

ORDINANCE NO. 2021-12

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF
ABANDONING AND AUTHORIZING THE SALE OF APPROXIMATELY 1,400
SQUARE FEET OF THE HOSKINS AVENUE PUBLIC RIGHT-OF-WAY
ADJACENT TO 709 S. O'LEARY STREET; PROVIDING FOR SEVERABILITY,
AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN
EFFECTIVE DATE**

RECITALS:

WHEREAS, the City has authority to abandon public rights-of-way pursuant to A.R.S. § 28-7201 et seq, and pursuant to the City Code, Title 11, General Plans and Subdivisions, Division 11-20-160, Abandonment or Vacation of Public Right-of-Way; and has authority to dispose of real property pursuant to the Flagstaff City Charter, Article VIII, Section 10; and

WHEREAS, pursuant to A.R.S. 28-7202 public right-of-way may be abandoned or vacated if it is no longer necessary for a public use; and

WHEREAS, all public utility companies, City divisions and agencies have had the opportunity to review a map of the public right-of-way proposed to be abandoned; and

WHEREAS, the City Engineer in consultation with the Water Services (formerly Utility) Director and Public Works Director, along with the Planning and Zoning Commission have determined that the proposed abandonment is consistent with the General Plan, Zoning Code, and any applicable Specific Plan, and all applicable Division standards, as referenced in the staff report on file with the City Clerk.

ENACTMENTS:

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: In General.

The City Council hereby finds that the certain public right-of-way, approximately 1,400 square of the Hoskins Avenue public right-of-way adjacent to 709 S. O'Leary Street, and legally described in Exhibit A attached hereto ("the Property") is no longer necessary for public use, and is hereby abandoned.

Notice of the proposed sale of the Property shall be posted along the public right-of-way as provided for by state law, and notice of the proposed sale shall be published one time per week for three weeks prior to the opening of bids pursuant to Article 8, Section 10, of the Flagstaff City Charter.

Pursuant to A.R.S. § 28-7204 an abutting property owner's timely offer shall be preferred over all other offers.

The Property shall be offered for sale for a minimum bid based on the total square footage multiplied by \$14.75. If such an offer is received from the abutting property owner the Property shall be sold and transferred by Quit Claim Deed to the same.

If there are no bids submitted, then pursuant to the Flagstaff City Charter, for a two-year period the City Manager may, subject to Council approval, enter into an agreement to sell the Property for an amount reasonably consistent with an appraisal without further notice and bid process.

All conveyances of the Property shall by Quit Claim Deed and are "AS IS WHERE IS" and subject to all existing public utility uses of the Property, and subject to all existing encumbrances of record.

As a condition of sale the purchaser of the Property at its own expense shall process any necessary plat correction or amendment to reflect the abandonment of the public right-of-way and new ownership.

SECTION 2: Delegation of Authority.

The Mayor and City Manager are hereby authorized to sign all documents relevant to the sale of said property. The City Real Estate Manager is directed to take all necessary steps to effectuate this ordinance. The City Clerk is directed to record a copy of this ordinance.

SECTION 3. Repeal of Conflicting Ordinances

All ordinances and parts of ordinances in conflict with the provisions of the code adopted herein are hereby repealed.

SECTION 4. Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

SECTION 5. Clerical Corrections

The City Clerk is hereby authorized to correct clerical and grammatical errors, if any, related to this ordinance, and to make formatting changes appropriate for purposes of clarity, form, or consistency with the Flagstaff City Code.

SECTION 6. Effective Date

This Ordinance shall be effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 18th day of May, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibits:

Exhibit A – Legal Description