

# The State of South Carolina



## Office of the Attorney General

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April 2, 1990

The Honorable Allen F. Sloan  
Sheriff, Richland County  
Post Office Box 143  
Columbia, South Carolina 29202

Dear Sheriff Sloan:

In a letter to this Office you questioned whether the proper procedure was followed by the Oakridge Hunt Club in requesting that the Sheriff's Department regulate traffic in the subdivision's private roads which are maintained by the homeowner's association. You referenced that pursuant to Sections 56-5-6310 et seq. of the Code, specific measures are outlined which must be met for law enforcement officers to be authorized to regulate traffic on private roads.

Section 56-5-6310 states

The provisions of this chapter, comprising the Uniform Act Regulating Traffic on the highways in this State, shall be applicable to private roads if the owner, including any corporation or homeowners' association holding title to community roads and excluding those only holding easements over such roads, shall file a written consent stating that the undersigned is the owner of the private roads shown on an attached plat and consents to the application of the provisions of this chapter for purposes of highway safety on such private roads. When the road is owned by two abutting owners, both shall consent to the application of this chapter. In the event there are more than two owners of the road, the provisions of this chapter shall apply when a majority of those owners of the total front footage abutting such road shall consent thereto. The consent shall be executed with the

same formalities as a deed and with the plat shall be filed with the clerk of court or register of mesne conveyances for the county in which the private road is located and with the sheriff of such county... The written consent shall become effective thirty days from the date it is filed with the clerk of court or register of mesne conveyances. (emphasis added)

Section 56-5-6340 states

The speed limits and location of traffic control signs on private roads subjected to the Uniform Act Regulating Traffic pursuant to §56-5-6310 shall be established as follows:

(a) The owner of the private roads or both owners, or a majority of the owners, as the case may be, shall submit proposed speed limits and proposed locations for traffic control signs to the sheriff of the county in which the roads are situate and shall obtain the sheriff's written approval of such speed limits and traffic control signs. Such approval shall be filed with the clerk of court or register of mesne conveyances and the affected roads then posted by signs identical or similar to those used on public roads.

(b) After filing with the clerk or register such speed limits and traffic control signs shall become effective as soon as they are posted on signs and thereafter may be enforced by the State Highway Patrol, officers of the sheriff's department and state constables appointed by the Governor, in addition to any other persons having authority to take out warrants or make arrests. (emphasis added.)

Referencing such provisions, you have asked

1. If the homeowners' association neglects to submit proposed speed limits and proposed locations for traffic control signs to the Sheriff (and the Sheriff, consequently, has no proposals to approve), does this void any traffic tickets issued?
2. If proposals are submitted to the Sheriff for approval, is it the responsibility of

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the Sheriff or the homeowner's association  
to file the approval with the Clerk of Court  
of the county?

As referenced, Section 56-5-6310 makes it the duty of the owner or homeowners' association to file with the clerk of court or RMC office written consent for the application of Title 56, Chapter 5 of the State Code to private roads. Section 56-5-6340 makes it the duty of the owners of private roads to submit proposed speed limits and proposed locations for traffic control signs to the sheriff and to obtain the sheriff's approval of such. It is our conclusion that the better reading of the provision makes it the duty of such owners to file the approval with the clerk of court or RMC office and to have the roads properly posted.

Section 56-5-6340 further states that upon proper filing, speed limits and traffic control signs are effective as soon as posted and may be enforced by law enforcement officers. Absent such filing and posting, it appears that any such traffic controls are not enforceable. However only a court could resolve such with finality. It could be asserted that where the proper filing and posting has not occurred consideration should be given to voiding any tickets where such requirements have not been met.

If there is anything further, please advise.

Sincerely,

  
Charles H. Richardson  
Assistant Attorney General

CHR/nnw

REVIEWED AND APPROVED BY:

  
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