



First Reading: March 14, 2011
Second Reading: March 28, 2011
Third Reading: April 25, 2011
Public Hearing: April 25, 2011

ORDINANCE NO. 583

AN ORDINANCE TO AMEND ORDINANCE NO. 517, ROADS, HIGHWAYS AND BRIDGES, AS FOLLOWS: REVISE SECTION 1-5. MAINTENANCE OF UNPAVED ROADS, (e) and (f).

Sec. 1-1 Purpose.

The purpose of this Ordinance is to define the mission, responsibilities and limitations of the Department of Public Works with regard to maintenance and construction of road and drainage infrastructure in Fairfield County.

Sec. 1-2 Jurisdiction.

The provisions of this Ordinance shall apply to all lands within the jurisdiction of Fairfield County, South Carolina, and within the jurisdiction of those municipalities (Towns of Winnsboro and Ridgeway) that agree, through intergovernmental service contracts, to have these provisions administered within their corporate limits.

Sec. 1-3 Definitions.

The following definitions apply to words and terms used in this Ordinance. All other words shall have their customary meanings:

(a) *"C" Construction Program*: A State program by which State gasoline tax revenues are shared with Counties for transportation and road construction activities. The funds involved are commonly referred to as "C" funds and they are used at the discretion of a County Transportation Committee (CTC) appointed by the County's Legislative Delegation pursuant to Section 12-28-2740 of the S.C Code of Laws.

(b) *County*: Fairfield County, South Carolina, its County Council or its administrative staff acting on its behalf.

(c) *County Road Maintenance System*: All those public highways, streets and roads, paved and unpaved, that have been dedicated for public use and accepted by the County as prescribed in this chapter and which have not been accepted for maintenance by any other public entity.

(d) *Driveway*: Any paved or unpaved way located on a single parcel of property and intended for vehicular access from a highway, street or road to one or more residences located on that parcel.

(e) *Common Driveway*: A section of roadway utilized by two or more occupied residences for providing access to a county road, highway or street. The County Public Works Department will only maintain the section of roadway that the two or more occupied residence actually utilizes from the county road, highway or street. Any roadway past this area is not the responsibility of the County.

(f) *Easement*: A grant to the general public, a corporation, a specific person or persons or a public entity of the right to use a strip or parcel of land for a specific purpose. Fee simple title to the land remains with the grantor.

(g) *Easement and Right-of-Way Deed*: A legal document by which an easement or right-of-way, as defined herein, is granted by a property owner to the County. This document is executed by the property owner (grantor) and the County and recorded in the office of the Fairfield County Register of Deeds so that the easement or right-of-way becomes a permanent part of the public record and binds the grantor's successors in title to its provisions.

(h) *Highway, Street or Road*: The terms "highway", "street", and "road", as used herein, shall be general terms denoting a public way for the purpose of vehicular travel. The terms shall refer to the entire area within the right-of-way to include roadways, pedestrian facilities, bridges, tunnels, viaducts, drainage structures and all other facilities commonly considered component parts of highways, streets or roads. These terms are used interchangeably herein.

(i) *Prescriptive Easement*: An easement acquired for a specific purpose by long continued enjoyment or usage of property for that purpose. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title. To create an easement by "prescription", the use must have been open, continuous, exclusive and under claim of right for the statutory period, which in South Carolina is twenty (20) years.

(j) *Private Road*: As it is used in this ordinance, a private road refers to a road that is not maintained by any public entity such as the County, the South Carolina Department of Transportation (SCDOT) or a municipality. Depending upon the granting of easements and accepted use, private roads may be used by those other than the property owners.

(k) *Public Road*: A public road refers to a road that is maintained by a public entity. This would include all roads in the County Road Maintenance System. In this case, the public is clearly entitled to use the road.

(l) *Quit-Claim Deed*: A deed of conveyance that is intended to pass any title, interest or claim which the grantor may have in the premises, but not professing that such title is valid, nor containing any warranty or covenants for title.

(m) *Right-of-Way*: A strip or parcel of land occupied or intended for occupancy by a street, road, railroad or other special use. Fee simple title may or may not be granted to the agency or entity acquiring the right-of-way, but the property is dedicated exclusively for the intended use and is platted separately and distinct from the adjoining lots or parcels.

Sec. 1-4 Drainage on private property.

(a) Drainage improvements and/or maintenance will be undertaken by County forces on private property only:

- (1) When the drainage system involved has been designed, approved and constructed in accordance with the County's Stormwater Management, Erosion and Sediment Control Regulations by SCDHEC and accepted by the County, or
- (2) When there is a clear and substantial public interest served in doing so and drainage easements are granted to the County on all of the property involved. For the purpose of this section, a public interest is defined as:
 - a. The correction of a serious health hazard, as designated by county or state health officials, affecting multiple residences and beyond the responsibility of an individual property owner.
 - b. The correction of a malfunction or inadequacy of the drainage system within the right-of-way of a publicly maintained street or road.
 - c. The correction of drainage problems associated with projects constructed by the County.
 - d. The maintenance of the structural integrity of the existing drainage infrastructure of the County.
 - e. The improvement of drainage for the benefit of the community. To benefit the community, drainage improvements must eliminate flooding that directly affects a minimum of four (4) residences and/or businesses situated on individual lots or inundates a public road.

Note: Correction of minor ditch erosion problems on private property will not be considered a substantial public interest.

(b) Easements will be obtained for any existing or proposed drainage facilities on private property before any work is performed thereon by County forces. Easements for maintenance of drainage facilities constructed without the County's approval of plans or inspections will not be accepted unless the property owners hold harmless and release the County from all claims resulting from deficiencies of the facilities.

(c) Except where the County has accepted an easement for maintenance of drainage facilities on private property as provided herein, maintenance is the responsibility of the property owner.

Sec. 1-5. Maintenance of unpaved roads.

(a) The Department of Public Works shall maintain all unpaved roads of the County which have been dedicated for public use regardless of whether or not the dedication was by law or usage. Those roads determined to have been dedicated shall be considered to be a part of the County Road Maintenance System.

(b) For purposes of ascertaining dedication by usage or by maintenance by the County, all unpaved roads which have been used by the public and/or maintained by the County for a period of twenty (20) years or more shall be deemed dedicated and shall be maintained by the Department of Public Works.

(c) Fairfield County will claim a prescriptive easement for all unpaved roads deemed to be dedicated as public roads by usage. Such easements will be considered as comprising the land actually maintained by the County as part of the road.

(d) Unpaved roads not maintained by the County under the provisions of (a) through (c) above, will be accepted for maintenance only when such maintenance will provide a substantial public benefit. For the purpose of this section, one or more of the following characteristics will constitute "substantial public benefit":

- (1) Provides access to a publicly owned facility, or
- (2) Comprises an integral part of the comprehensive transportation plan adopted by the County's planning agency, or
- (3) Comprises a part of an existing street/road network, and is used by the surrounding community, or
- (4) Provides the principle access to a minimum of three (3) occupied residences situated on individually owned parcels that are lots of record for tax purposes and does not exceed one fifth (1/5) mile in length per residence served.

(e) Only established, passable roads with an unobstructed width of twelve (12) feet for the entire length of the road will be maintained or accepted for county maintenance pursuant to subsection (d) above. Such roads will be maintained only up to a minimum serviceable condition and will not be substantially improved by the County.

(f) Occasionally, the County Transportation Committee, or their successor, may cause an unpaved county-maintained road to be paved. In no case will the county accept for maintenance any paved road with less than an unobstructed paved width of twelve (12) feet for the entire length of the road.

(g) Any road in the County, including those created as a part of a private driveway subdivision pursuant to the County's land development regulations, may be accepted by the County and brought up to paved or unpaved road standards as set forth in this Ordinance; provided that one hundred (100) percent of all property owners within the subdivision agree to same and that all costs incurred by the County to bring the road up to County paved or unpaved standards are paid by the property owners.

(h) The Department of Public Works shall maintain those unpaved roads determined to be dedicated under the provisions of this section. Such maintenance may include, but not be limited to:

- (1) Grading,
- (2) Applying crusher-run or gravel,
- (3) Installing street name and traffic control signs,
- (4) Installing driveways,
- (5) Cutting back overhanging branches,
- (6) Mowing shoulders, and/or
- (7) Drainage improvements.
- (8) Dust Control

Sec. 1-6. Standards for streets and drainage.

(a) Except as provided for in Sections 1-4 and 1-5 above, no drainage systems or streets will be accepted for maintenance by the County that have not been designed and constructed in accordance with the standards prescribed herein.

(b) Streets: The minimum acceptable street is paved, and the pavement design will be in accordance with the design standards adopted by the County Engineer. Provided, however, that an exception may be allowed whenever the County Council deems that the variance in design is minimal or of such nature that it will not otherwise pose an undue burden or risk upon the County. Where determined necessary and in the sole discretion of the County Council, the County, with the agreement of those property owners served by such roadway, may consent to accept a roadway with special conditions as to any particular nonconforming aspects with regard to county road standards.

(c) Storm Drainage: Drainage systems will be designed in accordance with the County's Stormwater Management, Erosion and Sediment Control Regulations by SCDHEC and the design standards adopted by the County Engineer.

(d) Specifications: Materials and construction of streets and drainage systems will be in accordance with the applicable sections of the current edition of the Standard Specifications for Highway Construction published by South Carolina Department of Transportation.

(e) Acceptance: County acceptance of new streets and drainage systems shall be accomplished through the acceptance of easement and right-of-way deeds. The County accepts no responsibility for the streets or drainage system until the deeds are executed by both parties and recorded.

(f) Warranty: As a prerequisite to the County's acceptance of new streets and drainage systems, the grantor (or an assigned agent thereof) shall provide the County with a bond in an amount equal to the construction cost, with surety and conditions satisfactory to the County, as a

warranty for a period of three (3) years. The warranty shall pertain to the design and construction of the streets and drainage system in accordance with these standards and their satisfactory performance during the warranty period. The warranty period shall commence with the formal acceptance of the roads by the County. The grantor (or an assigned agent thereof) is not responsible for repairing damage done to the roads subsequent to acceptance that was not a result of design or construction failure. The County may accept a bond in any one of the following forms:

- (1) A surety bond issued by a bonding company licensed to do business in the State of South Carolina, or
- (2) Escrow funds in an account in the name of Fairfield County, or
- (3) An irrevocable letter of credit issued by a responsible financial institution, or
- (4) A cash bond.

(g) Only those streets and drainage systems located in subdivision developments where individually owned lots front directly on the street rights-of-way will be accepted by the County. This will apply to residential, commercial and industrial subdivisions. Streets and drainage systems serving group developments such as shopping centers, apartment complexes, condominiums and mobile home parks will not be accepted for maintenance by Fairfield County.

Sec. 1-7. Easement and/or right-of-way acceptance authority.

The County Administrator and/or his designee(s) are hereby authorized to accept any easement or deed for rights-of-way, drainage easements, and sewer easements; emergency maintenance easements, dirt road rights-of-way, additional rights-of-way, sewer extension agreements, water line easements and other instruments authorized by the County Code of Ordinances; and is authorized to establish procedures for the acceptance and recording of such instruments.

Sec. 1-8. Driveways.

Driveway connections from the roadway to the right-of-way line will be provided on County maintained roads by the Department of Public Works, subject to the following limitations:

(1) Only one driveway connection per residence, and a maximum of two per individual parcel of property, will be provided by the County. The Public Works Department will not install additional driveway connections.

(2) Apron finish will match the finish of the County road to which it is attached.

(3) A maximum of twenty-four (24) feet of pipe, not exceeding eighteen (18) inches in diameter, will be provided by the County. Larger diameter pipe may be installed by the Public