

CHAPTER 4: REVENUE AND FINANCE

Article 1: Taxation

4-101

Ad valorem tax

1. Rate of levy. There is hereby set and levied to meet the ordinary current expenses of the city an annual ad valorem tax of 5 mills upon all real and personal property within the city, and there is hereby set and levied for the payment and principal and interest on general obligation bonds an annual ad valorem tax of 5 mills upon all real and personal property within the city. Such levies shall be shown separately on all tax bills. 92-4101, 92-4004, 92-7501, and 69-6
2. Assessment and fair market value. All property subject to municipal ad valorem taxation shall be assessed at 40 percent of its fair market value. The basis for fair market value shall be 100 percent of the fair market value determined for the property by the county for county ad valorem tax purposes. 92-4004 & 92-5103
3. Appeal of assessment. Any taxpayer may appeal from an assessment by the county board of tax assessors to the county board of equalization as to matters of taxability, uniformity of assessment, and value, and the taxpayer or the county board of tax assessors may appeal to the superior court of the county in which the property lies from a decision of the county board of equalization. All such appeals shall be made in the manner provided in Chapter 92-69 of the Georgia Code Annotated.

4. When taxes due and payable. Ad valorem taxes shall become due on the first day of March 31st each year and shall be deemed delinquent if not paid within 30 days after said due date. Tax bills showing the assessed valuations, amount of taxes due, tax due dates, and information as to delinquency dates and penalties shall be sent to all taxpayers, at least 30 days prior to the due date, but failure to send a tax bill shall not invalidate any tax. Delinquent taxes shall bear interest at seven percent per annum from the due date.
5. Failure to pay tax. The city clerk shall forthwith issue an execution against any person who has defaulted in the payment of any ad valorem tax to be paid. The execution thus issued shall be a lien on all the property of such person, both real and personal, and shall be placed in the hands of the city officer responsible for collection by levy and sale.
6. Against whom charged. Taxes are to be charged against the owner of the property, if known, or against the specific property itself if the owner is not known. Life tenants and those who enjoy the use of the property are chargeable with the tax thereon.
7. Exempted property. The following property shall be exempt from ad valorem taxation:
 - a. all public property;
 - b. all places of religious worship and places of burial; and
 - c. all buildings used as a college, university, or other seminary of learning.

Malt beverage excise tax

1. Rate of levy. There is hereby set and levied on the sale of malt beverages within McIntyre an excise tax in the sum of five cents per twelve ounces and in similar proportion for bottles, cans, and containers of various sizes. 58-706.1
2. Against whom levied. The malt beverage excise tax is levied against and shall be paid by each licensed wholesale dealer in malt beverages in McIntyre.
3. Due date and required report. The malt beverage excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of malt beverages sold for the preceding calendar month by size and type of container.

Any tax remaining unpaid at the expiration of 15 days from the due date shall be delinquent.

4. Enforcement. The tax levied by this section may be enforced by execution in the same manner as other taxes of the city, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the business license of the delinquent taxpayer.

Alcoholic beverage excise tax.

1. Rate of levy. There is hereby set and levied on the sale of alcoholic beverages, excluding fortified wine, an excise tax in the sum of 80 cents per wine gallon and in similar proportion for bottles and containers of various sizes. 58-1038 & 32-203

2. Against whom levied. The alcoholic beverage excise tax shall be paid by each licensed wholesale or retail dealer in alcoholic beverages in McIntyre.
3. Due date and required report. The alcoholic beverage excise tax shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of, and payment shall be accompanied by a report itemizing the exact quantities of alcoholic beverages sold for the preceding calendar month by size of container.

Any tax remaining unpaid at the expiration of 15 days from the due date shall be delinquent.
4. Enforcement. The tax levied by this section may be enforced by execution in the same manner as other taxes of the city, and in addition, any failure of payment of such tax shall be grounds for revocation or refusal of the business license of the delinquent taxpayer.

4-104

Gross direct premiums tax

1. Rate of levy on life, accident, and sickness insurers. There is hereby set and levied for the year 1980 and for each year thereafter upon each company authorized to write life, accident, and sickness insurance and which is doing business within the corporate limits of the City of McIntyre an annual tax equal to one percent of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing within the corporate limits of the City of McIntyre. The term "gross direct

premiums" as used in this section shall have the same meaning as that used in Chapter 56-13 of the Insurance Code of Georgia as amended. The tax levied by this subsection is in addition to any license fee imposed by the Code of the City of McIntyre. 56-1310

2. Rate of levy on all other insurers. There is hereby set and levied for the calendar year 1980 and for each year thereafter upon each insurance company not taxed under the provisions of the preceding subsection 1 and which is doing business within the corporate limits of the City of McIntyre an annual tax equal to 1 percent of the annual gross direct premiums received during the preceding calendar year from policies insuring persons residing with the City of McIntyre. The tax levied by this subsection is in addition to any license fee imposed by the Code of the City of McIntyre.
3. Due date and required report. The gross direct premiums tax levied herein shall be due and payable upon the effective date of this code and then on the first day of March in each calendar year. Payment shall be made to the city clerk and shall be accompanied by a report showing the names and addresses of the agents representing the insurance company in the city, the classes of insurance written, the premiums received for each class, and such other reasonable information as may be required. The required report shall be made on forms prescribed by the city clerk and made out over affidavit of an officer of the company. Payments shall be deemed delinquent if not received within 45 days from the due date. 56-305

4. False information. It is hereby declared to be a violation of this section for any person, firm, corporation, or agents thereof to knowingly give false or incomplete information on any report herein required to be filed.
5. Confidentiality of information. All reports required to be filed under this section shall be confidential and the information contained therein shall be used solely by the officers of the city responsible for the administration of this section.
6. Enforcement. The taxes levied by this section may be enforced by execution in the same manner as other taxes of the City of McIntyre.

4-105

THIS SECTION RESERVED

4-106

THIS SECTION RESERVED

4-107

THIS SECTION RESERVED

Article 2: Municipal Bonds

4-201 Preliminary review by finance committee

Prior to any issue of bonds by the city, the proposal for such issue shall be referred to the standing finance committee, which committee shall give careful consideration to the proposal and submit a recommendation to the council for approval or disapproval, with applicable reasons therefor.

4-202 Bond ordinances

1. Contents of bond ordinances. Any bond ordinance introduced for adoption as provided in this section shall contain in substance the following:
 - a. an authorization for issuance of obligations, stating in brief and general terms sufficient for reasonable identification the purpose or purposes for which the obligations are to be issued, a statement of the estimated maximum amount of bonds or notes to be issued, and the estimated cost of such purpose or purposes, but related improvements or properties may be treated as one improvement or property;
 - b. a determination of the period of usefulness of the purpose according to its reasonable life computed from the date of the bonds or, if issued for several purposes, a determination of the average period of usefulness, taking into consideration the respective amounts of obligations authorized for the said several purposes.
 - c. a determination that the obligations authorized by the bond ordinance will be within the debt limitations prescribed by state law; and

- d. a statement of the aggregate cost of the improvement or property sought to be financed, which cost may include the following:
 1. interest on obligations until the end of the fiscal year in which the obligations are issued or until six months after the completion of construction or acquisition;
 2. architect's fees, accounting, engineering, and inspection cost;
 3. cost of issuing and selling obligations;
 4. legal expenses;
 5. preliminary planning expenses;
 6. test and survey expenses; and
 7. a reasonable proportion of the compensation and expenses of municipal employees in connection with the construction or acquisition of said improvement or property.
2. Procedure for adoption of bond ordinances
 - a. Introduction. All bond ordinances shall be introduced in writing at a regular meeting of the mayor and council, and at such meeting shall receive a first reading, which may be title.
 - b. Publication, hearing, and adoption. Any bond ordinance introduced as hereinabove provided shall be published after the first reading, together with notice of the date, time, and place set for further consideration and final passage. Such publication shall be at least ten days after introduction and first reading and at least seven days prior to the date for further consideration. At the time and place so advertised, or at any time and place to which such meeting or further consideration shall from time to time be adjourned, such bond ordinance may be read by its title, if:

1. at least one week prior to such date or further consideration, there shall have been posted, on a bulletin board or other place upon which public notices are customarily posted in the city,

a. a copy of such bond ordinance, and

b. a notice that copies of such bond ordinance will be made available during such week and up to and including the date of such meeting or further consideration to the members of the general public of the city who shall request such copies, naming the place at which the copies will be made available; and

2. such copies of said bond ordinance shall have been made available accordingly, but otherwise such bond ordinance shall be read in full. All persons interested shall then be given an opportunity to be heard, and the mayor and council shall proceed to amend the bond ordinance and thereupon finally adopt or reject it, with or without amendments.

c. Final adoption and publication. A bond ordinance shall be finally adopted by the recorded affirmative votes of at least two-thirds of the full membership of the city council, and thereafter shall be published in full in a newspaper of general circulation in the city.

3. Effective date of bond ordinances: A bond ordinance shall take effect twenty days after the publication thereof following final adoption.

Bond sales

1. Private sale--when authorized. All bonds shall be sold at public sale upon sealed proposals, except that bonds may be sold at private sales:
 - a. without any previous public offering
 1. if constituting all parts of and authorized issue of \$20,000 or less, or
 2. if sold to any board, body, agency, commission, instrumentality, district, authority, or political subdivision or any local unit, or of the state, or of the federal government; or
 - b. if no legally acceptable bid is received at advertised public offering, such bonds or any of them may be sold within thirty days after the advertised date for public bidding, provided, however, that no bonds shall bear interest at any rate of interest higher than the rate or maximum rate specified in the notice of sale, or contain substantially different provisions from those specified in said notice.

Any purchaser of bonds at private sale, other than a public body, shall deposit a certified or cashier's or treasurer's check drawn upon a bank or trust company in an amount equal to five percent of the amount of bonds purchased and such amount shall be applied as in the case of a deposit made at public sale. Any private sale of bonds as permitted hereunder shall be made or confirmed by resolution of the mayor and council adopted by not less than a two-thirds vote of the full membership thereof, such resolution shall set forth the date, maturities, interest rate, and price of the bonds and the name of the purchaser.

2. Publication of notice of bond sale. A public sale of bonds shall be advertised at least once at least seven days prior thereto in a newspaper of general circulation in the city and in a publication carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds and published in the State of Georgia.
3. Contents of notice of bond sales. A notice of public sale of bonds shall set forth:
 - a. the principal amount, date, denomination, and maturities of the bonds offered for sale;
 - b. the rate or rates of interest of maximum rate or rates of interest to be borne by the bonds;
 - c. the terms and conditions of public sale; and
 - d. such other provisions as may be determined by the mayor and council.
4. Procedure for public sale of bonds.
 - a. All bidders shall be required to deposit a certified or cashiers or treasurers check drawn upon a bank or trust company, equal to not less than two percent of the bonds to secure the city in part from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.
 - b. All bids for bonds shall be publicly opened and announced at the advertised time and place of sale. Such bids as comply with the terms of the notice of sale shall be considered, and any bid not complying with the terms of such notice may be rejected. All bids received may be rejected.

- c. Bonds of two or more issues may be sold on the basis of combined maturities, or the maturities of each issue offered for sale.
- d. Bonds may be offered for sale at a single rate of interest, or bidders may be requested to name single rate of interest, but no proposal shall be considered which offers to pay less than the principal amount of bonds offered for sale or which names a rate of interest higher than the lowest rate of interest stated in any legally acceptable proposal. As between proposals naming the same lowest rate of interest, the proposal offering to accept the least amount of bonds shall be accepted, the bonds to be accepted shall be those first maturing, and as between such proposals, the proposal offering to pay the greatest premium shall be accepted. The amount of premium bid for the bonds shall in no event exceed \$1,000 for the principal amount of bonds offered for sale. In order to effect the foregoing, a sufficient number of the last maturing bonds shall be of the denomination of \$1,000 or less.
- e. Bonds may be offered for sale at different rates of interest for the same issue or different rates of interest for different issues, or parts thereof, or bidders may be requested to name any such rates of interest. No proposal shall be considered which offers to pay an amount less than the principal amount of the bonds offered for sale or under which the total loan is made at an interest cost higher than the lowest net interest cost to the local unit under any legally acceptable proposal. Such net interest cost shall be computed in each instance by adding the total principal amount of bonds bid for, the total interest cost to maturity, in accordance with such bid and by deduction therefrom of the amount of premium bid, if any.

f. Additional terms or conditions of sale may be established by the mayor and council.

5. Sale of bonds at one time or in installments. Any issue of bonds may be sold at one time or in installments at different times. The maturities of an installment of bonds offered for sale--when combined with all maturities of the issue previously sold--shall be such as to comply with requirements as to maturities of a single issue of bonds. Any unsold part of an issue or installment may be sold notwithstanding that the maturities thereof, when considered alone, do not comply with such requirements.
6. Power of sale. The mayor of the city is hereby authorized and empowered to sell and award bonds in accordance with the advertised terms of the public sale. Such officer shall report in writing to the mayor and council at the next meeting thereof following such sale, which report shall indicate the principal amount, interest rate, and maturities of the bonds sold, the price obtained, and the name of the purchaser.
7. Attorney's fees. Any qualified and practicing attorney at law who renders services in connection with the issuance and sale of bonds for the city shall be compensated for such services in an amount not exceeding one-tenth of one percent of the amount of the bonds issued or proposed to be issued, provided that said fee shall not be less than \$50 nor more than \$100 with respect to one bond issue.
8. Application of proceeds. The proceeds of the sale of municipal bonds shall be applied only to the purposes for which such obligations were authorized. If, for any reason, any part of such proceeds are not necessary for such purposes, such part shall be used to pay any

outstanding obligations or to finance the cost of any other purpose or purposes which may be deemed proper by the mayor and council.

9. Prohibited agreements. In the issuance or sale of bond obligations, it shall be unlawful for the mayor and council or any member thereof or any official:
 - a. to pay or agree to pay, directly, any bonus, commission or fee, or any other compensation or consideration for the issuance or for the sale of such obligations, and any amount so paid may be recovered for the municipality;
 - b. to make any agreement with any purchaser or bidder, or his representative, regarding the deposit or disposition of any monies received or to be received from such sale and every such agreement shall be void;
 - c. to make any agreement pertaining to the sale of bond obligations which contains provisions as to any other matter, and such sale and any other such agreement shall be void;
 - d. to make any agreement or "service contract" with respect to publication of notice of sale and printing of bonds or notes, the providing of a legal opinion or for any other such services, whether or not accompanied by an offer to bid for or purchase such obligations. Any such agreement or contract shall be void and any amount so paid may be recovered for the municipality except, however, agreements made directly with a newspaper, bond printer, or an attorney licensed to practice law in the state in which he has his office.

A municipal bond dealer, banker, or financial expert may be engaged or employed as financial advisor to provide financial services in connection with the sale of bond obligations, including the preparation of a bidding circular or prospectus, but no such financial advisor shall purchase any such obligations at any public or private sale, but any such purchase shall not affect the validity of the obligations and the municipality shall recover any compensations and profit to such financial advisor resulting therefrom.

4-204 Bond records

A complete description of each bond issued by the city shall be kept by the city clerk in a suitable book, which book shall be open to public inspection during regular business hours.

4-205 Registration of bonds.

1. Application for registration. Any holder of a bond issued by the city may register such bond as to principal and interest, or as to principal only, by making written application for such registration to the city clerk and presenting the bond desired to be registered. Each application shall state (a) the number of bonds presented, (b) the issue, (c) the date, (d) the amount, (e) the date due, and (f) to what extent the bonds are to be registered; and each application shall be signed by the applicant who--if holding the bonds in any capacity other than for himself--shall sign the application in the name of the party for whose benefit he holds the bonds, state the capacity in which he signs, and attach proof of such capacity.
2. Bond register. A bond register shall be kept on file in the office of the city clerk in which, upon written application and presentation

of the bond by the holder thereof as hereinabove provided, shall be entered a description of each bond so presented. Such description shall state (a) the bond number, (b) the nature of the issue, (c) the face amount, (d) the date issued, (e) the date of maturity, (f) the rate and due dates of interest, (g) whether the bond is registered as to principal and interest or principal only, (h) the name and address of the bond holder, (i) the name of the person registering the bond, and (j) the capacity in which such person registered the bond. All bonds registered in compliance with this section shall be non-negotiable to the extent registered.

3. Statement of registration and form. Upon registration of any bonds as hereinabove provided, the city clerk shall stamp, print, or write upon each bond so registered a statement of the registration in the following form, inserting in the blanks the matter applicable to each transaction.

Registration by _____. Non-negotiable. Principal
(and interest) to be paid only to _____ located at
_____ or to his legal representative located at
_____. This ____ day of _____, 19__.

City of McIntyre _____
_____ City Clerk

4. Procedure for transfer after registration. In order to transfer any bond which may have been registered under the provisions of this section, the holder thereof shall present the same to the city clerk and shall authorize such transfer in writing, giving the name of the transferee, the number of the bond, of what issue, and the dates of issue and maturity. Such authority shall be signed and acknowledged

in his presence. In addition to giving such written authority, the holder shall enter a statement of the transfer on the face of each bond, properly dated and signed. Thereupon the city clerk shall enter the transfer of each bond opposite the original entry of registration in the bond register, giving the name of the transferee and date of the transfer, and shall enter the same on each bond over his official signature. The transferee may thereafter, in the manner herein prescribed, also transfer such bond.

4-206

Lost, destroyed, or defaced bonds

Lost, destroyed, or defaced bonds may be reissued in the form and tenor of the original obligations upon the mayor and council being supplied to its satisfaction with the following:

1. proof of ownership;
2. proof of loss, destruction, or defacing of the obligations;
3. adequate surety bond; and
4. payment of the cost or preparation of the new obligations.

All such new obligations shall be issued pursuant to resolution of the mayor and council setting forth the written request of the holder or owner--or his authorized attorney or legal representative--of the lost, destroyed, or defaced obligations and the date, maturity, interest rate, denomination, and numbers of such obligations, and the amount and term of the surety bond.

4-207

Disposition of bonds and coupons

Whenever the city clerk pays any bond or coupon of the city he shall forthwith stamp, print, or write upon such bond or coupon the word "PAID"

and shall notify the standing finance committee that he has in hand such cancelled paper, whereupon the finance committee shall take possession of the same after giving the clerk a receipt for the bonds and coupons. Such bonds and coupons shall be destroyed by the finance committee in the presence of the city clerk, who shall then make an entry to that effect on the receipt given him.

4-208

Sinking fund

1. Establishment. All taxes collected for the payment of principal and interest on city general obligation bonds shall be kept by the city treasurer as a separate fund to be known as the "sinking fund." Under no circumstances shall such fund be paid out by the city treasurer for any other purpose than for the payment of the interest and principal on the bonds for which it was collected or for the purpose of investment as provided by law and city ordinances.
2. Certification of amount. Prior to adoption of the annual budget, the face amount to be included in the sinking fund for the prospective fiscal year shall be certified by the city auditor as an amount sufficient to pay all principal and interest coming due in such fiscal year, and the sinking fund as certified shall be included in the annual budget.
3. Investment of sinking fund. It shall be and it is hereby made the duty of the city treasurer promptly to make arrangements for the investment of the sinking fund in the manner provided by law and, upon approval of such arrangements by the city council, promptly to make such investment. 87-504 and 87-7

Article 3: Budget

4-301 Fiscal year

The city shall operate on a fiscal year which shall begin on the first day of January and end on the last day of December.

4-302 Procedures for adoption of budget

The city budget shall be introduced, approved, amended, and adopted by ordinance passed by not less than a majority of the full membership of the city council. The procedure shall be as follows:

1. Introduction and approval. The municipal budget shall be introduced in writing by the mayor and initially approved no later than February 1st of the fiscal year. Upon initial approval by the city council, the council shall fix the time and place for the holding of a public hearing.
2. Public advertisement. The municipal budget shall be advertised after approval. The advertisement shall contain a copy of the budget and shall set forth the date, time, and the place of the hearing. It shall be published at least 10 days prior to the date fixed therefor in one or more newspapers of general circulation in the city.
3. Public hearing. The city budget shall not be adopted until a public hearing has been held thereon and taxpayers and all persons having an interest therein shall have been given an opportunity to present objections. Such hearing shall be held not less than 21 days after the initial approval of the budget at the time and place specified in the advertisement thereof, and may be adjourned from time to time until the hearing is closed.

The budget, as advertised, shall be read at the public hearing in full or it may be read only by its title if at least one week prior to the date of the hearing a complete copy of the budget shall have been posted in the city hall and shall have been made available to each person requesting the same during the previous week and during the public hearing.

4. Amendments

a. The city council may amend the budget during or after the public hearing, except that no proposed amendment shall be effective without such a hearing if it shall:

1. add a new item of appropriation in an amount in excess of one percent of the total amount of appropriations as stated in the initially approved budget; or
2. increase or decrease any item of appropriation by more than ten percent; or
3. increase the amount needed to be raised by taxes more than five percent.

b. Notice of hearing on any amendment shall be advertised at least three days before the date set therefor. Any such amendment must be published in full in the same manner as an original publication and must be read in full at the hearing and before adoption.

5. Adoption. The municipal budget shall be adopted not later than March 1st of the fiscal year. Upon adoption, the budget shall constitute an appropriation for the purposes stated therein and an authorization of the amount to be raised by taxation for the purposes of the city.

4-303

Budget message

When introduced to the city council for approval, the city budget shall be accompanied by a budget message which shall explain the budget both in fiscal terms and in terms of the work programs. The budget message shall outline the proposed financial policies of the city for the ensuing fiscal year; describe the important features of the budget; indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for the change; summarize the city's debt position; and include such other material as will provide a complete synopsis of the financial condition of the city.

4-304

Form and content of budget

The city budget shall be prefaced by a clear general summary of its contents and shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures for the ensuing fiscal year. It shall be so arranged as to show comparative figures for actual and estimated income and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. Separate items shall be included for at least the following:

1. administration, operation, and maintenance expenses of each department or office of the city, including a breakdown for salaries and wages for each unit;
2. interest and debt redemption charges;
3. proposed capital expenditures, detailed by departments and offices when practicable;
4. cash deficits of the preceding year;

5. contingent expenses in an amount not more than three percent of the total amount of administration, operation, and maintenance expenses; and
6. such reserves as may be deemed advisable by the city council.

The total proposed expenditures shall not exceed the total of anticipated revenue.

4-305

Capital program

A five-year capital program may be submitted to the city council at the same time that the budget and budget message are introduced for approval.

Such capital program shall include:

1. a clear general summary of its contents
2. a list of all capital improvements which are proposed to be undertaken for the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
3. cost estimates, method of financing, and recommended time schedules for each such improvement; and
4. the estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

4-306

Transfer of appropriations

The mayor may at any time during the fiscal year transfer part or all of any unencumbered appropriations balance among programs within a department or office, and the city council may by ordinance transfer part or all

of any unencumbered appropriation balance from one department or office to another, except that no appropriation for debt service or capital improvements may be reduced or transferred during any fiscal year, and under no circumstances may the expenditures exceed the total of the budget.

4-307 Emergency appropriations

Notwithstanding any other provision of this article, the city council may make emergency appropriations after the adoption of the budget, for a purpose which was not foreseen at the time of adoption thereof, or for which adequate provision was not made therein. Such an appropriation shall be made only to meet a public emergency affecting life, health, safety, property, or the public peace, and shall be made only out of actual unappropriated revenues or surplus. If there is no surplus, then temporary borrowing in notes may be made, provided that any such borrowed amounts are included as an appropriation in the next succeeding year's budget.

4-308 Lapse of appropriations

Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the next succeeding year to the extent that it has not been expended or encumbered.

An appropriation for capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Publication of financial statement

Within six months after the close of the fiscal year, a statement of revenues and expenditures--that fairly represents the financial condition of the city and that shows all municipal accounts as of the close of such preceding fiscal year--shall be published in a newspaper of general circulation in the city 69-317

CHAPTER 5: RECORDER'S COURT

5-101 Scope of jurisdiction

The recorder's court of McIntyre shall try violations of municipal ordinances and shall have the power and authority to impose fines upon persons convicted of said offenses, with the alternative of other punishment allowed by law if such fines are not paid. 69-704

5-102 Appointment and qualifications of judge

The judge of the recorder's court shall be appointed by and shall serve at the pleasure of the city council. No person shall be appointed unless he is a resident of the judicial circuit in which the court is located, is a member in good standing of the State Bar of Georgia, and has been actively engaged in the practice of law--either as an attorney or as a judge--for at least five years preceding his appointment. 69-704.1

5-103 Bailiff

The bailiff of the recorder's court shall be appointed by the mayor, by and with the advice and consent of the city council.

The duties of the bailiff shall consist generally of seeing that the courtroom is in proper condition for sessions of court, of assisting in keeping order while court is in session, and of doing such other acts of assistance as may be required of him by the judge of the court and the city clerk.

5-104

Record of cases

A record of all cases heard in the recorder's court for violation of this code or other municipal ordinances shall be kept in a suitable bound volume by the city clerk. Such record shall contain the name of the defendant, the nature of the offense charged, the final disposition of the case, and the date of final disposition.

5-105

Service of summons

Any persons charged with violating any city ordinance shall receive notice by service of a summons as herein provided. Such summons may be issued by the city clerk, the building inspector, or any police officer of the city. The summons shall be directed to the accused and shall distinctly state the offense charged, the time and place, as far as practicable, of the offense charged, and the day, hour, and place of trial, requiring the accused to appear before the judge of the recorder's court to answer the accusation made. Service of the summons shall be made by a police officer of the city either by serving the accused personally or by leaving a copy at his most notorious place of abode, except that in the case of a summons issued for violation of laws or ordinances relating to the parking of motor vehicles, such summons may be directed to an unknown person as owner of an automobile designated in the summons and may be served upon such person by leaving a copy in or attached to such automobile.

5-106

Subpoenas

The city clerk shall issue subpoenas for the appearance of all witnesses necessary for the prosecution or for the defense in any case pending before the recorder's court. All subpoenas shall be served in the same manner as a summons.

5-107

Failure to obey summons or subpoena

Any person who fails to appear at the time and place set out in any summons or subpoena served upon him shall be guilty of contempt of court and upon conviction thereof shall be punished for the same.

5-108

Arrest and bond

When a police officer has arrested any person for violation of any provision of this code or any city ordinance and a trial cannot be had immediately, the officer may take a cash bond not exceeding the maximum fine for the offense--or a bond with a good security--for the appearance of such person before the judge of the recorder's court. If such person fails or refuses to give a bond, the officer may confine him or her in the city jail until trial can be held, provided that the mayor, in his discretion, may release such person on his own recognizance without security.

5-109

Forfeiture of bond

Upon the failure of a person to appear in the recorder's court at the time and place fixed by the summons, the judge of said court shall enter a judgment of forfeiture on any cash bond, or, in the case of a security bond, shall pass a rule requiring the principal and surety on such bond to show cause on the date named therein--which date shall not be less than 10 days from the passage of such ruling--why they should not be required

to pay the amount of said bond. If no sufficient cause is shown, the judge shall enter judgment against the principal and surety for the amount of the forfeited bond and shall direct the city clerk to issue execution thereon.

5-110 Court cost

The costs which shall be charged against a defendant in the recorder's court in the event of his conviction shall not exceed \$10, which sum shall be paid into the city treasury.

5-111 Malicious prosecution

Whenever the judge of the recorder's court, after a fair and full trial, is satisfied that any case was frivolously or maliciously prosecuted, he shall assess the prosecution with the court cost and such punitive damages as he deems appropriate.

5-112 Collection of fines

When directed by the judge of the recorder's court, the city clerk shall issue executions for fines imposed by said court--including the cost--which executions may be levied upon any goods or chattels, lands, or tenements of the person so fined.

5-113 Appeal

Appeals from decisions of the recorder's court shall be taken to the superior court or state court of the count in the manner provided for the appeals from the court of probate.

CHAPTER 6: PUBLIC HEALTH & SAFETY

ARTICLE 1 6-100

6-101 Uniform Rules of the Road

1. Adoption by Reference. Pursuant to Chapter 6 to Title 40, Code Sections 40-6-372 through 40-6-376, Code Sections 40-6-1 to 40-6-371 of that chapter known as the Uniform Rules of the Road are hereby adopted as and for the traffic regulations of the City of McIntyre with like effect as if recited herein.
2. Penalties. Unless another penalty is expressly provided by law, every person convicted of a violation of any provision of this ordinance shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

CHAPTER 7: WATER SERVICE ORDINANCE

7-101 There is hereby created the office of Superintendent of Water-works who shall be appointed by the Mayor and Council; the Superintendent shall be responsible to the Mayor or his designee; and the Superintendent shall perform such duties as are prescribed by the Mayor and Council.

7-102 WATER SYSTEM - GENERAL

The City shall operate and maintain a water system for the health and welfare of it's citizens. The system is depicted on drawing filed at the City Hall. It consists of:

- 2 8' deep wells (1 serving as a spare)
- A 100,000 gallon storage tank
- Connecting and distribution lines to approximately 275 customers
- Chemical treatment facilities operated under D.N.R. guidelines and controls
- An automated electrical system for regulating water supply and chemical treatment

7-103 RULES FOR SERVICE

Every seperate dwelling unit of whatever kind (trailer, house, apartment, etc.) must have it's own meter and be considered a seperate customer - if that unit is to be tied into the McIntyre Water System. (Two exceptions to this rule were "Grandfathered" by the 1985 City Council - Melvin Langford's Trailer Park and Pete Brewer's Apartments. These units each pay as a minimum, the base water rate for each of the units under rental for that month, or any portion thereof, plus each of these establishments pay for water use, at established rates over the aggregate minimum . e.g. If Langford's Trailer Park had 8 units rented, the Park would pay a minimum for each unit. If the meter reading was above 8 X 5,000 gallons = 40,000 gallons, the Park would pay for the average at current rates.)

Potential customers who are moving into dwelling units not previously connected, or with no current piping and meter hook-ups to the McIntyre Water System, but who wish to be tied in to said system should come to City Hall and sign a request form which will also be dated and signed by a City employee.

7-103
cont.

At that time the potential customer must pay a connection fee to defray the City's expense of making the connection. Connection shall mean tying in to an existing water line, installing a reasonable amount of water line (approximately 40 feet or less), installing a valve, meter, and meter box. Going beyond the 40 feet is subject to negotiation and will likely become the expense of the customer. All material used to make a "connection" shall be selected by City employees.

- Customers moving into a dwelling unit with an existing operable connection must pay a deposit.
- Before the water is turned on to a customer - that customer must pay a deposit with City to protect against water bill payment default. If that customer asks for a disconnect and has all outstanding accounts paid, the deposit will be refunded.

7-104

RATES AND BILLING

Water meters will be read monthly by City employees, starting about the 20th of each month so that water bills can be sent out close to the first of the following month.

The monthly rates for water use are as follows:

- \$9.00 for water consumption from 0-5000 gallons
- \$0.70 per 1000 gallons (or \$0.07 per 100 gallons) for consumption from 5001 gallons to 10,000 gallons
- \$0.50 per 1000 gallons (or \$0.05 per 100 gallons) for use over 10,000 gallons

For bills not paid within 10 days of billing date there will be a \$1.00 penalty charge.

Ten days after the second billing, water service will be discontinued by locking out the meter valve.

If the customer wants water service reinstated, that customer must pay all due water bills in full and pay a \$30.00 penalty to reimburse the City for added costs. Only when these sums are paid will water service be reinstated.

7-105

WELL OPERATION

1. Set electrical selector switch and manually operated valves for whichever deep well pump is selected for running (only one at a time can be run).

2. Set the pump control pressure gages so that the pump starts when the level is down to about 15 feet on the level gage at the storage tank; and so it stops pumping when this same level gage reads about 45 feet. (This gage reads directly in feet of water.)

3. Test spare pump at least once per month to insure that it is electrically and mechanically ready to operate should the other one fail. Run this pump output to an outside drain during this test. Record and file dates tested and results.

4. Every 6 months run a "draw-down" check as follows:

- When neither deep well pump has run for at least one hour, measure the distance from the pump column collar to the surface of the water.

- After the pump has run for at least one hour, and with the pump still running, repeat the measurement from pump column collar to the surface of the water.

- The difference in these 2 measurements is called the "draw-down".

- Record these tests in a log book and report them to the state on forms they provide.

7-106

WATER TREATMENT

The two chemicals we must add in prescribed amounts are:

- Sodium Hypochlorite
- Soda Ash

An operating stock must be kept on hand at all times.

The electrical interlock system is such that the 2 chemical pumps that force feed solutions of the above 2 chemicals should be running if the deep well is running. (There is a switch location - "automatic" - to ensure this.)

A 60 gallon P.V.C. tank is provided for each chemical and a proper mix for each is achieved as follows:

- Sodium Hypochlorite (chlorine) - add 3 gallons of solution as received from the supplier to the proper empty P.V.C. chemical tank. Fill tank with water.

- Soda Ash - add 16 cups (4 dippers) of powder as received from the supplier to its proper P.V.C. chemical tank. Fill with water. Remove its pump suction hose and turn on the mixer provided for 3 minutes to dissolve the soda ash powder. Then turn off mixer, reinstall hose - being sure to clear hose of air.

On the first Monday of each month collect a special sample and send it to D.N.R. in the special container provided. They will test and send us a report of findings. These state reports should also be kept on file.

Once each day, when a deep well and the chemical pumps are running collect a representative water sample, from a different location each day, and check its chlorine (CL) reading with the gage provided. This reading should be 0.5 or slightly higher. If it reads lower than 0.5 add more sodium hypochlorite to the mixing tank and recheck a sample.

On this same daily sample check PH with the gage provided. It should read approximately 7.0. If it is much below 7.0 add more Soda Ash to mixing tank. If it is over 7.0 reduce Soda Ash being added (reduce pump speed). Recheck a sample.

7-107

OTHER RULES REGARDING WATER USAGE

- A. Water furnished by the City shall be used for consumption by the consumer, members of his household and employees only; the consumer shall not sell water to any other person or permit any other person to use the consumer's water.
- B. Where a meter box is placed on the premises of a consumer, a suitable place shall be provided by the consumer therefore which shall be unobstructed and accessible at all times to the meter reader.
- C. The City shall furnish and maintain a private cutoff valve on both sides of the meter.
- D. The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense, in a safe and efficient manner, and in accordance with the sanitary regulations of the State Health Department.

7-108

ACCESS TO CONSUMER'S PROPERTY

Duly authorized agents of the City shall have the right of access at all reasonable hours to the premises of the consumer for the purposes of installing or removing city property, inspecting piping, reading and testing meters or for any other purpose in connection with the water service and its facilities.

7-109

EASEMENTS

Extensions to the water system shall be made only when the consumer shall grant or convey or shall cause to be granted or conveyed to the City, a permanent easement or right-of-way across any property traversed by the water lines.

7-110

CONSUMER'S OBLIGATIONS WHEN VACATING PREMISES

Not less than 2 days' notice must be given in writing on forms provided at the City Hall, to discontinue water service or to change occupancy. The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longest. The new occupant will apply for water service within forty-eight (48) hours after occupying the premises and failure to do so will make him liable for a payment of the water consumed since the last meter reading.

7-111

TERMINATION OF SERVICE: GROUNDS

In addition to non-payment of charges, the City reserves the right to terminate service, without notice, for the following reasons:

- A. To prevent fraud or abuse

- B. The consumer's willful disregard of the City's rules.
- C. Emergency repairs
- D. Insufficiency of water supply due to circumstance beyond the City's control
- E. Legal processes
- F. Direction of public authorities
- G. Strike, riot, fire, flood, or accident of any unavoidable cause.

7-112 COMPLAINTS: EQUIPMENT TESTING; ETC.

- A. If a consumer believes his bill to be in error, he shall present his claim in person at the City Hall before the bill becomes delinquent; the claim, if made after the bill becomes delinquent, shall not be effective in preventing discontinuance of service as provided in this Chapter. The consumer may pay a bill which he believes to be in error under protest and the payment shall not prejudice his claim.
- B. If the seal of a meter is broken by other than the City's representatives or is stopped for any cause, the consumer shall pay an amount estimated from the record of his previous bills.
- C. In the event that a customer suffers a leak causing an inflated bill, the customer will be allowed to pay the amount of their previous months' bill. This provision may be exercised only once per twelve month period.

Chapter 22: Streets, Curbs, and Sidewalks

22-101

General regulations

1. Maintenance and repair of public streets. All maintenance and repair of public streets, alleys, curbs, sidewalks, and other public ways shall be under the supervision of the director of public works, which officer shall have the responsibility of enforcing all provisions of this code and all ordinances of the city relating to public ways.
2. Maintenance of property between sidewalks and streets. All persons who own real estate in the city which abuts upon any sidewalk which is paved shall be required to keep that portion of such sidewalk which lies between the property line and the curb line of the adjoining street, and upon which his real estate abuts, in good and smooth condition and free from growing weeds and other obnoxious and unsightly vegetation or other things which would mar or detract from the beauty and cleanliness of the street upon which their property abuts. Any property owner who shall place or allow grass to grow upon the portion of the sidewalk lying between the property line and the curb line of the street as aforesaid, and upon which his real estate abuts, shall keep such grass properly mowed and free from rubbish of all kinds. If such owners are not in possession of their property, then this section shall apply to their tenants or those who have possession or control of the same.
3. Defacing sidewalks, streets, and curbs. It shall be unlawful for any person to deface any public sidewalk, street, or curb in the city by

painting any signs thereon, whether for commercial advertising purposes or not, or to walk or drive any vehicle upon or injure in any way any newly laid street, sidewalk, or curbing pavement while the same is guarded by a warning sign or barricade or is soft or newly laid.

4. Obstructions. It shall be unlawful for any person to cause, create, or maintain any obstruction on any street, alley, sidewalk, or other public way, except as may be provided in this chapter or in the ordinances and laws of the city.
5. Deposits and discharges onto streets and sidewalks.
 - a. it shall be unlawful for any person to deposit on any street or sidewalk any material which may be harmful to the pavement thereof, or any waste material, or any glass or other article which may do injury to any person, animal, or property.
 - b. it shall be unlawful for any person to discharge or allow to be discharged on to any public street or sidewalk any water or other fluid material containing objectionable material such as sewage, waste milk, or other organic material.
6. Report of defects, obstructions, deposits, and discharges. It shall be the duty of every city officer and employee who becomes aware of any defect or obstruction, or of any unlawful deposit or discharge, in or on any public street, alley, curb, sidewalk, or other public way of the city to report the same to the director of public works as soon as possible.
7. Private use. It shall be unlawful for any person, firm, or corporation to use any street, sidewalk, or other public place as space for the

display of goods or merchandise for sale; or to write or make any sign or advertisement on any such pavement.

8. Encroachments. It shall be unlawful for any person to erect or maintain any building or structure which encroaches upon any public street or property, or to erect any poles or wires or maintain any poles or wires over any public place, street alley, or other public way, without having first secured a permit from the city clerk in the manner specified in this chapter.

9. Openings. It shall be unlawful for any person to construct or maintain any opening or stairway in any public street, sidewalk, or alley without first obtaining a permit from the city clerk in the manner specified in this chapter.

All such lawfully maintained openings shall be guarded by a suitable strong cover or railing approved by the director of public works.

10. Trees and shrubs.

- a. Planting and removal. It shall be unlawful for any person to plant, remove, injure, or cut any tree, bush, or shrub in or from any public street, parkway, or other public place without first obtaining a permit therefor from the city clerk in the manner specified in this chapter.
- b. Advertisements. It shall be unlawful for any person to attach any sign, advertisement, or notice to any tree or shrub in any public place.
- c. Dangerous trees. Any tree or shrub which overhangs any sidewalk, street, or other public place in the city in such a way as to impede or interfere with traffic or travel shall be trimmed by the

owner of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which is likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The director of public works may cause to be trimmed or removed any and all such trees or shrubs so that the obstruction or danger to traffic or passage shall be removed.

- d. Poles and wires. Any person or company which maintains poles and wires in the streets, alleys, or other public places of the city shall keep such wires and poles free and away from any nearby trees or shrubs in such places, and keep all such trees and shrubs properly trimmed, subject to the supervision of the director of public works.

- 11. Burning of leaves and rubbish. It shall be unlawful for any person, firm, or corporation to burn any leaves, paper, rubbish, or other substances upon any of the public streets, sidewalks, or alleys of the city.

22-102

Street construction and improvements

- 1. Council resolution. Whenever the improvement of any street or part thereof shall be deemed necessary by the mayor and council, a resolution stating the nature and location of the proposed improvement shall be declared and published once a week for three consecutive weeks in the newspaper in which the county sheriff's advertisements are published. If the owners of a majority of the lineal feet of frontage of the lands abutting on the proposed improvement do not within 15 days after the last day of publication of said resolution file with the city clerk a

written protest against such improvement, contracts for the work to be done shall be entered into and assessments and liens shall be fixed in accordance with the provisions of Chapter 69-4 of the Georgia Code, Annotated. 69-403 & 69-404

2. Permit required. It shall be unlawful for any person to construct or lay any pavement for or on any public street, sidewalk, curb, alley, or other public way, or to repair the same, without having first obtained a permit from the city clerk in the manner specified in this chapter.
3. Bond. Each applicant for a permit to construct or improve any pavement on any public street, sidewalk, curb, alley, or other public way shall be required to file a bond in the amount of \$1500 with surety to be approved by the city council, conditioned to indemnify the city from loss or damage caused by, or resulting from, the work undertaken.
4. Specifications.
 - a. In general. All street and sidewalk pavements and all curbing shall be laid in conformity with the specifications established or approved from time to time by the mayor and city council.
 - b. Curb ramping. The standard for construction of curbs on each side of any city street, or any connecting street or road for which curbs have been prescribed, shall have not less than one ramp per lineal block on the crosswalks at intersections. Such ramps shall be at least 40 inches wide and so constructed as to allow reasonable access to the crosswalk for physically handicapped persons.

5. Barricades. Any person, firm, or corporation laying or repairing any pavement on a street, curb, sidewalk, or other public place shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work, which barricades shall be protected by a light at nighttime.

22-103

Excavations

1. Permit required. It shall be unlawful for any person to dig up, break excavate, tunnel undermine, or in any manner break up any street, or to make or cause to be made any excavation in or under the surface of any street for any purpose, or to place, deposit, or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit from the city clerk in the manner specified in this chapter.
2. Excavation permit fee. The excavation permit fee to be collected by the city clerk shall be in an amount varying with the type of surface to be opened, dug, or excavated under the permit issued as follows:
 - a. on unpaved streets: \$10
 - b. on streets paved with oil or water-bound macadam: \$10
 - c. on streets paved with cement concrete base or cement concrete: \$10
 - d. on streets paved with asphalt concrete and bitulithic on broken rock: \$10

3. Surety bond. Each applicant for an excavation permit shall be required to file a surety bond with the city clerk in the amount of \$1000.

The required surety bond must be:

- a. with good and sufficient surety approved by the city council;
- b. satisfactory to the city attorney in form and substance; and
- c. conditioned upon the permittee's agreement to secure and hold harmless the city and its officers against any and all claims, judgments, or other cost arising from the excavation and other work covered by the excavation permit or for which the city, the city council, or any city officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned on the permittee's agreement to fill up, restore, and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the director of the public works, all openings and excavations made in public streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after said work shall have been done, usual wear and tear excepted, as it was in before said work shall have been done. Any settlement of the surface within said two-year period shall be deemed conclusive evidence of defective back-filling by the permittee, except that nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the city if such repairs should prove defective.

Recovery on such bond for any injury or accident shall not exhaust the bond, but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city's giving written notice to the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and its surety.

4. Routing of traffic. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions shall be maintained at all times as nearly normal as practicable so as to cause as little inconvenience as possible to the occupants to the abutting property and to the general public, provided that the director of public works may recommend the closing of streets to all traffic for a period of time if in his opinion it is necessary. The permittee shall route and control traffic, including its own vehicles, as directed by the city police department. The following steps shall be taken before any highway may be closed or restricted:

- a. The permittee must receive the approval of the director of public works and the police department.
- b. The permittee must notify the chief of the fire department of any street so closed.
- c. Upon completion of construction work the permittee shall notify the director of public works and the city police department before traffic is moved back to its normal flow so that any necessary adjustments may be made.

- d. Where flagmen are deemed necessary by the chief of police, they shall be furnished by the permittee at his own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the director of public works will designate detours. The city shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee, but in case there are not existing highways the permittee shall construct all detours at its expense and in conformity with the specifications of the director of public works. The permittee will be responsible for any unnecessary damage to any highways by the operation of its equipment.
4. Clearance for fire equipment. The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of materials or other obstructions.
5. Protection of traffic. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of materials of adequate size and strength to accommodate vehicular traffic safely; pedestrian crossings shall be of adequate thickness, width, and length, together with necessary blockings to assure safe passage by pedestrians.

7. Interference with utilities. The permittee shall not interfere with any existing utility without the written consent of the director of public works and the utility company or the person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the owner of the utility.

The permittee shall support and protect all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work. In case any of said pipes, conduits, poles, wire, or other apparatus should be damaged, they shall be repaired by the agency or person owning them, and the expense of such repairs shall be charged to the permittee, and the bond of same shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit, or other utility, and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

8. Protection of adjoining property. The permittee shall at all times, and at its own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property

it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain permission from the owner of such private property. The permittee shall at its own expense, shore up and protect all buildings, walls, fences, or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public and private property or highways resulting from its failure to properly protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be replaced. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as near as possible to that which existed before such work began.

The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property, the director of public works.

9. Sidewalk excavations. Any excavations made in or under any sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three feet wide and securely railed on each side so that pedestrians can pass over safely at all times.

10. Protective measures. The permittee shall erect such fence, railing, or barriers about the site of the excavation work as shall prevent danger to persons using the street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the

ordered by the director of public works, and in any event immediately after completion of said work, the permittee shall at its own expense cleanup and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the director of public works, said work may be done by the city and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided for hereunder.

15. Back-filling. Back-filling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug and in a manner consistent with sound engineering practices generally recognized in the construction industry.

16. Restoration of surface. The permittee shall restore the surface of all streets broken into or damaged as a result of the excavation work to its original condition in accordance with the specifications of the director of public works. The permittee may be required to place a temporary surface over openings made in paved traffic lanes and shall be required to exercise special care in making and maintaining such temporary restorations to assure safe traveling conditions until such time as permanent restorations are made.

Permanent restoration of streets shall be made by the permittee in strict accordance with the specifications prescribed by the director of public works.

Acceptance or approval or any excavation work by the director of public works shall not prevent the city from asserting a claim against the permittee and its surety under the surety bond required hereunder for incomplete or defective work if such defects are discovered within 24 months from the completion of the excavation work.

17. City's right to restore surface. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by the permit, the director of public works, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost, in addition, for general overhead and administrative expenses.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two years after restoring it to its original condition.

18. Prompt completion of work. The permittee shall prosecute with diligence and expediency all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the excavation permit.

19. Emergency work. In the event of any emergency in which a sewer, main, conduit, or utility in or under any street breaks, burst, or otherwise is in such condition as to immediately endanger the property, life, health, or safety of any individual, the person owning or controlling such sewer, main, conduit, or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of the property, life, health, and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the city clerk's office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit as herein provided.
20. Noise, dust, debris. Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable noise, dust and unsightly debris and during the hours of 10:00 p.m. to 7:00 a.m. shall not use, except with the express written permission of the director of public works or in the case of an emergency as herein provided, any tool or equipment producing noise of sufficient volume to disturb the sleep of the occupants of the neighboring property.
21. Inspections. The director of public works shall make such inspections as are reasonably necessary in the enforcement of the provisions of this section, and shall have the authority to promulgate and cause to be enforced such rules and regulations as may be required to enforce

and carry out the intent of this section.

22. Drawings. Users of subsurface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures including abandoned installations, and shall provide the director of public works with a copy of the same. Corrected maps shall be filed with such officer within 60 days after new installations, changes, or replacements are made.
23. Exemption. The provisions of this section shall not be applicable to any excavation work carried out under the direction of competent city authorities by employees of the city.

22-104

Driveways and curbs

1. Permit required. No person shall begin to construct, reconstruct, repair, alter, or grade any driveway, curb, or curb-cut on any public streets without first obtaining a permit from the city clerk in the manner specified in this chapter. 95A-942 to 95A-947
2. Fee. The permit fee shall be \$10 for the first 100 lineal feet or less of driveway, curb, or curb-cut to be altered, and \$1 for each additional 50 lineal feet or fraction thereof, except that when driveways, curbs, or curb-cuts are to be altered simultaneously, only one permit and fee shall be required.
3. Bond. The director of public works shall have the authority to require an applicant for a permit hereunder to file bond with his application conditioned to protect and save harmless the city from all claims for damages or injury to any persons by reason of the proposed alteration work.

4. Standards for issuance of permit. The city clerk shall issue a permit hereunder when he finds:
 - a. that the plans for the proposed operation have been approved by the director of public works, to whom such plans shall be forwarded by the city clerk within a reasonable time after receipt thereof;
 - b. that the work shall be done according to the standard specifications of the city for public work of like character;
 - c. that the operation will not unreasonably interfere with vehicular and pedestrian traffic and the means of ingress and egress from the affected and adjacent properties; and
 - d. that the health, safety, and welfare of the public will not be unreasonably impaired.
5. Supervision. All work for which a permit is granted hereunder shall be under the direction and supervision of the director of public works.

22-105

Procedure for the issuance of permits

1. Application. Every person required to procure a permit under the provisions of this chapter or any ordinance or law of this city relating to the subject matter of this chapter shall submit a written application for such permit to the city clerk. The written application shall state the following:
 - a. the name and address of the applicant;
 - b. the purpose for which the application is submitted;
 - c. the nature and location of any work proposed to be done and the name of the person or firm who is to do such work;

- d. the estimated cost of the proposed work; and
 - e. the date of commencement and the date of completion of the proposed work, and other dates or plans as may reasonably be required by the city clerk or the director of public works.
2. Permit fee. Unless otherwise provided, each application for a permit under this section shall be accompanied by a permit fee of \$10.
- a. Issuance of receipts. The city clerk shall issue a receipt to the applicant for the amount of the fee tendered with the application for a permit, provided that such receipt shall not be construed as approval of the application.
 - b. Rebate of fee. Upon the disapproval of any application for which a fee has been submitted under the provisions of this chapter, the city clerk shall refund such fee, provided that the applicant is not otherwise indebted to the city.
3. Review of application. Upon the receipt of the application for a permit under the provisions of this chapter, the city clerk shall forward such application to the director of public works, who shall approve or disapprove such application within seven days after receipt thereof. After indicating approval or disapproval on the application, the director of public works shall return the same to the city clerk.
4. Issuance of permit. Upon the receipt of an approved application from the director of public works, the city clerk shall issue a permit to the applicant, which permit shall state the nature of the work to be done or activity to be carried out and bear the date of issuance and the signature of the city clerk.

5. Display of permit. It shall be the duty of any permittee to keep the permit issued to him in a conspicuous place at the site of the work or activity to be engaged in. It shall be unlawful for any person to exhibit such permit at or about any location not covered thereby, or to misrepresent the number of the permit or the date of expiration of the permit.
6. Limitation on issuance. Notwithstanding any other provision of this section, no permit shall be issued to any applicant therefor who has failed to satisfy any bonding requirements imposed upon persons engaged in the kind of work or activity proposed to be done or carried out by such applicant.