

Code of Alabama

Title 23. Highways, Roads, Bridges, and Ferries.

Chapter 1. Alabama Highways. (Refs & Annos)

Article 3. . Public Roads, Bridges, and Ferries. (Refs & Annos)

Ala.Code 1975 § 23-1-80.1

§ 23-1-80.1. County commissions -- Use of county roads in conducting timber operations.

Currentness

(a) A county commission, by ordinance or resolution, may require all persons or firms that own timber in any unincorporated area of the county which plan to utilize county roads for delivery of pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant to provide notice of their intent to utilize the county roads to the county commission. For purposes of this section, the term timber owner means any person or firm that has entered into a contract with a landowner for the purposes of severing that timber and delivering pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant. In the case where the landowner harvests his or her own timber and delivers pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant, the landowner is the timber owner. The term timber owner is intended to mean the person or firm who has legal title to the timber when it enters the county road.

(b) Any ordinance or resolution adopted pursuant to this section shall require prior written notice by any person or firm owning timber for each separate tract prior to utilizing the county roads as follows:

(1) If a new access point is required for the tract, the timber owner is required to provide the county four business days' notice.

(2) If an existing access point is to be utilized for the tract, the timber owner is required to provide the county two business days' notice.

(c) For purposes of this section, an existing access point shall be defined as either a location which has previously been approved, permitted, or grandfathered through the county's driveway or access management policy and has been previously used to access the tract; or, in the event the county does not have a driveway or access management policy, if the location has been previously used to access the tract. In the event the county has a driveway or access management policy and an access point has not been previously approved or permitted, and the access point has been previously used to access the tract, there is a presumption that the access point shall be considered an existing access point for the purposes of this subsection. Nothing in this section shall require a county to adopt a driveway or access management policy if it does not already have one.

(d) The notice shall be in the form as prescribed by the county commission and shall consist of only the following:

(1) A map or legal description of the area which identifies the location of the tract and the access point or points to the tract from a county road.

(2) With respect to the access point or points to the tract, whether the access point or points are a new or existing point or points, including details outlining how this access will be accomplished while maintaining the normal drainage features on

the public road.

(3) The expected routes upon county roads related to the operations.

(4) The estimated acreage of the tract.

(5) The estimated date that access to the county roads will commence.

(6) The name, address, and daytime telephone number of the person or firm that owns the timber and the contractor responsible for harvesting the timber, if not the same. If the contractor responsible for harvesting the timber is not known at the time of notice submission, the person giving notice shall provide this information prior to accessing the county roads.

(7) The name and address for the liability insurance carrier of the person providing the notice and the contractor responsible for harvesting the timber, if not the same. If the contractor responsible for harvesting the timber is not known at the time of notice submission, the person giving notice shall provide the information prior to accessing the county roads.

(e) The notice shall be submitted to the regular office of the county commission and may be submitted in person, by transmission of an electronic record via telefacsimile or electronic mail, by regular mail, or by other means as approved by the county commission.

(f) The notice shall be effective for a period of 12 months. Upon request from the timber owner, the county may extend the notice for an additional six-month period.

(g) The county's receipt of the notice to access the county roads shall not 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.

(h) The notice requirements in this section shall be applicable to any use of county roads by a timber owner, his or her representatives or employees, or a contractor responsible for harvesting the timber in furtherance of its operations on or after the effective date of the ordinance or resolution adopted pursuant to this section.

(i) Any person owning timber that utilizes the county roads and fails to provide notice or fails to comply with the terms of the notice shall be provided a warning and an opportunity to comply with this section. Upon receipt of the warning and the failure to comply with this section, the person owning the timber may be fined five hundred dollars (\$500) for each day a violation continues to take place. All fines collected shall be payable to the county and deposited into the county's road and bridge fund. Additionally, the county shall have the right to enjoin the timber owner, his or her representatives or employees, or a contractor responsible for harvesting the timber from utilizing county roads by a civil action for the injunction brought in a court of competent jurisdiction in the county.

(j) This section may be enforced by the county license inspector under [Section 40-12-10](#), including issuing citations as provided in [subsection \(j\) of Section 40-12-10](#) for failure to comply with the notice requirements or with the terms of the notice.

(k) In the event that a citation has been issued for noncompliance with this section or with the terms and conditions of the notice, no subsequent notice application shall be effective until the time all fines and penalties have been collected. Additionally, if any timber owner, his or her representatives or employees, or a contractor responsible for harvesting the timber has been cited on three separate occasions within a 24-month period, the county may require the timber owner, his or her representatives or employees, or a contractor responsible for harvesting the timber to post security as a condition of using the county roads.

(l) Compliance with notice provisions by persons or firms affected shall not operate to relieve such persons or firms from liability for damages which may arise from their use of public roads, bridges, or rights-of-way in the county.

(m) In the event the Governor declares a state of emergency as a result of an event that causes damage to timber within a county, the notification requirements set forth herein are suspended for that county for the period of time consistent with the Governor's proclamation.

(n) This section shall not apply to any utility that is maintaining or establishing clearances from timber or vegetation for its facilities and equipment nor shall it apply to the employees, contractors, agents, or representatives of such a utility where the employees, contractors, agents, or representatives are acting within the course and scope of their employment, contract, or agency.

(o) Except as otherwise provided by this section, a county may not require any timber owner that plans to utilize county roads for delivery of pulpwood, logs, poles, posts, or wood chips to any wood yard or processing plant to provide any other notice of the activity, acquire any other specific permit or license for such purpose, or post any security as a condition of using the county roads. Any existing county rules, ordinances, or resolutions in conflict with this section are hereby repealed to the extent of such conflict. Nothing in this section shall repeal or amend any laws related to the county's general superintendence of the roads and bridges within its jurisdiction, including its driveway or access management policy, or its authority to regulate and supervise the use of its rights-of-way or roads and bridges. Additionally, the county's acceptance of the notice from the timber owner as provided herein and the other provisions of this section shall in no way limit or affect 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.

Credits

(Act 2012-257, §§ 1, 2.)

Ala. Code 1975 § 23-1-80.1, AL ST § 23-1-80.1
Current through Act 2013-25 of the 2013 Regular Session.
