

ORDINANCE NO. 2019 - 13

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING ORDINANCE NO. 97-19, AS AMENDED, KNOWN AS THE NASSAU COUNTY LAND DEVELOPMENT CODE, SPECIFICALLY AMENDING ARTICLE 28, SUPPLEMENTARY REGULATIONS, SECTION 28.03, LOT TO HAVE ACCESS; AMENDING ORDINANCE NO. 99-17, AS AMENDED, KNOWN AS THE NASSAU COUNTY ROADWAY AND DRAINAGE STANDARDS, SPECIFICALLY AMENDING ARTICLE 11, ROADWAY DESIGN, SECTION 11.2, RIGHT-OF-WAY REQUIREMENTS; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners has found it necessary and in the best interest of the citizens of Nassau County to further amend Ordinance No. 97-19, as amended, known as the Land Development Code, specifically amending Article 28, Supplementary Regulations, Section 28.03, Lot to Have Access; and

**WHEREAS**, the Board of County Commissioners has found it necessary to amend Ordinance No. 99-17, as amended, known as the Roadway and Drainage Standard, specifically amending Article 11, Roadway Design, Section 11.2, Right-of-Way Requirements; and

**WHEREAS**, the Planning and Zoning Board of Nassau County, Florida, conducted a public hearing on this ordinance on April 16, 2019 and voted to recommend approval; and

**WHEREAS**, the Board of County Commissioners of Nassau County, Florida conducted a public hearing on this ordinance on May 13, 2019.

**NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Nassau County, Florida:**

**SECTION 1. FINDINGS**

This Ordinance is consistent with the goals, objectives and policies of the Nassau County Comprehensive Plan, in particular, Policy FL.10.05.

**SECTION 2. AMENDMENT**

- A. Article 28, Supplementary Regulations, Section 28.03, Lot to Have Access, of Ordinance 97-19, as amended, known as the Land Development Code is further amended as follows:

## Section 28.03. - Lot to have access.

No lot or parcel of land shall be used for the construction, location, or erection of any building, structure or mobile home where such lot or parcel does not front on a public or private roadway approved by the county director of public works. The lot or parcel shall front for a distance of not less than the required minimum lot width for the subject zoning classification or thirty-five (35) feet if located fronting on an approved cul-de-sac. On a curvilinear street, the width, as it applies to this section, shall be measured at the front setback line of the respective zoning district. The width, as it applies in this section, as measured for lots fronting on an approved cul-de-sac shall be measured at the property/right-of-way line. Variations and variances related to access shall be reviewed by the public works director pursuant to Article 15 of the Roadway and Drainage Standards. Waiver of the minimum requirements for road frontage for individual residential building sites may be considered by the planning and zoning board pursuant to an application for waiver of road frontage.

Lots or parcels established pursuant to a recorded instrument recorded as of March 27, 2017, or are not classified as a ~~minor-development-or~~ rural subdivision, may be accessed by an existing private thirty-foot easement and may be used for the construction, location or erection of any single family structure including a mobile home subject to the following:

- (1) The lot or parcel is in a zoning district that allows the erection of a single family structure and meets the requirements of the zoning district.
- (2) The private easement is a minimum of thirty (30) feet and does not serve more than three (3) lots and:
  - a. Each of the applicants for a thirty-foot easement shall execute an affidavit, on a form approved by the county attorney that states, at a minimum: (1) the easement is maintained by the property owners whose lots or parcels are accessed by the private easement. (2) acknowledges that county does not nor will not maintain the easement, and does not guarantee access by emergency vehicles, school buses or other delivery vehicles.
  - b. Each of the applicants shall execute a hold harmless agreement on a form approved by the county attorney.
  - c. All documents shall be recorded and run with the land.
- (3) Variations and variances related to access from an existing thirty-foot easement shall be reviewed by the public works director pursuant to Article 15 of the Roadway and Drainage Standards.

Lots or parcels established pursuant to a recorded instrument, recorded as of March 27, 2017, that are accessed by a sixty-foot private dirt road easement that was named by the property appraiser prior to March 27, 2017, may be used for the construction or erection of any single family structure and/or mobile home subject to the following:

- (1) The lot or parcel is in a zoning district that allows the erection of a single family structure and meets the requirements of the zoning district.

- (2) The private sixty-foot easement does not serve more than five (5) lots and has been constructed to county standards (including drainage) as set forth in Ordinance No. 99-17, as amended, specifically article 11, roadway design, or alternate standards, approved by the development review committee (DRC) and inspected and approved by the director of public works or his designee.
- (3) The applicants for the sixty-foot easement shall execute an affidavit on a form approved by the county attorney that states at a minimum: (1) the easement is maintained by the property owners whose lots or parcels are accessed by the private easement, and (2) acknowledges that the county does not nor will not maintain the easement and does not guarantee access by emergency vehicles, school buses or other delivery vehicles. All documents shall be recorded, at the applicant's expense, and run with the land.
- (4) The lot owner shall execute a hold harmless agreement on a form approved by the county attorney.
- (5) Variations and variances related to access from an existing sixty-foot easement shall be reviewed by the public works director pursuant to Article 15 of the Roadway and Drainage Standards.

Waiver of road frontage. A waiver from the minimum road frontage requirements may be considered by the planning and zoning board. This waiver is only available to residential properties that were recorded in the public records of Nassau County as of March 27, 2017, or new residential building sites created via the open rural homestead land split exemption, the parent tract land split provision and/or the family hardship development provision. Applications for this waiver shall be in writing on a form created by the Nassau County Attorney and filed with the department of planning and economic opportunity with all required attachments and information. At a minimum, the following shall be submitted:

- (1) A site plan, survey or scaled drawing of the residential building site and means of ingress and egress.
- (2) Deed and legal description.
- (3) Proof of easement for access to the property.
- (4) An executed owner's authorization and/or proof of ownership.
- (5) Information that sets forth any practical and/or economic difficulties in adhering to the regulations. The planning and zoning board may approve a waiver of road frontage based on a finding that the application meets the following criteria:
  - a. There are practical and/or economic difficulties in adhering to the regulations.
  - b. There is an approved easement providing access to the building site.
  - c. A hardship exists as differentiated from an attempt to circumvent minimum standards. Within fourteen (14) days of receipt, department of planning and economic opportunity will review the application for waiver of road frontage for completeness only.

If not complete, a written request for additional information will be made. If the application is complete, the matter will be placed on the next available planning and zoning board agenda. A completed packet must be submitted a minimum of thirty (30) days prior to the planning and zoning board meeting. A fee will be established by separate resolution of the board of county commissioners.

B. Article 11, Roadway Design, Section 11.2, Right-Of-Way Requirements, of Ordinance 99-17, as amended, known as the Roadway and Drainage Standards shall be amended as follows:

11.2.1. Minimum right-of-way widths shall be as listed below. These minimum widths may be increased to allow sufficient width for drainage facilities, utilities, sidewalks, bicycle paths, or other appurtenances within the right-of-way.

| Minimum Right-of-Way Widths |             |         |               |         |
|-----------------------------|-------------|---------|---------------|---------|
| Roadway Classification      | Curb/Gutter |         | Swale Section |         |
|                             | 2-Lane      | 4-Lane  | 2-Lane        | 4-Lane  |
| Local Roads                 | 60 ft.*     | N/A     | 60 ft.        | N/A     |
| Minor Collectors            | 80 ft.      | 110 ft. | 90 ft.        | 130 ft. |
| Major Collectors            | 80 ft.      | 130 ft. | 100 ft.       | 150 ft. |

\* Right-of-way widths for local road curb and gutter sections may be reduced to fifty (50) feet upon demonstration that a utility easement five (5) feet in width or greater is provided outside of the right-of-way on each side.

11.2.2. All private access easements, except as set forth in section 28.03 of the Land Development Code, shall be a minimum width of sixty (60) feet. The roadway within said easement shall be paved unless in compliance with section 11.2.3 or section 11.2.4 as per this ordinance, article 11, roadway design.

~~11.2.3. If the private access easement is for a minor development, as set forth in section 3 of Ordinance No. 99-18, as amended by Ordinance No. 2017-05, it may be unpaved subject to the requirements set forth in Figure 4, attached hereto, as set forth in section 3 of Ordinance No. 99-18, as amended by Ordinance No. 2017-05. The road~~

~~shall meet or exceed the standards set forth in Figure 4. The roadway shall be upgraded to the appropriate standard if additional parcels are connected to the road or easement. The owner/developer that connects additional parcels to the minor development road or easement shall be responsible for the upgrade. An application shall be required by the owner/developer that seeks to connect to the minor development road and/or easement. The application shall be reviewed by the development review committee (DRC) and placed on the earliest planning and zoning board agenda for its review and approval.~~

11.2.43. If the access easement is for a rural subdivision as defined in section 1 of Ordinance No. 99-18, as amended, it may be unpaved subject to the requirements set forth in Figure 5, attached hereto, as set forth in sections 4 and 5 of Ordinance No. 99-18, as amended by Ordinance No. 2017-05. The road shall meet or exceed the standards set forth in Figure 5. The director of public works or his designee shall inspect and approve the road. The roadway shall be paved if additional parcels are connected to the road and/or easement. The owner/developer that connects additional parcels to the rural subdivision road and/or easement shall be responsible for the paving. An application shall be required by the owner/developer that seeks to connect to the rural subdivision road and/or easement. The application shall be reviewed by the development review committee (DRC) and placed on the earliest planning and zoning board agenda for its review and approval.

11.2.54. If pavement within a roadway is divided, such as to allow for preservation of trees within the right-of-way, the width for the remaining portion of the right-of-way outside of the travel lanes shall comply with the roadway typical Section for the designated roadway classification. Design must be adequate to assure that the tree root system will not adversely affect the integrity of the roadway in the future. The county will not assume maintenance responsibility, for landscaped medians within the county right-of-way.

11.2.65. All intersecting roadways shall require additional right-of-way at the corners. The corner clip shall connect the two (2) points which are twenty (20) feet from the intersecting right-of-way lines (see standard details).

11.2.76. Reduction of the minimum right-of-way widths listed in section 11.2.1 above may be permitted if documentation demonstrates sufficient width to safely accommodate all planned or required drainage facilities, utilities, sidewalks, bicycle paths, or other appurtenances within the right-of-way or separate easements. Requirements of this ordinance shall not prohibit the county from undertaking, or permitting, expansion of existing travel lanes within right-of-way not meeting the minimum widths in section 11.2.1 above if environmental, legal, or physical constraints prevent expansion of such right-of-way to the minimum widths so long as public safety is not jeopardized.

11.2.87. A curb and gutter section is recommended in all developments containing lots one (1) acre or less in size.

### **SECTION 3. SEVERABILITY**

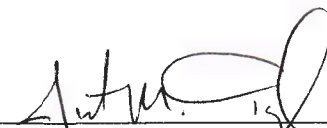
It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

**SECTION 4. EFFECTIVE DATE**

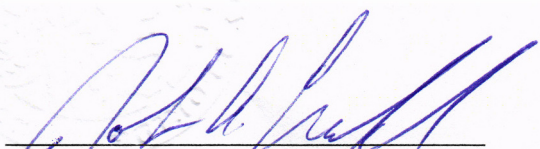
This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

Adopted this 13<sup>th</sup> day of May, 2019 by the Board of County Commissioners of Nassau County, Florida.

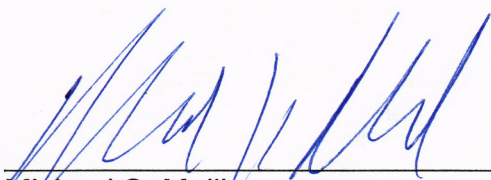
BOARD OF COUNTY COMMISSIONERS  
NASSAU COUNTY, FLORIDA

  
\_\_\_\_\_  
JUSTIN M. TAYLOR  
Its: Chair

ATTEST as to Chairman's Signature:

  
\_\_\_\_\_  
John A. Crawford  
Its: Ex-Officio Clerk  
MES  
05-16-19

Approved as to form by the  
Nassau County Attorney

  
\_\_\_\_\_  
Michael S. Mullin  
County Attorney