

ORDINANCE NO. 2021-010

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, ADOPTING PROCEDURES TO ACQUIRE PROPERTY INTERESTS IN AND ACCEPT INTO THE COUNTY MAINTENANCE SYSTEM UNDER CERTAIN CONDITIONS CERTAIN PRIVATE ROADWAYS LOCATED WITHIN THE UNINCORPORATED AREA OF THE COUNTY; PROVIDING DEFINITIONS; PROVIDING A TITLE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, there are numerous roadways which are located within the unincorporated area of Gadsden County that are privately owned and maintained; and

WHEREAS, some such roadways do not differ in nature and character from other roadways which are located within the unincorporated area of Gadsden County that are publicly owned and/or dedicated and maintained; and

WHEREAS, the Gadsden County Board of County Commissioners believes that the citizens of Gadsden County who own property encompassing or abutting roadways which are privately owned and maintained but do not differ in nature and character from other roadways which are publicly owned and/or dedicated and maintained should have the opportunity to petition the County to take property interests in and maintenance responsibility for such roadways; and

WHEREAS, the Board of County Commissioners is willing to consider accepting property interests in and maintenance responsibility for (but not paving) some such roadways upon a finding that the individual roadway meets or can meet County road standards, that all the owners of the property necessary for the individual roadway to come into compliance with County road standards voluntarily convey all desired property interests to the County, that all costs associated with the acquisition of the desired property interests and meeting County road standards are paid by the owners of the necessary property, and that acceptance of the desired property interests and maintenance responsibility would enhance the County's road system, benefit County citizens, and therefore serve a public purpose by improving the public health, safety and welfare;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA:

SECTION 1. DEFINITIONS.

In construing this section, the following words, terms, and phrases shall have the following meanings, unless the context clearly indicates a different meaning:

- (a) "Board" means the Gadsden County Board of County Commissioners.
- (b) "Citizens" means citizens of Gadsden County.

- (c) "Commissioner" means a member of the Gadsden County Board of County Commissioners.
- (d) "County" means Gadsden County, Florida.
- ~~(e) "County Road Standards" means the minimum requirements under the Gadsden County Code of Ordinances, Gadsden County Comprehensive Plan, and Gadsden County Land Development Code pertaining to roads, rights of way, and stormwater drainage and management in the unincorporated areas of the County, except that any paving requirements contained therein shall not be applicable. In addition to any other applicable requirements, the provisions of Sections 5600 and 6100 of the Gadsden County Land Development Code pertaining to roads, rights of way, and stormwater drainage and management shall be applicable, except that paving shall not be required.~~
- (f) "Maintained Road" means a Road which is located in the unincorporated area of the County and is maintained as a County Road by Public Works as of the date of enactment of this ordinance.
- (g) "Owner" means the holder or holders of the fee simple title to the property as established by a title search and an ownership and encumbrance report of the property.
- (h) "Road" means a way open to vehicular travel by the public, including the roadbed, right-of-way, associated sidewalks, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, and other structures or features necessary for the maintenance of travel.
- (i) "Right-of-way" means land in which the County owns the fee or has an easement devoted to or required for use as a public transportation facility.
- (j) "Planning Department" means the Gadsden County Planning and Community Development Department.
- (k) "Private Road" means a roadbed which is located in the unincorporated area of the County, but is not a Right-of-way and is not currently maintained by Public Works.
- (l) "Public Works" means the Gadsden County Public Works Department.
- (m) "District" means one of the five political districts served by an elected Commissioner from Gadsden County.

SECTION 2. PETITION; EVALUATION; LIMITATION.

- (a) All of the Owners of all of the property encompassing or abutting a Private Road may submit a petition to the County Administrator requesting that the County consider acceptance of all desired property interests in the Road and Right-of-way and all necessary maintenance responsibility. The petition shall be signed by each Owner of property encompassing or abutting the Private Road and shall state that each such Owner shall agree to:
 1. Voluntarily convey any and all property interests desired by the County;
 2. Pay any and all costs associated with the voluntary conveyance of any and all desired property interests in accordance with Section 4, including, but not limited to all recording costs, surveying costs (if any), documentary stamps, deed preparation costs and any other costs associated with conveying the property;
 - ~~3. Pay any and all costs associated with achieving compliance with applicable County Road Standards in accordance with Section 4.~~

- (b) The County shall not acquire property interests in or accept maintenance responsibility or paving responsibility for more than one total mile of Private Roads per district per fiscal year or one Private Road per district per fiscal year if such road exceeds one mile. In other words, the County may acquire property interests in and accept maintenance responsibility for either one Private Road which exceeds one mile or up to one total mile of Private Roads, each of which is less than a mile, in each district in each fiscal year. The County Administrator shall maintain records of the dates and locations of Private Roads acquired and accepted by the County and shall advise the Owners submitting the petition if the County has acquired and accepted the maximum length of Private Road in the Owners' district during the current fiscal year. If so, the Owners' may request that the County Administrator place the petition on the agenda at the first Board of County Commissioners meeting during a fiscal year in which the County has not acquired property interests in or accepted maintenance responsibility for the maximum length of Private Road in the Owners' district. Petitions shall be presented in the order in which they are received by the County Administrator, but only during fiscal years in which the County has not acquired and accepted the maximum length of Private Road in the district for which a petition is submitted.
- (c) Upon receipt of a petition which fully complies with subsection (a) and during a fiscal year in which the County has not acquired and accepted the maximum length of Private Road in the district for which the petition is submitted, the County Administrator shall, in consultation with the Public Works Director, evaluate the candidate Private Road for possible acquisition by the County and acceptance for maintenance by Public Works. The evaluation shall be based on the ability of the Private Road to meet applicable County Road Standards based on the current condition and footprint of the Private Road.

SECTION 3. INITIAL PUBLIC HEARING; NOTICE; CRITERIA.

- (a) After the County Administrator has completed the evaluation, the item shall be placed on the agenda at the next Board of County Commissioners meeting at which the petition may be considered pursuant to Section 2(b) for consideration by the Board at a public hearing. A notice of intent to consider the acquisition and maintenance of the Road shall be published at least once in a newspaper of general circulation in the County at least ten days prior to the meeting. The notice shall state in general terms the location of the Road.
- (b) The County Administrator shall advise the Board whether acquisition and maintenance are possible based on the evaluation ~~and shall advise the Board of the improvements necessary for the Private Road to meet applicable County Road Standards.~~
- (c) The petitioners shall provide the Board with all relevant information regarding the nature and character of the Road, including, but not limited to:
1. The length of the Road;
 2. The primary use of the Road;
 3. The number of properties encompassing and abutting the Road and the number of residences, structures, and other improvements on such properties;
 4. The location of any utility service lines, gas lines, etc. on the Road;
 5. The number of Citizens who use the Road;

6. The number of connections the Road has to other Roads; and
 7. Whether, at the time the Road was constructed, the Board and the party responsible for the construction of the Road agreed that the County would not accept property interests in and/or maintenance responsibility for the Road.
- (d) The Board shall consider whether acceptance of the desired property interests and maintenance responsibility for the Road would enhance the County's road system, benefit County Citizens, and therefore serve a public purpose by improving the public health, safety and welfare based on the information provided using the following criteria:
1. ~~The ability of the Road to meet County Road Standards;~~
 2. The cost of maintaining the Road;
 3. The length of the Road;
 4. The primary use of the Road;
 5. The number of properties encompassing and abutting the Road and the number of residences, structures, and other improvements on such properties;
 6. The location of any utility service lines, gas lines, etc. on the Road;
 7. The number of Citizens who use the Road;
 8. The number of connections the Road has to other Roads; and
 9. Whether, at the time the Road was constructed, the Board and the party responsible for the construction of the Road agreed that the County would not accept property interests in and/or maintenance responsibility for the Road.
- (e) If the Board determines that acquisition and maintenance are desirable and that acceptance of the desired property interests and maintenance responsibility for the Road would enhance the County's road system, benefit County Citizens, and therefore serve a public purpose by improving the public health, safety and welfare, the Board may vote to consider acceptance of the desired property interests and maintenance responsibility, but only upon compliance, to the Board's satisfaction, with all of the conditions set forth herein. The Board's vote to consider acceptance of the desired property interests and maintenance responsibility upon compliance with all conditions set forth herein shall not obligate the Board to accept the desired property interests and maintenance responsibility regardless of any action taken by the property Owners. The Road shall not be accepted until such time that the Board, in its discretion, votes to accept the Road at a subsequent public hearing after all conditions have been met to the Board's satisfaction.

SECTION 4. CONDITIONS FOR CONSIDERATION OF ACCEPTANCE.

- (a) If the Board votes to consider acceptance of the desired property interests and maintenance responsibility upon compliance with all conditions set forth herein, all of the Owners of all of the property encompassing or abutting a Private Road may proceed to fulfill the following conditions at their own expense:
1. Provide the County Administrator with a survey and legal description of the entire property desired for the Road and Right-of-way to comply with applicable County Road Standards;

2. Provide the County Administrator with individual surveys and legal descriptions of each segment of the desired property according to property ownership;
3. Provide the County Administrator with a title search, examination, and report of each segment of the property according to property ownership;
4. Provide the County Administrator with any environmental, engineering, feasibility, or other reports or studies deemed necessary;
5. ~~Make any improvements or enhancements necessary to meet applicable County Road Standards, including, but not limited to:~~
 - i. ~~Clearing and grubbing of the entire property;~~
 - ii. ~~Excavation of the roadbed, ditches, and embankments;~~
 - iii. ~~Replacement and/or addition of culverts;~~
 - iv. ~~Addition of material on the roadbed, ditches, and embankments;~~
 - v. ~~Grading of the roadbed;~~
 - vi. ~~Stabilization of the roadbed, ditches, and embankments.~~
- (b) ~~Upon the property Owners' notification of completion of all required conditions, the County Administrator, in consultation with the Public Works Director, will review and inspect for compliance with County Road Standards;~~
- (c) Upon the County Administrator's determination that the Road ~~complies with County Road Standards and~~ meets the requirements of this Section, the property Owners may tender, at their own expense:
 1. Executed warranty deeds, easements, and other conveyances, in forms satisfactory to the County, for each segment of the desired property according to property ownership;
 2. A dedication of the entire property desired for the Road and Right-of-way, in a form acceptable to the County, executed by all of the Owners of the desired property.
- (d) The County may, solely in the Board's discretion, elect to pay for recording fees, deed drafting and legal services and other associated costs if the owner(s) is/are able to demonstrate a reasonable hardship or inability to pay for such costs.
- (e) All provisions herein and any action by or on behalf of the County shall be contingent upon the availability of funds and the Board of County Commissioners shall have the sole determining authority with regard to this matter.

SECTION 5. SECOND PUBLIC HEARING; NOTICE.

- (a) If the County Administrator determines that the Road conforms with County Road Standards and meets the criteria of this Section; and that the tendered conveyances and dedication are in acceptable form, the item shall be placed on the agenda at the next Board of County Commissioners meeting for consideration by the Board at a public hearing. A notice of intent to consider the acquisition and maintenance of the Road shall be published at least once in a newspaper of general circulation in the County at least ten days prior to the meeting. The notice shall state in general terms the location of the Road.
- (b) If the Board determines that the Road conforms with County Road Standards and the criteria of this Section, and that, based on the criteria set forth in Section 3(d),

acceptance of the conveyances, dedication, and maintenance responsibility for the Road would enhance the County's road system, benefit County Citizens, and therefore serve a public purpose by improving the public health, safety and welfare, the Board may vote to accept the conveyances, dedication, and maintenance responsibility. The Board is not obligated to accept the conveyances, dedication, or maintenance responsibility regardless of any action taken by the property Owners.

SECTION 6. TITLE; CODIFICATION.

The title of this ordinance shall be: "Private Road Acquisition" and it shall be codified in Chapter 62, Article III of the Gadsden County Code of Ordinances.

SECTION 7. SEVERABILITY.

In accordance with Section 1-9 of the Gadsden County Code of Ordinances, the sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance and all provisions are severable so that if any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid by a valid judgment of a court of competent jurisdiction, such judgment shall not affect the validity of any other section, subsection, sentence, clause and phrase of this Ordinance, for the Board of County Commissioners declares that it is its intent that it would have enacted this Ordinance without such invalid or unconstitutional provision(s).

SECTION 8. EFFECTIVE DATE; FILING WITH THE DEPARTMENT OF STATE.

This ordinance shall take effect upon filing with the Department of State.

DULY READ, PASSED AND ADOPTED after appropriate public advertisement at a duly convened regular public meeting of the Board of County Commissioners of Gadsden County, Florida, on the 2nd day of November, 2021.

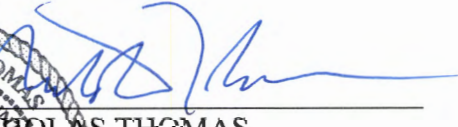
BOARD OF COUNTY COMMISSIONERS
GADSDEN COUNTY, FLORIDA



ANTHONY O. VIEGBESIE, PH.D., Chairman

ATTEST:





NICHOLAS THOMAS,
Clerk of the Circuit Court