



**COUNTY JUDGES ASSOCIATION OF ARKANSAS
ROAD LAW Guidebook
Part II:**

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I. OVERVIEW: County Judge's Powers & Restrictions to Powers

Amendment 55: Authority and exclusive control over county roads was given to the County Judge by Amendment 55, Section 3, of to the Arkansas Constitution: "The County Judge ... shall ... operate the system of county roads"

Article 7, §28: Article 7, §28 of the Arkansas Constitution provides: "The county courts shall have exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, bastardy, vagrants, the apprenticeship of minors, the disbursement of money for county purposes, and every other case that shall be necessary to the internal improvement and local concerns of the respective counties."

A.C.A. 14-14-1102 (b) (A): "The county judge shall be responsible for the administrative actions affecting the conduct of a plan of public roadways and bridges throughout the unincorporated areas of the county, including the maintenance and construction of public roadways and bridges and roadway drainage designated as eligible for expenditure of county funds. This jurisdiction shall be exercised pursuant to law, and nothing in this section shall be construed as limiting a county in performing public roadway and bridge maintenance and construction services within the incorporated municipal boundaries where permitted and in the manner prescribed by law."

Reding v. Boone County Judge Dale Wagner: "County judges in Arkansas are given the executive power to make discretionary decisions regarding the operation of the system of county roads ... [and the County Judge's decision will not be changed by the courts where]...there is no evidence of abuse or misuse of the county judge's discretion." , 350 Ark. 322, 86 S.W. 3d 386 (2002).

AG Opinion 88-364: The County Judge exercises substantial *discretion* as to whether to improve a county road and apply for condemnation of the improvement. A writ of Mandamus (which is a court order compelling the performance of a non-discretionary duty) sought in an attempt to require a County Judge to condemn land to create right-of-way likely would not stand because such a remedy will not issue from the judicial branch to control the discretion of an officer in the executive branch of government, unless the discretion is abused by acting arbitrarily.

I.A Constitutional Restrictions on Powers

There are fundamental legal principles on operation of the system of county roads in Arkansas which arise from: the Constitution of the United States, the Constitution of Arkansas, the Arkansas Code, and the body of case law precedence concerning property rights. These basic legal principles will greatly dictate the rights and extent of rights of the county in its easement for roadway purposes and the rights of adjacent landowners, utilities, cities, and the traveling public. Property Law is derived from centuries of case law in the U.S. and even the common law of England and generally is unchanging from decade to decade.

Amendment 5 of the Constitution of the United States: *"No person shall...be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation."*

Article 2, §22 of the Constitution of Arkansas: *"The right of property is before and higher than any other constitutional sanction; and private property shall not be taken, appropriated or damaged for public use, without just compensation."*

Article 16, §13 of the Constitution of Arkansas: *"Any citizen of any county, city or town may institute a suit, in behalf of himself and all other interested, to protect the inhabitants thereof against the enforcement of any illegal exactions whatsoever".*

I.B. Restrictions on County Road Funds

Road Tax - Amendment 61: Quorum Court may levy annually a county road tax not to exceed 3 mills. Revenues derived from the tax shall be used for the sole purpose of constructing and repairing public roads and bridges within the county.

AG Opinion 96-379: Amendment 61 is expressed in terms that are broad enough to encompass the payment of the cost of an employee in the road department, to the extent that the service of that employee is related to the purposes expressly stated in those restrictions.

AG Opinion 96-215: Money generated from the road tax may not be used for any other purpose than "constructing and repairing public roads and bridges within the county." Thus, building an animal shelter would not be permitted.

AG Opinion 91-005: Interest earned on road tax funds may only be used for the same purpose as the fund.

AG Opinion 86-178: The transfer of monies from the county general fund to the county road fund requires an appropriation by the quorum court.

AG Opinion 85-2: The erection of streetlights and subsequent monthly utility bills are acceptable expenditures of the county road fund because they are "necessary for the maintenance of safe and usable streets."

AG Opinion 91-140: Money generated from the road tax may not be used to purchase land to build a jail or a courthouse because Amendment 61 expressly provides "Revenues derived from the county road tax shall be used for the sole purposes of "constructing and repairing public roads and bridges within the county."

AG Opinion 2005-248: County Road funds derived from the county road tax under Amendment 61 are to be spent on public roads and bridges. Use on public school property was deemed prohibited.

Sanderson v. Texarkana, 103 Ark. 529-535, 146 S. W. 105, 107.: Regarding splitting road tax revenues between the county and municipalities within it, the Supreme Court of Arkansas said, "The amendment [No. 5] does not specify to what jurisdiction the road tax, when collected, shall be confided. It simply provides that the tax, when collected, shall be expended upon

the roads and bridges in the county.. The fund is therefore by the act directed to be expended for the very purpose named in said amendment to the Constitution. In the absence of any constitutional inhibition, the Legislature has full power, not only to apportion said road tax between the county and the municipality, but also.. it has the power to direct whether the municipal council or the county court shall be the agency which shall have the jurisdiction and the right to expend the portion of the fund apportioned to the city, when collected, upon the streets of such municipality."

In Op. Att'y Gen. No. 2014-19, the Attorney General's office confirmed *Sanderson* is still good law in Arkansas, which means special acts which dictate a division of county road tax money different than the standard equal division are constitutional. A.C.A. § 26-79-104 states in part, "Of the amount collected from the annual three-mill road tax in any county in the state, the county courts shall apportion one-half ($\frac{1}{2}$), *except when a greater amount is allowed by law*, of the amount collected upon property within the corporate limits of any city or town for use in making and repairing the streets and bridges in the respective cities or towns." There have been many legal challenges to laws which try to divide revenues unequally on the grounds that "the General Assembly may not pass any local or special Act" (Ark. Const. amend. XIV). However, a law is not special or local, but rather general, if it operates uniformly upon every person of a designated class throughout the state. *Kelleher v. Burlingame*, 110 S.W.2d 1065 (Ark. 1937).

However, A.C.A. § 26-79-104 has been interpreted rather strictly, as the language of the statute is clear. When asked, "Would it be permissible for the county and the cities to agree to a different distribution by Interlocal Agreement?" the Attorney General's office in Op. No.2010-161 said no. While cities and counties may enter in agreements for "joint cooperative action" pursuant to A.C.A. § 25-20-104, the action must be one that each party can undertake individually. So, a city could agree to turn over a portion of its road tax funds to the county if the funds were used to make improvements on city streets. "But because A.C.A. § 26-79-104 plainly states that a city must use the road tax for streets within the city, a city in my opinion lacks the necessary independent authority to arrange by Interlocal Agreement for the use of its share of the tax for county roads."

Additionally, "this provision does not condition apportionment of road tax revenues upon the city having levied a millage for

maintenance and operation. Rather, it unambiguously provides for this apportionment to the cities if tax funds were collected upon property within corporate limits. Moreover, this requirement is mandatory, making use of the mandatory term 'shall.'" Op. Att'y Gen. No. 2000-125. Once a city is incorporated, it is entitled to its share of road tax revenues, but is not entitled to receive revenue collected from properties now located within the new city limits during a time period before incorporation. *Id.* This opinion is based on statutory interpretation, so in absence of case law, a judicial ruling may be necessary in order to conclusively determine the issue. Op. Att'y Gen. no. 2007-301.

In A.C.A. § 14-301-101(1) (1987), the legislature tasked the city council with the "care, supervision, and control" of the city's streets and bridges to the city council. However, the county may perform "certain work and services" regarding construction or repair of streets and bridges within a municipality if there is an agreement between the municipality and the county, which is still subject to all properly established municipal zoning and planning ordinances. See AG Opinion No. 2006-050.

See also *City of Texarkana v. Edwards*, 88 S.W. 862 (Ark. 1905) stating one fifth of the tax collected in a "city of the first class" must be expended on roads outside of the city in any portion of the county where the county judge deems necessary. This leaves fourth fifths of the tax collected in the city to be expended within city limits; no tax collected outside of the city may be expended within the city. Counties do have the authority to expend road funds on roads and bridges within a municipality, as they are still roads and bridges within the county, but there must be cooperation with the city council and all local rules must be followed.

See generally, A.C.A §§ 25-20-101 to -108 providing for interlocal agreements. See Op. Att'y Gen. No 98-012 citing *Shofner v. Dowell*, 168 Ark. 229, 269 S.W 588 (1925) (appropriation by county from county road fund to aid improvement district in construction of streets surrounding university campus not unlawful as expenditure of county funds for state purpose, where roads were part of the county's highway system).

A.C.A § 26-79-104 states "Of the amount collected from the annual three-mill road tax in any county in the state, the county courts shall apportion one-half ($\frac{1}{2}$), except when a

greater amount is allowed by law, of the amount collected upon property within the corporate limits of any city or town for use in making and repairing the streets and bridges in the respective cities or towns." Acts of 1937, Act 153, § 1-3; Acts of 2019, Act 132, § 2, eff. July 24, 2019

A.C.A. § 14-14-811: The quorum court is authorized to pay a portion of the salary and related matching benefits of the county judge from the county road fund. The portion of the judge's salary paid from the county road fund shall not exceed 50%. At the discretion of the county judge, a county may pay a portion of the salary and related matching benefits of personnel of the local emergency management jurisdiction from the county road fund. The portion paid from the fund shall not exceed 50%. Acts of 1987, Act 675, § 2; Acts of 1999, Act 725, § 1, eff. July 30, 1999; Acts of 2011, Act 345, § 1, eff. July 27, 2011.

Limitations on spending powers:

In *Wiegel v. Pulaski County*, 32 S.W. 116 (Ark. 1895), the Court cited 1279, Sand. & H. Dig: "no county court, or agent of any county shall hereafter make any contract on behalf of the county unless an appropriation has been previously made therefor, and is wholly or in part unexpended" in finding there is no express or implied power in the county court to make contracts without an appropriation. When the levying court makes an appropriation for a contract, it signals its approval for it, and then the county judge may act upon it. Without such appropriation, the county court's jurisdiction is void.

In *Ladd v. Stubblefield*, 111 S.W.2d 555 (Ark. 1937) a county judge's acts of paying his salary and car maintenance expenses out of the general road fund was found to be improper. The car maintenance expenses were considered purely administrative and not directly related to the mandates in Amendment No. 3. However, a year later in the case *Lawhorn v. Johnson*, 120 S.W.2d 720 (Ark. 1938) the Court overturned the portion of this ruling which prohibited county judges from paying portions of their salary from the county road fund. The *Lawhorn* Court reasoned that county judges, when acting as ex officio road commissioners, are directly involved in building roads and bridges, thus satisfying the requirements for Amendment No. 61. County judges are allowed to be paid one half of their salary from the county road fund, as a result.

Equipment Restrictions

In *Needham v. Garner*, S.W.2d 194 (Ark. 1961), the county judge contracted with private persons for the use of county equipment for excavating and dirt moving projects involved in a U.S. Soil Conservation Service program. The judge secured reasonable compensation for the use of the operating costs and depreciation of the machinery and remitted the profits to the county treasury. The trial court found the work to be beneficial to county improvement and the soil program. *However*, the Arkansas Supreme Court found the county's profit and county improvement value to be irrelevant in making the decision that the county judge's actions of contracting with private individuals to use county equipment were improper. The court says, "We think there can be no doubt that if a county judge is given the right, limited only by his own discretion, to use county road machinery for private purposes, it could result in the need for more tax money to repair and replace the road machinery."

See also *Pogue v. Cooper*, 679 S.W.2d 207 (Ark. 1984), opining that Amendment 55 §3, which gave the county judge custody of county property instead of the county court, "did not change the law on this subject." "Custody should not be interpreted as the power to lease county property for use on private projects. While the county judge may have the power to lease county real property, leasing county personal property (like road equipment) is an entirely different matter and is prohibited in the above context.

This prohibition extends to non-profit entities as well, such as churches, or organizations which might have public entities as members. See Op. Att'y Gen. No. 97-248 opining the use of county road equipment to remove dirt from the Economic Development Alliance's property was likely prohibited because although the EDA served county interests and had public entities as members, their property is still considered privately owned by a non-profit cooperation. See also Op. Att'y Gen. No.94-138 opining the use of county road equipment to lay asphalt on a church parking lot was also prohibited.

See also Op. Att'y Gen. Nos. 95-215, 94-138, 97-248.

§ 14-14-810 allows counties with populations not less than 7,000 and not more than 7,500 to enact ordinances authorizing county judges to provide for the use of county road machinery, equipment, materials, supplies, and labor to make improvements to roadways serving private property that are deemed essential,

under standards and procedures established by the court, to provide access to the public roads of the county in cases of bad weather or the occurrence of other events which may impair citizens of this state from obtaining reasonable and necessary access to the public roads of this state. Acts of 1981, Act 268, §§ 1, 2. **Formerly** A.S.A. 1947, §§ 17-3810, 17-3811.

See Op. Att'y Gen. No. 97-248. See also *Dudley v. Little River County*, 305 Ark. 102, 805 S.W.2d 645 (1991).

On June 11-12, 2019 former Fulton County Judge, Jim Kendrick, contracted with county employees to work on his private driveway using county equipment. The county employees were still being paid by the county while performing the work and used one road grader and two dump trucks to perform the work. The next week Kendrick wrote a check for \$1,812 from his personal checking account for "road equipment, material, and labor used for the work on his private driveway." However, testimony from three local contracting companies estimated the cost of the former judge's project to be between \$4,800 and \$6,500. After an investigation by the Arkansas State Police, Kendrick was arrested in August 2019 and subsequently convicted of Theft of Property, a class D felony, in January 2020. Kendrick was fined \$10,000, and upon the completion of his sentence, was pardoned by Governor Hutchinson.

I.G. Police Power of Counties: Speed Limits, Weight Limits and Traffic Control Devices

Until 2007, the speed limit on county roads was generally 65 unless posted otherwise. Since 2007, it is 40 mph unless posted otherwise. The power to set speed limits is within the power of the county judge. (See, generally, A.C.A. §27-67-102; Amendment 55). The power to set speed limits on county roads is vested in the county judge, not the quorum court. AG Opinion 94-343.

27-51-216. Speed limits and traffic-control devices on county roads – Penalty. (a) As used in this section, "county road" means a public road that is not a state highway, interstate highway, or city street within the jurisdiction of a given county. (b) (1) **Each county judge may establish speed limits on county roads within the jurisdictional boundaries of his or her county.** (2) **If a county judge has not established a speed limit on a county road within**

the jurisdictional boundaries of his or her county, then the speed limit shall be forty miles per hour (40 m.p.h.) on the county road. (c) (1) A person who pleads guilty or nolo contendere to or is found guilty of a violation of a speed limit on a county road established by a county judge or as provided under this section shall be assessed a penalty as provided under § 27-50-305. (2) A person who pleads guilty or nolo contendere to or is found guilty of speeding in excess of fifteen miles per hour (15 m.p.h.) over the posted speed limit on a county road established by a county judge or as provided under this section is guilty of a Class C misdemeanor. (d) A traffic-control device that is erected on a county road shall conform to the uniform manual on traffic-control devices adopted by the State Highway Commission. **History.** Acts 2007, No. 667.

A.C.A. §27-51-206: Altering prima facie speed limits—Signage. (a) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that the prima facie speed permitted under this subchapter at any intersection is greater than is reasonable or safe under the conditions found to exist at the intersection, then the local authority shall determine and declare a reasonable and safe prima facie speed limit, which shall be effective when appropriate signs giving notice are erected at such intersection or upon the approaches thereto if approved by the State Highway Commission.

(b) Local authorities in their respective jurisdictions may, in their discretion, authorize by ordinance higher prima facie speeds than those stated in § 27-51-201 upon through highways or upon highways or portions thereof where there are no intersections or between widely spaced intersections, if signs are erected giving notice of the authorized speed, but local authorities shall not have authority to modify or alter the basic rule set forth in § 27-51-201(a) or in any event to authorize by ordinance a speed in excess of forty-five miles per hour (45 m.p.h.). **History:** Acts of 1937, Act 300, § 52. Formerly: Pope's Dig., § 6710; A.S.A. 1947, § 75-602.

A.C.A. §27-52-103: Obedience to official traffic control devices required. The driver of a motor vehicle or operator of a streetcar shall obey the instructions of any official traffic control device placed in accordance with the provisions of this chapter unless he or she is: (1) Directed by a police officer; or (2) Yielding the right-of-way to a funeral procession as required by § 27-51-1408. **History:** Acts of 1937, Act 300, § 31; Acts of 2017, Act 816, § 5, eff. Aug. 1, 2017. Formerly: Formerly Pope's Dig., § 6689; A.S.A. 1947, § 75-504.

27-52-106. Local highways. (a)(1) Local authorities in their respective jurisdictions shall place and maintain traffic control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic.(2) All traffic control devices erected shall conform to the state manual and specifications.(b) Local authorities in exercising those functions referred to in subsection (a) of this section shall be subject to the direction and control of the State Highway Commission. **History.** Acts 1937, No. 300, § 30. Formerly: Pope's Dig., § 6688A.S.A. 1947, § 75-503.

See also Op. Att'y Gen. No.2003-081 opining counties must first seek Highway Commission's approval for the erection of traffic control devices on state highways.

A.C.A. §27-49-106: Powers of local authorities. Local authorities may exercise reasonable police power over streets and highways in their jurisdiction by regulating traffic by means of police officers or traffic control signals. (a)(1) No local authority shall enact or enforce any rule or regulation in conflict with the provisions of this subtitle unless expressly authorized in this subtitle.

(2) Local authorities may, however, adopt additional traffic regulations which are not in conflict with the provisions of this subtitle.

(3) Local authorities may enact and enforce traffic rules and regulations which are not in conflict with the provisions of this subtitle for private roadways but only after being granted express permission by the owner of the private roadway within the planned community.

(b) The provisions of this subtitle shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

(1) Regulating the standing or parking of vehicles, including the ability to establish districts for the purpose of limiting the time, place, and manner of public parking in designated areas;

(2) Regulating traffic by means of police officers or traffic control signals;

(3) Regulating or prohibiting processions or assemblages on the highways;

(4) Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific

direction;

(5) Regulating the speed of vehicles in public parks;

(6) Designating any highway as a through highway and requiring that all vehicles stop before entering or crossing it or designating any intersection as a stop intersection and requiring all vehicles to stop at one (1) or more entrances to the intersection;

(7) Restricting the use of highways as authorized in §§ 27-35-101 -- 27-35-111; and

(8) Regulating or prohibiting the traffic from and use of mopeds, three-wheeled vehicles, and other similar vehicles.

(c) No ordinance or regulation enacted under subdivision (b)(1), (4), (5), (6), or (7) of this section shall be effective until signs giving notice of local traffic regulations are posted upon or at the entrances to the highways or parts affected, as may be most appropriate.

(d) No provision of this subtitle, of other state traffic laws, or of any local traffic ordinance or regulation enacted under authority of subdivision (a)(3) of this section shall be effective on a private roadway of a planned community until signs giving notice of the owner's grant of permission to enforce those state and local traffic regulations are posted upon or at the entrances to the planned community's private roadways or affected parts thereof. History: Acts of 1937, Act 300, §§ 25, 26; Acts of 1983, Act 405, § 1; Acts of 1994, 2nd Ex. Sess., Act 32, § 2, eff. Aug. 25, 1994; Acts of 1999, Act 1199, § 1, eff. July 30, 1999. Formerly: Pope's Dig., §§ 6683, 6684; A.S.A. 1947, §§ 75-425, 75-426.

Garrison v. City of Alpena, 350 S.W.2d 690 (Ark. 1961) is an example of a case in which a city relied on its powers as a "local authority" to enforce a stoplight law passed by local ordinance. The Supreme Court of Arkansas upheld the authority of the city to pass local traffic regulations in accordance with the above statute.

§ 12-10-328. 911: Addressing authority--Data maintenance

(a) A chief executive shall designate a 911 addressing authority that shall create and maintain street centerline and address point data in a geographic information system format.

(b) The street centerline and address point data created under subsection (a) of this section shall:

(1) Be compatible with the standard database requirements and best practices developed by the Arkansas Geographic Information Systems Office as part of the Arkansas Master Address Program; and

(2) Be transmitted to the office by a method and with a frequency agreed upon by the office and the 911 addressing authority designated under subsection (a) of this section. Acts of 2017, Act 663, § 1, eff. Aug. 1, 2017.

Outside of this law, there are not yet any formal laws or processes for the naming of county roads in Arkansas. Op. Att'y Gen. No. 96-375 opines, "In the absence of any state law procedures, it is my opinion that final authority in this regard rests, similarly, with the county judge pursuant to his constitutional power and duty to operate the system of county roads. Ark. Const. amend. 55, § 3. See also A.C.A. §§ 14-14-1101 and -1102. Thus, while implementation or administration of the 911 system may provide the initial impetus for naming or renaming a county road, it is my opinion that the county judge's concurrence in the matter will be necessary, in recognition of his executive powers under Amendment 55. See also A.C.A. § 14-14-1102(b)(1)... The county judge cannot act arbitrarily. And his actions would have to be viewed in light of any applicable procedural requirements."

Similarly, the AG opined in Op. Atty. Gen. No. 2001-319 that the naming of city streets is "is generally a matter for the city," but there are no formal laws or cases governing this process either. A county may work with the city to change street names in the city in accordance with this statute, but there must be some type of interlocal agreement to do so.

Truck Routes/ Weight Limits

General Rule: The State has the power to set size and weight limits on all roads in the state. County can place weight limits on roads for up to 90 days in a calendar year (by ordinance and posted). **A.C.A. §27-35-103 (b)**. County has the power to restrict routes of commercial trucks over county roads by using weight limits on roads under their control (by ordinance and posted). **A.C.A. §27-35-103(d)**. "A local ordinance which prohibits certain types of traffic from traveling on designated streets for the purpose of preventing the deterioration of the streets is clearly within the authority granted by the [statutes]." **AG Opinion 97-417**.

27-35-103. Effect of governing law. (a) The maximum size and weight of vehicles specified in this chapter shall be lawful throughout this state, and local authorities shall have no power or authority to alter these limitations, except as provided in this chapter. (b)

Local authorities, with respect to highways under their jurisdiction, by ordinance or resolution, may prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles to be operated upon any highway, for a total period of not to exceed ninety (90) days in any one (1) calendar year, whenever the highway, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. (c) (1) The local authority enacting any such ordinance or resolution shall erect, or cause to be erected and maintained, signs designating the provisions of the ordinance or resolution at each end of that portion of any highway affected thereby. (2) The ordinance or resolution shall not be effective unless and until signs are erected and maintained. (d) (1) Local authorities, with respect to highways under their jurisdiction, by ordinance or resolution, may also prohibit the operation of trucks or other commercial vehicles or may impose limitations as to the weight thereof on designated highways. (2) The prohibitions and limitations shall be designated by appropriate signs placed on such highways. (e) (1) The State Highway Commission shall likewise have authority as granted in this section to local authorities to determine by resolution and to impose restrictions as to the weight of vehicles operated upon any highways under the jurisdiction of the commission. (2) The restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway affected by such resolution. **History.** Acts 1937, No. 300, § 139; Acts 1959, No. 307, § 53; Acts 1995, No. 851, § 1. Formerly: Pope's Dig., § 6799; A.S.A. 1947, § 75-801

Until 2007, the county was prohibited from setting weight limits on public bridges (the law said the county was to direct the ASHC to do so and the ASHC had refrained from doing so). The 2007 law now provides violations of weight limits on bridges posted by counties to be Class C Misdemeanors.

In *House v. City of Texarkana*, 279 S.W.2d 831 (Ark. 1955), the plaintiff operated a gas business for heavy trucks close to but outside of the city limits. He sought to challenge a city ordinance that regulated heavy truck traffic on certain streets. One of the regulated streets was the main route to his business, and he argued that the ordinance unfairly deprived him of his property and significantly hurt his business. The Court said, "There can be no doubt that cities such as Texarkana have the power, under our statutes and decisions, to pass ordinances of this nature." The Court found this type of ordinance to be reasonable and not

arbitrary because it was for the purpose of protecting the streets of the city from damage.

Op. Att'y Gen. No. 94-066: The Attorney General's Office interpreted A.C.A. § 14-14-1102(b)(1)(A)(i) as arguably giving the county judge the power to impose load limits on county roads, given the judge complies with all applicable legal provisions. "In Subchapter 5 of the Transportation Code, governing the protection of road surfaces, there is a provision that would appear to give the power in question to the Arkansas State Highway Commission, to be exercised under the direction of the county judge. Section 27-66-501(b) (1987) directs and authorizes the Highway Commission, under the direction of the several county judges of the state, "to make a classification of all roads with respect to the weight of loaded or unloaded vehicles which may be used thereon." The Commission's responsibilities in this area are set out in § 27-66-501(c) and (d), and both criminal and civil penalties are prescribed for violation of the load limits established by the Commission. See A.C.A. §§ 27-66-503 and -504 (1987). The county court of each county, acting through the county judge, is, however, given authority in times of emergency caused by the elements to prohibit vehicles with a net load of more than 3,500 pounds from operating on or over the county highways until the judge determines that the emergency has passed. See § 27-66-505 (1987)."

27-66-501. Classification of roads by weight of vehicles used thereon. (a) Exclusive of city streets, state highways, or interstates, **a county judge may post weight limits on public bridges in his or her jurisdiction in connection with federally mandated bridge inspections.** (b) Posted weight limit signs shall be in accordance with state and federal law. (c) (1) **It is unlawful for a person to drive, operate, or move a motor vehicle, an object, or a contrivance or for an owner of a motor vehicle, object, or contrivance to cause or permit the motor vehicle, object, or contrivance of a size or weight exceeding the posted weight limit to be driven, operated, or moved.** (2) A person or an owner operating a motor vehicle, an object, or a contrivance under an overweight permit issued by the Arkansas Department of Transportation is exempt from penalty under subdivision (c)(1) of this section. (d) **A violation of this section is a Class C misdemeanor.** (e) Even if authorized by an overweight permit issued by the Arkansas State Highway Department of Transportation, **a person or an owner operating, driving, or moving a vehicle, an object, or a contrivance upon a public bridge shall be liable for all damage that the public bridge may sustain as a result of: (1) Careless, negligent, or illegal operation, driving, or moving of a vehicle,**

an object, or a contrivance; or(2) Operation, driving, or moving of a vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight limits in this chapter. **History.** Acts of 1919 (2nd Ex. Sess.), Act 222, §§ 2, 3, p. 4253; Acts of 2007, Act 453, § 1, eff. July 31, 2007; Acts of 2009, Act 483, § 7, eff. July 31, 2009; Acts of 2017, Act 707, §§ 380, 381, eff. Aug. 1, 2017. **Formerly:** C. & M. Dig., §§ 5510, 5511; Pope's Dig., §§ 7152, 7153; A.S.A. 1947, §§ 76-122, 76-123.

Violation of A.C.A. §27-66-503 constitutes a misdemeanor. Does not apply as to a special trip for the movement of some particular thing or vehicle from one location to another. If guilty of misdemeanor, liable in a civil action for damages. (A.C.A. §27-66-504.

Rough Metal Tires -License for certain tires, A.C.A. §27-66-502: The using, driving, or operating upon any improved hard-surfaced public highway of this state of any tractor, truck, automobile, or other vehicle having corrugated, spiked, jointed, or other rough-surfaced metal tires is prohibited without first procuring from the county judge of the county in which the road is situated a license permitting such use or operation. History: Acts of 1919 (2nd Ex. Sess.), Act 222, § 1, p. 4253. Formerly: C. & M. Dig., § 5509; Pope's Dig., § 7151; A.S.A. 1947, § 76-121.

Heavily Loaded Vehicles During, Emergencies - A.C.A. §27-66-505:

(a) The county court of each county acting through the county judge is given the authority in times of emergency caused by unusually heavy or long-continued rainfalls or by freezes, thaws, snows, and other unusual conditions caused by the elements to prohibit vehicles having a net load of more than three thousand five hundred pounds (3,500 lbs) from operating on or over the county highways whereon such conditions exist until the time that the county judge shall determine that the emergency has passed.

(b) Whenever, in the judgment of the county judge, an emergency arises in his or her county, as described in subsection (a) of this section, he or she shall cause notice to be posted in the county courthouse to the effect that until further notice the operation of vehicles having a net load of more than three thousand five hundred pounds (3,500 lbs) over the highways described in the notice is prohibited. Notice shall also be posted in at least ten (10) of the most prominent and public places in the county and be published in a newspaper in the county if practicable. Notice may also be given by mail, telephone, or personal contact to persons operating vehicles, and notice by mail, telephone, or personal contact shall be sufficient notice for the purposes of this section.

(c) If any person, after having knowledge that the operation of vehicles over the county highways or any designated part thereof having a net load of more than three thousand five hundred pounds

(3,500 lbs) has been prohibited by the county judge during an emergency as described in this section, violates this section by using the roads contrary to the order of the county judge, the person shall be guilty of a misdemeanor. Upon conviction, he or she shall be fined in any sum not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200). History: Acts of 1949, Act 172, §§ 1 to 3. Formerly: A.S.A. 1947, §§ 76-126 to 76-128.

"Preservation of Local Roads Act" ACA 14-16-801 et seq (801-808):

In 2009 the General Assembly adopted the "Preservation of Local Roads Act", Act 810 of 2009, codified under ACA 14-16-801 et seq (801-808). The law authorizes counties to address damages to roads from disposal hauling operations related to oil and gas by designating a local truck route for haulers to and from a disposal facility in accordance with an evaluation by the county judge and an assessment ordinance. ArDot kindly directed a project through the TSqure program and Mack-Blackwell University of Arkansas that developed a feasible means of establishing weight limits for rural paved roads in Arkansas. So, any county seeking to set weight limits on roads may want to contact ArDot Planning Division.

II.A. What is a County Road? Public Road? Private Road?

A public road is not a county road unless acquired by county or declared a county road by the county judge. The county can maintain roads that are public rights of way, but that does not make them county roads. Maintenance alone does not designate a road as a county road. (AG Opinion 91-434). There must be an action by the county judge.

The public can acquire the right to use a roadway by prescriptive right through use as a public way for 7 years in a manner openly adverse to the owner. *Barbee v. Carpenter*, 223 Ark. 60 (1954). Adverse possession is established by continuous possession of lands for more than 7 years and the possession must be open (visible), notorious, distinct, exclusive, hostile and with the intent to hold against the true owner. A.C.A. § 18-61-101 and *Moses v. Dautartas*, 53 Ark. Ap.. 242, 922 S.W. 2d 345 (1996). Unlike adverse possession, prescriptive use need not be exclusive for the requisite period. However, the prescriptive use must be overt and make it clear to the true owner that an adverse use and claim is being asserted. *Manitowoc Remanufacturing, Inc. v. Vocque*, 307 Ark. 271, 819 S.W.2d 275 (1991); *Fields v.*

Ginger, 54 Ark.App. 216, 925 S.W.2d 794 (1996). In the same vein, permissive use may not ripen into an adverse claim unless the adverse claimant commits an open and obvious act that would put the true owner on notice that her use is now adverse. *Massey v. Price*, 252 Ark. 617, 480 S.W.2d 337 (1972). This overt act does not have to consist of the adverse users openly communicating their intentions to adversely possess to the true owner and may be achieved in other ways. *Gazaway v. Pugh*, 69 Ark.App. 297, 12 S.W.3d 662 (2000). When the true owner has sufficient information to lead her to a fact, she is put on inquiry notice and shall be deemed cognizant of that fact, which means true owners should never "sit on their rights" if they believe their land is being used adversely. *Diener v. Ratterree*, 57 Ark.App. 314, 945 S.W.2d 406 (1997).

True owners should not "assume that permission requested and given to a landowner is imputed to all subsequent owners of such land." *Johnson v. Jones*, 977 S.W.2d 903 (Ark. App. 1998). See *Kimmer v. Nelson*, 218 Ark. 332, 236 S.W.2d 427 (1951), where the court held the original permissive use of a passageway across the land of another may have been abandoned after forty years of successive owners and non-objection by true owners after a long passage of time.

The difference in gaining an easement by prescription and adverse possession is the right gained: right to use v. title. Once prescriptive right vests, the county has authority to maintain the road. (A.C.A. §14-296-101) An easement has generally been described by the courts in Arkansas as a right to use the land of another for a specific purpose. *Loyd v. Southwest Ark. Utilities Corp.*, 264 Ark. 818, 580 S.W. 2d 935 (1979) and a liberty, privilege or advantage which one person may have in the lands of another. *Shuman v. Stevenson*, 215 Ark. 102, 219 S.W. 2d 429 (1949). The elements to establishing an easement by prescription are: (1) continuous and uninterrupted use. *Barbee*, supra. (2) Open and notorious use. *Patent v. State*, 50 Ark. 53 (1887). (3). Adverse or hostile use. *Brumley v. State*, 83 Ark. 236 (1907) and *Fullenwider v. Kitchens*, 223 Ark. 442 (1954). (4) By claim of right. *Birdwell v. Ark. Power & Light*, 191 Ark. 227 (1935). (5). Use for prescriptive period. *Howard v. State*, 47 Ark. 431 (1886).

Easements can also be created by express grant or conveyance. *Hatfield v. Ark. Western Gas Co.*, 5 Ark. App. 26, 632 S.W. 2d 238 (1982). Also, the county may acquire an easement for roadway purposes pursuant to A.C.A. §14-298-120. Once gained, a prescriptive easement may be abandoned by more than seven years of non-use, in which case the owner may re-enter and prevent the

previous easement holder from reestablishing its prescriptive right to use. *Owners Assn. of Foxcroft Woods, Inc. v. Foxglen Associates*, 57 S.W.3d 187 (Ark. 2001),

In *Owners Assn. of Foxcroft Woods, Inc. v. Foxglen Associates*, the Court held that the seven year requisite period for a prescriptive easement on a road begins to run once vehicular traffic begins using the road. Additionally, use of a road by a large number of vehicles for a long period of time is presumed to be adverse, not permissive because the true owner cannot give each and every person permission to use the road.

On September 16th, 2019, the County and the County Court issued an order declaring Salem Cut Road a "public road" by prescriptive easement, and the Nippers owned the land through which Salem Cut Road runs. The Nippers asserted Salem Cut Road is private because it had been used by their family for many years and because it was never incorporated into the system of county roads. Additionally, there was a sign that read "County Maintenance Ends" at the start of Salem Cut Road, which had been at the beginning of the road since at least 2014. The Nippers maintained the sign signified private use and countered the County Judge's assertion that the county had performed work on the road. However, the County maintained that members of the public had, in fact, used the road since the early 1900s, thus granting the County a prescriptive easement. The Circuit Court found the "county maintenance ends" sign in addition to testimony from previous county judges that the county had not maintained the road to be conclusive that Salem Cut Road is a private road and no prescriptive easement had been attained by the county.

Arkansas Game & Fish Comm'n v. Lindsey
292 Ark. 314 (1987) & 299 Ark. 249 (1989)

Landowner claimed that a county road ran through the Game & Fish's wildlife preserve. Maintenance alone does not designate a road as a county road. County roads are distinguished from public roads by prescriptive right. Public can acquire the right to use a roadway by prescriptive right through use as a public way for 7 years in a manner openly adverse to the owner. The Court held the 3 ways to create county road are:

- {1}. Dedication of land to county. See: A.C.A. §§ 27-66-207 and -208.

- {2}. Condemnation procedures. See: A.C.A. §§ 14-298-101 to -125.
- {3}. By having the public road designated as a mail or bus route as per A.C.A. §§ 27-66-205 and -206; *Johnson v. Wylie*, 284 Ark. 76, 679 S.W.2d 198 (1984).

The Court determined that no county road had been established. The Court specifically and systematically held: **first**, there was no dedication of either the old or the new rights-of-way by the landowners or their predecessors; **second**, there was no condemnation action of said lands; and **third**, there was no order of the county judge, after notice, declaring or designating a mail route or a school bus route of the road. The court also noted: "A former County Judge testified that he thought the county owned the road because someone, in 1975, wrote a county road number on a Faulkner County road map which was kept at the county garage. Of course, such non-judicial action by someone without statutory or common law authority, was not sufficient to transfer title to Faulkner County.

Gazaway v. Pugh, 69 Ark. App. 297 (2000): One asserting an easement by prescription must show by a preponderance of the evidence that his or her use has been adverse to the true owner and under a claim of right for the statutory period. *Johnson v. Jones*, [64 Ark. App. 20, 977 S.W.2d 903](#) (1998). The determination of whether the use of a roadway is adverse or permissive is a question of fact, and a chancellor's finding with respect to the existence of a prescriptive easement will not be reversed by this court unless it is clearly erroneous. *Id.* Where there is usage of a passageway over land, whether it be by permission or otherwise, if that usage continues openly for seven years after the landowner has actual knowledge that the usage is adverse to this interest or where the usage continues for seven years after the facts and circumstances of the prior usage are such that the landowner would be presumed to know the usage was adverse, then such usage ripens into an absolute right. *Fullenwider v. Kitchens*, [223 Ark. 442, 266 S.W.2d 281](#) (1954). Moreover, the length of time and circumstances under which the roadway was opened and used are sufficient to establish an adverse use. *Zunamon v. Jones*, [271 Ark. 789, 610 S.W.2d 286](#) (Ark. App. 1981). We find this to be a very close case because almost all of the appellees' witnesses were personally acquainted with the Gazaway family, and their testimony about their use of the roadway was not in any way inconsistent with the scope of permission that the Gazaway family at least implicitly extended to

them. We also find no significance in the fact that the county graded and graveled the road; there is no dispute that the county regularly provided this service for private landowners.

Adverse Possession vs. Government

No adverse possession against Cities: A.C.A. §14-301-113 provides that: (a) No title or right of possession to any alley, street, or public park, or any portion thereof, in any city or incorporated town in this state shall or can be acquired by adverse possession or adverse occupancy thereof.

No adverse possession against Counties: A.C.A. § 22-1-201 provides that landowners cannot adversely possess against any public thoroughfare, street, highway or property so platted. Likewise, no adverse possession lies against county property, school property or city property. A.C.A. § 22-1-204.

In *Neyland v. Hunter*, 668 S.W.2d 530 (Ark. 1984), the plaintiffs claimed they had acquired a prescriptive right to use a road crossing their neighbors' land. The requisite period for adverse possession is seven years, and while the plaintiffs had only been using this road for two, they claimed a statute about mail routes had shortened the requisite period to two years. However, the Court found the legislative intent Act 666 of 1923 to be the protection of rural roads from these types of claims. Because the plaintiffs had not adversely possessed the route for the requisite period of seven years, they did not acquire a prescriptive right. Likewise, because the county had not worked the road for the requisite period of seven years, it had not adversely possessed the route either.

Governmental authorities may assert their dominion by working a road for seven years, under which the public use is under a claim of right. *Patton v. State, supra; Merritt Mercantile Co. v. Nelms*, 168 Ark. 46, 269 S.W. 563 (1925); *Thompson v. Morris*, 218 Ark. 542, 237 S.W.2d 473 (1951). Public roads do not have to be established by a formal order of the county court; prescriptive rights-of-way may be established by the county working the road for the requisite period of seven years. *Neyland v. Hunter*, 668 S.W.2d 530 (Ark. 1984). See also Op. Att'y Gen. No. 99-254.

A public entity, like a city or county may acquire an easement by prescription through adverse use under a mistaken claim of right for the requisite period. See Op. Att'y Gen. No. 2002-197.

Prescriptive right-of-way and adverse possession both require a period of seven years to pass, but prescriptive use does not require exclusive use. *Neyland v. Hunter*, 668 S.W.2d 530 (Ark. 1984).

Op. Att'y Gen. No. 2008-136: Generally, adverse possession is a term used for private takings. Government takings are usually in the context of eminent domain. If a county does acquire a prescriptive easement over one's property, the county does not actually hold title to the property, so it is still taxable through typical procedures.

Rights Derived from Easements

Boundary disputes comprise a large segment of disputes pertaining to easements. The location of easement boundaries is determined by a "preponderance of the evidence". *Sunray Oil v. Mahaffey & Associates*, 251 Ark. 623, 474 S.W. 2d 119 (1971). When the calls within a legal description are in conflict: (1) natural objects or landmarks control over (2) artificial monuments which control over (3) adjacent boundaries which control over (4) courses and distances. *Rice v. Whiting*, 248 Ark. 592, 452 S.W. 2d 842 (1970); and *Anderson v. Welborn*, 254 Ark. 280, 492 S.W. 2d 892 (1973). The reputation of the location of a boundary is sufficient to establish it. *Ball v. Messmore*, 226 Ark. 256, 289 S.W. 2d 183 (1956). Boundaries may be inferred by acquiescence from the landowners' conduct over the years. *Warren v. Collier*, 262 Ark. 656, 559 S.W. 2d 927 (1978); *Ward v. Adams*, 66 Ark. App. 208, 989 S.W. 2d 550 (1999). Bearings or courses are rather arbitrary. Bearings are generally used to determine the general direction intended to aid in finding monuments and other evidence. County Court Orders often use bearings and distances from the "construction centerline" or "survey centerline". Over time, the actual construction centerline of a roadway surface changes; also, road construction can be imperfect and the actual centerline opened during acquisition is modified by change order or by actual construction results. Therefore, the right of way acquired by a County Court Order may be extremely difficult to ascertain on the ground. Roadways themselves and fence lines may be considered monuments, if so intended. *Brown v. Windland*, 249 Ark. 6, 457 S.W. 2d 840 (1970). For example, where a conveyance of land is described as "along, bounded by or on" a street, under Arkansas law, this generally means that the conveyance is to the center of the roadway or street. *Crute v. Hyatt*, 220 Ark. 537, 249 S.W. 2d 116 (1952).

II.D. Declaring a Road to be a Public Road

County Judge's Discretion to Designate Specific Roads

Any road that is the most direct route to the courthouse for 10 or more families if that road is graded and has been used by the general public as a road for at least 2 years. A.C.A. §27-66-204. Any road that is used as a mail route if the road is designated as such by the proper postal authorities. (A.C.A. §27-66-205). Any road used as a school bus route: Must take charge of the road and maintain and repair the road the same as other county roads. (A.C.A. §27-66-206). Any street or road dedicated to the public as a public thoroughfare - provided that a bill of assurance making the dedication is properly recorded. (A.C.A. §27-66-207). Any strip of ground deeded by the owners to the county for a public thoroughfare. (A.C.A. §27-66-208).

A.C.A. 27-66-201. Overseers appointed- Public roads. All public roads in the several counties in this state on which the several county courts have, from time to time, appointed overseers to work, and directed that hands should be apportioned therefor, shall be declared and deemed to be public roads, without regard to any informality of the several county courts, or either of them, by which they were ordered to be declared public roads in their several counties. History. Acts 1859, No. 158, § 1, p. 188. Formerly: C. & M. Dig., § 5223; Pope's Dig., § 6937; A.S.A. 1947, § 76-101.

27-66-202. Designation- Additional public roads. All roads and highways established by any of the county courts of this state since November 1, 1865, as public roads, and all public roads of this state upon which overseers have been appointed by any of the county courts of this state since November 1, 1865, are declared public roads and highways. History: Acts of 1868, Act 10, § 1, p. 34. Formerly: C. & M. Dig., § 5224; Pope's Dig., § 6938; A.S.A. 1947, § 76-102.

27-66-203. Designation of public highways. All roads in this state heretofore laid in pursuance of law, all roads heretofore laid out by the United States in this state and all public roads known as military roads, which have not been vacated according to law are declared public highways. History: Acts of 1871, Act 26, § 1, p. 56. Formerly: C. & M. Dig., § 5222; Pope's Dig., § 6936; A.S.A. 1947, § 76-103.

27-66-204. Designation of county roads. The county judge in his or her discretion may designate as a county road any road that is the most direct route to the county courthouse for ten (10) or more families if that road is graded and has been used by the

general public as a road for at least two (2) years. History: Acts of 1923, Act 666, § 3; Acts of 1983, Act 165, § 1. Formerly: Pope's Dig., § 6971; A.S.A. 1947, § 76-104.

27-66-205. Classification of mail routes. The county judge, in his discretion, may designate as a county road any road that is used as a mail route or a free rural mail delivery route if the road is designated as a mail route by the proper postal authorities of the United States Government. History. Acts 1923, No. 666, § 4; Acts of 1983, Act 165, § 2. Formerly: Pope's Dig., § 6972; A.S.A. 1947, § 76-105.

27-66-206. Classification- School bus routes. (a) The county judge, in his or her discretion, may designate as county roads those roads used as school bus routes. (b) Upon declaring a road a county road pursuant to this section, the county judge shall take charge of the road and cause the road to be maintained and repaired the same as other county roads. **History.** Acts 1923, No. 461 §§ 1, 2; Acts of 1947, Act 104, § 1; Acts of 1983, Act 166, §§ 1, 2. Formerly: Pope's Dig., §§ 6969, 6970; A.S.A. 1947, § 76-106, 76-107.

27-66-207. Streets or roads dedicated to the public. (a) The county judge, in his discretion, may designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making the dedication is properly recorded. (b) Unless a plat clearly reflects roads are private roads, the county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of: (1) Roads for perpetual maintenance; and (2) Dedication of land for public purposes. **History.** Acts of 1923, Act 666, § 5; Acts of 1983, Act 463, § 1; Acts of 2005, Act 861, § 1, eff. Aug. 12, 2005; Acts of 2007, Act 827, § 239, eff. July 31, 2007. Formerly: Pope's Dig., § 6973; A.S.A. 1947, § 76-108.

27-66-208. Discretion to designate- Deeds. The county judge, in his discretion, may designate as a county road any strip of ground deeded by the owners to the county for a public thoroughfare. History: Acts of 1923, Act 666, § 6; Acts of 1983, Act 463, § 2. Formerly: Pope's Dig., § 6974; A.S.A. 1947, § 76-109.

Johnson v. Wylie: Landowner sat on his rights and watched the school bus and mail carrier use his road a road on his land for 10 years. The road was then declared to be a public road by court order. The owner sued arguing that it was a taking but admitted that he considered the road to be a county road. Court held that

there was no taking here, because the owner had lost right to seek just compensation for prescriptive use. *Supra*, 284 Ark. 76 (1986).

Frazier-Hampton v. Hon. Mike Hesterly, County Judge, CA 04-280 (Ark. App. 1-26-2005: Frazier put up gate near his property line just past and behind his resident upon a gravel road blocking access to one homeowner at end of gravel road behind Frazier property. Threats were made to road workers attempting to work the road. The good and wise county judge executed an order, after notice and a hearing, declaring the entire road a county road based upon the findings that the entire road had been used as a mail route and maintained by the county for over 7 years. The court appeals simply could not find such a wise and correct ruling by the county judge of Ouachita County to be an abuse of discretion.

5-71-214. Obstructing a highway or other public passage. (a) A person commits the offense of obstructing a highway or other public passage if, having no legal privilege to do so and acting alone or with another person, he or she renders any highway or other public passage impassable to pedestrian or vehicular traffic. (b) It is a defense to a prosecution under this section that: (1) The highway or other public passage was rendered impassable solely because of a gathering of persons to hear the defendant speak or otherwise communicate; (2) The defendant was a member of a gathering contemplated by subdivision (b)(1) of this section; or (3) The highway or public passage obstructed has not been established as a city street, county road, or state or federal highway under the laws of this state and no civil court has established a right of passage by prescription for the highway or public passage. (c) Obstructing a highway or other public passage is a Class E* (see below) misdemeanor. **History.** Acts of 1975, Act 280, § 2915; Acts of 1999, Act 1105, § 1, eff. July 30, 1999. Formerly: A.S.A. 1947, § 41-2915.

*Note: A.C.A § 5-71-214 was amended by the 2021 Arkansas Laws Act (Act 1014) to read "Obstructing a highway or other public passage is a class A misdemeanor."

27-66-404. Penalty for obstructing. (a) If any person obstructs a road established under the laws of this state by felling any trees across it or by placing an obstruction on the road, he or she shall be guilty of a Class C misdemeanor. (b) The person also shall forfeit one hundred dollars (\$100) for every day he or she allows the obstruction to remain after he or she has been notified to remove it. **History.** Acts of 1897, Act 17, § 3, p.

24; Acts of 2009, Act 747, § 1, eff. July 31, 2009. Formerly C. & M. Dig., § 5505; Pope's Dig., § 7147; A.S.A. 1947, § 76-112.

Disputes between landowners to whether a road is currently a public road or private road and/or to cease and desist obstructing is often a matter between parties for the jurisdiction of the circuit courts. However, a county judge may deem a road to be a public road as per *Hesterly* case above. Also, a sheriff can cite a person for violating ACA 5-71-214 and have that issue adjudicated in district court as a criminal case. After an adjudication and 30 days expiration of the appeal time, will give the county judge extra cover to conduct self-help removal. See: *Townsend v. ASHC*, 317 Ark. 581; 322 Ark. 122; 326 Ark. 731 (1996). Several counties have ordinances prohibiting encroachments. If the cards are strong, a smart move is to have the sheriff cite for violating ACA 5-71-214 or the county ordinance, if any, and the criminal proceeding adjudicate whether the road is public or private and if not appealed use self-help. Otherwise, going to courts should best be pursued by private parties can take years (note *Townsend* went to the Arkansas Supreme Court 3 times!).

A.C.A. § 18-61-101(2):

(2) The public's right to use an unpaved road established by an easement is abandoned if:

(A) Access is denied by a gate across the road; and

(B) The gate is closed and locked continuously, other than briefly to allow access by the owner or others with the owner's express permission, for one (1) year.

(3) An action to assert the public's right to use an unpaved road established by an easement is barred after the easement is abandoned under subdivision (e)(2) of this section.

(4) This subsection does not apply to:

(A) A road or highway maintained by the State of Arkansas;

(B) A road maintained or accepted for perpetual maintenance by a county;

(C) A road maintained by an improvement district;

(D) A road within the jurisdictional limits of a city of the first class or city of the second class; or

(E) The claim or right of any person, his or her heirs, successors, assigns, or tenants who use the unpaved road as a means of ingress and egress to lands owned or leased by that person, his or her heirs, successors, assigns, or tenants.

Acts of 1851, § 2, p. 145; Acts of 1919, Act 100, § 1; Acts of 1945, Act 82, § 1; Acts of 2015, Act 1006, § 1, eff. July 22, 2015.

Formerly C. & M. Dig., § 6942; Pope's Dig., § 8918; A.S.A. 1947, § 37-101.

II.E. ROAD ACCEPTANCE

In 2005 the CJAA supported Acts 861 and 862 of 2005 which required plats and subdivisions of land to clearly reflect which roads are private or have approval of the county judge's acceptance for perpetual maintenance.

27-66-207. Streets or roads dedicated to the public. (a) The county judge, in his discretion, may designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making the dedication is properly recorded. (b) Unless a plat clearly reflects roads are private roads, the county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of: (1) Roads for perpetual maintenance; and (2) Dedication of land for public purposes. **History.** Acts 1923, No. 666, § 5; Act 861 of 2005. Formerly Pope's Dig., § 6973; A.S.A. 1947, § 76-108.

14-17-208. Subdivision, setback, and entry control ordinances. (a) The county planning board may prepare and, after approval by the county quorum court, shall administer the ordinance controlling the development of land. The development of land includes, but is not limited to, the provision of access to lots and parcels, the provision of utilities, the subdividing of land into lots and blocks, and the parceling of land resulting in the need for access and utilities. (b) The ordinance controlling the development of land may establish or provide for minimum requirements as to: (1) Information to be included on the plat filed for record; (2) The design and layout of the subdivision, including standards for lots and blocks, streets, public rights-of-way, easements, utilities, consideration of school district boundaries, and other similar items; and (3) The standards for improvements to be installed by the developer at his or her expense, such as street

grading and paving, curbs, gutters, and sidewalks, water, storm, and sewer mains, street lighting, and other amenities. (c) The ordinance shall require that all plats of two (2) or more parcels be submitted to the county planning board for its approval and certification. (d) The ordinance may require the installation or assurance of installation of required improvements before plat approval. Further, the regulations may provide for the dedication of all rights-of-way to the public. (e) Neither the county planning board nor the court shall restrict nor limit the right of any person to file a deed or other instrument of transfer of property with the county recorder to be filed of record. (f) The ordinance shall establish the procedure to be followed to secure plat approval by the county planning board. (g) The ordinance shall require the development to conform to the official plan currently in effect. The ordinance may require the reservation or reasonable equivalent contribution of cash, other land, or considerations as approved by the county planning board for future public acquisition of land for community or public facilities indicated in the official plan. The reservation may extend over a period of not more than one (1) year from the date of recording the final plat with the county recorder. (h) Adoption of a county subdivision ordinance shall be preceded by: (1) The adoption of an official road plan for the unincorporated areas of the county. The plan shall include, as a minimum, designation of the general location, characteristics, and functions of roads, and the general location of roads to be reserved for future public acquisition. The plan may also recommend, among other things, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any public ways; and (2) Notification by first class mail of the board of directors of each school district affected by a proposed county subdivision ordinance sufficiently in advance to allow representatives of all affected school districts a reasonable opportunity to submit comments on any proposed county subdivision ordinance. (i) In unincorporated areas adjoining the corporate limits of a municipality in which the authority to control the subdivision of land is vested and is being exercised in accordance with and under the provisions of §§ 14-56-401--14-56-408 and 14-56-410--14-56-425, or any amendments thereto or thereof, or other acts of a similar nature enacted by the General Assembly, the municipal authority shall have subdivision jurisdiction, but shall transmit copies of proposed plats for the areas to the county planning board and the board of directors of each affected school district for review and comment, which shall be made to the municipal authority within sixty (60) days from the time it is received by the county planning board and the board of directors of each affected school district unless further time is allowed by the municipal authority. (j) When an official road plan

has been adopted and filed as provided for in § 14-17-207, the court, upon recommendation of the county planning board, may enact ordinances establishing setback lines on the major streets and highways as are designated by the plan and may prohibit the establishment of any structure or other improvements within the setback lines. (k) When an official road plan has been adopted and filed as provided for in § 14-17-207, the court, upon recommendation of the county planning board, may enact ordinances providing for the control of entry into any of the roads shown in the official plan. (l) (1) Following the adoption of any subdivision, setback, or entry control ordinances by the court, the county recorder shall not accept any plat in the unincorporated area of the county not within the exercised extraterritorial jurisdiction of a municipality for record without the approval of the county planning board. (2) The county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of: (A) Roads for perpetual maintenance; and (B) Any dedication of land for public purposes. **History.** Acts 1977, No. 422, § 6.0; 1981, No. 532, § 1; 1981, No. 691, § 1; Acts 2005, No. 862, § 1; 2005, No. 2144, § 3.A.S.A. 1947, § 17-1112. Formerly A.S.A. 1947, § 17-1112.

See: *THE COUNTY ROAD QUAGMIRE: HOW TO ESTABLISH THE EXISTENCE OF A COUNTY ROAD AND OTHER INGRESS, EGRESS CONUNDRUMS.* Arkansas Law Notes, 2008 ARLN 33, By Sharon E. Foster, University of Arkansas

II.H. Road Improvement Districts

A.C.A. §14-317-103: To create a road improvement district, two-thirds majority in value, acreage or number of landowners within a proposed road improvement district shall petition the county court to establish such a district. Upon filing the petition: County clerk gives notice of filing, Describes territory affected, Calls upon anyone who wishes to be heard to appear before the county court on a day fixed in the notice. Notice published once a week for 2 weeks in a paper having circulation in the county. Acts of 1955, Act 367, §1; Acts of 1963, Act 534, § 1; Acts of 1971. Act 336, § 1. Formerly A.S.A 1947, § 20-1201

Hearing on Petition, A.C.A. §14-317-106: County court shall meet on day named in notice and hear petition and ascertain whether

those signing the petition constitute a two-thirds majority in value, acreage or number of landowners within the proposed district. If the county court determines that two-thirds majority have not petitioned, enter order denying improvement district. Acts of 1955, Act 367, § 2; Acts of 1963, Act 534, § 2. Formerly A.S.A 1947, § 20-1202

Taxes levied by road improvement districts are payable between the first Monday in January and April 10 of each year. (A.C.A. §14-316-101). Acts of 1921, Act 223, § 1. Formerly Pope's Dig., § 13825; A.S.A 1947, § 76-1218.

County court is authorized to: Turn over a proportion of the road tax or automobile or gasoline tax turnback funds as may be just and equitable; and Contribute the funds in money or scrip to the expense of the improvement from the general revenue of the county as it may deem appropriate. A.C.A. §14-317-133. Acts of 1955, Act 367, § 25; Acts of 2017, Act 707, § 29, eff. Aug. 1, 2017. Formerly A.S.A 1947, § 20-1224.

Op. Att'y Gen. No 2003-131: The question asked in this opinion was, "Does the [improvement district] have the authority to control the use of the roads, e.g., setting speed limits, regulating parking, and use of our roads by airplanes for our airstrip?" The Attorney General's Office answered by first generally stating that any "control" over the use of the roads in the District would have to first be consistent with state law and would have to relate to the purpose(s) for which the District was formed. Specifically, the Office opined that matter such as setting speed limits, regulating parking, and use of the road by airplanes would probably not be within the authority of the District. The county quorum court is deemed the "local authority" under the Uniform Act Regulating Traffic on Highways of Arkansas (Ark. Code Ann. § 27-49-101) and therefore has the authority for deciding these safety matters. "In my opinion, the District's authority conceivably extends to controlling the use of the roads incident to the operation and maintenance of these improvements, but only insofar as necessary or useful to carry out the District's purposes. See generally A.C.A. § 14-92-220. The particular exercise of "control" must therefore be considered.. In conclusion, therefore, it is my opinion that only a "local authority" may set speed limits and regulate parking on the roads in the District, under the assumption that the roads are "streets or highways" under the Uniform Act."

Additionally, the Office asserted, "I suspect that if faced with the question a court would conclude that the legislature's authorization of public funding for the roads in a road or street

improvement district reflects the view that the roads are indeed open to the use of the public as a matter of right."

I.C. County Judge Executive & Maintenance Authority

A.C.A. 14-14-1102 (b) (A): "The county judge shall be responsible for the administrative actions affecting the conduct of a plan of public roadways and bridges throughout the unincorporated areas of the county, including the maintenance and construction of public roadways and bridges and roadway drainage designated as eligible for expenditure of county funds. This jurisdiction shall be exercised pursuant to law, and nothing in this section shall be construed as limiting a county in performing public roadway and bridge maintenance and construction services within the incorporated municipal boundaries where permitted and in the manner prescribed by law." History. Acts of 1977, Act 742, § 78; Acts of 1979, Act 98, § 1; Acts of 1979, Act 413, §§ 16, 17; Acts of 1981, Act 994, § 1; Acts of 1983, Act 183, § 1; Acts of 1983, Act 232, § 1; Acts of 1997, Act 387, § 1; Acts of 2009, Act 410, §§ 1, 2, eff. July 31, 2009; Acts of 2011, Act 837, § 4, eff. July 27, 2011. **Formerly** A.S.A. 1947, § 17-3901.

ATTORNEY GENERAL OPINION NO. 2014-021: The Attorney General tackled an array of complex legal questions that commonly arise concerning the authority of county judges under the Constitution and laws of Arkansas over county roads. The AG explained the rulings of the Arkansas Supreme Court on the ways to establish a county road by virtue of: dedication and acceptance; condemnation; and declaration of a public road (mail route, bus route or worked road) as a county road. The AG explained that the acceptance of a road dedicated to the public as a county road is considered an executive and discretionary authority of the county judge; and neither the quorum court nor a circuit court may interfere with this authority or the exercise of discretion. Likewise, the authority to exercise eminent domain or to declare an existing public road (a mail route, bus route, or worked road) as a county road is under the discretion of the county judge and not subject to challenge by the quorum court or a circuit court mandamus. The AG further explained the differences in county roads, public roads and private roads; and the restrictions on allocating dedicated road revenues to private property or private roads. The AG explained the role of the quorum court in adopting road standards or master street plans by ordinance and the power of the quorum court to appropriate dedicated and general revenues for public roads and bridges. This opinion will greatly assist county

judges in applying the law and in conveying the law of Arkansas to the citizens.

Full Text of Attorney General Opinion No. 2014-021

July 7, 2014

The Honorable James McLean
State Representative
Post Office Box 2001
Batesville, Arkansas 72503-2001

Dear Representative McLean:

I am writing in response to your request for my opinion on a series of questions you characterize as designed "to ascertain the [sic] whether under Arkansas law and Article 7, § 28 and Amendment 55 of the Arkansas Constitution the exercise of the authority granted the county judge, as an executive or by county court action, is a matter of discretion confided in the county judge or a matter subject to control by another branch of government such as the Quorum Court or the state judiciary." You have further captioned your letter with the following subject designation:

Re: Authority of County Judges over county roads
Arkansas Constitution: Amendment 55
ACA 14-14-1101 and 1102

Your itemized questions are as follows:

Is the law as pronounced in *AGFC v. Lindsey*, 292 Ark. 314 (1987) still the law in Arkansas? {The ways to designate a road to be a county road: (1). Dedication of a land, a right of way or easement to county and acceptance by the county judge in accordance with A.C.A. §§ 27-66-207 and -208; (2). Condemnation by the county judge in accordance with A.C.A. § 14-298-101 to -125; or (3). By having the public road designated by the county judge as a mail or bus route to be accepted for maintenance by the county in accordance with A.C.A. §§ 27-66-205 and 206.}

Is the acceptance by a county judge of a dedication of land, right of way, or an easement an executive or judicial function? An exclusive and discretionary exercise of power of the county judge under Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ of

mandamus?

Is a condemnation by the county judge in accordance with A.C.A. §§ 14-298-101 to -125 an exclusive and discretionary exercise of the power of the county judge by Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ of mandamus?

Is the authority to designate a road by the county judge as a mail or bus route in accordance with A.C.A. §§ 27-66-205 and -206 an executive or judicial function following adoption of Amend. 55? Is this authority an exclusive and discretionary exercise of the power of the county judge under Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ of mandamus?

Would an ordinance by the Quorum Court directing or purporting to direct a county judge to operate, maintain, improve or repair county road(s) or bridge(s) be in violation of Amendment 55? A violation of the provisions of Art. 7, 28 of the Arkansas Constitution?

Is the exclusive authority and discretion of the county judge under Amendment 55 to operate, maintain, improve or repair a county road(s) and bridge(s) be [sic] subject to control of the state judiciary by writ of mandamus? A violation of Article 7, § 28 of the Arkansas Constitution confiding in the county judge authority over the disbursement of money for county purposes, such as road or bridge repairs or maintenance?

What is the difference between a private road, a public road and a county road (as identified in Lindsey above and Amendment 55)? May a county judge exercise his discretion to direct road funds, road crews or road equipment to improve, repair or maintain a private road? May a county judge exercise his discretion to direct road funds, road crews or road equipment to improve, repair or maintain a public road or county road? May a county judge by policy or otherwise decline to do so?

May a county judge adopt minimum road standards for consideration of acceptance of a road by a county into the county road system (such as minimum dedicated right of way, roadway and drainage standards)? Is a county judge to accept a road as a county road into the county road system if it meets the county road standards? May a county judge decline to exercise his discretion to accept a road into the county road

system for reasons that the county has finite road revenues and resources and the county cannot afford to maintain the subject road or roads?

RESPONSE

Considered together, your questions reflect a common concern regarding the respective control over county roads by the county judge and the quorum court. You focus in particular upon the interplay among Ark. Const. art. 7, § 28, Ark. Const. amend. 55 and the implementing legislation bearing on the controlling constitutional provisions.

I am unable to determine precisely what dispute, if any, prompted your questions. Consequently, my responses to your questions will of necessity focus on what I suspect will be controlling principles of law. Without knowing the context of your questions, I can only opine generally regarding what actions are "executive or judicial," "purely discretionary," and "subject to the control" of other branches of government. Similarly, I am unable to declare in the abstract whether an action by a county official might warrant judicial relief by writ of mandamus, or whether a quorum court ordinance relating to roads or bridges might be constitutionally offensive. Assuming your questions arise from some specific dispute(s) regarding the respective authority of a county judge and a quorum court, your inquiry would be better directed to the county attorney, who could presumably address the issues with full knowledge of the pertinent circumstances. I am neither authorized nor situated to conduct any such inquiry in a formal opinion.

Question 1: Is the law as pronounced in *AGFC v. Lindsey*, 292 Ark. 314 (1987) still the law in Arkansas? {The ways to designate a road to be a county road: (1). Dedication of a land, a right of way or easement to county and acceptance by the county judge in accordance with A.C.A. §§ 27-66-207 and -208; (2). Condemnation by the county judge in accordance with A.C.A. § 14-298-101 to -125; or (3). By having the public road designated by the county judge as a mail or bus route to be accepted for maintenance by the county in accordance with A.C.A. §§ 27-66-205 and 206.} Yes. [1]

Question 2: Is the acceptance by a county judge of a dedication of land, right of way, or an easement an executive or judicial function? An exclusive and discretionary exercise of power of the county judge under Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ

of mandamus?

The first part of your question invites some discussion regarding the relationship between, on the one hand, accepting a dedication of property for public use and, on the other, designating a thoroughfare as a county road. The Arkansas Code appears to distinguish these two actions in the following:

(a) The county judge in his or her discretion may designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making the dedication is properly recorded.

(b) Unless a plat clearly reflects roads that are private, the county recorder shall not accept any plats in the unincorporated area of the county without the county court's acceptance of:

(1) Roads for perpetual maintenance; and

(2) Dedication of land for public purposes. [2]

This statute identifies the county judge as the agent designating a county road as such and the county court as the agent accepting a road for "perpetual maintenance" and land in general "for public purposes." The question arises, then, whether the "county judge," acting in his executive capacity, indeed "accepts" a dedication, as your question suggests, or, alternatively, whether the "county court" does so in a judicial capacity. [3]

In my opinion, notwithstanding the statute's contrary suggestion, a reviewing court would most likely characterize this "acceptance" as an executive action properly undertaken by the county judge. My inquiries suggest that the process described in the above quoted statute in practice involves only the county judge's determining prior to the filing of a plat by the recorder that the issue of road maintenance has been properly addressed. The county judge reportedly bases his approval either upon a private developer's commitment to maintain roads in a development or upon the county's judge's own commitment, normally reflected by a seal of acceptance on the documents to be filed, reflecting the county's acceptance of the roads. No process that could even remotely be characterized as "judicial" obtains at any stage of such "acceptance." [4]

As suggested above, the ultimate source of a county judge's executive authority arises from Amendment 55, § 3, which provides in pertinent part:

The County Judge, in addition to other powers and duties provided for by the Constitution and by law, shall . . . operate the system of county roads.

Implementing this provision, the statute referenced in the subject line of your factual statement provides in pertinent part:

Arkansas Constitution, Amendment 55, § 3, established the following executive powers to be administered by the county judge:

* * *

(2) To authorize and approve disbursement of appropriated county funds;

(3) To operate the system of county roads[.][5]

The county judge is further charged with responsibility over the following:

. . . the administrative actions affecting the conduct of a plan of public roadways and bridges through the unincorporated areas of the county, including the maintenance and construction of public roadways and bridges and roadway drainage designated as eligible for expenditure of county funds.[6]

The county judge has further been generally charged with "custody of county property" pursuant to Amendment 55, § 3.[7]

With respect generally to grants of property and rights therein to the county, the Arkansas Code provides as follows:

The county judge, as the chief executive officer, is authorized to accept, in behalf of the county, gifts, grants, and donations of real or personal property for use of the county. He or she may apply for, enter into necessary contracts, receive, and administer for and in behalf of the county, subject to such appropriation controls that the quorum court may elect to adopt by ordinance, funds from the federal government, from other public agencies, or from private sources.[8]

The county judge's administrative authority necessarily involves an exercise of discretion, [9] subject to the control over appropriations invested in the quorum court and the quorum court's general authority to adopt an official county road plan governing subdivision, setback and entry control ordinances. [10]

With regard to the executive nature of the county judge's authority, the enabling legislation to Amendment 55, Act 742 of 1977, declared as follows:

The General Assembly determines that the executive powers of the county judge as enumerated in Arkansas Constitution, Amendment 55, § 3 are to be performed by him in an executive capacity and not by order of the county court. [11]

My predecessor elaborated on these provisions in the attached Ark. Op. Att'y Gen. No. 97-181, with which I fully concur. I need not repeat that analysis here.

With respect to what you refer to as "control by the Quorum Court," a quorum court is constitutionally authorized to exercise "local legislative authority not denied by the Constitution or by law." [12] By statute, moreover, a quorum court may provide through ordinance for "roads and bridges." [13] The Code further charges the quorum court with adopting an "official road plan for the unincorporated areas of the county," [14] containing at least the following:

The plan shall include, as a minimum, designation of the general location, characteristics, and functions of roads, and the general location of roads to be reserved for future public acquisition. The plan may also recommend, [15] among other things, the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any public ways. [16]

Upon recommendation of the county planning board, the quorum court may further establish setback lines and control entry to specified streets and highways designated in the plan. [17] Although the quorum court may authorize, say, a "road" as a "service . . . not expressly prohibited by the Arkansas Constitution or by law," [18] it cannot compromise the constitutional and statutory powers located in the county judge/county court under the authority discussed above and in Opinion 97-181.

One of my predecessors offered the following summation of the relationship between the quorum court and the county judge with

respect to control over county roads:

As a general proposition of law, neither a quorum court nor a city council possesses authority to pass an ordinance that would interfere with the exclusive original jurisdiction of the county court under Article 7, Section 28 of the Arkansas Constitution, [[19]] or with the county judge's operation of the system of county roads under Section 3 of Amendment 55 to the Arkansas Constitution, or with the constitutional or statutory authority of the county judge which existed at the time of the adoption of amend. 55, § 3. [20]

My predecessor further paraphrased as follows the conclusion regarding this issue set forth in the attached Opinion 97-181:

[I]t is apparent from a reading of that opinion that a local (county or city) ordinance regarding roads could be unconstitutional if it interfered with the constitutional and statutory power of the county judge or county court over county roads. Whether such "jurisdictional encroachment" occurs will depend upon the particular ordinance in question. [[21]] I cannot, in the limited format of an opinion from this office, speculate as to the constitutionality of any number of hypothetical ordinances. This will be a matter for the county or city attorney to address when considering specific proposed ordinances, bearing in mind the principles enunciated in the Arkansas Supreme Court cases and the Attorney General opinions cited in your correspondence. [22]

As this passage suggests, determining precisely when a quorum court's exercise of its assigned authority clashes with the county judge's control over roads is a fact-intensive enterprise that lies beyond the scope of an official Attorney General opinion.

Specifically with respect to authority over the designation of county roads, my predecessor in Opinion 97-181 further offered the following accurate summary regarding control over roads:

It has been held at various times that the county court or the county judge have [sic] authority to designate and open county roads. See, e.g., *Prewitt v. Warfield, County Judge*, 203 Ark. 137, 1566 S.W.2d 238 (1941) (county court has authority to lay out county road under what is now A.C.A. § 14-298-121); [Lindsey] (county judge has authority to enter an order declaring a mail route or a school bus route a county road under A.C.A. § 27-66-205 and -206); and *Johnson v. Wylie*, 284 Ark. 76,

679 S.W.2d 198 (1984) (county judge has authority to declare a school bus route a county road under A.C.A. § 27-66-206). In my opinion the quorum court, through the exercise of its legislative authority, may not interfere with the ultimate authority of the county judge or county court in this regard. See, e.g., A.C.A. § 14-14-502 (providing for separation of powers between the departments of county government). See also Op. Att'y Gen. 92-081 (concluding that the county judge has authority to accept private roads into the county road system, at least under A.C.A. §§ 27-66-204, -205, -206, -207 and -208, without the approval of the quorum court).

Some uncertainty may nevertheless exist regarding the scope of a county judge's constitutional control over roads and bridges, as distinct from the control the legislature has assigned the quorum court pursuant to the statutes discussed above. [23] As my immediate predecessor has noted in this regard: "It is unclear what result a court would reach in addressing such a conflict, should one exist," adding that one reason for this lack of clarity is the absence in the Code or case law of "anything stating exactly what it means for the county judge to 'operate the system of county roads' under amendment 55, § 3." [24]

Whatever confusion may exist on this score, I consider it significant that the authority of the quorum court to adopt an official road plan has never been the subject of any constitutional challenge. To be sure, there may be debate regarding precisely what degree of control the legislature intended to or was authorized to impose in declaring, in A.C.A. § 14-14-802(b), that the quorum court "shall provide . . . for . . . necessary services" that include "roads" and "bridges." This directive might be read either as affording direct quorum-court control over such issues as road or bridge location or, alternatively, as mandating no more than that such "necessary services" be adequately funded. Without attempting to resolve this debate, I will venture only that this statutory grant cannot be read as affording the quorum court authority that would impinge on the county judge's constitutional right to "operate the system of county roads." [25] I cannot predict how a court would balance these interests in any particular case.

With regard to the third part of your question, I assume you are concerned to know whether, for instance, a county judge's decision to accept property for use as a county road would warrant relief by mandamus under the following standard:

A writ of mandamus is appropriate if three factors are

established: (1) the duty to be compelled is ministerial and not discretionary; (2) the petitioner has shown a clear and certain right to the relief sought; and (3) the absence of any other adequate remedy. [26]

In my opinion, because a county judge's acceptance of property is "discretionary," it is insusceptible of challenge by petition for writ of mandamus under this standard. [27]

Question 3: Is a condemnation by the county judge in accordance with A.C.A. §§ 14-298-101 to -125 an exclusive and discretionary exercise of the power of the county judge by Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ of mandamus?

As acknowledged in Lindsey, [28] a county may create a county road by a process of condemnation under the statutory scheme referenced in your question. With respect to the nature of the authority attending this process, the opening section of the subchapter recited in your question provides as follows:

All public roads and highways shall be laid out, opened, and repaired agreeably to the provisions of this chapter. The county court of each county in this state shall have full power and authority to make and enforce all orders necessary as well for establishing and opening new roads as for changing and vacating any public road or part thereof. [29]

As this office has previously pointed out, the references in this subchapter to the county court are dated and should properly be read, in the wake of the adoption of Amendment 55, as referring to the county judge. [30] I will not here repeat the analysis supporting this conclusion, simply noting instead that the "full power and authority" referenced in this statute is discretionary both on its face and for reasons discussed above.

I have further reviewed above the nature of legislative authority over roads and the unavailability of mandamus as an avenue for judicial relief from discretionary acts.

Question 4: Is the authority to designate a road by the county judge as a mail or bus route in accordance with A.C.A. §§ 27-66-205 and -206 an executive or judicial function following adoption of Amend. 55? Is this authority an exclusive and discretionary exercise of the power of the county judge under Arkansas Law? Subject to control by the Quorum Court? Subject to control by the state judiciary by writ of mandamus?

I must note initially that your opening sentence misstates the substance of A.C.A. § 27-66-205 and -206 (Repl. 2010). These statutes deal not with the authority of a county judge "to designate a road . . . as a mail or bus route"; rather, they authorize a county judge "in his or her discretion" to declare any road already used for either of these purposes to be a county road.[31]

In my opinion, these statutes facially declare the county judge's action to be a discretionary function, which is further clearly executive and, in all likelihood, exclusive for reasons discussed in my response to question 2.

I have discussed the extent of quorum court control over roads and the unavailability of mandamus as a remedy for discretionary acts in my response to question 2.

Question 5: Would an ordinance by the Quorum Court directing or purporting to direct a county judge to operate, maintain, improve or repair county road(s) or bridge(s) be in violation of Amendment 55? A violation of the provisions of Art. 7, 28 of the Arkansas Constitution?

Only a finder of fact could answer this question after reviewing in detail precisely what the challenged ordinance purported to direct the county judge to do. I have discussed in my response to question 2 the general relationship between the county judge and the quorum court with respect to the planning and operation of county roads. I have further discussed above, as has my predecessor in Opinion 97-181, the expanded role of the county judge, and the correspondingly diminished role of the county court, with respect to the operation of the road system in the wake of Amendment 55's adoption. I need not reproduce those discussions here. I can only note that the contents of any particular ordinance may be subject to challenge under the standard set forth above. Any such challenge would be based upon the principle expressed as follows by the Arkansas Supreme Court:

[T]he county court [now likely the county judge] must have the power, and, therefore, has the duty to plan, construct, maintain, alter, relocate, and abandon county roads.[32]

The county attorney in the first instance - and, ultimately, the courts - are better suited than this office to review quorum court action in any particular instance.

Question 6: Is the exclusive authority and discretion of the county judge under Amendment 55 to operate, maintain, improve or repair a county road(s) and bridge(s) be [sic] subject to control of the state judiciary by writ of mandamus? A violation of Article 7, § 28 of the Arkansas Constitution confiding in the county judge authority over the disbursement of money for county purposes, such as road or bridge repairs or maintenance?

In my opinion, for reasons set forth above, a county judge's operation of the county system of roads and bridges is discretionary in nature and hence not subject to control by writ of mandamus.

Moreover, a county judge's fulfillment of his obligation to operate the system of roads and bridges pursuant to Amendment 55, which superseded any contrary then existing constitutional provision, of necessity could not violate Article 7, § 28.

Finally, I question your suggestion that Article 7, § 28 locates "in the county judge authority over the disbursement of money for county purposes." Section 3 of Amendment 55 expressly directs the county judge to "authorize and approve disbursement of appropriated county funds."

Question 7: What is the difference between a private road, a public road and a county road (as identified in Lindsey above and Amendment 55)? May a county judge exercise his discretion to direct road funds, road crews or road equipment to improve, repair or maintain a private road? May a county judge exercise his discretion to direct road funds, road crews or road equipment to improve, repair or maintain a public road or county road? May a county judge by policy or otherwise decline to do so?

With respect to the first part of this question, as discussed above, a thoroughfare can be designated a "county road" subject to county maintenance in the ways summarized in your first question and specified in Lindsey. [33] As the name suggests, a "public road" is one to which the public has general access, without necessarily qualifying as a "county road." [34] The mere fact that the county maintains a public road does not in itself render it a "county road." [35] As the name likewise suggests, a "private road" is just that - privately owned and not subject to public access, hence rendering it subject to access restrictions of the owner's choosing.

With respect to the second part of your question, as a general proposition, a county judge lacks the discretion to devote county resources to the improvement, repair or maintenance of a private road. [36] As noted by one of my predecessors:

It is generally held that county labor and equipment cannot be used to make improvements to private property. See *Pogue v. Cooper*, 284 Ark. 105, 679 S.W.2d 207 (1984); *Cunningham v. Stockton*, 235 Ark. 345, 359 S.W.2d 808 (1962); *Needham v. Garner*, 233 Ark. 1006, 350 S.W.2d 194 (1961); see also *Ops. Att'y Gen.* 97-248, 95-215, and 94-138. I have opined that this prohibition has been applied notwithstanding the fact that the county received compensation for the work performed. See *Ops. Att'y Gen.* 97-248, 95-215, and 94-138. In holding that contracting with private concerns for work on private property was not allowed, the court reasoned in *Needham*, *supra*, as cited in *Pogue*, 284 Ark. at 106, that illegal exactions (Ark. Const. art. 16, § 13) were likely to occur because such use of county property could result in the need for more tax money to repair and replace the equipment, even if the contract produced a profit. 233 Ark. at 1010. In *Opinion 94-138*, I opined that as a general matter, the use of county employees and county equipment to lay asphalt on a church parking lot would be unlawful. [37]

As my predecessors further pointed out, any such purely private use of public property would offend Article 12, § 5 of the Constitution, which provides in pertinent part: "No county . . . shall . . . obtain or appropriate money for, or loan its credit to, any corporation, association, institution or individual." [38] Maintenance and repair that only incidentally benefits private property, however, may be permissible. [39] Only a finder of fact would be in a position to judge the propriety of expenditures directly benefiting private parties.

With respect to the final two parts of this question, again, the county judge has discretion under Amendment 55 to administer the system of county roads - i.e., public roads that the county has committed to maintain in one of the manners discussed above - presumably in a manner consistent with the official road plan adopted by the quorum court. In theory, such administration will on occasion prompt the county judge as a matter of what you term "policy" to decline to devote county resources to maintenance of roads. Determining the propriety of any such decision will in every instance be fact intensive and hence properly subject to review by a court.

Question 8: May a county judge adopt minimum road standards for

consideration of acceptance of a road by a county into the county road system (such as minimum dedicated right of way, roadway and drainage standards)? Is a county judge to accept a road as a county road into the county road system if it meets the county road standards? May a county judge decline to exercise his discretion to accept a road into the county road system for reasons that the county has finite road revenues and resources and the county cannot afford to maintain the subject road or roads?

I must note at the outset that this question, like various of your others, is posed without any reference to a factual context giving rise to your concern. It is consequently difficult for me to venture any definitive answer that might prove of immediate benefit in addressing a particular issue.

I have discussed in my response to your second question the role of the quorum court in adopting the official road plan and in appropriating funds for the construction and maintenance of county roads. As the individual charged with executive authority to administer county roads, the county judge has discretion to make decisions, including such matters as design specifications and enforcement, consistent with this plan and available funding. [40] To the extent he adopts "minimum road standards" in compliance with these conditions, I believe the answer to the first part of your question is "yes." With respect to the second part of this question, in my opinion, a county judge has the discretion to accept or reject a county road within the parameters just stated. In my opinion, the answer to your third question is "yes," so long as the county judge does not abuse his discretion.

Having offered these statements of general principle, I again encourage you to address particular issues to the county attorney for analysis in light of the foregoing.

Assistant Attorney General Jack Druff prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL
Attorney General

DM/JHD:cyh

Enclosure

[1]See Ops. Att'y Gen. 96-272 and 91-434 (acknowledging the continued validity of this case).

[2]A.C.A. § 27-66-207 (Repl. 2010) (emphases added).

[3]For a discussion of this distinction between executive and judicial functions, see the attached Opinion 97-181, which describes as follows the status of the county judge in relation to the county court in the wake of Amendment 55: The "county court" strictly speaking, is neither the "county judge" nor the quorum court. It is, however, presided over by one judge, the "county judge," who, when so presiding, acts in a judicial, rather than an executive capacity. See Arkansas Constitution, art. 7, § 28 and A.C.A. § 14-14-1105(a). It has been stated that: "[a]lthough the Arkansas Supreme Court has meticulously separated the judicial and executive functions of the county judge on a case-by-case basis, there is still great confusion in Arkansas with respect to what the county court is." Comment, County Government Reorganization in Arkansas, 28 Ark. L. Rev. 226, 235 (1974). It was stated, prior to the adoption of Amendment 55, that: "In each county there is a court, presided over by a county judge, known as the county court. . . . The county court is the principal instrument of county government and performs a mixture of executive and legislative as well as judicial tasks." Greenebaum, Arkansas' Judiciary: It's [sic] History and Structure, 18 Ark. L. Rev. 152 (1964). Since the adoption of Amendment 55, the county court exercises fewer powers (former powers now being exercised either by the quorum court, or by the county judge in an executive capacity), but it clearly still exists, and consists of the county judge, wearing a judicial hat. See again, A.C.A. § 14-14-1105. It is my opinion that the references to the "county court" in A.C.A. §§ 14-298-101 to -116, enacted in 1871, refer to this "court." For further discussion of the relationship between the county judge and the county court, see Op. Att'y Gen. 2007-009. Subsection 14-14-1105(b) of the Code (Repl. 1998) sets forth the matters over which the county court "shall have original jurisdiction."

[4]Support for reading the above statute to refer to the county judge, rather than the county court, perhaps exists in Reding v. Wagner, 350 Ark. 322, 327, 86 S.W.3d 386 (2002), which affirmed the authority, in the wake of Amendment 55's adoption, of a county judge's discretionary power to change, alter, or relocate county roads, notwithstanding the fact that the statute at issue - currently codified at A.C.A. § 14-298-120 (Supp. 2013) - assigns that authority to the county court. Specifically invoking "[a] county judge's executive authority" under

Amendment 55 and the statute itself, the court concluded: "In short, county judges in Arkansas are given the executive power to make discretionary decisions regarding the operation of the system of county roads." 35 Ark. at 327. Accord Ops. Att'y Gen. 2006-050 and 88-364.

[5]A.C.A. § 14-14-1101(a) (Repl. 1998); accord A.C.A. § 14-14-1102(a) (Supp. 2013) and Op. Att'y Gen. 2001-319.

[6]A.C.A. § 14-14-1102(b)(1)(A)(i) (Supp. 2013).

[7]Accord A.C.A. § 14-14-1101(a)(5).

[8]A.C.A. § 14-14-1102(a)(b)(7)(A) (Supp. 2013).

[9] See, e.g., *Reding v. Wagner*, 350 Ark. 322, 86 S.W.3d 386 (2002) (upholding the discretionary power of the county judge to change, alter, or relocate county roads, citing his executive authority under both Amendment 55, § 3 and A.C.A. § 14-298-120).

[10]See A.C.A. § 14-14-802(b)(2)(G)(i) (Repl. 1998) and Ops. Att'y Gen. 2006-050 and 96-375 (discussing the interrelationship between county-judge and quorum-court authority).

[11] A.C.A. § 14-14-1102(a) (Supp. 2013). See also Op. Att'y Gen. 88-364 (discussing the county judge's "executive authority to order improvement of [a county] road").

[12] Ark. Const. amend. 55, § 1(a).

[13]A.C.A. § 14-14-802(b)(2)(G)(i) (Repl. 1998).

[14]A.C.A. § 14-17-208(h)(1).

[15]I have highlighted this term in order to underscore the fact that the legislature apparently did not intend this statute to invest the quorum court with dispositive control over the listed decisions.

[16]Id. (emphasis added).

[17]Id. at subsections (j) and (k).

[18]Id. at subsection (b)(1).

[19] Ark. Const. art. 7, § 28 grants the county court, among other things, "exclusive original jurisdiction in all matters relating to . . . roads [and] bridges."

[20]Op. Att'y Gen. 2001-038.

[21]Quoting *Butler v. City of Little Rock*, 231 Ark. 834, 839, 844 S.W.2d 812 (1960).

[22]Op. Att'y Gen. 2001-038.

[23]See notes 12 through 18, *supra*, and accompanying text.

[24] Op. Att'y Gen. 2006-050.

[25] As my predecessor observed in Opinion 97-181, this authorization extends even to the point of enabling a county judge to designate as a county road a thoroughfare that does not meet standards purportedly mandated in a quorum court ordinance. See also Ops. Att'y Gen. 2001-038 (quorum court may not pass an ordinance abridging the county judge's and the county court's constitutional control over county roads); 96-375 (county judge may name county roads without quorum court approval); 92-081

(county judge has authority to designate and to improve county roads without quorum court approval).

[26] Russell v. Webb, 2011 Ark. 307, *4, citing Parker v. Crow, 2010 Ark. 371, ___ S.W.3d ___.

[27] See, e.g., State ex Rel. Richardson v. Mack, 191 Ark. 350, 86 S.W.2d 11 (1935) (holding that statute did not abridge county judge's discretion to order prisoners to work county roads, and that petition for writ of mandamus was consequently inappropriate); Ark. Op. Att'y Gen. No. 88-364 (opining that "the remedy of mandamus cannot control the discretion of an officer in the executive branch of government," citing Mears, County Judge v. Hall, 263 Ark. 827, 569 S.W.2d 91 (1978)).

[28] 291 Ark. at 321.

[29] A.C.A. § 14-298-101 (1987).

[30] See, e.g., Op. Att'y Gen. Nos. 2006-050 and 88-364. As my predecessor noted by footnote in the former of these opinions, however, there are certain limited instances in which the county court retains control: The county court, distinct from the county judge, retains certain constitutional and statutorily delegated judicial jurisdiction over roads and bridges within a county See Yates v. Sturgis, 311 Ark. 618, 846 S.W.2d 633 (1993) (affirming the county court's jurisdiction to enter an order creating a private street through eminent domain to allow access to a landlocked parcel within city limits relying on the "narrow" situation where there is specific statutory authorization for the county court to use eminent domain in this manner and the lack of any alternate redress for the owner of a landlocked parcel within city limits); and Op. Att'y Gen. 2001-319 (differentiating the executive regulatory authority of a county judge over county roads from the jurisdiction of the county court over roads and bridges within a county in specific situations). General supervision of the construction and operation of the county roads is an executive power as discussed above, and not an exercise of judicial power by the county court. Accordingly, as provided by A.C.A. § 14-14-1105 (Repl. 1998), the county court did not retain the powers that vested in the county judge as executive powers pursuant to Amendment 55, § 3. My predecessor concluded that a county court has "no inherent general regulatory authority" over streets and bridges, whereas a county judge does have such authority, "acting in an executive capacity," over the unincorporated areas of the county.

[31] Compare A.C.A. § 27-66-207(a) (giving the county judge the authority to designate any street or road dedicated to the public as a public thoroughfare as a county road, provided that a bill of assurance making the dedication is properly recorded); see also Barber v. Wolf, 2009 Ark. App. 460, *5, ___ S.W.3d ___, 2009 WL 1553639 (discussing the county judge's discretionary

authority to designate mail routes as county roads).

[32]Butler v. City of Little Rock, 231 Ark. 834, 841, 332 S.W.2d 812 (1960). This pre-Amendment 55 pronouncement remains accurate subject to the qualifications discussed above - namely, the quorum court's limited continuing role in "planning," subject to the county judge's "operational" executive control, and the county court's extremely restricted remaining "judicial" authority.

[33] With regard to the requirement of county maintenance in the wake of such designation, see discussion in Ops. Att'y Gen. 2007-029 and 89-135.

[34] See, e.g., Lindsey, 293 Ark. at 321 (distinguishing between "county roads" and "public roads by prescriptive right"); Op. Att'y Gen. 89-135 (pointing out that a road may be dedicated to public use without having been designated a county road, and that acceptance of the dedication is required under A.C.A. § 27-66-207 before the clerk may record a bill of assurance).

[35]See Op. Att'y Gen. 91-434 (county maintenance alone does not qualify a road as a "county road").

[36]See Op. Att'y Gen. 92-081 (opining that truly private roads in private developments may not be maintained using county resources).

[37]Op. Att'y Gen. 98-163, quoted in Op. Att'y Gen. 2000-243.

[38] See Op. Att'y Gen. 88-052 (reaching the same conclusion with respect to a county's providing a private company free gravel to construct a temporary parking lot).

[39]See Op. Att'y Gen. 2004-319 (stating that "[a]n authorized use for a public purpose is not . . . invalid even though it involves an incidental private benefit") (quoting Op. Att'y Gen. 93-343 and citing 64 C.J.S. Municipal Corporations § 1725 (1950)); accord Op. Att'y Gen. 95-038. In this regard, this office has noted with approval the following formulation by the California Court of Appeal: "'So long as a public interest is served, there is no unlawful expenditure of public funds even though there may be incidental benefits to private persons.'" Op. Att'y Gen. 2000-243, quoting League of Women Voters of California v. Countywide Criminal Justice Coordination Committee, 203 Cal.App.3d 529, 554, 250 Cal.Rptr. 151 (1988).

[40]This issue is discussed in further detail in the attached Op. Att'y Gen. 97-181.

Op. Att'y Gen. No.94-400: This opinion addresses who has the authority to maintain roads which have been designated as county roads but fall within a National Park. The fact that a state or county owns or maintains a road within a national park is irrelevant; the National Park Service has been given a clear grant of power by Congress to regulate the traffic on roads

within national park boundaries. The authority of the National Park Service supersedes local authority and law. *Free Enterprise Canoe Renters Ass'n. v. Watt*, 711 F.2d 852 (8th Cir. 1983); U.S. Const. Art IV, § 3, cl. 2 (Property Clause).

Volunteer Fire Dept. A.C.A. §14-284-409: The county judge of any county is hereby authorized and empowered, in its discretion, to grade, gravel, pave, and maintain real property of a rural volunteer fire department, including roads or driveways thereof, as necessary for the effective and safe operation of such rural volunteer fire department. History: Acts of 1991, Act 833, § 7; Acts of 2003, Act 102, § 1, eff. July 16, 2003.

Emergencies, A.C.A. §14-14-1107: In any county in which a natural disaster, including but not limited to a tornado or flood, results in the county being declared a disaster area by the Governor, an appropriate official of the United States Government, or the county judge of the county, the county judge is authorized to use county labor and equipment on private property to provide services which are required as a result of the natural disaster. History: Acts of 1997, Act 394, § 1, eff. March 6, 1997.

Cemetery Access Roads A.C.A. §14-14-812: A "cemetery", as used in this section, means any burying place for the dead, a burial plot, a graveyard, or any land, public or private, dedicated and used for the interment of human remains which includes at least six (6) grave markers. (1) The county judges of the several county governments in Arkansas shall be authorized to improve and maintain any roads across public or private lands used or to be used for access to a cemetery. (2) The cemetery access roads shall be constructed to a standard and nature to permit their use by automobiles. History: Acts of 1995, Act 1317, § 2; Acts of 1997, Act 1286, § 2.

In *Hinchey v. Taylor*, 2015 Ark. App. 207 (2015), county judge unlawfully removed a cattle guard on the property of a landowner (a former county judge) in order to build a cemetery access road across the lands (of the former county judge). The court issued a mandatory injunction directing the county judge to replace the cattle guard and ruled that the construction of a new road on the lands constituted a taking without just compensation (but there was no claim for taking without just compensation). A monetary claim for taking without just compensation in a road case has original and exclusive jurisdiction before county court, as per *Chamberlin v. Newton County*, 266 Ark. 516 (1979). The Supreme Court noted that in *Passmore v. Hinchey*, 2010 Ark. App. 581 (2010) the court had previously held that circuit court has jurisdiction

to enjoin the county judge to refrain from trespass of private property and taking of private property. The argument that the public road had become a county road by virtue of a general county ordinance in 1983 (for any roads that were maintained by the county as of 1982) was unpersuasive. The court concluded that the county judge without right construction of a new road across the private pasture of the landowners and removed their cattle guard.

I.D. County Judge vs. Quorum Court

AG Opinion 2001-038: Quorum Court does not possess authority to pass an ordinance that would interfere with the exclusive original jurisdiction of the county court under Article 7, Section 28 of the Arkansas Constitution or with the County Judge's operation of the system of county roads under Section 3 of Amendment 55.

AG Opinion 92-081: County Judge has authority to designate county roads without approval of the quorum court; and authority to expend county funds to improve roads in his or her discretion, without approval of the Quorum Court.

AG Opinion 96-375: County Judge has authority and responsibility to name county roads, without approval of the Quorum Court.

AG Opinion 97-181: QC does not have authority to impose conditions upon the opening of roads in a manner that would restrict the county court's exercise of its constitutionally and statutorily granted discretion over county roads.

A.C.A. §14-14-801(b)(3): Quorum court does have authority to exercise powers necessary for effective administration of authorized services and functions. Acts of 1977, Act 742, § 69. **Formerly** A.S.A. 1947, § 17-3801.

A.C.A. §14-14-802(b)(2)(G)(i): states that the Quorum Court may provide through ordinance for "roads and bridges." History. Acts of 1977, Act 742, § 70; Acts of 2017, Act 452, § 1, eff. Aug. 1, 2017.

Formerly A.S.A. 1947, § 17-3802.

AG Opinion 92-121: an ordinance requiring stringent standards of inventory over road equipment would not conflict with the County Judge's authority over county roads.

I.E. County vs. City

The city's power to control development in its development radius must yield to the county judge's power over roads and internal improvements. County judge's jurisdiction over roads within his/her county *includes* city streets.

Butler v. City of Little Rock, 231 Ark. 834 (1960): Court held that any attempt by a municipality to affect a road in its extra jurisdictional territory (~~5-mile~~ planning jurisdiction) would have to yield to the county's right to regulate.

Yates v. Sturgis, 311 Ark. 618 (1993): A county judge can open roads within the city limits of an incorporated municipality without permission or involvement of the city.

AG Opinions 99-274 & 98-009: County Judge has exclusive control over county roads and if a conflict between the county judge's jurisdiction and a city's subdivision jurisdiction arises, the city (whose rights are statutory) would have to yield to the county (whose rights are constitutional). However, more recently the AG indicated that the counties jurisdiction is not unilateral (**See AG Opinion No. 2006-050**).

I.F Utilities

Several Counties have an ordinance and permit process which requires the utility to agree to: relocate at their costs, to comply with the MUTCD and to locate in accordance with ordinance regulations. See Appendix & AHTD Utility Accommodation Policy. Below is the reason your county should have some ordinance and permit process for utilities.

AG Opinion 99-181: *S.W. Bell Tel. Co. v. City of Fayetteville, 271 Ark. 630 (1980):* General common law rule: The utility must bear the cost of relocation. There can be exceptions to the common law rule, such as specific legislation (none applicable to county roads) or case law. Improvement funded by federal aid that contemplates reimbursement. Complete ouster of utility facilities from right-of-way. Local ordinances must also be looked at and may negate the common law.

AG Opinion 2001-239: Any ordinance or adjudicative determination by a county requiring that a developer grant utility and road

easements as a condition of development is susceptible to an analysis under the taking clause of the Fifth Amendment to the U.S. Constitution.

AG Opinion 1999-365: A developer can dedicate a public utility easement for use, even if the easement does not run along a dedicated street or alley and is not defined on the plat. See also *Harvey v. Bell*, 292 Ark. 657, 732 S.W.2d 138 (1987).

A.C.A. §14-17-208: Counties are authorized, through their planning boards, to require subdivision developers to provide utility and road easements. History. Acts of 2005, Act 2144, § 3, eff. Aug. 12, 2005; Acts of 2005, Act 862, § 1, eff. Aug. 12, 2005. **Formerly** A.S.A. 1947, § 17-1112.

Craighead Electric v. Craighead County, 352 Ark 76 (2003): Did the Cooperative acquire a prescriptive right in the property where the poles and power lines were located? That right is against the landowner as a new servitude on the land. The landowner still holds the fee. The cases distinguish the erection of utilities as distinct and not subservient to any right-of-way or easement the County may have for construction of a road. The County, however, notes that under Ark. Code Ann. § 18-15-803 (Supp. 2001), the Cooperative may construct its poles and power lines along a public highway. The County goes on to note that Ark. Code Ann. § 18-15-503 does not require that the Cooperative pay for a right-of-way and also does not require that the Cooperative be compensated when it must relocate its poles. This statute sets out the right to acquire a right-of-way. *Loyd, supra*. However, a right-of-way is not granted by the statute. The Cooperative is claiming the right-of-way by adverse possession as against the landowners. If the Cooperative has a property interest in the land where the poles and power lines were standing before the subject four roads were widened, then forcing the movement of the poles and power lines may constitute a taking that requires compensation. The common-law rule is not that a utility is required to bear the costs of its own relocation where the county widens a road, but rather the common-law rule is that a utility must bear the costs of its own relocation when relocation of that equipment is required by a public necessity. *Southwestern Bell Tel. Co., supra*.

ACA § 18-15-503: (a)(1)(A) Any electric utility organized or domesticated under the laws of this state for the purpose of generating, transmitting, distributing, or supplying electricity to or for the public for compensation or for public use may

construct, operate, and maintain such lines of wire, cables, poles, or other structures necessary for the transmission or distribution of electricity and broadband services: (i) Along and over the public highways and the streets of the cities and towns of the state; (ii) Across or under the waters of the state; (iii) Over any lands or public works belonging to the state; (iv) On and over the lands of private individuals or other persons; (v) Upon, along, and parallel to any railroad or turnpike of the state; and (vi) On and over the bridges, trestles, and structures of railroads. (B) In constructing such dams as the electric utility may be authorized to construct for the purpose of generating electricity by water power, the electric utility may flow the lands above the dams with backwater resulting from construction. (2) (A) However, the ordinary use of the public highways, streets, works, railroads, bridges, trestles, or structures and turnpikes shall not be obstructed, nor the navigation of the waters impeded, and just damages shall be paid to the owners of such lands, railroads, and turnpikes. (B) The permission of the proper municipal authorities shall be obtained for the use of the streets. (b) (1) In the event that an electric utility, upon application to the individual, railroad, turnpike company, or other persons, should fail to secure by consent, contract, or agreement, a right-of-way for the purposes enumerated in subsection (a) of this section, then the electric utility shall have the right to proceed to procure the condemnation of the property, lands, rights, privileges, and easements in the manner prescribed in this subchapter. (2) However, no electric utility shall be required to secure by consent, contract, or agreement or to procure by condemnation the right to provide broadband services over its own lines of wire, cables, poles, or other structures that are in service at the time that the electric utility provides broadband services over the lines of wire, cables, poles, or other structures. (c) Whenever an electric utility desires to construct its line on or along the lands of individuals or other persons or on the right-of-way and the structures of any railroad or upon and along any turnpike, the electric utility, by its agent, shall have the right to enter peacefully upon the lands, structures, or right-of-way and survey, locate, and lay out its line thereon, being liable, however, for any damage that may result of the acts. History. Acts of 1907, Act 120, §§ 1 to 3, p. 303; Acts of 2001, Act 1291, § 3, eff. Aug. 13, 2001; Acts of 2007, Act 739, § 3, eff. July 31, 2007; Acts of 2013, Act 1130, § 3, eff. Aug. 16, 2013. **Formerly** C. & M. Dig., §§ 4043 to 4045; Pope's Dig., §§ 5045 to 5047; A.S.A. 1947, §§ 35-301 to 35-303.

27-67-304. Use of right-of-way. (a) The rights-of-way provided for all state highways shall be held inviolate for state highway purposes, except as provided in subsections (b) and (c) of this section. No physical or functional encroachments, installations, signs other than traffic signs or signals, posters, billboards, roadside stands, gasoline pumps, or other structures or uses shall be permitted within the right-of-way limits of state highways. (b) Political subdivisions, rural electric cooperatives, rural telephone cooperatives, private television cables, and public utilities of the state may use any right-of-way or land, property, or interest therein, the property of the State Highway Commission, for the purpose of laying or erecting pipelines, sewers, wires, poles, ditches, railways, or any other purpose, under existing agreements or permits or such agreements or permits hereinafter made by the commission or under existing laws, provided that such use does not interfere with the public use of the property for highway purposes. (c) No private television cable shall be placed upon the right-of-way limit of any state highway until such person, firm, association, partnership, or corporation first executes a bond payable to the commission in an amount to be determined by the district engineer located in the district in which such cable is to be located. History. Acts of 1953, Act 419, § 5; Acts of 1975, Act 654, § 1. **Formerly** A.S.A. 1947, § 76-544.

AG Opinion No. 2013-038: A utility company may not use adverse possession or a prescriptive easement to acquire rights-of-way on levee rights-of-way, as it is outright banned by A.C.A § 22-1-206 (Repl. 2004)



Appendix of Road Documents

Encroachment Ordinances

Orders Declaring Public Roads

Orders Accepting Roads for Perpetual Maintenance

Ordinances Establishing Minimum Standards

EMERGENCY ORDINANCE
NO. 2020-O- 069

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF POPE, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED: "AN ORDINANCE TO PROVIDE PENALTY PROVISIONS FOR THE PROTECTION AND MAINTENANCE OF COUNTY ROADS AND RIGHT-OF-WAY'S AND TO DECLARE AN EMERGENCY."

WHEREAS, the County has adopted ordinances for regulation and maintenance of county roads and right-of-way's; and

WHEREAS, the protection and maintenance of dedicated county roads and right-of-way's is essential to the safety, health and best interests of the citizens of Pope County, Arkansas;

NOW THEREFORE BE IT ORDAINED THAT:

SECTION 1. Right-of-way's of all Pope county roads shall be 60 feet.

- a. It shall be unlawful for any person, persons, organizations or utilities to place poles, lines, fences, cables or any obstacle of any kind in said road right-of-way without written consent from the County Judge. Such consent or agreements shall be placed in the County Court records. Failing to do so shall be deemed as no consent was given.
- b. Any obstacles placed in, over or under county road right-of-way's shall be moved at the expense of the owner of said properties. In cases of road widening or improvement to roads, owners have 30 days to act on such movement of property after written request is made by the County Judge.

SECTION 2. It shall be unlawful for a person to throw or dump any item or items on a road or right-of-way or deliberately fill in road ditches in Pope County, or on the right-of-way that would alter the normal flow of drainage of a county road, including, but not limited to, the dumping of leaves, tree or brush cuttings, trash, rock or any foreign objects.

SECTION 3. It shall be unlawful for a person to burn anything upon a blacktopped surface or driving surface of any county road, unless done with the written consent of the County Judge.

SECTION 4. It shall be unlawful for a person to park a motor vehicle or any other large item, including, but not limited to, a trailer, mobile home, or any piece of equipment, on a county road or upon a right-of-way to a county road, EXCEPT where an emergency situation necessitates that the vehicle or other item be left there.

SECTION 5. It shall be unlawful for a person to cut, dig or deface a county road and right-of-way for any reason without first obtaining permission from the County Judge, who, where necessary, shall require the posting of a bond sufficient to cover the estimated costs of repairs or damages.

0-902

SECTION 6. Violation of any of the provisions of this ordinance shall be punishable by a fine of from one hundred dollars (\$100.00) to one thousand dollars (\$1,000.00) for each violation.

SECTION 7. If an act prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of this ordinance, shall not exceed five hundred dollars (\$500.00) for each day that it may be unlawfully continued.

SECTION 8. Where it is possible, and in the best interest of the County as determined by the County Judge, it shall be the policy of the County to seek to have the person or persons violating any provision of this ordinance to pay the costs of repairing or correcting the damage done by their violation in lieu of payment of the fine designated above.

SECTION 9. This ordinance being necessary for the protection and preservation of public health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect from the date of passage and approval of the County Judge.

DATE: 12-8-2020

APPROVED:



BEN D. CROSS, COUNTY JUDGE

DATE SIGNED: 12/9/2020

ATTEST:



PAM ENNIS, COUNTY CLERK

VOTES FOR: 12 VOTES AGAINST: 0
ABSTAIN: 0 PRESENT: 12 ABSENT: 1

0-903

ORD# 90-9

AN ORDINANCE TO PROVIDE PENALTY PROVISIONS FOR THE PROTECTION AND MAINTENANCE OF COUNTY ROADS AND RIGHT-OF-WAYS.

BE IT ORDAINED BY THE QUORUM COURT OF STONE COUNTY, ARKANSAS: AN ORDINANCE TO PROVIDE PENALTY PROVISIONS FOR THE PROTECTION AND MAINTENANCE OF COUNTY ROADS AND RIGHT-OF-WAYS.

WHEREAS, the County has adopted ordinance for the regulation and maintenance of county roads and right-of-way: and

WHEREAS, the protection and maintenance of county roads and right-of-ways is essential to the safety, health and best interests of the citizens of Stone County, Arkansas;

NOW, THEREFORE, BE IT ENACTED THAT:

Section 1. Right-of-way of all county roads shall be 60 feet.

a. It shall be unlawful for any person, persons or organizations utilities to place poles, lines, fences, cables or any obstacle of any kind in said road right-of-way without written consent from the County Judge, such consent or agreements shall be placed in county court records. Failing to do so shall be deemed as no consent was given.

b. Any obstacles placed in, over or under county road right-of-ways shall be moved at the expense of the owner of said properties. In cases of road widening or improvement to roads, owners have 30 days to act on such movement of property after written request is made by the County Judge.

Section 2. It shall be unlawful for a person to throw or dump any item or items on a road or right-of-way or deliberately fill in road ditches in Stone County, or on the right-of-way that would alter the normal flow of drainage of a county road, including, but not limited to, the dumping of leaves, tree or brush cuttings, and trash, rock and any foreign objects.

Section 3. It shall be unlawful for a person to burn anything upon a blacktopped surface or driving surface of any county road, unless done with the written consent of the County Judge.

Section 4. It shall be unlawful for a person to park a motor vehicle or any other large item, including, but not limited to, a trailer, mobile home, or any piece of equipment, on a county road or upon a right-of-way to a county road, EXCEPT where an emergency situation necessitates that the vehicle or other item be left there.

Section 5. It shall be unlawful for a person to cut, dig or deface a county road and right-of-way for any reason without first obtaining permission

1911 NO. 11712
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1990

mission from the County Judge, who, where necessary, shall require the posting of a bond sufficient to cover the estimated costs of repairs or damages.

Section 6. Violation of any of the provisions of this ordinance shall be punishable by a fine of from one hundred (\$100.00) to one thousand (\$1,000.00) for each violation.

Section 7. Where it is possible, and in the best interest of the County as determined by the County Judge, it shall be the policy of the County to seek to have the person or persons violating any provision of this ordinance to pay the costs of repairing or correcting the damage done by their violation in lieu of payment of the fine designated above.

Section 8. An emergency is hereby declared and this ordinance being necessary for the health, safety and welfare of the citizens of Stone County, shall take effect and shall be in force and effect from and after its passage.

APPROVED


Stone County Judge

11-8-90

ATTEST


Stone County Clerk

BE IT ORDAINED BY THE QUORUM COURT OF BAXTER COUNTY, ARKANSAS:

AN ORDINANCE TO PROVIDE PENALTY PROVISIONS FOR THE PROTECTION AND MAINTENANCE OF DEDICATED COUNTY ROADS AND RIGHT-OF-WAYS.

WHEREAS, the County has adopted ordinances for the regulation and maintenance of county roads and right-of-way; and

WHEREAS, the protection and maintenance of dedicated county roads and right-of-ways is essential to the safety, health and best

interests of the citizens of Baxter County, Arkansas;

NOW, THEREFORE, BE IT ENACTED THAT:

Section 1. It shall be unlawful for a person to throw or dump any item or items on a dedicated road of Baxter County, or on the right-of-way or that would alter the normal flow of drainage of a County road, including, but not limited to, the dumping of leaves, tree or brush cuttings, and trash, rock and any foreign objects.

Section 2. It shall be unlawful for a person to burn anything upon a blacktopped surface or driving surface of any County road.

Section 3. It shall be unlawful for a person to park a motor vehicle or any other large item, including, but not limited to, a trailer, mobile home, or any piece of equipment, on a County Road or upon a right-of-way to a County road; EXCEPT where an emergency situation necessitates that the vehicle or other item be left there.

Section 4. It shall be unlawful for a person to cut, dig, or deface a County road and right-of-way for any reason without first obtaining permission from the County Judge, who, where necessary, shall require the posting of a bond sufficient to cover the estimated costs of repairs or damages.

Section 5. Violation of any of the provisions of this ordinance shall be punishable by a fine of from Ten Dollars (\$10.00) to Five Hundred Dollars (\$500.00) for each violation.

Section 6. Where it is possible, and in the best interest of the County as determined by the County Judge, it shall be the policy of the County to seek to have the person or persons violating any provisions of this ordinance to pay the costs of repairing or correcting the damage done by their violation in lieu of payment of the fine designated above.

Approved: Paul R. Knight

County Judge

ate: November 2, 1982

Stricken language would be deleted from and underlined language would be added to present law.
Act 1014 of the Regular Session

1 State of Arkansas *As Engrossed: H3/8/21 H3/9/21 H3/15/21 H4/12/21 H4/19/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1508

4

5 By: Representatives Brown, Lowery, Christiansen, S. Berry, Bentley, Breaux, Cloud, Coleman, Crawford,
6 Evans, Hollowell, McClure, S. Meeks, Rye, Slape, B. Smith, S. Smith, Wooten, Bryant, Watson

7 By: Senator A. Clark

8

9

For An Act To Be Entitled

10

AN ACT CONCERNING RIOT OFFENSES AND PUBLIC

11

DEMONSTRATION OFFENSES; CONCERNING OFFENSES COMMITTED

12

AGAINST FIRST RESPONDERS; CONCERNING PUBLIC AND

13

PRIVATE PROPERTY OFFENSES; CONCERNING PROCEDURES UPON

14

ARREST FOR RIOT OFFENSES OR THE OBSTRUCTION OF A

15

HIGHWAY OR OTHER PUBLIC PASSAGE; AND FOR OTHER

16

PURPOSES.

17

18

19

Subtitle

20

CONCERNING RIOT OFFENSES AND PUBLIC

21

DEMONSTRATION OFFENSES; CONCERNING

22

OFFENSES COMMITTED AGAINST FIRST

23

RESPONDERS; CONCERNING PUBLIC AND PRIVATE

24

PROPERTY OFFENSES; AND CONCERNING

25

PROCEDURES UPON ARREST.

26

27

28

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

29

30

SECTION 1. Arkansas Code Title 5, Chapter 13, Subchapter 1, is amended to add an additional section to read as follows:

31

32

5-13-101. Definition.

33

As used in this chapter, "first responder" means a law enforcement

34

officer, firefighter, emergency medical provider, or emergency management

35

official, who is acting within the scope or course of his or her employment.

36



1 (2) Gives commands, instructions, or signals to others in
2 furtherance of a riot.

3
4 (b)(1) Inciting riot is a Class D felony if physical injury to a
5 person or damage to property results from the offense.

6 (2)(A) Otherwise, inciting riot is a Class A misdemeanor.

7 (B) In addition to any other sentence imposed under this
8 section, a person convicted of inciting riot shall be ordered to pay
9 restitution for any physical injury, damage, or loss incurred as a result of
10 the offense.

11
12 SECTION 10. Arkansas Code § 5-71-214 is amended to read as follows:
13 5-71-214. Obstructing a highway or other public passage.

14 (a) A person commits the offense of obstructing a highway or other
15 public passage if, having no legal privilege to do so and acting alone or
16 with another person, he or she renders any highway or other public passage
17 impassable to pedestrian or vehicular traffic.

18 (b) It is a defense to a prosecution under this section that:

19 (1) The highway or other public passage was rendered impassable
20 solely because of a gathering of persons to hear the defendant speak or
21 otherwise communicate;

22 (2) The defendant was a member of a gathering contemplated by
23 subdivision (b)(1) of this section; or

24 (3) The highway or public passage obstructed has not been
25 established as a city street, county road, or state or federal highway under
26 the laws of this state and no civil court has established a right of passage
27 by prescription for the highway or public passage.

28 (c) Obstructing a highway or other public passage is a Class G A
29 misdemeanor.

30
31 SECTION 11. Arkansas Code Title 12, Chapter 12, Subchapter 1, is
32 amended to add an additional section to read as follows:

33 12-12-111. Investigation by Attorney General.

34 (a) The Attorney General may conduct an investigation when the
35 Attorney General receives information sufficient to constitute probable cause
36 to investigate one (1) or more of the following offenses:

ORDER OF THE _____ COUNTY JUDGE

Re: DESIGNATION OF " _____ ROAD" AS A PUBLIC ROAD
CASE/ORDER No. 200_-0_

ORDER

On this _____ day of _____, 200__, the _____ County Judge,
acting pursuant to Ark Code § 27-66-201; Ark Code § 27-66-205; and Ark Code § 27-66-206
considered the petition of the following persons: _____,

_____ (hereinafter "Petitioners").

The subject road is signed as " _____" and is located at the intersection of
County Road No. _____ in _____ County, Arkansas, _____ miles (east? west? north?)
of the town of _____. The subject road extends from the point of beginning of
the aforementioned intersection for the distance of approximately _____ to the
point of terminus. Petitioners, _____ have lived on the premises located
at _____ address since _____ date; and have duly filed in the records of this
proceeding with the County Clerk service of their filed petition along with notice of this
hearing to all parties residing along the subject section of roadway.

This is not an action in eminent domain. Rather, Ark Code § 27-66-201; Ark Code § 27-
66-205; and Ark Code § 27-66-206, respectively, provide that the county judge is authorized by
law to declare roads in Arkansas to be public roads which are designated as: mail routes of the
United States Postal Service; bus routes of a school district; or worked roads by the county. A
hearing is held this date for opportunity for the petitioners to submit evidence in support; and for
persons objecting to this order to submit evidence contravention of petitioner's submissions.

Attached hereto and marked Exhibit "A" is an official and authentic document of the United States Postal Service evidencing official designation of the subject road as a mail route of the United States Postal Service. Also, attached hereto and marked Exhibit "B" is an official document of the _____ School District evidencing the use of the subject road as a school bus route. And attached hereto and marked Exhibit "C" is an Affidavit of _____ (name), _____ (title of job or previous job with county) attesting that the subject road has been maintained by _____ County for a period of _____ years (anything over 7 years, and true say X years), a period in excess of 7 years.

By the authority and discretion vested exclusively in the county judge by the Arkansas Constitution the Court hereby FINDS the subject road to be: a mail route, a bus route and a worked road as defined by Arkansas Law and HEREBY declares the subject road in _____ County, "_____", more particularly described above to be a public road. Notice of the subject proceeding and hearing has been provided as found hereinabove. Furthermore, this Order shall be filed of record and published in accordance with Ark. Code § 14-14-104 with evidence of publication of filed of record with the County Clerk.

Hon. _____ County Judge

DATE

BEFORE THE COUNTY COURT OF CLEVELAND COUNTY, ARKANSAS

IN RE: CASE NO. 2206-_____

DECLARATION, DESIGNATION AND ACCEPTANCE
OF TOLFREE ROAD AS COUNTY ROAD NO. 16

ORDER

On this _____ day of September came before the Court the matter of formal declaration and formal acceptance of County Road No. 16, commonly known as "Tolfree Road", as a county road. Acting pursuant to the exclusive authority granted by the Constitution of Arkansas and the Arkansas Code, the County Court of Cleveland County doth HEREBY FIND and ORDER as follows, to-wit:

1. Notice of the subject hearing scheduled at _____ p.m. on this _____ day of August, 2006, for the purposes of consideration of the formal declaration and acceptance of County Road No. 16, Tolfree Road, as a county road was duly published in a newspaper of general circulation in Cleveland County, Arkansas. A copy of said notice is filed with the County Clerk in the above-styled matter.
2. In accordance with the Constitution of Arkansas and laws of the State of Arkansas the County Judge of Cleveland County has the exclusive jurisdiction and authority to declare, designate and accept public roads in Cleveland County as county roads to be forever maintained by Cleveland County until abandoned.
3. That the Court was presented with the following evidence, to-wit:
 - a. An official designation of County Road No. 16, Tolfree Road as a mail route by U.S. Postal Authorities. {Exhibit "A" attached hereto}. Under Ark. Code Ann. § 27-66-205 the County Judge of Cleveland County has the exclusive jurisdiction and authority to declare and

designate said mail route of the U.S. Postal Service, County Road No. 16, Tolfree Road as a county road in Cleveland County Arkansas.

b. An official designation of County Road No. 16, Tolfree Road as a school bus route by Public School Authorities. {Exhibit "B" attached hereto}.. Under Ark. Code Ann. § 27-66-206 the County Judge of Cleveland County has the exclusive jurisdiction and authority to declare and designate said mail routs of the U.S., County Road No. 16, Tolfree Road as a county road in Cleveland County Arkansas.

c. The road foreman of the Cleveland County Road Department testified under oath that Cleveland County had worked the subject road, Tolfree Road, from its beginning where the road intersects State Highway 8 to its terminus where it returns to State Highway 8 for a length of _____ miles, improving the road with gravel, asphalt, and chip seal, and balding and grading the ditches for a width of not less than 20 feet from the centerline for a period of over _____ years creating a prescriptive easement and establishing Tolfree Road as a public road.

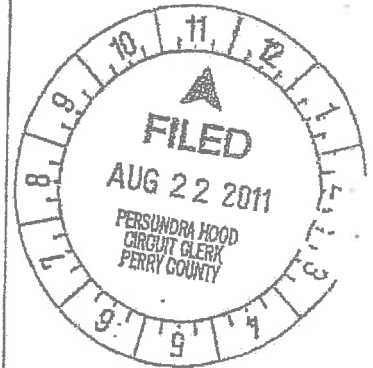
d. Based upon the foregoing evidence the Cleveland County Court HEREBY DECLARES Tolfree Road as: an official and designated mail route, as an official and designated school bus route, and as a public road having a prescriptive easement of public travel and being maintained by Cleveland County, Arkansas for a period of over _____ years.

THEREFORE, IT IS CONSIDERED AND ADJUDGED, "TOLFREE ROAD" IS HEREBY FORMALLY DELCARED, DESIGNATED AND ACCEPTED AS "COUNTY ROAD NO. 16". IT IS SO ORDERED.

COUNTY JUDGE

DATE

COUNTY JUDGE
OF PERRY COUNTY, ARKANSAS



IN RE: CO-2011-1

DECLARATION and DESIGNATION
OF WEAVER LANE AS A PUBLIC ROAD

ORDER

On this 25th day of July came before the Court the matter of formal declaration and formal acceptance of "Weaver Lane", as a public road. Acting pursuant to the exclusive authority granted by Article 7 and § 28 of the Constitution of Arkansas and the Arkansas Code, the County Court of Perry County doth HEREBY FIND and ORDER as follows, to-wit:

1. Notice of the subject hearing scheduled at 2:00 p.m. on this 25th day of July, 2011, for the purposes of consideration of the formal declaration and acceptance of Weaver Lane as a public road was duly published in a newspaper of general circulation in Perry County, Arkansas. A copy of said notice is filed with the County Circuit Clerk in the above-styled matter.

2. In accordance with the Constitution of Arkansas and laws of the State of Arkansas the County Judge of Perry County has the exclusive jurisdiction and authority to declare and designate public roads in Perry County as public roads.

3. The following evidence supports this declaration, to-wit:

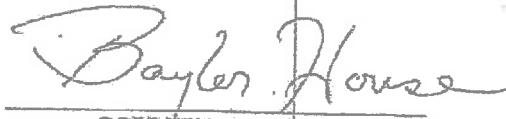
a. "Weaver Lane" is a mail route of U.S. Postal Authorities as stipulated by all parties concerned. Under Ark. Code Ann. § 27-66-205, the County Judge of Perry County has the exclusive jurisdiction and authority to declare and designate said mail route of the U.S. Postal Service, "Weaver Lane" as a public road in Perry County, Arkansas.

b. That Billy Stone and Robbie Edwards, two former road foremen of the Perry County Road Department testified under oath that Perry County had worked the subject road, "Weaver Lane", from its beginning where the road intersects Copperas Gap Road to its terminus at private

land now owned by Mr. Weaver, improving the road with gravel and grading the ditches for a width of not less than 10 feet from the centerline for a period of over 25 "twenty five" years, creating a prescriptive easement and establishing "Weaver Lane" as a public road.

c. That two previous deeds executed and recorded with the Perry County Recorder's office and admitted as exhibits 1 and 2 reserved the same or similar section of land known as "Weaver Lane" as an easement and as a county road.

BY THE AUTHORITY AND DISCRETION VESTED EXCLUSIVELY IN THE COUNTY JUDGE BY THE ARKANSAS CONSTITUTION THE COURT HEREBY FINDS BASED UPON THE FORGOING EVIDENCE THAT "WEAVER LANE" IS: A DESIGNATED MAIL ROUTE, A DESIGNATED SCHOOL BUS ROUTE, A WORKED ROAD AS DEFINED BY ARKANSAS LAW, AND A ROAD HAVING A PRESCRIPTIVE EASEMENT OF PUBLIC TRAVEL AND BEING MAINTAINED BY PERRY COUNTY, ARKANSAS FOR A PERIOD OF OVER 25 YEARS AND THUS HEREBY DECLARES WEAVER LANE IN PERRY COUNTY, ARKANSAS MORE PARTICULARLY DESCRIBED ABOVE TO BE A PUBLIC ROAD. FURTHERMORE, THIS ORDER SHALL BE FILED OF RECORD AND PUBLISHED IN ACCORDANCE WITH ARK. CODE § 14-14-104 WITH EVIDENCE OF PUBLICATION OF FILED OF RECORD WITH THE COUNTY CLERK.
IT IS SO ORDERED.



COUNTY JUDGE

8-22-2011

DATE

IN THE COUNTY COURT OF GARLAND COUNTY, ARKANSAS

FILED

IN THE MATTER OF ACCEPTANCE
OF PEACOCK LANE INTO THE COUNTY
ROAD SYSTEM FOR MAINTENANCE
PURPOSES

2006 NOV 1 PM 3 12

JUDY HUGHES
GARLAND CO. CLERK

BY Lucy

ORDER

NOW, on this day, comes on for consideration by the Court the matter of acceptance of Peacock Lane into the county road system for maintenance purposes, and the Court having been well advised as to all matters of fact and of law makes the following findings and issues the following orders:

I.

The Court has jurisdiction of the parties named and the subject matter.

II.

The County Judge is hereby authorized under A.C.A. 27-66-205, in his discretion, to designate a county road that is used as a mail route or a free rural mail delivery route if such is designated as such mail route by the proper postal authorities of the United States Government. A copy of this documentation is attached to this order as Exhibit "A".

IT IS, THEREFORE, BY THE COURT CONSIDERED ORDERED AND ADJUDGED that Peacock Lane is hereby accepted into the county road system for maintenance purposes.

IT IS SO ORDERED.

Larry Williams
Larry Williams
Garland County Judge

11/1/06
Date

cc 7-109

IN THE COUNTY COURT OF GARLAND COUNTY, ARKANSAS

FILED

IN THE MATTER OF ACCEPTANCE
OF FALCON RIDGE SUBDIVISION
INTO THE COUNTY ROAD SYSTEM
FOR MAINTENANCE PURPOSES.

2007 OCT 24 AM 10:23

TAMMY LAMBERT
GARLAND CO. CLERK

ORDER BY [Signature]

NOW, on this day, comes on for consideration by the Court the matter of acceptance of Falcon Ridge Subdivision in the county road system for maintenance purposes, and the Court having been will advised as to all matters of fact and of law makes the following findings and issues the following orders:

I.

The Court has jurisdiction of the parties named and the subject matter.

II.

Under A.C.A 27-66-208, the County Judge in his discretion, may designate as a county road any strip of ground deeded by the owners to the county for a public thoroughfare. A copy of this documentation is attached to this order as Exhibit "A". The Court further finds that the streets in this subdivision have been built in accordance with the county's road construction standards.

IT IS, THEREFORE, BY THE COURT CONSIDERED ORDERED AND ADJUDGED that the streets in Falcon Ridge Subdivision are hereby accepted into the county road system for maintenance purposes.

IT IS SO ORDERED.

[Signature]

Larry Williams
Garland County Judge

Date: 10/23/07

IN THE COUNTY COURT OF GARLAND COUNTY, ARKANSAS

FILED

2005 MAR 1 AM 11 38

IN THE MATTER OF ACCEPTANCE
OF CERTAIN STREETS, NORTHWOOD
TRAIL, ET AL, INTO THE COUNTY ROAD
SYSTEM FOR MAINTENANCE PURPOSES

NANCY JOHNSON
GARLAND CO CLERK
BY Placid

ORDER

CC-05-38

NOW, on this day, comes on for consideration by the Court the matter of acceptance of Northwood Trail, Placid Place, Reindeer Court and Shady Knoll Trail in the county road system for maintenance purposes, and the Court having been well advised as to all matters of fact and of law makes the following findings and issues the following orders:

I.

The Court has jurisdiction of the parties named and the subject matter.

II.

Under A.C.A. 27-66-208, the County Judge, in his discretion, may designate as a county road any strip of ground deeded by the owners to the county for a public thoroughfare. A copy of this documentation is attached to this order as Exhibit "A". A copy of this dedication deed filed and recorded by B.G. Wilson Lumber Company is also located at page 165 of Book 2501 on the records of the Garland County Circuit Clerk.

IT IS; THEREFORE, BY THE COURT CONSIDERED ORDERED AND ADJUDGED that Northwood Trail, Placid Place, Reindeer Court and Shady Knoll Trail which are located in the referenced dedication deed are hereby accepted into the county road system for maintenance purposes.

IT IS SO ORDERED.

DATE: 3/1/05

Jerry Williams
Jerry Williams
Garland County Judge

IN THE COUNTY COURT OF GARLAND COUNTY, ARKANSAS

IN THE MATTER OF THE ACCEPTANCE OF
ALL STREETS OF WESTON ESTATES GARDEN
HOMES INTO THE COUNTY ROAD SYSTEM
FOR MAINTENANCE PURPOSES

FILED

ORDER
2004 DEC 22 AM 10 48

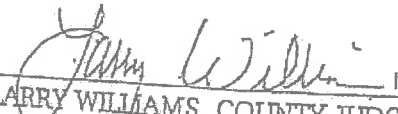
CC-04-123

Now, on this day, comes on for consideration by the Court the matter of acceptance of all streets and roadways in WESTON ESTATES GARDEN HOMES in the county road system for maintenance purposes, and the Court having been well advised as to all matters of fact and of law makes the following finds and issues the following Orders:

1. The Court has jurisdiction of the parties named and the subject matter.
2. The County Judge is authorized under A.C.A. 27-66-206, in his discretion, to designate a county road that is used as a school bus route. Under A.C.A. 27-66-208, the County Judge, in his discretion, may designate as a county road any strip of ground deeded by the owners to the county for a public thoroughfare. Copies of this documentation are attached to this order as Exhibits

IT IS THEREFORE, BY THE COURT, CONSIDERED, ORDERED AND ADJUDGED that all streets roadways in WESTON ESTATES GARDEN HOMES, Garland County, Arkansas, according to the Master Bill of Assurance thereof dated May 17, 1995, and recorded in Book 1609 at Page 514 of the Deed and Mortgage Records of Garland County, Arkansas, and shown on the Plat thereof recorded in Plat Book 11 at Page 11 of the Plat Records of Garland County, Arkansas, are hereby accepted into the County road system for maintenance purposes.

IT IS SO ORDERED.


LARRY WILLIAMS, COUNTY JUDGE

DATED: December 15, 2004

EUDOX PATTERSON
ATTORNEY AT LAW
225 WOODBINE
HOT SPRINGS, ARKANSAS 71901
(501) 221-1126 FAX (501) 221-1137

EMERGENCY ORDINANCE NO. 94 - 19

"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF SEBASTIAN, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:"

AN ORDINANCE AMENDING ORDINANCE NO. 82-33 ESTABLISHING PROCEDURES FOR THE ACCEPTANCE OF ROADS INTO THE SEBASTIAN COUNTY ROAD SYSTEM; AND FOR OTHER PURPOSES.

Section 1. Purpose. The purpose of this Ordinance is to amend Ordinance No. 82-33 to provide a procedure for the acceptance of certain roads into the County road system, including roads that may have been dedicated to the public but not officially accepted into the County road system, by County court order. This amendment to the County road plan is intended to apply only to certain roads which were placed into use prior to the implementation of the County Road Plan December 21, 1982, said roads being defined as an "eligible" roadway. It is not the intent of this Ordinance to apply this procedure to newly developed roads, which are to be brought to County Road Standards by the developer. Acceptance of roads deemed eligible under this amendment shall be preceded by the completion from the property owners of appropriate road dedication forms and documentation.

Section 2. Upon proper completion of "application and other forms necessary for dedication of a road to Sebastian County" set forth in the road plan pages A-1 through A-6, the Sebastian County Judge may implement the procedure to accept an eligible roadway into the Sebastian County road system based upon the cost of the road improvements materials being paid for by the property owners proposing acceptance of the road by the County. Procedures to implement this acceptance shall include as a minimum the following:

1. Inspection of the road by the County Road Department Superintendent or Engineer to ascertain detail construction specifications required for acceptance of the road into the County road system. The Road Superintendent or Engineer shall prepare a complete listing of all materials and supplies needed to bring the road into compliance with road standards, as well as, required right-of-way, drainage improvements and so forth. Construction cost estimates to the property owners shall not include the cost of County labor and equipment necessary for the completion of the construction.

EMERGENCY ORDINANCE NO. 94 - 19

Page 2

2. Proper deeding the right-of-way in compliance with the road plan by the property owners.
3. Deposit by the property owners with the Sebastian County Treasurer's Office of a check payable to the Road Fund for the complete cost of the materials required to upgrade the road to minimum construction and design standards.

Section 3. It shall be the intent of this Ordinance that upon completion by the property owners of the proper application and other forms necessary for the dedication of an eligible road to Sebastian County, inspection and report by the Road Superintendent or County Engineer and deposit of full funding for the cost of construction materials to meet minimum construction and road standards, the Sebastian County Judge may accept said road into the Sebastian County road system.

Section 4. In order to protect the Sebastian County tax payers' investment in the County road system, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in full force and effect from after its passage and approval.

DATED

October 18, 1994

APPROVED:

A. H. [Signature]

ATTEST:

Dennis M. Tate
COUNTY CLERK

ORDINANCE NO. 84-13

Private Roads

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF FAULKNER, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED: AN ORDINANCE TO AMEND AND SUPPLEMENT FAULKNER COUNTY ORDINANCE 77-19 AND FOR OTHER PURPOSE:

Section 1. Section's 2 and 3 of Faulkner County Ordinance 77-19 (April 19, 1977) are repealed in their entirety with these sections amended to read as follows:

Section 2: A. Any acceptance of privately developed roads by the County shall remain as a permissive action with the decision residing with the County Judge. The acceptance of a privately developed road by the County commits the County to extending its maintenance capability thereto in the same degree as to existing County roads subject to the availability of funds.

B. Privately developed roads, to be accepted into the County System require:

- (1.) All standard in Section 1 must be met and verified by the County Road Department.
- (2) One (1) year must lapse between initial verification of the standards and any consideration by the County Judge for acceptance of the private road and a second verification of the standards in Section 1 is required to insure that those standards are still in effect.

Provided that a dedication deed and/or a sub-division plat is on file with the Circuit Clerk, which precisely and legally describes the road under consideration, the County Judge may through Court order accept the privately developed road into the County system.

Section 3: A. In the event that a tile or culvert on a private access road immediately bounded to a county road is damaged through an improvement project of the County Road Department, then the county will re-install such tile or culvert when purchased by the owner.

B. Tiles or culverts replaced by the County as outlined above must be a minimum of fifteen (15) inches in diameter and a minimum of twenty-four (24) feet in length.

Section 4. This Ordinance being necessary for the protection and preservation of public health and safety, an emergency is hereby declared to exist and this Ordinance shall be in force and shall take effect upon passage and publication.

Dated: September 18, 1984 Dated: September 18, 1984

Suzanne Scroggins, Gerald Ward
Quorum Court Secretary, Faulkner County Judge
Faulkner County, Arkansas Faulkner County, Ar.

Road Improvement Permit Request

Person Requesting Permit: _____

Company Name: _____

Date: _____ New Construction Yes _____ No _____

Approximate Construction Date: Start: _____ Finish: _____

Description of work to be done:

Persons or companies doing construction:

Subdivision Name: _____

Road Name: _____

Reason Improvement Needed: _____

Contact Name: _____

Contact Address: _____

Contact Phone: _____

Approved _____ Denied: _____

Reasons:

Faulkner County Road Inspection Form

Requirements: To enter an existing road into the Faulkner County system to be maintained the owner of the road must have a first inspection by Faulkner County. The Owner must maintain the road for one year between the first and final inspection. After The final inspection a Determination will be made by The County Judge or his designee if the road would be a benefit to Faulkner County.

Inspection: First _____ Final _____

Date: _____

Road Name: _____

Road Footage: _____

Comments: _____

Pass: _____

Fail: _____

County Judge

Road Foreman

Sponsored by: County Roads Committee

ORDINANCE 07-15

Be it enacted by the Quorum Court of the County of Faulkner, State of Arkansas.
An Ordinance to be entitled:

An Ordinance establishing road construction requirements for dedication and requirements for dedication and requiring the construction of improvements; establishing a permit fee and for other purposes

WHEREAS, Ark. Code Ann. 27-66-207 provides that the county judge, in his discretion, may designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making the dedication is properly recorded.

- Article 1. Increasing development has occurred throughout several locations in the unincorporated parts of Faulkner County.
- Article 2. Residential and commercial development has led to the construction of various street improvements, which are later dedicated to the public.
- Article 3. Land development in the county frequently requires right-of-way dedications and the construction of public roads.
- Article 4. Road construction or reconstruction includes street widening, street alignment, and realignment drainage structures and piping, excavation cuts or fill sections, extensive drain structures and similar development that result in permanent construction.
- Article 5. Purchasers of property in subdivisions within unincorporated areas of Faulkner County have a reasonable expectation that the roads within the subdivision meet the specifications for inclusion into the county road system and that such roads have been approved by the County Judge of Faulkner County for subsequent maintenance as county roads;

NOW THEREFORE BE IT ORDAINED BY THE QUORUM COURT OF
FAULKNER COUNTY, ARKANSAS:

- Section 1: No person or entity shall construct, reconstruct, alter, remove, or replace any portion of a road, curb, gutter, drainage structure, or driveway abutting a dedicated street within the County with out first having obtained a permit from the Faulkner County Judge.
- Section 2: All construction, reconstruction, alterations, removal or replacement required by this ordinance shall conform to the approved standards of the Faulkner County road ordinances.
- Section 3: Any person or entity subdividing land are required to file a subdivision plat with the County Judge, and shall indicate the right-of-way to be dedicated to the public as well as the location of water lines, and fire hydrants. The plat for the said subdivision shall be approved by the County Judge before the constructions of roads are implemented.
- Section 4: The County Judge shall issue a permit upon proper submission for the construction or reconstruction of roads pursuant to this ordinance and upon payment of a one hundred dollar (\$100.00) permit fee (payable to Faulkner County Road Department) which shall be used toward the cost of administering this Ordinance.
- Section 5: An emergency is hereby declared to exist as this Ordinance is necessary for the proper and timely conduct of county operations and this Ordinance shall be in force and take effect upon passage and publication.

Dated: May 15, 2007

Dated: May 15, 2007

Attest: _____
Jeff Johnston
Quorum Court Secretariat
Faulkner County, AR

Approved: _____
Preston Scroggin
Faulkner County Judge
Faulkner County, AR

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IN THE COUNTY COURT
OF
SEBASTIAN COUNTY, ARKANSAS

FILED

MAY 9 1996

DORIS TATE
County and Probate Clerk

By _____

IN THE MATTER OF ESTABLISHING
OF NEW ROAD DEVELOPMENT
PROCEDURES

ORDER

Now comes before the Court the matter of establishing new road development procedures prior to accepting new roadways into Sebastian County Road System.

The Sebastian County Court hereby establishes the following procedural steps to be followed by developers and contractors, providing necessary information and evidence to the Sebastian County Road Department Superintendent and Sebastian County Judges Office before road is declared an integral part of the County Road System:

SEBASTIAN COUNTY NEW ROAD DEVELOPMENT PROCEDURES:

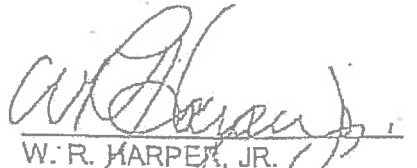
00. Must have Road Development License Engineer.
01. Letter stating road is not in flood zone area.
02. Map and legals of road.
03. Drainage set up with state approved plastic or concrete pipe.
04. Material tickets for all materials used, all compaction test records.
05. Sub base rock or shale, check with County for amounts. (Road location may require differing amounts).
06. Compact sub-base 95% or more.
07. Cure time sub-base.
08. Add base rock Class #7 Base rock, eight inches, six inches compacted. Compact 95% or more.
09. Cure time base, prime MC30 2.5 to 3.0 shot per square yard.
10. Cure time for prime, sweep double seal.
11. Sealing oil RC800 - Sealing Chips 1/2" Wash, 30 Lbs. per square yard.
12. Shot for sealing oil 3.5 second sealing same as first.

Page 2
GCCO 96-45

13. After road is completed to County specifications, a warranty period of one year from date of approval of construction is mandatory. This agreement should be made between the developer and the road contractor, and will be required before road is accepted into County Road System at the end of one year.

Each phase to be inspected by County.

WITNESS my hand this 9th day of May, 1996.


W. R. HARPER, JR.
SEBASTIAN COUNTY JUDGE

JOB: 050053
TRACT: 21E

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT Mary Rittenhouse for and in consideration of Fifty Dollars, (\$50.00), and other valuable considerations, to cash in hand paid by the City of Melbourne, Arkansas, the receipt of which is hereby acknowledged, do hereby give and grant to the Arkansas State Highway Commission, it's successors and assigns an exclusive temporary right of way and temporary easement for the sole purposes necessary for Highway construction, together with free ingress and egress, to, across, through and over the lands shown on the Right of Way Plans for Job No.050053, and designated as Tract No. 21E situated in the County of Izard, State of Arkansas.

This temporary easement as conditioned above shall terminate when the above subject job has been completed by the contractor and accepted by the City of Melbourne, Arkansas.

TO HAVE AND TO HOLD the same unto the said City of Melbourne, Arkansas and to its successors and assigns for and during the term aforesaid and for the purposes hereinabove set forth.

WITNESS my signature of this _____ day of _____, 20_____.

Signature

Fed. ID.# /SS#

Signature

Fed. ID.# /SS#

ACKNOWLEDGMENT

STATE OF _____)
) SS
COUNTY _____)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, acting within and for the aforesaid County, on this day personally appeared _____ well known to me to be the person(s) whose name(s) is subscribed to the foregoing instrument and stated to me that _____ executed the same for consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public _____ day of _____, 20_____.

MY COMMISSION EXPIRES:

Property Owners Initial

NOTARY PUBLIC

(1)

(1)

(1)

JOB 080142
TRACT 3E-1

TEMPORARY CONSTRUCTION EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

THAT PropertyOwnerName for and in consideration of Dollars (\$000.00), and other valuable considerations, cash in hand paid by the City of Conway, Arkansas, the receipt of which is hereby acknowledged does hereby give and grant to the City of Conway, Arkansas, its successors and assigns an exclusive temporary right of way and temporary easement for the sole purposes necessary for Highway Construction, Job No. 080142, together with free ingress and egress, to, across, through and over the following lands situated in the County of County, State of Arkansas:

LEGAL DESCRIPTION

Part of the SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 35, T-6-N, R-14-W, Faulkner County, Arkansas more particularly described as follows:

Commencing at the Northeast corner of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 35; thence South $01^{\circ}37'47''$ West along the East line of said Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$, a distance of 1282.35 feet to a point on the existing Northerly right of way line of Meadow Lake Road; thence North $86^{\circ}58'46''$ West along said existing right of way line a distance of 76.35; thence continuing North $88^{\circ}53'16''$ West along said existing right of way line a distance of 641.46 feet; thence along said right of way line on a curve to the left having a radius of 439.26 feet, an arc length of 537.48 feet and a chord which bears South $56^{\circ}04'57''$ West, a distance of 504.57 feet to the POINT OF BEGINNING; thence along said existing right of way line on a curve to the left having a radius of 439.26 feet, an arc length of 9.45 feet and a chord which bears South $20^{\circ}24'36''$ West 9.45 feet; thence North $63^{\circ}36'40''$ West, a distance of 7.07 feet; thence North $74^{\circ}34'18''$ West, a distance of 90.90 feet to a point on the existing right of way line of the Union Pacific Railroad; thence North $64^{\circ}21'09''$ West along said right of way, a distance of 85.00 feet; thence South $72^{\circ}22'11''$ East, a distance of 182.45 feet to the POINT OF BEGINNING containing 0.03 acres, more or less.

Together with the rights, easements and privileges in or to said lands which may be required for the full enjoyment of the rights herein granted.

This temporary easement as conditioned above shall terminate when Job No. 080142 has been completed by the contractor and accepted by the City of , Arkansas.

TO HAVE AND TO HOLD the same unto the said City of Conway, Arkansas, and to its successors and assigns for and during the term aforesaid and for the purposes hereinabove set forth.

WITNESS my signature on this _____ day of _____, 2008.

Signature
Fed. I.D.# /SS# _____

Signature
Fed. I.D.# /SS# _____

ACKNOWLEDGMENT

STATE OF)
) SS
COUNTY)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public, acting within and for the aforesaid County, on this day personally appeared _____ well known to me to be the person(s) whose name(s) is subscribed to the foregoing instrument and stated to me that _____ executed the same for consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public _____ day of _____, 2008.

MY COMMISSION EXPIRES:

NOTARY PUBLIC

APPLICATION FOR ACCESS DRIVEWAY PERMIT

APPLICANT:

NAME: _____ PHONE: _____
ADDRESS: _____ CITY: _____

CONTRACTOR OR AGENT (If applicable):

NAME: Pulaski County Road Department PHONE: 340-6800
ADDRESS: 3200 Brown St. CITY: Little Rock, AR 72204

DRIVEWAY TYPE: PRIVATE COMMERCIAL

APPROXIMATE: Construction Start Date _____ Completion Date _____

The undersigned agrees to comply with the Pulaski County Policy on Access to Pulaski County Roads; and that issuance of a permit shall not be construed to mean waiver of the rights and powers of Pulaski County to require or direct the removal, relocation, or replacement and/or proper maintenance of any driveway within the right of way or access to a County or public road. No work shall be undertaken on the County Highway right of way or access until the approved copy has been received by the applicant and posted on the work site.

All work will be performed in a neat and workmanlike manner, using materials acceptable to the County and the right of way will be cleaned up and left in a presentable condition upon completion of the described work.

APPLICANT'S SIGNATURE: _____ DATE: _____

FOR OFFICE ONLY

ROADWAY INVENTORY

Road Surface: Dirt - Asphalt - Concrete - Gravel - Seal

Road Width _____ Ft.

Proposed Driveway Surface: Dirt - Asphalt - Concrete - Gravel - Seal

Proposed Driveway Width _____ Ft.

Pipe Size _____ In. Length _____ Ft.

Valley Gutter _____ Ft.

We do this part

FILL IN MAP

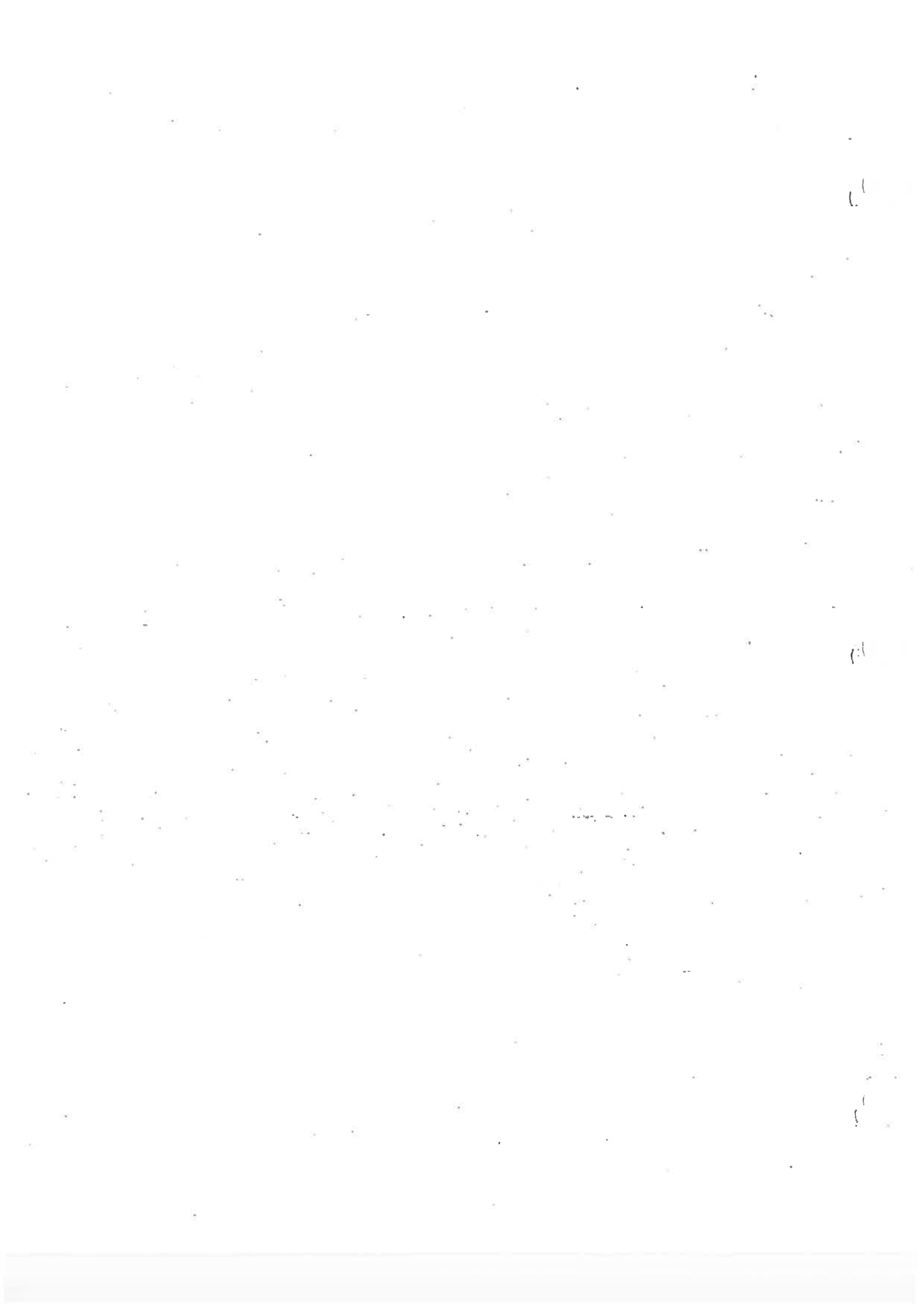
STAKE AREA FOR CULVERT

N
W *E*
S

On N. Circle
Draw Arrow
Toward North
Direction

We need a copy of your deed!

Distance From Street Intersection
Centerline To Centerline



FILED

JUN 26 2019

**KADE HOLLIDAY
COUNTY & PROBATE COURT CLERK**

ORDINANCE NO. 2019- 13

**AN ORDINANCE TO AMEND ORDINANCE 2006-17 TO
ESTABLISH AND AMEND PROCEDURES,
REQUIREMENTS, MINIMUM STANDARDS, AND
SPECIFICATIONS OF ROADS IN THE COUNTY OF
CRAIGHEAD, ARKANSAS, AND FOR OTHER
PURPOSES, AND DECLARING AN EMERGENCY**

WHEREAS, the County of Craighead has reviewed the increased needs of a growing and progressive county, and

WHEREAS, Craighead County has a significant investment in the county road system and it is incumbent upon the county to protect that investment against waste, deterioration, and destruction; and

WHEREAS, Arkansas Code Annotated Section 27-66-207 provides that the County Judge, in his discretion, has authority to set policy and designate as a county road any street or road dedicated to the public as a public thoroughfare, provided that a bill of assurance making the dedication is properly recorded and accepted;

WHEREAS, increasing industrial and residential development and associated transportation has led to an influx of subdivisions in Craighead County, and

WHEREAS, the purpose of this Ordinance is to amend and clarify particular portions of Ordinance 2006-17 to enable developers, contractors, and others consistent and applicable information of the County Road system, and

WHEREAS, Purchasers of property in subdivisions within unincorporated areas of Craighead County have a reasonable expectation that the roads within the subdivision meet the specifications for inclusion into the county road system and that such roads have

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been approved by the County Judge of Craighead County for subsequent maintenance as county roads, and

WHEREAS, the purpose of this Ordinance is to be applied to all subdivisions and plats and roads that have not been accepted into the County Road System as a County Road, and those that will be proposed from and after this passage.

THEREFORE, BE IT ORDAINED BY THE QUORUM COURT OF CRAIGHEAD COUNTY, ARKANSAS, AS FOLLOWS:

SECTION 1.: Article III, Section 1 and 2 shall be removed and Article IV Section 1 (A) 1-3, 6-8 shall be removed and the following language inserted as follows:

Article III.

A. Approval Procedures.

- i. Step 1. Concept Plan Submittal
- ii. Step 2. Preliminary Plat and Construction Plan Submittal and Approval
- iii. Step 3. Final Plan and Bond Submission, Approval and Filing

B. Concept Plan Submittal.

i. When a developer intends to develop a parcel of land within the unincorporated area of Craighead County, a Concept Plat must first be submitted to the County Judge for review applicable to the planning requirements. This conference may be of assistance to the developer through the prevention of unnecessary expense in the plat preparation.

ii. The Concept Plat may be a legible free-hand drawing superimposed upon a print of a site map or aerial photograph which may provide the following data:

Name, address and telephone number of the owner, developer, engineer and/or surveyor, topography, proposed street plan, existing or adjoining roads, development name, date, and approximate acreage or any additional information the developer considers pertinent.

iii. While in Concept form the developer or engineer may consult with the County Judge. During this conference, the general features of the land development, its layout, facilities and required improvements, including off-site improvements, shall be determined to the extent possible and necessary for preparations of the Preliminary Plat.

iv. When determined by the County Judge, the Quorum Court Road Committee may further review within fifteen (15) days following receipt of the Concept Plat.

C. Preliminary Plat and Construction Plan Submittal and Approval

When a land development is proposed, the first formal application for approval shall be the preliminary plat directed to the County Judge.

- i. The Preliminary Plat and Construction Plans submission shall consist of the following:
 - a. Payment of the Preliminary Plat Fee, when so directed by the Craighead County Quorum Court.
 - b. Eight (8) copies of the Preliminary Plat and One (1) copy of the Detailed Construction Plans of the proposed development. The plat and construction plans shall include the information set forth in this

Ordinance. Additional copies may be required at the cost of the developer or contractor.

- c. Following submittal of the Preliminary Plat and Detailed Construction Plans, the County Judge shall distribute the plat to the Quorum Court Road Committee for their review and comments.
 - d. Within 30 days after the Quorum Court Road Committee and County Judge review the submission, they shall indicate their approval, disapproval, or approval with conditions. Such authority does not constitute authorization to proceed with the construction nor authorization to sell lots until the Final Plat is approved and filed in the Circuit Clerks office of Craighead County.
 - e. The Preliminary Plat shall not be filed with the Craighead County Circuit Clerks office.
- ii. The Preliminary Plat shall include all requirements as set forth in this Ordinance in this Section iv.
 - iii. The Construction Plan shall include:
 - a. Street typical section and pavement section of each street or street classification in the proposed development in accordance with the requirements of this Ordinance.
 - b. Street profile, design calculations, soils analysis (when requested) and plans and specifications in accordance with the requirements of this Ordinance.

- c. Storm drainage calculations, profile and plans and specifications in accordance with the requirements of this Article.
- d. As appropriate, design calculations, profile and plans, and specifications for all required off-site improvements in accordance with the requirements of this Ordinance.
- e. The engineer's estimated costs of all improvements.

iv. Requirements for Plat Subdivision

- a. All roads and drainage improvements will be designed and stamped by a registered professional engineer in the State of Arkansas. The design engineer for the project will also certify and stamp that the construction of the roads and drainage system meet all County, State, and Federal requirements.
- b. The roads and drainage system will be designed using the following minimum requirements:
 - i. 60-foot minimum right of way. Additional right of way may be required to accommodate areas with large grade changes where it would be difficult for the road ditch to be contained in the right of way.
 - ii. The road bed will have 22' minimum ACHM paved driving surface with 4' wide aggregate shoulders on both sides.
 - iii. 40 MPH geometric design on Collector streets, and 25MPH on local streets.

- iv. 2' minimum depth of all road side ditches measured from edge of subgrade to the bottom of the ditch.
- v. The drainage system will be designed to keep the 25-year storm flood elevation below the subgrade elevation at all locations. There will also be building elevations shown on each lot that would have standing water during this design flood.
- vi. The developer is responsible for correcting any drainage issues or flooding problems occurring on adjacent or downhill or downstream properties because of the development.
- vii. Reinforced concrete pipe culverts will be used under all County Roads.
- viii. The pavement life is designed for thirty (30) years with minimal maintenance. The default pavement section for a low volume residential street will be 3" of ACHM surface and 8" of aggregate. This pavement section will have a Structural number of 2.35. The default pavement section for a collector road will be 2" of ACHM surface, 3" of ACHM binder, and 7" of aggregate. This pavement section will have a structural number of 3.18. In the counties default pavement section, we are assuming that the subgrade soil would be classified as an A-5 or A-7.

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Alternate pavement sections will be considered, if the developer chooses to do a site-specific geotechnical design. The design may consider an improved subgrade to reduce the aggregate and ACHM required to meet the counties design requirements.

- ix. The subgrade will be compacted 12" deep at a minimum of 98% standard proctor at optimum moisture content.
- x. The aggregate base will meet with Arkansas DOT specifications for ABC Class 7.
- xi. The aggregate base will be compacted to a minimum of 98% modified proctor at optimum moisture content.
- xii. The ACHM will be made and installed to Arkansas DOT specifications for local roads.
- xiii. The developer will schedule a proof roll of both the subgrade and aggregate base for acceptance by both the design engineer and the County Judge (or his representative).
- xiv. The road will not be accepted into the County Road system until the ditches and Right of way have been stabilized to 80% vegetative cover.
- xv. Buffering may be required where there are developments of differing characteristics.

xvi. Flood Hazard Areas. A flood hazard area is one subject to a base flood as determined by the Federal Emergency Management Agency (FEMA) identified on its Flood Insurance Rate Map (FIRM).

a. No plat of a subdivision shall be approved that contains lots or building sites in the floodway.

b. When a portion of a land development contains portions of floodplain, they shall be clearly delineated on the plat. No structures shall be constructed in the floodplain unless the base flood elevation certification has been approved by the County and the finished floor of the structure is 1 foot above BFE.

vi. All improvements must be completed within thirty-six (36) months from date of approval of Preliminary Plat and Detailed Construction Plan. If not, performance bond, as set out below, shall compensate the County for all unfinished construction costs.

a. Said performance bond shall run in favor of the county and be in an amount sufficient to complete the improvements for the development as determined by the Road Superintendent and approved by the County Judge in the amount of 100% of the construction costs.

b. Said bond must be written by a surety authorized to do business in the State of Arkansas.

c. If, in the opinion of the County, the project has been abandoned, or County or private property is being damaged by action or inaction, the

said performance bond shall be forfeited immediately at the option of the County at any time prior to the end of the thirty-six month period.

- i. Separate bonds or letters of credit shall be executed to protect County roads or other County property.
 - ii. This bond does not take place of any bonding requirements as to any contractor. If the developer and the contractor are one in the same, then the bonds to be posted by the contractor shall protect the county.
- d. The developer performing the grading, street, storm drainage, water and sewer sanitary sewer improvement construction shall carry the following:
- i. Worker's Compensation Insurance for all employees and those subcontractors engaged in work on the site, in accordance with the Arkansas Compensation Laws.
 - ii. Insurance for protection against damage which may arise from operations of the kinds and limits listed: Public Liability insurance in an amount not less than five hundred thousand dollars (\$500,000.00) for injuries, including accidental death, to any one person, and subject to the same limit for each person, in an amount not less than five hundred thousand dollars (\$500,000.00) on account of one (1) accident. Property damage and vehicle liability insurance in an amount of not less than five hundred thousand dollars (\$500,000.00) for one accident, and subject to that limitation, in an amount not less than five hundred thousand dollars

(\$500,000.00) for all damages to or destruction of property during the policy period. In addition, the contractor shall obtain insurance for the construction period of the project, naming as the insured therein all officials and employees of Craighead County and their representatives. Such insurance shall be in a form and substance similar to Railroad Protective Liability Policy as approved by Federal, State, and Railroad agencies. Limits of liability shall be the following: Bodily injury liability (including death): \$500,000.00 each person, \$500,000.00 each occurrence. Physical damage liability: \$500,000.00 each occurrence, \$500,000.00 aggregate. Proof of insurance coverage shall be furnished by the Contractor to the County Judge prior to commencement of work on the site. Insurance shall be carried with insurance companies licensed in the State of Arkansas. The insurance shall be kept in full force until the contractor's work is accepted by the County.

D. Final Plat Submission- Approval and Filing

After the Preliminary Plat and Detailed Construction Plans are approved, the developer and or contractor shall submit to the County Judge an application for final approval.

- i. Application for approval of final plat.
- ii. Payment of a final plat fee as determined by the Craighead County Quorum Court. This is separate from any recording fees due to the Circuit Clerk's office.

- iii. One (1) copy of the final plat which shall include all requirements as set forth in this Ordinance. The final plat shall be reviewed by the County Judge. If revisions are required, the developer/contractor shall submit an additional copy of the revised plat to the County Judge.
- iv. Assurances that the improvements indicated in the final plat and/or required by this division have been installed or assurances they will be installed. Such assurances shall consist of:
 - a. A Certification by the Road Superintendent that all improvements have been completed and accepted or a performance and payment bond.
 - b. Individual letters of intent from public utility agencies that they shall or shall not provide service through the developer/contractor for the development.
 - c. The Seller of any residential land upon which a residential or business structure is to be construed or placed shall provide certification that the lots are three (3) acres or more or provide a copy of the Arkansas Health Department subdivision review approval letter.
 - d. The developer will provide the county with a copy of their approved ADEQ Storm Water Pollution Protection Plan.
- v. County Judge Approval: Within sixty (60) days after receipt of

the Final Plat and other required information and certifications, the County Judge shall approve or disapprove the Final Plat. The approval or disapproval shall be in writing.

vi. Developer's final action: Upon approval by the County Judge, the developer shall:

a. Submit to the County Judge two (2) reproducible copies of the Final Plat with appropriate signatures of approval.

b. Obtain County Judge's signature and submit 1 copy with covenants and certifications to the Circuit Clerks office. The other copy will go to the office of emergency management for 911 addressing.

c. Developer or contractor may begin selling lots at this junction.

vii. The County Judge will still have discretion, as prescribed by law, to accept the improvements into the County Road system. No maintenance shall be performed until the maintenance bonds have expired. All plats for land developments approved by Craighead County shall be contingent upon receipt by the developer/contractor of any Federal, State, or local permits or approvals, if any, whether known or unknown to the County or developer/contractor.

viii. Conditions of Acceptance

a. The County shall not have any responsibility with respect to any street, road, or other improvement, notwithstanding the use of the same by the public, unless the street, road or improvement has been accepted by the County.

- b. The County shall, within thirty (30) days after the improvements have been offered for dedication to the County, accept the improvements provided the improvements have been constructed in accordance with the conditions and requirements of the County. County maintenance will begin when the required one (1) year maintenance bond has expired.
- c. Prior to requesting final acceptance of the improvements into the County System, the developer shall submit the following:
 - a. The appropriately executed maintenance bonds shall be submitted to the Craighead County Judge's office to be reviewed by the Quorum Court Road Committee. An acceptable maintenance bond shall be provided for street and storm drainage improvements in the amount of fifty percent (50) of the actual construction costs against defects in workmanship and materials for a period of one (1) year from the date of the final inspection. The bond shall be filed with the County Judge Office. All damages noted by the County Road Superintendent shall be satisfactorily corrected prior to acceptance.
 - b. Certified proof that all County taxes, and professional fees, and improvement costs have been paid shall be submitted to the Craighead County Judge's office to be reviewed by the Quorum Court Road Committee.

c. Fifty (50%) percent of the lots shall have homes constructed on them.

d. Metes and Bounds. No conveyance by metes and bounds of tracts or lots coming under the definition of a subdivision without compliance with the applicable provisions of this Ordinance or amendments thereto shall be permitted. This Ordinance is aimed at preventing an attempt to circumvent this Article by conveying by metes and bounds without taking the necessary steps for filing an approved plat.

SECTION 2.: Article IV, Section 1 shall be amended to include the following:

(E) Requirements for improving off site roads

i. Existing County Roads. When a proposed land development causes a need for improvements to off-site roads and dedication of right-of-way, the developer shall be responsible in conformance with County Standards for the following:

a. In all cases, for the entire length of a proposed land development, the developer shall dedicate a minimum of thirty feet (30) of right-of-way measured from the centerline of the existing County road. For unusual alignment or terrain conditions, the Quorum Court Road Committee and/or County Judge may require a greater width of right of way dedication. The required width of right-of-way dedication shall be determined during the Preliminary Plat review and approval stage; in any event said, dedication must bear a reasonable relationship to the needs created by the proposed land

development. When the proposed development is of a size and magnitude to show cause for additional off-site improvements that the County does not have in its annual Plan, any off-site road shall be improved by and at the expense of the Developer in accordance with County standards, subject to the reasonable relationship test as stated above.

b. The road improvement cost shall include, but not be limited to, the costs of right-of-way clearing, roadway excavation and embankment, bridges, pipe and box culverts, roadway shaping, drainage blankets, base, paving, utility adjustments, and miscellaneous items. The Developer's proportionate share of the road improvement costs shall bear a reasonable relationship to the needs created by the land development.

c. The Developer's proportionate share of the costs of improving the County Road shall be determined by the County Judge and/or Quorum Court Road Committee based on the reasonable relationship test set out above.

d. The Craighead County Policy for improving County Roads is as follows: Depending on the road classification, surface type, surface width and condition, traffic, terrain, alignment, drainage and budget, one (1) of the following type of improvements shall be made; patching and surface treatment, patching and hot mix overlay, or reconstruction of the road to the County Standards.

e. The required off-site improvements and the developers proportionate share of the costs shall be determined at the Preliminary Plat review and approval stage.

f. It shall be the responsibility of the Developer to acquire and dedicate any necessary right of way subject to the reasonable relationship test set out above.

g. When requested, It shall be the responsibility for the Developer's Engineer to certify that the proposal of the Developer regarding roads width be adequate based on a traffic study and minimum standards of the County, subject to review of an Engineer retained by the County Judge at the expense of the Developer.

SECTION 3. Article I, shall be amended to add the following:

SECTION 3. Authority to Consult

The County Judge is authorized to consult with an independent registered professional engineer if he has concerns about the impact of any development on County or public roads or drainage. This initial consultation shall be at the expense of the County. If after said consultation, concerns still exist then the County Judge may retain said engineer to perform a complete analysis of said development at the expense of the developer. Preference shall be given to engineers located within one hundred (100) miles of the County.

SECTION 4. Article V, shall be amended to add the following:

5. The water supply system shall be approved by the Arkansas Department of Health or its authorized agent and shall meet the requirements as set forth by that agency. The sanitary sewer system shall be approved by the Arkansas Department of Health and shall meet the requirements noted by the agency. When an approved public sanitary sewer system is not reasonably accessible, the developer shall install a community

sewage treatment system or plat the minimum lot size to accommodate individual sewage disposal system.

SECTION 5.

ARTICLE VI shall be added to state as follows:

ARTICLE VI: Violations

Violations shall be subject to a fine no less than \$200.00 for each day of offense and shall be subject to further restraints and restitution to the County in an amount as set forth by the Court. Violators are also subject to civil liability for violations of this Ordinance and other applicable laws and regulations in the State of Arkansas. If the County Judge may institute a civil suit to prevent or remove a violation of this Article and for damages sustained by the County. Any affected person may also institute a civil suit to prevent a remove a violation of this Article and for damages sustained against any person or entity other than the County.

SECTION 6. Severability. If any provision of this ordinance is held invalid, such invalidity shall not affect the remaining provisions of the ordinance which remains effective absent the invalid provision, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 7. Emergency Clause – In order to protect Craighead County taxpayers investment in the County Road system and to provide for necessary administrative and enforcement authority as well as proper and timely conduct of County Operations to manage the Craighead County Road System, an emergency exists, and this

Ordinance, being for the immediate preservation of the public peace, health, safety shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED on this 24th day of June, 2019.



Marvin Day, County Judge

ATTEST:



County Clerk- Kade Holliday

Mark Whitmore

From: John Wilkerson <jwilkerson@arml.org>
Sent: Monday, July 19, 2021 4:01 PM
To: Chris Villines
Cc: arp@arcountries.org; AML ARP
Subject: RE: AADO particulars

Chris,

Perfect timing; I was working on the particulars this afternoon.

First, here's a list of folks who've already RSVP'ed:

NWAEDD – Joe Willis
Jeremy Ragland
Catherine Baker
Chelsey Weaver
Tina Cole

SWAPDD – Renee Dycus
Lisa Antoon
Blake Harrell
Shelley Morehead
Jay Click
Florence Nunn
Jimmy Parker

CAPDD – Rodney Larsen
Trevor Villines
Conya Spencer
Tanya Childers
Leigh Ann Pool

White River – Jan Smith
Regan Miller

WCAPDD – Dwayne Pratt, plus 2 staffers

SEAPDD – ***No attendees***

EAPDD – **UNKNOWN**

WAPDD – 3 staffers

Second, Caran, Blake, and I are working on the presentation for the meeting. We're thinking it'll take about three hours total. If there's anything you want to make sure we cover, please let us know. But, generally speaking, we'll start with a broad overview and dive into details as we make our way through. It's more of a work session than anything. A chance for us all to make sure we're on the same page.

Third, would y'all mind ordering lunch? I'll pay for it, but I figure y'all know better who to order from.

Finally, well...I think that's it.

Looking forward to it! And, if I've missed anything, please let me know.

John

From: Chris Villines <cvillines@arcounties.org>

Sent: Monday, July 19, 2021 10:10 AM

To: John Wilkerson <jwilkerson@arml.org>

Cc: arp@arcounties.org

Subject: AADO particulars

EXTERNAL SENDER. DO NOT click links or open attachments if sender is unknown or the message seems suspicious in any way. DO NOT provide your user ID or password.

John,

Do we have the particulars on the AADO meeting this week? We've set up a similar email group over here called arp@arcounties.org and Mark, Josh, Eddie, Lindsey Holman and myself are on this email chain.

Thanks,



Chris Villines
Executive Director
Association of Arkansas Counties
1415 West Third Street
Little Rock, Arkansas 72201
(501) 372-7550
fax (501) 372-0611
www.arcounties.org

Mark Whitmore

From: Lindsey Bailey French
Sent: Monday, July 19, 2021 3:46 PM
To: Mark Whitmore
Subject: FW: Steve Sutterfield

Lindsey Bailey French
Legal Counsel
Association of Arkansas Counties
1415 West Third Street
Little Rock, AR 72201
501-372-7550
lfrench@arcounties.org



From: Lindsey Bailey French
Sent: Monday, July 19, 2021 3:46 PM
To: all@arkansasassessors.net
Subject: Steve Sutterfield

Friends, I'm sure you've all heard about the passing of our good friend, teacher, and mentor to many, Steve Sutterfield last Friday. Steve was as knowledgeable anyone in the state about property appraisal, a loyal and dedicated friend, and one of the funniest people I know. He will be missed by all.

James Stephen "Steve" Sutterfield
Jan 29, 1954 - Jul 16th, 2021
Birth Date: Jan 29, 1954
Death Date: Jul 16, 2021
Funeral Date: Jul 25, 2021, 2:00 pm
Location: Levisy Flat Cemetery in Mountain View, Arkansas

Biography: James Stephen "Steve" Sutterfield, 67 of North Little Rock, died July 16, 2021. He was born January 29, 1954 and was the son of Leo and Doris White Sutterfield.

Steve grew up in Mountain View, and received his Bachelor's Degree from the University of Central Arkansas, and was employed by the State of Arkansas as a Property Appraiser.

He is preceded in death by his parents and his two brothers, Leo Sutterfield and Vance Sutterfield.

Survivors include his wife, Susan Sutterfield; brother, Claude Sutterfield; sister -in-law, Linda Sutterfield; brother-in-law, Jon Miller; nieces, Edie Sutterfield, Madison Miller, and Bailee Miller; nephews, Michael Miller and Barrett Miller and

wife, Rebecca; great-nephews, James Nicholson and Wesley James Miller; great-niece, Claire Foster; and a host of friends.

Visitation will be held from 5:00 p.m. until 7:00 p.m., Thursday, July 22, 2021 at Ruebel Funeral Home in Little Rock. A graveside service will take place at 2:00 p.m., Sunday, July 25, 2021 at Levisy Flat Cemetery in Mountain View, Arkansas.

In lieu of flowers, memorials may be made to the Pulaski County Humane Society, 14600 Colonel Glenn Rd, Little Rock, Arkansas 72210.

Lindsey Bailey French
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Chapter 46 - MASTER ROAD PLAN AND SPECIFICATIONS^{III}

Footnotes:

--- (1) ---

Editor's note— Ord. No. O-13-55, § 1(Exh. A), adopted August 12, 2013, repealed the former Ch. 46, §§ 46-1—46-5, 46-36—46-41, 46-71—46-79, 46-111—46-114, 46-136—46-144, 46-166—46-169, 46-181, 46-182, and enacted a new Ch. 46 as set out herein. The former Ch. 46 pertained to Roads and Bridges and derived from Code 1987, §§ 9-31—9-36, 9-46—9-49, 17-1, 17-2, 17-4, 17-16—17-18, 17-20, 17-21, 17-71; Ord. No. O-95-32, §§ 1—8, 11-27-1995; Ord. No. O-95-37, § 1, 12-11-1995; Ord. No. O-98-17, §§ 1—9, 3-9-1998; Ord. No. O-02-15, §§ 1—4, 3-11-2002; Ord. No. O-03-8, Arts. I(1), II(5), III(6), 2-10-2003; Ord. No. O-08-62, § 1, 9-8-2008.

Cross reference— Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the county saved from repeal, § 1-9(3); any ordinance accepting any street or road into the county road system saved from repeal, § 1-9(7); any ordinance providing for local improvement and assessing taxes therefor saved from repeal, § 1-9(8); buildings and building regulations, ch. 14; telecommunications, ch. 62; traffic and vehicles, ch. 66; utilities, ch. 70.

State Law reference— Authority of county to provide by ordinance for establishment of roads and public transportation services, A.C.A. § 14-14-802(b)(2)(G)(i), (iv); plans, A.C.A. § 14-17-205; establishment, alteration and vacation of county roads, A.C.A. § 14-298-101 et seq.; transportation generally, A.C.A. tit. 27.

ARTICLE I. - SCOPE AND DEFINITIONS

Sec. 46-1. - Scope.

(a)

No public street shall be constructed, altered, paved, reconstructed, or extended within the jurisdiction of Garland County, except in the case of an emergency, without first obtaining approval of the county. All such construction shall meet or exceed the requirements of these street specifications and applies to new or existing roads which are intended for acceptance for maintenance by the county.

(b)

These specifications shall be used in association with the latest adopted codes and regulations relating to subdivisions, drainage and storm water and are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, code, or other provision of law except as provided herein. Where any provision of this Code imposes restrictions different from those imposed by any other provision of this Code or any other ordinance, rule or regulations, code, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-2. - Interpretation and severability.

(a)

Interpretation .

(1)

In the interpretation and application of the provisions of this Code, the requirements shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.

(b)

Severability .

(1)

If any section, clause, part, or provision of this Code shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, part, or provision of this Code.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-3. - Definitions.

(a)

Usage .

(1)

Whenever the following abbreviations are used in these specifications or on the plans, they are to be construed the same as the respective expressions represented.

(b)

Definitions . [The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

AASHTO: American Association of State Highway and Transportation Officials.

AHTD: Arkansas Highway and Transportation Department.

Alley: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Applicant: The developer.

ASTM: American Society for Testing and Materials.

Base course: That portion of the roadway immediately under a surface course.

Commercial: The broad range of retail uses designed for the market.

County: The Garland County Government.

County judge: The Chief Executive Officer of Garland County, Arkansas. The county judge may designate an agent or representative(s) to act in his behalf with regard to implementation of this Code.

Cul-de-sac: A local street with only one outlet that terminates in a vehicular turnaround.

Department: The Garland County Road Department.

Designated agent: An authorized representative of the county judge assigned to act in his behalf with regard to implementation of this Code.

Developer: The owner of land proposed to be subdivided/developed or his/her representative who is responsible for any undertaking including constructing, altering, or reconstructing any work within or pertaining to any county street right-of-way.

Easement, general: A grant of one or more property rights by a property owner to and/or for use by the public, a corporation, or another person or entity.

Easement, right-of-way: means a grant of a right-of-way for the use of the public by plat or other legal document.

Escrow: A deposit of cash with the local government or escrow agent to secure the promise to perform specific improvements required by this Code.

Frontage road: A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

Functional classification: means the process by which roads and highways are grouped into classes or systems according to the character of service they are intended to provide.

Grade: The slope of a road, street, or other public way specified in percentage terms.

Highway: A street or roadway which is part of the state highway system which is maintained and/or proposed by the Arkansas Highway and Transportation Department.

Industrial: A facility for light to heavy industrial uses.

Letter of credit: A letter issued by a bank permitting the person or agency named in it to draw certain amounts of money from a specific account to complete a specific project in the event that completion of said specific project is abandoned by the developer.

Maintenance bond: A bond furnished by the developer to the county to cover the cost of maintenance, repair, or replacement of a street work project for a specific period of time.

Master Road Plan: The long-range transportation plan of Garland County prepared and adopted by the quorum court, pursuant to state law and including any amendment to such plan, or part thereof.

Materials: Any substance specified for use in the construction of the project and its appurtenances.

Off-site: Any premises not located within the bounds of a street work project.

Parking lanes: That portion of the paved width of a street which is designated as and reserved for parking vehicles, however, may become traffic lanes as may be required for future demand.

Paved area: All areas which are or are proposed to be surfaced with gravel, asphalt, concrete, or similar surface treatment material, and specifically includes traffic lanes, turning lanes, access lanes, parking lanes, curbs, gutters, and sidewalks.

Pavement width: That portion of a street measured from the outer edge of a paved surface at a right angle with the center line of the street. The width of pavement on curbed streets shall not include the width of the curbs and/or gutters.

Performance and payment bond: A bond posted by the developer of a street work project to guarantee completion of the proposed work, and to guarantee payment of all charges for labor, material, equipment and all other items and services used or utilized in the project are paid.

Plat: A map or drawing and accompanying material indicating the layout and design of a proposed subdivision or lot-split prepared by a developer for consideration and approval by the county judge. Such plats may be the sketch plat, the preliminary plat or the final plat.

Registered professional engineer: Engineer licensed to practice engineering in the State of Arkansas.

Right-of-way: A strip of land acquired by negotiations, reservation, dedication, prescription, or condemnation and intended to be occupied by a street, railroad, electric transmission lines, gas pipe lines, water lines, sanitary or storm sewer, or other similar uses.

Road bed: That portion of the roadway between the inside edges of slopes of ditches and/or tops of fill slopes; also, the subgrade plus the shoulders.

Roadway: The portion of a street within the limits of construction.

Shoulder: The portion of the roadway contiguous with the traveled way for the accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses.

Street. A dedicated and accepted right-of-way for vehicular traffic which affords the principal means of access to abutting property. For the purposes of this Code, "street" shall be synonymous with "road".

Street, dead-end: A street other than a cul-de-sac with only one connection to the public street system.

Street, private: Any street or roadway not dedicated to the public and accepted by proper authority nor recognized as a public street by the county judge.

Street, public: A street which has been dedicated to the public and accepted by proper authority, and a street by prescriptive rights which has been accepted by proper authority.

Subgrade: That portion of the road bed prepared as a foundation for the selected material, subbase, base, surface course or pavement.

Work: All the work specified in this Code or indicated on the plans as the contemplated improvement.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-4—46-20. - Reserved.

ARTICLE II. - GENERAL REQUIREMENTS

Sec. 46-21. - Request for approval.

(a)

Prior to beginning construction of any street extensions or of new street work, or improvements to existing streets, the developer shall submit a request for approval to the county judge.

(b)

The request for approval shall include the following:

(1)

Letter requesting approval.

(2)

Plans and specifications for the proposed street work in accordance with the requirements specified herein.

(3)

Vicinity map or other complete description of the location of the proposed street work, clearly describing the location in such a manner as to enable the site to be easily located on county maps and in the field.

(4)

Additional information that the county judge deems appropriate to the review of the project, including flood information, downstream and/or upstream drainage structures, existing utility locations, soils information, etc.

(5)

Identification of property ownership of the proposed project area and adjacent areas.

(c)

It is in the best interest of persons planning to build roads or subdivisions in the county to obtain the requirements of these specifications prior to beginning construction of their project.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-22. - Assurance for completion and maintenance of improvements.

(a)

Performance and payment assurance .

(1)

The applicant shall post a bond, letter of credit, cash deposit, escrow, or other surety to guarantee that all required public improvements will be constructed as specified, that all project costs will be paid and will be free from defect for a period of one year following the acceptance of the last completed public improvements.

(b)

Maintenance assurance .

(1)

The applicant shall agree to maintain each required improvement and post a bond, letter of credit, cash deposit, escrow, or other surety to guarantee such maintenance for a period of one year following the acceptance of the dedicated and completed improvements. The maintenance bond shall guarantee the repair or replacement of all or any portion of the project which may prove inferior due to materials or workmanship.

(2)

If the street work and associated drainage facilities are part of a larger plan to develop and subdivide property in accordance with the Garland County Subdivision and Development Code, the developer may, subject to approval by the county judge, incorporate these street maintenance assurance requirements into those requirements as specified in the Garland County Subdivision and Development Code.

(c)

Surety conditions .

(1)

Bonds, letters of credit, cash deposits, escrow, or other sureties shall:

a.

Name Garland County, Arkansas as beneficiary.

b.

Be in an amount determined by the county judge to be 120 percent of the estimated cost of completion, maintenance or performance of the required improvements and held by the county judge or his designated representative.

c.

Be issued by a surety company entered and licensed to do business by the State of Arkansas.

d.

Specify the time for the maintenance of improvements and installations.

e.

Letters of credit shall:

1.

Be irrevocable;

2.

Be for a term sufficient to cover the maintenance period;

3.

Require only that Garland County present the credit with a sight draft and an affidavit signed by the county attorney attesting to the county's right to draw funds under the credit.

f.

Cash escrows shall provide:

1.

That the subdivider will have no right to a return of any of the fund except as provided in section 46-22(d);

2.

That the escrow agent shall have a legal duty to deliver the funds to the county whenever the county attorney presents an affidavit to the agent attesting to the county's right to receive funds whether or not the developer protests the right.

(d)

Release or reduction of surety .

(1)

Garland County will not accept dedication of required improvements, nor release or reduce the amount of any surety posted by the applicant until the county judge has determined that all required improvements have been satisfactorily completed.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-23. - Acceptance of improvements.

(a)

Purpose .

(1)

The purpose of this Code is to set forth the procedure and minimum standards of design for the construction of public roads to be turned over to the county for maintenance. This article is in reference to A.C.A. § 14-298-120.

(2)

In order to have continuity of design in construction it is necessary that certain requirements be met in the construction of county roads. The regulations of this Code will set the minimum design standards to be followed by individuals, corporations and developers who wish to construct a road and turn the road over to the county for perpetual maintenance. No roads, either in subdivisions or on private land, that do not meet the requirements of the minimum standards of design in this article, will be accepted by the county for perpetual maintenance.

(b)

Conditions of acceptance .

(1)

Applicant shall be required to complete the work in accordance with the approved plans and specifications and submit documentation of testing and inspection certifications as required by article VI of these specifications.

(2)

Acceptance of improvements shall be subject to fulfillment of assurance requirements specified in section 46-22.

(3)

Improvements intended for maintenance by the county shall be required to be dedicated to Garland County, free and clear of all liens and encumbrances on the dedicated property and public improvements.

(4)

Improvements intended for perpetual maintenance by the county shall be required to be located within rights-of-way dedicated to the public. Said dedication shall be evidenced by submission of an executed Deed transferring title of said right-of-way to the county or by execution of right-of-way easement filed at the appropriate county office for such recordings.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-24. - Requirements for new streets.

(a)

New streets which connect to an existing street either laterally or extension of an existing street by extending the existing centerline horizontally shall be subject to these regulations. Such street shall include earthwork, drainage, base, pavement, utilities, erosion control, and where required, curb and gutters and sidewalks.

(b)

Streets adjacent to and leading to such development may also be required to be constructed or otherwise upgraded, at the expense of the developer, to meet the intent of these specifications.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-25. - New street cost sharing.

(a)

The county may participate in the construction of streets either adjacent to a development or on a street leading to a development if the need for such improvement is not totally caused by the development in question. The appropriateness of any such cost sharing between the developer and the county shall be determined by the county judge. The county judge shall base his recommendation on the prorata share of the need for the work as a result of the development versus the need for the work as a result of other factors.

(b)

The county shall not participate in the cost of local streets. County participation in any cost sharing shall be dependent on the availability of funds.

(c)

A formal traffic study may be required in connection with a development if, in the opinion of the county judge, it is required to properly determine future street loadings and/or to aid in determination of cost shares between the county and the developer.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-26. - Rights-of-way.

(a)

Street rights-of-way in connection with required street extensions and improvements shall be granted to the county by the developer. Such rights-of-way shall be controlled by the county and shall be utilized by the county for the purposes allowed by state law, including, but not limited to, the construction and maintenance of streets, utility lines, drainage facilities, and related appurtenances, and by private utility companies for the placement and maintenance of their lines.

(b)

Additional rights-of-way may be required in certain instances where no street construction or improvements are proposed either for the eventual extension or improvements of the street or to bring the existing right-of-way into conformance with this Code.

(c)

Rights-of-way width shall be as required in these specifications. It shall be understood that the widths required in these specifications are minimum widths. Additional right-of-way may be required where the need for wider rights-of-way is dictated by the topography or other features of the property.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-27. - Signage for new streets.

(a)

Traffic control signs within any subdivision or development proposed for acceptance by the county shall be the responsibility of the developer. Placement of such traffic signs shall be approved by the county judge or his designated agent. Street or road name signs shall be the responsibility of the developer of the subdivision as directed and approved by the county judge and/or his designated agent.

(b)

The location and size of all signs and ornamental structures constructed by the developer shall be approved by the county judge. Where subdivision signs and ornamental structures are proposed to be located on county right-of-way, an acceptable means for perpetual maintenance of such facilities shall be included in the covenants of the subdivision.

(c)

Any relocation of such signs and structures necessitated by street widening, utility installation, or other authorized use of the right-of-way, shall be the financial responsibility of the entity established to provide maintenance of the sign or ornamental structure.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-28. - Off-premises signs along scenic roadways.

(a)

Sign definition .

(1)

The term "sign" referred to in this section shall mean an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard or other thing which is designed, intended or used to advertise or inform, whether the sign is permanent or of portable installation.

(b)

Off-premises signs .

(1)

The term "off-premises sign" shall be defined as a sign structure advertising or providing information for an establishment, merchandise, service, activity or entertainment which is not sold, produced,

manufactured, offered or furnished at the property on which such sign is located; e.g., billboards or outdoor advertising.

(2)

All off-premises signs visible from a designated scenic corridor shall be prohibited except as may be approved pursuant to the logo sign program of the state highway and transportation department adopted pursuant to Arkansas State Highway Commission Minute Order No. 87-518, as amended, and official traffic or government signs. The Highway 70-270 East/West arterial (Dr. Martin Luther King, Jr. Expressway), and all future extensions thereof, and Highway 7 North from the junction of Highways 5 and 7 to the Garland-Perry County boundary line are hereby designated scenic corridors, together with such other roadways as may be so designated by ordinance of the quorum court.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-29. - Off-premises signs (billboards) adjacent to construction corridors.

(a)

All off-premises signs visible from a designated construction corridor shall henceforth be prohibited. State Highway 88 (Higdon Ferry Road) is hereby designated a construction corridor together with such other roadways as may be so designated by ordinance of the quorum court.

(b)

Off-premises sign shall be defined as a sign structure advertising or providing information for an establishment, merchandise, service, activity or entertainment, which is not sold, produced, manufactured, offered or furnished at the property on which said sign is located, e.g. "billboards" or "outdoor advertising".

(c)

A sign referred to herein shall mean an outdoor advertising sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, whether the same be permanent or of portable installation.

(d)

The quorum court may remove restrictions regulating off-premise signs upon completion of the State Highway 88 (Higdon Ferry Road) Project by approval of a subsequent ordinance declaring that the project is complete and that State Highway 88 (Higdon Ferry Road) is no longer designated a construction corridor.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-30. - Skidding logs, poles, pulpwood or trees on county maintained roads.

(a)

Definitions .

(1)

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

a.

County-maintained road : Any road bed, ditch or adjacent right-of-way upon which the county road department is responsible to perform maintenance.

b.

Skidding : The movement of any logs, poles, pulpwood or trees, to include the loading thereof by any mechanical means.

(b)

Prohibited .

(1)

It shall be unlawful for any person to skid across any county maintained road.

(c)

Penalty for violation of section .

(1)

Any person violating any provision of this section shall be fined not less than \$100.00 nor more than \$500.00 for each offense, and a separate offense shall be deemed committed for each specific violation or for each day on which a violation occurs or continues. Civil liability shall be incurred by those persons responsible for all damage caused by violation of this section.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-31. - Plans and specifications.

(a)

Plans shall be submitted on 24 inches by 36 inches or smaller drawing sheets. Plan drawings shall have a scale of one inch equals 100 feet or larger. Construction details shall have a scale of one quarter inch equals one foot or larger.

(b)

All plans and specifications for any project shall be prepared and bear the seal of a registered professional engineer. When required by the county judge, an engineer's report shall also be submitted including the design calculations, soils investigations, and other information used to design the proposed street work.

(c)

The layout plans shall include the following:

(1)

Layout of all elements of the entire street work project.

(2)

Horizontal bearings and distances of street centerline tangents.

(3)

Horizontal curve data.

(4)

Existing and proposed drainage and utilities within the right-of-way, within 20 feet of the right-of-way, and any near-by features or structures which have or may have an impact on the work.

(5)

Width of right-of-way at all points of street segments.

(6)

Existing structures within any building setback area as set by the subdivision code.

(7)

Property boundary ties to the state plane coordinate system.

(8)

Proposed superelevation segments and transition segments.

(9)

Locations of any soils exploration points.

(10)

Existing and proposed sidewalks or structures.

(11)

A legend showing typical symbols used in the plans.

(12)

North arrow and graphic bar scale.

(d)

The profile plans shall include the following:

(1)

Profiles of all new streets at a horizontal scale of one inch equals 100 feet or larger and a vertical scale of one inch equals ten feet or larger.

(2)

Existing ground elevations.

(3)

Proposed finished center line elevations.

(4)

Vertical curve data.

(5)

Proposed grades in percent rise (+) or fall (-) for each segment and stations at points of change in grade.

(6)

Proposed drainage and utility line crossings, including size, material, and location.

(7)

Existing drainage and utility line crossings including size, material, and location.

(8)

Profile for extension of an existing street including at least 400 linear feet of the existing street.

(9)

Profile elevations shall be based on the United States Coast and Geodetic Survey and shall be relative to mean sea level.

(e)

Typical cross-sections of each street segment shall include the following existing and proposed features:

(1)

Pavement type, width and thickness.

(2)

(1)

Materials requirements.

(2)

Methods of construction.

(3)

Quality control requirements.

(4)

Sampling and testing procedures.

(i)

The Standard Specifications for Highway Construction as published by the AHTD, latest edition, and the standard drawings of the AHTD shall be the basis for the preparation of the Detailed Plans and Specifications and shall apply in all cases except where these street specifications are in direct conflict with the AHTD standards.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-32. - Responsibilities of developer.

(a)

The developer shall be responsible for installation of the proposed street work and for all cost associated therewith except in situations where cost sharing may be appropriate and is approved by the county.

(b)

The developer shall provide all engineering services required for planning, design, investigation, inspection, testing, and related activities necessary for street work.

(c)

Comply with the assurances for completion and performance as specified in section 46-22.

(d)

Allow county personnel the right of access to the site during the plan review and construction phases of the project.

(e)

Notify the county of any and all significant changes in the design or construction of the project. Significant changes in the plans and specifications shall be submitted to the county for approval. The

county judge shall be notified immediately of any and all significant field changes in order that a timely approval may be issued.

(f)

Notify the county when construction is complete and arrange for a pre-final inspection. He shall also notify the county when any punch list items are complete and arrange for any necessary final inspection. If, upon inspection, the county judge finds that the project still does not meet the requirements, a second punch list shall be prepared and submitted. This process shall continue until the constructed project conforms to the approved plans and specifications and all approved changes thereto.

(g)

Acquire all permits necessary for construction of the street work project including, but not limited to, permits for work on state highway right-of-way, railroad right-of-way, wetlands permits, and storm water permits.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-33. - Engineering services.

(a)

Engineering services, for a street work project having a probable construction cost of \$25,000.00 or more, including, but not limited to, planning, design, investigations, inspections, and testing shall be under the supervision of a professional engineer registered in the State of Arkansas.

(b)

The county judge may require that a professional engineer prepare the plans and specifications for a project of lesser size, if conditions warrant.

(c)

A detailed traffic study may be required in connection with a development if, in the opinion of the county judge, it is necessary to properly determine future street loadings.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-34. - Cost estimates.

As the Garland County Road Department is committed to maintaining the county road system to the best of its ability, certain standards must be implemented and maintained to facilitate the most cost effective road and drainage maintenance that is possible. A permit process ensures critical communication and protection of the county road system. The following requirements are critical toward these goals and will apply to all utility companies, contractors and others excavating within the county right-of-way.

All digging and excavation within the county road right-of-way requires a permit what can be obtained at the Garland County Road Department office at 151 Centennial Drive, Hot Springs,

Arkansas 71913. Telephone is 501-767-9174. Telephone is answered between the hours of 7:00 a.m.—3:30 p.m.

Requirement	Fee
I. Road crossings and/or bores	\$50.00 each crossing and/or bore
A. All hot mix streets or roads shall be bored. Any exception must be reviewed and approved by the county judge or road commissioner.	
B. Any open cut of a county road must be approved by the road commissioner and all repairs will be completed in accordance with county standards.	
C. Any utility line that is installed across a county road must maintain a minimum depth of 36 inches below the drainage ditches.	
II. Utility installations parallel to county road in the county right of way	\$50.00 per 1,000 linear feet (L.F.) Bonds may be posted in lieu of the fee for larger projects with amounts to be determined by the county judge or road commissioner.
A. All utilities buried on county right-of-way are to be installed within five feet from the outer edge of the county right-of-way and maintain a minimum of 30 inches of cover. Any exception from the above must be approved by the county judge or road commissioner.	
B. If approval is granted to place utilities in the existing county ditch line, then a minimum of 36 inches of cover must be maintained. No exceptions.	
C. All utilities buried along the county right-of-way and/or crossing of any existing drainage pipes or creeks are required to maintain a minimum of 36 inches cover below the pipe structures or creek bed. No exceptions.	
III. Driveways added to the road system	\$50.00 per driveway
All driveway(s) added to the county road system shall require a permit and approval of pipe type and size from the road commissioner.	

Any noncompliance with the permit process as outlined above will result in:

- All work being shut down immediately,

- All completed or in progress work will have to be exposed for visual inspection and verification by the road commissioner in relation to county standards,
- All completed or in progress work that is not in compliance with county standards will be required to be removed by the installing utility company or contractor at their own expense.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013; Ord. No. O-16-14, § 1(Exh. A), 3-14-2016)

Editor's note— Ord. No. O-16-14, § 1(Exh. A), adopted March 14, 2016, did not specify manner of inclusion, hence, codification as § 46-34 was at the discretion of the editor.

Sec. 46-35. - Responsibilities of county.

(a)

The county judge shall review request for approval and render a decision as to whether or not the proposed project meets the minimum requirements of these specifications.

(b)

The county judge may reject the plans and specifications for failure to meet the minimum specifications, approve the project as meeting the requirements, or approve the project with conditions. Such approval with conditions shall clearly state the changes necessary to bring the project into compliance. Approval shall constitute an issuance of permit.

(c)

Approval, with conditions, shall constitute an approval of plans and specifications only if the developer incorporates the stated changes in the construction of the project.

(d)

A permit shall be issued prior to commencing any construction work described in section 46-21(a), subject to fulfillment of assurance requirements specified in section 46-22. Written approval to commence work shall not imply acceptance of the improvements for maintenance by the county.

(e)

A permit to construct shall remain in effect for a period of one year from the date of approval. After that time, a new request for approval and all required submittal documents may be submitted for a new approval and be reviewed in accordance with the ordinances and regulations in effect at the time of the new submittal.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-36. - Variances.

(a)

The intent of the specifications of this section are to ensure the orderly growth of the county by providing the highest quality street and road construction and area drainage consistent with

economical and topographic conditions existing in any given area or subdivision. Where it can be shown that a provision of this section would cause unnecessary hardship and where the quorum court feels that a departure may be made without destroying the intent of this section, it may recommend that the county judge grant a variance.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-37—46-50. - Reserved.

ARTICLE III. - ROAD CLASSIFICATIONS

Sec. 46-51. - Classifications of new roads.

(a)

For the purposes of functional classification, there shall be three categories of roads in the county, as follows:

(1)

Arterial .

a.

General: Arterial roads shall serve travel having characteristics indicative of countywide or state travel. Traffic volumes are relatively high, generally exceeding average daily traffic volumes of 1,000 vehicles in rural areas and 4,000 vehicles in urbanizing areas.

b.

Criteria: A road shall be classified as arterial if any of the following conditions are met:

1.

The 20-year projected volume is in excess of 4,000 vehicles per day (AADT).

2.

The road provides direct access to more than 400 residential dwelling units or indirect access to more than 800 residential dwelling units, or any equivalent combination.

3.

The road provides a continuous and direct route between two population clusters of at least 1,000 persons.

(2)

Collector .

a.

General: Collector roads shall collect traffic from local roads and distribute traffic on arterial roads. Trip distances of vehicles using collector roads are shorter than those using arterial roads, generally within the county. Traffic volumes are moderate, generally between 200 and 1,000 vehicles per day in rural areas and between 1,000 and 4,000 vehicles per day in urbanizing areas.

b.

Criteria: A road shall be classified as collector if none of the conditions for arterial classification are met and if any of the following conditions are met:

1.

The 20-year projected volume is in excess of 1,000 vehicles per day (AADT).

2.

The road provides direct access to more than 100 residential dwelling units, indirect access to more than 200 residential dwelling units or any equivalent combination.

3.

The road provides a continuous and direct route between two population clusters of at least 200 persons or between two arterial roads.

(3)

Local .

a.

General: A local road is a neighborhood street within a particular area mainly used for access to properties. Trip distances of traffic on local roads are generally short. Traffic volumes are low, generally less than 200 vehicles per day in urbanizing areas.

b.

Criteria: Any road which does not meet the conditions for arterial or collector classification shall be classified as a local road.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-52. - Classifications of existing roads.

(a)

Existing road names are tabulated according to functional classification in Appendix A included herein.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Editor's note— Appendix A is on file with the county clerk.

Secs. 46-53—46-70. - Reserved.

ARTICLE IV. - GEOMETRIC DESIGN CRITERIA

Sec. 46-71. - General.

(a)

The minimum standards for geometric design of the various classes of streets shall be as shown in this chapter. Design factors shall include consideration of design speed, sight distance, type of vehicles expected, travel time, convenience and traffic congestion.

(b)

A street or road shall not be accepted by the county judge or his designated agent as a part of the county road system unless those minimum dimensions and maximum slopes and grades shown herein for each functional classification are met.

(c)

Proposed streets within subdivisions shall extend existing streets at the same or greater width, but in no case less than the required minimum width as set forth in these minimum standards of construction. Where, in the opinion of the county judge or his designated agent, it is necessary to provide for street access to adjoining property for future development, proposed streets may be extended by dedication to the boundary of such property.

(d)

Proposed work on state highway right-of-way shall conform to AHTD requirements. Owner shall be responsible for coordinating with AHTD.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-72. - Horizontal curves.

(a)

Horizontal circular curve centerline radius shall meet or exceed those shown in Table No. 4.7.1 based on street classification.

(b)

Reverse curves shall be separated by a tangent distance of at least 100 feet.

(c)

Compound and spiral curves will be allowed, if the radii meets the minimum circular curve requirements and if the county judge determines that the intent of these specifications can be met with the said compound or spiral curve.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-73. - Vertical curves.

(a)

Vertical curves shall be symmetrical parabolic curves and shall be designed at all changes in vertical alignment in which the algebraic grade change exceeds one percent on arterial, two percent on minor collectors, or four percent on local streets.

(b)

The minimum length of vertical curves shall depend on the design speed and shall be equal to "K" times "A", where "K" equals the coefficient shown in the vertical curve coefficient table (Table No. 4.3.1), and "A" equals the algebraic difference in grades when the grades are expressed as a percentage.

TABLE NO. 4.3.1		
VERTICAL CURVE COEFFICIENT, K		
Design Speed	Crest	Sag
30	30	40
35	35	45
40	40	50
45	45	55
50	50	60
55	55	65
60	60	70

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-74. - Sight distance.

(a)

Design shall take into account the passing sight distance and the stopping sight distance. Minimum sight distance for the various classes shall be as given in Table No. 4.7.1.

(b)

Stopping sight distance shall be calculated using an observers' eye level of four and one-half feet above the street surface and an object level of six inches above the street surface.

(c)

Passing sight distance shall be calculated using an observers' eye level of four and one-half feet above the street surface and an object height of four and one-half feet above the street surface.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-75. - Intersections.

(a)

Intersections shall be designed to provide a safe system, to cross and/or enter and exit from one street to another.

(b)

Intersections of crossing streets shall be aligned without centerline offsets (jog) as far as practical.

(c)

Geometric design of intersections shall comply with the minimum criteria shown in the intersection design criteria table (Table No 4.5.1).

TABLE NO. 4.5.1		
INTERSECTION DESIGN CRITERIA		
Design Parameter	Street Class	Criteria
Maximum Grade within 100 Feet	Arterial & Collector	6%
Maximum Grade within 75 Feet	Local	6%
Minimum Intersection Angle	Arterial & Collector	85°
Minimum Intersection Angle	Local	75°
Minimum Curb Radius*	Arterial	40'
Minimum Curb Radius*	Collector, Local & Alley	25'
Minimum Curb Radius*	Industrial & Commercial	30'
Minimum Jog	All Classes	200'

*Radius to back of curb where curbs are utilized. Where curbs are not utilized, one and one-half feet shall be added to the radius shown and shall apply to the edge of pavement.

(d)

Grade crossings at railroads shall be designed to provide for a minimum sight distance of 800 feet along the railroad on either side of the crossing.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-76. - Street grades.

(a)

The minimum centerline grade for street segments with curbs and gutters shall be 0.50 percent.

(b)

The maximum centerline grades for industrial and commercial streets shall be eight percent.

(c)

The maximum centerline grades for the various classes of street shall be as shown in Table No. 4.7.1.

(d)

Where steep natural topography may affect access to and from adjoining properties, the maximum grades given in Table No. 4.7.1 may be increased by 25 percent with specific approval of the county judge.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-77. - Cross sections.

(a)

Street cross-sections shall conform to the details shown in Figure 1 and in Table 4.7.1 as follows:

TABLE 4.7.1				
MINIMUM STANDARDS OF CONSTRUCTION				
Element	Local*	Local**	Collector	Arterial
Right-of-way	40 feet	50 feet	70 feet	80 feet
Crown width	23 feet	26 feet*	28 feet	32 feet
Surface width (paved)	20 feet	20 feet	22 feet	24 feet
Base width	20 feet	26 feet	28 feet	32 feet
Base thickness	6 inches	6 inches	8 inches	8 inches
Shoulder width	NA	3 feet	3 feet	4 feet
Minimum Horizontal Curve Radius	100 feet	100 feet	300 feet	600 feet
Minimum Sight Distance	150 feet	150 feet	200 feet	300 feet
Maximum Street Grades	12%	12%	10%	8%

* With curb and gutter

** Without curb and gutter

(b)

Pavement cross slopes for all streets shall be a minimum of three percent.

(c)

Gutter cross slopes shall match the street cross slope.

(d)

Cross-sections on arterial and major collector streets shall be superelevated in accordance with AHTD standards.

(e)

Curb and gutter sections shall be a minimum of 18 inches wide and conform to details shown in Figure 2.

(f)

The minimum radius to edge of pavement in a cul-de-sac shall be as required by the local fire department, however, in no case shall be no less than a minimum of 35 feet on local streets, 40 feet on commercial streets, and 50 feet on industrial streets.

(g)

The minimum pavement width for an alley shall be 15 feet.

(h)

The minimum width of sidewalks shall be four feet on local collector streets and five feet on commercial and industrial streets.

(i)

Curbs and Gutters on concrete surface streets may be placed independently or integral with the street pavement. In such case, the outer 18 inches of the section shall be considered the curb and gutter and shall not be considered as part of the minimum required pavement width.

(j)

A cul-de-sac street designed to have one end permanently closed shall have a turnaround or intersection every 800 feet.

(k)

Where concrete curbs, gutters and/or sidewalks are installed, wheel chair ramps shall be constructed at all crosswalks. Ramps shall be designed and constructed in accordance with provisions of the Americans With Disabilities Act.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013; Ord. No. O-13-65, § 1(Exh. A), 12-9-2013)

Editor's note— Figures 1—3 are included at the end of this chapter.

Sec. 46-78. - Street right-of-way.

(a)

The minimum street right-of-way width for the various street classes shall be as shown in the Minimum Standards Table (Table No. 4.7.1).

(b)

Wider right-of-way widths than shown in Table 4.7.1 may be required due to any of the following:

(1)

When necessary cut or fill slopes may require additional right-of-way.

(2)

Where existing or projected future traffic conditions may require three or more lanes including traffic lanes, parking lanes, turn lanes, or access lanes.

(3)

The minimum right-of-way radius on a cul-de-sac shall be equal to the street width right-of-way. This requirement also applies to turnarounds on a cul-de-sac street.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-79. - Drainage.

(a)

A street or road shall not be accepted by the county judge or his designated agent unless adequate drainage is provided. Drainage must be designed so that water will not collect or stand at any point in the road or street right-of-way and any drainage crossing the roadway must have sufficient culverts with waterway openings to ensure that water will not run across the roadway.

(1)

All cross drain structures shall be designed for a ten-year flood frequency based on storm water runoff calculated using the Rational method.

(2)

The rational method is based on the formula:

$$Q = CiA$$

Where Q = runoff in cubic feet per second

C = runoff coefficient

i = rainfall intensity in inches per hour

A = drainage area in acres

a.

Selection of runoff coefficients and rainfall intensity shall be based on good engineering practices and shall be in accordance with the AHTD Drainage Manual.

(3)

Storm drain lines shall be designed to provide a minimum velocity of two feet per second and a maximum velocity of 12 feet per second when flowing full.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-80. - Utilities.

(a)

Utility lines crossing streets shall be installed at a 90 degree angle with the street centerline, unless specifically approved otherwise by the county judge.

(b)

Utility lines running parallel with the street centerline should be placed on a dedicated utility easement outside the street right-of-way where practical, or, if necessary, between the right-of-way line and the back of curb where curbs are installed. In the absence of curbs, utilities shall be placed between the right-of-way line and ditch flowline.

(c)

Location of parallel utility lines under paved sections shall not be allowed without specific approval of the county judge.

(d)

Encasements for utility lines shall be continuous under paved sections and shall extend to a point at least three feet beyond the back of curb where curbs are installed. In the absence of curbs, the encasement pipe shall be extended to a point at least five feet outside the edge of pavement.

(e)

The county judge may require further extensions of encasement pipe if widening of the street may be expected within the following ten year period.

(f)

Depths of utilities may be required by national codes, state or federal regulations, or utility owners requirements. All such codes, laws, regulations, and requirements shall be met.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-81. - Bridges on county roads.

(a)

Standards in this section shall apply to upgrading, construction and erection of bridges on county roads.

(b)

Bridge specifications.

(1)

All major bridges constructed in the county on county roads will be constructed in accordance with state highway and transportation department specifications pertaining to H-20 loading specifications before they will be considered for inclusion into the county road system. The developer shall provide to the county judge or his designated agent certification by a registered engineer that the bridge meets referenced specifications.

(c)

The minimum bridge design standards for the upgrading of existing bridges and for the construction and erection of all replacement and new bridges on county roads shall be as follows:

Standard Number	1			2			3			4			5		
Current ADT	Over 6,000			1,600 to 6,000			750 to 1,600			400 to 750			0 to 400		
Terrain	F	R	M	F	R	M	F	R	M	F	R	M	F	R	M
Design Spread	50	40	30	50	40	30	50	40	30	50	40	30	50	40	30
Design Loading	HS-20			HS-20			HS-20			HS-20			HS-20		
*Bridge Width (ft.)	40	32	32	40	30	30	32	28	28	28	28	24	24	24	24

*Railing required on all bridges.

F—flat

R—rolling

M—mountainous

ADT - Average Daily Traffic

(d)

The hydraulic design for bridges shall provide for the 25-year flood frequency. Freeboard will be based on the site-specific hydrology.

(e)

The exceptions to these minimum standards are:

(1)

Bridges being routinely repaired.

(2)

Bridges that serve less than three households on dead-end roads or nonthoroughfare roads.

(3)

Bridges providing limited access to agricultural fields, pasturelands, oil fields, timberlands, etc.

(f)

The upgrading of existing bridges and the construction and erection of replacement and new bridges on the county road system shall be subject to and meet the provisions as set forth in A.C.A. §§ 12-80-101—12-80-106 requiring earthquake-resistant design for public structures.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-82—46-100. - Reserved.

ARTICLE V. - MINIMUM CONSTRUCTION STANDARDS

Sec. 46-101. - General.

(a)

A street or road shall not be accepted by the county judge or his designated agent as a part of the county road system unless the minimum specifications as described in this section are met.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-102. - Clearing, grubbing, demolition and earthwork.

(a)

Clearing, grubbing, demolition of existing structures, and earthwork shall be in accordance with AHTD standards. All trees, tree stumps, grass, weeds, top soil or rubbish of any nature that may be considered deleterious shall be removed to a depth of two feet below subgrade elevation.

(b)

In the event of questionable suitability of the subgrade soils, the county judge may require the developer to retain a geotechnical firm to test subgrade material to determine its adequacy to support

the street surface and anticipated traffic loads. Such geotechnical firm shall be paid by the developer and shall submit copies of its reports and test results to the county judge.

(c)

Subgrade sections shall be compacted to 95 percent of maximum density as determined by the modified Proctor Test. Fill sections shall be placed and compacted in loose lifts not exceeding eight inches depth, unless an approved soils investigation study determines a different depth is adequate.

(d)

Subgrade sections in areas of cut shall be scarified to a depth of eight inches and compacted to 95 percent of maximum modified proctor density in the top 18 inches.

(e)

Compaction testing for subgrade density shall be a minimum of one test per 300 linear feet of subgrade surface per eight-inch lift and per each different material encountered.

(f)

Subgrade materials shall include all stable and suitable in-situ materials and fill materials and shall be stabilized by mechanical compaction or by other approved methods. Stabilization methods such as fabrics and chemical stabilization may be submitted for approval when supported by engineering data and calculations to substantiate the adequacy of the stabilization procedure. Soils subject to required stabilization, or undercut and removal, include those with a liquid limit greater than 40, a plasticity index greater than 15, or a CBR (California Bearing Ratio) value of less than 8.

(g)

Pipe underdrains or drainage layers shall be installed at all locations where subsurface moisture may affect the stability of the subgrade or result in unsatisfactory pavement performance. The requirements for subsurface drainage layers and/or underdrains shall be evaluated by the design engineer on an individual project basis.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-103. - Base course.

(a)

The finished subgrade shall comply with density compaction requirements prior to commencing placement of base course.

(b)

Base course shall be either:

(1)

Aggregate material meeting AHTD specification for Class 7 crushed stone, or approved equal. A modified proctor density curve and a gradation test shall be developed for the proposed material by an approved laboratory.

(2)

Bituminous material meeting AHTD standards for asphalt concrete hot mix stabilized base course.

(c)

Base course shall be compacted to 95 percent of maximum density as determined by the modified proctor test for full width and full depth of base.

(d)

Compaction testing for base course density shall be a minimum of one test per 300 linear feet of base course surface.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-104. - Pavement.

(a)

The finished compacted base course shall comply with density compaction requirements prior to commencing placement of pavement surfaces.

(b)

Street pavement surfaces shall be either flexible type (hot mix asphalt concrete), rigid type (Portland cement concrete) or surface treatment type (double seal).

(c)

Pavement sections shall be designed in accordance with the AASHTO Guide For Design Of Pavement Structures, latest edition.

(1)

Pavement sections shall be designed using a design period of 20 years, an initial serviceability index factor of 4.5, and a terminal serviceability index factor of at least 2.5.

(d)

Minimum pavement sections are given in the Minimum Depth Pavement and Base Table (Table No 5.4.1)

TABLE NO. 5.4.1			
MINIMUM DEPTH PAVEMENT AND BASE			
Street Class	Flexible Pavement	Rigid Pavement	Surface Treatment

	Base Course (in)	Asphalt Surface (in)	Base Course (in)	Concrete Surface (in)	Base Course (in)	Surface Treatment
Arterial	8	4	6	6	NA	NA
Collector	8	3	4	5	NA	NA
Local	6	2	3	5	6	Double Seal
Industrial	8	3	4	5	NA	NA
Commercial	6	3	3	5	NA	NA

(e)

The pavement and base depths given in Table No. 5.4.1 are minimums and are not to be used in lieu of pavement design depths as determined by a complete geotechnical study.

(f)

Asphalt concrete mix design shall be the responsibility of the asphalt concrete material supplier.

(g)

Local roads with curb and gutter shall be hot mix asphalt concrete surface.

(h)

Asphalt surface treatment: Surface treatment consisting of one prime coat and two seal coats of mineral aggregate with bituminous treatment, or better.

(1)

Prime coat : MC-30 bituminous material or equivalent, as approved by the county judge or his designated agent, sprayed uniformly at 0.35 gallons per square yard, or better.

(2)

No. 1 seal coat : RC-800 bituminous material or equivalent, sprayed at 0.35 gallons per square yard, or better. Mineral aggregates shall be placed immediately following the application of the bituminous material at a minimum of 30 pounds per square yard.

(3)

No. 2 seal coat : RC-800 bituminous material or equivalent, sprayed at 0.30 gallons per square yard, or better. Mineral aggregates shall be placed immediately following the application of the bituminous material at a minimum of 25 pounds per square yard.

(4)

Surface material: AHTD Class 7 mineral aggregate.

(i)

Hot mix asphalt concrete surface course shall be ½" or 3/8", $N_{MAX}=115$ conforming to Section 407 of the AHTD Standard Specifications.

(j)

Hot mix asphalt concrete pavement materials, construction methods, standards, temperature constraints, seasonal constraints, and performance requirements shall be in accordance with the latest edition of the AHTD Standard Specifications.

(k)

Concrete streets.

(1)

The street will not be accepted if any water is found standing in the street after concrete is poured.

(2)

No traffic will be allowed on new concrete streets for a minimum of 14 days after pouring.

(3)

No concrete shall be poured on frozen ground or below 40 degrees.

(4)

All requirements for subgrade and base, including testing, shall be the same as for flexible pavement surfaces.

(5)

All concrete pours are subject to coring for verification of depth. All coring holes shall be immediately sealed with approved epoxy to the street surface level.

(6)

Concrete shall have a 28-day compressive strength of 4,000 psi minimum.

a.

Compressive strength testing shall be a minimum of one set of tests for each day's pour exceeding five cubic yards plus additional tests for each 50 cubic yards exceeding the first 25 cubic yards.

(7)

Expansion/construction joints:

a.

Joint materials shall meet AHTD standards.

b.

All joints shall be calked [caulked] and sealed.

c.

Joints shall doweled. Dowel shall be smooth, $\frac{3}{4}$ inch diameter, 24 inches long and placed on 12 inch centers with an expansion joint end only.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-105. - Curbs and gutters and sidewalks.

(a)

Curbs and gutters and sidewalks shall comply with the details shown in Figure 2 herein and shall be constructed of concrete with a minimum 28 day compressive strength of 3,000 pounds per square inch.

(b)

Subgrade soils under curbs and gutters shall be stabilized in the same manner as those under the paved section.

(c)

Six-inch high vertical curbs shall be used in all commercial zones and at all points where the edge of the sidewalk or any other structure is located within five feet of the back of the curb.

(d)

Six-inch high vertical or rolled curbs may be utilized in residential and industrial zones.

(e)

Four-inch high low-profile rolled curbs may be used on local streets with written approval of the county judge.

(f)

Surface water shall run no more than 600 feet in the gutter before being channeled off the road.

(g)

Sidewalks shall have tooled construction joints at intervals not exceeding the width of the sidewalk.

(h)

Curb shall have $\frac{1}{2}$ inch expansion joints at intervals not exceeding 50 feet and tooled contraction joints at intervals not exceeding ten feet.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Editor's note— Figure 2 at the end of the chapter.

Sec. 46-106. - Drainage.

(a)

Drainage lines crossing streets shall be installed at a 90 degree angle with the street centerline, unless specifically approved otherwise by the county judge.

(b)

Location of parallel drainage lines under paved sections shall not be allowed without specific approval of the county judge.

(c)

Drainage lines shall be installed with a minimum of 12 inches between the top of the line and the finished surface of the street.

(d)

Ditch lines shall be a minimum of 18 inches deep measured from top of subgrade at edge of shoulder. Ditch depth shall transition as necessary to provide for a minimum of 12 inches depth to top of drainage pipe at street and driveway intersections.

(e)

Driveway culverts.

(1)

Private drives shall be constructed and culverts provided so as not to impede proper drainage of the roadway and must conform to the level of the roadbed, from the point of junction to the outer edge of the right-of-way.

(2)

Culvert pipe used in construction of driveways shall be a minimum of 12 inches in diameter except as may otherwise be required by the County Judge and shall consist of either of the following:

a.

Reinforced concrete pipe: ASTM C-76, Type III. Joints shall be sealed with either pre-formed rubber gaskets or bitumen/butyl rubber plastic gaskets conforming to ASTM M198.

b.

High performance polypropylene pipe: Double-walled corrugated with smooth interior conforming to ASTM F2736, ASTM F2881, and AASHTO MP-21-11. Polypropylene pipe shall be bedded on the bottom, sides and top with a minimum of 6 inches crushed stone (3/8 "—1½").

c.

In the event that top of pipe cannot be placed at a minimum of 12 inches below top of subgrade, upon approval by the county judge, reinforced concrete pipe shall be used.

d.

Metal culverts shall not be allowed.

(3)

The cost of driveway culvert materials shall be at the expense of the property owner. The culvert installation shall be performed by the county.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-107—46-120. - Reserved.

ARTICLE VI. - CONTROL OF CONSTRUCTION

Sec. 46-121. - General.

(a)

A street or road shall not be accepted by the county judge or his designated agent until the minimum standards of construction have been met. The county judge or his designated agent may require certification from a registered professional engineer that the minimum standards of construction have been met. If such tests are required, this certification shall be at the developer's expense.

(1)

The county judge has the right to require additional testing in any area that has doubtful roadbed integrity. County personnel shall have complete access to the work site at all times.

(2)

When test results indicate that the construction does not comply with the requirements of these specifications, the developer shall make the necessary corrections and retest until the test indicate that the construction satisfactorily meets all requirements of the specifications.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-122. - Inspection and testing of improvements.

(a)

All testing shall be at the expense of the developer.

(b)

Soils investigations, materials testing and quality control testing shall be performed by an approved laboratory. All reports submitted to the county shall bear the name of the responsible engineer.

(c)

Upon completion of construction of public improvements, certification shall be submitted by a registered professional engineer and shall include as a minimum a statement that the following complies with the minimum requirements of these specifications:

(1)

Compacted density of subgrade and base course.

(2)

Geometric design with respect to dimensions and slopes.

(3)

Drainage facilities.

(d)

The county reserves the right to inspect all improvements and installations for conformance with these specifications.

(e)

The county may in extreme circumstances grant a variance from these rules in accordance with procedures specified herein.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-123—46-140. - Reserved.

ARTICLE VII. - PAVEMENT CUTS WITHIN RIGHT-OF-WAY

Sec. 46-141. - Permit required.

(a)

Any person, firm or corporation desiring to make a cut or perform construction work diagonally or parallel within the right-of-way of any county road located in Garland County, Arkansas, shall first obtain a permit from the Garland County Road Department for said cut. Any paving cuts or work performed in the right-of-way which are made in an emergency situation shall be reported to the Garland County Road Department on the morning of the next regular workday. For purposes of this ordinance construction work in the county's right-of-ways shall include but not be limited to paving cuts, trenching, burying, or otherwise depositing cable and pipe as well as other construction or destruction type activity on county rights-of-way.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-142. - Backfill and pavement repairs.

(a)

After the work for which the cut was made has been completed, the backfill and pavement repairs shall be made in accordance with specifications provided in Figure 3.

(b)

Cuts within the street right-of-way and not located under any paved section shall be backfilled in accordance with the utility owner's requirements. The backfill shall be maintained by the developer until final settlement has occurred. After final settlement has occurred, the area above the excavation shall be repaired with the same type and quality of materials as existed prior to beginning of the excavation.

(c)

The aggregate backfill located under pavement cuts shall be maintained by the developer until the repair pavement is placed. The replacement pavement shall be installed in the earliest reasonable time.

(d)

When the repair pavement is ready for placement, the top portion of the aggregate backfill shall be removed to a depth equal to or greater than the depth of the existing pavement. The repair shall be of the same materials and depth as the existing pavement.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Editor's note— Figure 3 at the end of this chapter.

Sec. 46-143. - Approval required for road closing, warning signs, lights.

(a)

The road where the cut is being made shall be left open while work is in progress. Blocking or barricading of the road will not be permitted without the prior approval of the county road department, which will then notify the county sheriff's department and fire department in the area of the temporary closing of such road. When work concerned is a public hazard, signs signifying the hazard shall be exhibited and amber lights or flares shall be maintained on the excavation from dusk to daybreak. Such equipment shall be located at each end and along the entire length of the excavation. Lights shall be maintained on machinery or other equipment left on the road where cut is being made.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-144. - Inspection of backfill by road superintendent.

(a)

The county road superintendent or his designee shall be notified when backfill is completed or anticipated to be completed. It will be the duty of the road superintendent or his designee to supervise the inspection of the backfill and approve it prior to replacement. The contractor will then complete the repairs on the cut within five working days or less.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-145. - Posting of bond; denial of permit.

(a)

Where appropriate, contractors who are engaged in the business of the repair of paving cuts or construction in road right-of-way may be required to post a reasonable performance bond with surety to ensure compliance with the requirements of this chapter. This performance bond shall be not less than \$1,000.00 bond with surety to ensure compliance with the requirements of this section. Any contractor may be refused permits by the county judge or the road superintendent where just cause can be shown for such action and where such action is in the best interest of the county.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-146. - Permit fees; Bond cost calculation.

(a)

All road cut permits shall be a minimum of \$25.00 for each cut made. In the case of water or sewer improvement districts where multiple cuts will occur, the district will be required to post a bond with surety in lieu of a charge per paving cut to ensure compliance with this section. The road superintendent shall determine the amount of the bond required based upon the scope of the project including the number of paving cuts or amount of work performed in the road right-of-way. In connection with parallel cuts, if in the opinion of the road superintendent, said cuts substantially reduce the anticipated life of the road surface, he may require that the contractor, or the owner and employer of the contractor, if not one and the same, resurface the entire section or sections of the road so that the entire surface shall be restored to substantially the same condition it was in prior to the time said cuts were made. In making this determination, the road superintendent shall take into consideration the age of the existing surface, the space between the cuts involved, and the type of paving surface involved. Boring underneath hard-surface (hot mix asphalt or concrete) roadways shall be required instead of paving cuts unless the road superintendent determines that boring underneath the roadway would not be feasible.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-147. - County road department to complete unsatisfactory work at contractor's or owner's expense.

(a)

If, in the opinion of the road superintendent or his designee, a contractor fails to proceed promptly in a workmanlike manner to complete road repairs, the county road department or the county judge's office shall notify the contractor and the owner and employer of the contractor, if not one and the same, of such failure to satisfactorily perform work. If no response to such notification is made within five working days, the county road department will take over such work and complete the work, or will contract the repair at the expense of the contractor or the owner and employer of the contractor, if not one and the same. The contractor and the owner and employer of the contractor, if not one and the same, shall be billed for such costs of repairs as may be performed by the county road department or its designated contractor, and documentation of such incurred costs shall be furnished to the contractor and the owner and employer of the contractor, if not one and the same, for payment.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-148. - Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be fined an amount not to exceed \$500.00 for any one specified offense or violation or double that amount for each repetition violation. If the contractor and the owner are not one and the same, the owner shall be responsible for said fine. If any act prohibited or rendered unlawful is, in its nature continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of the chapter, shall not exceed \$250.00 per occurrence for each day that the same may be unlawfully continued. All fines and penalties imposed for violation of this chapter shall be paid into the county general fund.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-149. - County judge authorized to set additional requirements; road cuts to be perpendicular to centerline.

(a)

The county judge is hereby authorized to place such additional requirements upon any permit issued as he may deem reasonable to ensure that free passage of traffic upon the county roads is not unduly interrupted by such work and the road surfaces damaged thereby are promptly and adequately restored. The county judge shall designate certain roads that shall not be cut, but shall be bored under the road's surface. The only cutting of the road's surface or road bed that shall be allowed for any of the work permitted under this article shall be perpendicular to the centerline of such road for the purpose of reaching existing lines. Any installation parallel to the centerline of any county road shall be accomplished wholly off the improved and traveled surface of the road.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Secs. 46-150—46-160. - Reserved.

ARTICLE VIII. - DRIVEWAYS AND CURB CUTS

Sec. 46-161. - Permit required.

(a)

Driveway construction and curb cuts within county street right-of-way shall first require a permit from the county. Request for approval, plans and specifications and other requirements of these street specifications shall apply to driveways and curb cuts.

(b)

The submitted plan shall show existing street curbing, street right-of-way, other driveways, entrances, and intersections of streets within 100 feet of the proposed driveway, and proposed drainage facilities.

(c)

"Driveway" means a paved portion of a public street providing an unobstructed passage from the roadway to an off-street area used for driving, servicing, parking, or otherwise accommodating motor vehicles.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Sec. 46-162. - Design requirements.

(a)

Driveways shall have an intersection radius of five feet for single family residential driveways, ten feet for multi-family residential, and 15 feet for commercial and industrial.

(b)

Driveways shall be located such that no part of the driveway apron is closer than 40 feet to a point in the nearest street intersection. Said intersection point shall be the point of intersection of the extended lines of the back of existing curbs, or in the absence of existing curbs, edges of pavement of the two intersecting streets. In no case shall the intersecting driveway radius encroach upon the intersection radius of a street or another driveway.

(c)

The minimum tangent length of curb between driveways on the same property shall be 20 feet.

(d)

Maximum driveway grade: twelve percent from the street edge of pavement to the street right-of-way line.

(e)

Driveway width, excluding intersection radius:

(1)

Single family residential : 10' (minimum) and 24' (maximum).

(2)

Other than single family residential : 12' (minimum) and 48' (maximum).

(f)

Driveways for single family properties may be surfaced with asphalt or concrete between the street edge of pavement and the right-of-way.

(g)

Driveways for all properties other than single family residential shall be surfaced with concrete between the street edge of pavement and the right-of-way.

(h)

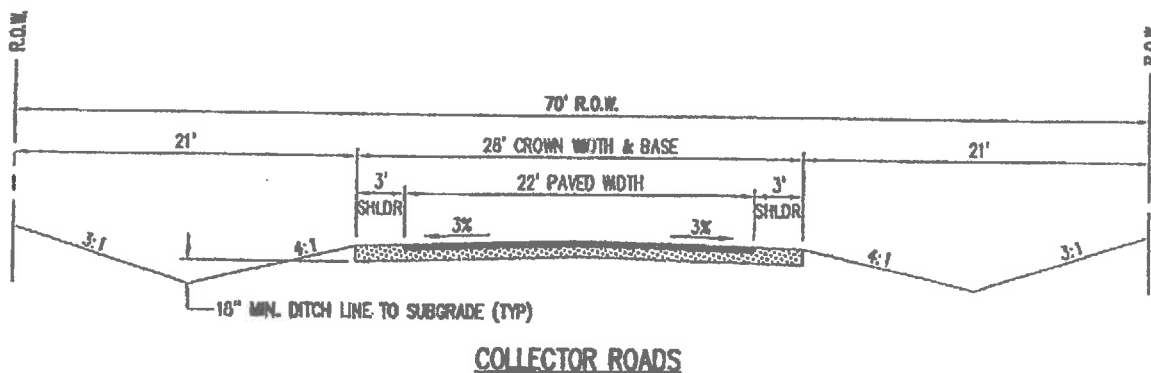
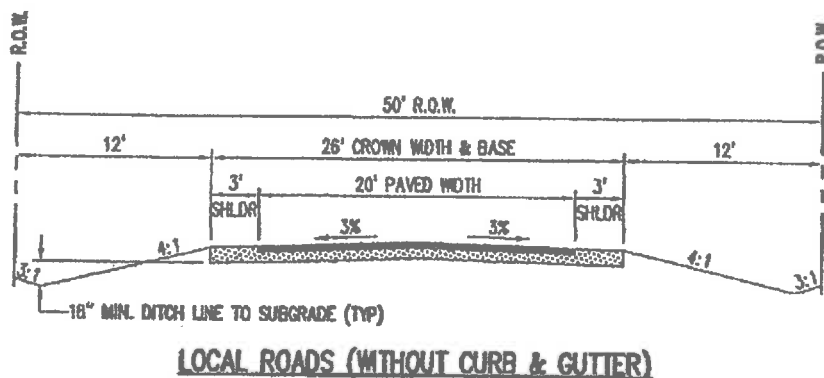
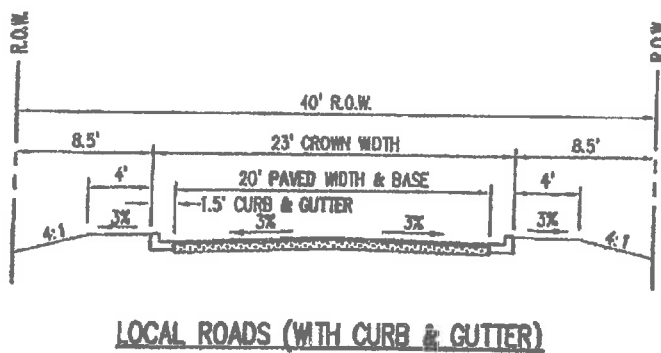
Driveway construction materials shall be the same as for the street classification that the driveway is connected to.

(i)

Where curbs are installed on driveways or where the grade of the driveway is at a different elevation than an adjacent sidewalk or crosswalk, handicap ramps shall be installed in accordance with the Americans With Disabilities Act.

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Figure 1. - Typical road cross sections.



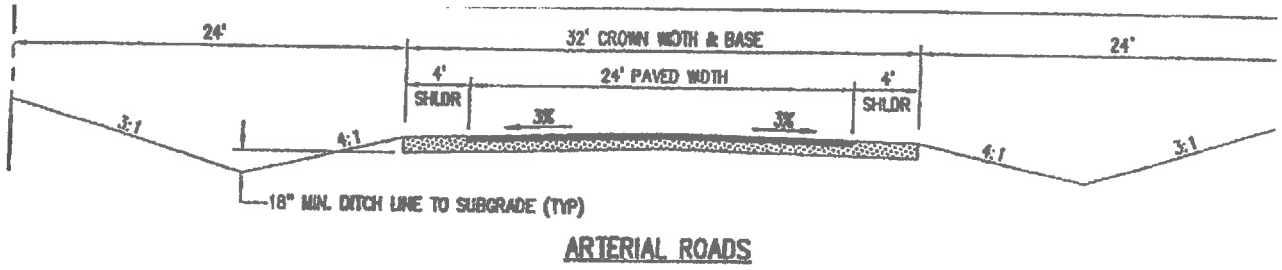
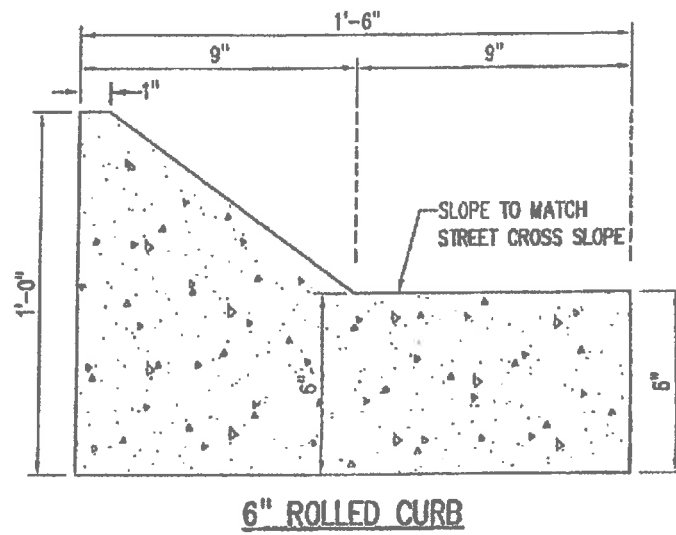
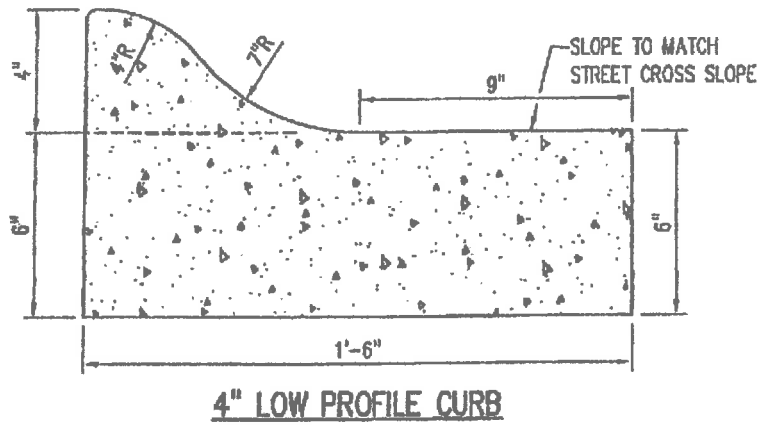


FIGURE 1
TYPICAL ROAD CROSS SECTIONS

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013; Ord. No. O-13-65, § 1(Exh. A), 12-9-2013)

Figure 2. - Typical curb and gutter sections.



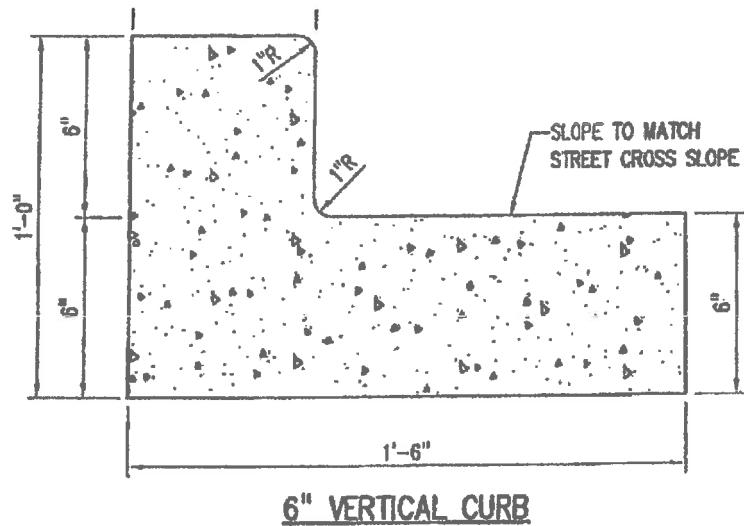
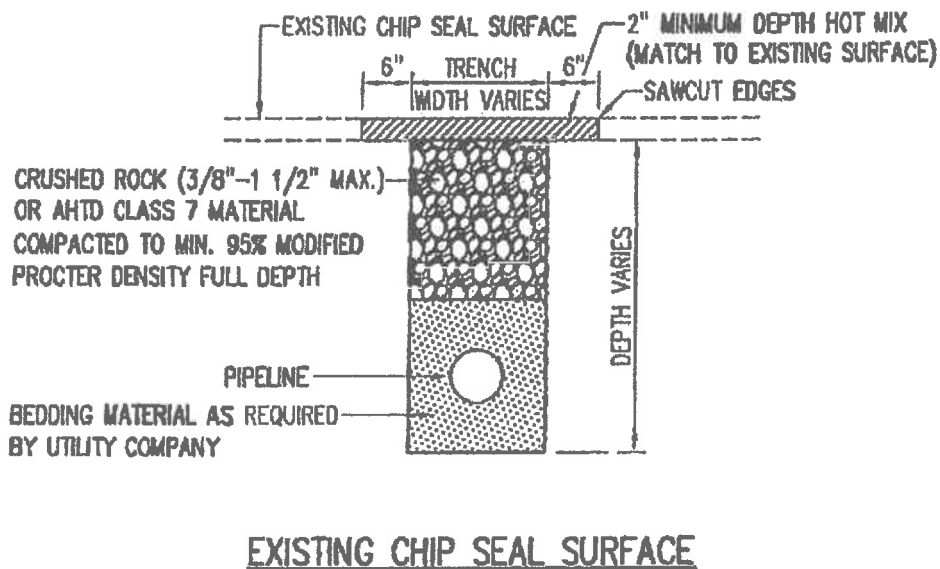


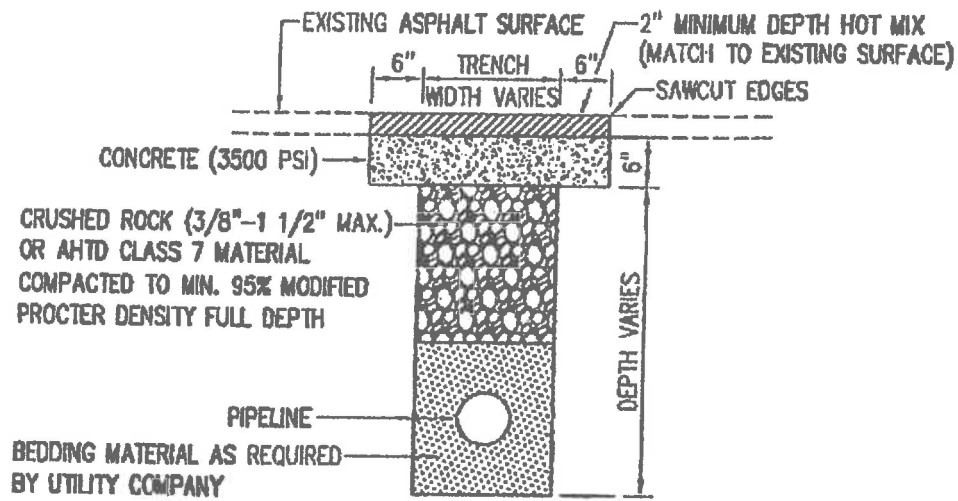
FIGURE 2
TYPICAL CURB & GUTTER SECTIONS

002.dwg

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

Figure 3. - Pavement cut repair details.





EXISTING HOT MIX ASPHALT SURFACE

FIGURE 3
PAVEMENT CUT REPAIR DETAILS

(Ord. No. O-13-55, § 1(Exh. A), 8-12-2013)

MINIMUM SPECIFICATIONS FOR ACCEPTING NEW DEVELOPED ROADS IN THE POLK COUNTY ROAD AND BRIDGE SYSTEM

Dedication of a 50 foot right of way deeded to Polk County

Comprehensive drainage plan performed by a registered professional engineer

Road footprint to be excavated down to stable material

Road shall be elevated with compactible select fill (95%)

Road shall have a minimum of 6 inches of compacted pre-approved road base

Road shall have a minimum width of 22 foot with a 19 foot driving surface and 18 inch shoulder on each side.

All plans and specifications for road and drainage construction shall be reviewed by the County Judge

All road and drainage construction shall be under the direction of a registered professional engineer.

After construction is finished, the person or entity requesting acceptance from the county, must declare completion to the Judge. The Judge may allow a 6 month period to pass before final inspection, acceptance, or rejection. This process shall serve to "test" the road.

The Arkansas Constitution gives County Judges in Arkansas the exclusive original jurisdiction over the county road and bridge system. Therefore, it is up to each Judge to use his or her discretion as to whether or not to accept any road for any reason. Practicality may necessitate raising or lowering standards. It is important that the requester communicate with the Judge during planning and construction.

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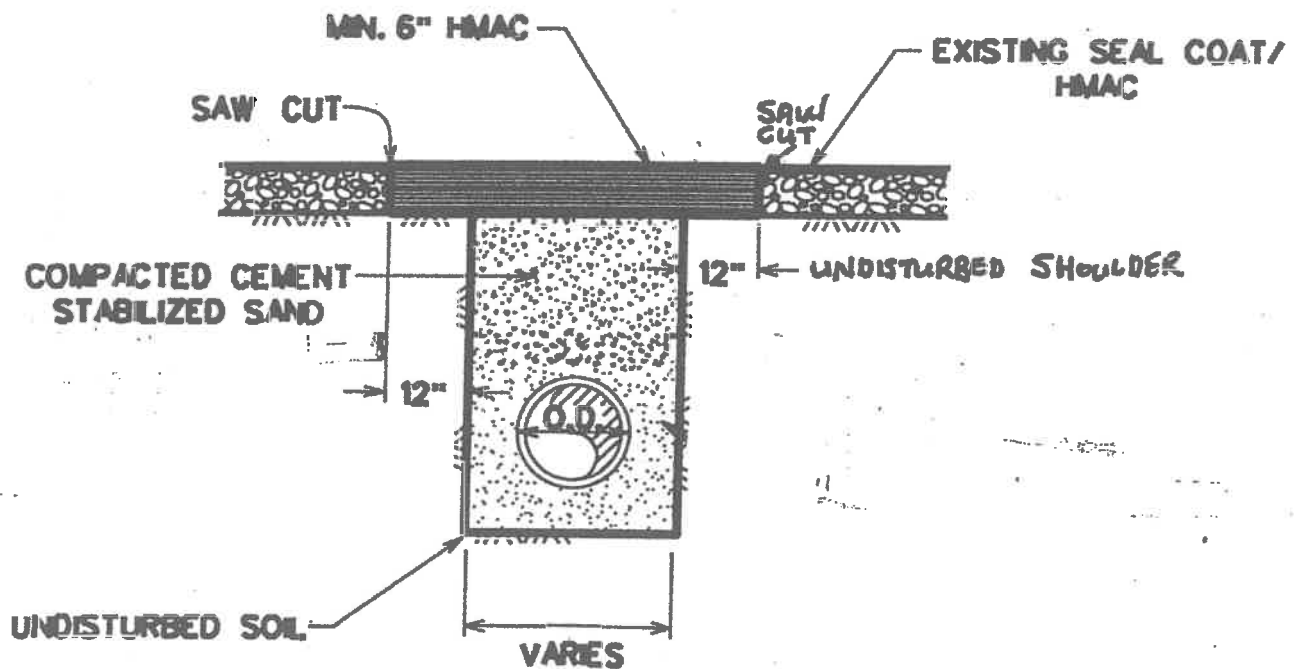
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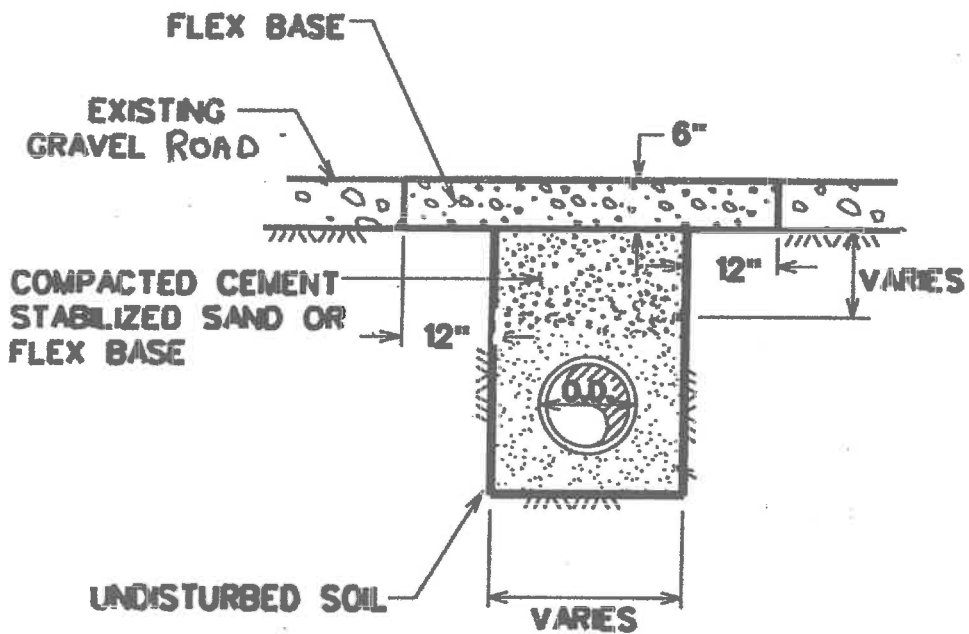
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POLK COUNTY ROAD DEPARTMENT

- *The Polk Co. Road Dept. prefers the road boring method for road cuts
- Must use compacted cement stabilized sand for back fill
 - Must saw cut paving a min. of 12" either side of proposed trench, leaving an undisturbed shoulder for retie of paving
 - Asphalt and quality seal coat roads must be finished with 6" of hot mix asphalt
 - Rock screenings may be used for sand substitute
 - 2 sacks of dry Portland cement per yard of material
 - Settlement of completed road crossings are incontrovertible evidence of unsatisfactory compaction, and the permitted will be held responsible



OPEN CUT SEAL COAT/ OVERLAY STREET



OPEN CUT GRAVEL STREET

EMERGENCY ORDINANCE NO. 82-33

"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF SEBASTIAN, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:"

AN EMERGENCY ORDINANCE ADOPTING THE SEBASTIAN COUNTY ROAD PLAN AND MINIMUM CONSTRUCTION AND DESIGN STANDARDS FOR THE CONSTRUCTION OF COUNTY ROADS, PROVISIONS THEREOF; PENALTIES; AND FOR OTHER PURPOSES.

Section 1. Authority. In accordance with Arkansas Statutes 76-901 through 76-928, Arkansas Act 742 of 1977, and the Arkansas State Constitution, the Sebastian County Road Plan and Specifications is adopted as set forth herein.

Section 2. Jurisdiction. The Sebastian County Road Plan shall be utilized as the guide, and the administrative and legal mechanism for the construction, expansion, and improvement of all County roads outside of any municipal jurisdictional areas. State and/or Federal Highways are not subject to the intent or administrative review of this ordinance.

Section 3. Purpose. The purpose of this ordinance is to provide the legal means of assuring adequate, efficient and safe construction of all County roads and to protect County residents from unsafe roads while protecting the County investment in the road system. Further, it is the purpose of this Road Plan to establish the locations of existing and future County roads and the appropriate criteria for the construction of the County roads.

Section 4. The Sebastian County Road Plan formulated by the Sebastian County Judge's Office and filed with the County Clerk is hereby made a part of this ordinance by reference. It is attached to this ordinance as Exhibit "A".

Section 5. Penalties. It shall be a misdemeanor for any person, company or business enterprise to violate any of the provisions of this ordinance. Provided the fine for violation shall not be less than \$100 for the first violation and shall not be less than \$250 for each day that the same may be unlawfully continued.

Section 6. If any provision of this ordinance is held invalid, such invalidity shall not affect other provisions of the ordinance which can be given effect without the invalid provision, and to this end the provisions of the ordinance are declared to be severable.

Section 7. In order to protect the Sebastian County taxpayer's investment in the County Road System an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from after its passage and approval.

DATED: Dec 22, 1982

APPROVED: David Hudson
COUNTY JUDGE

ATTEST: Ruth Carmad
COUNTY CLERK





Appendix of Road Documents (continued)

Heavy Haul Permits

Ordinances on Weight Limits

Driveway Permits

Utility Permits

ORDINANCE NO. 48

"BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF LAFAYETTE, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:"

AN EMERGENCY ORDINANCE ADOPTING CERTAIN RULES AND REGULATIONS CONCERNING THE LAFAYETTE COUNTY ROAD & BRIDGE SYSTEM, ESTABLISHING A PERMIT AND BOND PROCEDURE FOR HEAVY HAUL OPERATIONS OVER COUNTY ROADS & BRIDGES SETTING FORTH THE PROVISION THEREOF, PENALTIES, AND FOR OTHER PURPOSES.

Section 1. Authority. In accordance with Arkansas Statutes 75-801 through 75-818; Arkansas Act 300 of 1937; Act 742 of 1977, as amended, and the Arkansas State Constitution, the County Permit and Bond Procedures for Heavy Haul Operations occurring over the Lafayette County Roads & Bridges are established as set forth herein.

Section 2. Jurisdiction. The permit and bond heavy haul ordinance shall be established for all county road and bridges, highways, structures and streets within Lafayette County, providing these roads, bridges, highways, structures and streets do not fall under the jurisdiction of any city within the county or are State and/or Federal Highways.

Section 3. Purpose. The purpose of this ordinance is to provide a legal means of protecting the county's investment in county roads and bridges as well as protecting the county residents from unsafe roads and bridges. Further, it is the purpose of this ordinance to provide a financial system to repair roads and bridges damaged by heavy hauls, and to protect the taxpayers' investment in the system of county roads.

Section 4. The permit and bond administrative rule and regulation formulated by the Lafayette County Judge's Office for Lafayette County, filed with the County Clerk contemporaneously with the filing of this ordinance and listed as Exhibit "A" to this ordinance is approved and adopted. Exhibit "A" to this ordinance is hereby made a part of this ordinance by reference, as fully as if herein set out word for word and hereby established as the Lafayette County Permit and Bond Procedure for Heavy Haul Operators Over County Roads & Bridges.

Section 5. Penalties. It shall be a misdemeanor for any person, company or business enterprise to violate any of the provisions of this ordinance. Any person violating the provisions of the ordinance, using, driving, or operating on any road or bridge or highway any vehicle, loaded or empty of greater weight than that described or provided for in such administrative rules and regulations shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than \$100.00. Each day's use of any such vehicle shall constitute a separate offense and shall not be less than \$250.00 fine for each day the same may be unlawfully continued.

Section 6. Signs. The County Judge shall set specified load limits on said roads and bridges and erect or cause to be erected and maintained signs designating the provision of the ordinance and administrative rules and regulations concerning heavy haul. At each end of the portion of any highway affected thereby, such signs shall state at a minimum, "No Truck- Without County Permit" and the specified load permit.

Section 7. Civil Liability for Damaging Road. In addition to the penalty herein above prescribed, the person convicted of violation of this ordinance or of the administrative rules and regulations thereof, shall be liable in a civil action for all damage occasioned or caused by such violation; such a person shall be civilly liable to the County for all damages which he may occasion to the public highway over which such movement is made.

Section 8. Extreme Climatic Condition. In case of extreme climatic conditions concerning water and/or ice, the County Judge may declare an emergency to exist, and may restrict and/or prohibit heavy haul operations on county roads and bridges, as specified; and accordingly may restrict weight limitations thereof.

Section 9. If any provision of this ordinance is held invalid, such invalidity shall not affect other provisions of the ordinance which can be given without the invalid provision, and to this end the provisions of the ordinance are declared to be severable.

Section 10. All funds collected under the authority of this ordinance whether from fines, voluntary repayment of damages, collections from poster bonds, or any one source of funds created hereunder, are hereby appropriated to the Lafayette County Road Funds for use in repairing and maintaining Lafayette County roads and bridges.

Section 11. In order to protect the Lafayette County taxpayers' investment in the county road system and to provide for necessary administrative authority to manage the Lafayette County Road & Bridge System, an emergency is hereby declared to exist and this ordinance being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from after its passage and approval.

PASSED AND APPROVED this 5th day of June, 1985.

Jesse Sanders
Jesse Sanders, County Judge

ATTEST:

Diane Fletcher
Diane Fletcher, County Clerk

EXHIBIT "A" TO ORDINANCE NO. 48

ADMINISTRATIVE RULES AND REGULATIONS CONCERNING
PERMITTING & BONDING HEAVY HAUL OPERATIONS USING
COUNTY ROADS AND BRIDGES.

Permits & Bonding Requirements

Any individual or firm desiring to use any county road or bridge in any manner that might result in unnecessary damages to the roadway or its drainage facilities or that might result in undue safety hazards to the public, must obtain a special use permit. Activities subject to special use permits includes, but is not limited to, any transporting of construction materials, equipment, or commodity in any equipment whose gross tonnage would be in excess of the load carrying capacity of the roads and bridges over which they travel. County roads are not constructed to sustain heavy loads. Any user of a Lafayette County Road or Bridge who causes unnecessary damage to it shall be liable for damages equal to repair cost necessary to restore them to their original, preexisting condition. The Judge shall determine during the negotiations with special use permit applicants, adequate bonding arrangements and amounts which will guarantee that roads and bridges will be restored to preexisting conditions at the conclusion of special use permit activities.

Liability for Damage to County Road or Structure

Any person driving any vehicle, object, or contrivance upon any road or road structure shall be liable for all damage which said road or structure may sustain as a result of any careless, negligent, or illegal operation, driving, or moving of such vehicle, object, or contrivance, or as a result of operation, driving, or moving any vehicle, object or contrivance of excessive weight in excess of the maximum weight established by the County even though authorized by a special permit issued as provided herein.

Whenever such driver is not the owner of such vehicle, object, or contrivance, but is so operating, driving, or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severable liable for any such damage.

Such damage may be recovered in a civil action by the authorities in control of such road or road structure.

Permit Application

The application for any such permit shall specifically describe the vehicle and load to be operated or moved, the origination and destination of such vehicle and load, the approximate dates in which the operation or movement is to be completed and the particular roads for which permit to operate is requested.

The County Judge's Office shall issue permits to authorized individuals or shall withhold such permit at its sole discretion, but its action in withholding a permit must be based upon the condition and state of repair of the road or bridge involved, the ability of said road to carry the vehicle or upon danger to the traveling public from the standpoint of safety; to establish seasonal or other time limitations within which the vehicles described may be operated on the highway.

driveways, or roads indicated; to otherwise limit or prescribe conditions of operations of such vehicles when necessary to assure against damage to the road foundation, bridges, surfaces, or structures; and to require such bond or other security as may be deemed necessary by said agency to compensate for any injury to any roadway or road structure arising out of the operation under such permit.

Each such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit and no persons shall violate any of the terms or conditions of such permit.

Basis for Establishing Bond Amount

1. A representative of the company and the Lafayette County Road Department shall visit the roads and bridges to be used and survey them for condition and status. The survey shall note any existing failures and problem areas, taking photographs of such.

2. An estimate will be computed concerning the cost of repairing the entire length fixing the maximum ceiling.

3. A bond will be set based on the cost of repair up to the maximum.

4. A permit fee shall be collected to cover the administrative cost of Steps 1 through 3 above, if required by County Judge.

5. The County shall hold the bond until completion of the permitted time period.

6. Upon completion of permitted heavy haul activities the County and a representative of the company shall conduct another on-site visit to determine damages.

7. Payment for any damages shall be determined as follows:

A. The heavy haul operation shall pay for repairs and labor, or

B. The heavy haul operations pays for repairs with the County providing labor and equipment.

C. The payment option shall be at the discretion of the Lafayette County Judge considering the scope of existing road activity and accordingly the availability of county road equipment and labor to administer repair.

Road Survey Criteria

In road survey procedures the County shall follow guidelines in conformance with the Arkansas Highway and Transportation Department Pavement Management Program, Manual for Coding Pavement Conditions, Revised 1-1-81 and as updated, as shall be prescribed by the County Judge. Accordingly, the County shall utilize field inspection criteria consistent with the Arkansas Highway Department filed inspection criteria.

Cost Criteria to Establish Road Damage

The estimate of road and bridge damage cost shall be based on the Arkansas Highway Department cost criteria. This criteria primarily sets forth two sets of cost data:

A. Unit cost for specific work to be performed to be used in small repair work, such as potholes, culverts and shoulder repair.

Cost criteria to estimate road damage shall be based upon weighted average unit price as established by the

Highway and Transportation Department, as updated.

B. Per mile cost used by the State Aid Engineer for reconstruction in major damage repair, as updated.

The technical information referenced herein concerning road survey criteria and cost criteria shall be filed in the County Road Department and the County Judge's Office.

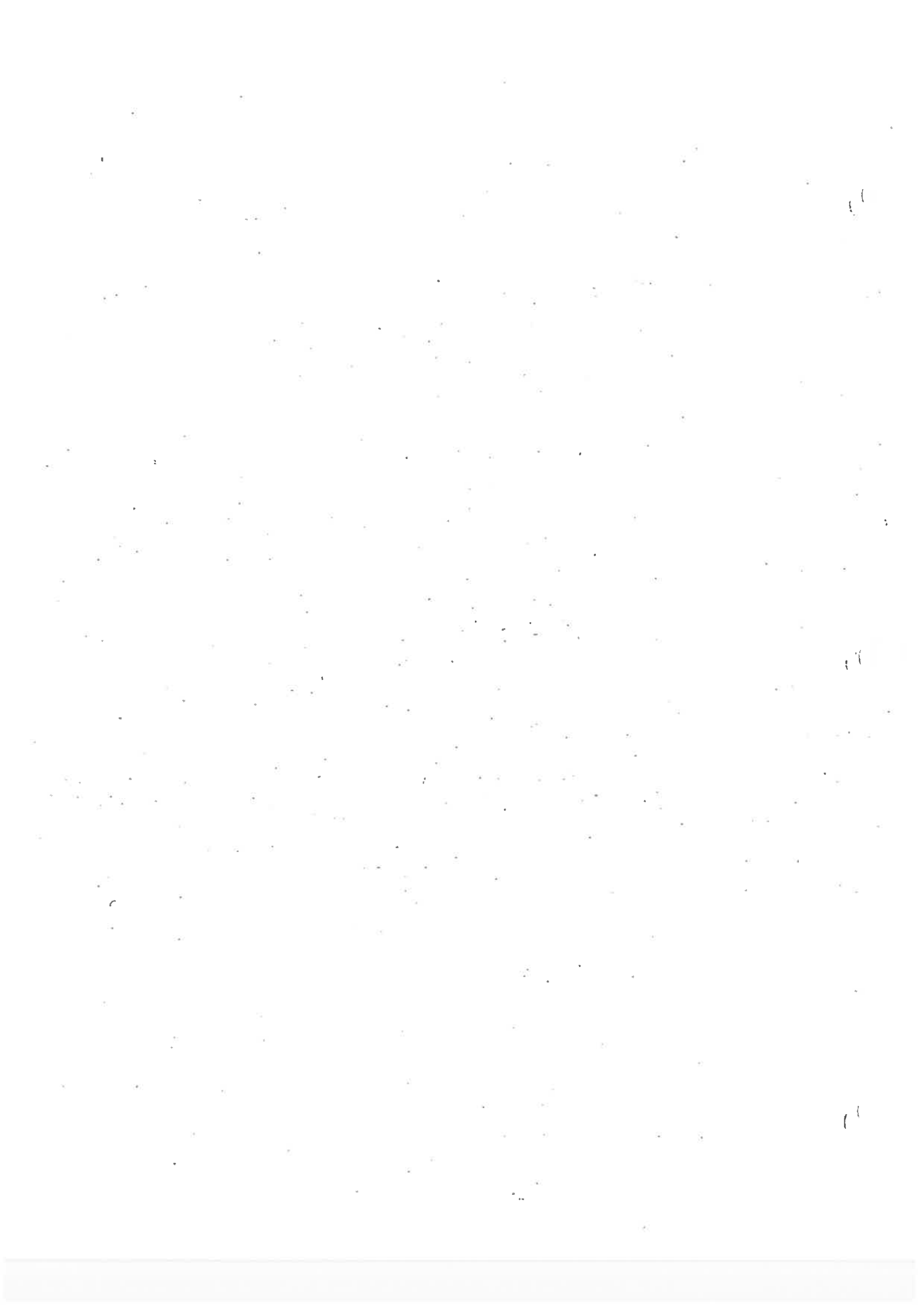


EXHIBIT "A" TO ORDINANCE 08-11

ADMINISTRATIVE RULES AND REGULATIONS CONCERNING PERMITTING AND BONDING HEAVY HAUL OPERATIONS UTILIZING COUNTY ROADS, HIGHWAYS, OR STRUCTURES

1. Permits and Bonding Requirements – Any individual, business, manufacturer, refiner, retailer, wholesaler, or transporter in the private sector desiring to utilize any county road or structure in any manner that might result in unnecessary damages to the roadway, structure, or its drainage facilities or that might result in undue safety hazards to the public must procure a special use permit from the Franklin County Judge's Office. Activities subject to special use permits include, but are not limited to, any transporting of materials, equipment, or commodities, or in any equipment whose gross tonnage would be in excess of the load carrying capacity of the roads over which they travel whether associated with construction, oil and gas, chemical transportation, or any other commercial endeavor requiring the utilization of county roads or structures.
2. Liability for Damage to County Roads or Structures –
 - a. Any person driving any vehicle, object, or contrivance upon any highway or highway structure shall be liable for all damage which the highway or structure may sustain as a result of any careless, negligent, or illegal operation, driving, or moving of that vehicle, object, or contrivance, or as a result of operation, driving, or moving of any vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight in this chapter.
 - b. Any person driving any vehicle, object, or contrivance upon any highway shall be liable for all damages to structures spanning the highway, or a part of the highway, by reason of load heights in excess of that which the structure will permit, when the clearance height of the structure is posted, and in any event where the height of the vehicle and load is in excess of thirteen feet, six inches (13' 6").
 - c. Whenever the driver is not the owner of the vehicle, object, or contrivance, but is operating, driving, or moving it with the express or implied permission of the owner, then the owner and driver shall be jointly and severally liable for any damage.
 - d. Damage may be recovered in a civil action brought by the authorities in control of the highway or highway structure.
3. Permit Application –
 - a. The application for any such permit shall specifically describe the vehicle and load to be operated or moved, the origination and destination of such vehicle and load, the approximate dates in which the operation or movement is to be completed and the particular roads for which permit to operate is requested.
 - b. The County Judge's Office shall issue permits to authorized individuals or any other entities similar to the abovementioned, or shall withhold such permit at its sole discretion, but its action in withholding permit must be based on the condition and state of repair of the road involved, and ability of said road to carry

the vehicle, or upon said danger, to the traveling public from the standpoint of safety;

- c. The County Judge's Office shall establish limitations to be imposed upon the permitted vehicles prescribing conditions of operations of such vehicles when necessary to assure against damage to the road foundation, surfaces, or structures, and to require such bond or other security as may be deemed necessary by said agency to compensate for any injury to any roadway or road structure arising out of the operation under such permit.
- d. Each such permit shall be carried in the vehicle to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit and no person shall violate any of the terms or conditions of such permit.

4. Basis for Establishing Bond Amount--

- a. A representative of the company seeking a permit and the Faulkner County Road Department shall inspect the roads to be utilized and survey the roads and/or road structures for current condition and status. The survey shall note any existing failures and problem areas, taking photographs of such.
- b. An estimate shall be computed concerning the cost of repairing the entire length, fixing the maximum ceiling.
- c. A bond will be set based on the cost of repair up to the maximum.
- d. A permit fee shall be collected to cover the administrative cost of the above-stated steps 1-3.
- e. The County shall hold the bond until completion of the permitted time period.
- f. Upon completion of permitted heavy haul activities the County and a representative of the company shall conduct a final on-site visit to determine damages.
- g. Payment for any damages shall be determined as follows:
 - i. The entity afforded the permit shall pay for repairs and labor.
 - ii. The payment option shall be at the discretion of the Faulkner County Judge considering the scope of existing road activity and accordingly the availability of county road equipment and labor to administer repair.

5. Road Survey Criteria - In road survey procedures, the County shall follow guidelines in conformance with the Arkansas Highway and Transportation Department Pavement Management Program, Manual for Coding Pavement Conditions, as updated from time to time, as shall be prescribed by the Faulkner County Judge. Accordingly, the County shall utilize field inspection criteria consistent with the Arkansas Highway Department field inspection criteria.

6. Cost Criteria to Establish Road Damage - The estimate of road damage cost shall be based on the Arkansas Highway Department cost criteria. This criteria primarily sets forth two sets of cost data:

- a. Unit cost for specific work to be performed to be used in small repair work, such as potholes, culverts, and shoulder repair. Cost criteria to estimate road damage shall be based upon weighted average unit price as established by the Arkansas Highway and Transportation Department, as updated from time to time.
- b. Per mile cost used by the State Aid Engineer for reconstruction in major damage repair, as updated from time to time.

7. The technical information referenced herein concerning road survey criteria and cost criteria shall be filed in the County Road Department and the County Judge's Office.

ORDINANCE 08-11

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF FAULKNER, STATE OF ARKANSAS, AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE ESTABLISHING CERTAIN RULES AND REGULATION RELATED TO THE FAULKNER COUNTY ROAD SYSTEM, ESTABLISHING AND MAINTAINING A PERMIT AND BOND PROCEDURE FOR HEAVY HAUL OPERATIONS UTILIZING COUNTY ROADS, ESTABLISHING AND MAINTAINING THE COUNTY ROAD POLICE AGENCY, SETTING FORTH THE PROVISIONS, PROCEDURES, AND PENALTIES THEREIN, AND FOR OTHER PURPOSES.

WHEREAS, the county has a duty to preserve peace and order and secure freedom from dangerous or noxious activities and, to that end, create and maintain a county road system to provide safe and consistent passage throughout the county, and the increased unregulated traffic on the Faulkner County Road System causes property damage and unsafe and dangerous conditions, which could result in circumstances that threaten the health, safety and security of the Faulkner County citizens; and

WHEREAS, the county has a significant investment in the county road system and it is incumbent upon the county to protect that investment against waste, deterioration, and destruction; and

WHEREAS, Increasing industrial and commercial development and associated transportation has occurred throughout several locations in the unincorporated parts of Faulkner County, and the county desires to mitigate the damage and destruction to its system of county roads caused by these commercial vehicles which, if left unchecked, may exceed the weight limit on the Faulkner County Road system, causing damage to Bridges, overpasses, and road surfaces. By providing for a permit and bonding mechanism for entities operating heavy hauling equipment over the county road system, the county furthers its objective of not unduly burdening its tax payers and committing waste with regard to the tax payers' investments in the county road system; and

WHEREAS, the county deems it necessary to afford the County Judge the means to enforce the rules and regulations promulgated by this body and any other laws, local, state or federal through the employment of a certified law enforcement officer under the supervision of the Faulkner County Judge or his designee.

NOW THEREFORE BE IT ORDAINED BY THE QUORUM COURT OF FAULKNER COUNTY, ARKANSAS:

Section 1: Authority - Pursuant to Arkansas Code Annotated sections 27-35-101 et seq; Arkansas Act 300 of 1937; Act 742 of 1977, as amended, and the Arkansas Constitution, the county's permit, bond, and enforcement procedures for regulating heavy haul operations associated with their respective uses of the Faulkner County Road system are set forth herein.

Section 2: Jurisdiction - The heavy haul permit, bond, and county road police ordinance is hereby established and the following jurisdiction applies:

- a. The heavy haul permit and bonding sections of this ordinance shall apply to all county roads, highways, structures and streets within Faulkner County, Arkansas, provided these roads, highways, structures, and streets do not fall under the jurisdiction of any city within the county or are State and/or Federal Highways.
- b. The Faulkner County Road Police sections of this ordinance shall apply to all county roads, highways, structures, and streets within Faulkner County, Arkansas, provided there is no prohibition specified by law.

Section 3: Adoption of Rules and Regulations by Reference - The permit and bond administrative rules and regulations promulgated by the Faulkner County Judge's Office on behalf of Faulkner County filed with the County Clerk's Office contemporaneously with this Ordinance, adopted, and attached hereto as Exhibit "A" as if set forth herein fully word for word and is hereby established as the Faulkner County Procedures for Heavy Haul Operations Over County Roads.

Section 4: Penalties - Any person, business, manufacturer, refiner, retailer, wholesaler, or transporter in the private sector who pleads guilty or nolo contendere to or is found guilty of violating any provision(s) of this ordinance shall be guilty of a misdemeanor and be fined not more than two hundred-fifty dollars (\$250) per day of violation.

Section 5: Maps or Other Specific Means of Identifying Bridge Load Limits - the County Judge shall attach to each permit issued a map or other specific document designating and identifying the load limits for each county bridge.

Section 6: Notification of Bond Amounts for County Roads - attached Exhibit "A" shall set forth the mechanism with which the County Judge or his designee utilizes in setting and enforcing bond amounts for each county road.

Section 7: Civil Liability for Damaging Roads - Any person, business, manufacturer, refiner, retailer, wholesaler, or transporter in the private sector driving any vehicle, object, or contrivance upon any county road, highway or structure therein shall be civilly liable to the County for all damage which the highway or structure may sustain as a result of any careless, negligent, or illegal operation, driving, or moving of that vehicle, object, or contrivance, or as a result of operation, driving, or moving of any vehicle, object, or contrivance of excessive width or weighing in excess of the maximum weight as set forth in this Ordinance.

Section 8: Extreme Climatic Conditions - The County Judge may prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles to be operated upon any highway, for a total period of not to exceed ninety (90) days in any one (1) calendar year, whenever the highway, by reason of deterioration, rain, snow, or other climatic conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

Section 9: Creation of Faulkner County Road Enforcement Division - The Faulkner County Road Enforcement Division of the Faulkner County Road Department is hereby created and shall consist of, but not be limited to, at least one certified law enforcement officer and the necessary training and equipment to carry out the County's mandates and any and all other laws, rules, regulations, and certifications associated with employing a certified law enforcement officer.

Section 10: Supervision - The County Judge shall oversee the operation of the Faulkner County Road Enforcement Division of the Faulkner County Road Department and shall establish rules and regulations governing employees of the Faulkner County Road Enforcement Division consistent with the mandates of this Ordinance and all other state, federal, or local laws or ordinances to be enforced by this office.

Section 11: Authority - The Faulkner County Road Enforcement Division of the Faulkner County Road Shop shall have the power and authority to enforce all laws associated with the unlawful operation of motor vehicles as they relate to Faulkner County's road system, which shall include, but not be limited to, the authority to weigh vehicles and require removal of excess loads pursuant to A.C.A. § 27-35-101 *et seq.* and for all other lawful purposes not inconsistent with Arkansas law.

Section 12: Severability - If any provision of this ordinance is held invalid, such invalidity shall not affect the remaining provisions of the ordinance which remains effective absent the invalid provision, and to this end, the provisions of the ordinance are declared to be severable.

Section 13: Emergency Clause - In order to protect the Faulkner County taxpayers' investment in the county road system and to provide for necessary administrative and enforcement authority to manage the Faulkner County Road System, an emergency exists, and this ordinance, being for the immediate preservation of the public peace, health, and safety shall be in full force and effect from after its passage and approval.

Dated:

Dated:

Attest: _____
Jeff Johnston
Quorum Court Secretariat
Faulkner County, AR

Approved: _____
Preston Scroggin
Faulkner County Judge
Faulkner County, AR

ORDINANCE 07-10

Be it enacted by the Quorum Court of the County of Faulkner, State of Arkansas.
An Ordinance to be entitled: an Ordinance to establish the bonding for driving
Heavy oil and gas Equipment on County Roads

Section 1: It shall be required by Faulkner County that all Oil and Gas companies who will be driving heavy equipment on the Roads of Faulkner County shall notify the County Judge of their intent to use such roads.

Section 2: If, prior to exploration and drilling for oil and gas, it appears that an oil and gas company or an individual who is to explore and drill will be driving heavy equipment on county roads then the company or individual shall file a reasonable bond with the county, as the case may be, to cover anticipated damages to the county roads.

Section 3: The bond shall be in an amount determined by the county road foreman and supervisor to be sufficient to repair damage caused to the roads by operating the equipment on them.

Section 4: This is to be in accordance with Arkansas code.27-66-507

Dated: March 20, 2007

Dated: March 20, 2007

Attest: _____
Jeff Johnston
Quorum Court Secretariat
Faulkner County, AR

Approved: _____
Preston Scroggin
Faulkner County Judge
Faulkner County, AR

HEAVY HAUL PERMIT OIL AND GAS COMPANIES

**COPY OF THIS PERMIT MUST BE IN EACH
VEHICLE OWNED, LEASED OR SUB-LET BY
PERMITTEE**

TO OIL AND GAS COMPANIES: SEBASTIAN COUNTY
REQUIRES THAT YOU PLACE A SIGN AT THE
ENTRANCE TO THE GAS WELL SITE, SHOWING:

1. NAME OF COMPANY
2. PHONE NUMBER
3. FIELD PERSON NAME AND PHONE NUMBER
4. PERMIT NUMBER.

ALSO, WHEN MOVING FROM ONE LOCATION TO
ANOTHER, MUST NOTIFY COUNTY ROAD
DEPARTMENT AT 996-4485 OR 785-2523.

PERMIT 2001 - 52

1. Permission has been requested by NEW PROSPECT CO./OXLEY PETROLEUM, 600 S. 16TH ST.,
FORT SMITH, AR 72901 783-6734 to travel hauling DRILLING EQUIPMENT on
Featherhill Road
From the intersection of state hwy 96 and hwy 22 south of Lavaca, AR travel north on hwy 96 for 3 miles
to Featherhill road. Turn South on Featherhill Road and proceed 1.3 miles
Permitted vehicle must comply with legal loads as noted on attached sheet.
New Prospect Co./OXLEY PETROLEUM advised that individual loads would not exceed LEGAL
AXLE LIMIT and that the total weight to be moved during the permitted period would not exceed legal
limit. The parties agree that loads exceeding the legal weight limit in Arkansas would be on a special
permit to be obtained from the County.
2. Permission is hereby granted New Prospect Co., to travel hauling DRILLING EQUIPMENT on roads
listed above, as indicated on the attached County Road Map, subject to the conditions herein stated.
3. NEW PROSPECT CO./OXLEY PETROLEUM agrees to keep the roads watered and the dust level to a
minimum on

FEATHER HILL ROAD

when the roads are dry, creating a dusty condition as trucks travel over the roads.

4. In consideration of the granting of this permit, the permittee, NEW PROSPECT CO./OXLEY PETROLEUM hereby agrees to be responsible for any damages done to these County roads or adjoining rights of-way by said use of the roads and rights of way for the permitted usages. The said NEW PROSPECT CO./OXLEY PETROLEUM specifically agrees to pay any and all damages, if any, done to the roads and rights of way and pay the complete cost of restoring said roads and rights of way to the condition existing prior to said use of the roads and rights of way as determined by the County.
5. NEW PROSPECT CO./OXLEY PETROLEUM does not wish to inspect the said County roads. The roads were inspected on N/A. The County and NEW PROSPECT CO./OXLEY PETROLEUM hereby specifically agree that said roads and rights of way are in good condition at the time of the granting of this permit.
6. It is a further condition of this Permit that the said New Prospect Co./OXLEY PETROLEUM will post a Letter of Credit in the amount of \$25,000.00 covering potential damage to said roads and rights of way from the usage as contemplated prior to moving any loads on these roads. It is made a specific condition of this permit that no provision concerning a BOND or letter of credit will act as a limitation of liability of the PERMITTEE on damages suffered as a result of damage to roads or rights of way, and that New Prospect Co./OXLEY PETROLEUM is responsible for paying damages in the amount necessary to restore said roads and rights of way to the present good condition as determined by the County. Proof of the execution of Letter of credit by attaching a copy of said Letter of Credit to this permit shall be furnished the County Judge prior to moving said loads on said County roads.
7. It is the further condition of this permit that if at any time the permittee withdraws its Letter of Credit during the permitted period that the permit, upon the surety's withdrawal, is immediately terminated and that NEW PROSPECT CO./OXLEY PETROLEUM will move no further loads until and unless a new Permit and BOND is executed.
8. This Permit shall be valid for a ONE MONTH (1) period, beginning September 19, 2001 and expiring December 19, 2001.
9. SAID COMPANY AGREES, IF NEED BE, THAT PERMITTED ROAD WILL BE REPAIRED BACK TO CONDITION EXISTING PRIOR TO THEIR USE OF SAID ROAD BY THEIR COMPANY OR BY THE HIRING OF PRIVATE CONTRACTOR UNDER SUPERVISION OF SEBASTIAN COUNTY ROAD DEPARTMENT.
10. SAID COMPANY WILL AGREE TO LOCATE AND USE MATERIALS TO BUILD PAD FOR GAS WELL, FROM PROPERTY WHERE WELL IS TO BE LOCATED, SO AS NOT TO HAVE MATERIAL HAULED OVER COUNTY ROADS, (WHEN POSSIBLE).

Signed this _____ day of _____, 2001.

NEW PROSPECT CO.

BY: _____

BY: _____
OXLEY PETROLEUM

SEBASTIAN COUNTY

ROAD SUPERINTENDENT

BY: _____
DAVID HUDSON
SEBASTIAN COUNTY JUDGE

REQUEST FOR ROAD PERMIT

VERY IMPORTANT: A COPY OF THE PERMIT MUST BE IN EACH VEHICLE

DATE: _____

COMPANY NAME: _____

Address: _____

PHONE NO. _____

FAX NO. _____

FIELD PERSON _____

PHONE NO. _____

MOBIL NO. _____

WILL BE HAULING (LIST TYPE OF MATERIAL) _____

WEIGHT OF LOADS _____

ROADS TRAVELLED _____

Route to be taken: _____

PERMIT PERIOD FROM _____ TO _____ 200__

NAME OF COMPANY THAT WILL BE RESPONSIBLE FOR ANY DAMAGE DONE TO ANY ROAD:

Call Gene Hester and check to see if Bond is required:

Bond Amount _____

BLANKET ROAD PERMIT WITH NO BOND

COPY OF THIS PERMIT MUST BE IN EACH VEHICLE OWNED,
LEASED OR SUB-LET BY PERMITTEE

PERMIT 2002-04

1. Permission has been requested by White Dairy/Tankersley Company 3203 Industrial Park Rd, Van Buren, AR 72956 to travel Utah Ranch Road in Lavaca, AR and other roads as necessary in Sebastian County to deliver FROZEN FOOD PRODUCTS.

White Dairy/Tankersley Company advised that individual loads would not exceed AN ESTIMATED 32,000 POUNDS and that the total weight to be moved would not exceed legal limit. The parties agree that loads exceeding the legal weight limit in Arkansas would be on a special permit to be obtained from the County.

2. Permission is hereby granted White Dairy/Tankersley Company to travel hauling FROZEN FOOD PRODUCTS subject to the conditions herein stated.

3. In consideration of the granting of this permit, the permittee, White Dairy/Tankersley Company hereby agrees to be responsible for any damages done to these County roads or adjoining rights of way by said use of the roads and rights of way for the permitted usages. The said White Dairy/Tankersley Company specifically agrees to pay any and all damages, if any, done to the roads and rights of way and pay the complete cost of restoring said roads and rights of way to the condition existing prior to said use of the roads and rights of way as determined by the County.

4. It is a further condition of this Permit that the said White Dairy/Tankersley Company is hereby issued a Blanket Permit without the necessity of posting a BOND. However, said company will be responsible for covering potential damage to said roads and rights of way from the usage as contemplated prior to moving any loads on these roads. It is made a specific condition of this permit that no provision concerning a BOND will act as a limitation of liability of the PERMITTEE on damages suffered as a result of damage to roads or rights of way, and that White Dairy/Tankersley Company is responsible for paying damages in the amount necessary to restore said roads and rights of way to the present good condition as determined by the County.

5. This Blanket Permit shall be valid for an indefinite period, beginning January 01, 2001.

6. SAID COMPANY AGREES, IF NEED BE, THAT PERMITTED ROAD WILL BE REPAIRED BACK TO CONDITION EXISTING PRIOR TO THEIR USE OF SAID ROAD BY THEIR COMPANY OR BY THE HIRING OF PRIVATE CONTRACTOR UNDER SUPERVISION OF SEBASTIAN COUNTY ROAD DEPARTMENT.

Signed this _____ day of _____, 2002.

BY: _____
AGENT FOR COMPANY

BY: _____
DAVID HUDSON

BY: _____

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

Rev. 2/23/1998, CS

DRIVEWAY ACCESS PERMIT

Permanent Temporary

Permit No. _____
DISTRICT NO. _____ COUNTY _____ ROUTE _____ SECTION _____ DATE _____
LOG MILE _____

(Name of Applicant) _____ (Address) _____ (City, State and Zip Code) _____

Phone No. _____; hereinafter termed the applicant, request permission to construct a driveway(s) described and as shown on attached sketch or plan (if required), and hereby made a part of this application.

DESCRIPTION

Commercial Non-Commercial Driveway _____ feet wide on _____ side of _____ highway right-of-way, approximately _____ miles from _____ N.E.S.W. S.E./U.S. NO. _____ for the purpose of providing ingress or egress to a _____ City or well defined point _____

_____ commercial / non-commercial establishment, give description _____ size and providing drainage under said driveway(s) by the installation of a structure _____ to be located _____ Length _____ Type _____ feet from the edge of pavement. Right-of-way width from the center line of the highway is _____ Highway surface _____ Width _____ Proposed driveway surface _____ Type _____ Width _____

_____ subject to the restrictions and regulations contained in the "Regulations for Access Driveways to State Highways" as approved by the Arkansas State Highway Commission.

In consideration of these regulations, the applicant and the Arkansas State Highway and Transportation Department subscribe to the following agreement:

AGREEMENT

1. That applicant is granted permission to construct a driveway(s) pursuant to the regulations of the Arkansas State Highway Commission. The Arkansas State Highway and Transportation Department waives none of its powers or rights to direct the removal, relocation and/or proper maintenance of any driveway within the right-of-way of a state highway.
2. That all work will be performed in a neat and workmanlike manner, using materials acceptable to the District Engineer of the Arkansas State Highway and Transportation Department, and that the right-of-way will be cleaned up and left in a presentable condition upon completion of the described work.
3. That the applicant will fully protect the traffic on the highway during construction covered hereunder by the proper traffic control devices in accordance with the Manual on Uniform Traffic Control Devices, and to hold harmless and indemnify the Arkansas State Highway and Transportation Department, its officers and employees from all damages, expenses, claims or liability arising out of any alleged damages of any nature to any person or property, due to construction, performance or non-performance of work, or existence of said driveway.

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT

AGREEMENT (Continued)

- 4. Permittee shall be responsible for locating and protecting all utilities in the work area(s) and to hold harmless and indemnify the State Highway Commission, the Department and its duly appointed agents, officers and employees, from all damages, expenses, claims or liability arising out of any alleged damages of any nature to any utilities due to the construction, performance, or non-performance of work.
- 5. That the applicant is either the owner or has the legal right to possession and control of the parcel of property adjacent to the right-of-way frontage within which the said proposed driveway(s) is to be constructed.
- 6. That no driveway shall be constructed such that there will be parking or servicing of vehicles on the highway right-of-way.
- 7. That the profile grade of driveways shall be constructed as indicated on the attached sketch or plan.
- 8. Deposit or surety bond in the amount of \$ _____ must be deposited with the District Engineer of the Arkansas State Highway and Transportation Department at _____ Arkansas before the permit for an access driveway to a commercial concern is issued. If the work is completed as specified, the deposit will be returned, but if the permit requirements are not met, the Arkansas State Highway and Transportation Department will revoke the permit, call for the deposit or bond and remove the driveway.
- 9. The grantee shall maintain all existing highway, street and county road regulatory, warning, guide and informational signs in an effective location at all times for the duration of the work and shall install them at the correct location upon completion of the work. Any signs damaged by the grantee shall be replaced at no cost to the state.

SPECIAL PROVISIONS

Deposit \$ _____

Expiration Date _____

Applicant

BY _____
District Engineer

Date

- Original to District Engineer
- One Copy to Applicant
- One Copy to Area Maintenance Supervisor
- One Copy to Fiscal Services or Utilities

ORDINANCE NO. 2001-80

AN ORDINANCE REPEALING ORDINANCES 77-24 AND 94-4 AND REQUIRING PERSONS DOING CONSTRUCTION WORK UPON COUNTY ROAD RIGHTS OF WAY TO OBTAIN A PERMIT THEREFORE; ESTABLISHING THE COST THEREOF; REQUIRING A BOND TO BE POSTED TO INSURE COMPLIANCE; IMPOSING A PENALTY FOR VIOLATION AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE QUORUM COURT OF SALINE COUNTY:

Section 1. Any person, firm or corporation desiring to install or repair any utility lines or to do any other work within the right of way of any county road of this county shall first obtain a permit to do such installation or maintenance work from the County Judge. There shall be a \$20.00 fee charged for the issuance of such permits, and any person, firm or corporation desiring a permit must agree in writing before the permit may be issued to repair any damage done to the county road during such maintenance or installation work and to restore the surface of the roadway to County Road specifications upon completion of the work. Before he issues any permit to do such installation or maintenance work, the County Judge shall require the applicant to provide a surety bond in the amount of \$10,000.00 as approved by the County Judge. The bond shall remain in full force and effect for a period of one year after the date of completion of all repair work. Only one such bond shall be required for all said work done by the Contractor. Upon completion of the work, the County Judge Any person, firm or corporation desiring to install or repair any utility lines or to do any other work within the right of way of any county road of this county shall first obtain a permit to do such installation or maintenance work from the County Judge. There shall be a \$20.00 fee charged for the issuance of such permits, and any person, firm or corporation desiring a permit must agree in writing before the permit may be issued to repair any damage done to the county road during such maintenance or installation work and to restore the surface of the roadway to County Road specifications upon shall inspect the same to determine if the surface has been properly restored.

If the Contractor does not perform the repair work, the County Judge may use county labor, equipment and materials to restore the surface of any county roadway cut pursuant to any permit issued under this ordinance and he shall require the contractor doing the cutting to reimburse the County for its expenditures for materials, labor and use of equipment, said amounts to be charged against the bond.

Section 2. The County Judge is hereby authorized to place such additional requirements upon any permit issued as he may deem reasonable to insure that free passage of traffic upon the county roads is not unduly interrupted by such work and that the road surfaces damaged thereby are promptly and adequately restored. The County Judge shall designate certain roads within the county road system to be "primary roads," and shall clearly identify the same upon a map maintained by him in the office of the County Judge. The road surface of such primary road shall not be cut for the installation, maintenance or repair of any permitted utility or other construction work but any such installation maintenance or repair on such primary roads shall be accomplished by drilling under the road's surface. The only cutting of a primary road's surface or road bed that shall be allowed for any of the work permitted under this ordinance shall be a partial cut from the ditch line to the existing line perpendicular to the center line of said road for the purpose of reaching existing lines. All casings must be long enough to reach from one existing ditch line to the ditch line on the opposite side of the road. Any installation parallel to the center line of any county road shall be accomplished wholly with all utility equipment placed on the last two (2) feet of the outside right of way of the said road.

Section 3. Any person, firm or corporation receiving a permit to work upon the right of way of a county road must keep one copy of the permit available for inspection at the job site at all times while the work is in progress, and a second copy must be furnished to the utility company to maintained on file before service may be connected. The utility company is hereby required to refuse or disconnect service to anyone not furnishing the required permit.

Section 4. Any person, firm or corporation who violates this ordinance is guilty of a misdemeanor and upon conviction shall be fined not more than \$500.00.

Section 5. It is found by the Quorum Court that a number of individuals and entities are currently engaged in construction work, especially the installation of utilities, and the connection of utility lines to those already existing upon county road rights of way. It is found that this work often results in damage to the road surface, the expense of which must often be

borne by the county rather than the party responsible for causing the damage. It is found that the need exists for the county to know who is doing such work upon county road rights of way and to regulate the same before the county road system is further damaged. Therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate preservation of public peace, health and safety shall be in full force and effect from and after its passage and approval.

Section 6. All Ordinances and Resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. It is deemed necessary for the smooth operation of Saline County government that this Ordinance be approved.

DATED: September 18, 2001

APPROVED: _____

LANNY FITE
SALINE COUNTY JUDGE

ATTEST: _____

FREDDY BURTON
SALINE COUNTY CLERK

SPONSOR: OWEN BULLOCK.

Revised 12-15-92

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT
APPLICATION FOR UTILITY PERMIT

Part I - TO BE COMPLETED BY UTILITY OWNER

Name _____ Date _____
Address _____ Telephone No. _____
Street City State Zip Code

The undersigned requests permission to install or maintain facilities, as described below, located on the right of way of Highway No. _____ in _____ County, Arkansas, near the City of _____

TYPE AND DESCRIPTION OF FACILITIES:

Telephone _____ Gas _____ Water _____ Sewer _____ Power _____ Television _____ Aerial _____ Buried _____ Parallel _____ Crossing _____
Size _____ Length _____ Working Press. _____ Design Press. _____

LOCATION

The location and description of the proposed facilities are shown in more detail on the plans attached to this application.

It is understood and agreed that any installation or work covered by any permit issued as a result of this application shall be subject to state law and the applicable rules and regulations prescribed by the Arkansas State Highway Commission. Work performed under such permit shall constitute full acceptance of all applicable requirements of such laws, rules, regulations, and the specific terms and provisions as set forth in or attached to the permit. All work shall be completed to the satisfaction of the District Engineer.

Signature _____ Title _____

Part II - TO BE COMPLETED BY AKTD DISTRICT ENGINEER

Amount of Deposit Required \$ _____ Route _____ Section _____
Deposit Enclosed Yes _____ No _____ Pavement Cut Approved Yes _____ No _____ Bridge Attach. _____
Highway Improvement Proposed? Yes _____ No _____ Job Number _____
In situations where the proposed facilities will be located in the ditch (line or more than five (5) feet from the right of way line, please explain _____

Recommended _____ Date _____
District Engineer _____ District _____

Part III - TO BE COMPLETED BY AKTD UTILITIES SECTION

Permit No. LD _____
Route _____ Section _____
County _____
Deposit \$ _____

All utility facilities must be installed and/or adjusted in accordance with the State's Utility Accommodation Policy. Listed below is a summary of the minimum information needed on plans for utility permits.

1. Permit will be issued only to the permanent utility owner, who shall be considered solely responsible for operation and maintenance of the facility.
2. Plans of proposed installation or work do not have to be scaled drawings; but must show the following:
 - (a) Owner's name, north arrow, highway centerline, pavement edge, right of way lines and scale if used.
 - (b) The distance at intervals showing variations in proposed location of the facility from right of way line, centerline, and edge of pavement particularly where the right of way width changes.
 - (c) Length of installation or work area parallel to roadway with minimum depths shown. The location must be referenced to highway stationing, road or street intersection, highway bridge, or other fixed reference point.
3. Profile of proposed highway crossing must show the following:
 - (a) Centerline of roadway, width of pavement, right of way lines, and the general profile of roadside ditches.
 - (b) Depth of facility below ditch lines and centerline of roadway.
 - (c) Details and features of the proposed installation including casing, conduit, ducts, manholes, vents, markers, pedestals, etc., as applicable. When casing, conduit, and ducts do not extend the full width of the right of way, the distances out from each side of the centerline must be shown. The location of manholes, vents, markers, and pedestals must be shown by a distance out from the centerline and the right of way line.
 - (d) Plans must show how the crossing will be installed; boring, tunneling, etc. (All borings shall be by the dry bore method.) (No pavement cut will be allowed without prior approval of the District Engineer.)
 - (e) Minimum clearances over roadway and pole locations on aerial crossings.
4. When high pressure pipe lines are involved, furnish the information necessary to comply with the D.O.T. pipeline safety standards, such as class location, operating pressure, design pressure, wall thickness of pipe, pipe grade, yield strength, etc.
5. Any nonmetallic material buried on highway right of way, either parallel to or crossing the roadway, shall have an approved identification wrap of detectable tape or wire in order that its presence can be determined by metal locators or other suitable devices.
6. When bridge attachments are requested, detailed drawings of the method of attachment must be furnished.
7. Four (4) sets of plans are required with all applications submitted to the District Engineer.

This application is to be used only when the utility is requesting permission to install new facilities or perform maintenance work on existing facilities. If utility adjustments or relocations are required by new highway construction or reconstruction projects, all correspondence and plans must be submitted to the Chief to the Utilities Section, Right of Way Division.

GAS/WATER LINE PERMIT

A COPY OF THIS PERMIT MUST BE IN EACH VEHICLE OWNED, LEASED OR SUB-LET BY PERMITTEE

STATE OF ARKANSAS

COUNTY OF SEBASTIAN

PERMIT 2001-44

Permission is hereby granted to Reliant Energy, PO Box 54979, Oklahoma City, Oklahoma 73118 318-347-3179 fax 501-675-5613 to bore UNDER the County road beds as indicated on the attached County road map, and subject to conditions herein stated:

1. That the Gas line shall be placed at such a depth of 36 INCHES so as not to interfere with road maintenance or improvement. BURY ALL UTILITIES A MINIMUM OF 36 INCHES.
2. It is further stipulated and agreed that all openings and ditches must be protected by the holder of this permit by properly lighting and barricading at night and when necessary during the daytime. All such openings must be refilled and tamped in a good and workmanlike manner and restored to their original condition as far as possible, and subject to the inspection and acceptance or rejection of the County Road Superintendent of the Sebastian County Road Department, or his authorized agent. Said openings on shale roads to be back filled with SB2 or a good grade of shale and leveled with the existing road. Said openings on black top roads to be back to be filled with SB2 to 8 inches below the present level, then by pouring 8 inches of 3000 strength ready mix concrete back in the cut and smoothing it to level with existing road. Said openings and cuts are to be kept fixed and repaired by the holder of this permit after the first time should depressions or swells subsequently occur.
3. Said GAS lines are to be constructed by the holder in such manner as not to interfere with the public use of the public roads in Sebastian County under which said GAS lines are to be constructed. Said holder will, while constructing and laying said GAS lines, keep open such public roads so as not to block or cause traffic to cease; that, if it is necessary, the holder will furnish suitable detours for normal traffic. The holder of this permit hereby agrees to be responsible for any damages suffered by any person or animal by reason of this operation until accepted and released by the County Road Department, and further agrees to pay any and all damages, if any, done to the road bed, and to pay the cost of repairing said road bed.
4. It is hereby further understood and agreed that if at any time in the future any such road mentioned in this permit, or ditches adjacent to such road, shall be widened or otherwise improved by Sebastian County, the holder of this permit shall move and relocate said GAS lines at his own expense as directed by authorized agent for Sebastian County Road Department.
5. The County Road Superintendent is to be notified in advance before a County Road is crossed with a pipeline, so that a representative of the Road Department might be present.

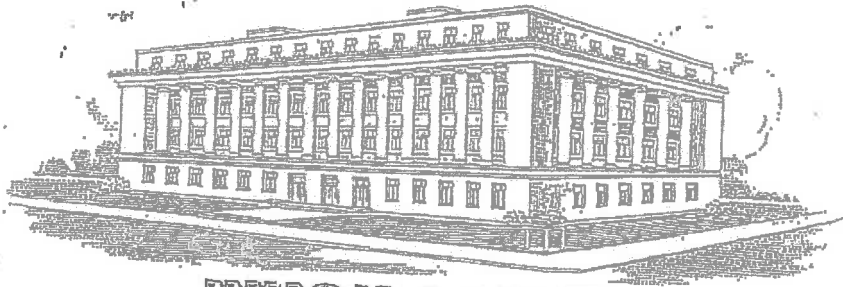
The roads to be crossed by this pipeline and approved by Sebastian County are:

Nickletown Road in Section 34-T6N-R31W
TO MAKE 1 BORE UNDER THE ROAD

BOBBY J. EDMONDS
County Judge

IRENE LIPSEY
County and Probate Clerk

CHERYL COCHRAN
Circuit Clerk and
Ex-Officio Recorder



HUEY HAVARD
Sheriff

LINDA MORGAN
County Treasurer

SHELLY KUHN
County Assessor

DOROTHY RALEY
Collector

UNION COUNTY

UNION COUNTY RIGHT OF WAY SPECIFICATIONS FOR UTILITIES


Union County has a 50' (fifty foot) right of way. All utility lines will be located within the back 5' (five foot) of said right of way, with a minimum depth of 36" (thirty six inches) unless advised otherwise.

If right of way is obtained and road construction takes place it will be at the utility companies' expense to have lines moved to back side of right of way.

All black top or sealed roads will be bored with a minimum depth of 36" from bottom of road ditch.

Utility companies are to notify the Union County Highway Department or Judge's Office before utility work is started on county road right of ways.

Your cooperation in this matter will be deeply appreciated.


Bobby J. Edmonds
Union County Judge

BJE/ro

Union County
Highway Dept.
2476 Champagnolle Rd.
El Dorado, AR 71730

Utility Company Damage Notification

Company notified: _____

Date of damage: _____

Location: _____

City: _____

Damage: _____

Damage reported by: _____ Time: _____

Request for locate? Yes _____ No _____ Date _____

More than one request? Yes _____ No _____ Date _____

Reference numbers: 1st _____

2nd _____

3rd _____

Completed by: _____

APPLICATION FOR UTILITY CONSTRUCTION PERMIT
PULASKI COUNTY ROAD AND BRIDGE
3200 BROWN, LITTLE ROCK, AR 72204

Applicant: _____

Address: _____ Telephone: _____

General Description and Location (each road and length): _____ Zip Code: _____

No. of Bores _____ Total Construction in R/W _____ Feet

Starting Date: _____ Completion Date: _____

No permit will be issued prior to 30 days of the starting date; a final inspection must be made within 15 days of the completion date.

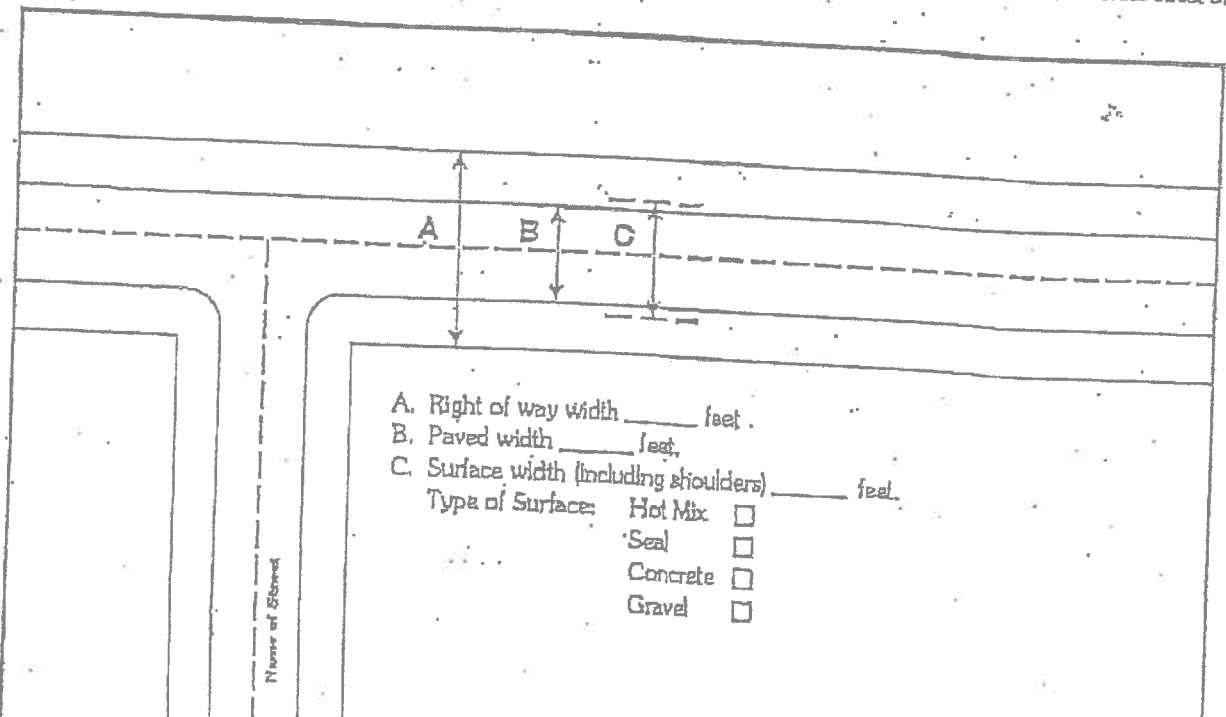
Special Request (Variances, Roadway Cuts, Floodplain, etc.): _____

The applicant certifies that plans and specifications pertaining to this utility construction complies with all Pulaski County ordinances and policies. Approval of this application in no way releases applicant from any obligation or requirement necessary to comply with said ordinances and policies unless variances is requested and granted in writing.

AUTHORIZED SIGNATURE _____ DATE _____

APPROVED BY _____ DATE _____

The design sketch should be drawn to scale as nearly as possible and must include the items listed on the diagram below based on actual field measurements. The proposed work site must be clearly located relative to some point such as cross street or intersection.



APPLICATION FOR UTILITY CONSTRUCTION PERMIT

PULASKI COUNTY ROAD AND BRIDGE
3200 BROWN, LITTLE ROCK, AR 72204

Applicant: _____ Telephone _____

Address: _____ Zip Code: _____

General Description and Location (each road and length): _____

No. of Bores _____ Total Construction in R/W _____ Feet

Starting Date: _____ Completion Date: _____

No permit will be issued prior to 30 days of the starting date; a final inspection must be made within 15 days of the completion date.

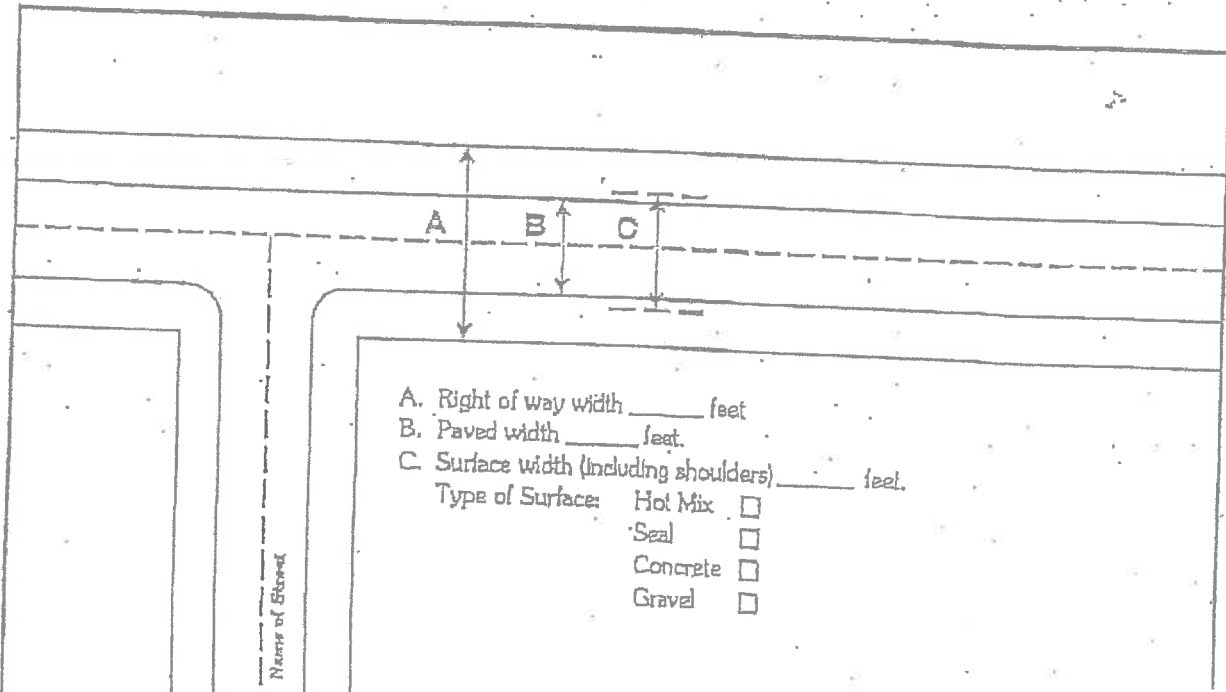
Special Request (Variances, Roadway Cuts, Floodplain, etc.): _____

The applicant certifies that plans and specifications pertaining to this utility construction complies with all Pulaski County ordinances and policies. Approval of this application in no way releases applicant from any obligation or requirement necessary to comply with said ordinances and policies unless variance is requested and granted in writing.

AUTHORIZED SIGNATURE _____ DATE _____

APPROVED BY _____ DATE _____

The design sketch should be drawn to scale as nearly as possible and must include the items listed on the diagram below based on actual field measurements. The proposed work site must be clearly located relative to some point such as cross street or intersection.



STONE COUNTY, ARKANSAS
APPLICATION FOR UTILITY PERMIT OR TO PERFORM WORK
TO BE COMPLETED BY UTILITY OWNER

DATE _____

Name _____
Address _____ TELEPHONE No. _____

The undersigned requests permission to install or maintain facilities, perform work as described below, located on the right of way of County Road No: _____ in Stone County, Arkansas, near the City of _____

TYPE _____ GAS _____ WATER _____ SEWER _____ POWER _____ TELEVISION _____

LOCATION: _____

It is understood and agreed that any installation or work covered by any permit issued as a result of this application shall be subject to state and county law and applicable rules and regulations. Work performed under such permit shall constitute full acceptance of all applicable rules and regulations. Work performed under such laws, rules, regulation and the specific terms and provisions as set forth in or attached to the permit. All work shall be completed to the satisfaction of the county Judge.

If at any time a change or improvement in the highway necessitates an adjustment or removal of the facility installed under this permit, pursuant to Stone County Ordinance No. _____, it shall be at the sole expense of the owner within a reasonable time after request by the County Judge.

The utility owner or his contractor shall maintain all existing highway and county road regulator, warning, guide and informational signs in an effective location at all times for the duration of the work and shall install them at the correct location upon completion of work. Any signs damaged during work under this permit shall be replaced at no cost to the county. Beginning of any work covered by this permit shall constitute full acceptance by you of all applicable terms and conditions and referenced herein. All work on the county road or right-of-way is subject to the approval of the County Judge.

SIGNATURE: _____ TITLE _____

Stone County Judge

PERMIT NUMBER _____