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## A BILL FOR AN ORDINANCE

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RELATING TO MAINTENANCE OF PRIVATE STREETS AND ROADS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to address the maintenance of private streets and roads.

SECTION 2. Section 14-32.2, Revised Ordinances of Honolulu 1990 ("Surface maintenance") is amended by amending subsection (a) to read as follows:

- "(a) Subject to the availability of appropriations, the department of facility maintenance may maintain by either remedial patching, resurfacing, or paving those portions of private, nondedicated and nonsurrendered streets and roads [which] that have been determined by the chief engineer of the department of facility maintenance, with the approval of the director of the department of transportation services and the director of the department of planning and permitting, to meet the following criteria:
- (1) The street or road has not been dedicated or surrendered to the city or any other governmental entity, and is not otherwise owned by the city or any other governmental entity;
  - (2) The street or road is not maintained by any governmental entity other than the city pursuant to this article;
  - (3) The street or road is open to, serves, and benefits the general public;
  - (4) The street or road is not signed, marked, delineated, fenced, barricaded, or otherwise designed, constructed or operated to exclude access by the general public, in whole or in part, which may be through such means as signs indicating that the street or road is a "private" street or road, or any restrictions on parking [which] that are not applicable to all persons except as otherwise provided by law;
  - (5) The street or road directly serves:
    - (A) [six or more parcels and at least six of the parcels served are owned by separate individuals or entities;] Six or more parcels;



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- (B) [six or more residential structures where at least six of the structures served are owned by separate individuals or entities;] Six or more residential structures; or
- (C) [a] A parcel of land which has one or more condominium buildings or apartment buildings [which] that contain six or more condominium or apartment units;
- (6) The street or road is not part of a cluster housing development, planned development, or similar type of development;
- (7) Maintenance of the street or road by the city will be practicable and safe;
- (8) The street or road is not a private street or road within the meaning of Chapter 22 or the rules [and regulations] adopted pursuant thereto;
- (9) The developer or subdivider of [such] the street or road has not agreed to maintain [such] the street or road in perpetuity;
- (10) An association of apartment owners or homeowners association does not maintain [such] the street or road;
- (11) Maintenance of the street or road surface is necessary to protect the safety of motorists, bicyclists, and pedestrians or is otherwise in the public interest; and
- (12) The street or road does not suffer such design defects as to make use of the street or road hazardous to the general public.

If they wish a private street or road to be maintained by the city, the persons collectively owning a 60 percent or [more] greater interest in the fee title or an appropriate roadway easement in the street or road [shall] may initiate and submit a written request to the chief engineer of the department of facility maintenance for the maintenance of the street or road. If the chief engineer of the department of facility maintenance determines that the private street or road satisfies the criteria set forth in this subsection, the chief engineer of the department of facility maintenance may, subject to the availability of appropriations, proceed to maintain the street or road, provided that the persons having the right to control the use of the street or road [shall] submit their written approval of the maintenance work. The persons having the right to control the use of the street or road [shall] must agree to such terms, conditions and covenants as may be determined by the chief engineer of the department of



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facility maintenance to be for the convenience and protection of the city and the public, including the granting of necessary easements; provided that one of the conditions the persons having the right to control the use of the street or road [shall] must agree to is the condition that they keep the street or road open to the general public for as long as the city maintains the street or road surface or for the period of time specified in the agreement, whichever is longer. The requirement for a written request, approval and agreement [shall] will not apply, however, to [a] (i) a street or road over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to [the effective date of this article,] December 19, 1996, or (ii) a street or road which the chief engineer of the department of facility maintenance, with the approval of the director of the department of transportation services and the director of the department of planning and permitting, determines has been dedicated by implication to public use for roadway purposes; provided that nothing contained herein [shall] will be construed as prohibiting the chief engineer of the department of facility maintenance from requiring a written approval and agreement for new maintenance work on streets or roads over which the department of facility maintenance exercises surface maintenance responsibilities on the day prior to [the effective date of this article] December 19, 1996 if the chief engineer of the department of facility maintenance determines that such an agreement is in the best interests of the city."

SECTION 3. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 4. This ordinance takes effect upon its approval.

INTRODUCED BY:

Ernest Martin

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DATE OF INTRODUCTION:

May 25, 2016

Honolulu, Hawaii

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Councilmembers

APPROVED AS TO FORM AND LEGALITY:

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Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

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KIRK CALDWELL, Mayor  
City and County of Honolulu