



Ordinance No. 2017-02

Establishing a permit process, rules, and regulations for logging or timbering activity within the City limits of Fort Payne, Alabama

BE IT ORDAINED BY THE CITY COUNCIL, AS THE GOVERNING BODY OF THE CITY OF FORT PAYNE, AS FOLLOWS:

- Section 1. That Ordinances 2016-05 and 2016-09 are hereby rescinded and repealed in their entirety.
- Section 2. Permit required; Prior to engaging in any logging or timbering activity within the City limits of Fort Payne, Alabama, in addition to the required appropriate business license(s), any entity therein must acquire from the Fort Payne Inspections Department a permit to conduct said activity.
- Section 3. Definitions and Exceptions:
- a) Logging or timber harvest shall be, and hereby is, defined as cutting and/or removing of any timber for any commercial purpose, including the sale thereof.
 - b) The removal of trees for other purposes, for example, construction of new residences, clearing sight lines, etc. which meet current zoning regulations is not considered logging or timber harvest, even if incidental thereto said timber removed is sold.
 - c) The provisions with regard to cutting in a slope area shall not apply to emergency situations such as storm damage, diseased or infestation of the forest which shall cause the death of the timber.
- Section 4. That, upon application for permit, the following rules and regulations govern the issuance of such permit:
- a) That, at the time of the application for said permit, a non-refundable fee of Fifty Dollars (\$50.00) shall be paid to the City of Fort Payne.
 - b) That a plat and legal description of all properties upon which any logging or timbering activity shall be conducted shall be filed with the City of Fort Payne Inspections and Zoning Department.
 - c) That the entity engaging in said logging or timbering activity shall provide to the City of Fort Payne proof that the operation shall be covered by general liability insurance with a minimum of One Million Dollars (\$1,000,000) coverage.
 - d) That the operator applying for said permit shall be PLM certified.
 - e) That the permittee shall identify each and every mill including the name, address, and phone number thereof, that shall be receiving timber.

- f) That the City of Fort Payne may, at any time, enter upon such land during the course of the operation to determine whether or not all regulations hereinafter set forth are being complied with.
- g) That the City may, at its option, employ a registered forester for inspection of the property and the cost of employment, on a case by case basis, for said forester shall be taxed to the operator under the permit.
- h) That the failure of the holder of said permit to comply with any of these regulations shall result in the revocation of the permit and immediate cessation of operations.

Section 5. Rules and Regulations for operations under a permit:

- a) That all persons operating under a logging or timbering permit shall comply with the "Best Management Practices" as promulgated by the Alabama Forestry Commission, as updated.
- b) Slope area is defined as follows:
 - i. Any and all properties located on the western slope of Lookout Mountain, being from the top brow of Lookout Mountain to the foot of said mountain.
 - ii. Any slope exceeding 40%, i.e. a rise of 40 feet or more per one hundred feet of run.
- c) In a slope area, cutting or harvesting of trees shall be limited as follows:
 - i. Said area may be select cut only, and no tree shall be harvested or cut which is less than 12 inches in diameter, to be measured 4.5 feet above the undisturbed ground from the highest point of said ground which is contiguous to the tree.
- d) That there shall be filed a cutting plan approved by a registered forester assigned by the City. Any trees pre-approved by said forester for cutting ancillary to the cutting of qualified timber shall not be subject to the timber or logging operation or any penalties under this section, and may be sold.
- e) That any applicant for a permit who has been previously convicted of a violation of this ordinance shall not be eligible for the issuance of such permit.

Section 6. Bond:

- a) Any permittee conducting logging or timbering operations within a slope area of City of Fort Payne shall, prior to the issuance of said permit, post a bond for the purpose of ensuring the repair or replacement of any City streets or roads damaged by the operation.
- b) That the amount of said bond shall be determined by the City of Fort Payne Public Works Director based on the age, design, or construction of said street or road, the weight and volume of vehicles anticipated by said logging operations, and the potential damage to said roads or streets.
- c) The bond shall be 150% of the anticipated or potential damage to said roads or streets.

- d) Said bond shall be in the form of a letter of credit from a federally insured financial institution and payable upon demand, to the City of Fort Payne, for repair of damages, etc.
- e) If any portion of the road is required to be entirely replaced due to damage done by the logging or timbering operation, that road shall be replaced in a manner which complies with current sub-division road installation regulations of the City of Fort Payne, and the cost thereof shall be taken from the bond.

Section 7. Penalties:

- a) Each day of failure by a permit holder to operate within the guidelines, rules, and regulations of this ordinance shall be considered a separate offense.
- b) Each tree cut or harvested in violation of this ordinance shall be considered a separate offense.
- c) That each offense shall be subject to a fine of not less than Two Hundred Fifty Dollars (\$250) and not more than Five Hundred Dollars (\$500) and incarceration for up to six (6) months in the City jail.

Section 8. That all ordinances, or parts of ordinances, in conflict with this ordinance are hereby Rescinded and repealed.

Section 9. Severability:

- a) If any part, section, or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 10. That this ordinance shall take effect as provided by law, after passage, approval and publication.

THE ABOVE AND FOREGOING ORDINANCE WAS READ, ADOPTED, AND APPROVED on the 21st day of March, 2017 by the City Council of the City of Fort Payne, Alabama.

THE CITY OF FORT PAYNE BY:

ATTEST:

Brian Baine
Council President

Robert A. Parker
City Clerk