

STATE OF SOUTH CAROLINA)
)
COUNTY OF GEORGETOWN)

ORDINANCE NO. 2007-35

AN ORDINANCE TO AMEND ORDINANCE 91-22 PROVIDING FOR THE PROCEDURES AND STANDARDS FOR THE GRANTING OF ENCROACHMENT ONTO GEORGETOWN COUNTY PROPERTY

WHEREAS, Georgetown County holds title to and/or has accepted the dedication of and maintains an extensive network of roads, real estate, and drainage systems; and,

WHEREAS, it is necessary for the County to have full knowledge of and control over all its property, roads and drainage systems; and,

WHEREAS, from time to time various municipalities, political subdivisions, state agencies, private entities, and others desire to construct encroachments of various kinds onto county owned property; and,

WHEREAS, due to the growth and expansion of the County's population and the increasing development of the County, it is necessary to regulate and control all activities which affect the property of the County in any way;

WHEREAS, on August 13, 1991, Georgetown County Council did adopt Ordinance 91-22 titled "

WHEREAS, after due consideration and discussion, Georgetown County Council does see fit to amend Ordinance 91-22, and here by adopt Ordinance 2007- as the Georgetown County Encroachment Policy

NOW, THEREFORE, it is declared to be the purpose of this ordinance to establish reasonable procedures and standards for the granting of encroachments onto County owned property.

SECTION 1. Definitions.

- (a) "County Street" or "County Road" shall include any and all roads maintained by Georgetown County whether acquired by the County as the result of dedication by deed, plat, or other written instrument and formally accepted by the County or acceptance by the County by maintenance.
- (b) "Drainage system" shall include any and all ditches, canals, streams, and other water courses maintained by Georgetown County whether acquired by the County as the result of dedication by deed, plat, or other written instrument and formally accepted by the County or acceptance by the County by maintenance.
- (c) "Encroachment structures" shall include any tower, pole, pole line, pipe, pipeline, fence, billboard, stand or building, or any other such object or structure which is placed in, upon, under, or over any portion of any county street, county highway, or other county property.

- (d) "Street Ends", as used in this ordinance, shall mean dead-end access ways that extend from a throughway to a major physical barrier such as the ocean, marsh or a river. In most cases a street end will be less than three hundred (300) feet long.

SECTION 2. Prohibited.

Any encroachment upon any public accessway in the county is hereby prohibited.

SECTION 3. Enforcement Policies.

- (a) All encroachments upon any public access way that can be easily moved will be removed as soon as possible.
- (b) Semi-permanent encroachments) trees, shrubs, landscaping features, walls without foundations) may remain in place if they do not interfere with public use of the access. When public access needs change, the county may require any or all semi-permanent encroachments to be removed.
- (c) Permanent encroachments must secure a lease from the county to remain on the property.

SECTION 4. Encroachment permits

- (a) Any person desiring to erect, construct or maintain an encroachment upon county property must first obtain an encroachment permit. An encroachment permit may be obtained by filing a written application with the county administrator or his designee on a form supplied through his office. The application shall state the name and address of the owner of the adjacent real property benefited by the encroachment and shall be accompanied by a legal description of the adjacent real property benefited by the encroachment, a one sheet plot plan illustrating the proposed encroachment, a written justification as to the need for the encroachment, and accompanied by a \$100.00 non-refundable application fee.
- (a) If the county administrator or his designee finds that a proposed encroachment will not be detrimental to the health, safety, or welfare of the community or the surrounding property and when completed will not interfere with access to any public place he may accept the application. If the proposed encroachment does not meet each of the requirements set out in the preceding sentence, the administrator or his designee shall deny the permit, giving his reasons in writing. The permit will not be granted if the best interests of the County are not served. In granting a permit, the County may place any reasonable conditions on the permit that the situation warrants.
- (b) If at any time it is determined by the county administrator, or his designee, that the health, safety, or welfare of the community or the surrounding property interferes with access to any county property at a public works project or development or the best interest of the County requires removal of the encroachment permit granted hereunder shall be revoked by the county administrator upon providing the permittee five days notice thereof.

SECTION 5. Penalty.

Any person, firm, or corporation violating any provision of this ordinance shall be fined not less than five nor more than five hundred dollars for each offense and a separate offense shall be deemed committed on each day during or on which violation occurs or continues.

SECTION 4. Hold Harmless.

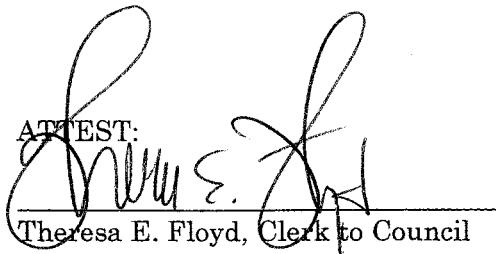
- (a) Any person, firm or corporation granted an encroachment permit under the provisions of this ordinance in consideration thereof shall hold the County harmless and indemnify the County, its officers, boards, commissions, agents, and employees, against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, costs or liabilities (including costs or liabilities of the county with respect to its employees), of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, against all liability to others and to the grantee, its agents and employees, and against any loss, cost and expense resulting or arising out of any of the same, including any attorney fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expense arising out of or pertaining to the construction, maintenance, or continuation of an encroachment permitted under this ordinance.
- (b) Defense of litigation. Grantee shall, at the sole risk and expense of grantee, upon demand of the county, made by and through the county attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative, or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the county, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the granting of an encroachment permit by the county, and/or the construction or maintenance of the encroachment itself.
- (c) Indemnification. Grantee shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive, or demand rendered, made or issued against grantee, the county, its officers, boards, commissions, agents, or employees in any of these premises; provided, that neither grantee nor county shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit, or other proceeding, without first obtaining the written consent of the other.

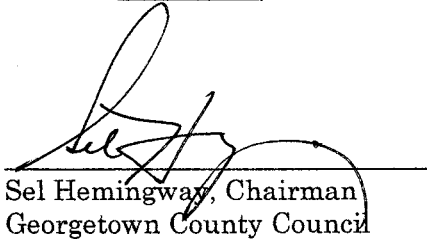
SECTION 5. Effective Date.

This Ordinance shall become effective upon adoption.

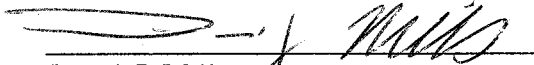
ADOPTED AND APPROVED THIS 12th DAY OF June, 2007.

ATTEST:


Theresa E. Floyd, Clerk to Council


Sel Hemingway, Chairman
Georgetown County Council

This Ordinance, No. 2007-35, has been reviewed by me and is hereby approved as to form and legality.



David J. Mills,
Georgetown County Attorney

First reading: May 8, 2007

Second reading: May 22, 2007

Third reading: June 12, 2007