

ORDINANCE NO. 16- 53

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING THAT THE PINELLAS COUNTY LAND DEVELOPMENT CODE BE AMENDED BY REVISING SECTION 170-199 OF SAID CODE; AMENDING THE SPECIFICATION TO BE USED FOR ASPHALT AND CONCRETE SURFACES; AMENDING THE STAFF'S DISCRETION TO APPROVE GRAVEL OR SHELL; PROVIDING FOR THE INSTALLATION OF BRICK PAVER DRIVEWAYS IN RESIDENTIAL AREAS UNDER CERTAIN CONDITIONS; ESTABLISHING CRITERIA FOR CONSTRUCTION AND MAINTENANCE OF PAVER DRIVEWAYS; ESTABLISHING 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; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pinellas County has authority pursuant to Chapter 125, Florida Statutes and Article II of the Pinellas County Charter to maintain County rights-of-way; and

WHEREAS, Pinellas County has further authority pursuant to Chapters 334 and 336, Florida Statutes to regulate County road system rights-of-way; and

WHEREAS, the Pinellas County Code does not allow for paver driveways; and

WHEREAS, notwithstanding, residents have installed pavers within the County rights-of-way; and

WHEREAS, paver driveways can be a beneficial aesthetic feature in a neighborhood and desirable by property owners; and

WHEREAS, the property owners are responsible for maintenance of driveways within county right-of-way; and

WHEREAS, 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, a maintenance obligation and private right of action is hereby created against property owners who install or previously installed paver driveways which include sidewalks; and

WHEREAS, the applicability of these amendments are governed by the provisions of Section 170-195 of the Pinellas County Land Development Code.

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

SECTION 1. Section 170-199 of the Pinellas County Land Development Code is hereby amended to read as follows:

Sec. 170-199. Design and construction criteria for access connections to county roads.

Design and construction criteria for access connections to county roads are as follows. All new or reconstructed driveways and median openings shall be designed to conform with the following criteria:

- (1) *Private driveways (single-family, duplex):*
 - a. Minimum width, ten feet (20 feet minimum width for single duplex drive).
 - b. Maximum width, 24 feet on collector and arterial roads; 30 feet on local subdivision roads.
 - c. Fifteen feet minimum radii required for rural section.
 - d. Department of transportation standard flares required for a road that has urban curb and gutter section. (No curbs for driveway permitted within right-of-way; wheelchair access to be provided.)
 - e. Where a driveway crosses a ditch, a six-foot minimum stabilized shoulder, with three-fourths-inch to one foot slope, each side of driveway pavement will be required.
 - f. On a driveway where a culvert is to be installed, the end of the culvert shall not extend beyond the side of property line prolonged. If the end of the culvert creates a hazardous condition in relation to the end of an existing culvert, the proposed culvert should be extended and connected to the existing culvert with a ditch bottom inlet or junction box.
 - g. Culverts shall be a minimum of 15 inches R.C.P. or hydraulic equivalent (galvanized asphalt-coated corrugated metal pipe will be acceptable only on residential and duplex driveways).
 - h. Culvert length (L) to be determined by the following:
 $L = \text{Pavement width plus shoulder width (12-foot min.) plus two times (four times the depth of the ditch)}$
 - i. Mitered end sections are required on all culvert installations, as per state department of transportation standard detail index 273.
 - j. Justifications for size of culvert must be submitted, along with flow line elevations (inverts).
 - k. A minimum flow of 2.5 feet per second must be maintained as a cleansing velocity in all culverts.
 - l. Driveway construction from edge of pavement to the property line shall consist of one of the following:
 1. One-inch SP-9.5, fine traffic level C asphalt surface, six-inch limerock base compact to 98 percent density.

2. Six-inch thick 3,000 psi reinforced concrete. (Existing sidewalk to be replaced where it does not meet this criteria.)

3. Gravel or shell driveways may be allowed where the land development/permitting section determine such use is consistent and appropriate given the surrounding right-of-way and location, provided that a pad for the protection of existing pavement shall be constructed.

4. Paver driveways shall comply with Pinellas County Standard Details Index 1345, as well as with the following, for which the provisions of Section 170-195(b) do not apply:

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

ii. 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.

iii. 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.

iv. 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.

v. 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.

vi. A permit shall not be issued 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.

vii. A permit shall not be issued 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.

viii. 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.

m. Driveway construction which requires removal of a vertical curb (raised curb) shall have pavement saw cut at curblines prior to removing existing curb and replaced with a header curb or valley in accordance with existing type.

n. Driveway construction where Miami type curb (mountable) exists must tie to the back of the curb.

o. If culvert is to be installed the entire length of the property, underdrain shall be installed (six-inch minimum PVC perforated), (inlets to be installed every 120 feet or less).

p. Frontage of 50 feet or less shall be limited to one driveway. Not more than two driveways shall be permitted for any one property fronting on the same road (exceptions may be approved to this article if good cause is shown).

(2) *Commercial driveways.*

a. Minimum width 24 feet (16 feet if driveway is signed and marked as one-way).

b. Maximum width 40 feet (plus radii and/or flares).

c. Entrance radii (rural section):

1. Thirty-five feet minimum entrance radius required.

2. Twenty-five feet minimum exit radius required.

d. Addition of pavement for acceleration/deceleration lanes and additional pavement for case III through case VI to arterial, collector and commercial roads must comply with county standards.

e. Case I and II entrances are to be overlaid with 1½ inches of PC-3 asphalt to the center of the road, including the addition (feather edge at center of road).

f. Case III, IV and VI, entrances and modifications thereof, are to be overlaid the entire width of the road with 1½ inches of PC-3 asphalt.

g. Department of transportation standard flares are required for urban curb and gutter sections unless radii are otherwise specified by traffic engineering.

h. A six-foot shoulder, each side of pavement, will be required.

i. On driveways where a culvert is to be installed, the end of the culvert shall be no closer than six feet to side property lines. If the end of the proposed culvert creates a hazardous condition in relation to the end of an existing culvert, the proposed culvert shall be extended and connected to the existing culvert with a D.B.I. (except common driveway).

j. On driveways where culvert is not to be installed, a six-foot setback from the side property line extended, measured from where the radius, or flare, meets the existing pavement, is required.

k. Culverts shall be a minimum of 15 inches RCP (corrugated metal pipe will not be allowed for commercial driveways).

l. Culvert length (L) to be determined by the following:

L = pavement width plus shoulder width (12 feet minimum) plus two times (four times the depth of the ditch).

- m. Mitered end sections are required on all culvert installations (miter to begin at edge of six-foot shoulder).
- n. Justification for size of culvert must be submitted, along with flow line elevations (inverts).
- o. A minimum flow of 2.5 feet per second must be maintained as a cleansing velocity.
- p. Driveway and turn lane construction shall conform to pavement specifications for arterial, collector, industrial and residential streets as set forth in this land development ordinance.
- q. If culvert is to be installed the entire length of the property, underdrain shall be installed (inlets to be installed every 120 feet or less).
- r. Frontages of 50 feet or less shall be limited to one driveway. Not more than two driveways shall be permitted for any one property fronting on the same road (variance may be granted subject to proper conformance to all local, state and federal regulations).
- s. Access from public streets to parking facilities shall be in accordance with the following:
 - 1. On county collector roads there shall be a minimum of 50 feet from the edge of right-of-way to the first internal intersection or drive.
 - 2. On county arterial roads there shall be a minimum of 75 feet from the edge of right-of-way to the first internal intersection or drive.

(3) Violations.

Violations of this section may be punishable in accordance with section 134-8 of this 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. This Ordinance shall become effective upon filing of the Ordinance with the Department of State.

APPROVED AS TO FORM

By: Cheryl Doraan Pembek
Office of the County Attorney