

Marshall County Timber Harvesting Notification

Marshall County Engineer
424 Blount Ave. Suite 305
Guntersville, Alabama 35976
Phone: (256) 571-7712
Fax: (256) 571-7713

Email Address: mknop@marshallal.gov and kjones@marshallal.gov

Return this form to the address below via fax, mail or email to the address above **prior** to harvesting timber in Marshall County.

- | | |
|--|--|
| <input type="checkbox"/> Existing Access Point
(Two Business Days' Notice Required) | <input type="checkbox"/> New Access Point
(Four Business Days' Notice Required) |
|--|--|

Timber Owner Name: _____

Location of Tract(s): _____

Parcel Number or PPIN Number: _____

Company Harvesting Timber: _____

Contact Person: _____

Address: _____

Telephone: _____

Cell Phone: _____

Anticipated Date of Commencing Harvest: _____

Anticipated Date of Completing Harvest: _____

Anticipated Route for Hauling Timber: _____

(Please attach a map or describe in detail. Attach additional pages if necessary)

Applicant affirmatively states and agrees:

1. That the information provided here in is true and accurate to the best of his knowledge.
2. To route trucks around low weight bridges on county roads and notify the county engineer immediately if bridge damage is noticed.
3. To notify the county engineer immediately should potholes or pavement distress be present or begin to form on the county roadway.

4. To monitor conditions and take steps to minimize damage to the roadway and mud on the highway during wet weather.
5. To post signs to warn of trucks entering the highway and mud on the highway as needed.
6. To not use the right-of-way for loading timber, or parking equipment or trucks.
7. To remove any logging debris from right-of-ways.
8. That, the Contractor may, at his discretion, document the current conditions of all county roadways in the timber harvesting area to be used by the Contractor. This documentation shall be in the form of photographs or video footage. Evidence of damaged roadways may be submitted with the notification form in order to document this damage with the county prior to harvesting.
9. That failure to comply with terms and conditions herein prior to beginning operations may result in a bonding requirement in an amount to be determined by the Marshall County Commission.
10. That, if the timber owner fails to comply with the notice requirements set out in the Marshall County Logging Notice Ordinance may be fined five hundred dollars (\$500) per day for each day that he or she is in violation of the provisions of the Ordinance.
11. That the person signing this application is a duly appointed representative of the Timber Owner and is authorized by the Timber Owner to submit this Notification.

By signing this notification, I confirm that I have read §23-1-80.1 of the *Code of Alabama 1975*, as last amended, which is attached to this notification for my review and records.

Date

Signed

Printed Name

Title

Code of Alabama

Section 23-1-80.1 County Commissions - Use of County Roads in Conducting Timber Operations.

(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.

(Act 2012-257, p. 494, §§1, 2.)