

ORDINANCE NO. 18-____

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY ENACTING SECTION 98-5 ; RE-ENACTING THE CRITERIA FOR CONSTRUCTION AND MAINTENANCE OF PAVER DRIVEWAYS; MAINTAINING A PRIVATE RIGHT OF ACTION AGAINST PROPERTY OWNERS WHO INSTALL OR PREVIOUSLY INSTALLED PAVER DRIVEWAYS WITHIN THE COUNTY RIGHT-OF-WAY FOR FAILURE TO CONSTRUCT OR MAINTAIN A PAVER DRIVEWAY IN ACCORDANCE HERewith; AMENDING SECTION 154-151 OF THE PINELLAS COUNTY LAND DEVELOPMENT CODE, AS AMENDED PURSUANT TO ORDINANCE 18-36, TO REQUIRE PAVER DRIVEWAYS EXTENDING ACROSS SIDEWALKS COMPLY WITH SECTION 98-5; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pinellas County adopted Ordinance 16-53 which amended section 170-199 of the Pinellas County Code relating to design and construction criteria for access connections to county roads; and

WHEREAS, through Ordinance 16-53, Pinellas County allowed for decorative paver driveways to extend through the sidewalk portion of the right-of-way and placed maintenance responsibilities on the owner of the property serviced by the driveway; and

WHEREAS, the Board of County Commissioners determined that the failure to properly construct or maintain paver sidewalks across/through driveways within the right-of-way increases liability for which homeowners should be responsible; and

WHEREAS, the Board did not intend to assume the maintenance responsibility for pavers over sidewalks or remove liability from the owners of the properties serviced by paver driveways; and

WHEREAS, the provisions adopted in Ordinance 16-53 were inadvertently repealed, effective January 1, 2019, via Ordinance 18-36.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida that:

SECTION 1. Section 98-5 of the Pinellas County Code is hereby created to read as follows:

Sec. 170-199. Construction and Maintenance of and Liability for Paver Driveways.

(1) In addition to any other requirements of any other Ordinance, paver driveways shall comply with the following:

a. Driveways must be installed and at all times maintained in compliance with Americans with Disabilities Act (ADA) requirements, as may be subsequently modified.

b. The owner of the property served by or upon which a paver driveway is or was previously installed is solely responsible for all maintenance and repair of the paver driveway within the county right-of-way. The county shall not be liable for the costs of any maintenance, repair, or replacement of the paver driveway regardless of the reason(s) requiring the maintenance or repair.

c. In the event any property owner fails to maintain and repair the paver materials within the county right-of-way, the county may, without prior notice to the property owner perform the necessary maintenance, repair or replace any portion of the driveway within the county right-of-way, using any materials approved by this code. In no circumstances shall the county be obligated to replace pavers. Alternatively, if the Director of Public Works deems appropriate, the property owner may be given notice and an opportunity to bring the driveway into compliance with this Code. The property owner is responsible for the costs of any repairs made by the county pursuant to this section.

d. A property owner, occupant, or agent shall regularly inspect a sidewalk composed of pavers. Where a sidewalk composed of pavers is in the public right-of-way and in violation of this code, the owner, occupant or agent thereof, must repair or replace the damage in the manner provided in this division for the construction of new sidewalks at his or her own cost. If the owner, occupant, or third party does not repair or replace the non-complaint pavers, the county may perform any repairs or replacement the county deems is warranted at the expense of the owner.

e. It shall be a violation of this article for any owner, occupant, or agent of any property to allow sidewalks composed of pavers to be in violation of this section.

f. A paver driveway across or through the sidewalk must be installed pursuant to an approved site plan or a right-of-way use permit.

g. Approval for a paver driveway across or through the sidewalk shall not be granted for the installation of a paver sidewalk if the county has not been fully compensated for prior expenses incurred in removing, repairing, or replacing a non-compliant paver sidewalk on the subject property.

h. Approval for a paver driveway across or through the sidewalk shall not be granted for the installation of a paver sidewalk on a county road when the sidewalk maintenance responsibility, by operation of law or otherwise, is deemed to belong to a municipality.

i. A person, including the county, that is injured, aggrieved or against whom a civil action for damage, injunction, or other relief is brought to recover for injuries or damage arising out of a violation of this section, or to correct a condition in violation of this section, may bring a civil action in any court of competent jurisdiction against the adjacent or abutting property owner, occupant, or agent of such property, or third party who contributed to the violation of this section, for damages according to the percentages that the property owner, occupant, agent or third party's violation, negligence or wrongful acts or omissions contributed to any alleged injuries or damages. The county may assert as a defense in any such action that a violation of this chapter caused or allowed to be caused by an adjacent to abutting property owner, occupant, or

agent of such property, or a third party reduces the county's liability in whole or in part by such property owner, occupant, or agent of such property, or third party's violation, negligence wrongful acts or omissions.

(2) Violations.

Violations of this section may be punishable in accordance with section 1-8 of this Code.

(3) Areas embraced.

This section applies in unincorporated Pinellas County, and within public right-of-way on County roads within incorporated Pinellas County.

SECTION 2. Section 154-151 of the Pinellas County Land Development Code (as Amended by Ordinance 18-36) is hereby amended to read as follows:

Section 154-151 – Sidewalk construction.

(a) Sidewalks shall be constructed pursuant to the following:

(3) Driveways constructed with decorative pavers are permitted to extend over the public sidewalks as provided in Chapter 90 on the Pinellas County Code.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to section, article, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. EFFECTIVE DATE. Pursuant to Section 125.66 of the Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. Upon filing of the Ordinance with the Department of State, this Ordinance shall become effective on January 1, 2019.

