



Lexington County Planning Commission

County Administration Building (803) 785-1454
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PRIVATE ROAD POLICY

[April 16, 2009 - date of last revision]

Persons desiring to establish private roads for the purpose of subdividing property shall follow the procedures outlined below.

PRELIMINARY PLAT: "Private road subdivisions" shall follow the same submission and platting procedures as outlined in the Lexington County Subdivision Regulations for standard subdivisions. However, since the roads are proposed as privately maintained, the review process is altered slightly. The Lexington County Planning Commission is authorized by those regulations to approve such a project only upon its satisfaction as to the physical and legal provisions for maintenance of the roads in the subdivision. The Commission requires a review of the preliminary plat drawings and documents by the staff of Lexington County to determine compliance with the following guidelines.

Road Layout

1. "Through roads" which connect existing roads are not allowed.
2. Road alignments, which create inadequate sight distances, are prohibited.
3. Requirements for road names, signs, and layout shall be the same as found in the Lexington County Subdivision Regulations, Stormwater Ordinance, and Land Development Manual.
4. Road rights-of-way shall be of sufficient width to allow adequate maintenance of any proposed road to include associated utilities and storm drainage systems. In most cases this will require a minimum 50-foot width on the roadway and 100-foot diameter on any cul-de-sacs; however, the publication called *Road Section Criteria for Private Roads* contains criteria for alternate designs utilizing narrower roadways and reduced rights-of-way. Projects proposed with less right-of-way than this publication must receive a variance from the Commission by demonstrating the ability of the layout to accommodate road, utility, and storm drainage maintenance.
5. Road rights-of-way shall not conflict with previously executed public rights-of-way (utility, rail, or road).

Road Design

1. Roads shall be designed so that maintenance costs to future residents shall be minimal. Sufficient engineering drawings and documents must be submitted in order for this determination to be made.
2. The geometric layout/design shall conform to the minimum standards for Lexington County. Road widths shall conform to the criteria contained in the publication called *Road Section Criteria for Private Roads*.
3. Dead end roads shall terminate in a turnaround, which meets the minimum criteria published by the Planning Commission.
4. Roads across pond dams are strongly discouraged.

5. Roads proposed to be paved must be designed to meet the standards of Lexington County for sub-base, base, road width, and pavement materials. Within a paved road subdivision there are no limits on the number of lots or length of the roadway.
6. The following are the minimum standards for all roads proposed to be unpaved:
 - a. Access must be from an existing publicly maintained unpaved road unless the subdivision is being proposed to settle family affairs.
 - b. Maximum road length shall be 1500 feet.
 - c. There shall be no more than 10 lots using the roadway for access; however, the Commission may limit the number of lots further based upon the size of the parcels and the potential for multiple dwelling units on each lot, unless restrictions are placed on the parcels limiting each to one dwelling unit.
 - d. Slopes shall be designed such that the calculated stormwater velocities on the roadway surface and in the roadside ditches are less than 2.5 feet per second for sandy loam soils and 4.0 feet per second for clay soils.
 - e. If the project is proposed to use an existing unpaved road surface, the following criteria must be met:
 - * The geometric layout shall be considered safe by the Stormwater Manager.
 - * The road surface shall be smooth and compacted, free from holes and/or ponding water.
 - * The road area shall be sloped or graded in such a manner that surface stormwater will be directed away from the roadway.
 - f. If the project is proposed to use a new unpaved road surface, then the following criteria must be met:
 - * The geometric layout/design shall conform to the minimum standards for Lexington County.
 - * The road surface shall be graded to conform to a farm-to-market type cross section.
 - * The road surface shall be free of debris and compacted to 95% of the standard density.

Storm Drainage System

1. The project shall be designed to properly handle storm drainage entering and leaving the site.
2. Sediment and erosion control measures shall be required on all grading.
3. Open ditches will be allowed outside the road right-of-way when the proposed ditch section has side slopes which are 3:1 or flatter. Steeper slopes may be allowed if there is a good stand of grass.
4. Steeper side slopes may also be allowed on major drainage channels as identified in the Lexington County Stormwater Ordinance if they are submitted with a design treatment approved by the Stormwater Manager or left in their natural condition with appropriate easements.

If these guidelines are met, the project can proceed without Planning Commission review. Projects proposed with other than the above standards must receive a variance from the Commission. The proposed designs must demonstrate the ability to ensure road, utility, and storm drainage maintenance, and to accommodate access by service vehicles, school buses, and emergency vehicles.

EXISTING PRIVATE ROAD SUBDIVISIONS: An existing subdivision which has a privately-maintained road may be subject to a review of additional items by the staff and/or Planning Commission. Some of those issues are as follows:

1. If the existing subdivision pre-dates any of the conditions of this Policy, there may be a need to address as many of these requirements as is feasible.
2. If there is no existing Road Maintenance Agreement, such a document will be proposed (and executed if approved) that involves as many of the existing property owners as possible. The Commission may decide that all property owners need to be involved in this decision.
3. If there is an existing Road Maintenance Agreement, that document must be amended if it contains such procedures. Such action shall be considered a pre-requisite to the implementation of any approvals granted by the staff or the Commission.
4. The total number of allowed lots in the subdivision will be addressed at this time, if not previously considered.
5. Special considerations may be given if the additional subdividing is being proposed to settle family affairs, or is ordered by a Probate Judge in settling an estate.

CONDITIONS OF APPROVAL: Private road subdivision approval granted by the Commission or staff will remain valid for up to five (5) years from the date of issuance. An approval is transferable to a subsequent landowner(s) provided that all conditions of the approval are met.

ROAD AGREEMENT: A road maintenance agreement must be approved before a “Preliminary Plat Approval” can be given to a project. The attached sample agreement should be modified to suit the particular needs of a project, such as basing the costs in paragraph 3 on acreage or front-foot dimensions instead of lots. If these provisions are incorporated into a master deed or other document containing covenants and restrictions for the subdivision, that document may be submitted in addition to a road agreement. The developer should also note that this sample agreement contains certain provisions, which are considered essential by the Commission. The Planning Commission also requires that a property owners’ association be chartered with the Secretary of State for South Carolina for the purpose of implementing this agreement and that bylaws be developed for the operation of that association.

FINAL PLAT: “Final Plat Approval” of a “private road subdivision” can be given only after completion of the following items. This approval is required before any property can be conveyed and therefore allows the plat of the project to be recorded in the Office of the Register of Deeds. The road maintenance agreement must be recorded with the plat at which time the Department of Community Development will require verification that the restrictions are being placed on the property owners adjoining the road.

1. Construction of the road and storm drainage system to the satisfaction of the Stormwater Manager.
2. If utilized, completion of any water and sewer systems.
3. Installation of traffic control and street name signs indicating each road to be a “privately maintained road.” Installation standards for these signs should be obtained from the Stormwater Manager’s Office.

SAMPLE

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

ROAD MAINTENANCE AGREEMENT
 FOR
 _____ SUBDIVISION

WHEREAS, the undersigned, _____ is the owner and developer of the property described below, and;

WHEREAS, _____ (the owner/developer) desires to impose restrictions and conditions for the use and maintenance of the _____ (description of the road) to be jointly owned by any and all purchasers of the lots set forth hereinafter below.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the _____ (the owner/developer) does hereby impose the following restrictions and conditions and covenants upon the lands described as follows:

“Legal description, to include the name of the subdivision and the plat book location in the Office of the Register of Deeds”

THE CONDITIONS AND RESTRICTIONS imposed on the aforesaid property are as follows:

1. The _____ (description of the road) running through said property as shown on the aforesaid plat is for the joint use of the owners of lots _____ (description of the lots), their heirs, successors, and assigns, for ingress and egress to and from the respective lots and for the installation of public utilities. These owners shall be called the _____ (subdivision name) Property Owners Association hereinafter called the Association.
2. A property owner is a person, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof, which is the holder of a deed to a lot in _____ subdivision. It is the responsibility of each present and subsequent member of the Association to assist in keeping the road in a high state of maintenance and to respect the rights of the other property owners in its use. Since this road is not being engineered and constructed according to Lexington County standards, it will not be the responsibility of Lexington County to maintain this road.
3. Maintenance costs to the said roadway shall be borne in accordance with the percentage of ownership of the lots hereinabove set forth; said interest at this state being solely in the name of _____ (the owner/developer). Percentage shall be divided equally for each lot owned, therefore, with the property subdivided into _____ (number) lots, the ownership of each lot represents _____ (fraction) of the maintenance cost to be shared. The developer shall carry all the responsibilities of a lot owner in proportion to the number of lots owned. There shall also be no further subdividing of lots within this subdivision.

NOTE: If the developer wishes to either expand the subdivision at a later date or allow property owners to further subdivide their lots, provisions for such must be stipulated in this agreement and approved by the Planning Commission.

4. The Association in January of each year shall elect a Board of Directors consisting of _____ (number) members. This Board shall be responsible for the care and maintenance of the roadways in _____ subdivision, and is authorized to direct the financial matters of the property owners concerning collection of assessments and necessary expenditures of joint funds of the property owners. To carry out these duties, the Board shall elect a President, Vice-President, Secretary, and Treasurer.

5. Upon the initial sale of each lot, _____ dollars shall be set aside in escrow by the developer to be drawn upon as determined by the Board of Directors stipulated above to provide maintenance to the aforesaid roadway.

NOTE: Escrowed funds are not mandatory on paved road projects, however, on unpaved roads the amount per lot shall not be less than \$100.

6. There shall also be an annual assessment upon each lot owner, which shall be due on July 1st of each year. Initially this assessment shall be _____ dollars per lot per year. This amount may be changed at any time by a two-thirds vote of the members of the Association. The obligation of each lot owner to pay this assessment shall be a continuing lien upon the lot, subject only to the lien on a bona fide first mortgage upon such real property held by a reputable financial institution; and said lien may be enforced by the Association in all respects as though secured by a recorded mortgage as provided by the laws of the State of South Carolina.

NOTE: For unpaved roads the escrow amount and annual assessment shall be equal to the annual maintenance cost divided by the number of lots. For paved roads the annual assessment shall be equal to the replacement cost of the roadway divided by the number of lots and also divided by 20, representing the life of the road.

7. This instrument is to be recorded in the Lexington County Office of the Register of Deeds, and the undersigned, _____ (the owner/developer), and all future owners shall cause the following statement to be placed in every contract and deed conveying lots out of this subdivision. This statement shall be signed by the grantee(s) and shall be placed immediately below the grantor's signature and shall be binding on all parties thereof. Failure of any subsequent purchaser to comply with this provision shall in no way diminish or impair the terms of this agreement and the conditions, benefits, and obligations imposed and granted thereunder.

“I, the undersigned, as purchaser of the above lot described in this deed/contract, acknowledge the existence of the road maintenance agreement as recorded in the Office of the Register of Deeds for Lexington County in Deed Book _____ at Page _____, do hereby confirm by acceptance of this deed/contract all the terms and conditions thereof. I understand that since the road described in that agreement is not being engineered and constructed according to Lexington County standards, it will not be the responsibility of Lexington County to maintain that road. I further acknowledge that the lot owners subject to that agreement shall be responsible for the maintenance and upkeep of that road.”

8. It is agreed that said road shall be kept free of all obstructions so as to be open for the passage of fire, police, and other emergency vehicles, personnel, or equipment at all times; and that such responsibility lies with the respective property owners, their agents, guests, and employees.
9. That said roadway shall be posted as a “privately maintained road” prior to the conveyance of properties, and shall remain posted in that manner at all times.
10. These covenants and restrictions are to run with and bind the land, and shall ensure to the benefit of and bind property owners subject to this agreement, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this agreement is recorded in the Office of the Register of Deeds for Lexington County; after which time said agreement shall be automatically extended for successive periods of ten (10) years unless an instrument has been recorded whereby the owners of the lots have agreed to a change in this agreement.
11. Changes in this agreement either in whole or in part may be executed at any time by the recording of an instrument signed by a majority of the members of the Association.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this the _____ day of _____, 20____ in Lexington, South Carolina.

WITNESSES:

BY: Property Owner(s)

 (Witness #1 sign)

 (Witness #2 sign)

 (Owner or owners sign)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)

PERSONALLY APPEARED before me the undersigned witness, who, being duly sworn, deposes and says that he/she saw the within named property owner(s) sign and seal the within Road Maintenance Agreement for the uses and purposes therein mentioned and that he/she with the other witness, witnessed the execution thereof.

SWORN TO BEFORE ME THIS)
 _____ day of _____, 20____)
)
)
)
 _____ (L.S.))
 Notary Public for South Carolina)
 My Commission Expires: _____)

 (Witness #1 or #2 sign)