

# **USE OF HEAVY EQUIPMENT, MACHINERY, AND VEHICLES ON CITY ROADS AND RIGHT-OF-WAYS ORDINANCE**

## **A. SCOPE OF ORDINANCE**

1. This Ordinance shall cover any business enterprise, or commercial entity that uses a City road right-of-way in carrying out its business by loading materials of any nature whether on the pavement of a City right-of-way or crossing the unpaved portion of the right-of-way including ditches or embankments.

## **B. DEFINITIONS**

1. Industry, trade, or commerce shall mean any commercial activity conducted by an individual, partnership, corporation, or any other business enterprise whether or not conducted for pecuniary gain or profit.
2. Loading and unloading shall be defined in its everyday meaning but also shall include any activity known as harvesting or mining of any product or material.
3. Heavy equipment, machinery, and vehicles shall be defined in its everyday meaning.

## **C. NOTIFICATION REQUIRED**

1. All individuals, companies, or other business entities, prior to loading or unloading materials or using City right-of-ways for access to private property on City right-of-ways must provide the City Clerk with notice in writing and provide the following information:
  - a. The name, address, and phone number of the contractor or firm which will be loading or unloading;
  - b. The approximate location of access site to the City road;
  - c. Approximate date to commence work and the approximate completion date; and
  - d. The type of materials to be loaded or unloaded.
2. Upon notification, the Council member over the Street Department or his designee shall inspect the site to determine if a culvert is required along said City right-of-way and the size and length of culvert, if any is required. If a culvert is required, it shall be installed as directed by the Street Department and shall be installed at the expense of the firm or company.

#### **D. SURETY BOND**

1. The City Council shall be authorized to require the posting of a Surety Bond in the amount of \$1,000.00 by the company, corporation, or individual asking for an access point, or otherwise utilizing a City right-of-way for the purpose stated in this Ordinance. Said bond will remain in force until the conclusion of operation with the condition of access points and roads being found satisfactory as prescribed by this Ordinance.
2. In lieu of a Commercial Surety Bond, the individual, company or business entity may be allowed to post a property bond, as approved by the City Council; provided that the bond reflects a sufficient, solvent surety for the performance of the obligations required in this ordinance, in an amount of not less than \$1,000.00. The bond shall be conditioned upon the faithful performance of all requirements of this Ordinance, the violation of which shall authorize the forfeiture of such amount of the bond as may be required to repair any damage caused to any City road. However, the posting of a suitable bond shall not relieve the principal for any liability for damages over and above the actual amount of any such damages.
3. The Council in their discretion shall be authorized to waive the posting of a bond by any responsible individual or company maintaining an office or doing business in Wilkinson County or the City of McIntyre, Georgia having a net worth, exclusive of any indebtedness, in excess of \$1,000.00

#### **E. LOGGING OR PULPWOOD LOADING**

1. All logging or pulpwood loading operations shall be conducted at a loading site off the City right-of-ways and behind the established ditch line of the City roads.
2. Loading or skidding of materials, timber or logs will not be permitted on City road or City right-of-ways.
3. Ditches shall be kept clear of all debris or residue at all times to allow for proper drainage.
4. City roads, at the access site, shall be kept in a clean and serviceable condition at all times for the passing of public, emergency vehicles, school buses, mail carriers, etc.
5. Operators will use crush stone or some other material if required by the Council on access roads to prevent the transport or depositing of excessive amount of mud onto City roads.



## **F. SUSPENSION OF OPERATIONS**

1. The City shall have the authority to close down all operations when it is determined that the City roads and access sites are not being maintained. Upon suspension of operations by the City, the firm or company shall have five (5) days from the date of suspension to appeal the decision. The appeal shall be made in writing to the City Council of McIntyre.

Upon receipt of the written appeal, the Council shall have five (5) days to impanel an Arbitration Board. The Arbitration Board shall consist of three (3) people, one person selected by the Council, one person selected by the firm or company, and one person mutually agreed upon by the two persons selected. Once the Arbitration Board has been selected, the Arbitration Board shall have no more than thirty (30) days from the receipt of the letter of appeal in which to reach a decision. The decision of the Arbitration Board shall be final.

2. When the Council is advised that the operations have concluded, the Street Department shall inspect the site. If it is determined that the road and access site are not in proper state of repair, repairs shall be made and at the expense of the firm or company. The firm or company shall be notified in writing of the decision of the City.

Upon notification by the City, the firm or company shall have five days from the date of the notice to appeal the decision. The appeal shall be made, in writing, to the City Council.

Upon receipt of the written appeal, the Council shall have five (5) days to impanel an Arbitration Board. The Arbitration Board shall consist of three (3) people; one person selected by the Council, one person selected by the firm or company, and one person mutually agreed upon by the two persons selected.

Once the Arbitration Board has been selected, the Arbitration Board shall have no more than thirty (30) days from receipt of the letter of appeal in which to reach a decision. The decision of the Arbitration Board shall be final.

3. The Council, upon notification by the City Road personnel, shall be authorized to declare the surety bond forfeited, for the payment of any repairs or clean-up operations needed to place the City roads or right-of-ways in serviceable condition; however, the Council shall have all other legal remedies available to them to enforce compliance with this Ordinance, and the liability of any business enterprise is not limited to the amount of any bond.

1<sup>st</sup> Reading 7-20-04  
2<sup>nd</sup> Reading 7-20-04  
3<sup>rd</sup> Reading \_\_\_\_\_

Voted and approved on: \_\_\_\_\_