent the city from subsequent actions applicable to the property that is the subject of a development agreement from applying any new provisions or regulations that do not conflict with those contained within the development agreement.~~ A development agreement may not:

(a) limit the city's authority in the future to:

(i) enact a land use regulation; or

(ii) take any action allowed under state code section 10-8-84;

(b) require the city to change the zoning designation of an area of land within the city in the future;

(c) allow a use or development of land that applicable land use regulations governing the area subject to the development agreement would otherwise prohibit.

(Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

**16.09.107: PERIODIC REVIEW:** The zoning administrator should review a development agreement as needed ~~periodically~~, at which time the applicant, or the applicant's successor, shall be required to demonstrate good faith compliance with the terms of the development agreement. If the zoning administrator finds, based on the evidence, that the applicant has not complied in good faith with all terms or conditions of the agreement, the zoning administrator shall recommend to the city council that the agreement be enforced as written, modified, or terminated. (Ord. 2015-15, 2015)

**16.09.108: AMENDMENT OR CANCELLATION:** In addition to the provisions of section 16.09.107 of this chapter, a development agreement may be amended or canceled in whole, or in part, by mutual consent of the parties to the agreement, or their successors. **(**Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

**16.09.109: RECORDING OF DEVELOPMENT AGREEMENT:** ~~No later than ten (10) days a~~After the city council has approved, and the parties have fully executed a development agreement, the city recorder shall record the development agreement~~, as approved,~~ in the office of the Washington County recorder. The recorded copy of the development agreement shall be considered the official copy of said agreement. The benefits, rights and obligations of a development agreement shall be binding upon and shall inure to all successors to the original parties to the agreement. **(**Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

**16.09.110: MODIFICATION OR SUSPENSION TO COMPLY WITH STATE ~~OR FEDERAL~~ LAWS~~:~~** In the event that ~~federal or~~ state law~~s or regulations, enacted after the adoption of a development agreement,~~ prevents or precludes compliance with one or more provisions of ~~the~~ a development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with ~~such federal or~~ state law~~s or regulations~~. **(**Ord. 2015-15, 2015; amd. Ord. 2023-11, 2023)

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

**PASSED AND ADOPTED BY THE IVINS CITY COUNCIL, STATE OF UTAH, ON THIS _____ DAY OF JUNE, 2023 BY THE FOLLOWING VOTE:**

| | AYE | NAY | ABSTAIN | ABSENT |
|---|---|---|---|---|
| Dennis Mehr | _____ | _____ | _____ | _____ |
| Mike Scott | _____ | _____ | _____ | _____ |
| Jenny Johnson | _____ | _____ | _____ | _____ |
| Adel Murphy | _____ | _____ | _____ | _____ |
| Lance Anderson | _____ | _____ | _____ | _____ |

_____
Chris Hart, Mayor

ATTEST:

_____
Kari Jimenez, City Recorder