

Sec. 98-8. [Maintenance of sidewalks, culverts and other improvements in right-of-way.]

- (a) *Purpose of section.* [The purpose of this section is] to establish the abutting property owner's responsibility for the maintenance, repair, replacement, or demolition of specially benefiting structures or improvements which are permitted within the County rights-of-way, specifically, but not limited to, culverts, driveway entrances, and sidewalks, and the funding, construction and maintenance standards for same.
- (b) *Applicability of section.* This section shall apply to all owners of property in Sarasota County who have abutting specially benefiting structures in the County rights-of-way that are permitted but have not been accepted for maintenance by the Sarasota Board of County Commissioners.
- (c) *Maintenance—Responsibility.* The abutting property owner shall maintain any specially abutting structure(s) in a condition so that it will function according to the original design standards.
- (d) *Construction or demolition—Standards.* All construction or demolition will be in accordance with current County standards.
- (e) *Maintenance—Standards.* All specially benefiting structures shall be kept in a safe and functional condition.
- (f) *Repair, replacement and demolition—Responsibility.* When the property owner or the County Engineer determines that a permitted structure is not functioning in a designed or safe manner and repair, replacement, or demolition is deemed necessary, such repair, replacement, or demolition is the responsibility of the abutting property owner of record.
  - (1) When determination to repair, replace or demolish is made by the abutting property owner, he shall apply to the County Engineer for a right-of-way use permit with a simple written or verbal explanation of the determined repair, replacement, or demolition. At such time all assistance and guidance as is practical will be given by the County Engineer to assure compliance with current County standards.
  - (2) When determination to repair, replace, or demolish is made by the County Engineer, notification in the form of certified mail will be sent to the abutting property owner. This notice will include a statement of the problem and will stipulate that repair, replacement, or demolition must be completed within 30 days of such notification, or in the event of an appeal, within 30 days of the date of an unsuccessful appeal. The abutting property owner shall in every event always have the option to demolish and remove the concerned abutting structures in order to eliminate his further responsibility for maintenance of structures within County right-of-way.
  - (3) Any property owners affected may appeal the decision of the County Engineer to the Board of County Commissioners, provided such appeal is filed within 30 days from the date of notice set out in this section. Upon appeal, the Board of County Commissioners may affirm, reverse or amend the decision of the County Engineer and make such orders thereon as the Board of County Commissioners at their discretion determine. Any lien filed after appeal shall conform to the final order of the board of county commissioners.
  - (4) The abutting property owners shall not be responsible for the maintenance of sidewalks, culverts or other structures which have been constructed by the County or where the County has accepted same for maintenance nor shall an owner be required to maintain or repair any such structures if the repair to same is a result of damage done as the result of the conduct of any governmental agency either through commission or omission.
- (g) Failure on the part of the property owner to comply with the notice provided for in subsection (f) of this section shall be deemed consent by such property owner for the County to effect such compliance as set out in said notice, and for any costs expended therefor to be and become a lien in favor of the County upon the abutting real property belonging to the property owner.
- (h) The County Engineer shall, prior to causing a lien to be filed on the abutting property, belonging to the property owner, give the property owner written notice in the form of certified mail, of the costs expended by the County, which notice shall include a demand for payment within 30 days thereafter, together with a warning that failure to pay the costs will cause a lien to be filed upon the property in the office of the Clerk of the Circuit Court, which lien may be enforced by foreclosure in the same manner as provided by law for mechanics' liens.
- (i) It shall be sufficient for the purpose of this section that any such lien filed herein be in substantially the form as provided by law for mechanics' liens set forth in F.S. ch. 713.
- (j) The Board of County Commissioners may waive the requirements of this section in specific instances when the Board finds, based upon competent substantial evidence, that an emergency exists such that any delay resulting from compliance with the provisions of this section would endanger public health or safety.
- (k) *Effect on other ordinances.* The provisions of this section shall prevail in the event of conflict with the provisions of any existing County ordinance or regulation.

- (l) *Severability clause.* Should any subsection, sentence, clause, part or provision of this section be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this section as a whole, or any part thereof other than the part declared to be invalid.

(Ord. No. 84-005, §§ 1—12, 1-17-1984)