

ORDINANCE NO. 2947

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, CREATING A NEW SECTION 62-80, OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA, FOR THE PURPOSE OF ESTABLISHING REGULATIONS RELATING TO THE LOCATION AND DESIGN OF PRIVATE ROADS; ESTABLISHING MINIMUM STANDARDS AND SPECIFICATIONS TO CONSTRUCT PRIVATE ROADS; ESTABLISHING REVIEW AND APPROVAL PROCEDURES FOR PRIVATE ROADS; ESTABLISHING POLICIES FOR THE DEDICATION OF PRIVATE ROADS TO PUBLIC OWNERSHIP; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURES; PROVIDING FOR VARIANCES; PROVIDING FOR PENALTY FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE.

Section I. Intent.

- a. It is the intent of this Ordinance to regulate the construction, maintenance and use of new and existing private roads within the City of Bradenton; the use thereof by traffic; the administration and enforcement thereof; to set fees to defray administrative and enforcement costs incident thereto; to provide procedures for review and appeal; establish the policy required for the dedication of private roads to public ownership, and to promote and protect the public health, safety and welfare. It is further the purpose of this Ordinance to ensure that private roads are maintained by the private property owners who own and use the road.

- b. The Bradenton City Council hereby finds that unobstructed, safe, continuous access to lots and parcels of real estate is necessary to promote and protect the health, safety, and welfare of the public through emergency, police and fire services. The Bradenton City Council further finds that such access is necessary to insure that such services can safely and quickly enter and exit private property at all times and access to the interior of various sections within Bradenton should be promoted through the orderly development of the City. Such access should meet minimum standards and specifications to permit the subsequent upgrading and dedication of such access rights of way by the City when public dedication is desirable or required. The procedures, standards, and specifications hereinafter set forth are determined to be the minimum procedures, standards, and specifications necessary to meet the intent of this Ordinance.

Section II. Scope of Ordinance

- a. The provisions of this Private Road Ordinance apply to the creation, construction, extension, improvement, maintenance, and public dedication of private roads.

Section III. Definitions.

- a. Applicant – A person who holds a legal interest in land and who submits an application seeking approval for a private road on the land.
- b. As-built drawings – Approved private road drawings that are revised to show actual constructed locations and elevations of road and any utility structures and inverts, signed and sealed by a professional engineer or surveyor licensed in the State of Florida.
- c. Easement - The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage, and similar uses. In the context of this Ordinance, private road easements shall be designated for purpose of vehicle ingress and egress.
- d. Private Road – Any road or thoroughfare for vehicular that the City of Bradenton City Council has not accepted for maintenance, and which is contained within a private road easement that is privately owned and maintained and which provides access to 2 or more dwelling units or parcels and which is normally open to the public and upon which persons other than the owners located thereon may also travel. The erection of such signs as “Residents Only”, or the like shall not be deemed to remove any roadway from the requirements of this Ordinance where said roadway is deemed to come within this Ordinance by the Bradenton Planning and Community Development Director or their designee.
- e. Public Street or Right-of-Way - A public or dedicated right-of-way, which affords the principal means of vehicular access to abutting property and which is under public ownership or control.
- f. Private Road Administrator - An official appointed by the (community or property owners) to administer the Private Road Ordinance.
- g. Recordable Form – For the purposes of this Ordinance, this term shall apply to an Easement Statement and Easement Maintenance Agreement(s) which are legally binding and which are written in a form so as to be recordable with the Manatee County Register of Deeds.

Section IV. General Requirements

- a. No land division approval, zoning compliance permit, building permit, or certificate of occupancy shall be issued with the City unless the parcel or lot fronts on a public street or a private road improved to the standards of this ordinance.
- b. Every lot or parcel of land shall have road frontage equal to the minimum lot width required by the applicable provisions of City Ordinances.
- c. Construction of Roads – No person(s) shall construct a private road with the city of Bradenton except in accordance with the standards as herein set forth.
- d. Private roads shall not be dedicated to the City unless in full conformance with the provisions of this ordinance.
- e. Private road will not be maintained by the City.
- f. Conveyance of Interest in Land Abutting a Private Road: Whenever an owner of land in the City sells or otherwise grants an interest in land that fronts on or is served by a private road, or accepts any offer to purchase an interest in the land, the owner shall provide notice, in recordable form, to the purchaser that the land abuts a private road. This notice shall :
 - 1) Explain the maintenance, care, and other responsibilities concerning the private road.
 - 2) Explain that the maintenance, care, and other responsibilities concerning the private road shall not be the responsibility of the City, or any other governmental agency.
 - 3) Explain that the purchaser shall assume all responsibilities immediately upon purchase of the land that fronts on or is served by a private road.
- g. Parcels with access to both a private road and a public road shall be accessed from the private road only, unless the City Council finds that, because of topography, site distance, interference with utilities or natural features, or other reason not the fault of the property owner, that the public road affords more efficient or safer access.

Section V. Permit Application and Review Requirements.

- a. Each application for a private road shall be accompanied by completed plans prepared and sealed by a civil engineer or land surveyor registered in the State of Florida, which include the information contained herein. Where the required information is incorporated in the overall site plan of a development, separate road plans shall not be required.

b. The application and plans for a private road shall include the following information:

1. The names and addresses of the lot or parcel owners to be served by the private road.
2. A vicinity map of a minimum scale of one inch equals two thousand feet (1" = 2,000'), showing the location of the private road in the City, any access roads and cross streets, road names, a scale, and a north arrow.
3. Existing topography at one (1) foot contour intervals for the portions of the site sufficient to determine drainage from the private road easement to a suitable storm water outlet.
4. Proposed improvements (including but not limited to, roads, sewers, and ditches) shown in plan and profile indicating all materials, grades, dimensions, and bearings in compliance with the standards set forth in Attachment A. The plans shall also show all existing and proposed grades, the location of all existing and proposed drainage facilities, the location of existing and/or proposed utilities and structures, other structures, physical or natural conditions existing adjacent to such improvements, and any connections to existing public and private roads.
5. Soil borings within the proposed route of the road. Tree coverage and wetland areas within one hundred (100) feet of either side of the proposed route.
6. Location of existing buildings on the lots or parcels being served or intended to be served by the private road, as well as, any existing building or structures in or adjacent to any proposed road easement.
7. Plans shall show the existing or proposed location of private utilities and easements, such as gas, telephone, and electric.
8. A complete statement of all the terms and conditions of the proposed road easement, including copies of all agreements or intended agreements regarding the maintenance and improvements of the right-of-way and roadway. Furthermore, said maintenance agreements shall be in such form as to be recordable with the Manatee County Property Appraisers Office and shall specifically address the liability and responsibility of the parties to said agreement to maintain the private road pursuant to the specifications of this article. The recorded statement which runs with the land, shall also inform subsequent purchasers that the road is private and may never be maintained or accepted by the Bradenton City Council.
9. Appropriate deed restrictions and/or master deed provisions shall provide for free and clear vehicular access for emergency service vehicles on all private roads.
10. Conveyance of Interest in Land Abutting a Private Road: At the time of the conveyance of any interest in any parcel which abuts a private road as herein

set forth, which conveyance shall be deemed to include the acceptance of an offer to purchase, the grantor of such interest shall advise the grantee that said parcel abuts a private road, and that the maintenance, care and other responsibilities concerning said private road rest with the abutting land owners and are not the responsibility of the City of Bradenton.

c. Permit Approval Procedure.

1. Upon receipt of an application, the Private Road Administrator shall bring the application before the (legislative body) at its next regular meeting. The (legislative body) may refer the application to the Planning Commission and any other appropriate body for review and comment.
2. The City Engineer or his designee shall report in writing to the (legislative body) as to whether or not the proposed private road conforms to the standards and specifications of this Ordinance. Said report may include any suggested conditions to be attached to the Permit that, in the Engineer's judgment, are necessary to achieve the intent of this Ordinance.
3. The (legislative body) shall consider the application, the Engineer's report, and all other relevant information in determining whether to grant the Permit application. If the information submitted by the applicant does not establish that the proposed private road will conform to the standards and specifications of this Ordinance, the (legislative body) shall not grant the Permit. The (legislative body) shall impose such conditions on the approval of the Permit as it deems necessary to achieve the intent and objectives of this Ordinance, which may include, but need not be limited to, conditions suggested by the Engineer. The breach of any such condition proposed by the (legislative body) shall automatically invalidate the Permit.
4. As a condition to the granting of any Permit under this Ordinance, the (legislative body) shall require that the applicant deposit with the Private Road Administrator a sum of money, bank letter of credit or certified check, in an amount sufficient to guarantee that the applicant shall perform the terms and conditions of the permit, including the payment of required fees. Upon completion of all improvements required by this Ordinance, any unused portion of the deposit shall be refunded to the applicant.
5. Upon receipt of the required deposit and predetermined fees and approval, the Private Road Administrator shall issue the Permit pursuant to the terms established by the (legislative body) approving the application.
6. Only the (legislative body) shall have the authority to approve or deny applications for permits. No other permit issued by any Official or other governmental body or official shall be a substitute for a Permit.

Section VI. Private Road Construction Requirements

- a. Compliance Required – It shall be unlawful for any person, association, organization or corporation to create, establish or build a private road within the City, unless it is constructed in accordance with this Ordinance.
- b. The design and construction of all private roads shall be in conformance with and current City Standards for public roads as stipulated in Article 4.1.3 of the current City of Bradenton Land Use Regulations.
- c. Engineering plans, drawn to a minimum scale of 1" = 50' and prepared by a Registered Professional Engineer shall be submitted to the City, demonstrating conformance with the above reference Land Use Regulations, and current Public Works and Utilities Standards and Specifications. The plans shall include
 1. A legal description of the entire parcel(s), all proposed property splits, and the proposed road easement.
 2. A minimum easement width of fifty (50) feet.
 3. A cross-section of the roadway showing the proposed bituminous surfacing, curbing and gutter (as applicable), granular subbase, and the shoulder and ditch profile (as applicable), showing conformance to the Public Works and Utilities Standard road cross-section.
 4. The plans shall show existing and proposed grades and the location of all existing and proposed drainage facilities and structures. Elevations shall be based on the City's existing Benchmarks on the NGVD 88 datum.
- d. The applicant shall remove all unsuitable soil including muck, peat, as well as brush, trees, tree stumps, and similar materials from the full width of the roadway, including the shoulders. These areas shall then be backfilled with limerock to provide a stable sub-base for the roadway construction.
- e. If the private road provides direct access to a city road, approval of the road connection, placement, and design must be approved by the Department of Public Works & Utilities Engineering Section prior to City of Bradenton approval.
- f. Notwithstanding any other provisions of this Ordinance, private roads in subdivisions platted prior to the enactment of this Ordinance and private roads or easements that are contained in land divisions approved by the City prior to the enactment of this Ordinance, shall continue to meet the specifications approved at the time of application. Upon expansion, reconstruction, or major alteration of an

existing private road, new construction shall comply with the conditions of this Ordinance. The Director of Public Works and Utilities shall determine if this provision is met.

- g. Inspection - Prior to the initiation of construction, a pre-construction conference will be held with the applicant, the Department of Public Works and Utilities, and Private Road Administrator (if applicable). Evidence of issuance of all required permits shall be provided by the applicant at the time of the meeting.
- h. All required improvements shall be inspected by the Department of Public Works and Utilities at various stages of construction. The City and the Private Road Administrator (as applicable) shall make a final inspection upon completion of construction and shall report the results of the final inspection to the City in writing. The applicant's engineer shall certify to the City before the final inspection and report thereon are made, that the required improvements were made in accordance with this article and all approved plans.

Section VII. Private Road Dedication

- a. Existing private roads may be considered for public ownership when requested by property owners abutting the private road. That request will come in the form of a Private Street Dedication Petition. The petition must be signed by property owners representing 100% of the total lineal front footage of the street. By signing the petition, the petitioners agree it is their intent to dedicate the street to public ownership.
- b. Private streets will not be considered for public ownership unless:
 - 1. The underground utilities met City standards when constructed, or until the utilities are brought up to current City standards;
 - 2. The street surface features meet current City standards or are brought into an acceptable degree of compliance. Numerous factors will be considered through the petition process and the fact that the underground and surface standards are met does not guarantee that the street will be brought into public ownership. There are certain City standards that the City will not consider waiving or reducing as they relate to health and safety and ability to provide services.
 - a) Streets will not be considered for public ownership if they have less than 10 feet of clear traffic pavement width (i.e., 10 feet for one-way traffic, 20-feet for two-way traffic).
 - b) Grade of the street must meet current City street grade standards.

- c) Deteriorated retaining walls and other private property features abutting the proposed public ownership are removed, repaired, or replaced by the property owners to ensure public safety.
- d) The City will not consider the acceptance of an existing private street to public ownership unless it is demonstrated that the street dedication achieves at least one of the following objectives;
 - i. The street currently provides, or can provide with improvements:
 - 1) Access to open space, public facilities/uses or other public amenities.
 - 2) Mid-block pedestrian access
 - 3) An improvement to the surrounding pedestrian or vehicular circulation pattern
 - 4) An identified planning goal as noted in the adopted master plan for the neighborhood.
 - ii. Dedicating the private street to public ownership will encourage reinvestment in the community
 - iii. Dedicating the private street will improve public health, safety, and general welfare.
- c. The City of Bradenton will not pay the cost of underground (utilities, etc.) or surface (curb, gutter, sidewalks, concrete, etc.) improvements to bring the street up to City standards. The burden is on the private street property owners to fund necessary improvements. City funds will not be expended on streets created as part of a platted subdivision, on the policy basis that taxpayer funds should not be expended to address deficiencies in standards consciously chosen by the property developer. If directed by the City Council, the City may make repairs to water or sewer lines in an emergency situation involving a substantial risk to health or safety and on the basis that the owner(s) will reimburse the City.
- d. If a private street was created as part of a Planned Development, the City will not pay, or share the cost of repairing or improving the street. If the street was created through a Planned Development, an amendment to the Planned Development is required. There must be a compelling public interest proven for public ownership to be considered. The amendment process will be reviewed by the Planning Commission with a recommendation forwarded to the City Council.
- e. The City has no affirmative duty to inform residents if their street or utility is private. However, as courtesy, when a customer signs up for water service, the

City will make a reasonable effort to inform the customer if their street or the water utility line is private.

- f. The City will not take ownership of a street that does not allow public access.
- g. The City will not take ownership of a street that is targeted for redevelopment as identified in a City master plan.
- h. The City must be able to safely and efficiently provide services (fire protection, garbage collection, etc.) along the street in order to dedicate a private street to public ownership.
- i. No specific rights or guarantees for use of the street, such as on-street parking, are conveyed to private street owners if a private street becomes publicly owned.

Section VIII. Variances

- a. Variances may only be granted by the City Council upon the finding that at least one of the two following conditions have been met:
 - 1. That a variance or exemption is required in order to comply with conflicting County or State laws, rules, or regulations.
 - 2. That there are such special circumstances or conditions affecting said property that strict application of the provisions of this Ordinance would clearly be impractical or unreasonable. This may include topographic, vegetative, or drainage conditions.
- b. In order to grant a variance, the City Council shall also find:

- 1. That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- 2. That such variance or exemption will not have the effect of nullifying the intent and purpose of this Ordinance, the Master Plan, or the Zoning Ordinance.

Section IX. Administrative Procedures

- a. Violations. Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine not exceeding five hundred dollars (\$500.00) or by imprisonment not exceeding sixty (6) days, or both such fine and imprisonment. Any access that is used in violation of the terms of this article be

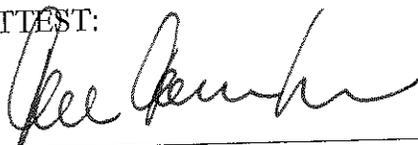
and the same is hereby declared to be a nuisance per se, and such use may be abated, restrained, enjoined, and prohibited, upon the commencement of an appropriate action in the court of competent jurisdiction

- b. Fees. The City Council shall establish by resolution a fee schedule to defray costs of inspection, plan review, administration, and enforcement of this article.
- c. Severability. The provisions of this ordinance are severable and any decision by any Court of competent jurisdiction that any provision or clause hereof is invalid shall not affect the validity of the remainder of this ordinance.
- d. Compliance with Other Statutes, Ordinance Order, or Regulation. Nothing in this Ordinance is intended to permit any practice which is a violation of any statute, ordinance, order or regulation, and no provision contained in this ordinance is intended to impair or abrogate any civil remedy or process whether legal or equitable which might otherwise be available to any person.

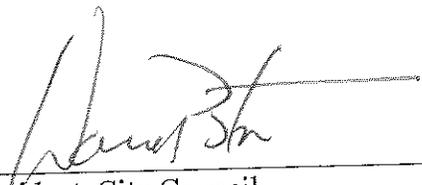
Section X. This ordinance shall take effect immediately upon second reading.

PASSED IN REGULAR SESSION, this 27th day of March, 2013.

ATTEST:

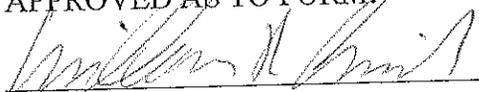


City Clerk



President, City Council

APPROVED AS TO FORM:

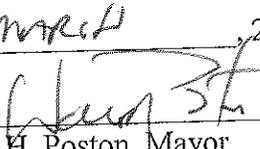


William R. Lisch, City Attorney



First Reading: March 13, 2013
Advertised: March 16, 2013
Second Reading: March 27, 2013

APPROVED by me this 27 day of March, 2013.



Wayne H. Poston, Mayor

BRADENTON HERALD

CLASSIFIED ADVERTISING

Order:	052127418	Pubs:	1,9	Rate:	LE
Phone:	9419329466	Class:	4995	Charges:	\$ 0.00
Account:	4080	Start Date:	03/16/2013	List Price:	\$ 164.92
Name:	CITY,	Stop Date:	03/16/2013	Payments:	\$ 0.00
Firm:	CITY BRADENTON	Insertions:	2	Balance:	\$ 164.92

**CITY OF BRADENTON
FLORIDA**

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN:

PROPOSED ORDINANCE
#2947

AN ORDINANCE OF THE CITY OF BRADENTON, FLORIDA, CREATING A NEW SECTION 62-80, OF CHAPTER 62 OF THE CODE OF ORDINANCES OF THE CITY OF BRADENTON, FLORIDA, FOR THE PURPOSE OF ESTABLISHING REGULATIONS RELATING TO THE LOCATION AND DESIGN OF PRIVATE ROADS; ESTABLISHING MINIMUM STANDARDS AND SPECIFICATIONS TO CONSTRUCT PRIVATE ROADS; ESTABLISHING REVIEW AND APPROVAL PROCEDURES FOR PRIVATE ROADS; ESTABLISHING POLICIES FOR THE DEDICATION OF PRIVATE ROADS TO PUBLIC OWNERSHIP; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROCEDURES; PROVIDING FOR VARIANCES; PROVIDING FOR PENALTY FOR VIOLATIONS; PROVIDING AN EFFECTIVE DATE.

will be considered for the second reading and public hearing at the regular meeting of the Bradenton City Council to be held Wednesday, March 27, 2013 at 6 p.m. at City Hall, Bradenton, Florida. Interested parties may appear at the meeting and be heard. A copy of the proposed ordinance may be inspected by the public at the office of the City Clerk, City Hall, 101 Old Main Street, Bradenton, Florida.

Anyone requiring reasonable accommodation for this meeting as provided for in the Americans with Disabilities Act should contact Tim McCann at (941) 932-9497 within seven (7) days prior to the proceeding.

If any person determines to appeal any decision made by the City Council with respect to any matter considered at this public hearing, such person will need a record of proceedings for that purpose and will need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which any appeal is to be based.
3/16/2013