

CALHOUN COUNTY, FLORIDA

ORDINANCE 07-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CALHOUN COUNTY, FLORIDA; AMENDING THE COUNTY'S DRIVEWAY REQUIREMENTS; REQUIRING THE INSTALLATION OF DRIVEWAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION REQUIRING DRIVEWAYS FOR TEMPORARY USES; PROVIDING PURPOSE, APPLICABILITY AND PERMIT REQUIREMENTS PROVIDING DEFINATIONS; SETTING FORTH STANDARDS FOR DRIVEWAY CONSTRUCTION; PROVIDING PROCEDURE PROVIDING FOR VARIANCES; PROVIDING FOR FEES, PROVIDING FOR ENFORCEMENT BY INJUNCTIVE RELIEF; PROVIDING SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

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DEPARTMENT OF STATE
TALLAHASSEE FLORIDA

WHEREAS, the Calhoun County Board of County Commissioners has the home rule authority to regulate and maintain roads within the county, and specifically to regulate driveway connections thereto for purposes of promoting safety, drainage and road maintenance; and

WHEREAS, improper driveway connections to roads within the county can create safety hazards, drainage problems, damage to roadways, and other injury to the public welfare; and

WHEREAS, the necessity, in the public interest, for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity of the citizens of Calhoun County.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CALHOUN COUNTY, FLORIDA:

I. Purpose, applicability and permit requirement.

(a) The board of county commissioners has determined that it is in the best interest of the general health, safety and welfare of the citizens of the county to regulate the establishment of driveways and the connection of those driveways when citizens wish to gain access for their property onto public and private roads.

(b) This article shall apply to all county roads within the unincorporated and incorporated area of Calhoun County, as well as to all private roads within the unincorporated area of Calhoun County. This article shall not apply to state roads.

©) *Permit Required.* A driveway permit shall be obtained prior to establishing any driveway connection as follows:

- (1) Within the unincorporated area of the county, whenever a driveway connection is to be established on any road as defined below.
- (2) Within the incorporated area, whenever a driveway connection is to be established on any county road.

II. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterial road means any county road designated as an arterial road on the roadway classification map in the adopted comprehensive plan of the county.

Certificate of occupancy means a document allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with all the applicable sections of the county land development regulations, building codes and the adopted county comprehensive plan.

Collector road means any county road designated as a collector on the official roadway map as contained in the adopted county comprehensive plan.

County road means any road in the incorporated or unincorporated area of Calhoun County which is owned and/or maintained by Calhoun County.

Driveway means the improvements required by this article at a driveway connection.

Driveway connection means any location intended to provide regular vehicular access between a road and a parcel.

Frontage means the length of a lot line along an abutting road right-of-way.

Parcel means a unit of land within legally established property lines. If, however, the property lines are such as to defeat the purposes of this Article, a "parcel" may be as designated for a particular site by the road superintendent.

Person means an individual, partnership, corporation or other legal entity of any kind.

Right-of-way line means the line created at the interface of a parcel and the road right-of-way.

Road means any county road, or any private street providing access to one or more lots within a recorded or unrecorded subdivision.

Temporary driveway connection means a temporary, time-limited connection to a roadway for a specific property, use, and estimated traffic volume. Such uses may include forest land clearing and temporary agricultural or construction uses.

III. Specific standards for driveways.

(a) *Adoption of Design Standards.* The board of county commissioners shall by resolution adopt driveway design standards as recommended by the county building and zoning department, the county road department or the county's contracted engineer. These design standards shall apply as set forth below.

(b) *Driveway connections on paved roads.* Where the driveway connection will connect a parcel to a paved road the county, at its option, may pave a "turn-out" to protect the county road

(c) *Driveway connections on unpaved roads.* Where the proposed driveway connection will connect a parcel to an unpaved road, the driveway may be unpaved and designed in accord with the county driveway design standards.

(d) *Number and spacing.* The following requirements shall apply

- (1) Where the frontage of the parcel 200 feet or less, there shall be only one driveway connection permitted for that parcel
- (2) Where the frontage of the parcel is greater than 200 feet but less than 400 feet, there may be two driveways connections for that parcel if there are at least 100 feet between points of connection on any one frontage
- (3) Where the frontage of the parcel is greater than 400 feet but less than 3,000 feet, there may be three driveways connections for that parcel if there are at least 200 feet between the points of connection; or
- (4) Where the frontage of the parcel is greater than 3,000 feet, there may be more than three driveways connections if there are at least

an average of 1,000 feet between connections on any one frontage and no two connections are within 200 feet of each other.

(e) *Special standards for temporary driveway connections.* A temporary driveway connection on a paved or unpaved road shall meet the following standards:

- (1) A temporary driveway may be unpaved, provided that the driveway is otherwise in accord with the county driveway design guidelines. If, however, the county engineer finds that, due to the nature and or intensity of the proposed temporary use, an unpaved connection to a paved road would cause damage to the paved road, the county engineer shall require that a portion of the driveway be paved sufficient to protect the paved road. The county engineer may impose such a paving requirement on an existing temporary driveway or a temporary driveway permitted under this article upon a finding that the use is damaging the paved road.
- (2) The issuance of the permit shall be for a limited period of time and such period shall be clearly set forth on the permit.
- (3) The issuance of a permit does not bind the county in any way to the future issuance of a permit for a permanent driveway at the temporary connection location.
- (4) Except for any portion of the temporary driveway that was required to be paved, the permittee shall remove, at the permittee's own cost, the temporary driveway at the end of the permit period or shall apply for an extension or a new permit. The period will be extended for increments of six months upon written request, payment of a new fee, and a showing of good cause, such as weather delays, natural disasters, or other technical problems not within the control of the applicant. However, in no event shall the period extend beyond 24 consecutive months. The county reserves the right to remove any temporary driveway upon expiration of the permit and charge the costs of such removal to the applicant. No additional driveway permit shall be issued to the applicant until such costs are paid in full.

IV. Procedure.

The procedure for obtaining a driveway permit by an individual or entity shall be as follows:

- (1) An application for a driveway permit shall be obtained from the county building department.

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- (2) The application shall include the following information:
- a. The complete names and current mailing addresses and telephone numbers of property owner(s), the applicant, and the authorized representative.
 - b. If the applicant desires to have a representative sign, file, and handle the application, a notarized letter of authorization from the applicant designating the authorized representative shall be provided with the application package.
 - c. When the owner or applicant is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished with the application.
 - d. The names of all individuals signing the application and their titles shall be typed or printed with the signatures.
 - e. The existing and planned property use.
 - f. A site plan showing:
 1. The location of all existing and proposed driveway connections.
 2. Any physical features (existing and proposed) that would have an impact on traffic circulation and sight distance on the road system. Examples of such physical features are walls, fences, trees, mail boxes, gates, and utility poles.
 3. Right of way and property lines.
 4. A plat map showing abutting parcels and ownership.
- (3) The completed application shall be filed with the county building department by the owner or agent of record of the owner, along with the application fee as established by resolution of the board of county commissioners.
- (4) The completed application shall be reviewed by the county engineer, in consultation with the county building and zoning department when necessary, for compliance with this Article and other applicable county regulations. If the requested permits meets all applicable rules and

regulations, the application shall be submitted to the county's engineer who shall design an appropriate plans and specifications for said driveway and a driveway permit along with the plans and specifications shall be issued by the county building department to the owner or agent of record of the owner.

- (5) Once the permit and plans and specification have been issued the applicant shall construct the driveway pursuant to the plans and specifications and shall notify the building department of completion of the driveway. The building department shall inspect or cause to be inspected said driveway for compliance with the plans and specifications as issued by the county. Should the driveway fail to meet the plans and specifications the owner shall be given and sufficient opportunity to cure any defects. Should the owner after reasonable notice fail to cure the defects the county, at its option, may remove that portion of the driveway that lies within the county right of way and revoke the permit.
- (6) No building or other development permit shall be issued for a parcel of property by the county building and zoning department until a driveway permit has been issued for that parcel of property and the driveway as authorized by the permit has been installed in accordance with the permit and all applicable regulations, and has been approved by the county engineer.

V. Variance.

(a) Any person denied a driveway permit may make an application to the county board of adjustment for a variance of any of the requirements in this article. The application fee shall be established by resolution of the board of county commissioners.

(b) A variance shall not be granted unless the applicant demonstrates:

- (1) That the variance will not be contrary to the public health, safety, welfare and public interest;
- (2) That, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship; and
- (3) That the spirit of this article shall be observed and substantial justice done.

VI. Fees

(a) The fee for application for a driveway permit shall be \$200.00. It shall be paid either to the county building department. department.

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(b) The fee for a variance to this article shall be \$50.00, payable to the county building and zoning department at the time the request for variance is made.

(c) The fee for a violation of this article or any provision of this article is double the fee for a permit under either subsection (a) or (b) of this section.

(d) The fee for a temporary driveway permit shall be \$100.00

VII. Not retroactive to existing driveways.

Except as specifically provided herein, the provisions of this article are not to be applied retroactively to driveways which existed on the effective date of this article. If the date of establishment of the driveway is questioned, it shall be the responsibility of the private property owner to establish by a preponderance of evidence that the driveway existed on the effective date of this article.

VIII. Injunctive relief.

In addition to the procedures provided in this article, entities that are not in conformity with this article shall be subject to appropriate civil action in the court of appropriate jurisdiction for injunctive relief. Should injunctive relief be sought, the prevailing party shall recover reasonable attorney fees.

IX. Severability: If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is held, for any reason, to be unconstitutional, void, or invalid, the validity of the remaining portion of the ordinance shall not be affected thereby.

X. Effective Date: This ordinance shall take effect as provided by law.

The foregoing ordinance was adopted by a vote of 5 to 0 by the Board of County Commissioners of Calhoun County, Florida, after due notice and publication and on motion, second and discussion, in the meeting of March 20, 2007.



[Handwritten Signature]
Clerk of the Circuit Court

[Handwritten Signature]
Truman Grant, Chairman