

**STATE OF SOUTH CAROLINA
COUNTY OF OCONEE
ORDINANCE 2013-16**

AN ORDINANCE TO AMEND CHAPTER 26 OF THE OCONEE COUNTY CODE OF ORDINANCES IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, AS TO THE AMENDMENT OF SECTION 26-2 – PRIVATE ROAD STANDARDS AND REGULATIONS, THE AMENDMENT OF SECTION 26-7(E) *ENCROACHMENTS*., AND THE ESTABLISHMENT OF FUNDING AND FEES POLICY RELATING TO ENCROACHMENT POLICIES OF OCONEE COUNTY; AND OTHER MATTERS RELATED THERETO

WHEREAS, Oconee County, South Carolina (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina, acting by and through its County Council (the “County Council”), is authorized by Section 4-9-30, South Carolina Code, 1976, as amended (the “Code”), among other sources, to provide for a system of public works, including roads and bridges, of the County, and to assess property and levy ad valorem property taxes and uniform service charges for functions and operations to the County, including, but not limited to, appropriations for such general public works, including roads; and,

WHEREAS, Oconee County Council has heretofore, by and through Chapter 26 (“Roads and Bridges”) of the Oconee County Code of Ordinances (the “County Code”), provided for certain policies, procedures, fees, and other funding pertaining to the roads and bridges portion of the public works program of Oconee County; and,

WHEREAS, Oconee County Council deems it necessary and proper to amend certain sections of the Oconee County Code of Ordinances from time to time to modify County policies and procedures to comport with changed and changing needs, or simply to reflect existing practical applications of policies and procedures; and,

WHEREAS, it has come to the attention of Oconee County Council that certain revisions need to be made in Chapter 26 of the County Code, to meet the needs of the County as to the safety of the public utilizing Oconee County roads and bridges, to assure that the necessary provision of Oconee County roads and bridges, including the regulation of private roads, encroachment, and construction, provide for the proper health and safety of the Oconee County public, are funded by those benefitting from such roads, encroachment, or inspection, and are consistent with other Oconee County policies and procedures, already codified; and,

WHEREAS, the County Engineer and the Roads and Bridges Department of the County have recommended several changes to Chapter 26 of the Oconee County Code of Ordinances, so as to: amend the private road construction and inspection procedures; to remove the County from all involvement with private roads except that necessitated, tangentially, through other County involvement, such as the regulation of subdivisions, and establish policies for the County to limit its involvement with and in private roads; revise the Oconee County encroachment permit policy and procedures, including, without limitation, by adopting and approving

encroachment policies to be followed by the County, and a fees schedule to pay for the encroachment program of the County; and, provide for the funding for such policies and procedures. Oconee County Council has reviewed the needs, in each instance, has determined that such needs are legitimate and serve the public purposes and best interests of Oconee County, and has determined to modify the respective sections of Chapter 26 of the Oconee County Code of Ordinances as requested, and to affirm and preserve all other provisions of the Oconee County Code of Ordinances not specifically or by implication amended hereby.

NOW, THEREFORE, it is hereby ordained by the Oconee County Council, in meeting duly assembled, that:

1. The foregoing findings of fact, recommendations, and conclusions are hereby adopted, as findings of fact, supporting this ordinance, in their entirety.
2. Chapter 26 of the Oconee County Code of Ordinances is hereby modified and amended as follows, and in the following details, only:

A. Section 26-2 of the County Code is hereby amended to read as follows:

Sec. 26-2. - Private road standards and regulations.

OCONEE COUNTY SHALL HAVE NO RESPONSIBILITY FOR NOR CONTROL OF THE DESIGN, ENGINEERING, CONSTRUCTION, INSPECTION OR MAINTENANCE OF PRIVATE DRIVEWAYS, DRIVES AND ROADS IN OCONEE COUNTY AND SHALL ONLY BE INVOLVED WITH PRIVATE DRIVEWAYS, DRIVES AND ROADS TO ENFORCE THESE REGULATIONS AND TO THE EXTENT REQUIRED FOR THE COUNTY TO CARRY OUT ITS OTHER DUTIES AND FUNCTIONS, SUCH AS APPROVING THE SUBDIVISION OF PROPERTY.

(a)

Private driveways. Private driveways shall serve no more than three residential dwellings, and shall be maintained by the property owner(s). No design standards shall apply to private driveways, but driveways must comply with applicable building and fire codes.

(b)

Private drives. All private drives existing and in use at the time of adoption of these regulations, as well as those private drives under construction prior to the time of adoption, shall be exempted from the standards contained in this section. This exemption shall also extend to those private drives approved by the planning department prior to the time of adoption. All other private drives shall:

(1)

Serve no more than ten lots or dwellings;

(2)

Have a minimum road right-of-way of 50 feet, or an appropriately executed private roadway easement as defined by these regulations;

(3)

Have an appropriate encroachment permit from either the county or the South Carolina Department of Transportation;

- (4) Have a minimum driving surface width of 20 feet constructed of no less than five inches of compacted crushed stone or gravel base; a minimum height clearance of 13½ feet; and appropriate documentation from a professional engineer licensed by the State of South Carolina certifying the maximum weight limit of any bridge or culvert located along the drive. All bridges and any culvert over which a private drive crosses a perennial stream must include appropriate signage (located at each end of the bridge) displaying the structure's weight limits;
- (5) Be maintained by an individual, association of property owners, or commonly held by the property owners fronting the private drive;
- (6) Comply with all current fire regulations and codes;
- (7) Shall serve no more than ten dwellings, and shall connect to another road, either public or private, on one end only. In the event proposed construction and/or development will result in an existing private drive serving 11 or more dwellings, the existing drive shall be upgraded so as to meet the standards put forth in these regulations for private roads;
- (8) Parcel boundaries may extend to centerline of the road, with the appropriate road right-of-way shown on all plats and deeds;
- (9) Be named in accordance with adopted E-911 Addressing regulations and procedures;
- (10) Allow at least 100 feet of sight distance for each ten miles per hour of the posted speed limit where the private drive intersects a public road. The sight distance shall be measured from a seeing height of 3½, offset 15 feet from edge of road, to an object 4¼ feet in height above the grade of the public road, as stated in SCDOT's 1996 Access and Roadside Management Manual. If the proposed drive does not meet the sight distance requirement, a waiver must be signed by the individual(s) constructing the private drive stating that the property owner(s) is liable and responsible for any accidents, injuries, problems, and property damage resulting from improper sight distance;
- (11) Meet all applicable stormwater management and sediment control regulations;
- (12) Be approved in writing by planning commission or designated staff prior to submission of plat(s) to the Register of Deeds for recording. The following shall be prominently printed on the plat(s):
"THE ROAD RIGHT-OF-WAY SHOWN ON THIS PLAT SHALL BE PRIVATE DRIVES NOT OWNED, MAINTAINED OR SUPERVISED"

BY OCONEE COUNTY, AND WERE NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAYS SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH ALL ADOPTED OCONEE COUNTY REGULATIONS. MAINTENANCE OF THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF _____."

(13)

Signage shall comply with the manual for uniform traffic control devices.

(c)

Private roads. Private roads shall provide vehicular access and road frontage to developments, or sections of developments, containing more than ten dwellings. All private, nondedicated roads shall be prominently indicated as such on plats prior to subdivision approval. Maintenance arrangements for such roads must be noted in writing on subdivision plat submittals and must be subsequently recorded. The development served by a private road shall have direct access into a public road, and no such private road shall be laid out so as to serve property outside the development. All private roads shall:

(1)

Serve a minimum of 11 lots;

(2)

Have a minimum road right-of-way width of 50 feet;

(3)

Be designed in accordance with the regulations set forth in Section 26-3(e) of these regulations;

(4)

Be constructed in accordance with the regulations set forth in section 26-3(f) of these regulations;

(5)

Be maintained by an association of property owners or the developer and be designated on all plats and recorded in appropriate deed covenants and restrictions, or an appropriately executed private roadway easement as defined by these regulations;

(6)

Parcel boundaries may extend to the centerline of the road, with the appropriate right-of-way designated on all plats and deeds;

(7)

Be legally certified for compliance by a surveyor/engineer licensed by the State of South Carolina;

(8)

Be named in accordance with adopted E-911 Addressing regulations;

(9)

Meet all stormwater management and sediment control regulations;

(10)

Be properly approved in writing by planning director prior to submission of plat(s) to the Register of Deeds for recording. The following shall be prominently printed on the plat(s):

"THE ROAD RIGHT-OF-WAY SHOWN ON THIS PLAT SHALL BE PRIVATE ROADS, NOT OWNED, MAINTAINED OR SUPERVISED BY OCONEE COUNTY AND NOT CONSTRUCTED PURSUANT TO ANY PLAN FOR FUTURE ACCEPTANCE BY OCONEE COUNTY. ROAD RIGHT-OF-WAY SHOWN UPON THE PLAT SHALL NOT BE ACCEPTED FOR MAINTENANCE BY OCONEE COUNTY AT ANY TIME IN THE FUTURE UNLESS CONSTRUCTED IN ACCORDANCE WITH ALL OCONEE COUNTY REGULATIONS. MAINTENANCE OF THE RIGHT-OF-WAY SHALL BE THE RESPONSIBILITY OF THE _____."

(11)

Have installed signs that control the traffic flow in a safe manner as specified by standards in the Manual for Uniform Traffic Control Devices.

With the exception of the requirements put forth in this section, all private roads shall meet the requirements for all public roads as defined by this article.

B. Section 26-7(e) of the County Code is hereby amended to read as follows:

(e) *Encroachment.*

(1) All persons desiring to excavate within, encroach upon, or in any way alter a county maintained road and/or right-of-way, shall notify the county engineer and submit to the county road department an application for an encroachment permit, together with the required fees and security as determined and established periodically by county council. Notice will be given by the applicant to the County at least 48 hours prior to initiating such work, and only after receiving an approved permit from the county. A schedule of required fees and securities shall be available for review from the county road department. No person may excavate within, encroach upon, or in any way alter a county maintained road or right-of-way without the written approval, in advance, by approved permit, of the county engineer. In determining whether to approve any such request, and issue a permit, the county engineer will consider all factors, including the needs of the applicant, as well as the needs of the county, including, without limitation, good engineering standards, the need to maintain county rights-of-way and keep them open, the convenience of the traveling public, the applicant's compliance with previous permits, including temporary permits, and policies of the County, and other similar professional considerations, including, without limitation, the provisions of the encroachment permit policy (Encroachment Permit Policy) which is maintained by the Oconee County

Road and Bridges Department and approved by County Council from time to time and is included herein by reference. The county engineer may impose restrictions on any granted approval and permit under this section, consistent with such professional considerations; including, without limitation, up to and including temporary suspension or permanent revocation of such permit, for failure to comply with the permit terms or these policies. Any appeal from any decision of the County Engineer under this section will be treated as a request for a variance from road standards and handled in accordance with the procedures of Section 26-8 of this Code.

Oconee County Council shall, from time to time, approve the County's Encroachment Permit Policy, including, without limitation, the policy itself, as well as the Encroachment Permit Application Form, and the schedule of fees for the application of the policy. The initial Encroachment Permit Policy, Encroachment Permit Application Form, and Fee Schedule are attached as exhibits to this Ordinance, and are hereby approved. For minor nonsubstantive revisions, the County, acting by and through the County Council, may revise the policy, application form, or fees, as it desires, in the future by simple resolution of County Council, and may include the fees schedule in the schedule of departmental fees that is contained in a proviso in the annual County Budget Ordinance. More substantial, and all substantive revisions to policy, application form, and fees must be revised by County Council ordinance, including, without limitation, the annual County Budget Ordinance.

(2) Upon completing the permitted activity, the applicant shall restore the county maintained road and/or right-of-way to its original condition (except for any permanent alteration approved by county permit, and through a county-granted right-of-way or easement), insuring that all repairs conform to the requirements contained in the SCDOT standard specifications for highway construction and the Encroachment Permit Policy. Eighteen months after the permitted activity is satisfactorily completed, the security shall be returned to the applicant provided the county engineer, upon final inspection, approves the repair. If the county engineer deems the repair to be unacceptable, the security shall be retained by the county and used to properly repair and restore the road and/or right-of-way to its original condition. Once the road and/or right-of-way has been properly repaired, any excess security will be returned to the applicant, it being understood that, in one form or another, all costs of encroachment upon, or any alteration of a county maintained road or right-of-way shall be borne by the applicant.

(3) Driveway aprons and mailbox turnouts abutting county maintained roads are encroachments, subject to the provisions of this

section, and will be the responsibility of the property owner, as to construction and maintenance, subject to the provisions of Section 26-7(b), and subject to the caveat that if the county constructs or manages a road project, driveway aprons and mailbox turnouts may be part of the project, subject to the terms of such Section 26-7(b).

(4) Violation of the Encroachment Permit Policy is a violation of this Code and is punishable by civil fine of \$500/day/violation. Each and every day of a continuing violation shall be deemed a new and separate offense. Failure to pay any civil fine levied hereunder shall constitute a violation of this Code and shall be punished in accordance with Section 1-7, hereof.

3. All other parts and provisions of the Oconee County Code of Ordinances not amended hereby, either explicitly or by implication, remain in full force and effect.

4. Should any part or provision of this Ordinance be deemed unconstitutional or unenforceable by any court of competent jurisdiction, such determination shall not affect the rest and remainder of this Ordinance, all of which is hereby deemed separable.

5. All ordinances, orders, resolutions, and actions of Oconee County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded.

6. This Ordinance shall take effect and be in full force and effect from and after third reading and enactment by Oconee County Council.

ORDAINED in meeting, duly assembled, this 16th day of July, 2013.

ATTEST:


Elizabeth Hulse,
Clerk to Oconee County Council


Joel Thrift,
Chairman, Oconee County Council

First Reading: June 4, 2013
Second Reading: June 18, 2013
Public Hearing: July 16, 2013
Third Reading: July 16, 2013

OCONEE COUNTY ROADS AND BRIDGES DEPARTMENT

ENCROACHMENT PERMIT POLICY

I. GENERALLY

1.1 It shall be unlawful for any utility, business, entity or individual to excavate within, encroach upon, or in any other way alter a County-maintained road, easement or right-of-way, except in accordance with Oconee County Code of Ordinances Section 26-7 (the "Section") and these policies.

1.2 Any utility, business, entity or individual desiring to excavate within, encroach upon, or in any other way alter a County-maintained road, easement or right-of-way shall notify the Oconee County Roads and Bridges Department – Engineering Department ("Engineering Department") of the proposed activity by submitting an application for an Encroachment Permit ("Permit"). A Permit ensures that all activities will be performed in accordance with applicable design and construction standards, that anyone working within the County maintained road, easement or right-of-way shall have sufficient insurance necessary to safeguard the public interest, that facilities will be properly located within the right-of-way to prevent obstruction of and damage to existing facilities and public and private property, and that any activity will be performed in accordance with applicable Federal, State and local law and these policies.

1.3 A copy of an issued Permit shall be maintained by the applicant/permittee and kept at the work site at all times during the permitted activity, except for Annual Blanket Permit holders, which are only required to notify the Engineering Department of work recently performed. Failure to obtain a Permit or failure to comply with the terms of a Permit shall result in a civil penalty of \$500/day. Failure to comply with and honor a civil penalty shall constitute a violation of the Code and shall be punishable pursuant to Section 1-7 of this Code. Upon issuance of a civil penalty, all activity at the work site must immediately stop until the penalty has been paid in full and a Permit has been issued, or the applicant/permittee complies with the terms of the existing Permit. Failure to stop the activity at the work site after issuance of a civil penalty constitutes a separate offense under the Code.

1.4 If a bond is required by the Code or hereunder, a surety bond, cash bond, or Irrevocable Letter of Credit from an accredited lending institution must be posted with Oconee County prior to issuance of the permit and will be held for a period of 18 months after all repairs or excavation have been completed. The cash/bond is refundable after such 18 months period, upon a final inspection to ensure work is completed to the satisfaction of the county.

II. ENCROACHMENT PERMITS ("PERMITS")

2.1 Permits must be obtained at least forty-eight (48) hours prior to initiating any activity within any County-maintained road, easement or right-of-way. Permit application forms and a schedule of required fees and security, as amended periodically by County Council, shall be available for review upon request from the Oconee County Roads and Bridges Engineering Department, located at 15022 Wells Highway, Seneca SC (864-886-1072). The initial permit application forms and schedule of fees, as approved by County Council, is attached hereto, and hereby incorporated herein by reference.

2.2 The applicant/permittee should be familiar with the proposed activity within the County-maintained road, right-of-way, or easement, or secure the assistance of a qualified contractor to represent the applicant/permittee, and should be prepared to discuss the proposed activity with the Engineering Department at the time of application. The applicant/permittee shall be required to submit a sketch or drawing with each Permit application. Depending upon the complexity of the proposed activity, in the sole determination of the County engineer, three sets of detailed engineering plans may be required to provide sufficient information regarding the horizontal and vertical placement of the proposed facilities, such as the area of placement, proximity to existing facilities, safety measures needed to safeguard the public, and methods of protection of public and private facilities from damage during and after construction.

2.3 Except as noted below, licensed, insured, and bonded contractors or utility companies shall be required to perform all activities within the County-maintained road, right-of-way, or easement. The issuance of Permits to individuals shall be restricted to situations where the nature of the encroachment is such that a licensed, insured, and bonded contractor is not required to ensure and protect the integrity of the roadway and the safety of the public, and to situations involving the installation of driveways (where the use of licensed, insured, and bonded contractors may be required, but the Permit will nevertheless be issued to individual

owners of property involved). However, permits shall not be issued to individuals without the use of a licensed, insured, and bonded contractor if the proposed activity requires compaction of fill, erosion protection measures, or other activities that would place at risk the integrity and stability of the County-maintained road right-of-way, in any event.

2.4 A contractor or utility company acting as an authorized agent for an applicant/permittee may secure a Permit, upon sufficient proof of such Agency, or authority. However, by signing the application, the agent as well as the applicant/permittee accepts all responsibility for all activity associated with the Permit and both must sign the application.

2.5 Permits shall be valid for a period of time not to exceed ninety (90) days from the date of issuance, unless pre-approved for a longer period of time by the Engineering Department. A Permit may be extended for an additional reasonable period of time, upon good cause shown, as determined by the Engineering Department. Applicants/Permittees or their agents working under an expired Permit shall be subject to the same penalties as an individual or entity working without or failing to comply with the terms of a Permit.

2.6 The applicant/permittee ("applicant" becomes "permittee" upon approval of permit), or any agent or employee of the applicant/permittee, shall obtain all necessary information related to the existence and location of all existing surface and underground facilities. To the fullest extent of the law, the applicant/permittee shall hold harmless and indemnify the County, its successors and assigns, officers, council members, agents and employees from and against any and all claims, losses, expenses (including reasonable attorney's fees), demands or judgments which result from or arise out of damage to other facilities and/or adjacent private property while working in the County-maintained road, right-of-way, or easement.

2.7 Upon completion of the permitted activity, the applicant/permittee shall restore the County maintained road, right-of-way, or easement to its original condition, pre-construction, ensuring that all repairs conform to the requirements contained in the current edition of the SCDOT Standard Specifications for Highway Construction Manual, the permit, these policies, and the Code. Eighteen months after completion of the permitted activity, security funds held by the County, if any, shall be returned to the applicant/permittee, provided the County Engineer or County Inspector, upon final inspection, approves the repair. If the County Engineer deems the repair to be unacceptable, the County Engineer or County Inspector shall notify the applicant/permittee of the unacceptable nature of the repair and provide the applicant thirty (30) days to correct such deficiency before permanently retaining the security to properly repair and restore the County-maintained road, right-of-way, or easement to its original condition. Once the County-maintained road, right-of-way, or easement has been properly repaired, excess security funds held by the County, if any, shall be returned to the applicant/permittee. The Engineering Department reserves the right to correct or have problems corrected in the case of any encroachment on a county road, easement, or right-of-way, and charge all associated costs (including but not limited to labor, materials, equipment, supervisory, and administrative) to the applicant/permittee or its security deposit.

2.8 The Engineering Department may refuse to issue a Permit if any monies are due and outstanding from the applicant/permittee or for inadequate past performance on the part of that applicant/permittee that was not corrected after notice from the County.

2.9 For Homeowner or Commercial driveway, or Driveway Culverts and Aprons abutting any County road, right-of-way, or easement, any driveway must have an approved encroachment permit from the county before any work takes place. There is an inspection fee that is for one pre-work inspection and one final inspection. If the owner has not properly identified the location at the time of the first inspection, there will be an additional fee for a return pre-work inspection. All driveway aprons along county maintained roads, installed by Oconee County, shall be billed to the owner at 2.5 times the cost of the materials, in accordance with the Code. Any relocation of utilities, landscaping or other appurtenances shall be the responsibility of the property owner and the respective utility company.

2.10 All fees hereunder are to be paid at the Oconee County Roads and Bridges Department, 15022 Wells Highway, Seneca SC 29678. Phone 864-886-1072

III. MISCELLANEOUS

3.1 All permitted activity in the County-maintained road, right-of-way, or easement shall be performed in accordance with appropriate Federal, State, and local standards, the permit, these policies, and the Code.

3.2 All permitted activity hereunder shall be performed to the satisfaction of the County Engineer or County Inspector or designee. Permits may not be issued or shall be revoked for activity that is not performed in

accordance with sound engineering and construction principles or otherwise in compliance with law, all as determined by the Engineering Department.

3.3 Except in emergency circumstances, all activity in the public roads, right-of-way, or easements shall be performed during daylight hours, sunrise to sunset, unless otherwise specified in the Permit.

3.4 Except in the event of an emergency, the Engineering Department shall be notified at least forty-eight (48) hours in advance of the start of the activity. Should the County Engineer or County Inspector find work in progress prior to notification by the applicant/permittee and/or the Permit is not posted onsite during construction, work will be stopped until all permit and regulatory requirements have been met.

3.5 As required by law the applicant/permittee must contact the Palmetto Utility Protection Service (PUPS) at 1-888-721-7877 at least three (3) business days before any type of excavation activity commences. The PUPS number must be noted on the Permit.

3.6 All activities within the County-maintained road, right-of-way, or easement shall be conducted in a manner that causes minimal inconvenience to adjacent property owners and the traveling public. Reasonable access to driveways, houses, and buildings adjacent to the site shall be maintained at all times unless previously arranged in writing with the affected party. Any temporary approaches to crossings or intersecting highways shall be pre-approved by the Engineering Department and kept in good condition. All business establishments or homes within 300 feet of the site shall be notified by applicant/permittee or agent at least twenty-four (24) hours in advance of any activity and shall have access during construction at all times. Any trees, shrubbery, or landscaping damaged by the applicant/permittee during the activity shall be replaced as directed by the County Engineer or County Inspector if owned by the County or by the owner if on private property.

3.7 No debris, spoils, or stockpiling of materials shall be allowed unless specifically authorized in a Permit. Under no circumstances shall material stockpiles be left in the street or on shoulders of the County-maintained road, right-of-way, or easement overnight.

3.8 Excavations shall be limited to a maximum of one thousand linear feet (1000') of open trench before backfill operations must begin. If any excavation cannot be backfilled immediately, the applicant/permittee shall securely and adequately cover the excavation and maintain proper barricades, and lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel. The County Engineer or County Inspector may require additional barricading to maintain public safety.

3.9 All concrete forms shall be inspected for consistency with the applicable permit and these regulations by the County Engineer or County Inspector twenty-four (24) hours prior to pouring.

3.10 Traffic controls within any Permit site shall conform to the Manual of Uniform Traffic Control Devices (MUTCD), Latest Edition.

3.11 If it should ever become necessary to move or relocate a facility permitted hereunder, or any part thereof, on account of change in location of the roadway, widening of the roadway, or for any other sufficient reason, such moving or relocation shall be done, on reasonable demand of the Engineering Department, at the sole expense of the owner of the facility. If and when the facility contemplated herein shall be moved or relocated, either on the reasonable demand of the Engineering Department or at the option of the owner, all work in connection with the construction, maintenance, moving or relocation of the facility contemplated herein shall be done by and at the expense of the owner, and the roadway and facilities shall be restored to their original condition at the expense of the owner. An additional encroachment permit shall be required for any relocation of such facilities, but the County Engineer may waive otherwise applicable fees if such relocation is at County request.

3.12 If significant damage to the asphalt surface of a County-maintained public road occurs or is anticipated to occur as a result of a permitted activity, the County Engineer or County Inspector has the right, as a condition of the Permit, to require the applicant/permittee to resurface, not spot repair the entire affected road surface within or adjacent to the permitted site. A separate bond in the amount of 125 percent (125%) of the contract cost of resurfacing shall be posted prior to construction.

3.13 In the event of an emergency, an individual or entity may act without a permit, but shall notify the County Engineer or County Inspector within twenty four (24) hours of the emergency response, or as soon thereafter as reasonably practicable. The individual or entity shall then obtain a Permit from the Engineering Department within forty-eight (48) hours of the emergency response or will be subject to a civil penalty not to exceed \$500. Failure to comply with and honor a civil penalty shall constitute a violation of this Code and such violation shall be punishable in accordance with Section 1-7 of this Code. If the County will not issue a permit for such work, all work performed must be removed and the site returned to the pre-work conditions

within thirty (30) days after notice from the County that a permit will not be issued. Failure to do so constitutes a violation of these policies and will be handled in the same manner as performing work without a permit, and shall result in the same penalty(ies). The Engineering Department reserves the right to correct or have problems corrected in the case of any improper encroachment (those violating the terms of Chapter 26 of the Code or this policy or an encroachment permit) on a county road, easement, or right-of-way, and charge all associated costs (including but not limited to labor, materials, equipment, supervisory, reasonable attorney fees and administrative) to the violator.

3.14 Activities typically considered illegal and prohibited from encroachment permit approval within the County road easement and/or road right-of-way may include, but are not limited to the following:

- Unsafe or poorly maintained driveway aprons. Such improper aprons may be removed by the County.
- Concrete driveways, aprons and sidewalks.
- Planting of trees and shrubs and other landscaping including fencing, walls, lighting, plantings, and irrigation.
- Landscaped islands and/or medians.
- Privately owned utility (water, sewer, communication, etc.), except for bores crossing the road at 90 degrees.
- Speed bumps/humps.
- Basketball goals (portable or otherwise).
- Unauthorized road markings, paintings, or signage.
- Direct discharge of stormwater on to road surface.

3.15 For the purpose of this Policy and the Encroachment Permit Application Form, the following terms are defined.

Applicant. The person or authorized agent that has the clear, legal responsibility to abide by the conditions and provisions of an approved application.

Authorized Agent. An Authorized Agent is someone for whom clear, legal authority to act on applicant's behalf has been given and is available for review.

Permittee. The applicant shall become the permittee upon County approval of Encroachment Permit Application Form and payment of necessary fees and bonds.

Property Owner. The property owner of record that is immediately adjacent to or contained within the County road right-of-way or easement in which an encroachment is desired.

Public Utility. A public utility is municipal or privately owned and operated business in whose services are essential to the general public (examples include but are not limited to sanitary sewer, electricity, stormwater, drinking water, communication, and natural gas).

IV. PUBLIC UTILITY ANNUAL BLANKET PERMITS

4.1 Public utility companies may apply for an Annual Blanket Permit with the Engineering Department, allowing an unlimited number of permits for all activities that do not disturb the road surface of a County-maintained public road. However, public utility companies shall provide the Engineering Department a weekly report detailing activities performed such as the location of the activity and the type of work performed. Plans are not required for routine maintenance and service connections. It is the intention of this Annual Blanket Permit to cover emergency repairs, routine maintenance, and service connections that do not involve disturbing the road surface.

4.2 Public utility companies that do not desire to apply for an Annual Blanket Permit shall apply for a separate permit for each activity within a County-maintained road right-of-way together with applicable fees and/or security.

4.3 Regardless of whether a utility company has obtained an Annual Blanket Permit, separate Permits are required for new or replacement line installations, new or relocated service poles, and any activity disturbing the asphalt surface of a County maintained public road.

4.4 Annual Blanket Permits are valid from July 1 until June 30 (the County's fiscal year). No prorated fees are accepted.

V. FEE SCHEDULE

5.1 Permit Fees

General Permit Fee: \$60.00

Permit Extension Fee: \$10.00

Blanket Permit Fee: \$1,000.00

Re-inspection Fee: \$60.00

Pavement Removed: \$250.00 Permit Fee + \$10.00/sf of pavement removed

Longitudinal Work in R/W: General Permit Fee + \$0.10/linear foot

5.2 Required Bonds

Pavement Cut, Pavement Removed: Permit Fee x 10

Longitudinal Work in R/W: Longitudinal Work Permit Fee x 50

Bonds may be in the form of a Surety Bond, Cash Bond or Irrevocable Letter of Credit. Bond will be waived for an adjacent homeowner who is doing less than 100 linear feet of work or at the discretion of the County Engineer.

VI. APPLICATION FORM (Attached)



OCCONEE COUNTY ROADS AND BRIDGES DEPARTMENT
15022 WELLS HIGHWAY
SENECA SC 29678
864-886-1072

ENCROACHMENT PERMIT APPLICATION

PERMIT # _____

EXP. DATE: _____

(Home Owner)		(Contractor)		PUPS #
(DW Installation Requested)		(Utility)		Local calls are required by law: call 1-888-721-7577 at least 3 business days before any type of excavation.
Applicant Name:				
Company Name:			Contractors License #	
Address:	City:	Zip:	Phone:	
PROPERTY OWNER Name:				
Address:	City:	Zip:	Phone:	
Work Location Address of Work Site:			ROAD NUMBER:	
Nearest Intersecting Road:				
DESCRIPTION OF WORK TO BE DONE:		SQ. FT. OF PAVEMENT CUT _____ X _____ = _____		
		LINEAR FT. OF NEW INSTALLATION= _____		
ESTIMATED START DATE:		ESTIMATED FINISH DATE:		

PERMIT REQUIREMENTS Permittee shall comply with each of the following conditions and items. (Applicant becomes Permittee upon permit approval)	
<input type="checkbox"/> Notify the County inspector if there are any changes to the approved permit.	PERMIT FEE: _____
<input type="checkbox"/> Notify the County Road Office (864) 885-1072 at least 48 hours before work begins.	
<input type="checkbox"/> Keep a copy of this permit and approved plans at the work site at all times.	BOND: _____
<input type="checkbox"/> Notify County inspector upon completion of activity for final inspection.	DATE: _____

APPLICANT CERTIFICATION

- Pursuant to provisions of Statute of the Code of Laws of South Carolina, 1976, and Oconee County Ordinance Section 20-7, the undersigned Applicant hereby notifies OCONEE COUNTY ROADS AND BRIDGES DEPARTMENT, OCR&B of the said applicant's purpose to construct or install and maintain a public service utility line, as described herein, within the limits of a roadway right-of-way, along or over the County roadway or roadways, described herein.
- Description of location: (Attach sketch indicating roadway features such as: pavement width, shoulder width, sidewalk and curb and gutter location, significant drainage structures, north arrow, right-of-way width, and location of the proposed utility work with respect to the roadway centerline and the nearest intersecting road on the County system.) Utility companies are required to submit three (3) sets of plans or drawings.
- The undersigned applicant hereby requests the OCR&B to formally waive objections to construction or maintenance of the work described herein. It is expressly understood that the work, if and when constructed, shall be installed in accordance with the sketch attached hereto and made part hereof. The applicant agrees to comply with and be bound by the OCR&B's "A Policy for Accommodating Utilities on Highways Right-of-Way" and "Standard Specifications for Highway Construction" (both as pertained by reference) as file in the OCR&B, and all general provisions on the various federal and state precedents below or attached hereto during the installation, operation and maintenance of said work or utility facilities within the OCR&B's Right-of-Way. The applicant hereby further agrees, and binds his heirs, successors, and assigns to assume any and all liability the OCR&B might otherwise have in connection with accidents or injuries to persons, or damage to property, including the roadway, that may be caused by the construction, maintenance, use, flaking or removing, of the physical apparatuses contemplated herein and agrees to indemnify the OCR&B for any liability incurred or injury or damage sustained by reason of the past, present, or future existence of said apparatuses.
- Attach copy of license, insurance and bond to verify capability to perform work.
- If applicable, attach document to verify authority at agent.

APPLICANT SIGNATURE: _____

DATE: _____

PROPERTY OWNER OR PUBLIC UTILITY AUTHORIZED AGENT CERTIFICATION

I Certify to the best of my knowledge, information and belief that:

- The applicant is capable and understands the terms and agreements of this permit.
- The applicant is authorized to perform the work as requested on the application.
- The proposed encroachment is not contrary or conflicting with any recorded covenants.
- The work is to be performed in compliance with all other applicable Federal, State, and Local laws and regulations, as well as the provisions of this permit.

PROPERTY OWNER

Or AUTHORIZED AGENT SIGNATURE: _____

DATE: _____

OCONEE COUNTY ROADS AND BRIDGES

ENCROACHMENT PERMIT APPLICATION

FEE'S	<u>Permit fees (non-refundable)</u>	<u>Bonds (if required)</u>	<u>Permit Conditions</u>
(	Residential / Commercial \$60.00	(Road Cut	(Traffic Control (see 3 on back)
(	D/W Installation Requested 2.5 x Materials	Pavement Cut Permit	
(	Pavement Cut Fee- Contractor Only \$250.00 +\$10.00 /sf	Fee x 10 = _____	(Commercial / Utility (must provide 3 sets of Engineering Drawings)
(	Permit Extension \$10.00		
(	Re-Inspection Fee \$60.00	(New Installation	(Residential (drawing or sketch)
(	Longitudinal work in ROW \$60.00 +\$0.10 / F	Longitudinal Permit	
(	Bore Beneath Pavement \$60.00 +\$0.10 / F	Fee x 50 = _____	

OCONEE COUNTY Roads and Bridges Department Approval

In compliance with your request and subject to all provisions, terms, conditions and restrictions stated in the application, general provisions on the reverse hereof, and special provisions below or attached hereto, the OCR&B approves the request. This permit shall become null and void unless the work contemplated herein shall have been completed prior to:

Date: _____

SPECIAL PROVISIONS: _____

Permit Specialist Review and Verification of Completeness of Form and Compliance of Encroachment Permit Policy.

Approval
Signature: _____

Date: _____

Manager/ Engineer: _____

Date: _____

FOR COUNTY INSPECTOR'S USE ONLY	DATE	ACCEPT	ADDITIONAL INSPECTOR COMMENTS:
Application Received			
Initial Inspection			
Pre-Construction Inspection			
In-Progress Inspection			
Final Inspection			
Additional Inspections			

GENERAL PROVISIONS

1. **NOTICE PRIOR TO STARTING WORK:** Before starting the work within the limits of the roadway right-of-way, the Oconee County Roads and Bridges Department shall be notified 48 hours in advance so that we may be present while the work is underway and this permit is subject to further restrictions.
2. **PERMIT SUBJECT TO INSPECTION:** This permit shall be kept at the site of the work at all times while said work is under way and must be shown to any representative of the County or law enforcement officer.
3. **PROTECTION OF ROADWAY TRAFFIC:** Adequate provisions shall be made for the protection of the roadway traffic at all times. Necessary detours, barricades, warning signs and flagmen shall be provided by and at the expense of the Permittee and shall be in accordance with the MUTCD, Latest Edition. No road will be blocked except for emergency situations. No county road closure shall be made without Oconee County Roads and Bridges Department approval and proper community notification. The work shall be planned and carried out so that there will be the least possible inconvenience to the roadway traffic. The Permittee agrees to observe all rules and regulations of the SCDOT and Oconee County while carrying on the work contemplated herein and take all other precautions that circumstances warrant.
4. **STANDARDS OF CONSTRUCTION:** All work shall conform to recognized standards of construction and shall be performed in a workmanlike manner. Adequate provisions shall be made for maintaining the proper drainage of the roadway. All work shall be subject to the supervision and satisfaction of the Oconee County Roads and Bridges Department.
5. **FUTURE MOVING OF PHYSICAL APPURTENANCES:** If, in the opinion of the Oconee County Roads and Bridges Department, it should ever become necessary to move or remove the physical appurtenances, or any part thereof contemplated herein, on account of change in location of the roadway, widening of the roadway, or for any other sufficient reason, such moving or removing shall be done on reasonable demand of the Roads and Bridges Department at the expense of the Permittee.
6. **RESTORATION OF ROADWAY FACILITIES UPON MOVING OR REMOVING OF PHYSICAL APPURTENANCES:** If, and when, the physical appurtenances contemplated herein shall be moved or removed, either on the demand of the Roads and Bridges Department or at the option of the Permittee, the roadway and facilities shall immediately be restored to their original condition at the expense of the Permittee.
7. **COSTS:** All work in connection with the construction, maintenance, moving or removing of the physical appurtenances contemplated herein shall be done by and at the expense of the Permittee.
8. Definitions of important terms are included in Section 25-7 of the Oconee County Code of Ordinances and are incorporated herein by reference.
9. **PERMISSION OF ABUTTING PROPERTY OWNERS:** It is a fact that this permit does not in any way grant or release any rights lawfully possessed by the abutting property owners. The Permittee shall secure any such rights necessary from said abutting property owners.
10. **WORK PERFORMANCE**
 - (a) Utility Poles shall be placed at the distance from the centerline of the roadway as specifically stipulated herein and in the permit.
 - (b) All crossings over the roadway shall be constructed in accordance with Specifications for Overhead Crossings of Light and Power Transmission Lines and Telephone and Telegraph Lines over each other and over Highway Rights-of-Way in South Carolina, as approved by the Public Service Commission of South Carolina and effective as of date of this permit.
 - (c) Service and other small diameter pipes shall be jacked, driven, or otherwise forced underneath the pavements on any surfaced road without disturbing said pavement. The section under the roadway pavement and within a distance of two (2) feet on either side shall be continuous without joints.
 - (d) No pavement shall be cut unless specifically authorized herein.
 - (e) No excavation shall be nearer than three feet to the edge of pavement unless specifically authorized herein, nor shall be left open overnight without proper barricades and lights. Excavations shall be limited to a maximum one thousand (1000) linear feet of open trench before backfill operations must begin.
 - (f) Underground facilities will be at minimum depths as defined in the Utility Accommodations Manual for the Transmittant, as follows:
 - (1) Bury under pavement - 4 feet minimum for hazardous or dangerous transmittant- 3 feet minimum for other lines.
 - (2) Bury under other surfaces - 30 inches minimum for power and communication lines and 3 feet for all other facilities. Shallower depths may be approved in writing prior to installation if adequate protection is provided.
 - (g) Work shall be performed in accordance with the SCDOT's Latest Editions of "A Policy for Accommodating Utilities on Highway Rights-of-Way", and "Standard Specifications for Highway Construction".
11. The Permittee shall be responsible for obtaining any other approvals or permits necessary or proper for installation.
12. Permittee is responsible for maintaining reasonable access to private driveways during construction.
13. If a driveway apron adjoining a county road is cut or damaged during the process of installing utilities, it is the responsibility of the Permittee to replace such entire apron.
14. There shall be no excavation of soil nearer than two feet of any public utility line or appurtenant facility except with the consent of the owner thereof, or except upon special permission of the Roads and Bridges Department after an opportunity to be heard is given the owner of such line or appurtenant facility.
15. **LICENSED CONTRACTOR REQUIRED:** Licensed and bonded contractors/contractors or utility companies shall be required to perform all work within the county right-of-way unless explicitly waived by the Roads and Bridges Department.
16. **BONDING OF WORK:** If a bond is required, a surety bond, cash bond, or Irrevocable Letter of Credit from an accredited lending institution must be posted prior to issuance of the permit and will be held for a period of 18 months after all repairs have been completed. The cash bond is refundable after such 18 months waiting period, upon a final inspection to ensure work is completed to the satisfaction of the county.
17. Oconee County Roads and Bridges Department may revoke, annul, change, amend, amplify, or terminate this permit or any of the conditions herein enumerated if Permittee fails to comply with any or all of its provision, requirements and regulations as herein set forth.
18. Except in emergency circumstances, all activity in the public right-of-way shall be performed during daylight hours, sunrise to sunset, unless otherwise specified in the Permit.
19. In accepting this permit, the Permittee agrees that any damage or injury done to the property of the Permittee or any expense incurred by the Permittee through the operation of a contractor shall be at the sole expense of the Permittee.
20. **LIABILITY:** Applicant/ Permittee assumes the sole responsibility for the safety and protection of the premises and of employees and other persons and assumes liability for any injury or damage occurring on account of the performance of work under this encroachment permit, whether due to negligence, fault or default of Applicant/ Permittee or not. Such liability of Applicant/ Permittee under this encroachment permit is absolute and is not dependent upon any question of negligence on its part or on the part of its agents, servants or employees, and neither the approval by the engineers or the chief engineer of the methods of doing the work nor the failure of the engineers or the chief engineer to call attention to improper or inadequate methods or to require a change in methods, nor the neglect of the engineers or the chief engineer to direct the Applicant/ Permittee to take any particular precautions or to refrain from doing any particular thing shall excuse the Applicant/ Permittee in case of any such injury to person or damage to property.
21. **INDEMNITY AGAINST LIABILITY:** Applicant/ Permittee shall indemnify Oconee County, its agents, officials and employees against all injuries, deaths, loss, damages, claims, patent claims suits, liabilities, judgments, costs and expenses that may in any way accrue against Oconee County in that the act was caused through negligence or omission of the Applicant/ Permittee or Applicant/ Permittee's employees or the subcontractor or subcontractor's employees, if any, and the Applicant/ Permittee shall, at Applicant/ Permittee's own expense, appear, defend, and pay all charges of attorneys and all costs and other expenses arising from or incurred in connection with that activity, and if any judgment shall be rendered against Oconee County in any such action, the Applicant/ Permittee shall, at Applicant/ Permittee's own expense, satisfy and discharge that judgment. Applicant/ Permittee expressly understands and agrees that any performance bond or insurance protection required by this contract, or otherwise provided by Applicant/ Permittee, shall in no way limit the responsibility to indemnify, keep and save harmless and defend Oconee County as here provided. Insurance coverage specified herein constitutes the minimum requirements and requirements shall in no way lessen limit the liability of Applicant/ Permittee. Applicant/ Permittee shall procure and maintain, at his own cost and expense, any additional kinds and amounts of insurance, which, in his own judgment, may be necessary for his property protection in the protection of the work.
22. **REVOCAION:** Oconee County reserves the right, at any time, to cancel the permit should the Applicant/ Permittee fail to comply with the terms and conditions under which it was granted. The County reserves the right, at any time, to cancel the permit should the Applicant/ Permittee fail to comply with the terms and conditions under which it was granted.
23. Sections 1-22 above represent a sub-set of the official Oconee County Roads and Bridges Department Encroachment Permit Policy that is included in Oconee County Code of Ordinances Section 25.

 Initials of Applicant