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STATE OF SOUTH CAROLINA )  
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COUNTY OF LAURENS )

**ORDINANCE #868**

**AN ORDINANCE ESTABLISHING A SYSTEM FOR RECOUPING  
COSTS INCURRED TO REPAIR DAMAGE TO COUNTY MAINTAINED  
ROADS WHEN DAMAGE IS THE RESULT OF EXTRAORDINARY USE**

**WHEREAS**, from time to time County roads are used by companies, individuals, and businesses; and

**WHEREAS**, such use occasionally results in damages to these County roads; and

**WHEREAS**, the County Council deems it in the best interest of the citizens and taxpayers of Laurens County to properly recover the costs and expenditures necessary to repair the damages to the County roads caused by these usages;

**NOW, THEREFORE**, the County's Damage Recoupment Process is hereby established as follows:

1. Recoupment Process
  - a. The expectation of the Recoupment Process is for those who are responsible for damage to County maintained roads from extraordinary use are accountable and shall bear the financial responsibility for returning the damaged Right-of-Way to its pre-Project condition, no better and no worse.
  - b. Before the commencement of a Project, as defined herein, the Contractor/Subcontractor shall obtain an encroachment permit from the County. A sample of the encroachment permit is attached hereto. This form may be modified or changed from time to time by the Public Works Department.
  - c. If the County road and/or Right-of-Way is damaged by the Contractor/Subcontractor, the Contractor/Subcontractor shall be responsible to the County for the costs borne by the County to return the road and/or Right-of-Way to its pre-Project condition.

- d. The County shall maintain on its website directions for a Contractor/Subcontractor to use to contact the County's assigned agent for encroachment permitting.
- e. The Contractor/Subcontractor has a duty to notify the County before the Contractor/Subcontractor begins a Project and at the Project's conclusion. Inspections shall occur at a mutually agreeable time.
- f. The Contractor/Subcontractor shall be responsible for all costs the County incurs to return the Right-of-Way to its pre-Project condition and, if applicable, all costs, including labor costs, the County incurs to collect those costs from Contractor/Subcontractor.
- g. If a Contractor/Subcontractor fails to obtain an encroachment permit with the County, then the Contractor/Subcontractor waives any right it may have had to contest the County's determination of the Right-of-Way's pre-Project condition.
- h. If the County finds a Project in progress where the Contractor/Subcontractor has failed to obtain an encroachment permit with the County, then the Contractor/Subcontractor shall be in violation of this Ordinance. The penalty for violation of this Ordinance shall be as set forth in Sections 1-13 of the Laurens County Code of Ordinances.
- i. If Contractor/Subcontractor is not fully cooperative in returning the Right-of-Way to its pre-Project condition, then the County will re-bill the Contractor/Subcontractor for all costs, including labor, and shall suspend Contractor/Subcontractor's County encroachment permit. If Contractor/Subcontractor fails within thirty (30) days to pay the County for the full costs as shown on the re-billing, then the County have the right to sue Contractor/Subcontractor for the balance of the County's costs, including the costs the County incurs in collection efforts in the Circuit Court of Laurens County.
- j. Nothing herein shall override or circumvent the protections set forth under the Forest Management Protection Act (§50-2-10 et seq, South Carolina Code of Laws 1976, as amended) nor the protections and requirements of §48-23-205 of the South Carolina Code of Laws 1976, as amended.

## 2. Definitions

The following words shall have these meanings:

- a. *Contractor/Subcontractor* means an entity or person who performs work on a Project using County roads that are located in the unincorporated area of Laurens County.
- b. *Project* means any activity that causes any work to be performed in any part of the County's Right-of-Way.



- c. *Extraordinary use* includes such activities as repetitive hauling of heavy-duty equipment over or use of heavy-duty equipment within the Right-of-Way by a for-profit business. Activities involved in the following endeavors shall be deemed to involve extraordinary use: Construction; logging; and site prep work.
- d. *Recoupment Process* means the system described in this Ordinance to recoup the costs Laurens County incurs to repair damage to County-maintained roads when damage is the result of extraordinary use.
- e. *Right-of-Way* means the area Laurens County maintains for each Road, including the road bed, drainage, ditches, and shoulders.
- f. *Road* means a road in the County Road Maintenance System.

**NOW THEREFORE BE IT ORDAINED BY LAURENS COUNTY COUNCIL, DULY ASSEMBLED:**


1. **PURPOSE:** It is the stated purpose of this Ordinance to establish a process for recouping costs incurred in repairing damages to County maintained roads caused by Contractor/Subcontractor Projects as set forth above.
2. **AUTHORITY:** This ordinance is authorized pursuant to the authority and process granted by the General Assembly of the State of South Carolina and by the Constitution of this state. Jurisdiction is exclusively within Laurens County. The Office of Public Works is hereby authorized and directed to do all things necessary to enforce this ordinance through its Code Enforcement powers.
3. **LANGUAGE:** The language used in this Ordinance, if used in the present tense, shall include the future tense. Words used in the singular include the plural, and the plural the singular, unless, however, the context clearly indicated to the contrary. The use of the word "shall" is mandatory and the word "may" is permissive.
4. **SEVERABILITY:** Should any paragraph, clause, phrase, or provision of this Ordinance be judged invalid or held unconstitutional by a Court of competent jurisdiction, such declaration shall not affect the validity of any other section of the Ordinance as a whole or in part or provision thereof, other than the part so decided to be invalid or unconstitutional. All meanings, enforcement, and interpretations shall be pursuant to the laws of the State of South Carolina.
5. **EFFECT:** This Ordinance shall take effect upon third reading and a public hearing as required by law.

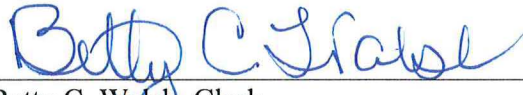
**BE IT SO ORDAINED** by Laurens County Council duly assembled.

(Signature page attached)

**DONE, RATIFIED, AND ADOPTED** this 25<sup>th</sup> day of February, 2020.

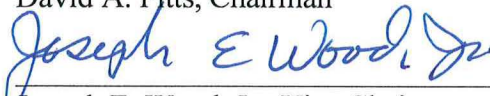
ATTEST:

  
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Jon Caime, Administrator  
Laurens County, South Carolina

  
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Betty C. Walsh, Clerk  
Laurens County Council  
Laurens County, South Carolina

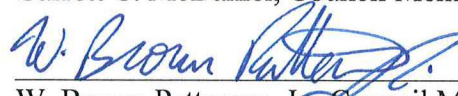
LAURENS COUNTY COUNCIL:

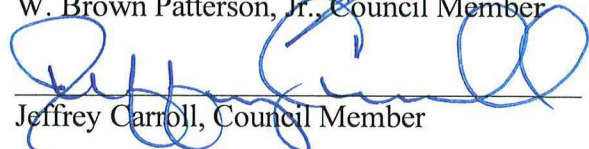
  
\_\_\_\_\_  
David A. Pitts, Chairman

  
\_\_\_\_\_  
Joseph E. Wood, Jr., Vice Chairman

  
\_\_\_\_\_  
Kemp Younts, Council Member

*- Absent -*  
\_\_\_\_\_  
Garrett C. McDaniel, Council Member

  
\_\_\_\_\_  
W. Brown Patterson, Jr., Council Member

  
\_\_\_\_\_  
Jeffrey Carroll, Council Member

*- Absent -*  
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Diane B. Anderson, Council Member

First Reading: July 23, 2019  
Second Reading: January 28, 2020  
Third Reading: February 25, 2020  
Public Hearing: February 25, 2020