

STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA

AN ORDINANCE BY THE OKTIBBEHA COUNTY BOARD OF SUPERVISORS
PROVIDING FOR THE REGULATION OF MINING, LOGGING, PULPWOOD,
GRAVEL, OIL & GAS PRODUCTION, SOLID WASTE HAULING, COMMERCIAL
ENTERPRISES AND OTHER HEAVY HAULING OPERATIONS ON COUNTY
ROADS, BRIDGES, AND APPROACHES WITHIN OKTIBBEHA COUNTY,
SUBJECT TO THE JURISDICTION OF THE OKTIBBEHA COUNTY BOARD OF
SUPERVISORS, AND RELATED PURPOSES

ORDINANCE REGULATING HEAVY HAULING ON COUNTY ROADS

WHEREAS, pursuant to Art. 6, § 170 of the Mississippi Constitution and § 19-3-41 of the Mississippi Code of 1972, the Board of Supervisors has full jurisdiction over roads, ferries, and bridges and county police, provided that the legislature has not designated any roads or highways as "state highways;" and,

WHEREAS, the Board of Supervisors of Oktibbeha County, Mississippi, is empowered to adopt orders, resolutions or ordinances with respect to county affairs, property and finances, pursuant to Mississippi Code of 1972 § 19-3-40, commonly referred to as the Home Rule Statute, and for which no specific provision has been made by general law and which is not inconsistent with existing law of the State of Mississippi or the Mississippi Constitution; and,

WHEREAS, the Board of Supervisors may prevent unreasonable and unlawful use of the County's roads and highways as held in Covington County v. Collins, (1908) 92 Miss. 330, 45 So. 854 and as upheld in State of Mississippi v. Mississippi Association of Supervisors, Inc.; Hinds County, Mississippi and Washington County, Mississippi, NO. 95-CA-01083-SCT (1995); and,

WHEREAS, the Board finds that from time to time it is necessary to take action to declare what is, or what may be, an unusual or uncommon load or weight which will be, or which is being conveyed, on or over the roads bridges, approaches to bridges and appurtenances in the County, (hereinafter collectively referred to as "roadways") where the same is likely to damage or impair their usefulness as public ways, so as to protect such roadways, and in particular, from damage caused by mining, logging, pulpwood, gravel, oil and gas production, solid waste hauling, commercial enterprises which ship or receive heavy loads, and other heavy haul operations; and,

WHEREAS, the Board finds it necessary to take reasonable and necessary steps to adopt and implement policy to protect the County's roadways and bridges from damage and impairment from mining, logging, pulpwood, oil and gas production, solid waste hauling, commercial enterprises which ship and/or receive heavy loads, and other heavy haul operations (hereafter called "Haul Operators") within the County; and,

WHEREAS, the Board of Supervisors of Oktibbeha County, Mississippi, has investigated, studied and ascertained the costs associated with damages to County roads and bridges, as well as having personal knowledge, related to heavy hauling by large trucks, and finds as fact that the use of County roads by large trucks hauling or transporting heavy loads increases the likelihood of damages to the County roads as well as the resultant endangerment to the general public's use of the roads which may cause personal and property damages from motor vehicle accidents; and,

WHEREAS, such action in establishing limitations and restrictions as to hauling of unusual or uncommon loads or weights on or over county roads and bridges is deemed necessary to protect the county roads and bridges from injury and impairments; and,

WHEREAS, such regulations are required in order to maintain safe roads and bridges, in Oktibbeha County; and

WHEREAS, any person, firm, partnership or corporation, or other legal entity, engaged in mining, logging, pulpwood, gravel, oil and gas production, solid waste collection or disposal, commercial enterprises which ship and/or receive heavy loads or other heavy haul operations

within the County, except upon another connecting roadway maintained by another County or the State of Mississippi, shall first obtain a permit from the Oktibbeha County Road Manager and County Engineer to conduct such operations and shall post a minimum of \$25,000.00 performance/surety bond, or endorsement to the operators vehicle liability insurance policy, to cover damages done, if any, to the roadways of Oktibbeha County. Provided however, at the conclusion of the operation, if no damage or impairment has been done to the roadways, the performance/surety bond shall be returned to the person or legal entity posting same; and if damages exceed the amount of the bond or endorsement, the Haul operator shall be liable for same; and

WHEREAS, the County Road Manager and County Engineer, acting for and on behalf of the Board, shall be given the authority to temporarily suspend travel over the roadways of the County, including such times when they are in various stages of maintenance, reconstruction, and/or construction, by Haul Operators to avoid damage or impairment to such roadways; and

WHEREAS, such temporary suspension imposed by the Road Manager and County Engineer shall be in effect until the next regular or recessed scheduled session of the Board, where such temporary suspension shall be considered by the Board. Upon consideration of the temporary suspension, the Board shall terminate such temporary suspension; or shall extend such temporary suspension for such period of time it deems necessary for the preservation and protection of such roadway; or shall make such temporary suspension permanent or shall take such other action or make such orders as the Board may deem appropriate for the preservation and protection of the roadways within the County; and,

WHEREAS, notice is hereby provided that the **Agreement for Use and Restoration of Haul Roads in Oktibbeha County** must be completed prior to using Haul Roads in Oktibbeha County for the afore mentioned purposes.

BY ORDER OF THE OKTIBBEHA COUNTY BOARD OF SUPERVISORS this policy was adopted the **2ND** day of **November** 2020.

NOW, THEREFORE BE IT RESOLVED AND ORDAINED BY THE BOARD OF SUPERVISORS OF OKTIBBEHA COUNTY, MISSISSIPPI, AS FOLLOWS:

SECTION I. That the Oktibbeha County Board of Supervisors does declare it to be policy of Oktibbeha County to strictly regulate Haul Operators whose vehicles enter upon or leave from any roadway within the County, except upon another connecting roadway maintained by another county or the State of Mississippi; including those roadways which are in various stages of maintenance, reconstruction, and/or construction within the County.

SECTION II. The County Road Manager and County Engineer is hereby authorized and directed, in their sole discretion, to suspend and/or delay mining, logging, pulpwood, gravel, oil and gas production, solid waste hauling, commercial enterprises which ship and/or receive heavy loads and/or other heavy haul operations going on or off roadways of the County and on roads within Oktibbeha County which are under maintenance, reconstruction, and/or construction where he deems such operations are causing or may cause damage to such construction projects.

SECTION III. It is the specific intention of the Oktibbeha County Board of Supervisors that such suspension and/or delay of mining, logging, pulpwood, gravel, oil and gas production, solid waste hauling, commercial enterprises which ship and/or receive heavy loads, and other heavy haul operations shall be temporary in nature and when such operations are suspended and/or delayed, they shall be restored as quickly as possible, based upon the Road Manager's and County Engineer's opinion concerning the advisability of using such roadways. Provided however, such temporary suspension imposed by the Road Manager and County Engineer shall be in effect until the next regular or recess session scheduled of the Board, where such temporary suspension shall be considered by the Board. Upon consideration of the temporary suspension, the Board shall terminate such temporary suspension; or shall extend such temporary suspension for such period of time it deems necessary for the preservation and protection of such roadways; or shall make such temporary suspension permanent; or shall take such other action, or make such orders as the Board may deem appropriate for the preservation and protection of the roadways within the County.

SECTION IV. Haul Operators within the County, whose vehicles enter upon or leave from any roadway within the County, except upon another connecting roadway maintained by another county or the State of Mississippi, shall first obtain a permit from the Oktibbeha County Board of Supervisors, by application filed in the office of the County Road Manager and County Engineer to conduct such operations and shall post a minimum of \$25,000.00 performance/surety bond or endorsement to the operators vehicle liability insurance policy, to cover damages done, if any, to the roadways of Oktibbeha County. Provided however, at the conclusion of the operations, if the Road Manager and County Engineer determines that no damage or impairment has been done to the roadways, the performance/surety bond or liability endorsement shall be returned to the person or legal entity posting same, and if damages exceed the amount of the posted bond or endorsement, the Haul operators shall be liable for same.

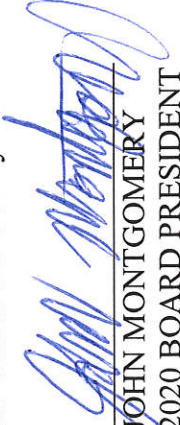
SECTION V. Upon completion of the operations in the area covered by the permit, the Haul Operator(s) shall notify the Road Manager and County Engineer who will conduct an inspection of the covered area within seven (7) days to determine if the roadways have sustained any damage attributable to the haul operators. If the inspection determines that no damage or impairment has been done to the roadways, the performance/surety bond or liability endorsement will be canceled or returned to the legal entity posting same. If it is determined that damage has occurred, the Haul Operator will be notified and given ten (10) days to satisfactorily repair the damage at the sole expense of the Haul Operator whether caused by accident or not. In the event that the Haul Operator does not repair such damages within the specified period, the repairs will be completed by the County and all costs of such repairs shall be reimbursed to the County by the Haul Operator and/or its surety.

SECTION VI. Failure to obtain such permit and post the bond or liability endorsement as herein required, or failure to cease operations upon written notice from the Road Manager and County Engineer, shall be deemed a violation of this Ordinance and such violation shall constitute a misdemeanor. The person, firm, partnership or corporation, or other legal entity found to be in violation of this ordinance shall be punished by fine of one hundred dollars (\$100.00) per vehicle per trip for each day of violation; and each day of violation shall be considered a separate offense.

SECTION VII. Failure to adhere to the specified route described in the permit shall result in a fine of five hundred dollars (\$500.00) per vehicle per trip and one thousand dollars (\$1,000.00) for any subsequent offense of which shall be deemed a misdemeanor. Each incident of vehicle violation and each day of violation shall be considered a separate offense. The presence of either a partially loaded or fully loaded vehicle on a roadway not listed on the specified route shall be evidence of a violation.

SECTION VIII. This Ordinance shall take effect immediately following publication in the Starkville Daily News, a legal newspaper within Oktibbeha County, for three (3) consecutive weeks.

RESOLVED AND ORDAINED by the Oktibbeha County Board of Supervisors on this the 2nd day of November, 2020.


JOHN MONTGOMERY
2020 BOARD PRESIDENT

ATTEST:

SHARON LIVINGSTON, CLERK

Published: November 2020

