

Logging Notice Ordinance

Section I – Purpose and Authority

Pursuant to the authority granted to the Walker County Commission under Ala. Code § 23-1-80.1 and in accordance with the provisions of that statute, therefore be it ordained by the Walker County Commission as follows:

The Walker County Commission finds that it is in the best interest of the citizens of the county to adopt and implement this Ordinance to require that all timber owners submit proper notice to the county commission prior to initiating any timber harvesting activities with the intent to utilize any county roads or bridges for harvesting and delivery of pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant.

Section II – Jurisdiction

This Ordinance shall only apply within the unincorporated areas of the county for activities governed by this Ordinance.

Section III -- Definitions

For the purposes of this Ordinance, the following terms shall have the following meanings:

- (1) **Activities Governed by this Ordinance.** The access to and utilization of county roads, bridges and rights of way by owners of timber in unincorporated areas of the county for the harvesting and delivery of pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant. Use of county roads and bridges by timber owners for timber that is harvested in another county are not governed by this Ordinance.
- (2) **Contractor.** Any person or firm who has executed a written or oral agreement with a timber owner to harvest timber.
- (3) **Regular Office of the County Commission.** The _____ County Highway Department.
- (4) **Route.** The county road, bridge or right of way to be utilized for activities governed by this Ordinance.
- (5) **Timber Owner.** A timber owner is any one of the following:
 - (a) Any person or firm that has entered into a contract with a landowner for the purposes of severing timber and delivering pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant.
 - (b) A landowner who harvests his or her own timber and delivers pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant.

Timber Owner is intended to mean the person or firm who has legal title to the timber when the timber enters a county road.

- (6) **Tract.** A specified parcel of land within an unincorporated area of the county.
- (7) **Road and bridge fund.** Any county fund in which monies are earmarked specifically for road and bridge projects.

Section IV – Notice Requirement

The notice requirements set out herein shall be applicable to any use of county roads, bridges and rights of way for activities governed by this Ordinance, which are carried out by a timber owner, his or her representatives or employees, or a contractor.

- (a) **Notice Submission.** Prior to any use of the county road or roads for activities governed by this Ordinance, a timber owner shall provide prior written notice of such intent under the procedures set out herein.

All notices shall be delivered to the regular office of the county commission, which for the purposes of this Ordinance shall be the Engineer's Office in the Walker County Courthouse in Jasper, Walker County, Alabama.

Contact Information:

Mike Short walcoeng@bellsouth.net
Walker County Commission
P.O. Box 1447
Jasper, AL 35502-1447
Telephone No.: (205) 384-7249
Fax No.: (205) 384-7003.

(Notice may be submitted in person, facsimile, electronic mail, or regular mail).

- (b) **Time for Providing Notices.** There shall be two notices required under this section. All notices shall be delivered as outlined in subsection (a) immediately above. Delivery shall be effective when received by the County Engineer referenced above.

(1) **First Notice.** Timber owner shall submit notice to the County Commission, as described above, every twelve (12) months of the timber tracts they contemplate logging within that next twelve (12) months. In the event the timber owner does not acquire a tract or desires to substitute a tract not named in the above twelve (12) month notice, it shall do so as soon as reasonably practicable after it contemplates adding or substituting such tract to its cut schedule.

(2) **Second Notice.** After filing the initial notice referenced above, the timber owner shall file notice of beginning harvesting operations, not less than two (2) days prior to actually entering on tract to begin logging. Delivery shall be effective when received by the County Engineer referenced above.

- (c) **Form of Notice.** The notice shall be submitted on the NOTICE OF COUNTY ROAD USAGE BY TIMBER OWNER Form, attached hereto as Appendix A (hereinafter "NOTICE"). The NOTICE shall consist of ONLY the following:

- (1) A map or legal description of the area which identifies the location of the tract of land where activities governed by this Ordinance will be conducted;
- (2) The estimated date that access to the county roads, bridges and rights of way will commence for activities governed by this Ordinance;*

*It is recommended that the timber owner will not only give the required estimated date to access county roads, bridges and rights of way, but will also give an estimate of the duration of the logging operation at any specified site.

- (3) The name, address, and daytime telephone number, and fax or email address of the timber owner;
 - (4) The timber owner shall provide a copy in map form of the proposed route to be used by the timber owner in mobilizing and demobilizing equipment to the site and otherwise harvesting and removing timber from the site. In the event the proposed route changes, timber owner shall notify the County Engineer as referenced above, as soon as reasonably practicable.
- (d) **Notice Deficiency.** If the NOTICE submitted does not include all of the required information, the timber owner is subject to enforcement proceedings detailed in Section V.
- (e) **Suspension of Notice Requirements.** Pursuant to Ala. Code Ala. Code § 23-1-80.1, in the event the Governor of the State of Alabama declares a state of emergency as a result of an event that causes damage to timber within the county, the notification requirements set forth herein are suspended during the time period in which the Governor's proclamation remains in effect.

Section V – Penalties for Noncompliance

- (a) **Warning.** A timber owner who fails to comply with the notice requirements set out in Section IV shall be provided one written WARNING granting the timber owner the opportunity to properly comply with the notice requirements. The WARNING shall be personally delivered to the timber owner or to his or her representatives, employee, or contractor located at the site where a violation of the notice requirement has occurred. If the timber owner is not at the site where the WARNING is issued, a copy of the WARNING shall be immediately forwarded to the timber owner by facsimile or email and U.S. mail.
- (b) **Issuance of Citation.** If the timber owner fails to submit NOTICE as set out in Section IV and following a WARNING as provided in subsection (a), he or she shall be issued a CITATION for noncompliance.
- The procedure for issuing the citation shall be as provided for issuance of the WARNING as set out in subsection (a). The CITATION shall be personally delivered to the timber owner or to his or her representatives, employee, or contractor located at the site where a violation of the notice requirements or of the terms of a properly submitted NOTICE has occurred. If the timber owner is not at the site where the CITATION is issued, a copy of the CITATION shall be immediately forwarded to the timber owner by facsimile or email and U.S. mail.
- (c) **Assessment of Fines.** A timber owner who has been issued a CITATION as set out in subsection (b) shall be fined five hundred dollars (\$500). All fines collected shall be payable to the County Commission and deposited into the county's road and bridge fund.
- (d) **Appeal.** After receiving a CITATION a timber owner may appeal the CITATION to the Commission by submitting a written notice of appeal to the County Engineer including a copy of the CITATION and the reasons for the appeal. The Commission shall schedule a hearing as soon as practical but no later than 30 days after the appeal is filed at which time the timber owner, his representative or his legal counsel may present his case. The Commission shall then rule on the appeal by upholding the fine as assessed, reducing or eliminating the fine, or dismissing the CITATION. After the Commission has ruled on this appeal, the timber owner shall have 30 days to pay any fine due.
- (e) **Injunction.** In addition to the issuance of a citation and assessment of a \$500 fine, The County Commission may bring a civil action in a court of competent jurisdiction in the county to enjoin the timber owner, his or her representatives or employees, or a contractor from conducting activities governed by this Ordinance in violation of this Ordinance. All court actions shall be filed and conducted in accordance with the Alabama Rules of Civil Procedure and the laws of this state.

In no event shall the County be required to post a bond to seek injunctive relief, either temporary or permanent.

Section VI – Relation to other Laws

This Ordinance is intended to comply with the provisions of *Alabama Code* Section 23-1-80.1 regarding a timber owner providing notice of intent to utilize county roads and bridges for activities governed by this Ordinance. Nothing in this Ordinance shall be viewed as a limitation on the County's general superintendence of the roads and bridges within its jurisdiction or its authority to promulgate it enforce rules and regulations related thereto as provided in *Alabama Code* 23-1-80, *Alabama Code* Section 11-3-11 or any other general or local laws applicable to the County.

Additionally, nothing in this Ordinance shall in any way limit or effect the County's authority to regulate and enforce any laws governing the use of or damage to a county maintained road or bridge or a county right of way.

Section VII – Liability of Timber Owner

Compliance with the notice provisions of this Ordinance shall in no way operate to relieve the timber owner or his or her representatives, employees, or contractors from liability for any damages which may arise from their use of public roads, bridges or rights of way in the county. Additionally, acceptance of a NOTICE shall in no way constitute an act on behalf of the county which shall result in the county commission, the county engineer, or any employees of the county commission being held liable in any matter arising from the actions or inactions of the timber owner, of his or her representatives, employees, or contractors.

Section VIII -- Amendments

The County Commission may adopt amendments to this Ordinance, rescind it in its entirety or replace it with a new Ordinance at any regularly scheduled meeting of the County Commission. The County Commission will provide seven (7) calendar days notice to all timber owners who have previously submitted a NOTICE to the Commission regarding their timber harvesting activities by sending to the Alabama Forestry Association, Attn: General Counsel, 555 Alabama Street, Montgomery, AL 36104, notice of its intent to amend, rescind or replace the Ordinance. All forms referenced in this Ordinance may be altered or amended by the County Commission as necessary and appropriate without amendment to the Ordinance provided that each form being utilized by the County Commission, pursuant to this Ordinance, shall at all times be attached as an Appendix to the Ordinance.

NOTICE OF TIMBER HAULING

INSTRUCTIONS

- Please complete the form below in order to provide notice to the Walker County Engineer of the use of county roadways for hauling timber originating from harvesting sites in Walker County.
- Notice is not required if county roadways will not be used.
- Notice may be submitted by U.S. mail, electronic mail, or fax. (see below)

Timber Buyer / Owner Information

Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Daytime Phone No: _____ Cell Phone No: _____
 Fax No.: _____ Email Address: _____

Logger / Harvester

Name: _____
 Address: _____
 City: _____ State: _____ Zip Code: _____
 Daytime Phone No: _____ Cell Phone No: _____
 Fax No.: _____ Email Address: _____

Tract Information

Check Appropriate Map Attached Legal Description Provided Below
 (Please provide the legal description of the tract OR attach a map showing the tract location)

Legal Description: _____
 Property Owner Name: _____
 Timber Sale Acres: _____ Projected Start Date: _____

Notice may be submitted by U.S. mail, electronic mail, or fax.

Walker County Engineering Department
 1801 3rd Avenue South
 Jasper, AL 35501
walcoeng@bellsouth.net
 Fax:(205) 384-7003