



1. CITY ROAD: means any City-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.
2. CITY RIGHT-OF-WAY: means the shoulder, front slope, ditch, drain, and back slope, facility or any appurtenance of any City road as herein defined.
1. ACCESS SITE: 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 entering City road right-of-ways.
1. LOADING AND UNLOADING: means placing items upon or removing items from any trailer, truck, or other vehicle or equipment, and also specifically shall include any activity known as harvesting or mining of any product or material.
1. 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 Ordinance.
2. OPERATIONS: means the harvesting of trees (whether logs, saw timber, pulpwood, stumps or otherwise); loading, unloading or transporting of raw materials (such as stone, sand, gravel, soil, timber or pulpwood); and activities in preparation for, or concluding, the foregoing.
1. BEST MANAGEMENT PRACTICES (BMP): means a set of minimum standards and specifications promulgated or prescribed by the Georgia Forestry Commission for logging and timber management operations including planning, design and installation or erosion and sediment control measures at the local level.

**SECTION 34-403. PROHIBITION OF DAMAGE; REQUIREMENT OF PERMIT:**

- (a) No individual person, corporation, partnership, association, or other business entity involved in operations described in this Ordinance shall damage any City road or City right-of-way or violate any provision of this Ordinance.
- (b) No individual person, corporation, partnership, association, or other business entity (hereinafter called operator) involved in operations described herewith shall use an existing driveway or access site, or install any new driveway, temporary driveway, or means of ingress and egress to any property abutting a City road or City maintained road, without first obtaining a permit therefore from the Comer City Council through its Planning and Zoning Office or Department of Public Works, with application therefore to be made on a form prescribed by that office.

[NOTE: Persons constructing, reconstructing or improving any commercial driveway, as such term is defined in O.C.G.A. § 32-6-130, are required to obtain a permit from the

Georgia Department of Transportation prior to undertaking such work. See O.C.G.A. § 32-6-131.]

(c) The information required for such permits shall consist of the following:

1. The name, address and phone numbers of all parties that will be loading or unloading;
1. The approximate location of access sites to any City road;
1. The date upon which work will commence; and
1. The name of the title owner of the tract that is to be harvested.

(d) Upon completion of operations, the operator shall give notice to the Planning and Zoning Office or Department of Public Works. A City Official from the Department of Public Works or Planning and Zoning shall then inspect the site. The Planning and Zoning Administrator or Director of Public Works shall provide notice of release of liability to the operator within ten days of notification of completion.

#### **SECTION 34-404. HARVESTING, MINING, OR LOADING MATERIALS:**

- (a) Loading Sites: All harvesting, grading or loading shall be conducted at a loading site off City rights-of-way and behind the established ditch line of City roads.
2. Ditches: Ditches within 50 feet of a temporary driveway or right-of-way crossing shall be kept clear of all debris or residue at all times to allow for proper drainage. Culverts shall be installed at temporary entrances, as needed, to facilitate proper drainage flow. The Director of Public Works shall notify the operator of the requirement for a culvert based on good engineering and driveway maintenance practices.
  2. Warning Signs: Any firm, company, or person operating on City rights-of-way shall be required to post warning signs at least five hundred (500) feet on both sides of a temporary driveway adequately warning oncoming traffic of person, vehicles, equipment or machinery entering the roadway.
  2. Roadway: City roads shall be kept serviceable and open at all times for school buses, emergency vehicles, mail carriers and traffic of the general public.
  2. Adjacent Properties: The operations will not unreasonably interfere with vehicular and pedestrian traffic and the means of ingress and egress from the affected property and adjacent properties.

2. Supervision and Inspection: All work for which a permit is required hereunder shall be subject to inspection and supervision by the Director of Public Works. The Director of Public Works shall have the authority to order the applicant to cease all hauling and logging operations immediately when the weather conditions might compromise public safety or public property or when operations are in violation of the standards of this Ordinance. Failure to cease operations upon such order shall be a violation of this Ordinance.
  
2. Gravel and Approaches: The Director of Public Works may direct the operator, at the operator's expense, to place gravel or to prepare approaches to the City road or right-of-way when the duration of the operations or weather conditions require it. The standards applicable to said gravel and approaches should be generally in accordance with the Comer Soil Erosion and Sedimentation Control Ordinance and the Director of Public Works may direct such additional measures as may generally comply with the Georgia Forestry Commission's Best Management Practices. Failure to comply with such direction may result in the revocation of the operator's permit.

#### **SECTION 34-405. BOND REQUIRED:**

- (a) Bond: An applicant for a permit hereunder, unless otherwise exempted herein, shall file, with the application, a signature bond in the amount of \$2,000.00. The bond shall be conditioned to protect and save harmless the City of Comer and the Comer City Council from all claims and damages for cleaning and repairing any City road for damage by the applicant/operator. A bond will be required for each separate operation.
  
- (b) Multiple Operations: An existing bond may be used by an applicant for more than one operation provided there are no violations on any of the operations and provided further that no more than three operations shall be covered by the same bond. Any such additional operations that may continue longer than thirty (30) days shall be subject to a separate bond.
  
- (c) Forfeiture of Bond: (1) Such bond or a necessary portion thereof may be forfeited to reimburse the City of Comer for reasonable expenses incurred in repairing any damages caused by an operator; (2) Upon completion of the operations and inspection by the Director of Public Works, at the request of the applicant, the bond shall be returned to the applicant less a deduction for repairs that are reasonably required under this Ordinance.
  
- (d) Restriction of Future Operations: No permit shall be issued to any applicant who has failed to satisfy any bonding requirements imposed upon persons engaged in the kind of work or activity proposed to be done or who has not satisfactorily completed repairs and clean-up from any previously approved site for said applicant's agents.

**SECTION 34-406. DISPLAY OF PERMIT:**

It shall be the duty of any operator hereunder to post the permit issued in a conspicuous place at the work site. It shall be unlawful for any person to exhibit a permit at or about any location not covered thereby, or to misrepresent the number of the permit or the date of the expiration of the permit.

**SECTION 34-407. EXEMPTION FROM BONDING REQUIREMENTS:**

Small and limited operations of less than a total of three (3) tons in load using existing driveways may be exempted from the bonding requirements of this Ordinance within the reasonable discretion of the Director of Public Works.

**SECTION 34-408. LIABILITY FOR DAMAGES AND ARBITRATION:**

- (a) Liability: Any provisions of this Ordinance notwithstanding, an applicant or operator shall be liable to the City of Comer for the full amount of any damages caused by said operations, the amount of bond notwithstanding.
- (b) Arbitration: In the event the parties cannot agree on the amount of damages, then the applicant shall have the right to request arbitration in writing. The City shall choose one arbitrator and the operator shall choose the second, both of whom shall be residents of the City of Comer. Together, the designees shall choose a third arbitrator who shall be a registered forester residing in Madison County or a County contiguous thereof. Within 30 days of their designation, said arbitration panel shall review the damages and render a decision, which shall be subject to appeal to the Superior Court of Madison County. The City of Comer and the operator shall share equally the expenses of reasonably compensating the arbitrators.

**SECTION 34-409. PROSECUTION AND PENALTIES:**

- (a) A person who violates this Ordinance may be prosecuted as provided in Title 15, Chapter 8 of the Official Code of Georgia Annotated [O.C.G.A. § 15-8-1 *et seq.*] and citations therefore may be issued by the Chief of Police of the City of Comer, Georgia or any of his deputies; or, by the Director of Public Works; or, by the Zoning Administrator, returnable to the Municipal Court of Comer, Georgia.
- (b) Upon conviction of a violation of this Ordinance, a person may be punished by a fine of not more than \$1,000.00, by imprisonment for not more than sixty (60) days, or by both.
- (c) Any such prosecution shall not prohibit the City of Comer from bringing a civil action to enjoin such violation; from forfeiting the bond (or any portion thereof) described hereinabove; nor from taking any other action allowed by law to enforce the provisions of this Ordinance.

**SECTION 34-410. SEVERABILITY:**

If any section, provision, or clause of any part of this Ordinance shall be declared invalid or unconstitutional, or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such individuality shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent that this Ordinance would have been adopted had such invalid portion not been included herein.

**SECTION 34-411. REPEAL OF CONFLICTING RESOLUTIONS OR ORDINANCE;  
SAVINGS CLAUSE:**

All ordinances or parts of ordinances in conflict with this ordinance, and not preserved hereby, are hereby repealed.

**SECTION 34-412. EFFECTIVE DATE:**

This Ordinance shall become effective immediately after its passage and approval in the manner prescribed by law.

Passed and approved this 5th day of March, 2002, at a meeting of the Mayor and Council of the City of Comer, Georgia.

On File  
William Burroughs , City of Comer

Attest:

On File  
Steve Sorrells, City Clerk

Approved as to Legal Form:

On File  
Victor Y. Johnson, City Attorney