

ORDINANCE NO. 703

**AN ORDINANCE OF THE PARISH OF CLAIBORNE, STATE OF LOUISIANA,
CONCERNING DAMAGE TO ROADS AND BRIDGES**

WHEREAS, the Claiborne Parish Police Jury has previously enacted and adopted Ordinance 703 concerning damage to roads and bridges within the Parish Road System;

NOW, THEREFORE, BE IT ORDAINED by the Police Jury of the Parish of Claiborne, Louisiana, in a regular legal session convened on this 5th day of December, 2012, that the following Ordinance is hereby amended:

Chapter 82

ROADS AND BRIDGES

Article I. In General

Sec. 82-1. System of road administration.

Secs. 82-2 – 82-35. Reserved.

Article II. Damage to Roads and Bridges

Sec. 82-36. Definitions.

Sec. 82-37. Abusive use of parish roads and bridges prohibited.

Sec. 82-38. Exceptions to abusive use.

Sec. 82-39. Access Permits.

Sec. 82-40. Private Utilities.

Sec. 82-41. Penalties.

Sec. 82-42. Parish Road Fund.

Secs. 82-43 – 82-70. Reserved.

Article III. Prospecting for Minerals near Roads

Sec. 82-71. Parish consent required.

Sec. 82-72. Prohibited prospecting.

Sec. 82-73. Violation; penalty.

ARTICLE I. IN GENERAL

Sec. 82-1. System of road administration.

- (a) The unitary plan of road administration and the central purchasing procedure required by state law are hereby adopted.
- (b) In accordance with R.S. 48:755, a juror or jurors, unless acting as a body, shall be prohibited from giving direct orders to employees.
- (c) The police jury as a body or unit shall adopt policies and procedures, establish priorities, and otherwise direct the general road administration program for the parish.

Secs. 82-2 – 82-35. Reserved.

ARTICLE II. DAMAGE TO ROADS AND BRIDGES

Sec. 82-36. 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:

Access Permit shall mean written permission issued by the Police Jury to cross parish road rights-of-way to procure access to parish roads.

Right-of-way means that property, or interest therein, acquired for or devoted to a road or highway, which is adjacent to or alongside of the traveled road surface, exclusive of the roadway itself.

Road means that portion of the total parish right-of-way that is surfaced with either dirt and gravel, or bituminous material over which the general motoring public travels.

Sec. 82-37. Abusive use of parish roads and bridges prohibited.

(a) It shall be unlawful for any person to operate or cause to be operated any vehicle or equipment, or any combination of vehicles or equipment, on any parish road, parish right-of-way, or parish bridges if and when:

- (1) The use or repeated use of the vehicle or equipment results in the creation or deposit of mud or other foreign material of such volume or quantity on a road surface as impede the safe flow of traffic.
- (2) Lugged or tracked equipment, excluding road construction equipment, is used on a road to pull or push a vehicle. Use of such equipment is limited to occasions when loading or and unloading is necessary to reach areas for use or to use in scraping mud or debris from roads. Scraping mud or debris from roads shall be subject to the supervision of the road superintendent.
- (3) The use or repeated use of a vehicle or equipment results in any of the following, on parish-owned roads or rights-of-way:
 - a. The disturbance or displacement of soil or surface materials that, left unrepaired, would result in the erosion of the road or rights-of-way or impede the safe flow of traffic.
 - b. The leaving of any trash, litter or debris along a road or road right-of-way.
 - c. The damage or disturbance of road signs.

(b) Warning signs with visible names and addresses shall be posted by the owners or operators of the vehicles or equipment entering the road or road right-of-way.

Sec. 82-38. Exceptions to abusive use.

(a) Special circumstances may exist which allow exception to the unlawful acts specified in section 82-37. A person may operate on parish roads or rights-of-way in a manner in violation of section 82-37 if that person applies for a special permit in advance of the unlawful activity, and the permit is granted.

(b) Such permit shall be granted at a specified charge when the road superintendent, in his discretion, decides that the exception is justified by a bona fide need. Such permits shall be issued on a nondiscriminatory basis within 48 hours of receipt of such request and application.

(c) When such a permit is granted, it shall cover all conditions of temporary obstruction, passage and restoration of a particular road or right-of-way, or portion thereof, and shall be issued to the particular person responsible for such otherwise unlawful degradation of a road or road right-of-way.

(d) If a permit is granted for an exception to an otherwise prohibited use, the following minimum standards shall be used by the person granted the permit.

- (1) Signs shall be placed to alert motorists to muddy conditions or road surface debris or displacement or other hazardous conditions wherever such conditions exist. Signs shall be posted at least 500 feet before the location of such abnormal road conditions on both sides of the area of such location.
- (2) Road signs shall be maintained in such condition as to allow the normal flow of traffic except during limited time periods, not to exceed ten minutes at a time, when vehicles or equipment are entering roads or cleaning road surfaces. Subsequent to any stoppage of the normal flow of traffic, the road shall be left open to the normal flow of traffic for 15 minutes.
- (3) Ditches shall be left clear of debris and temporary equipment, and the function integrity of all ditches shall be maintained after the conclusion of activities at a particular site. Activities shall be deemed to be concluded at a particular site if 30 or more days elapse without any bona fide operations at the site.

Sec. 82-39. Access Permits – Heavy Haulers.

(a) The Road Superintendent shall issue an Access Permit, at a scheduled cost to the applicant, to any person who applies for temporary access to a Parish road for a commercial operation, provided such a person is not in violation of this Ordinance. Such permit shall:

1. Be for duration not to exceed one (1) calendar year;
2. Apply to a particular access or provide for multiple, unspecified occurrences of access;
3. Contain an agreement by the Permittee that the Permittee will:
 - leave all Parish roads, ditches and rights-of-way free and clear of any debris, including mud accumulations;
 - avoid impeding drainage, and remove or reconstruct any crossing that causes scour or created blockage not later than one(1) business day from the date of a commercial operation is completed, or from the date the Road Superintendent issues an Order to Repair;
 - repair any damage at the Permittee's sole expense;
 - not conduct any commercial operation (other than procurement of access and transportation) on a Parish road or right-of-way;
 - notify the Road Superintendent within one (1) business day of any access or additional access to a Parish road, giving the location thereof; and
 - notify the Road Superintendent within one (1) business day of termination of such access.

(b) The Road Superintendent shall issue an Access Permit, or shall provide the basis for denial of any Access Permit, within one (1) business day from the date application. The Road Superintendent shall provide a Permittee with a map or list of Parish roads and a copy of this Ordinance.

(b) The Road Superintendent has the right to designate hauling routes under these conditions:

- The road being used is becoming to heavily damaged
- The road is being used as a cut-thru route when other routes are available
- Other companies are using the same routes

Once the route has been changed the haulers will become subject to the same penalties list in Sec. 82-41 of this ordinance.

Sec. 82-40. Access Permits – New Oil & Gas Explorations and Existing Work Over Rigs.

(a) The Road Superintendent shall enter into a Road Damage Remediation Agreement with any new OPERATOR that is in the business of drilling gas and/or oil wells and, in connection therewith, shall be engaged in drilling production activities on property identified on OPERATOR's Project Permit (Type I), for gas/oil well projects, which abuts or is adjacent to, and/or is accessed by Parish Maintained roadways with the PARISH. With such Agreement:

1. The OPERATOR shall provide the PARISH a cash or letter of credit bond for the sum of \$10,000.00 annually for any newly Permitted Well sites;
2. Regardless of the number of Permitted Well sites, the total cost of the OPERATOR cash or letter of credit bond provided to the PARISH shall be limited to a total cost of \$10,000 annually.
3. The cash or letter of credit bond of \$10,000.00 shall remain in effect and payable to the PARISH until the remediation construction is completed, the actual cost of the road damage remediation is determined including all engineering fees, material testing fees, etc. and the final accounting by the PARISH is completed.
4. The Road Damage Remediation Fee (either partial billing or final billing) is required to be paid in full within 30 days of the final bill. Failure to do so may result in cash or letter of credit bond being cashed in and it also may result in all Permits being cancelled. Once the fee is paid in full the PARISH will release the Bond and the OPERATOR from all requirements and obligations of the Project Permit (Type 1), for gas/oil well projects, by the PARISH.
5. The PARISH provides the OPERATOR the right to a hearing before the ROAD COMMITTEE of the PARISH in a situation where a dispute arises in the assessment of road remediation costs in regards to their operations. The dispute has to be in writing and hand delivered to the Secretary-Treasurer of the Parish at 507 West Main Street, Homer, LA. Any remaining unsettled disputes after the hearing shall be handled in accordance with Article 12 of the Road Damage Remediation Agreement.

(b) The Road Superintendent shall issue a Special Permit – Work Over Rig, at a cost of \$250 annually to the applicant, to any person who applies for temporary access to a Parish road for a commercial operation concerning such rigs, provided such a person is not in violation of this Ordinance. Such Special Permit shall:

1. Be for duration not to exceed one (1) calendar year;
2. Apply to a particular access or provide for multiple, unspecified occurrences of access to the same well location.

Sec. 82-41. Private Utilities.

Private utilities proposing to utilize parish roads, rights-of-way and bridges shall be governed by requirements as set forth in this section.

1. (a) In addition to the permit required by the police jury, private utilities shall be required to obtain a permit before installing any water system, sanitary sewer system, or any other bare utility system on parish roads and rights-of-way.

(c) Bonding or security, satisfactory to the Police Jury in an amount commensurate with the cost of proposed project will be required before work is started.

(d) A bond equal to the project costs plus 10% shall be required for any kind of work along the right-of-way that disturbs or affects any part of the Police Jury's right-of-way, road or bridge.

(e) All road crossings shall be bored. The cutting or dogging across a parish road is prohibited.
2. Installation of service lines, alterations or repairs to utility lines shall also require a permit. The utility company shall report locations of proposed work to the Police Jury prior to commencing work. The road superintendent or his designee has authority to designate the exact location for the utility servitude and the authority to resolve any disputes between utilities with regard to the location of their servitude.
3. All work shall be inspected by the Police Jury upon completion.
4. The private utilities shall be required to perform work in accordance with the permit. The private utility shall be responsible for any damage to existing utilities and shall bear the full cost of repair to the existing utilities in so far as the damage results from private utilities failure to follow the direction of the road superintendent or a failure to abide by conditions of this ordinance.
5. With reasonable notice from the Police Jury, private utilities, shall at their cost, remove and replace utilities to all the Police Jury to perform work on any of its roads, right-of-ways or bridges.

Sec. 82-42. Penalties.

Penalties for violation of this article shall be as follows:

- (1) Any owner or operator of any vehicle or equipment described in this article violating any provision of this article shall be guilty of a misdemeanor and shall be fined not more than \$175.00 on the first offense and not more than \$250.00 on the occasion of the second offense. On occasion of the third and all subsequent offenses of damaging parish roads, rights-of-way or bridges as described in this article, the violator shall be fined not more than \$500.00 or sentenced to the parish jail for a period not to exceed 30 days, or both.
- (2) In addition to the fine referred to in subsection (1) of this section, the owner and operator of such vehicle or equipment shall be obligated to pay to the police jury a service charge of \$250.00 or the actual cost involved in repairing parish roads or in the removal of mud, trash, debris or litter, which sum is greater, when the Police Jury removes mud, displaced or disturbed soil, or trash, litter or debris from any parish road or road right-of-way or repairs any parish road, as a result of a violation of this article.
- (3) No person shall be arrested, charged or prosecuted for violation of this article unless they are first warned by the parish road superintendent and given the opportunity to obtain compliance status. Failure to do so shall subject the violator to all penalties in this article. Failure to comply within three days shall create a presumption of intent to violate this article. This shall not act as a release for any damages caused. Any complaints by the general public must be directed to the parish road superintendent.

Sec. 82-43. Parish Road Fund.

All funds collected under this Ordinance are hereby appropriated to the Claiborne Parish Road Fund for use in repairing and maintaining Claiborne Parish roads and bridges.

Sec. 82-46 – 82-70. Reserved.

Sec. 82-44. Scheduled Cost of Access Permit:

Inside Parish – ***COST \$25.00 annually*** – payable by check or money order to the Claiborne Parish Highway Department.

Inside Parish defined as – any Parish or County whose boundary touches the boundary of Claiborne Parish, Louisiana.

The following parishes are defined as INSIDE PARISH – Webster, Union, Lincoln and Bienville.

The following Arkansas counties are defined as INSIDE PARISH – Columbia and Union.

Outside Parish – ***COST \$50.00 annually*** – payable by check or money order to the Claiborne Parish Highway Department.

Outside Parish defined as – any Parish or County whose boundary does NOT touch the boundary of Claiborne Parish, Louisiana.

All parishes and counties not defined as *Inside Parish* are defined as and considered as *Outside Parish*.

Sec. 82-45. Applications:

New applications – all applications for permits for new access permits (non-renewals) shall be filed with the Claiborne Parish Highway Department and shall be accompanied by a personal/company check or money order in the proper amount payable to the Claiborne Parish Highway Department.

Renewals – all applications for renewal of access permit shall be filed with the Claiborne Parish Highway Department on or before December 1 of each year, and the remittance must accompany the renewal application.

Full-year partial-year permits – a whole year's permit fee shall be paid and collected regardless of the date of issuance. All permits are valid from date of issue until December 31 of the year of issuance.

Penalty for failure to file for renewal – should any access permit holder fail to file his application for renewal of the access permit for any ensuing year on or before December 31 of each year, a penalty of shall be imposed of 25 percent of the amount due for the permit applied for.

Section 71. All other Parish ordinances, or any parts thereof, which are in conflict with the provisions of this Ordinance are hereby repealed.

Section 72. The effective date of this Ordinance shall be January 1, 2013.

Section 73. This Amended Ordinance was introduced by _____ at a regular meeting of the Police Jury held on November 7, 2012, and copies of the same were provided to all members of the Police Jury and the Parish President. The title of the proposed ordinance shall be published once in the official journal of the Parish of Claiborne, which said notice shall state that the Police Jury will consider its adoption at a regular meeting of the Police Jury scheduled for December 5, at 9:30 A.M., at which time for a public hearing shall be held on such amended ordinance. At said meeting, following the public hearing, this proposed amended ordinance shall be read by title and called for final passage and may be adopted by an affirmative vote of a majority of the members of the Police Jury.

THUS INTRODUCED at a regular meeting of the Police Jury of the Parish of Claiborne, Louisiana on December 5, 2012.

For: _____

Against: _____

THUS ADOPTED at a regular meeting of the Police Jury of the Parish of Claiborne, Louisiana on December 5, 2012.

/s/
SECRETARY-TREASURER

/s/
PRESIDENT
Claiborne Parish Police Jury