

BARTOW COUNTY TIMBER OPERATIONS ORDINANCE

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES **FOR THE PURPOSE OF AMENDING AND READOPTING THE EXISTING BARTOW COUNTY TIMBER OPERATIONS ORDINANCE; ESTABLISHING PROCEDURES, RULES AND REGULATIONS GOVERNING PERSONS, FIRMS, BUSINESSES, COMPANIES AND CORPORATIONS ENGAGED IN TIMBER OPERATIONS IN BARTOW COUNTY; TO PROVIDE FOR NOTICE FOR TIMER OPERATORS; TO PROVIDE FOR ENFORCEMENT AND REMEDIES FOR VIOLATIONS OF THIS ORDINANCE** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 10TH DAY OF SEPTEMBER, 2003.

WHEREAS, timber operations within the County continue to cause dirt, mud and other debris to accumulate on the County roads and in the drainage ditches blocking the drainage and creating hazardous road conditions; and

WHEREAS, the General Assembly has amended certain statutes pertaining to timber operations and County regulation thereof; and

WHEREAS, for health and safety purposes and by virtue of the police powers inherit in local governments to provide for the public safety and well-being of its citizens, the Commissioner deems it necessary to amend the procedures, rules and regulations governing persons, firms, businesses, companies and corporations engaged in timber operations in Bartow County; and

WHEREAS, the Commissioner deems it to be in the best interest of the citizens of Bartow County that the existing Bartow County Timber Operations Ordinance, adopted December 16, 1992, be amended and restated;

NOW THEREFORE BE IT ORDAINED and it is hereby ordained by the Commissioner of Bartow County, by virtue of the authority vested in him by law, as follows:

**ARTICLE I
TITLE AND PURPOSE**

SECTION 101. TITLE

This ordinance shall be known as “The Bartow County Timber Operations Ordinance.”

SECTION 102. PURPOSE AND INTENT

The purpose of this ordinance is to provide procedures, rules and regulations governing persons, firms, businesses, companies and corporations engaged in timber operations in Bartow County and to provide for the issuance of permits to said operators to protect the citizens and the environment and to assure the public’s safety.

**ARTICLE II
DEFINITIONS**

SECTION 201. DEFINITIONS

A. The following definitions shall apply in the interpretation and enforcement of this Ordinance, unless otherwise specifically stated or the context clearly requires a different meaning:

1. “**Commissioner**” means Commissioner of Bartow County or his successors in office being the governing authority of Bartow County.
2. “**County**” means Bartow County, Georgia.
3. “**Timber**” means softwood or hardwood trees. Also, for purposes of this ordinance, “timber” means softwood and hardwood logs hauled by “logging trucks.”
4. “**Timber Operations**” means buying, cutting, harvesting and/or hauling timber in Bartow County.
5. “**Timber Operator**” means any person, firm or corporation engaged in buying, harvesting or hauling timber in Bartow County for commercial or profit making purposes.
6. “**Tract**” means a particular parcel or lot of land, or a particular stand of trees to be harvested on a particular lot or parcel of land.

**ARTICLE III
GENERAL PROVISIONS**

SECTION 301. NOTICE

A. Notice Requirement. Prior written notice shall be required of any person or firm harvesting timber for each separate tract to be harvested thereby. Such notice shall consist of:

1. A map of the area which identifies the location of the tract to be harvested and, as to those trucks which will be traveling to and from such tract for purposes of picking up and hauling loads of cut forest products, the main point of ingress to such tract from a public road and, if different, the main point of egress from such tract to a public road;
2. A statement as to whether the timber will be removed pursuant to a lump sum sale, per unit sale, or owner harvest for purposes of ad valorem taxation;
3. The name, address, and daytime telephone number of the timber seller if the harvest is pursuant to a lump sum or per unit sale or of the timber owner if the harvest is an owner harvest; and
4. The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber.

B. Submission. Notice may be submitted in person to the County Shop at 1338 Burnt Hickory Road, Cartersville, Georgia; by facsimile addressed to the Bartow County Road Department at 770/387-5016; or by mail to the Bartow County Road Department at P.O. Box 543, Cartersville, Georgia 30120.

C. Changes and Amendment. If at any time circumstances reported in the notice change, the notice shall be amended within three business days or shall cease to be effective.

D. Violations. Any persons or firms subject to the notice requirement that engages in timber operations without effective notice, or that violate the notice requirement in any other manner, shall be punished by a fine in the amount of \$500.00 per day of operation without effective notice.

E. Surety Prerequisite. Notice shall not be effective unless a valid surety bond or irrevocable letter of credit is delivered beforehand.

SECTION 302. SURETY REQUIREMENTS

A. Surety Bond or Letter of Credit Required. Persons or firms subject to notice requirements shall deliver a surety bond or an irrevocable letter of credit to the County prior to the notice becoming or remaining effective.

B. Surety Bond. The surety bond shall be executed by a surety corporation authorized to transact business in Georgia (and which is listed on U.S. Treasury Circular 570 at the time of filing), and such bond shall be issued to protect the County against any damage caused by the person or firm engaged in timber harvesting or hauling, in the amount of \$5,000. The form of the surety bond must be approved by Bartow County prior to acceptance.

C. Irrevocable Letter of Credit. In lieu of a surety bond, an irrevocable letter of credit, issued by a bank or savings and loan association authorized to do business in the State of Georgia, may be issued in the amount of \$5,000.00. The form of the irrevocable letter of credit must be approved by Bartow County prior to acceptance.

C. Duration. Such letter of credit shall only be valid for the calendar year it is delivered to the County, and shall be renewed each year that the persons or firm subject to the notice requirement shall operate within the County.

ARTICLE IV STANDARDS FOR OPERATIONS

SECTION 401. PREVENTION OF CONTAMINATION

A. Violation to Contaminate Roads. Contamination of public roads with mud, dirt or debris from timber operations is prohibited. The tracking, spilling, dropping, washing, carrying or dumping of any materials, dirt, or mud onto any public road in this County, from any vehicles or equipment exiting a timber harvesting tract, or any vehicles having previously exited a timber harvesting tract, shall be a violation of this Ordinance. "Materials" shall include debris from harvested trees, limbs, branches, rock, gravel, and other similar material originating at a timber harvesting tract.

B. Temporary Exit Requirements. A temporary exit must be installed and maintained for any timbering operation in the County, at any point of egress from a timber harvesting tract onto a public right-of-way or street. Such exit must be established and maintained prior to any timber hauling vehicles or timbering equipment leaving the site, and shall be maintained until the timber hauling operation is completed, and shall meet or exceed the following specifications:

1. The exit pad shall be adequate to substantially eliminate the transport of mud from the timber site by either vehicles or equipment or from water run-off.
2. The exit pad of gravel or stone must at least be twenty (20) feet in width by fifty (50) feet in length with a depth of six (6) inches, with a geo-textile pad underneath. The pad may be required to be an additional width, length, and/or depth if, in the opinion of the Road Department, conditions so warrant.
3. At such exit location shall be established a cleaning station, water pump station or some other such means to rinse or clean the exiting vehicle of sediment and debris prior to its entrance onto the public right-of-way.

C. Contamination of Rights-of-Way. No timber operator shall allow dirt, mud or other debris resulting from timber operations to accumulate upon the right-of-way of any public road to such an extent that it becomes a nuisance or a hazard to persons traveling upon said roads, or that it creates an unsightly condition upon the public right-of-way.

D. Interference with Drainage. No timber operator shall allow dirt, mud, or other debris resulting from timber operations to accumulate in ditches and drainage areas on public right-of-ways to such an extent that the usual flow of water or run-off is stopped, disturbed, changed or interrupted.

E. Clean Up and Reimbursement. Any materials or mud spilled, dropped, washed or tracked from vehicles or equipment leaving the site onto roadways or into public rights-of-way, drainage ditches, or storm drains must be removed within 24 hours or the County may perform any necessary corrective work and the timber operator shall reimburse the County for any expenses incurred from the required bond or letter of credit. Any such contamination and spillage, even if cleaned up within 24 hours, constitutes a violation of this Ordinance.

F. Fines. In addition to any clean up costs that shall be reimbursed to the County, any timber operator failing to comply with the requirements of Section 401, or failing to clean up or remove any debris, dirt, mud or other material from any public road, right-of-way or drainage ditch, within 24 hours of the spill or contamination, shall be fined \$500 upon the first citation, and \$1,000 upon each subsequent citation.

SECTION 402. ADDITIONAL REQUIREMENTS

A. Nuisance Prohibited. No timber operator shall create any other type of public nuisance.

B. Parking. No timber operator or person shall park or leave unattended a truck or other motor vehicle or trailer upon the right of way of any county road.

C. Soil Erosion and Sedimentation Controls Required. No timber operator will commence operation or continue to operate without first installing and maintaining soil erosion and sedimentation controls, in accordance with the best management practices of the *Manual for Erosion and Sedimentation Control in Georgia*, sufficient to prevent dirt, mud or other debris from accumulating in bodies of water within the county, the county drainage ditches and on the county roads upon which the timber operator is entering and exiting.

D. Signs. No timber operator shall commence timber operations until he has first posted or caused to be posted along the public road onto which the timber operator will enter from his timber operations at least the following signs: one sign in each direction located 500 feet from the entrance which states "Slow Trucks Entering Highway;" one sign in each direction located 1,000 feet from the entrance stating "Warning: Logging Operation Ahead." Each such sign shall be 36" x 36", orange in color and posted at least three feet from the road surface of said road.

G. Reimbursement for Abatement of Nuisance. In addition to any other penalty provided for under the provisions of this ordinance, or under the provisions of any State or Federal law, any timber operator in violation of this section shall reimburse the County for any costs and expenses incurred in abating said nuisance.

ARTICLE V ENFORCEMENT

SECTION 501. VIOLATIONS

A. Violations. Any timber operator who shall fail to comply with this ordinance as adopted, or as hereafter amended, shall be guilty of a misdemeanor, amenable to the process of the Superior Court of Bartow County or the Magistrate Court of Bartow County and upon conviction, shall be punished by a fine of at least \$500 but not to exceed \$1,000, as specified herein below or in the relevant section of this Ordinance.

- B. Minimum Fines. The minimum fine for any violation of this Ordinance shall be \$500 for the first offense, and \$1,000 for the second and subsequent offenses.
- C. Persons Subject to Citation. Both the firm or person named as the timber operator on the Notice provided pursuant to Section 301, and the individual operating the vehicle, supervising the timber operations, or otherwise specifically committing the violation, shall be subject to citation or other remedies.
- D. Multiple Violations. Each day any violation continues shall constitute a separate offense.
- E. Citations. Criminal prosecutions for violation of this Ordinance upon citation shall be commenced by the completion, signing, and service of a citation by an authorized employee of the Bartow County Road Department, or other authorized County officer or code enforcement official. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the Corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the Magistrate Court. Each citation shall state the time and place at which the accused is to appear for trial in Magistrate Court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by the deputy sheriff or other authorized officer who completes and serves it.
- F. Road Ban Order. In the event there is an ongoing violation of the provisions of this Ordinance, an authorized employee of the Bartow County Road Department, or other authorized County officer or code enforcement official may issue a stop-work order, requiring all use of County Roads cease until such time as the operator comes into compliance with this Ordinance.

SECTION 502. OTHER REMEDIES

- A. Civil Fines; Stop Work Orders. In lieu of a criminal citation, upon violation of this Ordinance, authorized employees of the Bartow County Road Department may issue civil fines to timber operators, and may issue road ban orders, requiring all use of County Roads cease until such time as the operator comes into compliance with this Ordinance. Civil fines may be issued in amounts up to \$1,000 per violation, per day. Civil fines may be appealed to the Head of the Road Department, by filing a written objection. The Road Department Head shall make a written determination upholding or reversing the fine within ten days of the filing of the objection. Appeals of that decision may be taken to the Bartow County Commissioner by filing with the Road Department a written notice of appeal within fifteen days of the decision. The Bartow County Commissioner shall hear the appeal within thirty days of the filing of the notice of appeal. Payment of any fine shall moot the appeal.
- B. Injunctive Relief. In the event any provision of this ordinance is violated the notice shall cease to be effective. In addition to any other remedies, the County may seek injunctive, mandamus or other appropriate action to prevent or abate such violation in Magistrate or Superior Court, and the timber operator shall be liable for such court costs and attorney fees incurred by the County. In addition to or in lieu of any other civil remedy, the County may seek civil fines in Bartow County Superior Court up to the maximum amounts authorized by this Ordinance for any violations. Each day a violation exists shall authorize an additional civil fine.
- C. Reimbursement and Attorney's Fees. In addition to or in lieu of any other civil remedy, the County may seek reimbursement costs for any clean-up work performed by the County to remedy any contamination, and shall be entitled to its reasonable attorney's fees for bringing an action in superior court wherein any relief is granted or fine assessed.

ARTICLE VI LEGAL PROVISIONS

SECTION 601. SEVERABILITY

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance is declared

invalid or unconstitutional by a court of competent jurisdiction, or if any provision of any part of this Ordinance as applied to any particular situation or set of circumstances is declared invalid, or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance or other circumstances not so held to be invalid. It is hereby declared to be the intent of the Commissioner to provide for separable and devisable parts and he does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SECTION 602. REPEALER

This Ordinance repeals any prior Ordinance or Resolution in conflict herewith, except to the extent that said ordinance or resolution is more restrictive than this ordinance, in which case that ordinance or resolution shall control. This readoption repeals the prior version of this Bartow County Timber Operations Ordinance, adopted December 16, 1992. In the event all of this Ordinance is struck down as void, unconstitutional or invalid, including therefore this provision, that prior ordinance shall be considered to not have been repealed.

SECTION 603. EFFECTIVE DATE

This Ordinance shall become effective on the date of adoption, the public health, safety and general welfare demanding.

SO ADOPTED this 10th day of September, 2003.

ATTEST:

BARTOW COUNTY, GEORGIA

Lane McMillan, Clerk

Clarence Brown, Commissioner

AN ORDINANCE OF THE COUNTY COMMISSIONER OF BARTOW COUNTY SITTING FOR COUNTY PURPOSES **FOR THE PURPOSE OF AMENDING THE EXISTING BARTOW COUNTY TIMBER OPERATIONS ORDINANCE** AND FOR OTHER PURPOSES AT THE REGULAR MEETING OF THE COMMISSIONER OF BARTOW COUNTY HELD ON THE 14TH DAY OF JANUARY, 2004.

WHEREAS, the Timber Operations Ordinance contains an incorrect address for notices to be provided to the Road Department;

NOW THEREFORE BE IT ORDAINED and it is hereby ordained by the Commissioner of Bartow County, by virtue of the authority vested in him by law, as follows:

That Article III, Section 301(B) of the Bartow County Timber Operations Ordinance be amended to delete "1338 Burnt Hickory Road" as the address of the Road Department, and that "10 Ladds Mountain Road" be substituted therefore, as follows:

"B. Submission. Notice may be submitted in person to the County Shop at ~~1338 Burnt Hickory Road~~ 10 Ladds Mountain Road, Cartersville, Georgia; by facsimile addressed to the Bartow County Road Department at 770/387-5016; or by mail to the Bartow County Road Department at P.O. Box 543, Cartersville, Georgia 30120."

The public health, safety, and welfare demanding, this change is effective immediately.

SO ADOPTED this 14th day of January, 2004.

ATTEST:

BARTOW COUNTY, GEORGIA

Lane McMillan, Clerk

Clarence Brown, Commissioner