

Sec 54-121 Approval, Construction, And Maintenance Standards

Roads and driveways shall be constructed and maintained as follows:

- a) Driveways. Any vehicular travelway created to serve one (1) or two (2) lots shall be considered a driveway for the purposes of this Ordinance, and may be constructed and maintained at the discretion of the owners. However, any lot which is served by a driveway onto a private road shall be considered served by said private road for the purposes of subsections (b) and (d) below.
 - 1) The Subdivision Agent may grant a modification to the requirements of this subsection for a situation in which an owner of a property with an existing driveway onto a state road wishes to grant an easement elsewhere on the property for a driveway to serve up to two (2) new lots. This modification may be used to exclude the consideration of the lot granting the easement as being served by said easement. There may be only one (1) such modification granted per lot and the subdivision plat shall properly denote this arrangement.

- b) Public Roads. *Any Except as permitted in subsection c) below, any* road serving more than ~~two (2)~~ *seven (7)* lots shall be constructed to meet the current VDOT standards (including, but not limited to, the Secondary Street Acceptance Requirements, VDOT Road and Bridge Standards, and VDOT Road Design Manual), including the dedication of the rights-of-way for public use. Any existing road upon which property is divided such that the road cumulatively serves *more than seven (7) eleven (11) or more* lots shall be improved to meet these standards. Such a road improvement shall be *from the existing point of connection to the public road network* up to and including the frontage of the subdivided lot(s), *to include all existing lots that may exist in between. However, any such existing road upon which lots are created via family subdivision is exempt from any requirement to upgrade said road to meet requirements set forth in this section.*

- c) Private Community Roads. The Board of Supervisors may permit a waiver to allow for a complete system of private streets within residential communities that are to be a private community development where the Board determines that such a system advances the intent of its respective zoning district or for proposed commercial, business, or industrial parks, and will be distinguished from the public road by signage or other security measures, exempt of the requirements of section 54-121 (d). This may be requested by the applicant with a rezoning or subdivision application. The layout, design, and construction of the roadways of such private roads shall comply with standards in VDOT's subdivision street requirements, secondary street acceptance requirements, and road design manual, and will comply with any additional requirements in this ordinance or the zoning ordinance. Such a request will include a conceptual design of the proposed layout and a cross section design of the proposed road standard. Major subdivisions with an approved preliminary plat from 2018 may apply for the same waiver, and will include verification that the roads are constructed to the above requirements. With respect to residential development, any such private roads shall be under the ownership and control of a homeowner's association which shall be obligated to maintain said roads.

STA 23-02 draft amendment language
Proposed amendment language in red text

- d) Private Roads.
- 1) Any road created to serve ~~one (1) or two (2) lots, or any~~ a family subdivision of **at least three (3)** and up to seven (7) lots, may be ~~privately~~ constructed and maintained **at the discretion of the owners** so long as all lots have a minimum right-of-way of twenty (20) feet to be used as access to a public road. **Any existing road upon which lots are created via family subdivision is exempt from any requirement to upgrade said road to meet requirements set forth in this section.**
 - 2) Any road created to serve at least three (3) and up to seven (7) lots, or any other road not otherwise provided for in this ordinance, may be privately constructed and maintained, provided the following minimum road construction standards are met:
 - a. The minimum width of the roadway shall be fourteen (14) feet and the minimum vertical clearance shall be fourteen (14) feet.
 - b. The road surface may be either paved or gravel. Gravel roads shall consist of a minimum of six (6) inches of aggregate; paved roads shall consist of a minimum of six (6) inches of gravel and asphalt.
 - c. The roadway shall provide adequate drainage so as not to promote standing water.
 - d. All culverts shall be constructed and installed to VDOT standards.
 - e. A test commonly known as a "proof roll" shall be conducted and any deficient areas addressed. For purposes of this section, "proof roll" means the use of heavy pneumatic tired equipment (i.e. loaded 10-ton tandem dump truck) for testing the subgrade for stability and uniformity of compaction. A proof roll is considered to have failed if lateral movement, vertical deformation, or pumping of the subgrade occurs.
 - f. A bond in an amount sufficient to cover the construction of the road and all associated construction requirements shall be posted per Sec. 54-55 and Sec. 54-56(b).
- e) Nonresidential Roads. Any road constructed to serve two (2) or more lots used for non-agricultural commercial or industrial uses shall be constructed to meet current VDOT standards (including, but not limited to, the Secondary Street Acceptance Requirements, VDOT Road and Bridge Standards, and VDOT Road Design Manual), including the dedication of the rights-of-way to public use.
- f) Relationship to Zoning Ordinance. Where the Zoning Ordinance prescribes standards and other criteria related to road construction and maintenance, those provisions shall control.

Sec 54-122 Road Maintenance Agreements For New Private Roads

- a) A road maintenance agreement, which specifies the perpetual responsibilities, procedures, and standards related to any private road easement/right-of-way, **to exclude those for family subdivisions or a driveway, as defined**, shall be submitted along with an application for plat review. This agreement shall be reviewed and approved by the County Attorney and the Subdivision Agent, and subsequently recorded in the Circuit Court along with the approved plat.

STA 23-02 draft amendment language
Proposed amendment language in red text

The Subdivision Agent shall make available a draft agreement template for use by subdividers, which may be modified at will by the Subdivision Agent or County Attorney. Any such agreement shall include, at a minimum, provisions related to the following:

- 1) The roads in the subdivision are private in nature and shall not be maintained by VDOT or any other public agency, and that the maintenance and improvements thereof shall be the mutual obligation of the landowners abutting said roads;
 - 2) Such private roads shall not be taken into the state highway system unless and until the abutting landowners shall have constructed the private roads in accordance with VDOT specifications, made the necessary right-of-way dedication(s), and thereafter the Board of Supervisors shall have recommended that said road be taken into the state system of highways;
 - 3) Failure of the owners to adequately maintain the roadway may inhibit the ability of the County to provide emergency services to the lots, any liability for which shall be borne among the owners;
 - 4) The provision of Orange County public school bus services on the private road(s) is not guaranteed or implied. The suitability for any private road for school bus services and routes shall remain at the discretion of the Orange County School Board;
 - 5) Regulation of parking within the private road and easement;
 - 6) Perpetuity of the agreement;
 - 7) Designation of a neighborhood road agent to handle road matters;
 - 8) Provisions for majority of owners to initiate road projects;
 - 9) Provisions to enforce the agreement;
 - 10) Provisions for a lien to be placed on any owner who fails to pay his/her proportionate share of the costs of maintenance or repair;
 - 11) Establishment and maintenance of a road maintenance fund;
 - 12) Provisions to address the joinder of future lots to the agreement;
 - 13) A signature block for the County Attorney to approve the document as to form; and
 - 14) A signature block for the Subdivision Agent to approve to the document as to compliance with this section.
- b) The deed for each lot served by a private road shall reference the recorded road maintenance agreement.