

AN ORDINANCE

TO IMPOSE AND COLLECT AN INCREASE TO THE GREENVILLE COUNTY ROAD MAINTENANCE FEE PURSUANT TO TITLE 6, CHAPTER 1, ARTICLE 3 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED.

NOW THEREFORE, BE IT ORDAINED, by Greenville County Council (the “*County Council*”), the governing body of Greenville County, South Carolina (the “*County*”), in meeting duly assembled:

Section 1. **Findings and Authority.** County Council makes the following findings of fact and authority in connection with the enactment of this ordinance (this “*Ordinance*”):

(a) The County is a political subdivision of the State of South Carolina and possesses certain powers granted by the Constitution and general laws of the State.

(b) Pursuant to the provisions of Title 4, Chapter 9, Article 13 (the “*Home Rule Act*”) of the South Carolina Code of Laws, as amended (the “*S.C. Code*”), and specifically, Section 4-9-30(5)(a) of the Home Rule Act, County Council is authorized to assess and levy property taxes and uniform service charges and to make appropriations for certain functions of the County specifically including general public works, roads and drainage.

(c) Pursuant to Section 57-17-10 of the S.C. Code, the governing body of the County shall have control and supervision of all county designated roads.

(d) Pursuant to Title 6, Chapter 1, Article 3 of the S.C. Code, specifically Sections 6-1-300 and 330 of the S.C. Code, County Council is authorized to charge and collect service or user fees, including uniform service charges. Section 6-1-300(6) of the S.C. Code, defines a “service or user fee” as a “charge required to be paid in return for a particular government service or program” and further requires that the revenue generated from the service or user fee must: (i) be used to benefit the payers, even if the general public also benefits; (ii) only be used for the specific improvement contemplated; (iii) not exceed the cost of the improvement; and (iv) be uniformly imposed on all payers.”

(e) Pursuant to Section 6-1-330 of the S.C. Code, County Council is authorized to charge and collect service or user fees, including uniform service charges, subject to the following requirements: (i) the service or user fee must be imposed by adoption of an ordinance approved by a positive majority of County Council; (ii) County Council must provide public notice of the service or user fee being considered and hold a public hearing on the proposed service or user fee prior to final adoption; (iii) revenue derived from the service or user fee to finance the provision of public services must be used to pay costs related to the provision of the service or program for which the service or user fee is paid; and (iv) a local governing body that imposes a user or service fee pursuant to S.C. Code § 6-1-300(6) must publish the amount of dollars annually collected on each fee on the county’s website.

(f) Pursuant to Section 6-1-330(A) of the S.C. Code, a fee adopted or imposed by a local governing body prior to December 31, 1996, remains in force and effect until repealed by the

enacting local governing body, notwithstanding the provisions of Title 6, Chapter 1, Article 3 of the S.C. Code.

(g) In 1993, County Council imposed a road maintenance fee of \$15.00 annually on every motor vehicle required to be registered and licensed in the County pursuant to Ordinance No. 2474, enacted June 29, 1993, as amended by Ordinance No. 2513, enacted on October 19, 1993 (the “*Initial Fee Ordinance*”).

(h) Pursuant to the Initial Fee Ordinance, the road maintenance fee is uniformly imposed on all owners of vehicle required to be registered in the County by the South Carolina Department of Motor Vehicles.

(i) Pursuant to the Initial Fee Ordinance, the proceeds from the collection of the road maintenance fees is deposited into a special road maintenance account and specifically used to maintain and improve the County road system as well as to pay for the debt service on any outstanding General Obligation Bond issued for County road improvements.

(j) Pursuant to the Initial Fee Ordinance, any interest earned on road maintenance fee funds shall accrue to the special road maintenance account, funds not used in any fiscal year shall be carried forward and used for the construction, maintenance, and improvement of County roads and related drainage, as well as to pay the debt service on any General Obligation Bond issued exclusively for County road improvements.

(k) For the past 29 years, the County has used the road maintenance fee as a dedicated revenue source to maintain and improve the County road system. The revenue generated from the road maintenance fee is used only for the maintenance and improvement of the County road system.

(l) The County road system consists of approximately 1,800 miles of roads designated as major arterial roads, collector roads, residential collector roads and local roads. The County road system provides vital access for local residents to employment, housing, social, health and education services. The County road system is maintained by the Greenville County Roads and Bridges Department. The County road system increases by approximately 20 miles per year.

(m) The condition of each County road is evaluated every four years by an independent firm and assigned a Pavement Condition Index (PCI) scale of 0 to 100, with higher scores reflecting roads requiring either preventative or no maintenance and low-range scores reflecting roads requiring the costliest repairs or full reconstruction.

(n) According to the November 2020 Greenville County Pavement Management Analysis Report performed by IMS Infrastructure Management Services (the “*Report*”), 11% of the County roads are in excellent condition, 27% are in very good condition, 21% of County roads are in good condition, 39% are in fair to marginal condition and the remaining 2% are in poor or very poor condition.

(o) According to the Report, the County road system is moderately aged and has had insufficient renewal efforts over the previous 10-15 years. Of particular importance is the 39% of County roads considered to be of fair to marginal condition, which if left unrepaired will rapidly decline becoming candidates for costly reconstruction.

(p) According to the Report, the County road system is underfunded at the current funding level of \$12 million annually. It is estimated that \$18.8 to \$21.3 million annually is needed to maintain the County road system at an acceptable level.

(q) The current road maintenance fee of \$15 per vehicle generates approximately \$8 million annually. Increasing the road maintenance fee to \$25 per vehicle would generate approximately \$14 million annually. Neither the current road maintenance fee nor the proposed increase exceed the cost of maintenance and improvement of the County road system.

(r) Despite the County's efforts to maintain and improve the County road network, significant unfunded road maintenance remains and is growing each year. The pavement condition of County roads is deteriorating faster than the rate at which the County is able to repave with available resources.

(s) The life cycle of the County road system is greatly affected by the County's ability to perform timely maintenance and upgrades to ensure that road surfaces last as long as possible.

(t) Cost-effective preventive maintenance reduces costly future repairs. The cost of fixing roads after they have deteriorated is many times greater than the cost of preventive maintenance.

(u) Maintenance and improvement of County roads allows the payers of the fee safe, reliable, and efficient access to employment, housing, social, health and education services. All payers who own and operate motor vehicles required to be registered in Greenville County enjoy the benefits provided by the maintenance and improvement of County roads.

(v) County Council finds that an increase of \$10 to the road maintenance fee is desirable and necessary for the County to maintain and improve the County road system, additional revenues are needed to adequately maintain the County road system, the County road system has experienced degradation due to insufficient maintenance funding, additional degradation is expected without additional maintenance funding, and road maintenance fees are a stable form of revenue that is generated by users of the County road system.

Section 2. Road Maintenance Fee Amendment. Section 2 of the Initial Fee Ordinance (Ordinance No. 2474, as amended by Ordinance No. 2513), is hereby amended to increase the road maintenance fee to Twenty-five and 00/100 Dollars (\$25.00) and the references to the "Department of Revenue and Taxation-Division of Motor Vehicles" is amended to the "South Carolina Department of Motor Vehicles." Section 5 of the Initial Fee Ordinance providing for criminal penalties is deleted in its entirety, and the remaining sections of the Initial Fee Ordinance shall be renumbered accordingly.

Section 3. Compliance with Title 6, Chapter 1, Article 3 of the S.C. Code.

(a) *Initial Fee Grandfathered.* County Council finds that the Initial Fee Ordinance imposing an annual road maintenance fee was adopted prior to December 31, 1996, and in accordance with the grandfathering language of Section 6-1-330 of the S.C. Code, remains in force and effect until repealed by County Council.

(b) *Increase to the road maintenance fee satisfies S.C. Code § 6-1-330(6).* Greenville County Council finds that the \$10.00 increase to the road maintenance fee bringing the total fee to

\$25.00 is (i) uniformly imposed on all owners of motor vehicles required to be registered in the County by the South Carolina Department of Motor Vehicles; (ii) revenues generated from the fee are exclusively used for the maintenance and improvement of the County road system; (iii) payers of the fee benefit from maintenance and improvement of the County road system, even if the general public also benefits; and (iv) revenues generated from the fee do not exceed the cost of maintaining and improving the County road system.

(c) *Adopted by positive majority of County Council.* This Ordinance must be adopted by a positive majority of County Council, which is defined in Section 6-1-330(5) of the S.C. Code as “a vote for adoption by the majority of the members of Council, whether present or not.”

(d) *Public Hearing.* County Council must provide public notice of the fee increase being considered and hold a public hearing on the proposed fee increase prior to final adoption of the Ordinance in compliance with S.C. Code § 6-1-330.

(e) *Road maintenance fee revenues published on County website.* The annual revenues collected from the road maintenance fee and any increase must be published on the County’s website in compliance with S.C. Code § 6-1-330.

Section 4. **Severability.** Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 5. **Repeal.** All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this Ordinance full force and effect.

Section 6. **Effective Date.** This Ordinance shall take effect upon the date of its adoption.

DONE IN REGULAR MEETING THIS ____ DAY OF _____, 2022.

Willis Meadows, Chairman
Greenville County Council

ATTEST:

Regina McCaskill
Clerk to Council

Joseph M. Kernell
County Administrator