

Angren Moon
8-16-07



GREENWOOD COUNTY, SOUTH CAROLINA
GREENWOOD COUNTY COUNCIL
ORDINANCE NO: 2007- 24

Ordinance to Amend Chapter 2 of Title 6 of the Greenwood Code to Allow New Lots to be Created on Unpaved Roads, Under Certain Conditions, and to Make Certain Technical Corrections to the Chapter

The following is ordained by the Greenwood County Council:

Section 1: The definition of "Street" in Section 6-2-4 is amended to read as follows:

"Street means a way for motor vehicle traffic, whether public or private.

- (1) Streets shall be designated by the joint planning commission, or, in the absence of the commission, the administrative officer, so as to fall into one of the following categories which most accurately describes it:
 - a. Thoroughfare. Streets designated as arterials or collectors on the official thoroughfare plan.
 - b. Major arterial. A street which accommodates large traffic volumes and provides for through trips between major cities.
 - c. Minor arterial. A street which accommodates large traffic volumes and provides for long trips within the area.
 - d. Four-lane collector. A street used to collect or distribute large traffic volumes between local streets and arterials.
 - e. Two-lane collector. A street used to collect and distribute medium traffic volumes between local streets and arterials. Principal entrance and circulation streets of subdivisions are also classified as two-lane collectors.

- f. Local street, rural or urban. A street used primarily for access to the abutting properties.
- g. Alley. A minor way used for service access to the back or side of properties otherwise abutting on a street.
- h. Cul-de-sac. A minor street having one end open to motor vehicle traffic and one end terminating in motor vehicle turnaround.

(2) Public Streets and Private Streets

- a. Public street. A street which is available for the use of the general public, whether by deed, by dedication or by operation of law.
- b. Private street. A vehicular way which is not available for the use of the general public.

(3) Street Maintenance

- a. Publicly Maintained Street. A Public Street which has been accepted by the governing authority for permanent maintenance from public funds.
- b. Non-publicly Maintained Street. A public street which has not been accepted by the governing authority for permanent maintenance from public funds. Also, all private streets. ”

Section 2: Section 6-2-15 is amended to read as follows:

“Sec. 6-2-15. Private streets; Unpaved streets.

- (a) Paved, private streets are permitted under the following conditions:
 - (1) As minor streets. Private minor streets providing sole or primary access to one or more lots are permissible only if all the following requirements are met:
 - a. Such street shall be a cul-de-sac which complies with Section 6-2-62(c)(1).
 - b. The minimum width of the easement for such street shall be 30 feet with two paved lanes of not less than 9 feet each. Additional width may be required if

necessary for drainage or installation and servicing of utilities outside the area of the driving surface.

- c. Design, location and improvement shall provide for safe intersection with public streets, safe passage of public service and emergency vehicles, and protection of adjoining property.
- (2) As accessways in a planned development district. Private streets are permitted in planned development districts (PDDs) established under the terms of the zoning ordinance only if the following requirements are met:
 - a. Such streets shall meet minimum design requirements of this chapter for public streets of comparable classification or use, together with the requirements of the PDD.
 - (b) No private street may be approved or created until the subdivider executes and records in the Office of the Clerk of Court for Greenwood County an agreement in form satisfactory to the governing authority to provide for:
 - (1) The continuing common use of the private street by occupants of the property served;
 - (2) An easement granting access to public service and emergency vehicles.
 - (3) Easements for drainage and utilities, which are subordinate to the rights of maintenance with regard to the road.
 - (4) The continuing private maintenance of the private street in accordance with the following provisions:
 - a. The costs of maintenance shall be an assessment against the owners of the property within the subdivision to be divided among them in proportionately based on their values as established by the Assessor without regard to the assessment ratio and without regard to the agricultural use exemption;
 - b. The costs shall constitute a lien against of the property within the subdivision and is to be superior to all liens except liens for taxes.

- c. In the event legal action is necessary to enforce the payment of the assessment, costs of collection, including reasonable attorney fees, shall be awarded to the prevailing party.
- d. In the event the street is not maintained in accordance with this subsection so that the condition may prevent access to properties by public service and emergency vehicles, the administrator of the governing authority, or his designee, shall have the right to enter the premises for the purpose of performing maintenance on the street and enforcing the lien for the costs thereof and to recover all costs of collection, including attorney fees.

The provisions of this sub-paragraph shall expire prospectively if and when the street is accepted by the governing authority for permanent maintenance with public funds, however, any unpaid assessments for maintenance performed prior to the acceptance by the governing authority shall remain due and payable.

The provisions of this section are in addition to requirements for posting a performance bond in order to sell lots before the infrastructure is in place and are also in addition to the requirements for posting a bond for maintenance in connection with the acceptance by the governing body of the road for public maintenance.

- (c) No unpaved street may be created after the effective date of this ordinance. ”

Section 3: Section 6-2-18 is amended to read as follows:

“6-2-18. All Lots to Access Paved Streets; Exceptions; Flag Lots

- (a) Except as provided in this section, all lots created in Greenwood County after the effective date of this ordinance must be situated on or have direct access to a paved, publicly maintained street or a paved, private street which intersects with a paved, publicly maintained street. No lot(s) may gain access to a public or private street via an easement, unless the improvements in the easement are constructed to the same county standards as required for all county maintained roads.
 - 1. Where unpaved roads existed prior to the effective date of this ordinance, lots may be created along such roads if the lot meets all of the following requirements:

- a. On all unpaved roads, each lot must have a minimum of 400 feet of road frontage.
- b. On all unpaved roads, each lot must have a minimum lot size of five (5) acres.
- c. With regard to unpaved private roads, one of the following mechanisms for maintenance of the unpaved private road must exist:
 - 1. A recorded agreement which complies with 6-2-15(b);
 - 2. A special tax district has been created under 4-9-30(5) of the South Carolina Code which provides for the maintenance of the road; or
 - 3. A similar district of a governmental nature has been created to provide for the maintenance.

The obligations for private maintenance of the road shall expire if and when the governing authority accepts the road for permanent maintenance with public funds.

- (b) The elongated portion of a flag lot for a residential lot: (a) shall be a minimum width of 30 feet for lots of up to 4.0 acres in size and (b) shall be a minimum width of 50 feet for lots over 4.0 acres in size.
- (c) If a zoning district does not contain a minimum lot width requirement, that elongated portion of a flag shall be a minimum width of 30 feet for lots of up to 4.0 acres in size and shall be a minimum of 50 feet for lots over 4.0 acres in size. “

Section 4: This ordinance shall be effective upon adoption of third reading.

DONE AND PASSED: July 3, 2007.

Attest: _____

James N. Kier, County Manager

GREENWOOD COUNTY COUNCIL

BY: _____

Robbie Templeton, Chairman