

CHAPTER 12
SECTION 1: USE OF HEAVY EQUIPMENT, MACHINERY AND VEHICLES ON
COUNTY ROADS AND RIGHTS-OF-WAY
(ORDINANCE 01/20/1987)

A. SCOPE OF ORDINANCE

1. This ordinance shall cover any business enterprise, or commercial entity that uses a County road right-of-way in carrying out its business by loading materials of any nature whether on the pavement of a County right-of-way or crossing the unpaved portion of the right-of-way including ditches or embankments.

B. DEFINITIONS

1. *Industry, trade or commerce* shall mean any commercial activity conducted by an individual, partnership, corporation, or any other business enterprise whether or not conducted for pecuniary gain or profit.
2. *Loading and unloading* shall be defined in its everyday meaning but also shall include any activity known as harvesting or mining of any product or material.
3. *Heavy equipment, machinery and vehicles* shall be defined in its everyday meaning.

C. NOTIFICATION REQUIRED

1. All individuals, companies, or other business entities, prior to loading or unloading materials or using county right-of-ways for access to private property on County rights-of-way must provide the County Clerk with notice in writing and provide the following information:
 - a. The name, address and phone number of the contractor or firm which will be loading or unloading;
 - b. The approximate location of access site to the County road;
 - c. Approximate date to commence work and the approximate completion date; and
 - d. The type of materials to be loaded or unloaded.
2. The Clerk will provide forms for the information required herein.
3. Upon notification, the Superintendent of Roads or his designee shall inspect the site to determine if a culvert is required along said County rights-of-way and the size and length of culvert, if any is required. If a culvert is required, it shall be installed as directed by the Superintendent of Roads, and shall be installed at the expense of the firm or company.

D. SURETY BOND

1. The Board of Commissioners shall be authorized to require the posting of a Surety Bond in the amount of \$1,000.00 by the company, corporation or individual asking for an access point, or otherwise utilizing a county right-of-way for the purposes stated in this ordinance. Said bond will remain in force until the conclusion of operation with the condition of access points and roads being found satisfactory as prescribed by this ordinance.

The surety bond may be purchased by a company, corporation or individual on a yearly basis to cover all access points needed during the calendar year or the surety bond may be purchase on an as needed basis. Forfeiture of a bond for non-performance will require the negligent party to purchase surety bonds on a tract to tract basis.

2. In lieu of a Commercial Surety Bond, the individual, company or business entity may be allowed to post a property bond, as approved by the Chairman of the Commissioners; provided that the bond reflects a sufficient, solvent surety for the performance of the obligations required in this ordinance, in an amount of not less than \$1,000.00. The bond shall be conditioned upon the faithful performance of all requirements of this ordinance, the violation of which shall authorize the forfeiture of such amount of the bond as may be required to repair any damage caused to any county road. However, the posting of a suitable bond shall not relieve the principal for any liability for damages over and above the actual amount of any such damages.
3. The Commissioners, in their discretion shall be authorized to waive the posting of a bond by any responsible individual or company maintaining an office or doing business in Wilkinson County, Georgia, having a net worth, exclusive of any indebtedness, in excess of \$1,000.00

E. LOGGING OR PULPWOOD LOADING

1. All logging or pulpwood loading operations shall be conducted at a loading site off the County rights-of-way and behind the established ditch line of the County roads.
2. Loading or skidding of materials, timber or logs will not be permitted on County roads and County rights-of-way.
3. Ditches shall be kept clear of all debris or residue at all times to allow for proper drainage.
4. Country roads, at the access site, shall be kept in a clean and serviceable condition at all times for the passing of public, emergency vehicles, school buses, mail carriers, etc.
5. Operators will use crushed stone or some other material if required by the Superintendent of Roads on access roads to prevent the transport or depositing of excessive amount of mud onto County roads.

F. SUSPENSION OF OPERATIONS

1. The Superintendent of Roads shall have the authority to close down all operations when it is determined that the County roads and access sites are not being maintained. Upon suspension of operations by the Superintendent of Roads, the firm or company shall have five (5) days from the date of the suspension to appeal the decision. The appeal shall be made in writing to the Board of Commissioners.

Upon receipt of the written appeal, the Board of Commissioners shall have five (5) days to impanel an Arbitration Board. The Arbitration Board shall consist of three (3) people, one person selected by the Board of Commissioners, one person selected by the firm or company, and one person mutually agreed upon by the two persons selected. Once the Arbitration Board has been selected, the Arbitration Board shall have no more than thirty (30) days from the receipt of the letter of appeal in which to reach a decision. The decision of the Arbitration Board shall be final.

2. When the Superintendent of Roads is advised that the operations have concluded, the Superintendent shall inspect the site. If it is determined that the road and access site are not in proper state of repair, repairs shall be made and at the expense of the firm or company. The firm or company shall be notified in writing of the decision of the Superintendent of Roads.

Upon notification by the Superintendent of Roads, the firm or company shall have five days from the date of the notice to appeal the decision. The appeal shall be made, in writing, to the Board of Commissioners.

Upon receipt of the written appeal, the Board of Commissioners shall have five days to impanel an Arbitration Board. The Arbitration Board shall consist of three people; one person selected by the Board of Commissioners, one person selected by the firm or company, and one person mutually agreed upon by the two persons selected.

Once the Arbitration Board has been selected, the Arbitration Board shall have no more than thirty days from the receipt of the letter of appeal in which to reach a decision. The decision of the Arbitration Board shall be final.

3. The Commissioners, upon notification by the Superintendent of roads, shall be authorized to declare the surety bond forfeited, for the payment of any repairs or clean-up operations needed to place the county roads or right-of-way in serviceable condition; however, the Commissioners shall have all other legal remedies available to them to enforce compliance with this ordinance, and the liability of any business enterprise is not limited to the amount of any bond.