

CHAPTER 1

PUBLIC PROPERTY

SECTION:

4-1-1: Injury to Public Property

4-1-2: School District Property; Use of

4-1-3: Private Use of Public Property

4-1-1: **INJURY TO PUBLIC PROPERTY:** (See also Section 4-2-6-4 of this Title). It shall be unlawful for anyone to injure, deface or interfere with any property belonging to the City without proper authority from the City Council. Any person violating the provisions of this Section shall be subject to penalty as provided in Section 1-4-1 of this Code.

4-1-2: **SCHOOL DISTRICT PROPERTY; USE OF:**

- A. The use of property in the City owned by the Pekin Public Schools District No. 108 and Pekin Community High School District No. 303 shall be restricted after sunset to authorized individuals and groups. Use of the Pekin Public Schools District No. 108 and Pekin Community High School District No. 303 by unauthorized individuals and groups after sunset is strictly prohibited.
- B. Groups who have not received permission in writing from the appropriate Board of Education, being either the Board of Education of the Pekin Public Schools District No. 108 or Pekin Community High School District No. 303 or appropriate Board's duly appointed agent, to be on school property or in any building owned by the District at least five (5) days prior to the beginning of the activity. Such permission may be denied for any use that endangers life or health, gives offense to the senses, violates the laws of decency or obstructs the reasonable and comfortable use of property in the area including, but not limited, to Pekin Public Schools District No. 108 and Pekin Community High School District No. 303 property and adjacent land to such property. Employees or officials of Pekin Public Schools District No. 108 and Pekin Community High School District No. 303 acting in their official capacities are excepted from this Section.
- C. **Loitering on Public School Property:** It shall be unlawful for any person or persons to loiter on the premises of any public school property in the City, and it shall be unlawful for any person or persons so loitering to fail or refuse to leave immediately such school premises upon the receipt of the principal or any other person in charge thereof.
- D. Violations of any provisions of this Section shall be punishable as provided in Section 1-4-1 of this Code.

4-1-3: **PRIVATE USE OF PUBLIC PROPERTY:** It shall be unlawful for any person to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale or to write or mark any signs or advertisements on any such pavements.

CHAPTER 2

STREETS, SIDEWALKS AND PUBLIC WAYS

SECTION:

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- 4-2-6- 6: Poles and Wires
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- 4-2-6- 9: Barbed Wire or Electric Fences
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- 4-2-7: License Agreement to Traverse Private Property
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- 4-2-9: Sidewalks in Need of Repair

4-2-1: **SUPERVISION:** All public streets, alleys, sidewalks and other public ways in the City shall be under the supervision of the Superintendent of Streets. He shall be charged with the enforcement of all ordinance provisions relating to such public places (except traffic ordinances) and is hereby authorized to enforce such ordinances.

4-2-2: **CONSTRUCTION REQUIREMENTS:**

A. Permit Required:

1. Street Openings: That no public street may be cut or opened except by a licensed contractor who shall first have obtained a permit for same. In all places in this ordinance, the term street shall also include alleys.

2. Openings or Stairways: It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the City Council. All such lawfully maintained openings shall be guarded by a suitable strong cover or a railing approved by the Superintendent of Streets.

B. Obtaining Permits; Fees:

1. Franchise Utility Companies and Licensed Sewer Contractors: The permit for said cut or opening shall be obtained from the City of Pekin Department of Inspections and Code Enforcement, after first having paid a fee for street opening, or cut, in the amount as set forth below. Said fee shall cover the cost of inspection. Franchisees may pay said fees on a quarterly basis upon compliance with reporting requirements established by the Department of Public Works. A permit may be denied to any contractor who has previously failed to comply with 4-2-4-1 of this Code.

a. Maintenance and excavation opening permit for replacement or renewal/removal of facilities:

i. Open cut street or alley (up to 3 feet width): \$30.00 per fifteen lineal feet.

ii. Open cut street or alley (3 feet to 6 feet width): \$60.00 per fifteen lineal feet.

iii. Open cut street or alley (more than 6 feet width); \$1.00 per square foot.

b. Patch replacement permit: 2 ½ the normal street opening fee. This fee will be waived if permit process initiated prior to notification of patch failure by the City.

c. Repair permit for failed areas outside the original patch resulting from utility failure: 2 ½ times the normal street opening fee.

2. Utility Companies Without a Franchise Agreement: The permit for said cut or opening shall be obtained from the City of Pekin Department of Inspections and Code Enforcement, after first having paid a fee for said street opening, or cut, in the amount as set forth below. Said fee shall cover the cost of inspection. A permit may be denied to any contractor who has previously failed to comply with Section 4-2-4-1 of this Code.

a. Maintenance and excavation opening permit for placement or renewal/removal of facilities;

i. Open cut street or alley (up to 3 feet width): \$60.00 per fifteen lineal feet.

ii. Open cut street or alley (3 feet to 6 feet width): \$120.00 per fifteen lineal feet.

iii. Open cut street or alley (more than 6 feet width); \$2.00 per square foot.

b. Patch replacement permit: 2 ½ times the normal street opening fee. This fee will be waived if the permit process is initiated prior to notification of patch failure by the City.

c. Repair permit for failed areas outside the original patch resulting from utility failure: 2 ½ times the normal street opening fee.

3. Any permit fee charged pursuant to subsections 1 and 2 of this Section 2B shall be trebled if the application for permit is submitted to the City within one year after inspection and acceptance by the Public Works Director or his representative of a new or reconstructed street or alley.

- C. Compliance with Specifications of City Council: All street and sidewalk pavements shall be made in conformity with specifications laid down or approved from time to time by the City Council.

4-2-3: **BOND:** Each applicant shall file a bond with surety and amount to be approved by the City Council, conditioned to indemnify the City for any loss or damage resulting from the work undertaken or the manner of doing the same.

4-2-4: **DEFECTS, REPAIRS:**

- A. Reports of Defects: It shall be the duty of every City officer or employee becoming cognizant of any defect in any street or alley or sidewalk, or any obstruction thereof, to report the same to the Superintendent of Streets as soon as possible.
- B. Repairs Required: All public streets, alley and sidewalk pavement shall be kept in good repair. Such repair work, whether done by the City or by the abutting owner shall be under the supervision of the Superintendent of Streets.

4-2-4-1: **STREET OPENING REPAIRS:** The permittee must repair the area affected by the disruption of the street surface and subsurface to a condition equal to or better than the surrounding street surface and maintain the area affected by the disruption until such time as the street, sidewalk or other area is either rebuilt or overlaid. The permittee must further repair or remove and replace any street or other surface scarred by work performed pursuant to this paragraph. All repairs shall be inspected and approved by the Superintendent of Streets upon completion. If a repair is not approved by the Superintendent of Streets, it must be repaired again to meet approval.

Restoration or repair of streets shall be in accordance with the "Standard Specifications for Water and Sewer Main Construction in Illinois," July, 1994, subject to the provisions in Subsection A and Subsection B following.

- A. If the excavation is less than ten (10) feet deep from the existing ground level to the bottom of the excavation, the restoration or repair shall be made as follows:
1. All street openings that are to be installed or repaired in the area of an existing or proposed pavement subgrade or where the inner edge of a trench for such conduits of closer than 2 feet to the edge of the existing pavement, stabilized shoulder, curb, gutter or sidewalk shall be backfilled with the following materials:
 - a. All trenches, structures, culverts, utility cuts and other work extending under pavement locations shall be filled with control low strength material (CLSM). No material excavated may be placed back in the excavation.
 - b. CLSM shall consist of one of the following mixtures:

Portland Cement	50 pounds
Fly Ash	200 pounds
Fine Aggregate (SSD Saturated Surface Dry)	2990 pounds
Water	49-57 gallons (as directed)

MIX NO. 2

Portland Cement	185 pounds
Fine Aggregate (SSD)	2990 pounds (SSD)
Air-Entraining Admixture	6 fluid oz.
Water	49-57 gallons (as directed)

These quantities will give an approximate yield of one cubic yard. The flowability of the mixture shall be observed by the Director of Public Works or his/her designee and the water content increased/decreased within the stated limits for Mixture No. 1 and the water content and the air-entraining admixture content increased/decreased as directed for Mixture No. 2.

The mixing of the CLSM shall be as specified in Section 803 of the Standard Specifications for Road and Bridge Construction adopted July 1994, by the Illinois Department of Transportation or as approved by the Director of Public Works.

c. All materials incorporated shall meet all requirements of the Standard Specifications for Road and Bridge Construction adopted July 1994, and more specifically the following or as approved by the Director of Public Works or his/her designee.

Water	702
Fine Aggregate	703 ASTM C 33
Portland Cement (Type 1)	718.19(b)
Fly Ash (Class C)	701
Air-Entraining Admixtures	718.01(b)

d. The CLSM must be free of frost prior to placement of any surface.

2. Areas that have been opened in existing pavement to facilitate the installation or repair of utilities shall be saw cut to provide a square edge with the existing pavement or if the existing pavement is brick, the edge may conform with the pattern of the bricks. All holes shall be temporarily patched with a minimum of 6 inches of bituminous cold patch mixture or shall be permanently patched as set forth below.

A permanent patch shall be constructed by October 15 following the installation of the temporary patch in the following manner: (a) if concrete, the same thickness of concrete as the existing pavement, but not less than 6 inches of PCC concrete; (b) if bituminous surface, 2 inches of bituminous cap and 6 inches of PCC concrete base, or if the pavement is full-depth bituminous 8 inches or greater, then bituminous of the same thickness as the existing bituminous; and (c) if brick, original materials or their equivalents.

B. If the excavation is greater than ten (10) feet deep from the existing ground level to the bottom of the excavation, the restoration or repair may be made as provided in Subsection A preceding, or shall be made as follows:

1. All street openings that are to be installed or repaired in the area of an existing or proposed pavement subgrade or where the inner edge of a trench for such conduits is closer than 2 feet to the edge of the existing pavement, stabilized shoulder, curb, gutter or sidewalk shall be backfilled with the following materials:

The top 10 feet shall comply with the CLSM requirements as provided in Subsection A, preceding. Below the initial 10 feet of CLSM, selected granular backfill materials for the repair of said openings shall consist only of sand, stone sand, crushed stone, or crushed gravel with gradations as specified in 20-2, 21C of the said Standard Specifications. This backfill material is to be placed and compacted in lifts not to exceed eighteen (18) inches and placed to within six (6) inches of the finished surface.

2. Areas that have been opened in existing pavement to facilitate the installation or repair of utilities shall be saw cut to provide a square edge with the existing pavement, or if the existing pavement is brick, the edge may conform with the pattern of the bricks. All holes shall be temporarily patched with a minimum of 3 inches of aggregate base course and 3 inches of bituminous cold patch mixture or shall be permanently patched as set forth below.

A permanent patch shall be constructed by October 15 following the installation of the temporary patch in the following manner: (a) if concrete, the same thickness of concrete as the existing pavement, but not less than 6 inches of PCC concrete; (b) if bituminous surface, 2 inches of bituminous cap and 6 inches of PCC concrete base, or if the pavement is full-depth bituminous 8 inches or greater, then bituminous of the same thickness as the existing bituminous; and (c) if brick, original materials or their equivalents.

3. The material for granular cradle for restoration of streets opened for the repair or installation of sanitary sewers, storm sewers or water distribution shall be stone, screening, crushed stone, pit run gravel, washed gravel, crushed boiler slag, or other granular material approved by the City or its representative and conform to gradations specified in said Standard Specifications.

C. If the permittee fails to repair in accordance with Articles 4-2-4-1 or 4-2-4-2, hereof after notification by the Superintendent of Streets, then the City may, at its option, repair or replace such portion of the street, sidewalk or other area and the permittee shall be liable for the City's reasonable costs, including labor, engineering and attorney's fees. Said notification shall be in writing and shall grant the permittee five days to repair or replace in accordance with these provisions before the City undertakes repair or replacement.

4-2-4-2: REPAIRS TO SIDEWALKS, SHOULDERS, CURBS & GUTTERS: All sidewalks, shoulders, curbs and gutter openings shall be restored to their original condition and with original materials or their equivalent. Said repairs shall be inspected and approved by the Superintendent of Streets upon completion.

4-2-4-3: NOTIFICATION AND PROTECTION OF THE PUBLIC - FINES AND PENALTIES:

- A. All franchisees, utility companies, and other users of the public ways for utility purposes shall barricade as necessary to respond to emergency situations involving or caused by their use of the public ways as directed by the Police Department or Street Department. If the emergency is discovered by the City and the City barricades, the user shall reimburse the City for its costs, including labor.
- B. All franchisees, utility companies, and other users of the public ways for utility purposes shall notify the Department of Public Works when they become aware of actual or potential structural damage to the public right-of-way or structures which is or may be caused by their installations.
- C. The Department of Zoning and Inspections shall be notified by each permittee of its schedule for backfilling and roadway repairs prior to commencing the work. Roadway repairs made without notification are subject to the fines listed in SECTION 4-2-4-3-I. and will require re-excavation and replacement in compliance with SECTION 4-2-4-1-A. or SECTION 4-2-4-1-B., as applicable. All franchisees, utility companies, and other users of the public ways for utility purposes shall supply the Department of Zoning and Inspections with proof the backfilling materials, i.e. CLSM tickets, within 7 days of the completion of the backfilling. The Department of Zoning and Inspections shall thereupon immediately provide to the Superintendent of Streets a list of locations of repairs.
- D. Franchisees, utility companies and other users of the public ways for utility purposes shall remove or repair all utility structures determined by the Director of Public Works to pose a threat to public safety within 24 hours after notification by the City.
- E. Failed patches shall be repaired within 24 hours after notification by the City.
- F. All temporary patches shall be converted to approved permanent patches by October 15 of each year.
- G. All test holes drilled in public ways shall be backfilled with CLSM, or compatible fill, capped with a permanent patch on the same day that the public way is patched. Within six (6) months after adoption of this ordinance, all unfilled test holes existing prior to the adoption of the ordinance shall be filled with CLSM.
- H. Franchisees, utility companies, and other users of the public ways for utility purposes shall use normally accepted treatment and precautionary measures to control water and ice on streets and sidewalks resulting from breakage or repair work. If such measures are not used promptly after notification by the city, the City may take such measures as it deems necessary to control water and ice and the user shall reimburse the City for its costs, including labor.
- I. Fines and Penalties:
 - 1. Violations of sections 4-2-4-3-A., B., C. and H. shall be subject to a fine of \$200.00 per violation.

2. Violations of sections 4-2-4-3-D., E., and F. shall be subject to a fine of \$200.00 per day per violation.

3. Violations of section 4-2-4-3-G. shall be subject to a fine of \$50.00 per day per hole.

4-2-5: **BARRICADES:**

- A. Required for Construction or Repairs: Any person laying or repairing any pavement on a street, sidewalk or other public place or making an excavation in any such place shall maintain suitable barricades to prevent injury to any person or vehicle by reason of the work; such barricades shall be protected by lights at night time.
- B. Defects: Any defect in any such pavement shall be barricaded to prevent injury; any person properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open by proper barricades and lights.
- C. Disturbing or Interfering With: It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk.

4-2-6: **PROHIBITED ACTS:**

4-2-6-1: **OBSTRUCTIONS:** It shall be unlawful for any person to cause, create or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by ordinance or by the Superintendent of Streets when necessary in an emergency or in connection with any lawful construction, repair or removal work. It shall be unlawful to obstruct any drain in any public street or alley.

4-2-6-2: **INJURY TO NEW PAVEMENTS:** It shall be unlawful to walk upon, to drive any vehicle or animal upon or to injure any newly laid street or sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft newly laid pavement.

4-2-6-3: **ENCROACHMENTS:** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street, alley or property.

4-2-6-4: **INJURY:** It shall be unlawful to injure any sidewalk, street or alley pavement. (See also Section 4-1-1 of this Title.)

4-2-6-5: **DEPOSITS ON STREETS AND SIDEWALKS:**

A. Streets:

1. It shall be unlawful to deposit on any street any material which may be harmful to the pavement thereof or any waste material or any glass or other articles which may do injury to any person, animal or property. (See also Section 8-1-8 of this Code).

2. Coal or other materials may be deposited in streets preparatory to delivery or use; provided, that such deposit does not reduce the usable width of the roadway at the point to less than eighteen feet (18'); provided, that such material or coal, other than material to be used in actual building construction, shall not be permitted to remain on such street for more than three (3) hours. Any such material or coal shall be guarded by lights if the same remains upon any street after sunset.

B. Sidewalks:

1. It shall be unlawful to deposit on any public sidewalk any material which may be harmful to the pavement thereof or any waste material or any glass or other articles which might cause injury to persons, animals or property.

2. Merchandise or other articles may be deposited on sidewalks preparatory to delivery; provided, that the usable width is not thereby reduced to less than four feet (4'), and provided, that no such article shall remain on such walk for more than one-half ($\frac{1}{2}$) of an hour.

4-2-6-6: **POLES AND WIRES:** It shall be unlawful to erect any poles or wires or to maintain any poles or wires over any public street, alley or other public way without having first secured permission from the City Council.

4-2-6-7: **GAS PUMPS:** It shall be unlawful to maintain or erect any gasoline pump or tank in any public street, alley or sidewalk.

4-2-6-8: **GAMES:** It shall be unlawful to play any games upon any street, alley, sidewalk or other public place where such games cause unnecessary noise or interfere with traffic or pedestrians.

4-2-6-9: **BARBED WIRE OR ELECTRIC FENCES:** (See also subsection 9-10-7-2B of this Code). It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire or with any similar material designed to cause injury to persons or any wire fence charged with electric current.

4-2-6-10: **BOULEVARDED STREETS:** Certain streets within the City including, but not limited to, Park Avenue and Valle Vista Streets, contain planted and/or seeded grass boulevard strips down the center of the said streets dividing the lanes of traffic on said streets. These planted and/or seeded strips are maintained for the beautification of the City and for better safety to traffic on such streets. It shall be unlawful for any person to drive any vehicle out upon, on, along, or across any such planted and/or seeded boulevard strip in any street within the City. Any person violating the provisions of this Section shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each such violation.

4-2-7: **LICENSE AGREEMENT TO TRAVERSE PRIVATE PROPERTY:**

A. Purpose: To eliminate the principal reservations of owners of real estate with respect to the use of their property by City personnel to access various ditches, drains and culverts for the purpose of maintenance, repair and other work.

B. The Superintendent of Streets is hereby authorized and may sign on behalf of the City a document known as the "License Agreement".

C. The License Agreement may provide as follows:

The license granted by this instrument is granted on the condition that if, in carrying out the above-described operations, any damage is done to the property of Owner(s), Licensee shall be liable for such damage and shall make reasonable compensation therefor; provided, however, that Licensee's liability shall be limited to the damage done. Licensee will exercise the privilege granted herein at Licensee's own risk, and agrees that Licensee will never claim any damages against the Owner(s) for any injuries or damages suffered on account of the exercise of such privilege, willful and wanton and intentional misconduct excepted, and Licensee will indemnify the Owner(s) against all liability for damages and expenses resulting from, arising out of, or in any way connected with, the exercise of the privilege by Licensee, and Licensee's assignees, permittees, or other persons entering the property at the invitation of Licensee.

Immediately following the maintenance, repair, and other work done on the ditch, drain, or culvert, the Licensee will cause to be removed from the property described above, all debris, surplus material, and construction equipment and leave the premises in a neat and presentable condition.

4-2-8: **PENALTIES:** Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code.

4-2-9: **SIDEWALKS IN NEED OF REPAIR**

- A. The Director of Public Works is hereby authorized to declare certain sidewalks in the City to be sidewalks in need of repair, based on the criteria set forth below. Upon finding that a sidewalk is in need of repair, the Director of Public Works, or his designee, shall mail a notice to the owner or owners of property touching the sidewalk in need of repair. The notice shall advise the owner that he must repair or contract for repairs of the sidewalk in need of repair within thirty days of the date of the mailing of the notice. The notice shall describe with particularity the location of the sidewalk in need of repair. The notice shall advise the owner that if he contracts for said repairs, that the City will reimburse 50% of the reasonable cost of said repairs. It shall further advise the party that the City reserves the right to determine that the charge is excessive, and if it so finds, that the City shall reimburse 50% of a reasonable price for said repairs. The notice shall advise the owner that in order to qualify for reimbursement, two (2) bids must be obtained from licensed and bonded contractors; reimbursement shall be based on the lower of the two (2) bids. The notice shall provide the owner with a name, address and telephone number of the designee of the Director of Public Works who shall be notified of any contract for repair entered into by the party receiving the notice.
- B. Notice to the owner of property shall be sufficient if mailed to the owner or owners as shown on the authentic tax records of the Tazewell County Clerk. The bill of costs shall also be mailed to the owner as shown on the authentic tax records of the County Clerk.
- C. In the event that within 30 days of the mailing of the notice, there is neither repair of the sidewalk in need of repair nor notice to the City that the party has contracted for repair of the sidewalk in need of repair nor the filing of an appeal with the City Manager, then the City may enter into a contract with a licensed and bonded contractor for the furnishing of the materials and the construction or repair of the sidewalk in need of repair. If an owner who receives a notice advises the City he has contracted for repair of the sidewalk in need of repair, and if no repair work is commenced within 60 days of the original mailing of the notice by the City, then the City may proceed in the same manner as if no response had been received within 30 days. The owner may waive the 30 day period and authorize the City to proceed with repairs immediately.
- D. The notice provided for above shall include the specifications and standards of construction for the sidewalk in need of repair, which standards are reflected in the City of Pekin Standard Specifications. The Director of Public Works or his designee may determine that different standards of construction are required to comply with a Historic Preservation requirement or other alternative construction material requirement.

- E. Whenever the City contracts with a licensed and bonded contractor for the furnishing of the material and the repair of the sidewalk in need of repair, the Director of Public Works, or his designee, shall cause a bill of costs of the sidewalk repair showing the cost of the repair and said bill of costs shall be sent by mail to the owner of the property touching the sidewalk in need of repair. The bill of costs shall clearly notify the addressee that 50% of the total cost of the repair shall be due and payable by the addressee within 30 days from the date of the mailing of the bill of costs. Said bill of costs shall further notify the addressee that after 60 days from the date of the mailing of the bill of costs, that interest shall accrue on the amount due at the rate of 10% per year and further advise the addressee that the amount due shall become a lien on said real estate if unpaid within 60 days of the date of the mailing of the bill of costs.
- F. (a) The cost of repair of the sidewalk in need of repair is a lien on the real estate touching the sidewalk in need of repair. The lien shall be superior to all prior existing liens and encumbrances, except taxes; the Corporation Counsel may file a notice of lien for the cost incurred by the City in the office of the Recorder of Deeds of the County. Upon payment of the cost, the lien shall be released by the Corporation Counsel.
- (b) The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced by the Corporation Counsel within three (3) years after the date of filing of notice of lien.
- (c) If the City's costs for repair of the sidewalk in need of repair are not paid, the Corporation Counsel may commence proceedings in Circuit Court seeking a personal judgment from the owner of the subject property. The action authorized by this subsection shall be in addition to, and without waiver of, any other remedies.
- (d) The owner shall be liable for the City's costs in recording the lien, which shall be \$50.00 plus the Recorder's fee.
- G. If more than one (1) lot, block, tract, or parcel of land touches the sidewalk in need of repair, then the Director of Public Works or his designee shall apportion the cost of the repair of the sidewalk in need of repair among them based on the amount of frontage each parcel has with the sidewalk in need of repair.
- H. Notwithstanding Section F above, if the property owner's share of repair exceeds \$200.00, then one half of the owner's share, or \$200.00, whichever is greater, shall be due within 60 days of the mailing of the bill of costs, and the remainder shall be due one (1) year from the mailing of the bill of costs, and if both payments are timely made, no interest shall accrue on the balance.
- I. Sidewalks in need of repair shall be determined by the Director of Public Works or his designee, according to the following criteria:
- (a) Height differential between slabs of 1.5 inches in commercial areas and 2 inches in residential areas.

- (b) The nature of the neighborhood where the sidewalk is located and the amount of traffic thereon.
- (c) The existence of holes, gaps between slabs, and spalling of concrete.
- (d) The potential of the area to become worse.

- J. The City Manager shall conduct a hearing on any appeal before the City contracts for the repair of the sidewalk. The City Manager shall consider evidence relating to the criteria enumerated in Subsection I of this Section. The City Manager shall render a written decision within 7 days of conducting a hearing and shall mail its decision to the property owner. In the event that the City Manager decides that the initial determination that the sidewalk is in need of repair was correct, then the property owner shall have 30 days from the date of the decision to repair or contract for the repair of the sidewalk. Should the homeowner fail to repair or contract to repair the sidewalk within 30 days of the City Manager's written decision, the City may proceed as authorized under this Section. In the event that the City Manager decides that the sidewalk in question is not in need of repair, then the City may not send a similar notice for at least one year, but the City may, if it so desires, repair the sidewalk and pay 100 percent of the repair cost.
- K. Nothing herein shall prevent the City from utilizing other methods, such as special assessments, to repair or construct sidewalks.
- L. Nothing herein shall be construed to create a duty of the part of the City to owners whose property touches sidewalks in need of repair, or to persons using said sidewalks, to do any of the acts set forth above.

CHAPTER 2

STREETS, SIDEWALKS AND PUBLIC WAYS

ARTICLE A. DRIVEWAYS

SECTION:

- 4-2A-1: Permit
- 4-2A-2: Repairs
- 4-2A-3: Specifications
- 4-2A-4: Grade Surface
- 4-2A-5: Penalty

4-2A-1: **PERMIT REQUIRED; FEE:**

- A. No person shall construct a driveway across any sidewalk in the City without having first obtained a permit therefor. Applications for such permits shall be made to the Superintendent of Streets and shall be accompanied by the fee required by subsection B of this Section.
- B. The fee for all such construction permits shall be five dollars (\$5.00).

4-2A-2: **REPAIRS:** It shall be the duty of the person maintaining a driveway to keep the same in good repair where it crosses the sidewalk and free from obstruction and openings.

4-2A-3: **SPECIFICATIONS:** Driveways across sidewalks shall be constructed in accordance with specifications adopted by the City Council. (See subsection 10-6-2I of this Code for subdivision improvement requirements.)

4-2A-4: **GRADE SURFACE:** (See subsection 10-6-2I of this Code for subdivision improvement requirements.) No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. It shall be unlawful to have the surface finish of any driveway constructed of such materials as to render it slippery and hazardous to pedestrians.

4-2A-5: **PENALTY:** Any person violating any provision of this Article shall be subject to penalty as provided in Section 1-4-1 of this Code.

CHAPTER 2

STREETS, SIDEWALKS AND PUBLIC WAYS

ARTICLE B. SUBSIDEWALK SPACE

SECTION:

- 4-2B- 1: Permit Required
- 4-2B- 2: Bond
- 4-2B- 3: Transfer of Permit
- 4-2B- 4: Compliance With Regulations Required
- 4-2B- 5: Safety Precautions
- 4-2B- 6: Uses Prohibited
- 4-2B- 7: Construction Requirements
- 4-2B- 8: Sidewalks Above to be Kept Clear
- 4-2B- 9: Liability
- 4-2B-10: Revocation
- 4-2B-11: Penalty

4-2B-1: **PERMIT REQUIRED:**

- A. Required; Issuance: It shall be unlawful to use any vault, space, room or structure under any street or sidewalk in the City, where the City has the power to control the use of such space, without having first secured a permit therefor as is herein required. Such permits shall be issued by the City Council and shall be signed by the Mayor and City Clerk. No such permit shall be transferred excepting in accordance with the provision of this Article.
- B. Application: Applications for a permit to use or maintain a vault, space, room or structure under any street or sidewalk in the City shall be made in writing to the City Clerk and shall state thereon specifically the size of the space intended to be used or maintained and the purpose for which it is to be used. Each application shall contain an agreement by the applicant to abide by the regulations contained in this Article.
- C. Permit Fee: A fee of twenty five dollars (\$25.00) shall be charged for each permit.

4-2B-2: **BOND:** Each applicant shall file with the application a bond in the sum of fifty thousand dollars (\$50,000.00), with surety approved by the Council conditioned to save the City harmless from any liability resulting from or caused by such vault, room or structure. Whenever in the opinion of the City Council the sureties on such bond become insolvent or unlawful, different sureties may be required by order of the Council.

4-2B-3: **TRANSFER OF PERMIT:** Whenever the premises abutting on any such vault, room or structure for which a permit has been issued shall be conveyed or whenever the interest or lease or right of occupancy of the person holding the permit shall be transferred or conveyed, the grantee or transferee must make application for a transfer of the permit to him or it and must furnish a bond as is required in the preceding section.

4-2B-4: **COMPLIANCE WITH REGULATIONS REQUIRED:** Any person using or maintaining any such vault, space, room or structure subject to the provisions of this Article shall comply with the provisions of this Article within ten (10) days after this Article comes into effect as an ordinance. The City Council may authorize the Superintendent of Streets to close up any vault, space, room or structure for which no such permit has been obtained.

4-2B-5: **SAFETY PRECAUTIONS:** All openings through the sidewalk or street into any such vault, space, room or structure shall be kept covered and guarded. If the opening is a manhole or trap door, an adequate, strong metal cover must be provided and must be equipped with a rough surface so that there is no danger of any pedestrian slipping on it. If a stairway is provided, the stairway must be properly guarded with a railing at least three feet (3') high to protect pedestrians from injury.

4-2B-6: **USES PROHIBITED:** No such vault, space, room or structure shall be used for the storage of explosives (See also Title 6, Chapter 8, Article F of this Code.) or flammable liquids (See also Title 6, Chapter 8, Article E of this Code.), nor shall a cesspool be located therein.

4-2B-7: **CONSTRUCTION REQUIREMENTS:** Such vaults, rooms, spaces or structures shall be firmly constructed so as to support the sidewalk or street over it or them, with the maximum load which the sidewalk or street will carry, with a margin of safety of fifty percent (50%) over its maximum load or weight.

4-2B-8: **SIDEWALKS ABOVE TO BE KEPT CLEAR:** The surface of the sidewalk over any such structure shall be kept free of snow and ice and free from all dirt and obstruction of any kind by the person holding the permit. Such person must keep the sidewalk over such structure in good repair.

4-2B-9: **LIABILITY:** Any person being the owner or occupant of any property with vault space or storage space of any kind in any street or alley shall protect the City from any claim of any kind arising by reason of the condition of the surface above said space.

4-2B-10: **REVOCATION OF PERMITS:** Any permit issued under the provisions of this Article may be revoked by order of the City Council for a violation of any of the provisions of this Article.

4-2B-11: **PENALTY:** Any person violating any of the provisions of this Article shall be subject to penalty as provided in Section 1-4-1 of this Code.

CHAPTER 2

STREETS, SIDEWALKS AND PUBLIC WAYS

ARTICLE C. SIDEWALK USE PERMIT

Section:

- 4-2C-1: Permit Required
- 4-2C-2: Application
- 4-2C-3: Regulations
- 4-2C-4: Enforcement

Ord. No. 2762-16/17 03/13/17

4-2C-1: PERMIT REQUIRED:

A. Required: It shall be unlawful for any person to operate an outdoor sidewalk use without first obtaining a Sidewalk Use Permit.

(a) A Sidewalk Use Permit would allow a business establishment located in the B-2, Central Business District to utilize a designated portion of the City sidewalk adjacent to their business establishment for the placement of tables, chairs, benches and other equipment to allow for the creation of outdoor seating and gathering areas.

(b) Any Sidewalk Use Permit issued pursuant to this Article may contain such written conditions as the City Manager or his designee, deems warranted to protect the use of adjacent right-of-way for its intended purpose or to prevent congestion of vehicular or pedestrian traffic flow and to otherwise carry out the purpose and intent of this Article and this Code.

(c) The Sidewalk Use Permit shall expire annually on December 31 of each year. There is no charge for the annual Sidewalk Use permit.

4-2C-2: APPLICATION:

A. Application for a Sidewalk Use Permit shall be made on forms supplied by the City and submitted to the Building Inspections / Development Department Director, and shall at a minimum include the following:

(a) The name, address and telephone number of the owner of the property and the business establishment related to the permit.

(b) A drawing or sketch depicting the dimensions of the proposed permit area and which shows the location and types of tables, chairs, benches, trash receptacles, other equipment proposed to be used and location of ingress and egress to the business establishment. The drawing or sketch must also show the location of all existing City-owned equipment facilities in or adjacent to the proposed area which are visible to the eye, including but not limited to, trees, street lights, utility poles, manhole covers or other openings.

(c) An operations plan specifying the proposed dates, days and hours of operation of the permitted sidewalk area, scheduled maintenance and upkeep of the permit area and the maximum seating capacity of the permit area.

(d) To protect the City from any claim of any kind arising as a result of the permit area, an executed waiver of liability in a form approved by the City shall be provided.

(e) All persons, prior to receiving a Sidewalk Use Permit, shall procure and maintain for the duration of the permit, public liability and property damage insurance pertaining to the permit area in a minimum amount of one million dollars (\$1,000,000.00) per person and one million dollars (\$1,000,000.00) in the aggregate per occurrence and property damage in a minimum amount of one million dollars (\$1,000,000.00), naming the City of Pekin, its officers and employees as additional insured, and the same shall provide that policy shall not terminate or be cancelled prior to the expiration date without thirty (30) days advance written notice to the City. Proof of such insurance issued by an insurance company licensed to do business in the State of Illinois in the form of a Certificate of insurance shall be attached to the application.

(f) All applications for a Sidewalk Use Permit shall be reviewed by the City to determine compliance with all requirements of this Article.

4-2C-3 REGULATIONS:

A. The following regulations would apply to all Sidewalk Use Permit areas:

(a) A sidewalk use area is permitted only on sidewalks or approved plaza areas. The permit area shall be immediately adjacent to the business establishment requesting the permit.

(b) A Sidewalk Use Permit allows for temporary placement of tables, chairs, benches, equipment and other items of personal property related to the business. Except for plaza area, all tables and chairs must be portable, meaning that no such furniture shall be chained together or bolted together as a unit or affixed to the outdoor wall or sidewalk surface. In plaza areas, outdoor furniture, tables and chairs may be secured to one another, however, may not be affixed or bolted to any public property.

(c) Tables, chairs, benches, umbrellas and other equipment shall be located so that there remains open, at all times, a longitudinal walking space of a minimum of four (4) feet in width.

(d) The permittee shall keep the permit area free of litter, cans, bottles and spills at all times. The permittee shall promptly collect and dispose of all litter, trash and other waste materials associated with the sidewalk use, including materials in the adjacent public right-of-way originating from the sidewalk use. The permittee shall dispose of any such waste in their own trash receptacles only and shall not dispose of any such waste in public trash receptacles.

(e) The hour when service is permitted at the sidewalk use area shall be the same as the hours of operation for the business establishment.

(f) If the permittee of a Sidewalk Use Permit decides to discontinue the use of the City sidewalk, the permittee shall remove all table, chairs, benched equipment and other items of personal property from the permit area. Any such items remaining upon the public right-of-way after a reasonable opportunity to remove the same may be removed of and disposed of by the City of Pekin at the sole cost and expense of the permittee.

4-2C-4: ENFORCEMENT:

A. Enforcement of the requirements of this Article shall be addressed in the following manner:

(a) The city may inspect the permit area at any time. Following an inspection of the permit area, the City will hand deliver and mail any inspection results to the permittee.

(b) Any violation of the provisions of this Article shall be remedied within the time given in the inspection report.

(c) Any permit issued under the provisions of this Article may be revoked by order of the City Council for violations of the terms or requirements of this Article and in the interest of the public health, safety and welfare. To the extent that a permit area is needed by the City for the purposes for which it was dedicated, or any other public purpose, the City may terminate the revocable use permit by sending written notice to the permittee and again assume full possession and control of the permit area. The permittee shall remove all furniture and items from the right-of-way within the time specified in the written notice. If the furniture and items are not removed by the permittee, the City shall be authorized to remove all furniture and other items of the permittee from the permit area. If such furniture and items are not reclaimed by the permittee within seven (7) days after removal by the City, the property shall be presumed abandoned and subject to disposal according to the law.” (Ord. No. 2833-19/20 05/28/19)

CHAPTER 3

BUS LINE

SECTION:

- 4-3-1: Supervision of
- 4-3-2: Rates of Fares
- 4-3-3: Smoking Prohibited on Buses

4-3-1: **SUPERVISION OF:** The Municipal motor bus line shall be operated under the supervision and direction of the Commissioner of Public Property. All employees and officers engaged in the operation of the bus line shall be assigned to the Department of Public Property.

4-3-2: **RATES OF FARE:** The fare rate for Pekin Municipal buses as well as school buses and charter fares shall be individually determined by the Superintendent of Buses by and with the consent of the Commissioner of Public Property.

4-3-3: **SMOKING PROHIBITED ON BUSES:**

- A. Prohibited: The smoking of tobaccos while riding on a Municipal bus of the City is hereby declared to be a nuisance, and any person who shall smoke tobacco upon any Municipal bus of the City shall be deemed to have committed a nuisance therein.
- B. Penalty: Any person violating the provisions of this Section shall be subject to penalty as provided in Section 1-4-1 of this Code.

CHAPTER 4

SEWER REGULATIONS

ARTICLE A. SEWER USE

(For Plumbing Code Provisions, see Title 7, Chapter 1, Article C of this Code)

SECTION:

- 4-4A- 1: Definitions
- 4-4A- 2: Code Enforcement Officer
- 4-4A- 2-1: Designated
- 4-4A- 2-2: Duties
- 4-4A- 3: Purpose of Sanitary Sewers
- 4-4A- 4: Use of Public Sewers Required; Connections
- 4-4A- 5: Sewage Treatment Required
- 4-4A- 6: Waters or Wastes Allowed or Prohibited
- 4-4A- 6-1: Generally
- 4-4A- 6-2: Specifically Enumerated
- 4-4A- 6-3: Industrial Wastes and Sewage; Approval by Code Enforcement Officer and City Council
- 4-4A- 7: Private Sewage Disposal
- 4-4A- 7-1: Cesspools, Septic or Sewage Tanks
- 4-4A- 8: Storm, Surface and Ground Waters
- 4-4A- 9: Tests and Analyses
- 4-4A-10: Control Manhole
- 4-4A-11: Special Agreements
- 4-4A-12: Injury to Works
- 4-4A-13: Penalties for Violation

4-4A-1: **DEFINITIONS:** Unless the context indicates otherwise, the meaning of terms used in this Article and Article B shall be as follows:

APPROVED: Acceptable to or accepted by the Code Enforcement Officer as complying with the provisions hereof.

APPROVING AUTHORITY: The City Council of the City of Pekin.

BOD (denoting biochemical oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five (5) days at twenty degrees (20) centigrade, expressed in milligrams per liter.

BUILDING DRAIN: That part of the lowest piping of a drainage system which receives the discharge from soil, waste and drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning five feet (5') (1.5 meters) outside the inner face of the building wall.

BUILDING SEWER: The extension from the building drain to the public sewer or other place of disposal.

CITY: All that territory within the presently constituted corporate limits of the City of Pekin, Tazewell County, Illinois, together with any additions to or alterations of said territory that may occur in the future.

CITY SEWER SYSTEM or SEWER OF THE CITY: The composite network of storm, sanitary, or combined sewers constructed, under construction or maintained within the corporate limits of the City of Pekin and shall include all manholes, intercepting chambers, pumping plants or other appurtenances thereto and the storm water system of the City as defined by Section 4-5-2 of this code..

CODE ENFORCEMENT OFFICER: The Code Enforcement Officer shall be appointed by the Director of Public Works with the approval of the City Manager, and shall be under the supervision of the Director of Public Works, to administer the provisions of this Article, or his/her designee. (Ord No. 2364 03-08-04) (Ord. No. 2397 11-08-04)

COMBINED SEWER: A sewer intended to carry domestic sewage and such industrial wastes as may be permitted, as well as storm and surface water. (Ord. No. 2364 03-08-04)

COUNCIL: The Mayor and City Commissioners, duly elected or appointed, of the City of Pekin.

DOMESTIC SEWAGE and SANITARY SEWAGE: The waste or discharge from toilet or other household plumbing fixtures, wash water and dish water, interior basement drainage, and other dirty water from places of human residence, business buildings or institutions, but not including industrial wastes.

EFFLUENT CRITERIA: As defined in any applicable "NPDES permit".

EMERGENCY: A sudden and unexpected condition, the making of remedies for which cannot be postponed until a permit has been secured without endangering life or property.

FLOATABLE OIL: Is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

GARBAGE: Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.

GROUND WATER: Water which is contained in or flows through the ground.

HOUSE SANITARY CONNECTION and HOUSE CONNECTION: The conduit or pipe for conveying domestic sewage from residences, human habitations, institutions, stables, garages, business buildings or industries, to the connection to a sewer.

HOUSE STORM DRAIN and HOUSE DRAIN: A pipe or conduit which is used to conduct surface, storm, ground, roof, and yard drainage away from any building.

INDUSTRIAL WASTE: Any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any source, be it from an industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage. Any substance not meeting the definition of "domestic sewage" shall be deemed to be "industrial waste".

MAJOR CONTRIBUTING INDUSTRY: An industrial user of the publicly-owned treatment works that:

- A. Has a flow of fifty thousand (50,000) gallons or more per average work day; or
- B. Has a flow greater than ten percent (10%) of the flow carried by the Municipal system receiving the waste; or
- C. Contributing an organic load or suspended solids load measured in pounds per day greater than ten percent (10%) of the total organic or suspended solid loads received by the Municipal system treating the waste; or
- D. Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under section 307(a) of the Federal Act; or
- E. Is found by the permit issuant authority, in connection with the issuance of the NPDES permit to the publicly-owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

MANHOLE: An opening constructed on a sewer, of sufficient size to permit a man to gain access thereto.

MILLIGRAMS PER LITER (mg/l): A unit of the concentration of water or wastewater constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and wastewater analysis.

NPDES PERMIT: Any permit or equivalent document or requirements issued by the IEPA Administrator or, where appropriated by the Director after enactment of the Federal Clean Water Act, to regulate the discharge of pollutants pursuant to section 402 of the Federal Act.

NATURAL OUTLET: Any outlet into a water-course, pond, ditch, lake or other body of surface or ground water.

pH: The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories' "Manual of Laboratory Methods".

ppm: Parts per million by weight.

PERSON: Any individual, firm, corporation, co-partnership, association or other entity.

PRETREATMENT: The treatment of wastewaters from sources before introduction into the wastewater treatment works.

PRIVATE SEWER: A privately-owned sewer.

PROPERLY SHREDDED GARBAGE: The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") (1.27 centimeters) in any dimension.

PUBLIC SEWER: A publicly-owned sewer.

SATISFACTORILY or SATISFACTORY: In a manner approved by the Code Enforcement Officer as complying with the provisions hereof.

SEPARATE SANITARY SEWER and SANITARY SEWER: A sewer intended to carry domestic sewage and such industrial wastes as may be permitted without the admixture of storm water.

SEWAGE: Liquid or solid waste as defined herein flowing in or from residences, human habitations, institutions, stables, garages, business buildings and industries, or any other source, and it may consist of a combination of any one or more of these and/or with such storm and ground water as may be admitted to or find its way into the sewers.

SEWER: Any outside conduit, pipe or structure designed to serve two (2) or more properties within the corporate limits of the City, used for conveying sewage, groundwater, or stormwater of any kind, and shall include all manholes, intercepting chambers, pumping plants and other appurtenances thereto within the corporate limits of said City.

SEWER CONSTRUCTION WORK: The construction of any sewer for any purpose and shall include house sanitary connections and house storm drains within the corporate limits of the City of Pekin, Illinois.

SEWERAGE (Adjective): Having to do with the collection, treatment or disposal of sewage.

SEWERAGE (Noun): The works comprising the complete system of sewers, connections and drains within the City of Pekin, Illinois, including pumping stations, manholes and appurtenances thereof necessary to the collection, treatment or disposal of sewage, including the sewage treatment plant.

SLUG: Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flows during normal operation.

SOLID WASTES: Garbage, ashes, rags, manure waste, household food, offal and other solids. The term "ashes" as herein employed shall include coal, coke, wood and the residuum resulting from the combustion of any material or substance and include soot, cinders, slag and charcoal.

STORM SEWER: A sewer which is intended to carry storm, ground, and surface water and no domestic or sanitary sewage.

STORM WATER: That portion of rain, snow or sleet which flows off over the surface of the ground, streets and structures into sewers and drainage channels or into low points.

STORM WATER RUNOFF: That portion of the precipitation that is drained into the sewers.

SUSPENDED SOLIDS (SS): Solids that either float on the surface of, or are in suspension in water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the IEPA Division of Laboratories' "Manual of Laboratory Methods".

UNPOLLUTED WATER: Is water quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

WASTEWATER: Is used interchangeably with "sewage".

WASTEWATER FACILITIES: The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and transport effluent to a watercourse.

WASTEWATER TREATMENT WORKS: An arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant".

WATER QUALITY STANDARDS: Are defined in the Water Pollution Regulations of Illinois, title 35, sub-title C, Chapter 1, State of Illinois Rules and Regulations.

WATERCOURSE: A channel in which a flow of water occurs, either continuously or intermittently.

4-4A-2: CODE ENFORCEMENT OFFICER:

4-4A-2-1: DESIGNATED: The Code Enforcement Officer shall be a designated employee of the City under the City Engineer.
(Ord. No. 2364 03-08-04)

4-4A-2-2: DUTIES: It shall be the duties of the Code Enforcement Officer to:

- A. Examine and approve plans and specifications for sewer construction work;
- B. Issue permits for such work upon the fulfillment by the applicant of the provisions of this Article therefor;
- C. Collect fees as provided herein and to deliver all fees collected to the Director of Finance within fifteen (15) days after the collection of any such fee or fees;
- D. Inspect sewers, including house sanitary connections and house storm drains, and the materials to be used therein;
- E. Conduct tests thereon;

- F. Issue certificates of approval;
- G. Keep records of actions taken, and examinations, inspections, and tests made, and of permits and certificates issued;
- H. Make a monthly report of his acts and doings to the City Council;
- I. Advise the public, when requested, in the matter of these regulations relating to the sewerage system.

4-4A-3: PURPOSE OF SANITARY SEWERS: The separate sanitary sewers of the City having been designed and built to carry away domestic sewage and the industrial and commercial wastes of the City, where permitted herein, and not being designed to carry storm water, surface water, or ground water, any act which shall cause any storm or surface water or ground water to be conveyed to the sanitary sewers is herewith forbidden and shall be directly contrary to the provisions of this Article and subject to the penalties herein contained. In addition, construction or substantial repair or replacement of any connections permitting storm water to discharge to combined sewers shall be prohibited from the date of enactment of this Article henceforth unless it falls under the exception of Section 4-4A-8C of this Article.

4-4A-4: USE OF PUBLIC SEWERS REQUIRED; CONNECTION: Where a public sanitary sewer is accessible in a street, alley or thoroughfare to a building or premises abutting thereon, the sanitary or domestic sewage from any plumbing system in said building shall be discharged into the public sanitary sewer. The City may require an owner of premises desiring to connect to a sanitary sewer to said premises at the owner's expense. If said extension is to provide connecting facilities for more than one premises, then the costs of said extension shall be prorated among the owner of said premises benefiting from said extension.

4-4A-5: SEWAGE TREATMENT REQUIRED:

- A. Requirement; Prohibited Acts: Where liquid wastes from any source are not discharged into a public sanitary sewer, such wastes shall be treated or disposed of so as not to endanger or contaminate any water supply that is or may be used for drinking or domestic purposes or for bathing or so as not to create any nuisance or unsanitary condition which shall be considered by either the Code Enforcement Officer or the Health Department of the County of Tazewell as dangerous and unhealthy to the residents and citizens of the City. It shall be unlawful to discharge to any natural outlet within the City or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this Article (See subsection 4-4A-6-2A of this Article). Where sewage of any kind which is to be discharged into a public sanitary sewer is of such a character as to endanger the sewer system or in placing an overburden upon a publicly-owned sewage treatment plant, such sewage shall be satisfactorily treated before being admitted to the public sanitary sewers.
- B. Pretreatment:

1. If any waters or wastes are discharged or are proposed to be discharged to the public sanitary sewers, which waters contain the substances or possess the characteristics enumerated in subsection 4-4A-6-2B of this Section and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978, and any amendments thereto, and which in the judgment of the City may have a deleterious effect upon sewage works, processes, equipment, or receiving waters, or which otherwise created a hazard to life or constitute a public nuisance, the City may:

a. Reject the wastes, including, but not limited to, capping the sewer service.

b. Require pretreatment to an acceptable condition for discharge to the public sewers.

c. Require control over the quantities and rates of discharge.

d. Require payment to cover the added costs of handling and treating the wastes not governed by existing taxes or sewer charges, under the provisions of this Section.

e. Require monitoring and automatic shut-off equipment be installed at the user's expense.

2. If the City permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the City and subject the requirements of all applicable codes, ordinances and laws.

3. Grease, oil and sand interceptors shall be provided when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except, that such interceptors shall not usually be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.

4. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at owner's expense.

4-4A-6: WATERS OR WASTES ALLOWED OR PROHIBITED:

4-4A-6-1: GENERALLY:

- A. The separate sanitary sewer system of the City was built to carry away the domestic or sanitary waste and, as may be permitted, the industrial wastes (as defined in Section 4-4A-1 hereof) of the City. It was not designed to carry any storm water, water from air conditioning units, cooling system, surface water or ground water. Any act which shall cause any storm water, water from air conditioning units, cooling systems, surface water or ground water to be conveyed to and into the sanitary sewers is herewith directly forbidden; it is directly contrary to the provisions of this Article and shall be subject to the penalties herein provided.

- B. The sanitary or domestic sewage from all buildings in general shall be conveyed in house sanitary connections to the public system of sanitary sewers. Sanitary or domestic sewage may be taken to include basement floor of sump and from said basement floor or sump to and into the sanitary sewer system. It is unlawful for any roof drains to connect directly to a building sanitary sewer.

4-4A-6-2: SPECIFICALLY ENUMERATED:

- A. No person, industry or business shall discharge, or cause to be discharged, any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer unless previously approved by the City. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process waters may be discharged on approval of the City to a storm sewer, combined sewer, or natural outlet. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
 - 1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - 2. Any waters or wastes containing toxic, hazardous, special or poisonous substances in liquid or gaseous form, either singly or by interaction with other wastes.
 - 3. Any substance, hazardous or not, that may injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters or the wastewater treatment plant effluent and the sewage treatment plant or in the sewer system.
 - 4. Any waters or wastes having a pH lower than 6 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - 5. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, un-ground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups milk containers, etc., either whole or ground by garbage grinders.

B. No person, industry or business shall discharge or cause to be discharged the following described, materials, waters, or wastes if it appears likely in the opinion of the City that such wastes can harm either the sewers' sewage treatment process or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the City will give consideration to such factors as public health impacts, the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and maximum limits established by regulatory agencies. The substances prohibited are:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150) Fahrenheit (65 centigrade).
2. Any waters or wastes containing toxic or poisonous materials.
3. Any waters or wastes containing oils, fats and greases, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty two and one hundred fifty degrees (32 and 150) Fahrenheit (0 and 65 centigrade).
4. Any garbage that is inorganic or has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the City.
5. Any waters or wastes containing strong acid, iron pickling wastes or concentrated plating solution whether neutralized or not.
6. Any waters or wastes containing iron, chromium, copper, zinc or similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the City for such materials. Unless authorized otherwise by the City, no discharge shall exceed the following limits:

<u>Pollutant</u>	<u>Concentration (mg/l)</u>
Arsenic	0.25
Barium	2.00
Cadmium	0.15
Chromium (total)	1.00
Chromium (hexavalent)	0.10
Copper	0.50
Fluoride	15.00
Lead	0.20
Nickel	1.00
Silver	0.10
Zinc	1.00

7. Any waters or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the City as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.
8. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the City in compliance with applicable State or Federal regulations.
9. Any wastes or waters having a pH in excess of 9.
10. Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time except as permitted by the City in compliance with applicable State and Federal regulations.
11. Any cyanide in excess of 0.10 mg/l at any time except as permitted by the City in compliance with applicable State and Federal regulations.
12. Materials which exert or cause unusual concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
13. Materials which exert or cause excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
14. Materials which exert or cause unusual BOD, chemical oxygen demand, or chlorine requirement in such quantities as to constitute a significant load on the sewage treatment works.
15. Materials which exert or cause unusual volume of flow or concentrations of wastes constitute "slugs" as defined herein.
16. Materials which exert or cause waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

4-4A-6-3: PRIVATE SEWAGE DISPOSAL:

- A. Where a public sanitary (or combined) sewer is not available under the provisions of Section 4-4A-4 the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the City and Tazewell County. The application for such permit shall be made on a form furnished by the City and Tazewell County, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the City and Tazewell County. A permit and inspection fee of Forty five dollars (\$45.00) shall be paid to the City at the time the application is filed.

- B. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City. The City shall be allowed to inspect the work at any stage of construction, and in any event, the applicant for the permit shall notify the City when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty (4) hours of the receipt of written notice by the City.
- C. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act (S.H.A. ch. 111 1/2, ¶1116.301 et seq.) and Code and with the State of Illinois Environmental Protection Agency's and with the Tazewell County's requirements. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities and no septic tank or cesspool shall be permitted to discharge to any natural outlet unless written approval is first received from the City.
- D. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in this Section, a direct connection shall be made to the public sewer in compliance with this Article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material. When a public sewer becomes available, the building sewer shall be connected to said sewer within one hundred twenty (120) days, and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
- E. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the City.
- F. No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the City.

4-4A-7-1: **CESSPOOLS, SEPTIC OR SEWAGE TANKS:** No cesspool, septic or other sewage tank shall be constructed hereafter on property to which a public sanitary sewer is accessible. No septic tank or cesspool now existing or hereafter constructed shall be connected in any way, directly or indirectly, to the public sewer system.

4-4A-8: **STORM, SURFACE AND GROUND WATERS:**

- A. **Drainage of Roofs and Outside Areas:** No roofs and outside areas of any kind shall be drained into any house sanitary connection which drains into a sanitary sewer, and no roof downspouts or conductors shall in any case be discharged directly or indirectly to the house sanitary connection and thence into a sanitary sewer in the City.
- B. **Foundation and Flood Drains:** Where drains are placed under the cellar floor or used to encircle the outer walls of a building for the removal of groundwater.
- C. **Combined Sewers:** Any roof drains, sump pumps, downspouts and other ground, surface or storm water shall not be discharged to a combined sewer. If connection into a combined sewer is deemed necessary due to topographical or other constraints and approved by the Code Enforcement Officer, the connection shall be separate from the sanitary connection.

- D. Storm Sewers in Improvements: It shall be unlawful for any person, firm or corporation to discharge any sanitary sewage or industrial wastes into any existing or new storm sewer within the City, including, without limitation, within the limits of improvements to all truck routes (including but not limited to State highways).
- E. The amount of inflow in the sanitary sewer system shall be limited as follows:
1. All new inflow sources are prohibited from entering the sanitary sewer system.
 2. All new construction shall be designed to minimize and/or delay inflow contributions to the combination sewer system. Such design shall include but is not limited to the following:
 - a). Provide calculations to accomplish double the normal retention/detention.
 - b). Utilization of underground containment/storage facilities as practicable.
 - c). Discharge from the containment/storage facility to occur only at such time and rate as approved by the City. Discharge will not be allowed until after the hydraulic loading from the storm event has subsided or when maximum capacity of holding area has been attained.
 - d). The City may prescribe other requirements at any proposed connection of stormwater drains to the combination sewer areas during review of the design based on the hydraulic calculations submitted. (Ordinance No. 2524-07/08 07-23-07 effective 08-01-07)
 3. All inflow sources in a combination sewer system must connect to a storm sewer within one year if one becomes available.
 4. All new construction in a combination sewer area must have separate connections for both sanitary and storm water. Even if these two connections join together later, they must be separate within the construction to facilitate sewer separation if separate sewers become available in the future.

4-4A-9: **TESTS AND ANALYSES:**

- A. Owner's Responsibilities: The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests and analyses of waters and wastes to illustrate compliance with this Article and any special conditions for discharge established by the City or regulatory agencies having jurisdiction over the discharge.
- B. Standards: The number, type and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the City, but no less than once per year, the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State and local standards are being met.

- C. When to be Reported; Expenses of: The owner shall report the results of measurements and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses and reporting required by the City. The City may, at anytime, perform or cause to be performed at owner's expense laboratory testing, flow metering and sampling that the City may determine is necessary to ensure compliance with the Federal, State and local laws or to establish billing information.
- D. How to be Done: All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of IEPA Division of Laboratories' Manual of Laboratory Methods, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. The particular analyses involved will determine whether a twenty four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty four (24) hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

4-4A-10: **CONTROL MANHOLE:** Each industry shall be required to install a control manhole and, when required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes as the City may require. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at owner's expense and shall be maintained by owner so as to be safe and accessible to the City at all times.

4-4A-11: **SPECIAL AGREEMENTS:** No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to Council approval and payment therefor, in accordance with this Article, provided such payments are in accordance with Federal and State guidelines for user charge systems or appropriate for the volume and characteristics of the industrial waste.

4-4A-12: **INJURY TO WORKS:**

- A. Injury to Public Sewer System: No person or persons shall willfully, maliciously or negligently break, deface, destroy or injure any public sewer or appurtenances thereto in the City.

B. Interference With Public Sewer System: No person or persons shall interfere with, molest, uncover, take off covers from manholes or lampholes or disturb any portion of the public sewer system or appurtenances thereto in the City. Any person or persons violating any of the provisions of this Article or any Section thereof shall become liable to the City for any expense or damage occasioned by the City by reason of such violation and in addition thereto, shall be subject to any of the fines and penalties herein provided and all other costs, including but not limited to laboratory sampling and analyses, legal fees, engineering fees and any additional time spent coordinating activities, both present and future, related to the offense.

4-4A-13: **PENALTIES FOR VIOLATION:** An person or other legal entity which violates, neglects or refuses to comply with, or who resists, or opposes the enforcement of any of the provisions of this Article where no other penalty is provided, shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and for each subsequent offense, such person shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1000.00), and such person or other legal entity shall be deemed guilty of a separate offense for each and every day during which said violation, neglect or refusal to comply with the provisions of this Article shall continue. In addition to the fine, the person or other legal entity in violation of this Article or contributing to an operating problem at the sewerage plant violating its NPDES permit shall compensate the City for any expenses incurred as a result of the violation. Expenses may include, but not be limited to, fines levied against the City, additional laboratory sampling and analyses, engineering fees, legal fees, chemical costs and additional time spent coordinating activities, both present and future, related to the offense. (Ord. No. 2849-19/20 10-24-19)

CHAPTER 4

SEWER REGULATIONS

ARTICLE B. CONSTRUCTING, ALTERING OR REPAIRING SEWERS

SEWERS:

- 4-4B- 1: Construction Subject to Code Enforcement Officer's Approval
- 4-4B- 2: License Required
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- 4-4B-11-1: Interceptors; Separators and Backwater Valves
- 4-4B-11-2: Sumps and Receiving Tanks
- 4-4B-12: Inspections and Tests
- 4-4B-13: Certificate of Approval
- 4-4B-14: Disturbing, Injuring or Entering Sewers
- 4-4B-15: Revocation of License or Permit
- 4-4B-16: Penalties for Violation

4-4B-1: CONSTRUCTION SUBJECT TO CODE ENFORCEMENT OFFICER'S APPROVAL: All details concerning the construction of any sewer or house sanitary connections or house storm drains and their appurtenances shall be subject to the approval of the Code Enforcement Officer.

4-4B-2: LICENSE REQUIRED:

- A. Required: Owner's Limited Exemption: Any person, other than the actual bona fide owner of the premises involved, who desires to engage or who shall hereafter engage at any time in the construction, alteration or repair of any sewer, sanitary connection or storm drain for any other person in the City shall, before commencing such work, make application for a license so to do.

Nothing herein contained shall be construed as preventing an individual from constructing a sewer or house connections on his own property. This provision shall not be construed to exempt such person from all provisions other than license requirements specified in this Article, nor shall any person construct or repair any sewer off of his own premises. Any work done on sewer lines other than on the owner's premises must be done by a licensed contractor.

- B. Bond: (See also Section 4-4B-5 of this Article.) The applicant shall deliver to the City Clerk a general bond or a certificate certifying that such applicant is insured under a general bond or other instrument in the penal sum of ten thousand dollars (\$10,000.00), indemnifying and saving the City harmless of and from all liability for damages to persons or property by reason of or resulting directly or indirectly from the construction, alteration, maintenance or repair by such person of any sewer, sanitary connection or storm drain or any work or act incidental thereto, or in connection therewith, and shall be conditioned also upon the conformance by such applicant with all the conditions and requirements of the ordinances of the City for performing such work during the period to be covered by such license. Such bond or certificate shall be signed by the applicant for such license and by the surety or sureties on such bond or instrument of indemnification.
- C. Fee: Each application for such license shall be accompanied by a fee of one hundred dollars (\$100.00).
- D. Issuance; Term: Upon receipt of which bond or certificate, the City Clerk shall forthwith issue to such applicant a license to engage in the construction, alteration or repair of sewers, sanitary connections and storm drains in said City. Licenses shall run from May 1 of each year to April 30 of the following year. Licenses shall be prorated for no less than one-half (1/2) of a year in those cases where a license is issued after May 1.

4-4B-3: **PERMIT REQUIREMENTS:**

- A. Required: No sewer of any kind, public or private, or house sanitary connection, or house storm drain, shall be constructed or made, altered or repaired, nor shall any connection of any sewer or house sanitary connection or house storm drain to any sewer, public or private, constructed or made, altered or repaired without first having obtained from the Code Enforcement Officer at written permit therefor. No permit shall be issued for such construction, alteration or repair work until the plans and specifications therefor, or required data concerning it, have first been submitted to and approved by the Code Enforcement Officer.
- B. Application: Before any such permit shall be issued, the applicant shall file, in writing on blanks to be furnished by the Code Enforcement Officer, an application which shall be signed by the owner of the premises upon which the proposed work is to be done. Such application shall be accompanied by a complete set of plans and specifications for such proposed work. In addition, any user of the wastewater system discharging anything other than domestic sewage shall, as a condition of its permit authorization, provide information certifying its wastewater constituents, characteristics and types of facilities. The Code Enforcement Officer may request independent laboratory certification of the wastewater at the user's expense.

- C. Fees: Application for a residential permit shall be accompanied by a fee of fifty five dollars (\$55.00) Application for a commercial/institutional/governmental user or industrial user shall be subject to a fee established by the Code Enforcement Officer and approved by resolution of the Council from time to time, but in no event shall the minimum fee be less than one hundred dollars (\$100.00) nor the maximum fee be more than one thousand dollars (\$1000.00).

All permits and fees for any classification in this Section shall be doubled if work is started without a permit unless prior arrangements have been made with the Building Department of the City. (Ord. No. 2544-07/08 12-10-07)

- D. Classes of Building Sewer Permits: There shall be three (3) classes of building sewer permits: one for residential wastewater service, one for commercial, institutional/governmental, and industrial wastewater service and one for restaurant or food establishments service. (Ord. No. 2544-07/08 12-10-07)
- E. Facilities' Capacity Requirements: A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.
- F. Fee for Sewer Inspection Requested by Property Owner: When a property owner or a property owner's agent requests that the City determine, through excavation or by other means, whether or not an obstruction, defect or damage to a sewer lateral line or sanitary sewer connection originates or is located within that portion of said sewer lateral line or sanitary sewer connection which runs beneath City property from the City sewer main to the property line abutting the street or City property, an inspection fee of five hundred dollars (\$500.00), shall be charged to such property owner which must be paid before the inspection described herein is undertaken and prior to the issuance of a permit pursuant to this section. In the event that it is determined by the City that an obstruction, defect or damage to a sewer lateral line or sanitary sewer connection originates or is located within that portion of said sewer lateral line or sanitary sewer connection which runs entirely beneath City property from the City sewer main to the property line abutting the street or City property, then the property owner shall be entitled to the return of the inspection fee.
- G. Who is Prohibited from Obtaining Permit: No applicant or any other individual shall be granted a permit for such work who owes money to the City for fees of any kind required by this Article, either for the work described in any such application or for any previous work performed, or inspections made hereunder or any reason whatsoever.

4-4B-3-1: **SUPPLEMENTARY PERMITS:**

- A. When Required: Any changes or modifications in the proposed work shall be considered as new work, and no such changes or modifications shall be installed or made without a supplementary permit therefor, subject to the same terms and conditions as herein contained.

- B. Fee: The fee for such supplementary permit shall be fifty-five dollars (\$55.00). (Ord. No. 2544-07/08 12-10-07)

4-4B-3-2: **EXPIRATION OF PERMITS:** If the work is not commenced under any permit within six (6) months after the issue of said permit, or if the work is not satisfactorily prosecuted after its commencement, such permit will be considered as having expired and shall be null and void.

4-4B-4: **CONNECTION FEES; NEWLY- ACCEPTED SUBDIVISIONS:**

- A. The owner of each single family lot, condominium or apartment contained in a newly-accepted subdivision or existing platted area shall obtain a permit from the City prior to hooking into the sanitary system of the City and shall pay a fee of sixteen hundred dollars (\$1,600.00) to the City for each such single family lot, condominium unit or apartment unit for such hookup privilege. (Ord. No. 2544-07/08 12-10-07)
- B. Said fee shall be paid to the Inspection Department of the City at the time of transfer of title to the real estate by deed or contract from the original owner or subdivider to the purchaser or at the time when the hookup is to be made, whichever occurs first, and any violation of this provision shall subject the grantor to the penalties of this Article and each day shall be considered a separate offense. (Ord. No. 2365 03-08-04)
- C. No permit shall issue for said sewer tap until said fee required thereunder shall have been paid.
- D. No sewer permit shall be issued to any applicant if said applicant is delinquent in the payment of any taxes or fees due the City until said delinquency is cured.
- E. Commercial, institutional/governmental, and industrial use or any change of use of any and industrial use or any change of use of any property within the boundaries of the City which would entail a greater usage of said sewer system of the City shall be charged a fee in addition to that specified in subsection A hereof for a connection permit. The additional fee shall be six hundred dollars (\$600.00) for each toilet in excess of three, but in no event shall the additional fee be less than the following minimums except as noted:
- (i) For commercial, institutional/governmental, and industrial uses other than a restaurant or establishment where food is served, the fee shall be two thousand dollars (\$2,000.00).
 - (ii) For restaurants and other establishments where food is served, the fee shall be four thousand eight hundred dollars (\$4,800.00). (Note: if a restaurant or establishment where food is to be served is to be opened in a building with an existing sewer system the fee shall be one thousand dollars (\$1,000).
 - (iii) Any commercial, institutional/governmental, or industrial user generating more than 10,000gpd shall be charged four thousand dollars (\$4,000.00)/1,000gpd over the 10,000gpd. (Ord. No. 2544-07/08 12-10-07).

4-4B-5: **BOND:** (See also subsection 4-4B-2B of this Article)

- A. Each applicant, if he be the owner of the premises upon which the proposed work is to be done by him personally, shall give a bond signed by two (2) personal sureties or by a corporate surety in the penal sum of ten thousand dollars (\$10,000.00), conditioned upon the applicant's indemnifying and saving the City harmless from any and all liability for damages to persons or property by reason of or resulting directly or indirectly from the construction, alteration, maintenance, repair, cleaning or rodding by such person of any sewer, sanitary connection or storm drain or any work or act of such person on any sewer, sanitary connection or storm drain or any work or act of such person on any sewer, sanitary connection or storm drain or any work or act of omission or commission or by such person incidental thereto, or in connection therewith and conditioned also upon the conformance by such applicant with the conditions and requirements of the ordinances of the City for performing such work and conditioned also upon the restoration by such applicant of the street, alley, sidewalk and pavement disturbed by him as required by applicable law, so as to leave the same in as good condition as before the work was undertaken; such bond shall be submitted to the Code Enforcement Officer and upon approval of said bond by said Code Enforcement Officer and the conformance by said applicant with all the requirements herein specified for such permit, the Code Enforcement Officer shall forthwith issue such permit to said applicant; provided, however, any work hereinabove referred to in this subsection, including cleaning and rodding, in, on or under public property shall be done only by a licensed sewer contractor.
(Ord. No. 2365 03-08-04)
- B. It is expressly stipulated and provided, however, that if application for permit specified that the work therein described is to be performed by a person licensed to perform such work under the provisions of this Article, the bond hereinabove provided for such permit shall not be required as a condition to the issuance of such permit.

4-4B-6: NOTIFICATION OF SEWER CONSTRUCTION WORK: In every case of proposed sewer construction work to be done, notice shall be given and application properly made to the Code Enforcement Officer of the time and place and when and where the work is to commence. Such notice shall be in writing and given at least three (3) full days prior to the commencement of the work.

4-4B-7: CONNECTIONS OUTSIDE CITY LIMITS: Any connection outside the City limits must receive Council approval and be assessed a fee for cost recovery for all operation, maintenance and replacement costs in addition to a capital charge to be set by the Council. Such connection shall conform to the requirements of a discharge agreement between the City and the discharger. The agreement shall include provisions for charges, wastewater characteristics, termination of service and other appropriate requirements.

4-4B-8: STANDARDS FOR WORKMANSHIP AND MATERIALS:

4-4B-8-1: WORKMANSHIP: All workmanship in connection with the construction of any sewer or house sanitary connection or house storm drain shall be of such character as to fully secure the results sought to be obtained in all of the sections of this Article.

4-4B-8-2: **STANDARDS OF CONSTRUCTION:** Unless otherwise specified in this Article, the size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavation, placing of a pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the Building and Plumbing Codes (1. See Title 7, Chapter 1, Articles A and C, respectively, of this Code.) or other applicable rules and regulations of the City. In the absence of Code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, "Water Pollution Control Federation Manual of Practice No. 9", and "Standard Specifications for Water and Sewer Main Construction in Illinois" shall apply.

4-4B-8-3: **SEWER CONNECTIONS:** All connections with any sewer fifteen inches (15") or smaller shall be made by means of wye or tee branches or other special fitting provided in such sewer for that purpose. The building sewer shall be connected to City sewer at an existing wye, tee, stub or riser located as provided in the sewer permit. Such connection, location, depth or other information given by the City shall serve only as a guide, however, and no guarantee of accuracy is made by the City. Connection to a main sewer where there is no existing wye, tee, stub or riser, or where such inlet location cannot be found, shall be made by tapping the line. The connection to sewer main shall be made by one of the methods indicated below.

- A. Tapping for Sewer Saddle: A proper size circular hole shall be cut in the sewer main to install Type S Geneco Cast Iron Saddle, with rubber adapter or equal, or a similar alternative acceptable to the City Code Enforcement Officer.
- B. Inserting Fitting: Using a pipe cutter, neatly and accurately cut out the desired length of pipe for insertion of proper fitting. Use "Band-Seal" couplings or similar couplings and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The manufacturer's recommendations for installation should be followed.
- C. Sewer Repairs: Repairs to sewers will be made by the method indicated below: using a pipe cutter, neatly and accurately cut out the desired length of pipe for insertion of proper fitting or proper length of repaired tile. Use Clow "Band-Seal", Fernco Flexible Coupling, Mission Repair Coupling, or similar coupling, and shear rings and clamps to fasten the inserted fitting, or repaired tile, and hold it firmly in place. The manufacturer's recommendations for the installation should be followed.
- D. Joining Pipes: Where pipes of different sizes are to be joined such as four inch (4") ductile iron, cast iron or plastic to six inch (6") clay, a reducer coupling must be used, such as where four inch (4") plastic, ductile iron, or case iron from the house stops and enters six inches (6") tile to main sanitary sewer. A reducer coupling must be used such as Fernco Series #1002, Clow Band-Seal ASTM-C-425, Mission 0406-744-6" x 4" reducer or coupling of equal standards approved by the Code Enforcement Officer. Concrete or other types of sealing will not be acceptable. All pipes must be jointed in accordance with manufacturer's recommendations so that so storm water or tree roots shall infiltrate into the sanitary sewer.

4-4B-8-4: **QUALITY OF MATERIALS:**

- A. Defect-Free Materials: All materials used in the sewers, house sanitary connection or house storm drain, or part thereof, shall be free from defects.
- B. Vitrified Clay or Concrete Pipe: All vitrified clay or Concrete pipe shall conform to the Standard Specifications for such sewer pipe of the American Society for Testing Materials and shall conform as nearly as possible to that type and quality of the pipe as has been used in the construction of the public sanitary sewer system.
- C. Ductile Iron Pipe: All ductile iron pipe and cast or ductile iron fittings used for sewers or house connections shall conform to the standard specifications for service weight ductile iron pipe and fittings of the American Society for Testing Materials or shall conform to the latest standard specifications for ductile iron water pipe of the American Water Works Association, which specifications by reference thereto are hereby made a part of this Article.
- D. Polyvinyl Chloride (PVC) Sewer Pipe: Polyvinyl Chloride (PVC) sewer pipe shall conform to ASTM D 3034, type PSM for sizes 4" - 12" and ASTM D 3033, type PSP for size 15". Standard Dimension Ratio (SDR) or Dimension Ratio (DR) shall be specified. Minimum acceptable SDR shall be 35. Push-on joints shall be required.
- E. Acrylonitrile-Butadiene-Styrene (ABS) Composite Sewer Pipe: Acrylonitrile-Butadiene-Styrene (ABS) composite sewer pipe joints shall conform to ASTM C 2680 for solvent welded (SC) or mechanical joint compressed "O" ring (OR) type conforming to ASTM D 3212 for flexible elastomeric seals, as specified in special provisions or shown on the plans.

4-4B-8-5: JOINTS AND CONNECTIONS:

- A. Ductile Iron Pipe: All joints in ductile iron pipe shall be rubber slip joints, flanged joints or mechanical joints; no hub joints and/or bands shall be allowed.
- B. PVC Pipe: Push-on joints shall be required.

4-4B-8-6: PIPES TO BE CLOSED: The ends of all pipes not to be immediately connected shall be securely stopped by tile, brick, cement or other watertight and durable material.

4-4B-9: FAILURE TO CORRECT DEFECTS OR FAULTS: Any person or other party to whom a permit or license shall have been issued and who shall neglect, refuse or fail to make good any defect or fault in any of the work done, or materials used under any permit or license from the Code Enforcement Officer within thirty (30) days after written notice thereof from the Code Enforcement Officer shall not be permitted to do any further or additional work or construct any sewer, connection or drain or appurtenances, until such defects or faults have been made good in manner satisfactory to the Code Enforcement Officer, and any and all then existing permit or permits or license in favor of such person or other party shall be revoked by the Code Enforcement Officer and the bond of such person enforced as to past defaults.

4-4B-10: HOUSE SANITARY CONNECTION AND STORM DRAINS:

- A. **Function of House Connections and Drains:** The domestic sewage from residences, human habitations, institutions, stables, garages, business buildings and industries shall be conveyed from said structures in a conduit or pipe herein termed a "house sanitary connection". The connection shall extend to a public separate sanitary sewer, if such a sewer serves the property. If no separate sanitary connection exists, and service shall extend to a combined sewer with a separate connection apart from the storm water shall be permitted to enter this house sanitary connection discharging into a separate sanitary sewer. No sanitary sewage shall be discharged into a separate storm sewer.
- B. **Independent Connections and Drains:** Each residence, institution or business building shall have its own separate house sanitary connection. A house sanitary connection shall not be permitted to serve more than one residence or other unit except under an abnormal situation and then only by express permission of the Code Enforcement Officer.
- C. **Materials:**
1. The house sanitary connection shall be six inch (6") vitrified clay or plastic schedule 35, or heavier, pipe; except within five feet (5') of the outside of a building, it shall be of four inch (4") or six inch (6") cast iron pipe.
 2. Where a connection or drain is laid at a less distance than five feet (5') from the exterior wall of a building or in ground where it will be subjected to vibration or to settlement, cast iron pipe shall be used. Where the ground is of sufficient solidity for a proper foundation or where special supports or secure foundation are provided, vitrified clay or concrete pipe or ductile iron pipe may be used.
- D. **Laying House Sewers:** No basement, half basement or any other portion of a building having a floor elevation beneath the elevation of the rim of the next manhole upstream of the point of connection, may be connected to the City Sewer by gravity. In areas where the ground line over the City Sewer is to be altered, the proposed final ground elevation shall be used. The maximum depth to the top of the building service sewer shall be three feet below the finished grade at the point where it enters such building. All buildings, in which any building drain is below the three-foot building drain, shall be fitted by approved mechanical means and discharged into the building sewer. No water operated sewer ejector shall be used. (Ord. No. 2353 12-08-03).

4-4B-11: TRAPS AND RECEIVING TANKS:

4-4B-11-1: INTERCEPTORS; SEPARATORS AND BACKWATER VALVES:

- A. **APPLICABILITY:** Interceptors and Separators Required: Interceptors (including grease, oil and sand interceptors, etc.) shall be provided for the proper handling of liquid waste containing grease, flammable waste, sand and any other ingredients that could be harmful to the building drainage system, the public sewer or processes involved in the treatment of sewage at the sewage treatment plant.
1. The following facilities shall discharge all waste from sinks, drains, and any other fixtures through which grease may be discharged, into an adequately sized, properly maintained and functioning grease interceptor before the discharge enters the public sanitary sewer system, as well as

providing a grease interceptor inlet flow control device inspection port and a grease interceptor effluent monitoring port:

- (1) Every commercial food preparation and food service facility, including but not limited to bakeries, boardinghouses, butcher shops, cafes, clubhouses, commercial kitchens, delicatessens, fat rendering plants, ice cream parlors, hospitals, meat packing plants, restaurants, schools, slaughter houses, soap factories, and similar facilities, especially where meat, poultry, seafood, dairy products or fried foods are prepared or served,
 - (2) All shopping centers that have food processing facilities,
 - (3) All food courts,
 - (4) All other facilities discharging grease in amounts that, in the opinion of the control authority, will, alone or in concert with other substances from the discharges of other facilities, have a reasonable chance to impede or stop the flow in the public sanitary sewer system.
 - (5) All new areas of intensified dwelling, including, but not limited to; adult day care facilities, assisted living facilities, convalescent homes, day nursing and childcare facilities, in which food preparation occurs as defined in subsection (a)(1) above, homes for the mentally challenged, hotels, maternity homes, motels in which there is a commercial food preparation service, nursing homes, retirement and life care communities and homes, and truck stops with commercial food service, shall be required to have grease interceptors.
 - (6) New construction.
 - (7) Interior remodeling to accommodate expansion or operational modifications.
 - (8) Changes of ownership.
 - (9) Facilities that may be experiencing difficulty in achieving compliance with maintenance and/or wastewater discharge limitations.
2. Existing facilities required by this or other applicable ordinance to maintain a grease separator equipped with an undersized grease interceptor shall, within 36 months of the effective date of this article, install an adequately sized grease separator in accordance with the specifications of this article.
 3. Existing facilities required by this or other applicable ordinances to maintain a grease interceptor not equipped with a grease interceptor shall, within 18 months of the effective date of this article, install an adequately sized grease separator in accordance with the specifications of this article.
 4. New facilities required by this or other applicable ordinances to maintain a grease interceptor SHALL install such a unit prior to commencement of discharge to the public sanitary sewer system.
 5. Any requests for extensions to installation dates must be made in writing to the control authority, at least 30 days in advance of the compliance date. The written request shall include the reasons for the grease generator's failure or inability to comply with the compliance date set forth, the additional time needed to complete the remaining work, and the steps to be taken to avoid future delays. The control authority shall determine the date for compliance.

B. COMPLIANCE DATE: On or after the effective date of the ordinance codified in this chapter, an existing facility (excepting those existing facilities described in

section 1005 (b) above) shall be required to install an approved, adequately sized, and properly operated and maintained grease interceptor when any of the following conditions exist:

- (1) It is found by the control authority to be contributing grease in quantities sufficient to cause sanitary sewer line stoppages or necessitate increased maintenance on the public sanitary sewer system in order to keep main line stoppages from occurring.
- (2) It is remodeling the food preparation or kitchen waste plumbing facilities in such a manner to be subject to a permit issued by the department of community development.

C. **SIZING REQUIREMENTS:** Sizing methods described herein are intended as guidance in determining grease trap/interceptor sizes that will afford the city's public sanitary sewer system a minimum degree of protection against grease and other obstructing materials. Sizing determinations are based on operational data provided by business owners or their contractors. In approving a customer's plumbing or grease interceptor design, the city does not accept liability for the failure of a system to adequately treat wastewater to achieve effluent quality requirements specified under this article. It is the responsibility of the generator and/or contractors to insure the appropriate level of treatment necessary for compliance with environmental and wastewater regulations. Minimum acceptable grease trap/interceptor sizing shall be accomplished as follows:

- (1) The minimum size of an exterior grease trap is 1,000 gallons. The generator may supply sizing information for a smaller grease trap. However, under no circumstances should exterior grease traps have a capacity less than 500 gallons.
- (2) In the circumstance of "single service kitchens" with no food preparation (heat/serve only), and which use only paper service items, a smaller sized grease separator may be used and must be approved by the plumbing inspector. In these instances, the trap must be readily accessible for cleaning and maintenance.

D. **CONSTRUCTION/INSTALLATION:** All permitting, construction, and inspection activities must be completed in accordance with the current Pekin Plumbing Code.

- (1) Grease traps are to be installed at a sufficient distance from sinks and dishwashers to allow for adequate cooling of wastewater. Water temperatures must be less than 140 degrees Fahrenheit (140 F) prior to entering grease trap. Commercial dishwashers SHAL NOT be discharged through a grease separator, care must be taken in system design. This is because dishwashers use detergents and elevated water temperatures that will melt grease. Grease would pass through the interceptor and into the drainage system and cause problems.
- (2) All grease bearing waste streams should be routed through an appropriate grease separator, including: three-compartment sinks, pot/pan sinks, soup kettles, hand-washing sinks, dishwashers, mop sinks and floor drains.

E. **MAINTENANCE REQUIREMENTS:** Unless otherwise specified by the control authority, service the interceptor or separator every 90 days and maintain backup copies of trip tickets and a service log, on the premises of the facility, for at least five years. It is the customer's responsibility to insure compliance with the city's discharge limitations.

- F. Prohibited Types: Water-cooled or operated interceptors are prohibited.
- G. Backwater valves: Where the plumbing system of a building may be subjected to backflow of sewage or water, suitable provision shall be made to prevent overflow into the building by the installation of a satisfactory backwater valve or valves or other satisfactory means.

(Ord. No. 2509 11-27-06)

4-4B-11-2: SUMPS AND RECEIVING TANKS:

- A. In a building in which the whole or part of the plumbing system lies below the house connection to the public sewer, the outlet from said plumbing system or part thereof shall discharge into a sump or receiving tank from which the sewage shall be pumped through a pipe to the house connection or to the public sewer.
- B. The sump or receiving tank shall be adequate in capacity. It should be discharged not less frequently than once each hour. It shall be constructed in a watertight and substantial manner of masonry, vitrified clay or metal. It shall be provided with an airtight cover. Any pipe discharging into the sump or receiving tank shall not be submerged.
- C. No storm, surface, or ground water shall be conducted to a sump or tank receiving domestic sewage. Such water may be conducted to a separate sump for the purpose of pumping it to the surface of the ground or to a separate storm sewer if such exists.

4-4B-12: INSPECTIONS AND TESTS:

- A. Inspections Required: All piping and appurtenances of a sewer system or house sanitary connections shall be inspected by the Code Enforcement Officer to insure compliance with all the requirements of this Article and the installation and construction of the system in accordance with any approved plan and the permit.
- B. Owner to Notify Code Enforcement Officer When Ready for Inspection:
 - 1. It shall be the duty of the owner or his agent to notify the Code Enforcement Officer orally, by telephone or in writing not less than eight (8) working hours before the work is to be inspected and have a time set for the inspection.
 - 2. If the Code Enforcement Officer finds on inspection that the work and materials entered into said work and materials entered into said work is not satisfactory, the owner or his agent shall remedy said defect and then renotify as above the Code Enforcement Officer and arrange for a reinspection.
 - 3. If the Code Enforcement Officer fails to appear within twenty four (24) hours of the time set for an inspection, the inspection shall be deemed to have been made.
- C. Right of Entry:

1. The Code Enforcement Officer and other duly authorized employees of the City, the Illinois Environmental Protection Agency and the United States Environmental Protection Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Article. The Code Enforcement Officer or his representative shall have no authority to inquire into any process, including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment, but may refuse to allow connection or discharge to City sewers when the absence of information regarding said processes may be deemed by the City to pose unreasonable risk to the public's health, safety or welfare or may have a deleterious effect upon the sewage works, processing equipment or receiving waters.

2. The Code Enforcement Officer and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

3. Any owner, occupant or other person refusing to allow said authorized employee access to the premises for such purposes shall be guilty of a misdemeanor and shall be fined as provided under the penalties provided in Section 4-4B-16 of this Article.

- D. Defective Work: If, upon inspection, defects in material or in work shall be found, such defects in work or material shall be redone or replaced within three (3) days or as the Code Enforcement Officer may direct and inspection repeated.
- E. Condemned Materials: The presence of any material, other than provided for in this Article, near the site of work, shall be sufficient cause for condemning part of or the entire work. If inspection discloses defective material, or unworkmanlike construction which does not conform to the requirements of this Article, such defective materials or unworkmanlike construction shall be condemned, and the owner or his agent shall proceed no further with the use of such defective material or unworkmanlike construction. Condemned materials not yet installed shall be removed within three (3) days following the condemnation thereof or as the Code Enforcement Officer may be direct.

4-4B-13: CERTIFICATE OF APPROVAL:

- A. Standards for Issuance: If said sewer construction work is approved by the Code Enforcement Officer, he shall issue a certificate of satisfactory inspection, but no certificate shall be issued unless all sewer construction is in strict conformity with the rules and regulations of this Article.

- B. **Prohibited Use Without Certificate:** No part of any new, reconstructed or repaired sewer work shall be used for which a certificate of approval has not been issued by the Code Enforcement Officer. Any person or persons attempting to use or flow any sewage into the public sewer system from any new, reconstructed or repaired sewer work without the obtaining of the certificate of approval as herein provided shall be guilty of a misdemeanor and subject to the fines and penalties herein provided, and in addition thereto, the Code Enforcement Officer shall proceed forthwith to disconnect such newly constructed or repaired sewer work for which no certificate of approval has been issued and may enter upon any public or private property for the purpose of such disconnection.

4-4B-14: **DISTURBING, INJURING OR ENTERING SEWERS:** No person other than an authorized City employee shall disturb, injure or enter any public sewer, manhole, catch basin or other part of the public sewer system without a written permit from the Code Enforcement Officer.

4-4B-15: **REVOCAION OF LICENSE OR PERMIT:** The permit or license of a sewer builder shall become void in the City when he shall refuse or neglect within three (3) days' time after notification thereof in writing to make such necessary corrections to the sewer work either in workmanship or materials as shall have been ordered by Code Enforcement Officer or if such person shall permit the use of his name by another person or persons for the purpose of obtaining a permit or license to do sewer work.

4-4B-16: **PENALTIES FOR VIOLATION:**

- A. Any person or other legal entity which violates, neglects or refuses to comply with, or who resists, or opposes the enforcement of any of the provisions of this Article where no other penalty is provided, shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and for each subsequent offense, such person shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00), and such person or other legal entity shall be deemed guilty of a separate offense for each and every day during which said violation, neglect or refusal to comply with the provisions of this Article shall continue. In addition to the fine, the person or other legal entity in violation of this Article or contributing to an operating problem at the sewerage plant violating its NPDES permit shall compensate the City for any expenses incurred as a result of the violation. Expenses may include, but not be limited to, fines levied against the City, additional laboratory sampling and analyses, engineering fees, legal fees, chemical costs and additional time spent coordinating activities, both present and future, related to the offense. (Ord. No. 2849-19/20 10-24-19)
- B. Any sewer builder who shall construct or install any sewer work in violation of any of the provisions of this Article and any builder, contractor, architect or designer designing, drawing or issuing plans for or having charge of such sewer work or who shall permit it to be so constructed or installed shall be liable to the penalties provided or imposed in this Section.

CHAPTER 4

SEWER REGULATIONS

ARTICLE C - SEWER USER CHARGES

SECTION:

- 4-4C-1: Definitions
- 4-4C-2: Wastewater Charges
 - 4-4C-2-1: Basis for Wastewater Charges
 - 4-4C-2-2: Measurement of Flow
 - 4-4C-2-3: Computation of Surcharge
 - 4-4C-2-4: Computation of Wastewater Charge
 - 4-4C-2-5: Volumetric Rate
 - 4-4C-2-6: Surcharge Rate
- 4-4C-3: General Provisions
 - 4-4C-3-1: Bills
 - 4-4C-3-2: Delinquent Bills
 - 4-4C-3-3: Enforcement of Lien
 - 4-4C-3-4: Collection
 - 4-4C-3-5: Appeals
 - 4-4C-3-6: Revenues
 - 4-4C-3-7: Accounts
 - 4-4C-3-8: Notice of Rates
 - 4-4C-3-9: Access to Records
- 4-4C-4: Effective Date of Rates

(Ord. No. 2444-05/06 Revised 09/12/05)

(Ord. No. 2645-11/12 Revised 10/11/11)

(Ord. No. 2663-12/13 Revised 08/13/12)

(Ord. No. 2694-13/14 Revised 02/10/14)

(Ord. No. 2743-15/16 Revised 04/28/16)

4-4C-1: **DEFINITIONS:** Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

CHARGES, TYPES OF:

Minimum Charge: A flat charge to all users for the use of the wastewater facilities.

Operational Charge: A charge for the costs of operation, maintenance, debt service, and equipment replacement for the wastewater treatment plant, sewer lines, and lift stations.

Surcharge: The assessment which is levied on those persons whose waste has a greater concentration of BOD (denoting biochemical oxygen demand) and SS (suspended solids) than the values established in Section 4-4C-2-1

NEW RESIDENT: Any person who has purchased a residence and has not established a full 6 month winter period

CLARIFICATION OF WORD USAGE: "Shall" is mandatory; "may" is permissible.

DEBT SERVICE: Amounts borrowed to cover large expenditures to repair or replace sewage treatment facilities.

LOCAL GOVERNMENT: City of Pekin

ORDINANCE: This Ordinance which covers how wastewater services are billed.

NEW RESIDENT: Any person who has purchased a residence and has not established a full 6 month winter period.

PART TIME RESIDENT: Any person who does not reside in their residence for the full year but continues to own the residence.

PERSON: Any and all persons, natural or artificial, including any individual, firm, company, municipal or a private corporation, association, society, institution, enterprise, governmental agency or other entity.

SEWER TYPES AND APPURTENANCES:

Public Sewer: A sewer provided by or subject to the jurisdiction of the City. It shall also include sewers within or outside the City boundaries that serve one or more persons and ultimately discharge into the City sanitary (or combined) sewer system, even though those sewers may not have been constructed with City funds.

Sewer: A pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and ground water drainage.

Sewerage: The system of sewers and appurtenances for the collection, transportation and pumping of sewage.

STATE GOVERNMENT: The State of Illinois' participation in the oversight and financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act (30 ILCS 405/1 et seq.) and for making such grants as filed with the Secretary of State of Illinois.

USER TYPES:

Residential Home Owner Occupied User All monthly-billed dwelling units such as houses, mobile homes, permanent dwellings which are occupied by the owner of the property.

Residential Rental User: All monthly-billed dwelling units such as houses, mobile homes, permanent multi-family dwellings which are occupied by a leasee or others who are not the owner of the property

User Class: The type of user, "residential home owner occupied, residential rental, institutional/governmental, commercial", or "industrial", as defined herein.

WASTEWATER (SEWAGE) AND ITS CHARACTERISTICS:

BOD (denoting biochemical oxygen demand): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20) centigrade, expressed in milligrams per liter.

Industrial Waste: Any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

Sewage: Is used interchangeably with wastewater.

Suspended Solids (SS): Suspended solids are those solids that either float on the surface of, or are in suspension in water, sewage or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the IEPA Division of Laboratories' "Manual of Laboratory Methods".

Wastewater: The spent water of a community. From this standpoint, of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any ground water, surface water and storm water that may be present.

WASTEWATER FACILITIES: The structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and transport effluent to a watercourse.

4-4C-2: **WASTEWATER CHARGES:**

4-4C-2-1: **BASIS FOR WASTEWATER CHARGES:**

A. Wastewater Charge: The wastewater charge is for the use of and services supplied by the wastewater facilities of the City. The wastewater charge shall consist of the operational charge and the minimum charge.

4-4C-2-2: **MEASUREMENT OF FLOW:** The volume of flow used for computing Volumetric charges and surcharges shall be the actual metered water consumption read, unless the user qualifies for winter averaging (as defined below) or a separate wastewater meter or water meter has been installed in conformance with the requirements of the City.

A. If the user discharging waste into the public sewers procures any part, or all, of his water from sources other than the Illinois-American Water Company - Pekin District, all or a part of which is discharged into the public sewers, said user may be required by the City to install and maintain, at his expense, water meters of a type approved by the Illinois-American Water Company - Pekin District for the purpose of determining the volume of water obtained from these other sources.

B. Devices for measuring the volume of waste discharged may be required by the City if these volumes cannot otherwise be determined from the metered water consumption records.

C. "Winter averaging" will only be allowed for those monthly customers classified as residential home owner occupied user. The usage from the months of November through April will be averaged, and the lesser of this average or the actual metered usage during the summer billing period will be the amount charged for the summer billing period. If a customer has not been serviced for a full period, due to either being a new resident or a part time resident, the Wastewater Billing Department shall use an average usage of 2500 gallons per household. (Ord. No. 2344-03/04 10-27-03) (Ord.No. 2694-13/14 02-10-14)

4-4C-2-3: **COMPUTATION OF SURCHARGE:** The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the City of Pekin and shall be binding as a basis for surcharges.

4-4C-2-4: **COMPUTATION OF WASTEWATER CHARGE:** the Wastewater Charge shall consist of the Capital Improvement Charge, the Operational Charge, and a Surcharge where applicable.

- A. **MINIMUM CHARGE:** There is a minimum charge of four dollars (\$4.00) per month to each user of the wastewater facilities of the City. The Minimum Charge will be charged for every user regardless of whether they are present through the winter months, have no water usage, or have had their meter pulled since they are still connected to the sanitary sewer system. The minimum charge will automatically increase by \$0.10 a year until the year of 2026.
- B. **OPERATIONAL CHARGE:** This charge is based on the volumetric flow of water to the user (Section 4-4C-2-2) times the established rate (Section 4-4C-2-5).
- C. **SURCHARGE:** The charge for having BOD and SS concentrations above normal domestic levels as computed per Section 4-4C-2-3.

4-4C-2-5: **VOLUMETRIC RATE:** There shall be and there is hereby established a volumetric rate for the use of and for service supplied by the wastewater facilities of the City.

A volumetric rate of two dollars thirty-nine cents (\$2.39) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2011.

A volumetric rate of two dollars eighty-seven cents (\$2.87) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2012.

A volumetric rate of three dollars forty-four cents (\$3.44) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2013.

A volumetric rate of four dollars twenty cents (\$4.20) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2014.

A volumetric rate of five dollars twenty-four cents (\$5.24) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2015.

A volumetric rate of six dollars eighty-two cents (\$6.82) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2016.

A volumetric rate of seven dollars twenty-three cents (\$7.23) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2017

A volumetric rate of seven dollars sixty-six cents (\$7.66) for one thousand (1,000) gallons of metered water consumption shall be applied to all users of the wastewater facilities of the City May 1, 2018.

(Ord. No. 2624 08-02-10)

4-4C-2-6: **SURCHARGE RATE:** The rates of surcharges for BOD and SS above the normal domestic concentrations shall be as follows:

Per lb. of BOD: \$0.40

Per lb. of SS: \$0.25

(Ord. No. 2344 10-27-09)

(Ord. No. 2624 08-02-10)

4-4C-3: **GENERAL PROVISIONS:**

4-4C-3-1: **BILLS:** Said rates or charges for service shall be payable monthly. Bill amounts will be based on the monthly water usage for the address provided by the water service company then calculated using the current volumetric rate. The owner of the premises, the occupant thereof and the user of the service furnished by the City to such premises are jointly and severally liable therefore to the City.

It shall be the policy of the City of Pekin to send bills for sewer service only to the record owner of the real estate except that the City of Pekin shall have the authority to make reasonable exceptions to this policy.

All sewer bills are due and payable twenty-one (21) days after billing date. If the amount due is not paid within the time period allowed a service charge for late payment shall be assessed of ten percent (10%) on the unpaid balance. (Ord. No. 2682-13/14 06-10-13)

4-4C-3-2: **DELINQUENT BILLS:** Whenever a bill for sewer service remains unpaid for forty five (45) days the Wastewater Billing Office shall send in a request to have the water service shutoff. Water service will be reinstated upon full payment of the past due wastewater amount, the disconnect fee, administrative fees, and any charges for lost water service revenue. If ninety (90) days after the water service has been shut off and the bill remains unpaid, a lien will be placed on the property for all costs described above plus

administrative fees for processing the lien and filed with the Tazewell County Recorder of Deeds (Ord. No.2682-13/14 06-10-13)

4-4C-3-3: **ENFORCEMENT OF LIEN:** If payment shall not be made for charges as provided in this ordinance, any amount due for sewage service, additional charges, or benefits when the same come due, the City may, as provided by the Illinois Compiled Statutes, 65 ILCS 5/11-141-7, foreclose such lien in like manner and with like effect as in the foreclosure of mortgages on real estate. In the alternative, and also pursuant to the Illinois Compiled Statutes, 65 ILCS 5/11-141-7, the City may, in its discretion, file suit to collect such amounts as are delinquent and due against the occupant or user of the real estate in a civil action, and shall collect, as well, all attorney's fees incurred by it, the same to be fixed by order of the court.

4-4C-3-4: **COLLECTION:** The Finance Department or other designated administrator of the Wastewater Division shall assure that every effort is made to collect all sums that become due and owing to the City under this Article. In addition to the provisions of Section 4-4C-3-3 hereof, the designated administrator of the Wastewater Division shall establish consistent procedures for the collection of sums that become due and owing under this Article. Such procedures may include the use of commercial collection agencies or other parties.

Additionally, the Finance Department or other designated administrator shall report on a periodic basis to the City Manager as to the amount and nature of all accounts due the City under this Article.

4-4C-3-5: **APPEALS:** The method of computation of rates and service charges established for user charges in Sections 4-4C-2-1 through 4-4C-2-6 shall be made available to a user within thirty (30) days of receipt of a written request for such. Any disagreement over the method used or in the computations thereof shall be remedied by the City within sixty (60) days after notification of a formal written appeal outlining the discrepancies.

4-4C-3-6: **REVENUES:** The Finance Department shall receive all such revenues from the City sewer system and all other funds and monies incident to the operation of such system as the same may be delivered to the Department and deposit the same in the account of the fund designated as the "Sewer Fund of the City", which shall be held by the Finance Department separate and apart from all other funds of the City. Funds held by the Finance Department in the Sewer Fund of the City shall be used to defray the costs of operating, maintaining, improving, or extending the City sewer system, to provide an adequate depreciation fund, and to pay debt service costs for bonds issued for the purpose of constructing, acquiring, improving, or extending the sewer system.

Ord. No. 2821-04/08/19)

The Finance Department will conduct an annual review to verify the adequacy of the wastewater charge at the same time and as part of the annual audit report to the City. The wastewater charge shall be revised periodically to reflect a change in operational costs, capital improvement costs, or surcharge rates.

4-4C-3-7: **ACCOUNTS:** The Finance Department shall be responsible for establishing a proper system of accounts and shall keep proper books, records and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system, and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewer system.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do in fact meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- A. Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- B. Billing data to show total number of gallons billed per fiscal year.
- C. Debt service for the next succeeding fiscal year.
- D. Number of users connected to the system.
- E. Number of non-metered users.
- F. A list of users discharging nondomestic and industrial wastes and volume of waste discharged.

4-4C-3-8: **NOTICE OF RATES:** Users of the sewerage system will be notified by the City of the rates through the wastewater bills.

4-4C-3-9: **ACCESS TO RECORDS:** The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the City which are applicable to the City's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the special and general conditions to any State grant.

4-4C-4: **EFFECTIVE DATE OF RATES:**

The rates and service charges established for user charges in Sections 4-4C-2-3 through 4-4C-2-6 are effective as of May 1, 2011²⁰¹¹ and as amended April 28, 2016 for rates effective May 1, 2016. All other effective dates remain in full force and effect (Ord. No. 2344 10-27-03) (Ord. No. 2624 08-02-10) (Ord. No.2743-15/16 04-28-16)

CHAPTER 5

STORMWATER AND EROSION CONTROL

SECTION:

- 4-5-1: Purpose/Intent
- 4-5-2: Definitions
- 4-5-3: Facility Requirements
- 4-5-4: Standards
- 4-5-5: Fees
- 4-5-6: Building Permit
- 4-5-7: Design and Construction Standards for Storm Sewers and Drainage Ways
- 4-5-8: Erosion Controls
- 4-5-9: Exceptions
- 4-5-10: Violation and Penalties
(Revised Chapter Ord. No. 2520 04-09-07)

4-5-1: **PURPOSE/INTENT IF THE STORMWATER AND EROSION CONTROL:**

1. The City hereby establishes a Stormwater and Erosion Control code to provide for the management, protection, control, regulation, use, construction, and enhancement of the stormwater systems and facilities owned and operated by the City of Pekin.
2. The management and supervision of the Stormwater and Erosion Control shall be under the direction of the Public Works Director.

4-5-2: **DEFINITIONS:** As used in this Chapter, the following words shall have the meanings set forth hereinafter:

ADJACENT LANDS: means surrounding land that may either impact a site, or be impacted by potential soil erosion, sediment, and/or stormwater run-off as a result of land-disturbing activities conducted on a site, and at a minimum is an area within 50 feet of the site.

AUTHORIZED ENFORCEMENT AGENCY: Employees or designees of the Public Works Department.

BEST MANAGEMENT PRACTICES (BMP's): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the stormwater, receiving waters, or stormwater conveyance systems. BMP's also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CITY: The City of Pekin, Illinois

CLEAN WATER ACT: The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and any subsequent amendments thereto.

COMBINED SEWER: A sewer designated to receive or receiving both wastewater and storm or surface water.

CONSTRUCTION ACTIVITY: Activities subject to the NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONTROL MEASURE: Any proposed temporary or permanent measures to be installed to control erosion, sediment, and stormwater runoff from a project area.

DEVELOP or DEVELOPMENT: The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance; and any use or extension of the use of land.

DEVELOPER: Any person, persons, company or corporation that develops property.

DISTURBED AREA: Any area of land on which the pre-development ground surface will be affected or altered by the development activities. This includes but is not limited to grading, clearing, stock piling, tracking, and other similar activities.

FIVE YEAR FREQUENCY: The storm event rainfall depth during a 24-hour period which is exceeded, on the average, once every five years.

LAND DISTURBING ACTIVITY: Any change in land which may result in soil erosion from water or wind and the movement of sediments into state, county or city waters or a change in the amount and/or intensity of storm water run-off, including but not limited to, the covering with an impervious surface, stockpiling, clearing, grading, excavating, rehabilitating, transporting, depositing or filling of land.

NPDES OR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM: The national permitting program implemented under the Clean Water Act.

PERIMETER CONTROL: Any control measure installed between the down slope side of the disturbed area and the property line and/or between the down slope side of the disturbed area and any area of concentrated flow.

STANDARDS: The Illinois Environmental Protection Agency's Illinois Urban Manual, A Technical Manual Designed for Urban Ecosystem Protection and Enhancement published in 1995.

STORM WATER SYSTEM: A conveyance or system of conveyances and includes sewers, storm drains, curbs, gutters, ditches, retention ponds or basins, dams, stream impoundments, man made channels or storm drains and flood control facilities and appurtenances thereof, which is designed or used for the collection, control, transportation, treatment or discharge of stormwater. Does not include combined sewers.

TRACK-OUT: Dirt tracked out of a construction site on tires of vehicles.

TWENTY-FIVE YEAR FREQUENCY: A storm event rainfall depth during a 24-hour period which is exceeded, on the average, once every twenty-five years.

4-5-3: **REQUIREMENTS:** Any person that develops or creates any land-disturbing activities for more than 2500 square feet of property within the City shall provide a stormwater pollution prevention plan, obtain all applicable permits, and pay all applicable fees. This covers any development that is below the NPDES requirements for stormwater control.

4-5-4: **STANDARDS:**

- A. No development of 2500 square feet or more shall take place within the City unless there is an adequate stormwater pollution prevention plan designed and approved by the City that demonstrated that the development will not overtax or cause flooding of or from existing storm sewers and retention or detention facilities. The developer shall show by detailed calculations that the stormwater outlet is adequately sized for a twenty-five (25) year frequency rainfall event based on Illinois Department of Transportation Design policies or other acceptable method. The calculations are subject to the City's review and approval.
- B. In connection with any required control facilities, the developer shall submit plans, specifications and drainage calculations to the City for review and approval. Plans shall be prepared by a registered professional engineer or registered architect. Plans and calculations shall include existing and proposed elevation of site, including buildings with streets adjacent to the site(s).
- C. Formulas for determining the size of detention and retention basins shall be based on the latest Illinois Department of Transportation "Standards for Storm Water Runoff" or other acceptable method.
- D. Erosion of soil through runoff, track-out, or dust from any development or disturbed area onto adjacent properties is strictly prohibited. Violators will be subject to penalties as outlined in 4-5-10 of this section

4-5-5: **FEES:**

- A. Plan Review Fee: A fee shall be paid to the City of Pekin at the Inspections Department for review of stormwater pollution prevention plans as follows:

Development of 1 acre or less	\$100
Development of more than 1 and less than 10 acres	\$250
Development of 10 acres or more	\$500

- B. Payment of Fees: Payment of the review fee shall be made prior to the issuance of any building permit for development.

4-5-6: **BUILDING PERMIT:** No building permit shall be issued for development within the City as provided herein until all requirements of this Chapter are met.

4-5-7: **DESIGN AND CONSTRUCTION STANDARDS FOR STORM SEWERS AND DRAINAGE WAYS:**

- A. Design Standards: All subdivisions shall include a stormwater drainage system designed in such a way as to accomplish the following:

1. Provide that all lots and outlots in the subdivision will be graded and shaped so as to drain property within the subdivision to natural drainage ways by gravity by means of catch basins, inlets, retention ponds and natural drainage ways with adequate capacity.

2. Connect all storm water inlets and catch basins to a primary storm sewer, pipe or conduit of sufficient size, grade, and capacity to carry the runoff reasonably expected from a 25-year frequency storm event for property within the corporate limits or the land use element of the City's Comprehensive Plan for property outside the corporate limits.

3. Outlet all storm sewers to other existing storm sewers or improved drainage ways of sufficient size, grade and capacity to carry the runoff reasonably expected from a 25-year frequency storm event for that area within the corporate limits of the City or the land use element of the City's Comprehensive Plan for property outside the corporate limits.

4. Improve all drainage ways through the proposed subdivision to a size and in a way adequate to carry the runoff reasonably expected from a 25-year frequency rainfall event on the area in the natural drainage area for property within the corporate limits or the land use element of the City's Comprehensive Plan for property outside the corporate limits.

B. Retention and/or Detention Facilities:

1. No development shall be authorized in the City unless there is an adequate stormwater outlet and the City has approved retention and/or detention facilities. The applicant shall show by his detailed calculations and plans that the storm sewer outlet and/or drainage way are in compliance with the City design criteria. The calculations must be submitted for review and approval.

2. In connection with any required storage facilities, the developer shall submit two (2) sets of plans, specifications and calculations for review and approval. Plans shall be prepared by a registered professional engineer or professional architect in accordance with standards previously set forth. Plans and calculations shall include existing and proposed elevations of site, including buildings, with streets adjacent to the sites.

C. Manholes: Provide public manholes installed at the end of each storm sewer line in public right of way or permanent drainage easements at all changes in grade or alignment, at all intersections and at distances not greater than three hundred fifty feet (350') between manholes.

D. Adequate Outfall: Provide a controlled outlet from all drainage facilities. The applicant shall show by his detailed calculations that the storm sewer outlet or retention basin outlet is adequate for a twenty-five (25) year rainfall event in the calculations presented to the City.

- E. Approvals: A certificate of occupancy for the development of a building or structure shall not be issued until all storm water facilities are completed to the satisfaction of the Inspection Department according to the previously approved plans. Building permits for structures or buildings in any residential subdivision shall not be issued until all storm water facilities are completed to the satisfaction of the Inspection Department in accordance with previously approved plans.

4-5-8: EROSION CONTROLS:

- A. All developments shall have a stormwater pollution prevention plan that details all temporary and permanent erosion control systems and incorporates all current best management practices. They shall be designed in such a way as to do and accomplish the following:

1. Provide that all loosened earthen materials, vegetative debris, construction debris and/or rubbish caused by construction or erection of any building, structure, parking lot, or construction of streets be contained within the boundaries of the development during the period of construction. Permanent erosion controls are established by settling basins, berms, silt control fences, permanent vegetation, entrance rumble strips, or other standard recognized methods of permanently controlling erosion prior to removal of temporary erosion control.

2. Provide that all stormwater outlets or drainage ways be constructed with controls to control erosion of material both on the developed land and all adjacent lands. Erosion controls shall be provided such that velocities of stormwater discharged from outlets and into natural drainage ways is limited as set forth by the Illinois Department of Transportation's Design Manual. Means of controlling erosion shall include, but not be limited to: energy dissipators, settling basins, riprap or fabric slope protection and establishment of permanent vegetation.

3. Provide for dust control measures to prevent airborne soil erosion.

- B. Approval: A certificate of occupancy or acceptance of a subdivision shall not be issued until all erosion control facilities are completed and approved in accordance with previously approved plans.

4-5-9: EXCEPTIONS:

Storm Water Retention and Detention Facilities: Storm water retention and detention facilities shall be incorporated into all developments except where it can be demonstrated that retention or detention facilities are unfeasible to construct and at least one of the following exists:

1. The stormwater runoff from the development can be directed by natural drainage ways or existing storm systems of adequate capacity to a previously approved storm water retention or detention facility of adequate capacity to accommodate the runoff by the standards as set forth by the City.

2. The storm water runoff from the development can be discharged into an existing drainage or storm sewer system maintained by public bodies other than the City; provided that such other public bodies have evidenced their consent to or acceptance of such discharge.

4-5-10: **VIOLATION AND PENALTIES:** This code shall be enforced by the authorized enforcement agency. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Chapter shall be subject to a penalty by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00). Unless specifically provided otherwise, each day that any violation of any provision of this Code continues shall constitute a separate offense. (Ord. No. 2849-19/20 10-24-19)

CHAPTER 6

AIRPORT REGULATIONS

ARTICLE A. ADMINISTRATIVE PROVISIONS

SECTION:

4-6A-1: Establishment; Compliance with State and Federal Provisions

4-6A-2: Minimum Standards Adopted

4-6A-1: ESTABLISHMENT; COMPLIANCE WITH STATE AND FEDERAL PROVISIONS:

- A. Establishment: A Municipal Airport is hereby established which shall be known as the City of Pekin Municipal Airport on a site which is qualified for State of Illinois and Federal Aviation Agency aid and shall be approved by them.
- B. Compliance with Regulations: The City of Pekin Municipal Airport shall comply with the ordinances of the City and with the requirements of the State of Illinois Department of Aeronautics and the Federal Aviation Agency.

4-6A-2: **MINIMUM STANDARDS ADOPTED:** There is hereby adopted by the City, pursuant to a recommendation of the Pekin Municipal Airport Commission, minimum standards and conditions and rules and regulations for tenants of the City of Pekin Municipal Airport which may be engaged in any general aviation commercial operations on the Airport. The minimum standards adopted by the Municipal Airport Commission and submittal to the City Council are adopted and incorporated as fully as if set out at length herein as a part of this Article, and the provisions thereof shall be controlling in the operation and regulation of the City of Pekin Municipal Airport. There shall be on file, at all times, at least three (3) copies of said minimum standards, in the office of the Airport Manager, for public inspection.

CHAPTER 6

AIRPORT REGULATIONS

ARTICLE B. AIRPORT COMMISSION, ADVISORY

SECTION:

4-6B-1: Establishment; Term

4-6B-2: Compensation

4-6B-3: Duties

4-6B-4: Attorney

4-6B-1: **ESTABLISHMENT; TERM:** The Airport shall be operated by the City of Pekin or its designees with recommendations from a body known and designated as the City of Pekin Airport Commission, which Commission shall consist of five (5) persons appointed by the Mayor by and with the consent of the City Council. The terms of office shall be for three (3) years and shall be staggered. The chairman of said Commission shall be elected by the Commission for a two (2) year period.

4-6B-2: **COMPENSATION:** Commission members shall serve without compensation but may be refunded any necessary expense incurred by said Commissioners, the payment of which shall be subject to the approval of the City Council.

4-6B-3: **DUTIES:** The Commission's duties shall be as follows:

Rules and Regulations: The Commission shall have the authority to set up rules and regulations for the operation of said Airport. These rules and regulations shall cover but not be limited to the following:

Establishing minimum standards and regulations for the leasing and use of Airport facilities.

Make recommendations for future growth of the Airport through the annual Transportation Improvement Program (TIP) plan.

Proper protocol for tenants and others granted the privilege to use the Airport for other approved activities.

B. Budget: The Commission shall provide input on the annual operating budget for the succeeding fiscal year. Expenditures recommended by the Commission shall be in accordance with such approved budget. The Commission shall provide input on how best to utilize Federal appropriations.

C. Records and Reports: The Commission shall keep a written record of its acts and doings, including minutes of its meetings, which shall be held at least once monthly, and shall make an annual report of its acts and doings to the City Council.

D. Procedure: The Commission shall conduct itself under the procedures and rules as provided by Robert's Rules of Order.

4-6B-4: **ATTORNEY:** The use of an attorney may be recommended by the Commission for the purpose of carrying out the provisions of Article B.

(Ord. No. 2664-12/13 09-10-12)

CHAPTER 7

TREES AND SHRUBS

SECTION:

- 4-7- 1: Street Trees Defined
- 4-7- 2: City Tree Board
- 4-7- 3: Arborists' License and Insurance
- 4-7- 4: Street Tree Species to be planted
- 4-7- 5: Planting Requirements and Restrictions
- 4-7- 6: Public Tree Care
- 4-7- 7: Tree Topping
- 4-7- 8: Pruning, Corner Clearance
- 4-7- 9: Dead or Diseased Tree Removal on Private Property
- 4-7-10: Removal of Stumps
- 4-7-11: Penalty

4-7-1: **STREET TREES DEFINED:** "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the City.

4-7-2: **CITY TREE BOARD:**

- A. **Composition:** The City Tree Board shall consist of seven (7) members, citizens and residents of the City, who shall be appointed by the Mayor with the approval of the Council.
- B. **Term of Office:** The terms of the seven (7) persons to be appointed by the Mayor shall be for three (3) years and shall be staggered.
- C. **Compensation:** Members of the Board shall serve without compensation.
- D. **Duties and Responsibilities:** It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting replanting, removal or disposition of trees and shrubs along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the Official Comprehensive City Tree Plan. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. Should the said annual plan not be submitted, the City shall implement the most recent plan. (Ord. No. 2193 04-11-00)
- E. **Operation; Quorum:** The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.
- F. **Interference With Board:** It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees or trees on private grounds, as authorized in this Chapter.

- G. Review by City Council: The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council which may hear the matter and make a final decision.

4-7-3: **ARBORISTS' LICENSE AND INSURANCE:**

- A. License Required; Fee: It shall be unlawful for any person to engage in the business or occupation of pruning, treating or removing street trees within the City without first applying for and procuring a license. The license fee shall be fifty dollars (\$50.00) annually in advance; provided, however, that no license shall be required of any public service company or City employee doing such work in pursuit of their public service endeavors.
- B. Liability Insurance: Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of fifty thousand dollars (\$50,000.00) for bodily injury and one hundred thousand dollars (\$100,000.00) property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

4-7-4: **STREET TREE SPECIES TO BE PLANTED:** The following list constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board

SMALL TREES

Apricot
Crabapple
Flowering (sp)
Golden Rain Tree
Hawthorne (sp)
Pear, Bradford
Redbud
Soapberry
Lilac, Japanese Tree
Peach, Flowering
Plum, Purpleleaf
Serviceberry

MEDIUM TREES

Ash, Green Hackberry
Honeylocust
(thornless)
Linden or Basswood (sp)
Mulberry Red (fruitless male)
Pin Oak
Oak, English
Oak, Red
Pagodatree, Japanese
Pecan
Birch, River
Osageorange (male thornless)
Persimmon
Poplar, White
Sassafras

LARGE TREES

Coffee Tree
Kentucky Maple
White Oak
Sugar Oak
Bur Sycamore
Sycamore, London
Plantree
Cottonwood
(Cottonless, Male)

4-7-5: PLANTING REQUIREMENTS AND RESTRICTIONS:

A. Spacing Between Trees: The spacing of street trees will be in accordance with the three (3) species size classes listed in Section 4-7-4 of this Chapter, and no trees may be planted closer together than the following:

Small trees	30 feet
Medium trees	40 feet
Large trees	50 feet

Except in special plantings designed or approved by a landscape architect.

B. Distance from Curb and Sidewalk: The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three (3) species size classes listed in Section 4-7-4 of this Chapter, and no trees may be planted closer to any curb or sidewalk than the following:

Small trees	2 feet
Medium trees	3 feet
Large trees	4 feet

C. Distance from Street Corners and Fireplugs: No street tree shall be planted closer than thirty five feet (35') of any street corner, measured from the point of the nearest intersecting curbs or curb lines; nor closer than ten feet (10') of any fireplug.

D. Utilities: No street trees, other than those species listed as small trees in Section 4-7-4 of this Chapter, may be planted under or within ten (10) lateral feet or any overhead utility wire, or over or within ten (10) lateral feet of any underground water line, sewer line, transmission line or other utility.

4-7-6: PUBLIC TREE CARE: The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This Section does not prohibit the planting of street trees by adjacent property owners; providing, that the selection and location of said trees is in accordance with Sections 4-7-4 and 4-7-5 of this Chapter.

With the approval of the City, property owners may cause to have removed any tree that the City does not cause to remove. Said expense shall be the property owner's expense. (Ord. No. 2193 04-11-00)

4-7-7: TREE TOPPING: It shall be unlawful as a normal practice for any person or firm to top any street tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the City. (Ord. No. 2193 04-11-00)

4-7-8: PRUNING, CORNER CLEARANCE: Every owner of any tree overhanging any street right of way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet (8') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic-control device or sign.

4-7-9: DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY: The City shall have the right to cause the removal of any dead or diseased trees on private property within the City when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. The City will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal as a lien against the property. (Ord. No. 2193 04-11-00)

4-7-10: REMOVAL OF STUMPS: All stumps of street trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

4-7-11: PENALTY: Any person violating any provision of this Chapter shall be, upon conviction or plea of guilty, subject to a minimum fine of one hundred dollars (\$100.00) and maximum fine not to exceed seven hundred fifty dollars (\$750.00). (Ord. No. 2849-19/20 10-24-19)

CHAPTER 8

SIGNS AND STRUCTURES OVER RIGHTS OF WAY

SECTION:

- 4-8-1: Discontinuance of Construction Permits for Signs Extending Over Public Ways
- 4-8-2: Permits for Signs Extending Into Right-of-Way Lines
- 4-8-3: Application for Permit; Initial Fee
- 4-8-4: Liability Insurance Requirements
- 4-8-5: Canopies and Awnings
- 4-8-6: Penalty

4-8-1: NO CONSTRUCTION PERMITS FOR SIGNS EXTENDING OVER PUBLIC WAYS:

- A. Permits: No permits shall be issued by the City to any person for the construction, erection or maintenance of any sign for the purpose of advertising on or extending over any sidewalk, street or street right-of-way within the City.
- B. Removal; When Required: All signs owned by any person which now extend on, over or above any street, street right-of-way or public sidewalk in the City shall be removed.
- C. Exemptions From Restrictions: This restriction for the placement of signs on street or sidewalk right-of-ways shall not apply to road, traffic or pedestrian signs of the City or any other governmental agency.

4-8-2: PERMITS FOR SIGNS EXTENDING INTO RIGHT-OF-WAY LINES: All signs placed on buildings for advertising purposes by any person may extend over the street right-of-way line a distance of not to exceed eight inches (8"), but said sign must run parallel to said street or sidewalk line, and any such person desiring to construct such advertising sign to extend over the right-of-way line of said street line shall first obtain from the City Clerk a permit for the installation of such sign.

4-8-3: APPLICATION FOR PERMIT; INITIAL FEE: Any person desiring to construct such sign as provided in Section 4-8-2 hereinabove shall make written application to the City through its Clerk, which application shall give a full description of the sign, its dimension and location, and shall deposit with the Clerk a fee for such permit in a sum of money equivalent to two dollars (\$2.00) per square foot of said sign for which application for permit is requested.

4-8-4: LIABILITY INSURANCE REQUIREMENTS: Before construction of said sign, as provided for in Section 4-8-2 hereinabove, the said licensee shall deliver to the City Clerk a public liability insurance in the amount of \$100,000.00/\$300,000.00 to protect the City from any and all liability for personal or property damage to the public by reason of the erection and maintenance of said sign over and above the street right of way and shall maintain said insurance as long as said sign exists over and above said street right of way.

4-8-5: CANOPIES AND AWNINGS:

- A. Canopies: Permanent canopies for the purpose of protecting the sidewalk area from weather may be constructed and maintained so long as the same does not interfere in any way with pedestrian or vehicular traffic nor endanger persons or property and then only after having obtained a permit therefor from the City Clerk in the same manner as provided for signs hereinabove; except, that there shall be no annual fee to be paid for the maintenance of said permanent canopy; however, liability insurance, as in the case of signs, must be furnished to the City. No advertising may be permitted on any such permanent canopy.
- B. Awnings: Awnings on buildings fronting streets may be permitted without permit, provided the same are removed from above said walkway each and every night at sundown. Any such awnings so constructed shall in no way interfere with or impede pedestrian or vehicular traffic.

4-8-6: **PENALTY:** Any person violating the provisions of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code.

CHAPTER 9

HOUSE NUMBERING

SECTION:

4-9-1: House Numbering Required

4-9-2: Number on Houses

4-9-1: **HOUSE NUMBERING REQUIRED:** All lots, buildings and structures in the City shall be numbered in accordance with the following plan:

Court Street, from Water Street to Seventh Street, and Broadway from Seventh east to the City Limits, shall be the base or dividing line for numbering houses on all streets or avenues running north and south.

All that portion of streets running north and south, crossing and going north of the aforesaid Court Street and Broadway, shall be designated by the prefix "North", and that portion of all streets south of said Court Street and Broadway by the prefix "South".

Every street known by number shall be the commencement of a series of numbers on streets running east and west to be known by the prefix of the street number, as for example: First Street, 100; Second Street, 200; Third Street, 300, etc.

Houses on streets running north from the base, or dividing line shall be numbered as follows: Commencing at No. 1 at the northwest corner, and No. 2 at the northeast corner of any street intersecting such base or dividing line continuing northward on the basis of one hundred (100) in each block, with the odd numbers on the west side and even numbers on the east side.

Houses on streets running south from the base or dividing line shall be numbered as follows: Commencing at the base on Court Street with No. 1 at the southwest corner of any street intersecting said Court Street and continuing south, with the odd numbers on the west side and the even numbers on the east side of Broadway, and making St. Mary Street, Susannah Street and Broadway the dividing line of the series of 100, 200, and 300 series of hundreds; thence south to Washington Street, making said street the commencement of the sixth series of hundred, and thence south to the City Limits.

4-9-2: **NUMBER ON HOUSES:**

- A. **Responsibility of Owners:** It shall be the duty of the owners and occupants of every house in the City to have placed thereon, in a place visible from the street, figures at least two and one-half inches (2 1/2") high, showing the number of the house; any person failing to so number any house, building or other structure occupied by him or, if after receiving notice to do so from the City Clerk, shall continue in his failure to so number such house, building or structure shall be subject to penalty as provided in Section 1-4-1 of this Code.
- B. **Numbering Requirements and Restrictions:** House numbers shall be of a color that is contrasting to the background color. Roman numerals shall not be allowed.

CHAPTER 10

GROUNDWATER PROTECTION AREA

SECTION:

- 4-10- 1: Purpose and Intent
- 4-10- 2: Definitions
- 4-10- 3: Establishment of Setback Zones
- 4-10- 4: Applicability
- 4-10- 5: Operating Permits and Permit Conditions
- 4-10- 6: Groundwater Protection Overlay Zones
- 4-10- 7: Regulations Which Apply Within the Minimum Setback Zone (Zone 1) of the GWPA
- 4-10- 8: Regulations Which Apply Within the Maximum Setback Zone (Zone 2) of the GWPA
- 4-10- 9: Regulations Which Apply Within the 5-Year Capture Zone (Zone 3) of the GWPA
- 4-10-10: Unauthorized Releases
- 4-10-11: Closure Permits and Permit Conditions
- 4-10-12: Penalties
- 4-10-13: Enforcement
- 4-10-14: Notice of Violation
- 4-10-15: Appeals

Exhibits:

- Exhibit 1: Regulated Substances List
- Exhibit 2: Illustration of the Delineated Groundwater Protection Area
- Exhibit 3: "Best Management Practices" for the Construction Industry

Ordinance No.1973 January 23, 1995

4-10-1: **PURPOSE AND INTENT:**

- A. **PURPOSE:** In the interest of securing and promoting the public health, safety, and welfare, to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for the present and future generations, and to protect and preserve groundwater resources currently in use and those aquifers having a potential for future use as a public water supply, the provisions of this Article shall apply to all properties located within the City of Pekin. This Article establishes regulations for land uses within the Groundwater Protection Areas for: inspection and monitoring standards for new regulated substance facilities; uniform standards for release reporting; emergency response; substance management planning; permit procedures; and enforcement.
- B. **INTENT:** It is the intent of this Article to provide a method:
 - 1. To protect the groundwater resources of the City of Pekin and the surrounding area.

2. To provide a means of regulating land uses within the Groundwater Protection Areas.

3. To protect the City of Pekin's drinking water supply and that of the surrounding area from potential impacts by facilities that store, handle, treat, use, or produce substances that pose a hazard to groundwater quality.

4-10-2: **DEFINITIONS:** Except as stated in this Article, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this Article shall be the same as those used in the Illinois Environmental Protection Act and the Illinois Groundwater Protection Act (415 ILCS 5/14 et seq.), as amended from time to time.

- A. "Act" means the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.)
- B. "Agency" means the Illinois Environmental Protection Agency.
- C. "Aquifer" means saturated (with groundwater) soils and geologic materials which are sufficiently permeable to readily yield economically useful quantities of water to wells, springs, or streams under ordinary hydraulic gradients.
- D. "Board" means the Illinois Pollution Control Board.
- E. "City" means the City of Pekin, Tazewell and Peoria Counties, Illinois.
- F. "Containment Device" means a device that is designed to contain an unauthorized release, retain it for cleanup, and prevent released materials from penetrating into the ground.
- G. "Facility" means:
 - 1. any building, structure, installation, equipment, pipe or pipeline including but not limited to any pipe into a sewer or publicly owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or
 - 2. any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
- H. "Groundwater" means underground water which occurs within the saturated zone and geologic materials where the fluid pressure in the pore space is equal to or greater than atmospheric pressure.
- I. "Groundwater Protection Area" ("GWPA") means the portion of an aquifer within the minimum setback zone, maximum setback zone, or 5-year capture zone of a well or wellfield, as delineated in Exhibit 2 of this Article.
- J. "Groundwater Protection Area Permit" means an authorization by the City for a person to store, handle, use or produce a regulated substance within a GWPA.
- K. "Groundwater Protection Overlay Zones" are zones of the GWPA designated to provide differential levels of protection. Each GWPA is subdivided into three Groundwater Protection Overlay Zones as described below and as illustrated in Exhibit 2.

1. Zone 1: Minimum Setback Zone - The geographic area located between a well or wellfield providing potable water to a community water supply and a radial area of 400 feet (122 meters).
2. Zone 2: Maximum Setback Zone - The geographic area located between a well or wellfield providing potable water to a community water supply and a regular or irregularly shaped area not to exceed 1,000 feet (305 meters) from the wellhead, but excluding the minimum setback zone .
3. Zone 3: 5-Year Capture Zone - The geographic area located between a well or wellfield providing potable water to a community water supply and the delineated 5-year zone of capture but excluding zones 1 and 2.

L. "New Potential Primary Source" means:

1. a Potential Primary Source which is not in existence or for which construction has not commenced at its location as of February 1, 1995; or
2. a Potential Primary Source which expands laterally beyond the currently permitted boundary, or if the primary source is not permitted, the boundary in existence as of February 1, 1995; or
3. a Potential Primary Source which is part of a Facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new Facility.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

M. "New Potential Route" means:

1. a Potential Route which is not in existence or for which construction has not commenced at its location as of February 1, 1995, or
2. a Potential Route which expands laterally beyond the currently permitted boundary or, if the Potential Route is not permitted, the boundary in existence as of February 1, 1995.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

N. "New Potential Secondary Source" means:

1. a Potential Secondary Source which is not in existence or for which construction has not commenced at its location as of February 1, 1995; or

2. a Potential Secondary Source which expands, laterally beyond the currently permitted boundary or, if the Secondary Source is not permitted, the boundary in existence as of February 1, 1995, other than an expansion for handling of livestock waste or for treating domestic wastewaters; or

3. a Potential Secondary Source which is a part of a Facility that undergoes major reconstruction. Such reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a 2-year period exceed 50% of the fixed capital cost of a comparable entirely new facility.

Construction shall be deemed commenced when all necessary federal, state and local approvals have been obtained, and work at the site has been initiated and proceeds in a reasonably continuous manner to completion.

- O. "Operator" means any person in control of, or having responsibility for daily operation of a facility.
- P. "Owner" means any person who owns a site, facility or unit or part of a site, facility or unit, or who owns the land on which the site, facility or unit is located.
- Q. "Person" means any person, individual, public or private corporation, firm, association, joint venture, trust, partnership, municipality, governmental agency, political subdivision, public officer, owner, lessee, tenant, or any other entity whatsoever or any combination of such, jointly or severally.
- R. "Potable Water" means water that is satisfactory for drinking, culinary, and domestic purposes meeting currently accepted water supply practices and principals.
- S. "Potential Primary Source" means any Unit at a Facility or Site not currently subject to a removal or remedial action which:
1. is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site: or
 2. is utilized for the disposal of municipal waste not generated at the Site, other than landscape waste and construction and demolition debris; or
 3. is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the Site or at other sites owned, controlled or operated by the same person; or
 4. stores or accumulates at any time more than 75,000 pounds (34,020 kilograms) above ground, or more than 7,500 pounds (3,402 kilograms) below ground, of any hazardous substances.
- T. "Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel.

- U. "Potential Secondary Source" means any Unit at a Facility or a Site not currently subject to a removal or remedial action, other than a Potential Primary Source which:
1. is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the Site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris; or
 2. stores or accumulates at any time more than 25,000 pounds (11,340 kilograms) but not more than 75,000 pounds (34,020 kilograms) above ground, or more than 2,500 pounds (1,134 kilograms) but not more than 7,500 pounds (3,402 kilograms) below ground, of any hazardous substances; or
 3. stores or accumulates at any time more than 25,000 gallons (94,633 liters) above ground, or more than 500 gallons (1,893 liters) below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or
 4. stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or
 5. stores or accumulates at any one time more than 50,000 pounds (22,680 kilograms) of any de-icing agent; or
 6. is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the "Private Sewage Disposal Licensing Act.". (225 ILCS 225/1 et seq.)
- V. "Recharge Area" means the area through which precipitation and surface water can enter an aquifer.
- W. "Regulated Substances" means those substances found in Exhibit 1, attached hereto and incorporated herein.
- X. "Saturated Zone" means the zone in which the voids in the rock or soil are filled with water at a pressure greater than atmospheric pressure.
- Y. "Setback Zone" means a geographic area designated pursuant to the Act and this Article, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect groundwaters.
- Z. "Site" means any location, place, tract of land, or facilities, including but not limited to buildings, and improvements used for purposes subject to regulations or control by the Act or regulations thereunder.

- AA. "Unauthorized Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of a regulated substance in a quantity greater than 1 gallon (8 pounds) from a facility into a containment system, into the air, into groundwater, surface water, surface soils or subsurface soils. Unauthorized release does not include: intentional withdrawals of regulated substances for the purpose of legitimate sale, use, or disposal; and discharges permitted under federal, state, or local law.
- BB. "Underlying Permit" includes the Building Permits, Sewer Tap Agreements, Stormwater Retention Permits, Occupancy Permits, Preliminary Plat and Final Plat (required by the Pekin Subdivision Article) and any other applicable approval or permit required by the City in relation to the facility
- CC. "Unit" means any device, mechanism, equipment, or area (exclusive of land utilized only for agricultural production).
- DD. "Well" means any excavation that is drilled, cored, bored, driven, dug, fitted or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge, or acquisition of groundwater.
- EE "Well Field" means an area which contains one or more wells for obtaining a potable water supply.
- FF. "Well Number" means a well number owned and operated by Illinois American Water Company or Groveland Township Water District, as depicted on Exhibit 2.

4-10-3: **ESTABLISHMENT OF SETBACK ZONES:**

- A. Minimum Setback Zones are hereby established as set forth in Exhibit 2, as that area within a 400 feet (122 meters) radius of each existing or permitted community water supply well within the City or within 400 feet (122 meters) of the city limits of the City.
- B. Maximum Setback Zones are hereby established as set forth in Exhibit 2, as that area within a regular or irregularly shaped 1,000 feet (305 meters) radius of each existing or permitted community water supply well within the City, or within 1,000 feet (305 meters) of the city limits of the City.
- C. 5-Year Capture Zones are hereby established as set forth in Exhibit 2, which incorporates and adopts the recharge areas identified by the Groundwater Protection Needs Assessment dated November, 1992, performed for the City pursuant to Section 17.1 of the Act.

4-10-4: **APPLICABILITY:**

- A. Persons who own and/or operate one or more facilities in a Groundwater Protection Area (GWPA) shall comply with this Article. This obligation shall be joint and several.

- B. All facilities within a Groundwater Protection Area must comply with this Article prior to issuance of any underlying permits. Existing facilities which are not applying for an underlying permit shall have one year from the effective date of this Article to come into compliance.
- C. If the City Code Enforcement Officer determines that a facility, otherwise exempt from the permit requirements of this Article, has a potential to degrade groundwater quality, then the City Code Enforcement Officer may classify that facility as a new potential primary source, a potential route, or potential secondary source, and require that facility to comply with this Article accordingly. Such determination shall be based upon site-specific data and shall be eligible for appeal pursuant to Section 17 of this Article.
- D. The following are exempt from the permit requirements of this Article:
1. The storage and handling of regulated substances for resale in their original unopened containers of five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) or less shall be exempt from the permit requirements of this Article.
 2. De Minimus Usage of Regulated Substances: Facilities that use, store, or handle regulated substances in quantities of five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) or less of any one regulated substance, and in aggregate quantities of twenty (20) gallons (76 liters) or one-hundred (100) pounds (45 kilograms) or less of all regulated substances, shall be exempt from the permit requirement of this Article.
 3. Single family residences provided that no home business is operated on the premises.
 4. Public interest emergency use and storage of regulated substances.
 5. Regulated substances used by or for the City in wastewater treatment processes.
 6. Fueling of equipment not licensed for street use, provided that such fueling activities are conducted in a containment area that is designed and maintained to prevent leakage or other violations of this Article.
- E. The following are exempt from this Article:
1. Fuel tanks and fluid reservoirs attached to a private or commercial motor vehicle and used directly in the operation of that vehicle.
 2. Existing heating systems using fuel oil.
 3. The activities of construction, repairing or maintaining any facility or improvement on lands within Zones 1, 2, or 3 provided that all contractors, subcontractors, laborers, material men and their employees when using, handling, storing or producing Regulated Substances in Zones 1, 2, or 3 use those applicable "Best Management Practices" set forth in Exhibit 3, attached hereto and incorporated herein.

4. Cleanups, monitoring and/or studies undertaken under supervision of the Illinois Environmental Protection Agency or other state regulatory Agency or the United States Environmental Protection Agency.

5. Activities specifically regulated under 35 Ill. Adm. Code 601.615, 616, and 617 (Regulations for existing and new activities within setback zones and regulated recharge areas); 8 Ill. Adm. Code 255 and 256 (Regulations for secondary containment for agricultural pesticide and fertilizer facilities); and 8 Ill. Adm. code 257 (cooperative groundwater protection program for agricultural chemical facilities within appropriate setback zones).

6. If the owner of a new potential primary source, new potential secondary source, or new potential route is granted an Exception by the Board (other than land filling or land treating) pursuant to the Act, such owner shall not be subject to this Article to the same extent that such owner is not subject to the Act.

7. If the owner of a new potential primary source, new potential secondary source, or new potential route is issued a Certificate of Minimal Hazard by the Agency pursuant to the Act, such owner shall not be subject to this Article to the same extent that such owner is not subject to the Act.

F. Any action by the Agency or Board referred to this section shall not be final and binding on the City under this Article until the City has received notice of such proposed action and has had reasonable opportunity to present evidence concerning its interest.

4-10-5: **OPERATING PERMITS AND PERMIT CONDITIONS:**

A. GENERAL CONDITIONS

1. No person, persons, corporation, or other legal entities shall install or operate a facility in a GWPA without first obtaining a Groundwater Protection Operating Permit from the Code Enforcement Officer.

2. The focus of review for all permits shall be on the substances that will be stored, handled, treated, used or produced and the potential for these substances to degrade groundwater quality.

3. All permits required pursuant to this Article must be issued prior to or concurrent with the issuance of permits for construction activities or underlying permits.

4. The Code Enforcement Officer shall not issue an Operating Permit for a facility unless adequate plans, specifications, test data, and/or other appropriate information has been submitted by the owner and/or operator showing that the proposed design and construction of the facility meets the intent and provisions of this Article and will not impact the short term, long term on cumulative quantity or quality of groundwater.

5. The application for Operating Permits pursuant to this Article shall be made on a form provided by the City of Pekin and shall be accompanied by a fee of two hundred dollars (\$200). The annual renewal fee shall be twenty-five dollars (\$25) and shall accompany the annual certification statement.

6. Any person who owns or operates more than one facility in a single zone of the (GWPA) shall have the option of obtaining one permit for all operations if the operations at each facility are similar and the permit requirements under this Article are applicable to each facility individually.

7. An Operating Permit, issued by the Code Enforcement Officer shall be effective for 1 year. The Code Enforcement Officer shall not issue a permit to operate a facility until the Code Enforcement Officer determined that the facility complies with the provisions of these regulations.

8. The facility owner shall apply to the City of Pekin for permit renewal at least 60 days prior to the expiration of the permit. If an inspection of the facility reveals noncompliance, then the Code Enforcement Officer must verify by a follow-up inspection that all required corrections have been implemented before renewing the permit.

9. Operating Permits may be transferred to a new facility owner/operator if the new facility owner/operator does not change any conditions of the permit, the transfer is registered with the City of Pekin within 30 days of the change in ownership, and any necessary modifications are made to the information in the initial permit application due to the change in ownership.

10. Within 30 days of receiving an inspection report from the City of Pekin, the Operating Permit holder shall file with the City of Pekin a plan and time schedule to implement any required modifications to the facility or to the monitoring plan needed to achieve compliance with the intent of this Article or the permit conditions. This plan and time schedule shall also implement all of the recommendations of the Code Enforcement Officer.

B. PERMIT APPLICATIONS

1. The Operating Permit application shall include at a minimum:

a. Name, address, and phone number of owner/operator.

b. Property address, legal description and tax identification number of the facility.

c. The names and volumes of all regulated substances which are stored, handled, treated, used, or produced at the facility being permitted in quantities greater than the de minimis amounts specified in Section 6 of this Article. Copies of all leases pertaining to the facility.

d. A detailed description of the activities conducted at the facility that involve the storage, handling, treatment, use or production of regulated substances in quantities greater than the de minimis amounts specified in Section 6 of this Article.

e. A description of the containment devices used to comply with the requirements of this Article.

f. A Regulated Substances Management Plan for the facility.

g. A description of the procedures for inspection and maintenance of containment devices.

h. A description of the method for disposal of regulated substances.

i. 10 copies of a site plan showing the location of the facility and its property boundaries and the locations where regulated substances in containers larger than five (5) gallons (19 liters) or forty (40) pounds (18 kilograms) in size are stored, handled, treated, used, produced, the location of each containment device.

2. Conditions for GWPA Permits Issued to New Facilities:

a. Containment Devices

1.) The owner/operator of a facility must provide containment devices adequate in size to contain on-site any unauthorized release of regulated substances from any area where these substances are either stored, handled, treated, used, or produced. Containment devices shall prevent such substances from penetrating into the ground. Design requirements for containment devices include:

i. The containment device shall be large enough to contain 110 (one hundred ten) percent of the volume of the container in cases where a single container is used to store, handle, treat, use, or produce a regulated substance. In cases where multiple containers are used, the containment device shall be large enough to contain 150 percent of the volume of the largest container or 10 percent of the aggregate volume of all containers, whichever is greater.

ii. All containment devices shall be constructed of materials of sufficient thickness, density, and composition to prevent structural weakening of the containment device as a result of contact with any regulated substance. If coatings are used to provide chemical resistance for containment devices, they shall also be resistant to the expected abrasion and impact conditions. Containment devices shall be capable of containing any unauthorized release for at least the maximum anticipated period sufficient to allow detection and removal of the release.

iii. If the containment device is open to rainfall, then it shall be able to accommodate the volume of precipitation that could enter the containment device during a 24-hour, 100-year storm, in addition to the volume of the regulated substance storage required in Subsection 1(a) above.

iv. Containment devices shall be constructed so that a collection system can be installed to accumulate, temporarily store, permit detection of the presence of, and permit removal of any storm runoff or regulated substance.

v. Containment devices shall include monitoring procedures or technology capable of detecting the presence of a regulated substance within 24 hours following a release.

b. Regulated Substances Management Plan:

1.) Regulated Substances Management Plan:

i. A Regulated Substances Management Plan indicating procedures to be followed to prevent, control, collect, and dispose of any unauthorized release of a regulated substance shall be required as a condition of each Operating Permit. If a spill prevention control plan or similar contingency plan has been prepared in accordance with Illinois or United States Environmental Protection Agency requirements, a Regulated Substance Management Plan is not required as long as all of the regulated substances are included in the spill prevention control plan.

ii. The Regulated Substances Management Plan shall include:

a) Provisions to address the regulated substances monitoring requirements.

b) Provisions to train employees in the prevention, identification, reporting, control, disposal, and documentation of any unauthorized release of a regulated substance.

2.) The owners or operators of all new facilities shall implement regulated substances monitoring as part of the Regulated Substances Management Plan required by Section 15 of this Article. Visual monitoring must be implemented unless it is determined by the City of Pekin Fire Department to be infeasible.

3.) All regulated substance monitoring activities shall include the following:

i. A written routine monitoring procedure which includes, when applicable: the frequency of performing the monitoring method, the methods and equipment to be used for performing the monitoring, the location(s) from which the monitoring will be performed, the name(s) or title(s) of the person(s) responsible for performing the monitoring and/or maintaining the equipment, and the reporting format.

ii. Written records of all monitoring performed shall be maintained on-site by the operator for a period of 3 years from the date the monitoring was performed. The City of Pekin may require the submittal of the monitoring records or a summary at a frequency that the City may establish. The written records of all monitoring performed in the past 3 years shall be shown to the City upon demand during any site inspection. Monitoring records shall include but not be limited to:

- a) The date and time of all monitoring or sampling;
- b) Monitoring equipment calibration and maintenance records;
- c) The results of any visual observations;
- d) The logs of all readings of gauges or other monitoring equipment, or other test results; and
- e) The results of inventory readings and reconciliations.

4.) Procedures for the in-house inspection and maintenance of containment devices and areas where regulated substances are stored, handled, treated, used, and produced shall be identified in the Operating permit for each facility. Such procedures shall be in writing, and a log shall be kept of all inspection and maintenance activities. Such logs shall be submitted to the Code Enforcement Officer with the renewal applications available for inspection at other times upon 48 hours notice. Inspection and maintenance logs shall be maintained on-site by the owner or operator for a period of at least 3 years from the date the monitoring was performed.

C. REPORTING:

The permittee shall report to the Code Enforcement Officer 15 days after any changes in a facility including:

- 1. The storage, handling, treatment, use, or processing of new regulated substances;
- 2. Changes in monitoring procedures; or
- 3. The replacement or repair of any part of a facility that is related to the regulated substance(s).

4-10-6: GROUNDWATER PROTECTION OVERLAY ZONES:

- A. The location of Groundwater Protection Areas in the City are defined in Exhibit 2 to this Article. Groundwater Protection Area maps shall be placed on file with the Department of Planning/Zoning/Building/Public Works, and the Pekin Fire Department.
- B. In determining the location of facilities within the zones defined by Exhibit 2, the following rule shall apply:
 - 1. Facilities located wholly within a GWPA zone shall be governed by the restriction applicable to that zone.
 - 2. Facilities having parts lying within more than one zone of a GWPA shall be governed by the restrictions applicable to the more restrictive zone.
 - 3. Facilities having parts lying both in and out of a GWPA shall be governed by the restrictions applicable to the more restrictive zone.

4-10-7: REGULATIONS WHICH APPLY WITHIN THE MINIMUM SETBACK ZONE (ZONE 1) OF THE GWPA:

A. PROHIBITED USES AND ACTIVITIES:

- 1. Except as provided in Sections 6, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone(s) of any existing or permitted community water supply well in the City or within 400 feet (122 meters) of the City limits of the City.
- 2. Except as provided in Section 6, no person shall alter or change an existing potential primary source, potential secondary source, or potential route where the alteration or change would result in a potential source or route that would be prohibited under this Article if it were a new potential source or route.
- 3. No person shall conduct any activity or engage in a use of property which shall constitute an interference with the health and safety or welfare of a community water supply well. Such activities are declared to be a public nuisance and are prohibited by this Article.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES:

- 1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the minimum setback zone (Zone 1) must be reviewed by the Code Enforcement Officer for compliance with this Article including obtaining a Groundwater Protection Permit pursuant to this Article, prior to issuance of any underlying permit.
- 2. No groundwater operating permit shall be issued unless a finding is made by the Code Enforcement Officer that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the facility; regulated substances stored, handled, treated, used or produced; and the potential for the activities or regulated substances to degrade groundwater quality.

3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

4-10-8: REGULATIONS WHICH APPLY WITHIN THE MAXIMUM SETBACK ZONE (ZONE 2) OF THE GWPA:

A. PROHIBITED USES AND ACTIVITIES:

1. Except as provided in Section 6, no person shall place a new potential primary source within the maximum setback zone(s) of any existing or permitted community water supply well in the City or within 1000 feet (305 meters) of the City limits of the City.

2. Except as provided in Section 6, no person shall alter or change an existing potential primary source where the alteration or change would result in a potential source or route that would be prohibited under this Article if it were a new potential source or route.

3. No person shall conduct any activity or engage in a use of property which shall constitute an interference with the health and safety or welfare of a community water supply well or other water well by the accidental, negligent, or intentional introduction of contaminants. Such activities are declared to be a public nuisance and are prohibited by this Article.

B. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES:

1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the maximum setback zone (Zone 2) must be reviewed by the Code Enforcement Officer for compliance with this Article including obtaining a Groundwater Protection Permit pursuant to this Article, prior to issuance of any underlying permit.

2. No groundwater operating permit shall be issued unless a finding is made by the Code Enforcement Officer that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the facility; regulated substances stored, handled, treated, used or produced; and the potential for the activities or regulated substances to degrade groundwater quality.

3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

4-10-9: REGULATIONS WHICH APPLY WITHIN THE 5-YEAR CAPTURE ZONE (ZONE 3) OF THE GWPA:

A. REVIEW AND APPROVAL OF PROPOSED ACTIVITIES:

1. All proposals for new facilities which use, store, handle, treat or produce a regulated substance within the 5-year Capture zone (Zone 3) must be reviewed by the Code Enforcement Officer for compliance with this Article including obtaining a Groundwater Protection Permit pursuant to this Article, prior to issuance of any underlying permit.

2. No groundwater operating permit shall be issued unless a finding is made by the Code Enforcement Officer that the proposal will not impact the long term, short term or cumulative quality of the aquifer. The finding shall be based on the present or past land use activities conducted at the facility; regulated substances stored, handled, treated, used or produced; and the potential for the activities or regulated substances to degrade groundwater quality.

3. New sources of sanitary sewerage (residential and non-residential) shall, as a condition of the building permit, be required to connect to an IEPA permitted central sanitary sewer system prior to occupancy.

4-10-10: **UNAUTHORIZED RELEASES:**

A. General Provisions:

All unauthorized releases shall be reported to the Pekin Fire Department according to the provisions of this section. All unauthorized releases shall be recorded in the owner's inspection and maintenance log. An unauthorized release is an "unauthorized release requiring recording" if the release is completely captured by the containment device. If the containment device fails to contain the entire release, the release is an "unauthorized release requiring reporting."

B. Unauthorized Releases Requiring Recording:

1. Unauthorized releases requiring recording shall be reported to the Pekin Fire Department within 24 hours after the release has been, or should have been detected.

2. The incident report shall be accompanied by a written record including the following information:

a. The type, quantities, and concentration of regulated substances released.

b. Method of cleanup.

c. Method and location of disposal of the released regulated substances including whether a hazardous waste manifest(s) is used.

d. Method of future release prevention or repair. If this involves a change in operation, monitoring, or management, the owner must apply for a new Operating Permit.

e. Facility operator's name and telephone number.

3. The Pekin Fire Department shall review the information submitted pursuant to the report of an unauthorized release requiring recording, shall review the Operating Permit, and may inspect the facility. The Pekin Fire Department shall either find that the containment standards of this Article can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.

C. Unauthorized releases Requiring Reporting:

1. Unauthorized releases requiring reporting shall be verbally reported to the Pekin Fire Department immediately.

2. A written report shall be submitted promptly thereafter containing the following information that is known at the time of filing the report:

a. List of type, quantity, and concentration of regulated substances released.

b. The results of all investigations completed at that time to determine the extent of soil or groundwater or surface water contamination because of the release.

c. Method of cleanup implemented to date, proposed cleanup actions and approximate cost of actions taken to date.

d. Method and location of disposal of the released regulated substance and any contaminated soils, groundwater, or surface water.

e. Proposed method of repair or replacement of the containment device.

f. Facility owner's name and telephone number.

3. Until cleanup is complete, the owner shall submit reports containing the reporting required by Section 7C. to the Code Enforcement Officer and the Pekin Fire Department every month or at a more frequent interval specified by the Fire Department.

4. The Pekin Fire Department shall either find that the containment standards of this Article can continue to be achieved or shall recommend the revocation of the permit until appropriate modifications are made to allow compliance with the standards.

D. Upon confirmation of an unauthorized release to groundwater, the owner shall be responsible for immediately accomplishing the following:

1. Locate and determine the source of the unauthorized release of the regulated substance(s).

2. Stop and prevent any further unauthorized release(s).

3. Comply with the requirements for an unauthorized release(s) requiring reporting.

- E. No new regulated substance(s) may be introduced at the site of the regulated substance(s) that caused the violation.
- F. If an unauthorized release creates or is expected to create an emergency situation with respect to the drinking water supply of the City or a public water supply well within 1000 feet (305 meters) of the City, and if the facility owner fails to address the unauthorized release within 12 hours, the City or its authorized agents shall have the authority to implement removal or remedial actions. Such actions may include, but not be limited to, the prevention of further groundwater contamination; installation of groundwater monitoring wells; collection and laboratory testing of water, soil, and waste samples; and cleanup and disposal of regulated substances. The facility owner and operator jointly and severally shall be responsible for any costs incurred by the City of Pekin or its authorized agents in the conduct of such remedial actions, including but not limited to all consultant, engineering and attorney fees.
- G. Reporting a release to the Pekin Fire Department does not exempt or preempt any other reporting requirements under federal, state, or local laws.

4-10-11: CLOSURE PERMITS AND PERMIT CONDITIONS:

- A. No person shall close or cause to be closed a facility regulated pursuant to this Article without first obtaining a Closure Permit from the Code Enforcement Officer. The Code Enforcement Officer shall not issue a permit to temporarily or permanently close a facility unless adequate plans and specifications and other appropriate information have been submitted by the applicant showing that the proposed closure meets the intent and provisions of this Article.
- B. Closure Permits shall be required for all facilities that cease to store, handle, treat, use, or produce regulated substances for a period of more than 365 days or when the owner has no intent within the next year to store, handle, treat, use, or produce regulated substances. During the period of time between cessation of regulated substance storage, handling, treatment, use, or production, and actual completion of facility closure, the applicable containment and monitoring requirements of this Article shall continue to apply.
- C. Prior to closure, the facility owner shall submit to the Code Enforcement Officer a proposal describing how the owner intends to comply with closure requirements. Owners proposing to close a facility shall comply with the following requirements:
 - 1. Regulated substances shall be removed from the facility, including residual liquids, solids, or sludges to levels specified by the Illinois Environmental Protection Agency.
 - 2. When a containment device is to be disposed of, the owner must document to the Code Enforcement Officer that disposal has been completed in compliance with the Act.
 - 3. An owner of a containment device or any part of a containment device that is destined for reuse as scrap material shall identify this reuse to the City.

- D. The owner of a facility being closed shall demonstrate to the satisfaction of the Code Enforcement Officer that no detectable unauthorized release has occurred or that all unauthorized releases have been cleaned up. This demonstration can be based on the ongoing leak detection monitoring or soils sampling performed during or immediately after closure activities.
- E. If an unauthorized release is determined to have occurred, the facility owner shall comply with Section 12 of this Article.
- F. Facility closure will be accepted as complete by the Code Enforcement Officer upon implementation of the Closure Permit conditions and compliance with all other provisions of this Article.
- G. No person shall temporarily or permanently abandon a facility in an GWPA without complying with the requirements of this Article.
- H. The application for a Closure Permit pursuant to this Article shall be made on a form provided by the City of Pekin and shall be accompanied by a fee of two hundred dollars (\$200).
- I. Any person who owns or operates more than one facility in a single zone of the (GWPA) shall have the option of obtaining one permit for all simultaneous closures if the operations at each facility are similar and the permit requirements under this Article are applicable to each facility individually.

4-10-12: PENALTIES:

- A. A violation of any of the provisions of this Article shall constitute a misdemeanor and a nuisance. It shall be a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Article is committed, continued, or permitted.
- B. Any owner or operator who violates any provisions of this Article shall be subject, upon conviction in court, to a fine not to exceed \$500 per day per facility.
- C. In addition to any fines and penalties set forth above, the owner or operator shall reimburse the City of Pekin, for all reasonable costs incurred as a result of responding to, containing, cleaning up, or monitoring the cleaning up and disposal of any spilled or leaked regulated substance including but not limited to consultant , engineering and legal fees.

4-10-13: ENFORCEMENT:

- A. The City shall be the administering agency and shall have the power and authority to administer and enforce the provisions of this Article. The City shall have the right to conduct inspections of facilities at reasonable times to determine compliance with this Article.
- B. The Code Enforcement Officer may revoke any permit issued pursuant to this Article after notice to the permittee and after affording the permittee an opportunity to meet either in person or by telephone if it finds that the permit holder:

1. Has failed or refused to comply with any provision of this Article;
2. Has submitted false or inaccurate information in a permit application;
3. Has refused lawful inspection;
4. Has an unauthorized release and the Code Enforcement officer finds that the containment standards of this Article cannot continue to be achieved.

4-10-14: **NOTICE OF VIOLATION:** Whenever it is determined that there is a violation of this Article, the notice of violation issued shall:

- A. Be in writing and delivered to the owner or operator by regular mail; and
- B. Be dated and signed by the authorized City agent making the inspection; and
- C. Specify the violation or violations; and
- D. Specify the length of time (not less than 72 hours) to correct the violation after receiving the notice of violation.

4-10-15: **APPEALS:** The Mayor shall appoint, subject to the City Council's approval, the Groundwater Appeals Committee. Said committee shall consist of the Fire Chief, Public Works Director, and Code Enforcement Officer.

- A. Any decision by the Code Enforcement Office or Fire Department under this Article may be appealed to the Groundwater Appeals Committee.
- B. The Groundwater Appeals Committee shall also hear petitions to exempt a facility from the requirements of Section 7 of this Article as follows:
 1. The applicant may demonstrate that the 5-year capture zone area(s) map incorrectly identify the facility as being within the Groundwater Protection Overlay Zone(s). The burden of proof shall rest upon the applicant to demonstrate that the facility location is not within a delineated 5-year capture zone area. The applicant shall be required to present detailed hydrogeologic and hydrologic information to the Groundwater Appeals Committee that the facility location is, in fact, not within a 5-year capture zone area.
 2. The applicant may be required to present detailed technical information that a material(s) on the Regulated Substances List does not endanger the GWPA in the event of an unauthorized release. To continue the permit appeal process, the applicant shall provide funds to the Groundwater Appeals Committee to pay for the technical review by the Groundwater Appeals Committee's choice of consultant(s) of said hydrogeologic and hydrologic information and/or regulated substance information and shall base its recommendation, in part, on the report by said consultant(s).
- C. Procedures:
 1. Appeals to the Groundwater Appeals Committee take place by filing an appeal in writing with the City Clerk of the City within 14 days after receipt of a decision in writing from the Code Enforcement Officer or the Fire Department.

2. Petitions to the Groundwater Appeals Committee to exempt a facility should also be filed with the City Clerk of the City.
3. A hearing with the Groundwater Appeals Committee will be held within 30 days of submission of the appeal or petition.
4. A decision by the Groundwater Appeals Committee will be made in writing within 30 days of the hearing.

EXHIBIT 1
REGULATED SUBSTANCES LIST

Acid and basic cleaning solutions
Antifreeze and Coolants
Arsenic and arsenic compounds
Bleaches, Peroxides
Brake and transmission fluids
Brine solution
Casting & Foundry chemicals
Caulking agents and sealants
Cleaning solvents
Corrosion and rust prevention solutions
Cutting fluids
Degreasing solvents
Disinfectants
Electroplating solutions
Explosives
Fire extinguishing chemicals
Food processing wastes
Formaldehyde
Fuels and additives
Gasolines
Glues, adhesives and resins
Greases
Hydraulic fluid
Indicators
Industrial and commercial janitorial supplies
Industrial sludges and stillbottoms
Inks, printing and photocopying chemicals
Laboratory chemicals
Liquid storage batteries
Medical, pharmaceutical, dental, veterinary and hospital solutions
Mercury and mercury compounds
Metals finishing solutions
Oils
Paints, primers, thinners, dyes, stains, wood preservatives, varnishing and cleaning compounds
Painting solvents
PCB's
Plastic resins, plasticizers and catalysts
Photo development chemicals
Poisons
Polishes
Pool chemicals in concentrated form
Processed dust and particulates
Radioactive sources
Reagents and standards
Refrigerants
Roofing chemicals and sealers
Sanitizers, disinfectants, bactericides and algacides
Soaps, detergents and surfactants
Solders and fluxes
Stripping compounds
Tanning industry chemicals
Transformer and capacitor oils/fluids
Water and wastewater treatment chemicals

EXHIBIT 3
"BEST MANAGEMENT PRACTICES" FOR THE CONSTRUCTION
INDUSTRY

- A. The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for the handling of any Regulated Substances. For instance, handling Regulated Substances in the proximity of a Groundwater Protection Overlay Zone or water bodies may be improper.

- B. If any Regulated Substances are stored on the construction site during the construction process, they shall be stored in a location and manner which will minimize any possible risk of release to the environment. Any storage container of 55 gallons, (208 liters) or 440 pounds (200 kilograms), or more, containing Regulated Substances shall have constructed below it an impervious containment system constructed of materials of sufficient thickness, density and composition that will prevent the discharge to the land, ground waters, or surface water, of any pollutant which may emanate from said storage container or containers. Each containment system shall be able to contain 150% of the contents of all storage containers above the containment system.

- C. Each contractor shall familiarize him/herself with the manufacturer's safety data sheet supplied with each material containing a Regulated Substance and shall be familiar with procedures required to contain and clean up any releases of the Regulated Substance. Any tools or equipment necessary to accomplish same shall be available in case of a release.

- D. Upon completion of construction, all unused and waste Regulated Substances and containment systems shall be removed from the construction site by the responsible contractor, and shall be disposed of in a proper manner as prescribed by law.

CHAPTER 11

TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

SECTION:

- 4-11-1: Definitions
- 4-11-2: Registration
- 4-11-3: Municipal Telecommunications Infrastructure Maintenance Fee
- 4-11-4: Collection, Enforcement and Administration
- 4-11-5: Compliance with Other Laws
- 4-11-6: Existing Franchises and Licenses
- 4-11-7: Penalties
- 4-11-8: Enforcement
- 4-11-9: Severability
- 4-11-10: Conflict

4-11-1 Definitions.

As used in this Chapter, the following terms shall have the following meanings:

(a) "Gross Charges" means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the City, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within the City, charges for the channel mileage between each channel point within the city, and charges for that portion of the interstate inter-office channel provided within the City. However, "gross charges" shall not include:

(1) any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by this Section, (ii) additional charges added to a purchaser's bill under Section 9-221 or 9-222 of the Public Utilities Act, (iii) amounts collected under Section 8-11-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;

(2) charges for a sent collect telecommunication received outside the City;

(3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;

(4) charge for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

(5) charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the City;

(6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;

(7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

(8) charges paid by inserting coins in coin-operated telecommunications devices; or

(9) charges for telecommunications and all services and equipment provided to the City.

(b) "Public Right-of-Way" means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the City has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. "Public Right-of-Way" shall not include any real or personal City property that is not specifically described in the previous sentence and shall not include City buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

(c) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(d) "Sale of telecommunications at retail" means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

(e) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, "service address" shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(f) "Telecommunications" includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as hereinafter defined. "Telecommunications" shall not include value added services in which compute processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as nor or hereafter amended or cable or other programming services subject to an open video system fee payable to the City through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

(g) "Telecommunications provider" means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

(h) "Telecommunications retailer" or "retailer" or "carrier" means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The City may, at its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the City, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the City.

(i) "Wireless telecommunications: includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

4-11-2 Registration of telecommunications providers.

(a) Every telecommunications provider as defined by this Chapter shall register with the City within thirty (30) days after the effective date of this Chapter or becoming a telecommunications provider, whichever is later, on a form to be provided by the City, provided, however, that any telecommunications retailer that has filed a return pursuant to 4-11-4(c) of this Chapter shall be deemed to have registered in accordance with this Section.

(b) Every telecommunications provider who has registered with the City pursuant to 4-11-2(a) has an affirmative duty to submit an amended registration form or current return as required by 4-11-4(c), as the case may be, to the City within thirty (30) days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the City.

4-11-3 Municipal telecommunications infrastructure maintenance fee.

(a) A City telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of one (1.0%) percent of all gross charges charged by the telecommunications retailer to service addresses within the City for telecommunications originating or received in the City.

(b) Upon the effective date of the infrastructure maintenance fee authorized in this Chapter, the city infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the City by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Chapter does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(c) The City telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in Section 4-11-4 of this Chapter.

4-11-4 Collection, enforcement, and administration of telecommunications infrastructure maintenance fees.

(a) A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the City infrastructure maintenance fee attributable to that customer's service address.

(b)

(1) Unless otherwise approved by the City Manager the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the City not later than the twentieth day of the month subsequent to the appropriate reporting period; provided, however, that the telecommunications retailer may retain an amount not to exceed 2% of the City infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(2) The telecommunication retailer shall remit such fee as follows:

A. The telecommunications retailer shall remit the infrastructure maintenance fee monthly, except as provided in subparagraphs B. And C. Below.

B. Notwithstanding the monthly return requirement of subparagraph A. above, in the event that a telecommunications retailer would remit between fifty and no/100 dollars (\$50.00) and one hundred and no/100 dollars (\$100.00) in infrastructure maintenance fee revenue to the City per month, said telecommunications retailer shall make an infrastructure maintenance fee return as required on a semi-annual, rather than monthly, basis. Said returns shall be in compliance with subsection C. Below, except that they shall cover gross receipts during the prior semi-annual (six month) period, and shall be filed on or before the twentieth day of July and January.

C. Notwithstanding the monthly return requirement of subparagraph A. above, in the event that a telecommunications retailer would remit less than fifty and no/100 dollars (\$50.00) in infrastructure maintenance fee revenue to the City per month, said telecommunications retailer shall make an infrastructure maintenance fee return as required on an annual, rather than a monthly basis. Said returns shall be in compliance with subsection C. Below, except that they shall cover gross receipts during the prior one year (twelve month) period, and shall be filed on or before the twentieth day of January.

(c) Remittance of the municipal infrastructure fee shall be accompanied by a statement from the telecommunications retailer describing the telecommunications retailer's monthly gross revenue and fee owed for the reporting period. The statement shall be provided on the telecommunications retailer's stationery and executed by an officer or principal of the telecommunications retailer.

(d) Any infrastructure maintenance fee required to be collected pursuant to this Chapter and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the City. The charge imposed under 4-11-4(a) by the telecommunications retailer pursuant to this Chapter shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(e) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Chapter, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Chapter, from the telecommunications retailer who made the erroneous payment; provided, however, the City Manager may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three years after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the City within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

(f) Amounts paid under this Chapter by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

(1) "gross charges" for purposes of the Telecommunications Excise Tax Act;

(2) "gross receipts" for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;

(3) "gross charges" for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;

(4) "gross revenue" for purposes of the tax on annual gross revenue of public utilities prescribed in Section 2-202 of the Public Utilities Act.

(g) The City shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Chapter to determine whether the telecommunications retailer has properly accounted to the City for the City infrastructure maintenance fee. Any underpayment of the amount of the City infrastructure maintenance fee due to the City by the telecommunications retailer shall be paid to the City plus five (5%) percent of the total amount of the underpayment determined in an audit, plus any costs incurred by the City in conducting the audit, in an amount not to exceed five (5%) percent of the total amount of the underpayment determined in an audit. Said sum shall be paid to the city within twenty-one (21) days after the date of issuance of an invoice for same.

(h) The City Manager, or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Chapter, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to 4-11-2 of this Chapter of such regulations.

4-11-5 Compliance With Other Laws. Nothing in this Chapter shall excuse any person or entity from obligations imposed under any law, including but not limited to:

(a) generally applicable taxes; and

(b) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and

(c) any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and

(d) compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

4-11-6 Existing Franchises and Licenses. Any franchise, license, or similar agreements between telecommunications retailers and the City entered into before the effective date of this Chapter regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

4-11-7 Penalties. Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to fine in accordance with the general penalty provisions of the City Municipal Code.

4-11-8 Enforcement. Nothing in this Chapter shall be construed as limiting any additional or further remedies that the city may have for enforcement of this Chapter.

4-11-9 Severability. If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

4-11-10. Conflict. This Chapter supersedes all Chapters or parts of Chapters adopted prior hereto which are in conflict herewith, to the extent of such conflict.

Section 3. Waiver and Fee Implementation.

(a) The City hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the City by a telecommunications retailer pursuant to any existing city franchise, license, or similar agreement with a telecommunications retailer during the time the city imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Ordinance is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

(b) The City Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the City has a franchise.

(c) the City infrastructure maintenance fee provided for in this Ordinance shall become effective and imposed on the first day of the month not less than ninety (90) days after the City provides written notice by certified mail to each telecommunications retailer with whom the City has an existing franchise, license, or similar agreement that the City waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the City. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

CHAPTER 12

REGISTRATION OF RENTAL HOUSING & LOTS (REMOVED 7-28-14 ORDINANCE NO. 2705-14/15 SEE ORDINANCE NO. 2702 ADDITION OF 6-2-13-1 TITLE 6, CHAPTER 2 CRIME FREE PROPERTY / NUISANCE PROPERTY ABATEMENT – LANDLORD LICENSING)

(Ord. No. 2521-06/07 04/23/07 as 4-11-)
(Ord. No.2644-11/12 08/08/11 corrected)

CHAPTER 13

SMALL WIRELESS FACILITIES IN PUBLIC RIGHT-OF-WAY

SECTION:

- 4-13-1-1: Purpose and Scope
- 4-13-1-2: Definitions
- 4-13-1-3 Standards and Regulations
- 4-13-1-4 Right-of-way permit and registration
- 4-13-1-5 Application
- 4-13-1-6 Annual Recurring Rates
- 4-13-1-7 Abandonment and Removal
- 4-13-1-8 Sale or Transfer of Small Wireless Facility
- 4-13-1-9 Insurance and Bonds
- 4-13-1-10 Existing Agreements
- 4-13-1-11 Indemnification
- 4-13-1-12 Severability

Ord No 2795-18/19 7/9/18

4-13.1-1. Purpose and Scope.

Purpose. The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the City's jurisdiction, or outside the rights-of-way on property zoned by the City exclusively for commercial or industrial use, in a manner that is consistent with the Act.

Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

4-13.1-2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

Act, as used in this chapter of the City Code, means the Small Wireless Facilities Deployment Act established by Public Act 100-585, as amended from time to time.

Camouflaged. Using shape, color, and texture to cause an object to appear to become part of something else. Camouflage does not mean invisible, but rather appearing as part of the landscape or another structure. Includes wireless telecommunication facilities disguised to appear as another structure such as a flag pole, light pole, sign, tree, or utility pole.

Collocation. The sharing of structures by wireless service providers and other right-of-way users on a single support structure or otherwise sharing a common location.

Small wireless facility. A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than 6 cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

Utility pole. A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

Wireless facility. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. "Wireless facility" includes small wireless facilities. "Wireless facility" does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

Wireless infrastructure provider. Any person authorized to provide telecommunications service in the State of Illinois that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or contractor for a wireless services provider for the application submitted to the City.

Wireless provider. A wireless infrastructure provider or a wireless services provider.

Wireless services. Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

Wireless services provider. A person who provides wireless services.

Wireless support structure. A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include a utility pole.

4-13.1-3. Standards and Regulations.

- (a) As required by the Act, small wireless facilities will be permitted to be placed in rights-of-way within the jurisdictional limits of the City as attachments to existing utility poles, alternative antenna structures, or City-owned infrastructure, or as installations on new wireless support structure subject to the following regulations:
 - (1) The small wireless facility does not interfere with the frequencies used by a public safety agency for public safety communications;
 - (2) The wireless provider does not install small wireless facilities of the type and frequency that will cause unacceptable interference with a public safety agency's communications equipment (as determined by FCC's regulations);
 - (3) The wireless provider complies with the requirements that are imposed by any contract between the City and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way;
 - (4) The wireless provider complies with applicable regulations concerning the location of ground-mounted equipment located in the right-of-way;
 - (5) The wireless provider complies with all other aspects of the City Code including, but not limited to, all applicable rules and plans related to special districts or overlay areas concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval;
 - (6) The wireless provider complies with the generally applicable standards of the Act adopted by the City for construction and public safety in the rights-of-way, including but not limited to reasonable and nondiscriminatory wiring and cabling

requirements, grounding requirements, utility pole extension requirements, and signage limitations;

- (7) The wireless provider must comply with the City regulations regarding public safety;
- (8) The wireless provider must comply with the City's written design standards that are applicable to decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements including but not limited to standards set forth for the Downtown TIF District, the Southern Industrial TIF District, and all historic districts within the City. The wireless services provider must also comply with the location, design, theme and aesthetic requirements for the Downtown TIF District and the Southern Industrial TIF District as set forth in the plan and documents for these district with the requirements extending for 500 feet past the boundary for continuity of the districts;
- (9) If the small wireless facility is proposed to be installed on a new pole, the City may propose that the small wireless facility be collocated on an existing utility pole or wireless support structure within 100 feet of the proposed collocation. The wireless facility provider must accept the proposed collocation if it has the right to use the alternate structure on reasonable terms and conditions and the alternate location and structure do not impose technical limits or additional material costs as determined by the provider. The City may require the wireless provider to provide a written certification describing the property rights, technical limits or material cost reasons that alternate location does not satisfy the criteria;
- (10) The wireless provider must comply with the provisions of this Chapter when placing a small wireless facility in a subdivision developed after June 1, 2018, including but not limited to location, design and aesthetic requirements including camouflaging to blend with the area where the small wireless facility is proposed to be located and undergrounding requirements. The wireless provider must also comply with all requirements of paragraph of this section regarding residential areas;
- (11) The wireless provider must comply with all Illinois Department of Transportation regulations regarding location and space from roads governed by the Department of Transportation;
- (12) The wireless provider may not collocate small wireless facilities on City utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole; however, the antenna and support equipment of

the small wireless facility may be located in the communications space on the City utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole (the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers);

- (13) The wireless provider must comply with all applicable codes and City code provisions and regulations that concern public safety;
 - (14) When placing a small wireless facility or accessory in a residential area, the wireless provider must comply with the restrictive covenants of the residential area, if any such covenants exist;
 - (15) Neither small wireless facilities nor accessories may be placed in front of a residence. The "front" of a residence shall be determined to be the street frontage of the width of the front of the residential structure;
 - (16) All small wireless facilities and accessories in a residential area must be screened and camouflaged. All screening shall be approved by the City pursuant to this chapter. Additionally, the design of any newly erected poles shall be approved by the City pursuant to this chapter;
 - (17) If screening is required, the screening must be of natural landscaping material or a fence, subject to the approval of the city and must comply with all City Code regulations pursuant to this chapter. Landscaping and fencing must conform to the surrounding area and shall meet the camouflaging requirements. Camouflaged poles shall be of a type and style approved by the City pursuant to this chapter; and
 - (18) No small wireless facility or accessory shall obstruct or interfere with pedestrian traffic on sidewalks or driveway visibility. In no instance shall a small wireless facility or accessory interfere with the visibility of motorists.
- (b) Attachment limitations. The maximum height of a small wireless facility is 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated. Subject to any waiver expressly granted by the City, the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated is the higher of: (i) 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the City, that is located within 300 feet of

the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the City, provided the City may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or (ii) 45 feet above ground level.

- (c) **Applicability.** This chapter shall not apply to the design, engineering, construction, installation, or operation of any small wireless facility located in an interior structure or upon the site of any campus, stadium, or athletic facility not otherwise owned or controlled by the City, other than to comply with applicable codes and code provisions concerning public safety.
- (d) **Design, Camouflaging, and Screening Approval.** The approval of all design, camouflaging, or screening shall be submitted to the City's Building Inspections and Development Director for approval. If denied, the Building Inspections and Development Director must notify the applicant in writing of the denial. The applicant may appeal the denial to the Zoning Board of Appeals within fifteen (15) days of the notice of the denial. The Zoning Board of Appeals' decision on the design, camouflaging, or screening is final.

4-13.1-4. Right-of-way permit and registration.

A wireless provider that intends to use the right-of-way for a small wireless facility or equipment is required to apply for and obtain a permit and pay the required fee.

- (a) **Registration.** Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any small wireless facility or equipment in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the City. Registration will consist of providing information as specified in the permit application.
- (b) **Registration Prior to Work.** No person may construct, install, repair, remove, relocate, or perform any other work on any small wireless facility or equipment, in any right-of-way without first being registered with the City.

4-13.1-5. Application.

- (a) **Information Required.** A wireless services provider is required to submit an application for a permit to use the rights-of-way for location of a small wireless facility in the form required by the City:
 - (1) The application must include the name, address, contact person, phone number and after-hours emergency contact person and number for each applicant.
 - (2) The application must include a brief description of the proposed location of the small wireless facility and

accessories that are the subject of the application; the nature and purpose of the small wireless facility or accessories; and a description of the existing utilities in the vicinity of the proposed small wireless facility or accessory.

(3) If the wireless services provider is seeking to collocate small wireless facilities on a utility pole or wireless support structure, the provider must also provide the following information:

- a. Site specific structural integrity and, for a City utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
- b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;
- c. Specifications and drawings (including technical drawings and elevations) prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
- d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
- e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;
- f. Certification that the collocation complies with paragraph d(6) of Section 15 of the Act to the best of the applicant's knowledge;
- g. Proposed traffic control methods to be used during construction and maintenance; and
- h. Proof of insurance as required by Section 7 of this Chapter.

(b) An applicant, seeking to collocate small wireless facilities within the sole jurisdiction of the City, may file a consolidated application and receive one (1) permit for the collocation of up to twenty-five (25) small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same

type of structure. The City may issue separate permits for each collocation that is approved in a consolidated application.

- (c) **Application Process.** Within thirty (30) days after receiving the application, the City shall determine whether the application is complete and notify the applicant of its determination. If the application is not complete, the City shall specifically identify the missing information. An application shall be deemed complete if the City fails to provide notification to the applicant within 30 days after when all documents, information, and fees specifically enumerated in the City's permit application form are submitted by the applicant to the City. Processing deadlines are tolled from the time the City sends the notice of incompleteness to the time the applicant provides the missing information.
- (1) The application to collocate a small wireless facility on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 90 days; however, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application; the permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice from the City; the receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Chapter or the Act; and
- (2) An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the City fails to approve or deny the application within 120 days; however, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant must notify the City in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application; the permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice from the City; the receipt of the deemed approved notice shall not preclude the City's denial of the permit request within the time limits as provided under this Chapter or the Act.
- (d) **Application Approval.** The City shall approve an application unless the application does not meet the requirements of this code or the Small Wireless Facilities Deployment Act. If denied, the City shall document the basis for the denial, including the specific code provisions or application conditions on which the denial is based. The documentation shall be sent to the applicant prior to the denial

of the application. The applicant may cure the deficiencies identified by the City and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying an additional application fee. The City shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved; however, the applicant must notify the City in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the resubmitted application. Any subsequent review shall be limited to the deficiencies cited in the denial. However, this revised application cure does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

- (e) Tolling of Time Periods. The time period for applications may be further tolled by:
 - (1) The express agreement in writing by both the applicant and the City; or
 - (2) A local, state, or federal disaster declaration or similar emergency that causes the delay.
- (f) Time to Complete Work. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the City and the wireless provider agree to extend this period or a delay is caused by make-ready work for a City utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the City grants an extension in writing to the applicant.
- (g) Duration of Permit. A permit shall be valid for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the City makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes, City code provisions, or provisions of the Act. Renewals of permits shall be subject to the applicable City code provisions or regulations in effect at the time of renewal.
- (h) Submission of Application. Applications for permits and all supporting documentation under this section shall be submitted by personal delivery to the City of Pekin, Department of Public Works, 111 S. Capitol Street, Pekin, IL 61554.
- (i) Application Fees. The application fee to collocate a single small wireless facility on an existing utility pole or wireless support structure is \$650 and \$350 for each small wireless facility addressed in an application to collocate more than one small

wireless facility on existing utility poles or wireless support structures.

The application fee for each small wireless facility addressed in an application that includes the installation of a new wireless support structure for such location is \$1,000.00.

An application will be considered incomplete if the appropriate fee is not submitted with the application.

The above fees are not applicable if a service provider has previously been authorized to occupy the rights-of-way for (i) routine maintenance; (ii) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller, if the wireless provider notifies the City at least ten (10) days prior to the planned replacement and includes equipment specifications (including, but not limited to the equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility) for the replacement of equipment consistent with the requirements of this code and the Act; or (iii) the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes. However, a permit is required to work within rights-of-way for activities that affect traffic patterns or require lane closures.

4-13.1-6 Annual Recurring Rates.

The wireless services provider who collocates a small wireless facility on a city utility pole located in the right-of-way shall pay an annual recurring rate to the City in the amount of \$200 per year.

4-13.1-7 Abandonment and Removal.

A small wireless facility is considered “abandoned” if it is not used for a continuous period of twelve (12) months. The owner of an abandoned small wireless facility shall remove the facility within ninety (90) days after receipt of written notice from the City notifying the owner of the abandonment. If such small wireless facility is not removed within ninety (90) days of such notice, the City may remove or cause to be removed the abandoned facility pursuant to the pole attachment agreement, through an action for the abatement of nuisances, or by other law for removal and cost recovery. The City may remove any Small wireless facility deemed abandoned herein after 90 days prior notice to the owner. The owner of the abandoned Small wireless facility will be liable to the City for reimbursement of any such removal or disposal costs.

4-13.1-8 Sale or Transfer of Small Wireless Facility.

Should an owner of a small wireless facility sell or transfer the ownership of such facility, said owner shall notify the City within thirty (30) days of such sale or transfer of the new owner’s name and contact information.

4-13.1-9 Insurance and Bonds.

The wireless provider must carry, at its own cost and expense, (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance as required by Illinois law; (iii) commercial general liability insurance with respect to its activities on the City's rights-of-way or improvements, including coverage for bodily injury and property damage. The wireless provider must include the City as an additional insured on the commercial general liability policy and provide certification and documentation of this inclusion at the time of the wireless provider's application for a permit.

The wireless provider must also file with the City Clerk a certificate of bond in the penal sum of twenty thousand dollars (\$20,000.00) with sureties to be approved by the commissioner of accounts and finances, conditioned that the wireless provider, his successors, grantees, assignees or lessees will pay any and all rentals provided for by this section, or which may hereafter be assessed by the City Council, for the use of any public space so occupied, and to indemnify, keep and save the City, its officers and agents free and harmless and to reimburse it or them on account of any and all damages of any kind or character arising from the construction, maintenance or operation of such pole or accessory, and to further indemnify and reimburse all persons damaged or injured by reason of the acts of the wireless provider, his successors, grantees, assigns and lessees in the exercise of the rights and privileges granted under this section. Said bond shall be released when the applicable project is completed.

4-13.1-10 Existing Agreements.

A wireless provider that has an existing agreement with the City on June 1, 2018, for the collocation of small wireless facilities or installation of new utility poles for the collocation of small wireless facilities, must comply with the rates, fees, and terms of that agreement until May 31, 2020. After May 31, 2020, should the said wireless provider choose to accept the rates that are applicable in this Chapter, the wireless provider must notify the City in writing that the wireless provider opts to accept rates, fees, and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the small wireless provider has collocated on the City's utility poles pursuant to applications submitted to the City before the wireless provider provides such notice to exercises its option to accept the rates, fees, and terms of this Chapter.

4-13.1-11. Indemnification.

A wireless provider shall indemnify and hold the City harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the City improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this Ordinance and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the City or its employees or agents. A wireless provider shall further waive any claims that they may have against the City with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

4-13.1-12 Severability.

If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.