

ORDINANCE 2025-\_\_

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF HEARD COUNTY, GEORGIA, TO ADOPT AN AMENDED CHAPTER 34 – REGULATION OF FOREST PRODUCT HARVESTING ACTIVITY, REPEAL CONFLICTING CODE PROVISIONS, UNCODIFIED ORDINANCES, OR PORTIONS THEREOF; TO RESTATE AND REAFFIRM THE CODE OF ORDINANCES OF HEARD COUNTY, GEORGIA AS MODIFIED HEREIN; TO PROVIDE FOR SEVERABILITY; TO ESTABLISH AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, timber harvesting operations occur in the unincorporated portions of Heard County on a recurring basis; and

WHEREAS, timber harvesting is an important component of the local economy in Heard County, providing revenue to landowners, business opportunities, and jobs for local residents; it is the intent of the Governing Authority of Heard County to facilitate this industry while at the same time protecting county infrastructure and the safety of the community; and

WHEREAS, timber harvesting in many instances requires the use of county-maintained roads in order to transport the product to market; and

WHEREAS, it is in the public interest to protect the county road system from damage caused by timber harvesting operations to the extent allowed by state law; and

WHEREAS, O.C.G.A. §12-6-24 authorizes and establishes the terms and conditions under which this Ordinance may be adopted and enforced; and

WHEREAS, it is the intent of the Governing Authority of Heard County to preserve and exercise where appropriate all powers and authority granted to it under state law, including but not limited to O.C.G.A. §32-4-42 and O.C.G.A. §40-6-371, that are not in conflict with O.C.G.A. §12-6-24, in order to protect the health, safety and welfare of the community.

NOW, THEREFORE, it is hereby ORDAINED by the Governing Authority of Heard County that Chapter 34 of the Code of Ordinances of Heard County, Georgia shall be amended as follows:

1.

Section 34-90. – Definitions shall remain unchanged as follows:

**Sec. 34-90. – Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*County right-of-way* means the shoulder, front slope, ditch, drain, and back slope, facility or any appurtenance of any county road as herein defined.

*County road* means any county-owned or maintained highway, road, street, avenue, drive, detour or other way open to the public and intended or used for the passage of motor vehicles.

*Driveway* means any temporary roadway, drive, structure, fill or device, existing or constructed, that is used or employed for the purpose of crossing, traveling upon or use of county road rights-of-way.

*Heavy equipment machinery and vehicles* means any and all devices in, upon, or by which any person or property may be transported or drawn, including, but not limited to, semi-trailers, trailers, tractors, and truck-tractors; provided, however, that vehicles in use immediately for the control or extinguishing of wild fire shall be exempt from this statute.

*Loading and unloading* shall be defined by its everyday meaning but also shall include any activity known as harvesting or mining of any product or material.

*Operations* means those activities contemplated by this article, including the loading or transporting of raw materials such as stone, timber, oil, fill dirt, produce and kaolin.

*Operator* means an individual, partnership, corporation, association, or private organization of any character, and the officer's agents, and the employees thereof carrying out the activities contemplated by this statute.

2.

Section 34-91. – Purpose and Intent shall remain unchanged as follows:

**Sec. 34-91. – Purpose and Intent.**

The roads of the county have sustained significant damage as a result of use by logging trucks during inclement weather conditions, and the board of commissioners has found that it is in the best interest of all of the citizens of the county to regulate the use of the county roads in order to maintain all county roads in a proper and safe operating condition.

3.

Section 34-92 – Penalties is hereby amended as follows:

**Sec. 34-92. – Penalties.**

The requirements contained in this article shall be applicable to any such timber harvested on or after the effective date of the ordinance [from which this article derives] and any violation of the notice requirements of this article shall be punishable by a fine not exceeding \$1500.00.

4.

Section 34-93 – Timber Harvesting and Application Process is hereby amended as follows:

**Section 34-93. – Timber Harvesting and Application Process.**

(a) All persons or firms harvesting standing timber in any unincorporated area of Heard County for delivery as pulpwood, logs, poles, posts, or wood chips to any woodyard or processing plant located inside or outside this state shall provide Notice of such harvesting operations to the Heard County Governing Authority or the designated agent thereof prior to entering onto the property if possible, but in no event later than 24 hours after entering onto the property. Further, such persons shall give Notice of cessation of cutting within 24 hours after the job is completed. An appointment for ingress/egress inspection shall be scheduled 48 hours in advance of the inspection with the public works department and the county code enforcement officer, or their designee, to allow the County to inspect the site prior to any activity at the proposed ingress/egress location.

(b) The following minimum standards shall be met unless directed otherwise by the public works director or his/her designee and/or the code enforcement officer or his/her designee:

- a. Installation of driveway. Use one and one-half inch to three and one-half inch stone; minimum pad thickness of six inches; minimum pad width of 20 feet; minimum pad length 50 feet; excavate footprint three inches; if tire washing is required, route runoff from washing to an approved sediment trap or sediment basin; install filter fabric under the entire pad; periodically dress with one and one-half inch to three and one-half inch stone; maintain in a condition that will prevent tracking and flow of mud onto public rights-of-way and roads; immediately remove mud and debris tracked or spilled onto roadways. This will be for all existing or future entrances/exits.
- b. Driveways shall be piped by the harvester, and upon completion of the harvesting, the pipe shall be removed and the right-of-way returned to its original condition if applicable.
- c. The harvester shall clear and gravel an equipment yard or loading dock on the property where the work is to be performed, and said yard shall be of sufficient size to accommodate that particular harvesting operation.
- d. No harvester equipment or vehicle(s) may be parked on a county right-of-way or use the county right-of-way as a loading facility.

(c) The Notice of harvesting operations required by this Ordinance shall be provided for each separate tract to be harvested. Such Notice shall be made in such form as prescribed by rule or regulation of the Director of the Georgia Forestry Commission, and shall include the following information:

- a. 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. If multiple points of ingress and/or egress will be used, all such points shall be identified.
- b. 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 under O.C.G.A. §48-5-7.5.
- c. 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
- d. The name, business address, business telephone number, and nighttime or emergency telephone number of the person or firm harvesting such timber.

(d) This ordinance is enacted after a date specified and published by the Director of the Georgia Forestry Commission. Accordingly, the state-wide notification website or platform shall be mandatory and shall be the sole means of providing the Notice required by this Ordinance.

(e) The Notice required by this Ordinance shall not be or remain effective unless and until the person or firm providing such Notice has delivered to the Governing Authority of Heard County or its designated agent a valid surety bond, executed by a surety corporation authorized to transact business in this state, protecting Heard County against any damage caused by such person or firm in the amount of \$5,000.00; provided, however, that at the option of the person or firm harvesting timber a valid irrevocable letter of credit issued by a bank or savings and loan association, as defined in O.C.G.A. §7-1-4, in the amount of \$5,000.00 may be provided in lieu of a surety bond. Such bonds or letters of credit shall be subject to the conditions set forth in Section 34-93(f) and Section 34-93(g) of this Ordinance. No more than one bond or letter of credit shall be required from each person or firm harvesting timber, regardless of the number of tracts harvested in the county for so long as the bond

or letter of credit remains in effect. The bond or letter of credit required herein shall be valid only for the calendar year in which it was delivered.

(f) The bond or letter of credit required by Section 34-93(e) of this Ordinance shall protect Heard County against any damage requiring re-ditching or repair of existing ditch structures or the removal of any harvesting residue, including tree tops, debris, logs, pulpwood and other materials, placed in or around the county's rights of way caused by such person or firm tendering the bond or letter of credit. The proceeds of such bond or letter of credit shall be available to reimburse the county for any cost incurred to repair such damages or remove such debris in or around the county's rights of way. The proceeds of such bond or letter of credit shall also be available to reimburse the county for any costs incurred to maintain or repair county roads damaged by the ingress or egress of motor vehicles engaged in the harvest operations located within 500 feet of any point of ingress or egress of the timber harvesting operation. The right of Heard County to call such a bond or letter of credit in accordance with the provisions of Section 34-93(g) of this Ordinance shall be in addition to any other remedies available to the county at law or in equity for damage to county roads or rights of way.

(g) When damage results from a person or firm's harvesting activities, the Governing Authority of Heard County, or its designee, shall make and provide a written claim to the person or firm causing the damage within 30 business days after the Governing Authority becomes aware of the damage. Such claim may be given in person, by telefacsimile, email or mail. The claim shall describe the damage in detail and, in compliance with Section 34-93(h) of this Ordinance, give the person or firm the opportunity to repair such damage within 30 days of the notification; provided, however, the county shall be authorized to repair the damage immediately if the Governing Authority or its designee determines the conditions present a threat to public safety, health or welfare and, upon making such repairs, shall present to the person or firm and the issuer of the applicable bond or letter of credit an itemized list of expenses incurred as a claim against the responsible party and the issuer of its bond or letter of credit. Upon the issuance of a claim as provided in this Section the Governing Authority of Heard County or its designee shall notify the issuer of the bond or letter of credit that a claim has been made and will be resolved or adjudicated according to the terms of this Ordinance.

(h) Within 30 days of receipt of the written claim described in Section 34(g), the person or firm against whom the claim is submitted may:

- a. Repair such damage at his or her own expense with the approval and supervision of the Governing Authority of Heard County or its designee. When repairs are completed to the satisfaction of the governing authority or its designee, the governing authority or its designee shall provide a written notification of satisfactory completion within five business days to the person responsible or firm and to the surety issuing the bond or the bank issuing the letter of credit, thereby terminating the claim.
- b. In the event of inclement weather or other factors preventing repair of the damage, request a 30-day extension to repair the damage from the Governing Authority of Heard County, provided that no extensions shall exceed 90 days from the date the claim was tendered. Approval of any extension shall be at the discretion of the Governing Authority of Heard County or its designee.
- c. Appeal the claim to the Magistrate Court of Heard County. Any such appeal must name the issuer of the bond or letter of credit as a party, who shall be served with all pleadings in the action and shall have the right to appear. The Magistrate Court will hear evidence and arguments within 30 days of the written appeal and issue a ruling within ten days of

such hearing. Any such appeal shall toll the 30-day period, or any extension thereof, required by Section 8 of this Ordinance. If the Magistrate Court rules in favor of the person or firm against whom the claim was made, the county shall have no right to recover any proceeds of the bond or letter of credit, and judgment shall be entered against the county. If the Magistrate Court rules in favor of the county the court shall determine the amount of damages to which the county is entitled to recover and enter judgment accordingly; the Governing Authority of Heard County shall be authorized to call the bond or letter of credit and recover from the proceeds thereof an amount equal to the judgment entered by the court, up to the total amount of the bond or letter of credit. The portion of any judgment entered in favor of the county that exceeds the amount of the bond or letter of credit shall be subject to collection by any additional remedies at law or equity.

- d. In the event the person or firm against whom the claim has been submitted fails to take any of the actions allowed under subsections (a), (b) or (c) of this Section within the time required therein, such person or firm shall be deemed to have waived any and all rights to contest the call of the bond or letter of credit.
- (i) If the person or firm tendering a bond or letter of credit pursuant to the requirements of this Ordinance continues its timber harvesting operation beyond the calendar year in which the bond or letter of credit was issued, the person or firm continuing the timber harvesting operation shall tender a new bond or letter of credit within five (5) business days after the first day of the new calendar year.
- (j) In the event a bond or letter of credit tendered pursuant to the requirements of this Ordinance is revoked by the surety or bank, then a valid replacement bond or letter of credit must be delivered to the Governing Authority of Heard County within five business days after the date of revocation in order for timber harvesting operations to continue. In addition, if the person or firm tendering the bond or letter of credit caused its revocation, the amount of the bond or letter of credit required shall be increased to \$7,500 after the first revocation, and \$10,000 after a second revocation caused by the person or firm tendering the bond or letter of credit. The maximum amount of the bond or letter of credit shall not exceed \$10,000.
- (k) Submission of the Notice required by this Ordinance shall authorize the person or firm submitting same to undertake the timber harvesting operation described in the Notice and shall remain in effect until such time as the person or firm gives Notice that the harvesting operation is complete; provided, however, that any change in the facts required to be provided for purposes of such Notice, including but not limited to a change in the scope or extent of the operation, must be reported to the Governing Authority of Heard County within three business days after such change.
- (l) Any person or firm that engages in a timber harvesting operation in the unincorporated portion of Heard County without complying with the Notice requirements of this Ordinance shall be subject to a citation and trial, and upon conviction shall be fined in an amount not to exceed \$1,500.00 for each violation.
- (m) This Ordinance applies to activities which qualify as forestry land management practices or agricultural operations under O.C.G.A. §12-7-17 (5) and (6) on land that is zoned for or used for forestry, silvicultural or agricultural purposes. It shall not authorize land disturbing activities incidental to development in conflict with the limitations set forth in O.C.G.A. §12-7-17 (6).

(n) Consistent with O.C.G.A. §12-6-24:

- a. no fee shall be charged to provide and submit the Notice required by this Ordinance; and
- b. no permit, including a driveway permit, shall be required of the person or firm engaged in a timber harvesting operation as defined by said Code section. Persons and firms providing the Notice required by this Ordinance may be asked to consult with county officials responsible for roads and public works for the purpose of minimizing damage to the county's roads, rights of way and infrastructure, and are urged to follow recommendations from county officials. Notwithstanding the foregoing, the person or firm conducting the timber harvest operation bears ultimate responsibility for their actions, and nothing in this Ordinance shall preclude the Governing Authority of Heard County from taking any and all legal action necessary to protect its property and the health, safety and welfare of its citizens.

(o) The provisions of this Ordinance are severable, and the invalidity of any phrase, clause, section or part of this Ordinance shall not affect the validity or effectiveness of the remainder of this Ordinance.

5.

Section 34-94 – Reserved shall remain unchanged as follows:

**Sec. 34-94. – Reserved.**

6.

Section 34-95. – Parking, loading and unloading restricted shall remain unchanged as follows:

**Sec. 34-95. - Parking, loading and unloading restricted.**

No logging operation, parking of log trucks, or loading or unloading of equipment or trailers shall be allowed in any road or on any county right-of-way.

7.

Section 34-96. – Use restricted during inclement weather shall remain unchanged as follows:

**Sec. 34-96. - Use restricted during inclement weather.**

Log trucks shall not use roads in the county during periods of significant rainfall. Written notice shall be given to owners of trucks to cease using roads in the county for a specific period of time during inclement weather conditions. It is a violation of this article to continue to use any road after receiving written notice to cease.

8.

Section 34-97 – Effective date, validity and liability is hereby replaced with the following:

**Sec. 34-97. - Protection of the county road system.**

(a) Heard County shall have the authority to adopt and enforce rules, regulations and to perform all acts which are necessary, proper and incidental to the efficient operation and development of the county road system. This section shall be construed to convey on Heard County the power and duty to restrict the access of timber or other commercial vehicles to county roads at such times when access by those vehicles may cause damage to the county road system. **Heard County requires that all timber trucks operating in Heard County take the most direct route from the harvesting site to the state routes on approved routes with sufficient weight clearance.**

(b) Any power vested in, or duty placed on Heard County, but not implemented by specific provisions for the exercise thereof may be executed and carried out by Heard County in a reasonable manner subject to such limitations as may be provided by law.

9.

Section 34-98 – Effective date, validity and liability is hereby added as follows:

**Sec. 34-98. – Effective date, validity and liability.**

(a) *Effective date.* This article shall become effective upon adoption.

(b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.

(c) *Liability.*

(1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by the law nor impose any liability upon the local issuing authority or district for damage to any person or property.

(2) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

So adopted this 17th day of June, 2025.



Attest: Katrina Billingsley  
Clerk

Troy McClure  
Chairman  
[Signature]  
Jim [Signature]  
Chris Harris  
Perry Hammond  
David Wells