



**REGULAR CITY COUNCIL MEETING
MONDAY, JANUARY 28, 2019
5:30 PM**

1. Pledge of Allegiance
2. Call to Order
3. Approve Agenda
3.1. Approve agenda
4. Approval of Minutes
4.1. Approval of Minutes
4.2. City Council - Regular Meeting - Jan 14, 2019 5:30 PM
5. Public Input
6. Consent Agenda
6.1. Pekin Plan Commission Minutes December 12, 2018 Meeting
6.2. December 2018 Building Report ACTION REQUESTED: Receive and File December 2018 Building Report
6.3. Proclamation for Butch Kaebel Week
7. Presentation March Madness Experience
8. New Business
8.1. Support for IHSA Basketball Tournament in the amount of \$5,000 ACTION REQUESTED: Approve Resolution No. 138-18/19 supporting 2019 IHSA Basketball Tournament in amount of \$5,000.
8.2. Resolution 137-18/19 for the Utilization of Tax Increment Financing for the Resurfacing of the 400 Block Alley Between Elizabeth Street and Saint Mary Street. ACTION REQUESTED: To approve Resolution 137-18/19 for the utilization of Tax Increment Financing (TIF) for the City's Share for the resurfacing of the 400 block alley between Elizabeth Street and St. Mary Street in the amount of \$13,983.00

8.3.	Request for Special Use Authorization for Metal Fabrication Use at 716 Court Street ACTION REQUESTED: Recommendation of the Pekin Plan Commission to the City of Pekin City Council to approve a request for a Special Use for the establishment of a metal fabrication shop use at 716 Court Street.
8.4.	Request for Special Use Authorization for establishment of a commercial burial monument sales use, with the exterior display of burial monuments at 3302 Court Street ACTION REQUESTED: Recommendation of the Pekin Plan Commission to the City of Pekin City Council to approve a request for a Special Use for the establishment of a commercial burial monument sales use, with exterior display of burial monuments at 3302 Court Street.
8.5.	Ordinance No. 1568-A208-18/19 Petition for a Zoning Map Amendment to Re-Zone the Properties Located at 416 & 422 Catherine Street from RM-3, Multiple Family Residential to P-1, Vehicular Parking District ACTION REQUESTED: Recommendation from the Pekin Plan Commission to the City of Pekin City Council to approve an Ordinance rezoning the properties at 416 & 422 Catherine Street from RM-3, Multiple-Family Residential to P-1, Vehicular Parking District.
8.6.	Sober Living Community Residence Use at 1120 S. Capitol St. ACTION REQUESTED: As a result of a 3 to 3 tied vote, no recommendation was forthcoming from the Pekin Plan Commission to the City of Pekin City Council in regard to the request for Special Use authorization to establish a sober living community residence use at 1120 S. Capitol Street. The City Council has several options in regard to this Special Use request as the request can be sent back to the Pekin Plan Commission for further review and recommendation, approval of the Special Use request or denial of the Special Use request.
8.7.	Ordinance No. 2812-18/19 An Ordinance Amending Title 3, Chapter 2 of the Code of the City of Pekin Regarding Payment and Collection of Municipal Taxes ACTION REQUESTED: Approve Ordinance No. 2812 – 18/19 Amending Title 3, Chapter 2 of The Code of The City of Pekin Regarding Payment And Collection of Municipal Taxes
8.8.	Ordinance No. 2813-18/19 & Policy No. 21-18/19 City of Pekin Procurement Policy and Amending the Code of the City of Pekin 1995 relating to Contracting for Public Improvements; Duties of the Manager; and rescinding the Local Bidders Policy ACTION TO BE TAKEN: Adopt Ordinance No. 2813-18/19 & Policy No. 21-18/19 Regarding the City of Pekin Procurement Policy and Amending the Code of the City of Pekin relating to Contracting for Public Improvements; Duties of the Manager; and rescinding the Local Bidders Policy

8.9.	Ordinance No. 1462-A358-18/19 An Ordinance Amending Title 8, Chapter 1, Section 9 of the Code of the City of Pekin 1995 Regarding Designated Truck Routes ACTION REQUESTED: Approve Ordinance No. 1462-A358-18/19 Amending Title 8, Chapter 1, and Section 9 of the Code of the City of Pekin 1995 Regarding Designated Truck Routes.
8.10.	Ordinance No. 2814-18/19 Amending Title 6, Chapter 2, Sections 5 and 6 of the Code of the City of Pekin 1995 Regarding Use of Electronic Smoking Devices in Public Places and Sale and Delivery to Minors ACTION REQUESTED: Adopt Ordinance 2814-18/19 regulating the sale and use of tobacco and electronic smoking “vaping” devices
9.	Any Other Business To Come Before The Council
10.	Executive Session 5 ILCS 120/2 (c)
11.	Adjourn

Column 2 Key:

- 1 A Prosperous Community.** To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
- 2 A Safe Community.** To protect community life and property by providing effective, principled police and fire services.
- 3 A Strong Foundation.** To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
- 4 A High Quality of Life.** To support or provide services that improve the quality of life for Pekin’s residents.
- 5 An Effective Government.** To deliver effectively the services that Pekin’s residents want, need, and are willing to support.

 PROCEEDINGS OF THE REGULAR MEETING
 OF THE CITY COUNCIL OF THE CITY OF PEKIN, ILLINOIS,
 HELD IN THE COUNCIL CHAMBERS OF CITY HALL
 111 S. CAPITOL ST
 ON MONDAY JANUARY 14, 2019 AT 5:30 O'CLOCK P.M.
 JOHN MCCABE * CHAIR * PRESIDING

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor McCabe.

Roll was called and the Clerk confirmed all members were physically present. A quorum was declared.

Attendee Name	Title	Status	Arrived
James A Schramm	Council Member	Present	5:29 PM
Michael Garrison	Councilman	Present	4:49 PM
Lloyd Orrick	Mayor Pro-Tem	Present	4:44 PM
John P Abel	Council Member	Present	4:48 PM
Michael Ritchason	Council Member	Present	5:29 PM
Mark Luft	Council Member	Present	5:30 PM
John McCabe	Mayor	Present	4:46 PM

APPROVE AGENDA

3.1. Motion to: **Approve agenda**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John P Abel, Council Member
SECONDER:	Michael Garrison, Councilman
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

APPROVAL OF MINUTES

4.1. Motion to: **Approval of Minutes**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	John P Abel, Council Member
SECONDER:	Michael Garrison, Councilman
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

4.2. **City Council - Regular Meeting - Dec 10, 2018 5:30 PM**

PUBLIC INPUT

Jim Mangan inquired about the agreement on aerial photography regarding logins and county obligations. Mr. Mangan expressed that he was in favor of agenda item 8.8.

Dave Nutter commented on the procurement policy and gave recommendations.

CONSENT AGENDA

Mr. McCabe presented the Consent Agenda containing the following 6 items of business. The Consent Agenda was approved by Omnibus vote of the Council.

6.1. **September 12, 2018 Minutes of the Pekin Zoning Board of Appeals**

Minutes Acceptance: Minutes of Jan 14, 2019 5:30 PM (Approval of Minutes)

- 6.2. **November 14, 2018 Minutes of the Pekin Plan Commission**
- 6.3. **Tazewell County Animal Control Billing - November 2018**
- 6.4. **TAZEWELL COUNTY ANIMAL CONTROL MONTHLY BILLING DECEMBER, 2018**
- 6.5. **Resolution No. 132-18/19 Reappointment of David Volz to the Pekin Housing Authority**
- 6.6. **Proclamation "Dr. Martin Luther King Jr. Day"**
- 6.7. **Motion to: Motion to Approve Consent Agenda**

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Garrison, Councilman
SECONDER:	Michael Ritchason, Council Member
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

COMMUNICATION

- 7.1. **Educational presentation on pension obligation bonds**
 Mr. Tom Gavin, managing director of Baird presented a slideshow presentation regarding pension obligation bonds. Mr. Gavin discussed the Firefighter's pension plan characteristics, estimated liability, interest, borrowing and savings. He also presented a chart of future payments utilizing an amortization chart and discussed the benefits and assumed rate of return.

 Mr. Gavin then took questions from the Council regarding control and costs, the current market, and other communities that have implemented this option.

 The Council and the City Manager continued the discussion.

NEW BUSINESS

- 8.1. **Resolution 131-18/19 for the Intergovernmental Agreement with Tazewell County for Digital Aerial Orthophotography.**
 City Engineer, Michael Guerra, presented the item. Mr. Guerra explained that the City received a grant to help reduce the cost for new aerial photography of the County. Mr. Guerra provided pixel and resolution details as well as explained how it benefits staff in the field. It allows for current and accurate imagery for the City to use on different projects. The last fly over was in 2015 and many roads that have been created since then are not included. The County would take the lead and front the cost and the City would receive the deliverables. Should there be an unforeseen disaster, they will re-fly the area affected and have a post event imagery available in 2-3 days. Another benefit would allow the zoning department to be able to find unpermitted structures or exterior improvements.

 The Council directed questions to Mr. Guerra. Mr. Guerra explained that it would take about 6-9 months to complete.

RESULT:	APPROVED [6 TO 1]
MOVER:	Michael Garrison, Councilman
SECONDER:	Michael Ritchason, Council Member
AYES:	Schramm, Orrick, Abel, Ritchason, Luft, McCabe
NAYS:	Michael Garrison

8.2. Resolution 133-18/19 to include stormwater repairs to Deerfield Estates (Parkfield) and El Camino to Resolution 110-18/19

City Engineer, Michael Guerra, presented the item. Mr. Guerra explained two projects, Deerfield Estates and El Camino, that he felt the City could perform the work using their own crews in an effort to save money.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mark Luft, Council Member
SECONDER:	Michael Garrison, Councilman
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

8.3. Resolution 134-18/19 MFT Supplemental Resolution for Section 10-00179-00-TL

City Engineer, Michael Guerra, presented the item. Mr. Guerra explained that two numbers had been transposed and the error was not caught by IDOT until now. The item corrects the paperwork previously submitted.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mark Luft, Council Member
SECONDER:	Michael Garrison, Councilman
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

8.4. Resolution 135-18/19 Motor Fuel Tax (MFT) Resolution for Section 75-00000-16-ES

City Manager, Mark Rothert, presented the item regarding City's share of 2016 PPUATS membership to close the project with the State.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lloyd Orrick, Mayor Pro-Tem
SECONDER:	John P Abel, Council Member
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

8.5. Resolution 136-18/19 Motor Fuel Tax (MFT) Resolution for Section 03-00170-00-TL

City Manager, Mr. Mark Rothert, presented the item. Mr. Rothert explained that the resolution presented would close the project for funds allocated to match amount previously expended due to a previous IDOT review error.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Lloyd Orrick, Mayor Pro-Tem
SECONDER:	John P Abel, Council Member
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

8.6. An Ordinance Amending Title 6, Chapter 3, Section 10, Subsection (h) (1) and Section 11, Subsection (l) (1) of the Animal Code of the City of Pekin 1995 Regarding Dangerous and Vicious Dogs/Cats

Finance Director, Mr. Bruce Marston, presented the item. Mr. Marston explained that the Ordinance would bring in line other registration codes and

regulations to a fiscal year date of payment.

The Council presented questions to Mr. Marston regarding vicious and dangerous dog license renewal and the hearing process. City Clerk, Sue McMillan, explained that they are not licenses but simply registrations.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Ritchason, Council Member
SECONDER:	Mark Luft, Council Member
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

- 8.7. 1594 : Amend Code Title 3 Chapter 2 Section 4**
A motion was made by Council Member Ritchason, seconded by Council Member Luft, to adopt Ordinance 2809-18/19 amending a portion of the Finance Section of the Code Regarding rebate of Home rule taxes of Certain Sales to amend Title 3, Chapter 2, Section 4.

City Manager, Mr. Mark Rothert, introduced the item to rescind the ordinance. Finance Director, Mr. Bruce Marston, explained that there are only a handful of retailers who actually participate in the rebate and it is a very limited scope for items over \$1,000. Rescinding the ordinance would allow the home rule tax to be distributed equitably. Mayor McCabe inquired as to how much the City was losing and Mr. Marston explained that it was about \$50,000 per year.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Michael Ritchason, Council Member
SECONDER:	Mark Luft, Council Member
AYES:	Schramm, Garrison, Orrick, Abel, Ritchason, Luft, McCabe

- 8.8. Policy No. 21-18/19 City of Pekin Procurement Policy**

Mayor McCabe explained to the Council that the item was only a discussion and that no action would be taken.

City Manager, Mr. Mark Rothert, explained that this was the City's first procurement policy and is the best practice for the City. Mr. Rothert asked Council to consider what threshold should be delegated to the City Manager.

Finance Director, Mr. Bruce Marston, explained that the policy consolidates various pieces regarding purchasing. He believes it is good government business to ensure the best quality goods for the best price, and this policy outlines requirements, dollar thresholds, and element of accountability. Mr. Marston continued to explain that the thresholds dictate what type of procurement and what you have to do.

Mayor McCabe expressed that he felt it was not good practice to go through a 21 page documents in one meeting. He asked Council to meet with Mr. Rothert or Mr. Marston for questions.

The Council discussed surrounding municipalities' average spending limits for City Managers. This policy would supersede any and all previous policies.

ANY OTHER BUSINESS TO COME BEFORE THE COUNCIL

John Burns thanked the Council Members for the pension bond presentation.

John McNish thanked Mr. Rothert for extending yard waste pickup and thanked Police Chief Dossey for promoting Officer Little. Mr. McNish also spoke against the pension bond presentation and the procurement policy. He also questioned the vicious animal fees.

Jim Mangan spoke regarding the alley pavement work.

Dave Nutter thanked the street department for plowing the snow in the City. He also asked Council questions regarding aerial photography and suggested exploring other options concerning the pension bond fund.

Rick Hilst expressed his disappointment with the planning commission meeting regarding the sober living residence.

Charity Gullet addressed the Council to clarify the fees for dangerous and vicious dogs.

City Manager, Mr. Mark Rothert, gave thanks to the crews that worked over the weekend with the heavy snow, 12.5 inches in 29 hours. The street department drove 400 miles and had 400 hours of overtime.

Mayor McCabe announced that Council Member Orrick and his wife Marilyn celebrated 50 years of marriage in December. The Mayor also skipped over the Dr. Martin Luther King Proclamation at the beginning of the meeting and read the proclamation. The Mayor made other announcements regarding upcoming activities within the City.

Mayor McCabe and each Council Member thanked the street department for the snow removal.

Council Member Abel suggested that the sober living house look into the empty motel for sale.

Council Member Orrick announced that the recycling bins by the riverfront will have a permanent solution soon.

Council Member Schramm wished his wife a Happy Birthday.

EXECUTIVE SESSION 5 ILCS 120/2 (C)

ADJOURN

No further action to come before Council, motion was by Council Member Schramm, seconded by Council Member Abel that Council adjourn Motion carried viva voce. Mayor McCabe adjourned the meeting at 7:32 PM.

**REQUEST FOR COUNCIL ACTION****To: Council Members****Date: January 22, 2019****From: John Lebegue, Building & Inspections****AGENDA ITEM:** Pekin Plan Commission Minutes - December 12, 2018 Meeting**AGENDA DATE REQUESTED:** January 28, 2019**REQUIRED SIGNATURES****Department Directors and City Staff:**

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

Date:

Pekin Planning Commission Meeting
 Council Chambers
 111 South Capitol Street, 2nd level
 December 12, 2018
 5:30pm

Present:

Bill Craig, Chair
 Ron Knautz
 Amy Wilson
 Tim Bonnette

Chris Deverman
 Don Hild

The regular meeting of the Pekin Planning Commission was called to order and a quorum was declared.

Staff present: John Lebegue, Building Inspections/Development Director

MOTION by Chris Deverman to approve the December 12, 2018 Agenda, Seconded by Amy Wilson. On roll call vote, all present voted AYE. Motion approved.

MOTION by Amy Wilson to approve the minutes of November 14, 2018 as revised, Seconded by Ron Knautz. On roll call vote, all present voted AYE. Motion approved.

Council Action Reports:

Chairman Bill Craig reported that at the November 26, 2018 regular meeting of the Pekin City Council, the members of the City Council concurred with the recommendation of the Plan Commission and by a unanimous vote approved the petition for Special Use authorization for open front storage of U-Haul rental trucks, trailers and equipment at 2909 Court Street. The Pekin City Council also concurred with the recommendation of the Plan Commission and by a unanimous vote approved the petition for Special Use authorization to construct and operate a solar farm use on a vacant property on Koch Street. Lastly, the members of the City Council concurred with the recommendation of the Plan Commission, and by a vote of 6 to 1 (Councilman Abel voting Nay), denied the Special Use petition to establish a sober living home at 912 Broadway Street.

Application #1: Review and consideration of a petition for Special Use Authorization to establish a commercial metal fabrication use at 716 Court Street.

Hearing #1 (#12-1925): Consideration of a Special Use Petition submitted by Semmco, Inc for a the establishment of a commercial, metal fabrication shop use in the B-3, General Business District at certain property located at 716 Court Street with a Legal Description of SEC 2 T24N R5W Colts Addn. Lot 25 NW ¼ in Tazewell County, Illinois, with the following P.I.N.# 04-10-02-106-003.

Open Public Hearing: 5:35 pm

Bill Craig, Chairman, entertained a motion for discussion.

Motion made by Ron Knautz, seconded by Chris Deverman, to open discussion.

Chairman Bill Craig opened the discussion and asked if there was anyone here to speak in regard to the issue.

The applicant was not present to speak in regard to the application.

Juanita Vanbuskirk, 717 Hillyer Street, appeared before the members of the Plan Commission and asked if an addition was being constructed on the building at 716 Court Street and if the applicant would be allowed to continue storing material at the exterior of the building.

John Lebegue, Building Inspections/Development Director stated that no addition was being constructed on the building at 716 Court Street and that all materials should be stored within the building unless specific authorization was granted to allow the exterior storage of material.

Ms. Vanbuskirk finished by stating that she opposed open storage of material at the exterior of the building.

A representative of Carney Insurance, 706 Court Street, appeared before the members of the Plan Commission and asked what noise level would be generated by the metal fabrication use. The representative of Carney Insurance further stated that they would like all materials to be stored within the building and not be visible to the public.

John Neumann, 709 Washington St. appeared before the members of the Plan Commission and stated that he owned a nearby property at 720 Court St. in a trust and was appearing to state that he had no problem with the use, and asked why it took the City so long to bring this case before the Plan Commission. Mr. Neumann stated that he had concerns as to the appearance of the property if materials were to be stored outside and felt that a screening fence should be installed to screen public view of the property. Mr. Neumann further stated the owner of the property has done a great job in fixing up and remodeling the exterior of the building and opaque fencing should be installed to enclose and screen public view of the exterior of the property. Mr. Neumann finished by stating that the fence should be from 6 to 8 feet in height and not be chain link with lattice.

Close Public Hearing: 5:49 p.m.

Commissioner Don Hild asked when the City became aware of the metal fabrication use that is being conducted at the property at 716 Court St.

John Lebegue, Building Inspections/Development Director explained that the Building Inspections Department discovered the use taking place at 716 Court Street in October 2018 and met with Rick Williams of Semmco, Inc. and explained that Special Use authorization was required to conduct a use of the metal fabrication nature and that a Special Use application must

be submitted to the City. Upon being requested to submit a Special Use application, Mr. Williams submitted the required application on November 21, 2018. Given that there were already 4 cases on the docket for the November 14, 2018 Plan Commission meeting, consideration of the Special Use for the metal fabrication shop use at 716 Court Street was placed on the December 12, 2018 agenda of the Plan Commission.

Commissioner Amy Wilson stated that she also was concerned about the noise level that could be generated by the metal fabrication use and felt that it was important and necessary for the applicant to appear before the Plan Commission to address concerns and answer questions.

Commissioner Don Hild asked the representative of Carney Insurance about the noise level being created by the metal fabrication shop use at 716 Court Street.

The representative of Carney Insurance stated that there was some noise being generated, but that the noise was not constant.

Commissioner Ron Knautz stated that he was in favor of the proposed metal fabrication shop use but that the exterior of the property must be screened to prevent public view of the property.

Commissioner Chris Deverman asked how customers of Carney Insurance accessed the property at 706 Court Street.

The representative of Carney insurance answered by stating that the property at 706 Court Street had their own driveway along the east side of the insurance building that is used to access the parking area at the rear of the building.

Commissioner Amy Wilson then asked if it would be an issue for the insurance company if a fence were to be installed along the west side property line to screen public view of the exterior of the property at 716 Court Street.

The representative of Carney Insurance stated that they would still be able to use their driveway to access the rear of the property if a fence were installed along the west side property line of 716 Court Street.

Commissioner Ron Knautz moved to table consideration of the Special Use request to establish a metal fabrication shop use at 716 Court Street to January 9, 2019, so that the applicant can appear before the Plan Commission, seconded by Commissioner Tim Bonnette. On a roll call vote, all present voted Aye. Motion passed.

No public input.

Motion made by Ron Knautz, seconded by Tim Bonnette to adjourn. On roll call vote, all present voted Aye. Motion approved. Meeting adjourned at 6:03 pm.

Respectfully submitted:

John R. Lebegue, Building Inspections / Development Director



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 22, 2019

From: John Lebegue, Building & Inspections

AGENDA ITEM: December 2018 Building Report

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Receive and File December 2018 Building Report

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

Mark A. Rothert

Mark A. Rothert, City Manager

1/23/2019

Date:

**REQUEST FOR COUNCIL ACTION****To: Council Members****Date: January 23, 2019****From: Sue McMillan, City Clerk****AGENDA ITEM:** Proclamation**AGENDA DATE REQUESTED:** January 28, 2019**REQUIRED SIGNATURES****Department Directors and City Staff:**

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

Date:

Office of the Mayor



PROCLAMATION

Karl

In recognition of: "Butch" Kaebel's outstanding leadership in the sport of hockey...

As a professional hockey coach for 4.5 years

As hockey staking instructor

Karl

And also in recognition of: Butch's excellent contributions to hockey and his community...

For his many years of committed practice and work with the Pekin Hockey clubs

For his commitment to hockey by staring at age 3 at Pekin Memorial Arena

For his dedicated playing from age 3 through his jr. year in high school

For his continued work in the game as a high school player in Canada

For his playing all four years at the college level

For his 12 years as a pro hockey player

For his four and a half years as a pro hockey coach

For his total accumulation of 999 pro hockey matches as player and coach

For his induction as Pekin's first Hall of Fame member of the Peoria Riverman

Karl

Therefore, be it known that Butch Keabel has served the community of Pekin as an outstanding role model in his work and dedication to the sport that he so dearly loves.

Karl

Be it further known that Butch Kaebel's devotion represents the very best of what the city of Pekin hopes for all of its community members.

NOW, THEREFORE, BE IT RESOLVED that I, John McCabe, mayor of the City Pekin, Tazewell County, Illinois, in recognition of this, do hereby proclaim the week of 27 January through 2 February 2019 in the City of Pekin as Butch Kaebel week and I ask all the members of our community to join me in thanking Butch for representing our city in such an outstanding manner and in wishing him the very best in his future.

ADOPTED, this 28th day of January in the Year of Our Lord, Two Thousand and Nineteen.

JOHN MCCABE
Mayor

ATTEST:

SUE E. McMILLAN
City Clerk

Attachment: BUTCH KAEBEL (1617 : Proclamation)



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Matt Fick,

AGENDA ITEM: Support for IHSA Basketball Tournament in the amount of \$5,000

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Approve Resolution No. 138-18/19 supporting 2019 IHSA Basketball Tournament in amount of \$5,000.

DESCRIPTION: The Peoria area has been privileged for more than 20 years to host the IHSA Boy's State Basketball Tournament and will continue to do so through the year 2020. A regional partnership with IHSA not only brings the positive impact of the boys' basketball tournament and the March Madness experience to our region, but goes well beyond with other events, tournaments and a conference. As a regional player, Pekin has the opportunity to be a direct partner with IHSA with reinvesting our hotel/motel tax dollars from hotel guests which provides potential for additional traffic from the tournament attendees that stay at our hotels and visitors to our restaurants and shops over the multiple weekend tournaments that will take place March 7-9 and March 14-16 2019. The IHSA is requesting a contribution from the City of Pekin to support the continued success of this tournament with the March Madness Experience exhibit and programs. The entire tournament has drawn over 65,000 attendees in prior years.

FINANCIAL IMPACT:

Request:	\$ 5,000
Source:	Tourism Fund (208-208-573100)
Budget:	\$25,000
Expended as of 12/31/18:	\$9,327.72

NEIGHBORHOOD CONCERNS: NA

IMPACT IF APPROVED: Tournament is a benefit back to the Pekin and surrounding area businesses and continues our regionalism efforts to support Central Illinois and our partnership with IHSA on many host tournaments.

IMPACT IF DENIED: Eliminates marketing opportunities included in the \$5,000 sponsorship and commitment to continue as a regional player.

ALTERNATIVES:

RELATED TO EFFICIENCY STUDY:

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark √ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
✓	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date: _____

Finance Department (Certification of Availability of Funds):

Date:	
City:	

City Manager:

Mark A. Rothert
 Mark A. Rothert, City Manager 1/23/2019

1/23/2019

Date: _____

Support for IHSA Basketball Tournament in the amount of \$5,000

WHEREAS, the Peoria area has been privileged for more than 20 years to host the IHSA Boy's State Basketball Tournament and will continue to do so through the year 2020; and

WHEREAS, the entire tournament has drawn over 65,000 attendees in prior years; and

WHEREAS, a regional partnership with IHSA not only brings the positive impact of the boys' basketball tournament and the March Madness experience to our region, but goes well beyond with other events, tournaments and a conference; and

WHEREAS, as a regional player, Pekin has the opportunity to be a direct partner with IHSA with reinvesting its hotel/motel tax dollars from hotel guests which provides potential for additional traffic from the tournament attendees that stay at our hotels and visitors to our restaurants and shops over the multiple weekend tournaments that will take place March 7-9 and March 14-16 2019; and

WHEREAS, the IHSA is again requesting a \$5,000 contribution from the City of Pekin to support the continued success of this tournament with the March Madness Experience exhibit and programs.

NOW THEREFOER BE IT RESOLVED, by the City Council of the City of Pekin, Tazewell County, Illinois that the City provides a grant \$5,000 from its Tourism Fund to support the 2019 IHSA Tournament.

MAYOR

ATTEST:

CITY CLERK



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Mark Rothert, City Manager

AGENDA ITEM: Resolution for TIF Funding for the resurfacing the 400 block Alley of Elizabeth St.

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: To approve Resolution 137-18/19 for the utilization of Tax Increment Financing (TIF) for the City's Share for the resurfacing of the 400 block alley between Elizabeth Street and St. Mary Street in the amount of \$13,983.00

DESCRIPTION: This resolution is to utilize Tax Increment Financing (TIF) to pay for the City's share for an improvement to the alley in the 400 block of \$13,983.00. This work was done in conjunction with the County's paving of their lot in the 400 block between Elizabeth St. and St. Mary St. The County's parking lot project included resurfacing approximately 100 feet of the alley to ensure all the surfaces matched. Due to the condition of the remainder of the alley, the County approached the City to see if the City would want to partner with them on the project to resurface the remainder of the alley. This would allow for the City to improve infrastructure in need of repair at a reduced cost with it being completed in conjunction with the County's project. With increased traffic with the County Parking lot construction, this made the project desirable to partner with the County as decided by previous City Management. The project is located in the Central Business TIF District which makes it eligible to utilize TIF funds to pay for the City's portion of the project.

FINANCIAL IMPACT: The utilization of the \$13,938.00 of TIF funding.

Budget for TIF (270-270-5-84009) General Public Improvements is \$144,100.

Total amount expended to date for (270-270-5-84009) General Public Improvements is \$62,841.00.

NEIGHBORHOOD CONCERNS: With increased traffic utilizing this County parking lot, the alley needed improvement.

IMPACT IF APPROVED: TIF funding will be utilized to pay for the City's share for the improvement to the alley in the 400 block of Elizabeth.

IMPACT IF DENIED: TIF funding will not be utilized to pay for the City's share for the improvement to the alley in the 400 block of Elizabeth.

ALTERNATIVES: The City could utilize the general fund from the Street Department to pay for its share for the improvement.

RELATED TO EFFICIENCY STUDY: To partner with other governmental agencies for improvements to City infrastructure to help reduce the cost of improvements.

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark ✓ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
✓	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

Mark A. Rothert

Mark A. Rothert, City Manager

1/23/2019

Date:

**Resolution 137-18/19 for the Utilization of Tax Increment Financing for the
Resurfacing of the 400 Block Alley Between Elizabeth Street and Saint Mary
Street.**

WHEREAS, Tazewell County invested funding to create an additional parking lot in the 400 block between Elizabeth Street and St. Mary Street in the summer of 2018; and

WHEREAS, a City alley runs through the County's new parking lot; and

WHEREAS, the reminder of the alley not associated with the County's parking lot was in need of repair; and

WHEREAS, with the increased traffic in the alley to utilize the parking lot for the County, the City Staff felt it would be advantageous to partner with the County to improve the remainder of the alley at the time of construction of the parking lot; and

WHEREAS, the City Manager at the time approved to include the alley work with the County Bid; and

WHEREAS, the alley is located in the Central Business District Tax Increment Finance District; and

WHEREAS, the City's cost for improvement to the remainder of the alley totals \$13,938.00.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pekin, Illinois, that the City staff is authorized to 1) proceed with the payment for the City's portion for the improvement to the alley, 2) pay for such expense out the Central Business District TIF Fund; and execute any necessary documentation to complete the payment.

MAYOR

ATTEST:

CITY CLERK

Location of the City's Portion for Alley Improvements utilizing TIF Funds

Attachment: Location Map for 400 block Elizabeth Alley (1616 : Resolution for TIF Funding for the resurfacing the 400 block Alley of Elizabeth





REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 14, 2019

From: John Lebegue, Building & Inspections

AGENDA ITEM: Request for Special Use Authorization for Metal Fabrication Shop Use at 716 Court Street

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Recommendation of the Pekin Plan Commission to the City of Pekin City Council to approve a request for a Special Use for the establishment of a metal fabrication shop use at 716 Court Street.

DESCRIPTION: Application #1: Consideration of a Special Use Petition submitted by Semmco, Inc for a the establishment of a commercial, metal fabrication shop use in the B-3, General Business District at certain property located at 716 Court Street with a Legal Description of SEC 2 T24N R5W Colts Addn. Lot 25 NW ¼ in Tazewell County, Illinois, with the following P.I.N.# 04-10-02-106-003.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

This case was initially considered by the Pekin Plan Commission at the December 12, 2018 meeting and was tabled and continued until the January 9, 2019 meeting so that the applicant Rick Williams, could appear before the Plan Commission to answer questions the members of the Plan Commission have in regard to the proposed use. Rick Williams, representing Semmco, Inc., had submitted an application for a Special Use Authorization to establish a commercial metal fabrication shop and sales use at 716 Court Street. According to information provided by the applicant, the metal fabrication shop use consists of the custom fabrication of metal parts for commercial sale. Semmco Inc. is renting the property at 716 Court Street from James Hoelzel, and upon leasing the property at 716 Court Street, was incorrectly informed by the Mr. Hoelzel that their metal fabrication shop use was a permitted use, when in fact, the commercial metal fabrication use constitutes a Special Use. Upon discovery of the use taking place without the required Special Use, Rick Williams of Semmco, Inc. was notified of the need to submit an application for the required Special Use, and Mr. Williams promptly submitted the required application. An aerial photograph of the property at 716 Court Street has been provided to provide a perspective of how the property is configured and its proximity to residential

properties to the south. The property at 716 Court Street was previously used as an auto dealership and a Meineke muffler shop.

PROPERTY INFORMATION

Relevant Zoning Code Section: Section 9-6C-3, (G): Special Uses: Automotive repair business.

Property Address: 716 Court Street

Current Zoning Classification: B-3, General Business District

Current Use: Commercial

ANALYSIS AND DISCUSSION

Pursuant to Section 9-6C-3, (G) of the City Code, the proposed commercial metal fabrication and sales use constitutes a Special Use in the B-3, General Business District and is subject to the following conditions:

1. Access to such use shall be directly to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street. ***(Access to the property at 716 Court Street, which is a major street, conforming to this condition)***
2. Access to and from such use shall not be cause for traffic to utilize residential streets. ***(Access to the use conducted at 716 Court Street is from Court Street, as there are three driveway opening present from Court Street. A public alley does exist at the rear of the property and the property can currently be accessed at that point as well.)***
3. Outdoor storage of parts or materials shall be prohibited. ***(A recent inspection of the property at 716 Court Street revealed that pieces of steel and other materials are being stored at the exterior of the property and should a Special Use be granted, all materials must be stored within the interior of the building unless otherwise allowed .)***
4. Vehicles awaiting repair shall not be allowed to be stored outside the building for more than forty eight (48) hours for each such vehicle awaiting repair. ***(This condition would only apply if vehicles are brought to the property for the installation of custom parts.)***
5. Areas for off-street parking required for customer use shall not be utilized for the storage of vehicles awaiting repairs. ***(There exists ample parking areas on the property to accommodate the parking of customer and for the parking of any vehicles awaiting repair.)***
6. All vehicle servicing or repair shall be conducted within a building. ***(All custom metal fabrication and installation takes place within the interior of the building, conforming to this condition.)***
7. Suitable containers shall be provided and utilized for the disposal of used parts, and such containers shall be screened from public view. ***(A waste dumpster is located at the back, west side of the building and should the Special Use authorization be granted allowing the use to continue, the waste container must be fully enclosed to be screened from public***

view.)

8. A four foot six inch (4'6") obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district. ***(The property at 716 Court Street abuts a public alley at the south of the property and can be accessed from the alley. A 6-foot, solid fence exists on the residential property at 402 S. 7th Street, but no screening fence or wall currently exists at the rear of the property at 716 Court Street to screen view of the property from the adjacent residential zoning district.)***

9. A site plan shall be submitted to the Planning Commission for its review and approval; prior to issuance of a building permit. ***(An aerial photograph of the property has been provide to serve as a Site Plan, as given the nature of the use, all activities other than the exterior storage of a waste container, are required to be conducted at the interior of the building.)***

In addition to the above stated conditions that apply to the proposed use, no Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact.

Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment. Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

ACTION OF THE PLAN COMMISSION

The applicant, Rick Williams appeared before the members of the Plan Commission at the January 9, 2019 Public Hearing and provided testimony as to the nature of the proposed metal fabrication use being conducted at 716 Court Street. Mr. Williams explained that the business consisted of the custom fabrication of metal parts and components and that the use was conducted in the front, northern portion of the building, with the owner of the property utilizing

the rear portion of the building for cold storage. Mr. Williams further explained that fabrication materials were temporarily stored at the exterior of the building, but the materials were

Upon consideration of the petition for Special Use to establish a commercial metal fabrication shop use at 716 Court Street, the members of the Plan Commission found the commercial metal fabrication shop use an appropriate use for the property at 716 Court Street. Upon discussion, the members of the Plan Commission concluded that the installation of fencing to screen occasional exterior storage of fabrication materials would create more problems, as the installation of fencing along the alley at the rear of the property and along the west property line could obstruct traffic flow in the alley and on the driveway of the adjacent property at 706 Court Street. By a unanimous vote, the members of the Pekin Plan Commission recommended approval of the request for Special Use authorization to establish a commercial, metal fabrication shop use at 716 Court Street.

FINANCIAL IMPACT: N/A

NEIGHBORHOOD CONCERNS: During the Public Hearing for the petition for Special Use authorization to establish a commercial, metal fabrication shop use, 3 neighboring property owners appeared before the Plan Commission to ask questions and express concerns in regard to the proposed use at 716 Court Street. Neighboring property owners expressed concerns as to the exterior storage of materials on the property at 716 Court Street and the possible installation of screening fencing on the property. A representative of Carney Insurance Co., 706 Court Street, which is located directly adjacent to the property at 716 Court Street, expressed concern that if a fence were installed along the west property line between their properties, the driveway and access to their property could potentially be obstructed by a screening fence. Despite the concerns expressed, neighboring residents voiced approval of the proposed commercial metal fabrication shop use.

IMPACT IF APPROVED: The commercial building at 716 Court Street, which prior to being occupied by Semmco, Inc. was vacant and underutilized for a long period of time, will be occupied by a commercial use which the Plan Commission found appropriate for the property and neighboring property owners were in favor of. The property at 716 Court Street has undergone extensive exterior renovation and having the building occupied has restored vitality to the property.

IMPACT IF DENIED: The commercial building at 716 Court Street would again be vacant and underutilized, as the current use would have to cease and vacate the property.

ALTERNATIVES:

RELATED TO EFFICIENCY STUDY:

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark √ and paste it to the left of the relevant theme.]

√

A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.

A Safe Community. To protect community life and property by providing

	effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

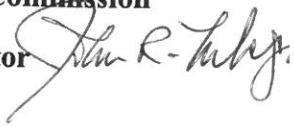
Mark A. Rothert

Mark A. Rothert, City Manager

1/23/2019

Date:

MEMORANDUM

TO: William Craig, Chairman and Members of the City of Pekin Plan Commission
FROM: John R. Lebegue, Building Inspections / Development Director 
DATE: January 2, 2019
RE: Petition for Special Use Authorization for the Establishment of a Commercial, Metal Fabrication Shop at 716 Court Street.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

This case was initially considered by the Pekin Plan Commission at the December 12, 2018 meeting and was tabled and continued until the January 9, 2019 meeting so that the applicant Rick Williams, could appear before the Plan Commission to answer questions the members of the Plan Commission have in regard to the proposed use. Rick Williams, representing Semmco, Inc., has submitted an application for a Special Use Authorization to establish a commercial metal fabrication shop and sales use at 716 Court Street. According to information provided by the applicant, the metal fabrication shop use consists of the custom fabrication of metal parts for commercial sale. Semmco Inc. is renting the property at 716 Court Street from James Hoelzel and upon leasing the property at 716 Court Street, was incorrectly informed by the Mr. Hoelzel that the use that their use was a permitted use, when in fact, the commercial metal fabrication use constitutes a Special Use. Upon discovery of the use taking place without the required Special Use, Rick Williams of Semmco, Inc. was notified of the need to submit an application for the required Special Use. An aerial photograph of the property at 716 Court Street has been provided to provide a perspective of how the property is configured and its proximity to residential properties to the south. The property at 716 Court Street was previously used as an auto dealership and a Meineke muffler shop.

PROPERTY INFORMATION

Relevant Zoning Code Section: Section 9-6C-3, (G): Special Uses: Automotive repair business.

Property Address: 716 Court Street

Current Zoning Classification: B-3, General Business District

Current Use: Commercial

ANALYSIS AND DISCUSSION

Pursuant to Section 9-6C-3, (G) of the City Code, the proposed commercial metal fabrication and sales use constitutes a Special Use in the B-3, General Business District and is subject to the following conditions:

1. Access to such use shall be directly to a major or collector street or shall be to a minor street which has direct access to an abutting major or collector street. *(Access to the property at 716 Court Street, which is a major street, conforming to this condition)*
2. Access to and from such use shall not be cause for traffic to utilize residential streets. *(Access to the use conducted at 716 Court Street is from Court Street, as there are three driveway opening present from Court Street. A public alley does exist at the rear of the property and the property can currently be accessed at that point as well.)*
3. Outdoor storage of parts or materials shall be prohibited. *(A recent inspection of the property at 716 Court Street revealed that pieces of steel and other materials are being stored at the exterior of the property and should a Special Use be granted, all materials must be stored within the interior of the building.)*
4. Vehicles awaiting repair shall not be allowed to be stored outside the building for more than forty eight (48) hours for each such vehicle awaiting repair. *(This condition would only apply if vehicles are brought to the property for the installation of custom parts.)*
5. Areas for off-street parking required for customer use shall not be utilized for the storage of vehicles awaiting repairs. *(There exists ample parking areas on the property to accommodate the parking of customer and for the parking of any vehicles awaiting repair.)*
6. All vehicle servicing or repair shall be conducted within a building. *(All custom metal fabrication and installation must take place within the interior of the building.)*
7. Suitable containers shall be provided and utilized for the disposal of used parts, and such containers shall be screened from public view. *(A waste dumpster is located at the back, west side of the building and should the Special Use authorization be granted, the waste enclosure must be fully enclosed to be screened from public view.)*
8. A four foot six inch (4'6") obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district. *(The property at 716 Court Street abuts a public alley at the south of the property and can be accessed from the alley. A 6-foot, solid fence exists on the residential property at 402 S. 7th Street, but no screening fence or wall currently exists at the rear of the property at 716 Court Street to screen view of the property from the adjacent residential zoning district.)*
9. A site plan shall be submitted to the Planning Commission for its review and approval; prior to issuance of a building permit. *(An aerial photograph of the property has been provide to serve as a Site Plan, as given the nature of the use, all activities other than the*

exterior storage of a waste container, are required to be conducted at the interior of the building.)

In addition to the above stated conditions that apply to the proposed use, no Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact.

Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment, Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

The applicant will be present at the January 9, 2019 Public Hearing to provide testimony as to how the proposed commercial metal fabrication and sales use meets each of the required findings of fact and



City of Pekin- Zoning and Inspections Department
111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

SPECIAL USE APPLICATION

Address of Requested Special Use: 716 COURT ST.

Applicant Name: SEMMCO, INC.

Address: 8221 S. McCUMBER RD. BARTONVILLE

Phone #: (309) 265-8286 Cell Phone #: _____ E-Mail: semmco16@gmail.com

Owner Name: Jim Hoezel

Address: 407 DOLIST RD

Phone #: 309-231-4082 Cell Phone #: SAME E-Mail: J.Hoezel@rocketmail.com

Attorney / Representative: _____

Address: _____

Phone #: _____ Cell Phone #: _____

Phone #: _____ Cell Phone #: _____ E-Mail: _____

Property Information:

Lot Area: 23,814 sq. ft. Zoning District: B-3, Gen. Bus. Present Use: Commercial

Use of Adjacent Property & Zoning:

North: B-3, General Bus. Dist.

South: R-4, One Family Resd. Dist.

East: B-3, General Bus. Dist.

West: B-3, General Bus. Dist.

Property Identification Number: 04-10-02-106-003

Legal Description: (Attach Separate Page)



Community. Opportunity. Home.

City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Brief Summary and Reason for Request: _____

No Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact. Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment, Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

CERTIFICATION BY THE APPLICANT

I certify that all the information contained in this application form or any attachments, documents, or plans submitted herewith are true to the best of my knowledge and belief.

Applicant Signature

Date

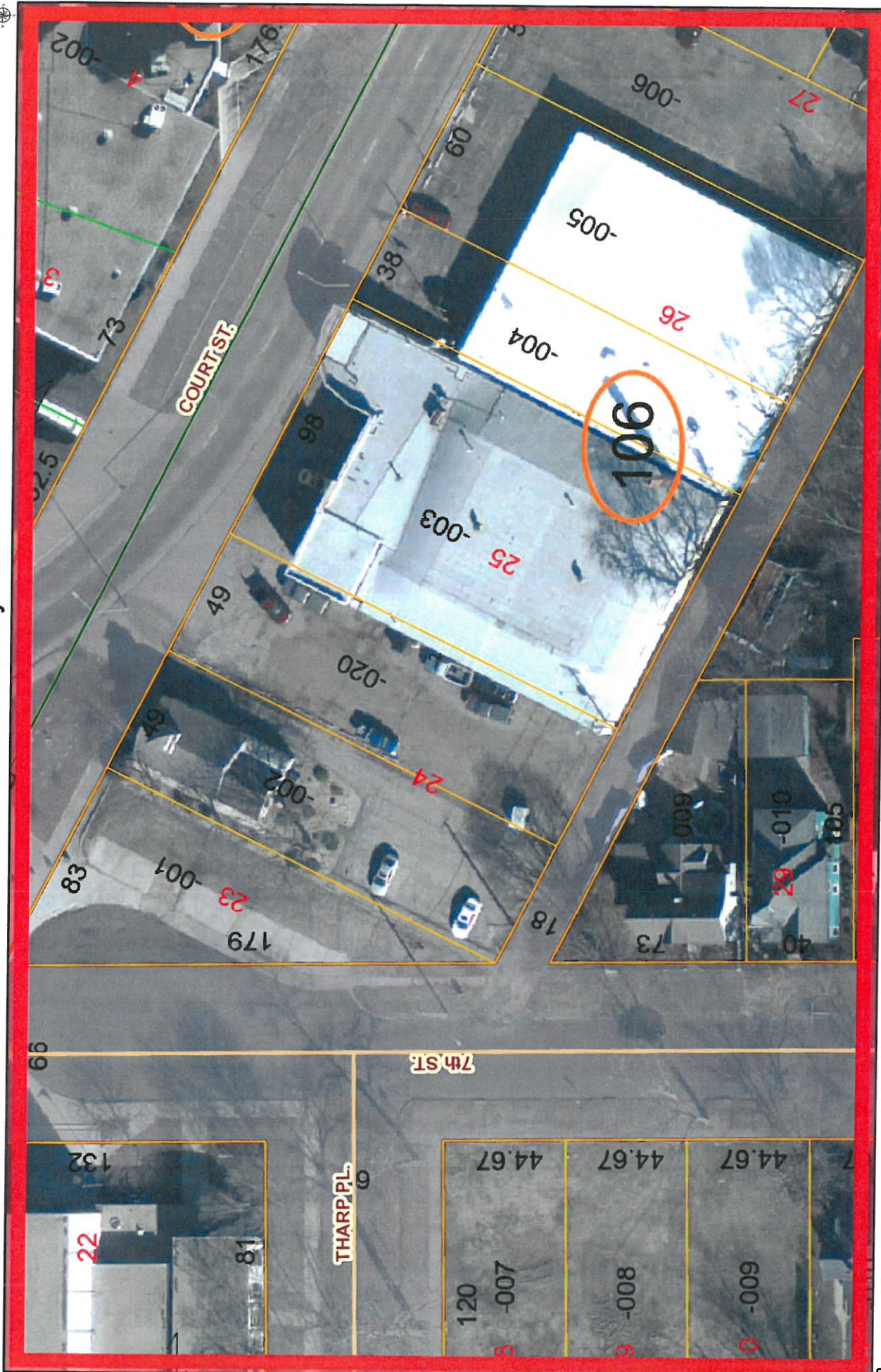
CERTIFICATION BY PROPERTY OWNER

I certify that I am the owner of the property, which is the subject of this request. The applicant has received my approval to proceed with this request.

Owner Signature

Date

10-22-18



Tazewell County GIS parcel and map records contained herein are for property tax purposes only. The information has been compiled from the most accurate source data from the public records of Tazewell County, Illinois. The user of this information is advised that the data was collected primarily for the use and purpose of computing property taxes. The information contained herein is for reference purposes only and should not be relied upon as a substitute for a title search. Any reliance on the information contained herein is at the user's own risk. The Tazewell County GIS assumes no responsibility for any use of the information contained herein or any loss resulting therefrom. Users of Tazewell County GIS site assume all risk and liability when accessing any third party are linked to this site. All data is subject to change.



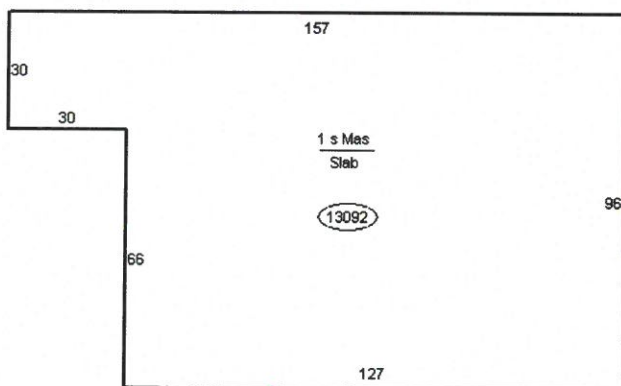
- IL-155 — IL 29 — US 24
- IL-474 — IL 98 — Streets
- IL-74 — US 150

Tazewell County, Illinois

generated on 10/23/2018 2:54:16 PM CDT

Building Assessed

Parcel ID		Parcel Address			Data as of		
04-10-02-106-003		716 COURT ST			10/20/2018 8:05:00 AM		
Commercial							
Building No. C01		Floor No. 1					
Section Letter or No.	001	Use Code	GENOFF	Framing Type	Heating/AC Val. Adj.	0.00	
Pricing Key	GCM25	Square Footage	2,016	Wall Type	Sprinkler Val. Adj.	0.00	
Individually Owned (Apt. or Condo)	N	Square Foot Rate	55.36	Wall Height	10	Avg. Depth for Strip Retail	0
Unit Size of Indiv. Owned Unit (Apt. or Condo)	0	Avg. Unit Size (Apt, Condo, Motels, Hotels)	0	Config. Code (Motels or Hotels)	No. Units (Apt., Condo, Motel, Hotel)	0	
Building No. C01		Floor No. 1					
Section Letter or No.	001	Use Code	AUTOSERV	Framing Type	Heating/AC Val. Adj.	0.00	
Pricing Key	GCM04	Square Footage	11,076	Wall Type	Sprinkler Val. Adj.	0.00	
Individually Owned (Apt. or Condo)	N	Square Foot Rate	27.10	Wall Height	16	Avg. Depth for Strip Retail	0
Unit Size of Indiv. Owned Unit (Apt. or Condo)	0	Avg. Unit Size (Apt, Condo, Motels, Hotels)	0	Config. Code (Motels or Hotels)	No. Units (Apt., Condo, Motel, Hotel)	0	



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TO Journal Star: Please publish one time on the 27th day of November, 2018.

LEGAL NOTICE for PUBLIC HEARING

Notice is hereby given that a **PUBLIC HEARING** will be held for a Special Use Petition submitted by Semmco, Inc for a the establishment of a commercial, metal fabrication shop use in the B-3, General Business District at certain property located at 716 Court Street with a Legal Description of SEC 2 T24N R5W Colts Addn. Lot 25 NW ¼ in Tazewell County, Illinois, with the following P.I.N.# 04-10-02-106-003.

Said **Public Hearing** of the above petition to be held at a regular Meeting of the **Pekin Planning Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the 12th day of December, 2018, at the hour of 5:30 P.M.

All persons having an interest there in may appear to be heard.

Dated this 26th day of November, 2018.

John R. Lebegue
Building Inspections / Development Director
City of Pekin

ILLINOIS
Community. Opportunity. Home.
City of Pekin- Zoning and Inspections Department
111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Current Resident/Owner,

Notice is hereby given that a **PUBLIC HEARING** will be held for the consideration of a Special Use Petition to establish a commercial metal fabrication use in the B-3, General Business District at a property located at 716 Court Street, with a Legal Description of SEC 2 T24N R5W Colts Addn. Lot 25 NW 1/4, in Tazewell County, Illinois, with the following P.I.N.# 04-10-02-106-003.

Said review of the above petition to be held at a regular Meeting of the **Pekin Plan Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the **12th day of December, 2018**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.



John R. Lebegue
Building Inspections / Development Director
City of Pekin

John R. Lebegue
Building Inspections / Development Director
jrlebegue@ci.pekin.il.us
Office: (309) 478-5370

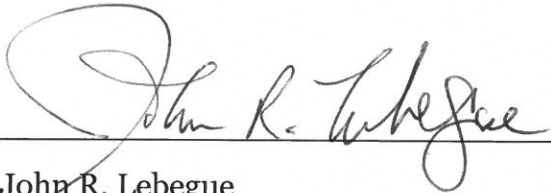
Pekin
 ILLINOIS
 Community. Opportunity. Home.
City of Pekin- Zoning and Inspections Department
 111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Current Resident/Owner,

Notice is hereby given that a **PUBLIC HEARING** will be resumed for the consideration of a Special Use Petition to establish a commercial metal fabrication use in the B-3, General Business District at a property located at 716 Court Street, with a Legal Description of SEC 2 T24N R5W Colts Addn. Lot 25 NW ¼, in Tazewell County, Illinois, with the following P.I.N.# 04-10-02-106-003. Consideration on the Special Use petition to establish a commercial metal fabrication shop was tabled and continued at the December 12, 2018 Pekin Plan Commission meeting so that the applicant could appear to respond to questions from the members of the Plan Commission.

Said review of the above petition to be held at a regular Meeting of the **Pekin Plan Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the **9th day of January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.



John R. Lebegue
 Building Inspections / Development Director
 City of Pekin

John R. Lebegue
 Building Inspections / Development Director
 jrlebegue@ci.pekin.il.us
 Office: (309) 478-5370

Attachment: Plan Commission Packet for 716 Court Street Special Use petition (1603 : Request for Special Use Authorization for Metal



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 22, 2019

From: John Lebegue, Building & Inspections

AGENDA ITEM: Request for Special Use Authorization for Commercial Burial Monuments Sales Use at 3302 Court St.

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Recommendation of the Pekin Plan Commission to the City of Pekin City Council to approve a request for a Special Use for the establishment of a commercial burial monument sales use, with exterior display of burial monuments at 3302 Court Street.

DESCRIPTION: Application #3: Peoria Monument Co. has submitted a petition for a Special Use for the establishment of a commercial burial monument sales use, with the exterior display of burial monuments at the exterior of the building at 3302 Court Street. The property at 3302 Court Street is located in the B-1, Local Business District and the proposed retail burial monument sales use constitutes a permitted retail use in the B-1, Local Business District, but the accessory, exterior display of burial monuments use constitutes a Special Use in the B-1, Local Business District. The Special Use authorization is being sought by Peoria Monument Co. to re-locate the McAvoy Monuments use from its current location at 431 Henrietta Street to the proposed location at 3302 Court Street.

PROPERTY INFORMATION

Relevant Zoning Code Sections: Section 9-6A-2 and Section 9-6A-3, (E)

Property Address: 3302 Court Street

Current Zoning Classification: B-1, Local Business District

Current Use: Office

ANALYSIS AND DISCUSSION

The proposed Peoria Monument Co. use of the property at 3302 Court Street will make use of a currently vacant business property. The property at 3302 Court Street is a larger property than the current McAvoy Monument location at 431 Henrietta Street and better suited for the burial monument sales use, as ample area exists for parking and the display of burial monuments. As

detailed on the Site Plan submitted by the applicant, the monument display area would be located to the east of the building and would be visible to traffic traveling on Court Street and be located approximately 40 feet from Court Street.

REVIEW AND RECOMMENDATION OF PLAN COMMISSION

The applicant, Bill Steubinger, representing Peoria Monuments, appeared before the members of the Plan Commission and explained that the Special Use request was being made so that the McAvoy Monument business currently being conducted at 431 Henrietta Street can be re-located to the property at 3302 Court street. Mr. Steubinger further explained that the property at 3302 Court Street is a larger property and better suited for the burial monument sales use than the property at 431 Henrietta Street. Upon consideration of the Special Use request for the establishment of a commercial burial monument sales use, with the exterior display of burial monuments at the exterior of the building at 3302 Court Street, the members of the Plan Commission found the use appropriate for the property at 3302 Court Street. By a unanimous vote, the members of the Pekin Plan Commission recommended approval of the request for Special Use authorization to establish a commercial, burial monument use, with the exterior display of burial monuments at 3302 Court Street.

FINANCIAL IMPACT: N/A

NEIGHBORHOOD CONCERNS: No neighborhood concerns were expressed in regard to this Special Use Petition.

IMPACT IF APPROVED: The McAvoy Monuments business would be allowed to re-locate the existing monument sales use from its current location at 431 Henrietta St. to a larger, more visible commercial property at 3302 Court Street.

IMPACT IF DENIED: The McAvoy Monument use would be prevented from re-locating to a larger, more appropriate commercial property and would remain at its current location at 431 Henrietta Street.

ALTERNATIVES:

RELATED TO EFFICIENCY STUDY:

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark ✓ and paste it to the left of the relevant theme.]

✓	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.

	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES
Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date:

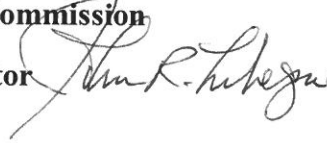
City Manager:
Mark A. Rothert

Mark A. Rothert, City Manager

1/23/2019

Date:

MEMORANDUM

TO: Willian Craig, Chairman and Members of the City of Pekin Plan Commission
FROM: John R. Lebegue, Building Inspections / Development Director 
DATE: January 2, 2019
RE: Special Use Petition for establishment of a commercial burial monument sales use, with the exterior display of burial monuments at 3302 Court Street

SUMMARY AND BACKGROUND OF SUBJECT MATTER

Peoria Monument Co. has submitted a petition for a Special Use for the establishment of a commercial burial monument sales use, with the exterior display of burial monuments at the exterior of the building at 3302 Court Street. The property at 3302 Court Street is located in the B-1, Local Business District and the proposed retail burial monument sales use constitutes a permitted retail use in the B-1, Local Business District, but the accessory, exterior display of burial monuments use constitutes a Special Use in the B-1, Local Business District. The Special Use authorization is being sought by Peoria Monument Co. to re-locate the McAvoy Monuments use from its current location at 431 Henrietta Street to the proposed location at 3302 Court Street.

PROPERTY INFORMATION

Relevant Zoning Code Sections: Section 9-6A-2 and Section 9-6A-3, (E)
Property Address: 3302 Court Street
Current Zoning Classification: B-1, Local Business District
Current Use: Office

ANALYSIS AND DISCUSSION

The proposed Peoria Monument Co. use of the property at 3302 Court Street will make use of a currently vacant business property. The property at 3302 Court Street is a larger property than the current McAvoy Monument location at 431 Henrietta Street and better suited for the burial monument sales use, as ample area exists for parking and the display of burial monuments. As detailed on the Site Plan submitted by the applicant, the monument display area would be located to the east of the building and would be visible to traffic traveling on Court Street and be located approximately 40 feet from Court Street.



City of Pekin- Zoning and Inspections Department
111 S. Capitol Street, Pekin, Illinois 61554 - (309) 477-2315

SPECIAL USE APPLICATION

Address of Requested Special Use: 3302 Court Street

Applicant Name: Peoria Monument Co.

Address: 3701 N. Shevidan Road Peoria IL 61614

Phone #: 309-682-9858 Cell Phone #: 309-645-0039 E-Mail: peoriamonument@att.net

Owner Name: Bonnie Ostling

Address: 201 W. Olive St. Bloomington, IL 61701

Phone #: 309-827-3030 Cell Phone #: _____ E-Mail: BOstling@ostlinglaw.com

Attorney / Representative: _____

Address: _____

Phone #: _____ Cell Phone #: _____

Phone #: _____ Cell Phone #: _____ E-Mail: _____

Property Information:

Lot Area: 17,600 Zoning District: B-1 Present Use: Office

Use of Adjacent Property & Zoning:

North: RETAIL - B-3, Gen. Business Dist. South: RESIDENTIAL - R-4

East: B-1, Local Bus. Dist. West: OS-1, Office Service Dist

Property Identification Number: 11-11-07-105-002

Legal Description: (Attach Separate Page)



ILLINOIS
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111 S. Capitol Street, Pekin, Illinois 61554 - (309) 477-2315

Brief Summary and Reason for Request: We are moving McAvoy Monuments from 431 Henrietta to 3302 Court St.

No Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact. Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment, Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

CERTIFICATION BY THE APPLICANT

I certify that all the information contained in this application form or any attachments, documents, or plans submitted herewith are true to the best of my knowledge and belief.

Bill Steubinger

Applicant Signature

1-2-19

Date

CERTIFICATION BY PROPERTY OWNER

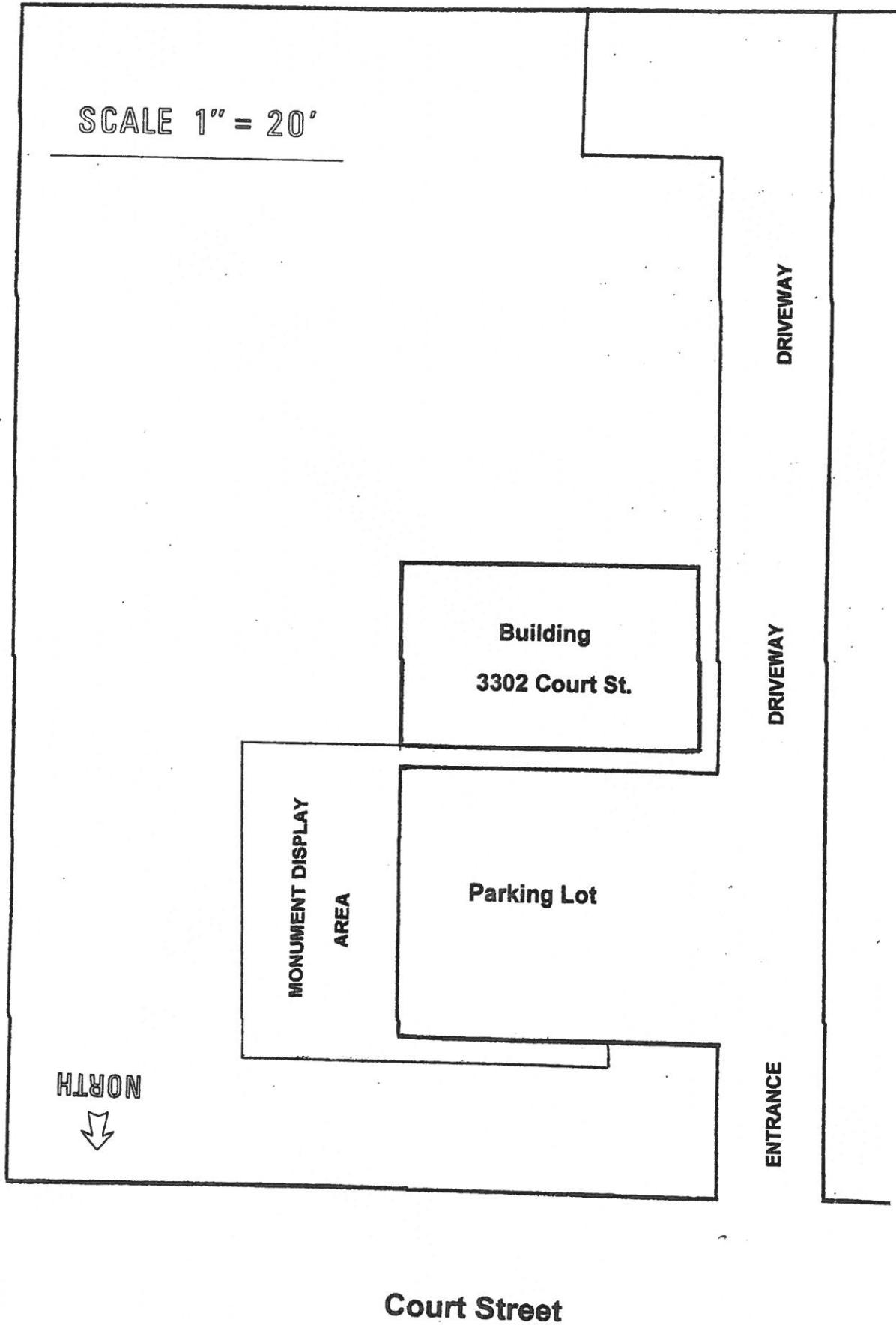
I certify that I am the owner of the property, which is the subject of this request. The applicant has received my approval to proceed with this request.

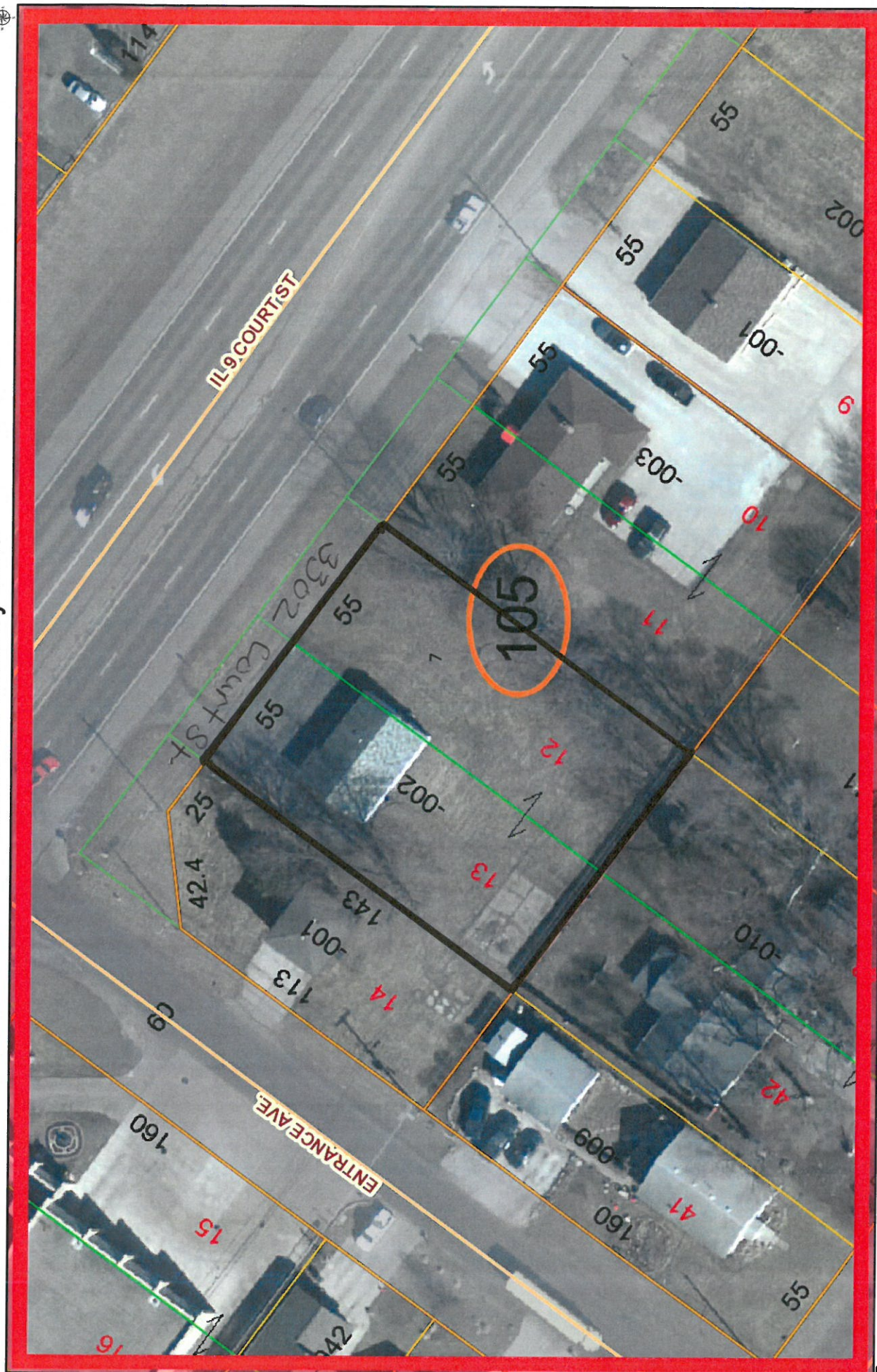
Bonnie J. Astling

Owner Signature

1-4-19

Date

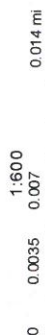




- I-155
- I-474
- I-74
- IL 29
- IL 98
- IL 150
- US 24
- Streets



Tazewell County GIS parcel and map records contained herein are for property tax purposes only. The information has been compiled from the most accurate source data from the public records of Tazewell County, Illinois. The information is provided for informational purposes only and should not be relied upon as a substitute for a title search. Any reliance on the information contained herein is at the user's own risk. The Tazewell County GIS assumes no responsibility for any use of the information contained herein or any loss resulting therefrom. Users of Tazewell County GIS assume all risk and liability when accessing any and all data linked to this site. All data is subject to change.



TO Pekin Daily Times: Please publish one time on the 22nd day of December, 2018.

LEGAL NOTICE for PUBLIC HEARING

Notice is hereby given that a **PUBLIC HEARING** will be held for a Special Use Petition submitted by Peoria Monument for the establishment of a commercial monument sales use, with the exterior display of burial monuments in the B-1, Local Business District at certain property located at 3302 Court Street with a Legal Description of SEC 7 T24N R5W Pekin Heights Subd. Lots 12 & 13 (Exc. State) NW ¼ in Tazewell County, Illinois, with the following P.I.N.# 11-11-07-105-002.

Said **Public Hearing** of the above petition to be held at a regular Meeting of the **Pekin Planning Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the 9th day of **January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.

Dated this 20th day of **December, 2018**.

John R. Lebegue
Building Inspections / Development Director
City of Pekin



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City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Current Resident/Owner,

Notice is hereby given that a **PUBLIC HEARING** will be held for a Special Use Petition submitted by Peoria Monument, for the establishment of a commercial monument sales use, with the exterior display of burial monuments in the B-1, Local Business District at certain property located at 3302 Court Street with a Legal Description of SEC 7 T24N R5W Pekin Heights Subd. Lots 12 & 13 (Exc. State) NW ¼ in Tazewell County, Illinois, with the following P.I.N.# 11-11-07-105-002.

Said review of the above petition to be held at a regular Meeting of the **Pekin Plan Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the **9th** day of **January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.

John R. Lebegue
Building Inspections / Development Director
City of Pekin

John R. Lebegue
Building Inspections / Development Director
jrlebegue@ci.pekin.il.us
Office: (309) 478-5370



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 22, 2019

From: John Lebegue, Building & Inspections

AGENDA ITEM: Ordinance 1568-A208-18/19 for the Re-Zoning of Properties at 416 & 422 Catherine St.

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Recommendation from the Pekin Plan Commission to the City of Pekin City Council to approve an Ordinance rezoning the properties at 416 & 422 Catherine Street from RM-3, Multiple-Family Residential to P-1, Vehicular Parking District.

DESCRIPTION: Application #2: Preston-Hanley Funeral Homes and Crematory LLC has submitted an application for a Zoning Map Amendment to change the zoning of the properties located at 416 and 422 Catherine Street from its current zoning classification of RM-3, Multiple Family Residential to P-1, Vehicular Parking District for the purpose of constructing additional parking spaces for the funeral home use being constructed across the street at 500 N. 4th Street. The proposed parking lot will be connected to the existing parking lot at 412 N. 4th Street, which is currently zoned P-1 Vehicular Parking District.

PROPERTY INFORMATION

Relevant Zoning Code Sections: Section 9-12-6, Amendments, Section 9-4C-1, RM-3 Multi-

Family Residential District and Section 9-8-1, P-1,
Vehicular Parking District

Property Addresses: 416 and 422 Catherine Street

Current Zoning Classification: RM-3.Multiple Family Residential District

Proposed Zoning Classification: P-1, Vehicular Parking District

Current Use: Property currently is vacant.

Use of Adjacent Property & Zoning:

North: R-4, One Family Residential

West: P-1, Vehicular Parking

East: B-3, General Business

South: RM-3, Multiple-Family Residential

ANALYSIS AND DISCUSSION

Pursuant to Section 9-12-6 of the City Code, the City Council may from time to time amend, supplement or change by ordinance the boundaries of districts or regulations herein established. Any amendment, supplement or change shall first be submitted to the Planning Commission for its recommendation and report, therefore the rezoning request of Preston-Hanley Funeral Homes and Crematory LLC is being submitted for the required review and recommendation. Properties can only be used as vehicular parking area and shall be developed and maintained subject to the following conditions:

9-8-3: Required Conditions:

- A. The parking area shall be accessory to and for use in connection with one or more multiple dwellings, businesses or industrial establishments located in adjoining multiple dwelling, business or industrial districts or in connection with one or more existing professional or institutional office buildings or institutions.
- B. Such parking lots shall be contiguous to an RM or nonresidential district. Parking areas may be approved when adjacent to said districts or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 District and
- C. Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day and shall not be used as an off-street loading area.
- D. No commercial repair work or service of any kind or sale or display thereof shall be conducted in such parking area.
- E. No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
- F. No buildings, other than those for shelter of attendants, shall be erected upon the premises, and they shall not exceed fifteen (15') feet in height.
- G. Applications for P-1 District rezoning shall be made by submitting a dimensional layout of the area requested showing the intended parking plans in accordance with Sections 9-10-14 and 9-10B-1-2 of this Title.

Upon review of the rezoning request, the proposed change in zoning from RM-3, Multiple Family Residential District to P-1, Vehicular Parking District meets the above stated required conditions, is consistent with the goals and objectives of the Comprehensive Plan and is compatible with the adjacent land uses and zoning districts. The rezoning of the properties at 416 and 422 Catherine Street to P-1, Vehicular Parking District is a logical extension of the P-1, Vehicular Parking District, as that is the current zoning classification of the existing funeral

home parking lot at 412 N. 4th Street, which is directly adjacent to the subject properties. Review of the Site Plan that has been submitted with the application, reveals that a screening fence is installed at the rear of the property adjacent to the City alley to screen the use from the multiple family properties to the south and screening fencing is being installed around the waste container area on the property.

REVIEW AND RECOMMENDATION OF PLAN COMMISSION

Upon consideration of the application for the rezoning of the properties at 416 & 422 Catherine Street, the members of the Pekin Plan Commission found that the proposed change in zoning from RM-3, Multiple Family Residential District to P-1, Vehicular Parking District is consistent with the goals and objectives of the Comprehensive Plan, is compatible with the adjacent land uses and zoning districts and is a reasonable extension of that zoning district, as that is the current zoning classification of the existing parking lot to the west of the subject properties. By a unanimous vote, the members of the Pekin Plan Commission recommended approval of the request to rezone the properties at 416 & 422 Catherine Street from RM-3, Multiple Family Residential District to P-1, Vehicular Parking District.

FINANCIAL IMPACT: N/A

NEIGHBORHOOD CONCERNS: No neighborhood concerns were expressed in regard to this re-zoning petition.

IMPACT IF APPROVED: Preston-Hanley Funeral Homes would be able to increase the number of parking spaces to more efficiently operate their business. The proposed parking lot will provide visitors to the Preston-Hanley Funeral home to park off the street, reducing congestion of City streets around the funeral home property.

IMPACT IF DENIED: Preston-Hanley Funeral Homes would be denied the ability to provide more off-street parking resources for visitors to the funeral home business and congestion of city streets in the neighborhood would continue, as visitors would be parking on the street rather than an off-street parking lot.

ALTERNATIVES:

RELATED TO EFFICIENCY STUDY:

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark ✓ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
✓	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.

	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date: _____

City Manager:

Mark A. Rothert

Mark A. Rothert, City Manager 1/23/2019

Date:

1/23/2019

Date:

Ordinance No. 1568-A208-18/19 Petition for a Zoning Map Amendment to Re-Zone the Properties Located at 416 & 422 Catherine Street from RM-3, Multiple Family Residential to P-1, Vehicular Parking District

ORDINANCE NO. 1568-A208-18/19

**AN ORDINANCE PROVIDING FOR THE
REZONING OF CERTAIN PROPERTY**

WHEREAS, Preston-Hanley Funeral Homes & Crematory, LLC, is the owner of the parcels herein described, hereinafter referred to as “Petitioner”, and has heretofore requested the zoning of certain property hereinafter described in this ordinance; and

WHEREAS, the Petitioner has requested that the property hereinafter described be rezoned from the current zoning of RM-3 (Multiple Family Residential District) to P-1 (Vehicular Parking District); and

WHEREAS, the Petitioner has given due notice to all interested parties; and notice of a public hearing was duly published according to the law on December 22, 2018, in the Pekin Daily Times, Pekin, Tazewell County, Illinois; and

WHEREAS, pursuant to notice duly published according to law, the Planning Commission held a public hearing at 5:30 p.m. on January 9, 2019, and subsequent to said hearing duly transmitted its recommendations to the City Council recommending the zoning of said property, and

WHEREAS, the Petitioner shall provide legal descriptions for the specific parcels for recordation purposes, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, ILLINOIS:

1. That the following described properties are hereby zoned as P-1 (Vehicular Parking District):

With Legal Descriptions of:

Sec. 35 T25N R5W Original Town SE 30' of Lot 3 and all of Lot 4 Blk. 76 SW ¼

Sec. 35 T25N R5W Original Town Lot 5 & W 40' of Lot 6 Blk. 76 SW ¼.

Tazewell County, Illinois.

PIN #: 04-04-35-318-013

PIN#: 04-04-35-318-002

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon its passage and approval.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Pekin, this _____ day of _____, 2019; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 1568-A208-18/19**AN ORDINANCE PROVIDING FOR THE
REZONING OF CERTAIN PROPERTY**

WHEREAS, Preston-Hanley Funeral Homes & Crematory, LLC, is the owner of the parcels herein described, hereinafter referred to as “Petitioner”, and has heretofore requested the zoning of certain property hereinafter described in this ordinance; and

WHEREAS, the Petitioner has requested that the property hereinafter described be rezoned from the current zoning of RM-3 (Multiple Family Residential District) to P-1 (Vehicular Parking District); and

WHEREAS, the Petitioner has given due notice to all interested parties; and notice of a public hearing was duly published according to the law on December 22, 2018, in the Pekin Daily Times, Pekin, Tazewell County, Illinois; and

WHEREAS, pursuant to notice duly published according to law, the Planning Commission held a public hearing at 5:30 p.m. on January 9, 2019, and subsequent to said hearing duly transmitted its recommendations to the City Council recommending the zoning of said property, and

WHEREAS, the Petitioner shall provide legal descriptions for the specific parcels for recordation purposes, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, ILLINOIS:

1. That the following described properties are hereby zoned as P-1 (Vehicular Parking District):

With Legal Descriptions of:

Sec. 35 T25N R5W Original Town SE 30' of Lot 3 and all of Lot 4 Blk. 76 SW ¼

Sec. 35 T25N R5W Original Town Lot 5 & W 40' of Lot 6 Blk. 76 SW ¼.

Tazewell County, Illinois.

PIN #: 04-04-35-318-013

PIN#: 04-04-35-318-002

BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon its passage and approval.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Pekin, this _____ day of _____, 2019; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

MEMORANDUM

TO: William Craig, Chairman and Members of the City of Pekin Plan Commission

FROM: John R. Lebegue, Building Inspections / Development Director 

DATE: January 2, 2019

RE: Petition for a Zoning Map Amendment to rezone the properties at 416 and 422 Catherine Street from RM-3, Multiple Family Residential to P-1, Vehicular Parking District.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

Preston-Hanley Funeral Homes and Crematory LLC has submitted an application for a Zoning Map Amendment to change the zoning of the properties located at 416 and 422 Catherine Street from its current zoning classification of RM-3, Multiple Family Residential to P-1, Vehicular Parking District for the purpose of constructing additional parking spaces for the funeral home use being constructed across the street at 500 N. 4th Street. The proposed parking lot will be connected to the existing parking lot at 412 N. 4th Street, which is currently zoned P-1 Vehicular Parking District.

PROPERTY INFORMATION

Relevant Zoning Code Sections: Section 9-12-6, Amendments, Section 9-4C-1, RM-3 Multi-Family Residential District and Section 9-8-1, P-1, Vehicular Parking District

Property Addresses: 416 and 422 Catherine Street

Current Zoning Classification: RM-3. Multiple Family Residential District

Proposed Zoning Classification: P-1, Vehicular Parking District

Current Use: Property currently is vacant.

Use of Adjacent Property & Zoning:

North: R-4, One Family Residential

West: P-1, Vehicular Parking

East: B-3, General Business

South: RM-3, Multiple-Family Residential

ANALYSIS AND DISCUSSION

Pursuant to Section 9-12-6 of the City Code, the City Council may from time to time amend, supplement or change by ordinance the boundaries of districts or regulations herein established. Any amendment, supplement or change shall first be submitted to the Planning Commission for

its recommendation and report, therefore the rezoning request of Preston-Hanley Funeral Homes and Crematory LLC is being submitted for the required review and recommendation.

Properties can only be used as vehicular parking area and shall be developed and maintained subject to the following conditions:

9-8-3: Required Conditions:

- A. The parking area shall be accessory to and for use in connection with one or more multiple dwellings, businesses or industrial establishments located in adjoining multiple dwelling, business or industrial districts or in connection with one or more existing professional or institutional office buildings or institutions.
- B. Such parking lots shall be contiguous to an RM or nonresidential district. Parking areas may be approved when adjacent to said districts or on the end of a block where such areas front on a street which is perpendicular to that street servicing the district. There may be a private driveway or public street or public alley between such P-1 District and
- C. Parking area shall be used solely for parking of private passenger vehicles, for periods of less than one day and shall not be used as an off-street loading area.
- D. No commercial repair work or service of any kind or sale or display thereof shall be conducted in such parking area.
- E. No signs of any kind, other than signs designating entrances, exits and conditions of use, shall be maintained on such parking area.
- F. No buildings, other than those for shelter of attendants, shall be erected upon the premises, and they shall not exceed fifteen (15') feet in height.
- G. Applications for P-1 District rezoning shall be made by submitting a dimensional layout of the area requested showing the intended parking plans in accordance with Sections 9-10-14 and 9-10B-1-2 of this Title.

Upon review of the rezoning request, the proposed change in zoning from RM-3, Multiple Family Residential District to P-1, Vehicular Parking District meets the above stated required conditions, is consistent with the goals and objectives of the Comprehensive Plan and is compatible with the adjacent land uses and zoning districts. The rezoning of the properties at 416 and 422 Catherine Street to P-1, Vehicular Parking District is a logical extension of the P-1, Vehicular Parking District, as that is the current zoning classification of the existing funeral home parking lot at 412 N. 4th Street, which is directly adjacent to the subject properties. Review of the Site Plan that has been submitted with the application, reveals that a screening fence is installed at the rear of the property adjacent to the City alley to screen the use from the multiple family properties to the south and screening fencing is being installed around the waste container area on the property.



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City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

ZONING MAP AMENDMENT APPLICATION

Applicant Name: Preston-Hanley Funeral Homes & Crematory, L.L.C.Address: 500 North 4th Street, Pekin, IL 61554Phone #: 346-2176 Cell Phone #: 613-0446 E-Mail: buster@preston-hanley.co

Property Interest of Applicant: _____

Owner Name: PRESTON-HANLEY FUNERAL HOMES & CREMATORY, L.L.C.Address: 500 NORTH 4TH STREET, PEKIN, IL 61554Phone #: 346-2176 Cell Phone #: 613-0446 E-Mail: buster@preston-hanley.com**Attorney / Representative:** _____

Address: _____

Phone #: _____ Cell Phone #: _____ E-Mail: _____

Property Information:Address of Property: 416 Catherine Street & 422 Catherine StreetLot Area: _____ Zoning District: _____ Present Use: vacant land

Use of Adjacent Property & Zoning:

North: Funeral Home South: ResidentialEast: Rental Home West: Existing Funeral Home ParkingProperty Identification Number: 04-04-35-318-013 & 04-04-35-318-002

Legal Description: (Attach Separate Page)



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City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

REASON FOR REQUEST:

A Zoning Map Amendment for the above property is requested as follows: _____

In an effort to continue to improve and beautify our neighborhood we have
purchased an apartment building with six units, demolished the apartment building,
purchased a neighboring home in foreclosure and intend to improve as parking.

Explain how the Requested Zoning Classification Relates to the Comprehensive Plan: _____

CERTIFICATION BY THE APPLICANT

I certify that all the information contained in this application form or any attachments, documents, or plans submitted herewith are true to the best of my knowledge and belief.

William Horn

November 26, 2018

Applicant Signature

Date

CERTIFICATION BY PROPERTY OWNER

I certify that I am the owner of the property, which is the subject of this request. The applicant has received my approval to proceed with this request.

William Horn

November 26, 2018

Applicant Signature

Date



Community. Opportunity. Home.

City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Current Resident/Owner,

Notice is hereby given that a **PUBLIC HEARING** will be held for a Petition submitted by Preston-Hanley Funeral Homes & Crematory, LLC for the Re-Zoning of property currently zoned RM-3 (Multiple Family Residential) to P-1, (Vehicular Parking District) for the purpose of constructing additional parking for the funeral home use at certain properties located at 416 Catherine Street and 422 Catherine Street, with a Legal Descriptions of Sec. 35 T25N R5W Original Town SE 30' of Lot 3 and all of Lot 4 Blk. 76 SW ¼ in Tazewell County, Illinois and Sec. 35 T25N R5W Original Town Lot 5 & W 40' of Lot 6 Blk. 76 SW ¼, in Tazewell County, Illinois with the following P.I.N.#s 04-04-35-318-013 and 04-04-35-318-002.

Said review of the above petition to be held at a regular Meeting of the **Pekin Plan Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the **9th day of January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.

John R. Lebegue
Building Inspections / Development Director
City of Pekin

John R. Lebegue
Building Inspections / Development Director
jrlebegue@ci.pekin.il.us
Office: (309) 478-5370

TO Pekin Daily Times: Please publish one time on the **22nd day of December, 2018.**

LEGAL NOTICE for PUBLIC HEARING

Notice is hereby given that a **PUBLIC HEARING** will be held for a Petition submitted by Preston-Hanley Funeral Homes & Crematory, LLC for the Re-Zoning of property currently zoned RM-3 (Multiple Family Residential) to P-1, (Vehicular Parking District) for the purpose of constructing additional parking for the funeral home use at certain properties located at 416 Catherine Street and 422 Catherine Street, with Legal Descriptions of Sec. 35 T25N R5W Original Town SE 30' of Lot 3 and all of Lot 4 Blk. 76 SW ¼ in Tazewell County, Illinois and Sec.35 T25N R5W Original Town Lot 5 & W 40' of Lot 6 Blk. 76 SW ¼, in Tazewell County, Illinois with the following P.I.N.#s 04-04-35-318-013 and 04-04-35-318-002

Said **Public Hearing** of the above petition to be held at a regular Meeting of the **Pekin Planning Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the 9th day of **January, 2019**, at the hour of **5:30 P.M.**

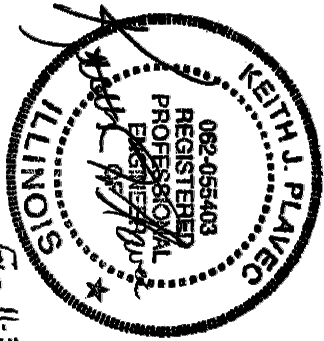
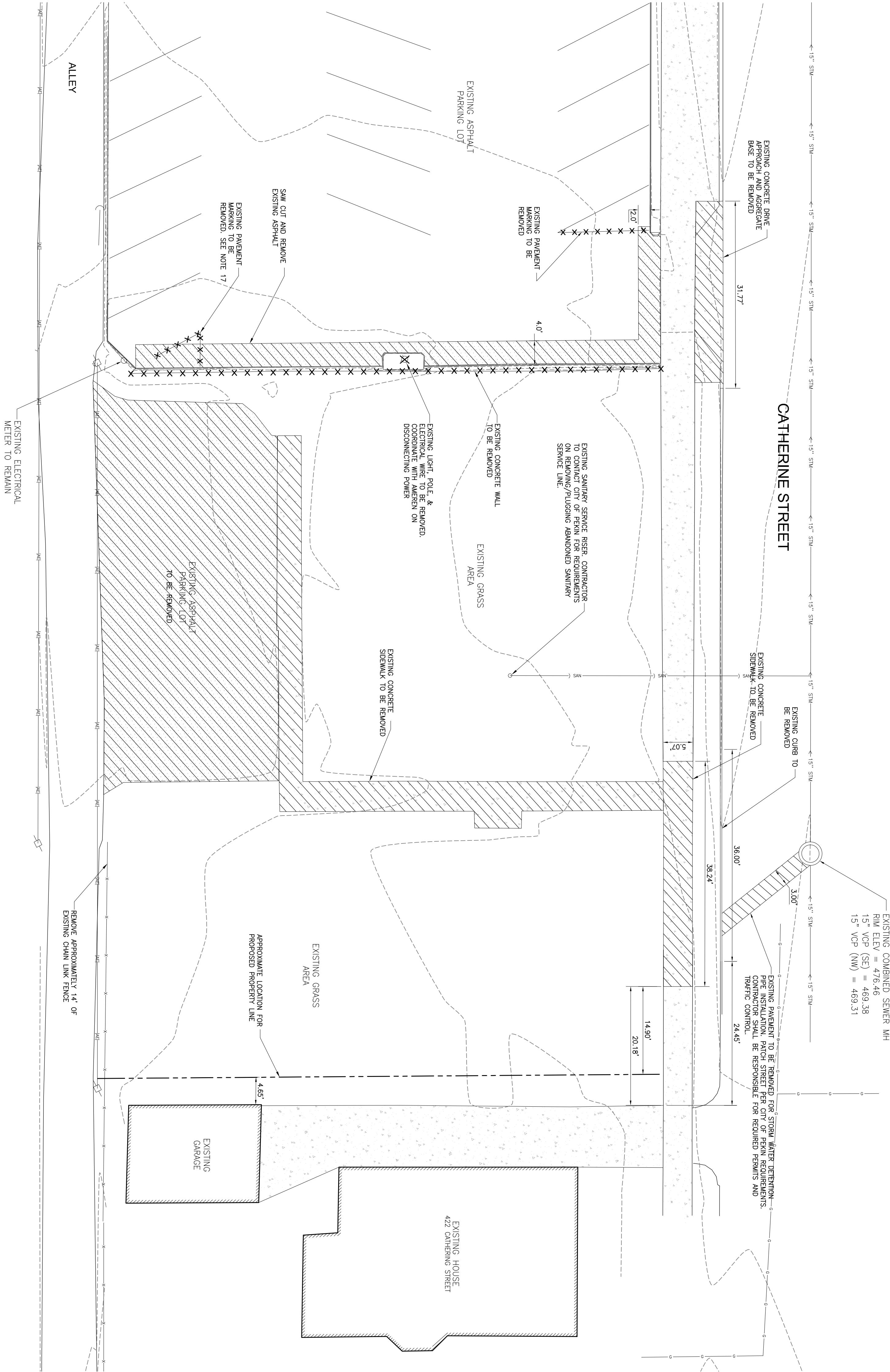
All persons having an interest there in may appear to be heard.

Dated this 20th day of **December, 2018.**

John R. Lebegue
Building Inspections / Development Director
City of Pekin

GENERAL NOTES

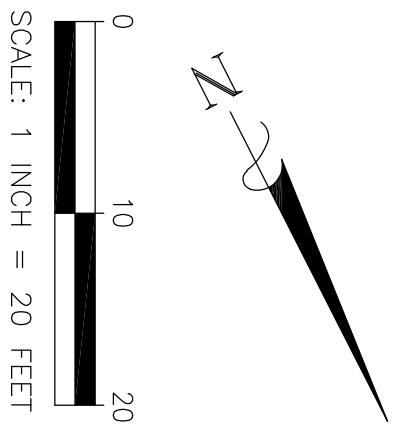
1. UNLESS OTHERWISE INDICATED, ALL CONSTRUCTION WILL BE IN ACCORDANCE WITH THE APPLICABLE SECTIONS OF THE ILLINOIS DEPARTMENT OF TRANSPORTATION'S STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, CURRENT EDITION AND ALL APPLICABLE SUPPLEMENTAL SPECIFICATIONS, HEREINAFTER REFERRED TO JOINTLY AS IDOT STANDARD SPECIFICATIONS), THE CITY OF PEKIN STANDARDS, AND THE "STANDARD SPECIFICATIONS FOR WATER AND SEWER MAIN CONSTRUCTION IN ILLINOIS", SEVENTH EDITION, DATED JULY 2014.
2. WITHOUT REQUEST FOR ADDITIONAL COMPENSATION, THE CONTRACTOR SHALL MAKE AVAILABLE SUPERVISORY PERSONNEL FOR MEETINGS BETWEEN CITY PERSONNEL, CONTRACTOR REPRESENTATIVES AND PERSONS AFFECTED BY THE PROJECT.
3. STREET AND PRIVATE DRIVEWAY CLOSURES WILL REQUIRE A MINIMUM OF 48 HOURS ADVANCE NOTICE TO THE CITY OF PEKIN AND TO THE PRIVATE PROPERTY OWNER.
4. IN GENERAL, THE LIMITS OF SELECT GRANULAR BACKFILL AND GRANULAR GRADE MATERIAL INSTALLATION HAVE NOT BEEN SHOWN ON THE DRAWINGS. REFER TO THE SPECIFICATIONS AND STANDARD DETAILS ON THE DRAWINGS FOR BACKFILL AND GRADE MATERIAL SPECIFICATIONS, INSTALLATION PROCEDURES AND COMPACTATION REQUIREMENTS.
5. CONTRACTOR SHALL REMOVE AND REPLACE ANY CONCRETE SIDEWALKS AND DRIVEWAYS PARTIALLY DAMAGED DURING CONSTRUCTION IN FULL SECTIONS (FROM JOINT TO JOINT).
6. PRE-CONSTRUCTION VIDEO RECORD OR SETS OF PICTURES OF THE JOB SITE WILL BE REQUIRED TO ENSURE OWNER THAT CONTRACTOR RESTORES AREAS DISTURBED BY CONSTRUCTION ACTIVITIES TO THEIR ORIGINAL CONDITION. A MINIMUM OF TWO (2) DVD FORMAT VIDEOS OR SETS OF PICTURES WILL BE REQUIRED IN ALL AREAS OF PROPOSED WORK AND SHALL BE SUBMITTED TO THE ENGINEER PRIOR TO THE START OF CONSTRUCTION. COSTS FOR PRE-CONSTRUCTION VIDEO RECORD OR PICTURES SHALL BE CONSIDERED INCIDENTAL TO THE CONTRACT.
7. WHERE TOPSOIL IS PRESENT THE ACTUAL DEPTH OF THE TOPSOIL SHALL FIRST BE STRIPPED FROM THE AREA TO BE EXCAVATED. TOPSOIL SHALL BE STOCKPILED ON SITE SEPARATE FROM OTHER SOILS FROM THE EXCAVATION. ALL SUBSOIL MATERIAL WHICH IS REMOVED FROM THE TRENCH SHALL BE PLACED IN A SECOND STOCKPILE THAT IS SEPARATE FROM THE TOPSOIL STOCKPILE.
8. CONTRACTOR SHALL BE RESPONSIBLE FOR PREPARING AND SUBMITTING ALL RECORD DRAWINGS TO THE OWNER AND ENGINEER. THE CONTRACTOR SHALL KEEP ONE SET OF PLANS UPON WHICH ALL "REVISIONS" OR "VARIATIONS" ARE NOTED IN RED PENCIL. THIS SET SHALL BE TURNED OVER TO THE ENGINEER AT THE END OF THE PROJECT, AS A CONDITION PRECEDENT TO ISSUANCE OF FINAL CERTIFICATE FOR PAYMENT.
9. UNLESS OTHERWISE INDICATED, EXISTING SURFACE TOPOGRAPHY AND DRAINAGE SHALL BE MAINTAINED. CONTRACTOR SHALL RESTORE TO ORIGINAL CONDITION ANY DRAINAGE FEATURE DISTURBED BY CONSTRUCTION AT NO ADDITIONAL COST TO THE OWNER.
10. ANY DAMAGE TO STREETS DUE TO THE CONTRACTOR'S OPERATIONS (I.E., INCREASED TRUCK TRAFFIC, HEAVY EQUIPMENT TRAFFIC, ETC.) SHALL BE REPAIRED TO THE SATISFACTION OF AND AT NO EXPENSE TO THE OWNER OF THE DAMAGED PAVEMENT STRUCTURE. NO ADDITIONAL COMPENSATION SHALL BE ALLOWED UNDER THIS CONTRACT FOR SUCH REPAIRS.
11. ALL REMOVAL ITEMS SHALL BE FULL-DEPTH SAW CUT. UNLESS OTHERWISE NOTED, CURB REMOVAL AND PAVEMENT REMOVAL AT THE LOCATIONS (IF ANY) SHOWN ON THE PLANS SHALL BE IN ACCORDANCE WITH SECTION 440 OF THE IDOT STANDARD SPECIFICATIONS.
12. ALL ITEMS MARKED FOR REMOVAL SHALL BE DISPOSED OF OFF-SITE AT AN APPROVED DISPOSAL LOCATION, IN ACCORDANCE WITH PUBLIC ACT 90-761, WHICH AMENDS THE ENVIRONMENTAL PROTECTION ACT CONCERNING GENERAL CONSTRUCTION OR DEMOLITION DEBRIS. THE CONTRACTOR SHALL NOT CONDUCT ANY GENERATION, TRANSPORTATION OR RECYCLING OF UNCONTAMINATED SOIL GENERATED DURING CONSTRUCTION, REMODELING, REPAIR, AND DEMOLITION OF UTILITIES, STRUCTURES AND ROADS THAT IS NOT IDENTIFYING WITH ANY WASTE, WITHOUT THE MAINTENANCE OF DOCUMENTATION (I.E., THE WEIGHT OR VOLUME OF THE DEBRIS OR SOIL, AND THE LOCATION, OWNER AND OPERATOR OF THE FACILITY WHERE THE DEBRIS OR SOIL WAS TRANSFERRED, DISPOSED, RECYCLED OR TREATED. THIS DOCUMENTATION MUST BE MAINTAINED BY THE CONTRACTOR FOR THREE (3) YEARS.
13. ANY AREAS DISTURBED BY CONSTRUCTION ACTIVITIES SHALL BE RETURNED SUBSTANTIALLY TO ORIGINAL CONDITION USING LIKE MATERIAL FOR SURFACE COVERAGE. TOPSOIL SHALL BE FURNISHED AND PLACED SO THAT THE FINAL FINISHED GRADE OF THE EARTH ADJACENT TO PROPOSED CURBS, SIDEWALKS, DRIVEWAYS, DRIVEWAYS, SIDEWALKS, OR PAVEMENT SHALL BE EQUAL TO THE ORIGINAL GRADE. PROPOSED CURBS, SIDEWALKS, OR PAVEMENT SHALL BE SEEDING ACCORDING TO SECTION 250 OF THE IDOT STANDARD SPECIFICATIONS.
14. PAVEMENT MARKING AND PAVEMENT STRIPING SHALL CONSIST OF FINISHING AND APPLYING PAVEMENT MARKS AT THE LOCATIONS SHOWN ON THE PLANS IN ACCORDANCE WITH SECTION 780 OF THE STANDARD SPECIFICATIONS. CONTRACTOR SHALL APPLY YELLOW PAINT FOR ALL PAVEMENT MARKINGS AND STRIPES AT THE LOCATIONS SHOWN ON THE PLANS.
15. THE THICKNESS OF HOT MIX ASPHALT (HMA) SHOWN ON THE PLANS IS THE NOMINAL THICKNESS. DEVIATIONS FROM THE NOMINAL THICKNESS WILL ONLY BE PERMITTED WHEN SUCH DEVIATIONS OCCUR DUE TO IRRREGULARITIES IN THE EXISTING SURFACE ON WHICH THE BITUMINOUS MIXTURE IS PLACED.
16. THE FOLLOWING SECTIONS OF THE IDOT STANDARD SPECIFICATIONS APPLY TO PROJECT:
AGGREGATE BASE COURSE - SECTION 351
PORTLAND CEMENT CONCRETE PAVEMENT - SECTION 420
CONCRETE CURB - SECTION 606
HOT MIX ASPHALT BINDER & SURFACE COURSE - SECTION 406
17. CONTRACTOR SHALL COVER EXISTING PAVEMENT MARKINGS THAT WILL NO LONGER BE USED WITH BLACK PAINT (2 COATS).
18. EXISTING EARTH MATERIAL REMOVED FOR THE PROPOSED AGGREGATE BASE AND HMA/CONCRETE PAVEMENT SHALL BE REMOVED FROM SITE BY CONTRACTOR.



Exp. 11-30-19



THESE PLANS AND SPECIFICATIONS WERE PREPARED BY OR UNDER THE DIRECTION OF:
MAURER-STUTZ, INC.
ILLINOIS PROFESSIONAL DESIGN FIRM 184-005754



Sheet Title:

EXISTING SITE & DEMOLITION PLAN

Project:

PROPOSED PARKING LOT ADDITION

Preston-Hanley Funeral Home

Client:

Designed By: KJP/JMN

Drawn By: JMN

Reviewed By: KP

Date: 10 April 2018

Project No.: 2318005.00

Drawing:

1 OF 3

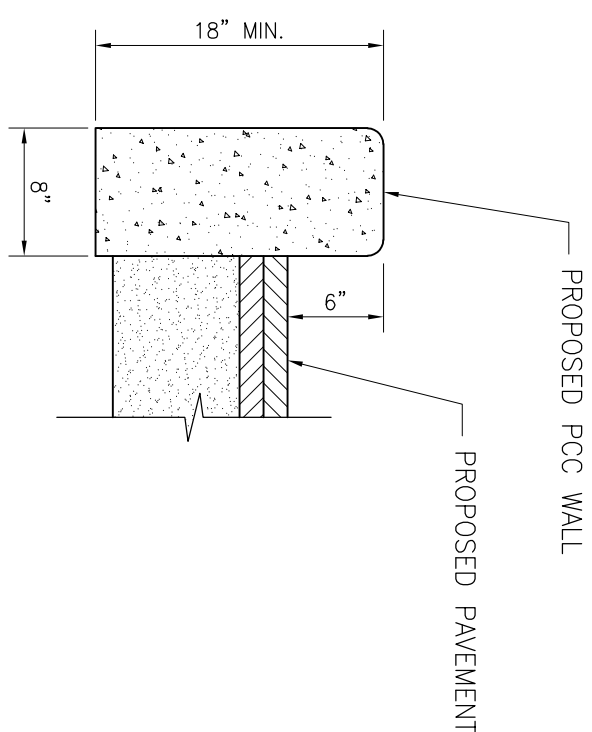
REVISIONS		
No.	Date	Description

**MAURER-STUTZ**
ENGINEERS SURVEYORS

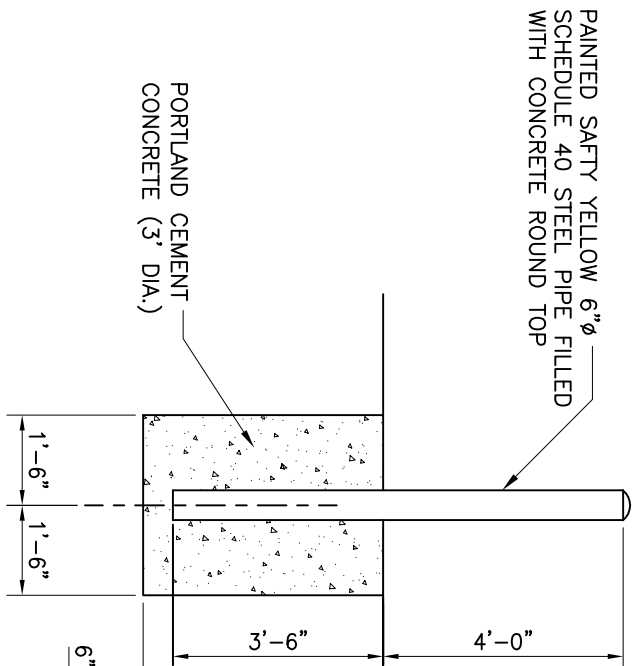
PEORIA, IL 3116 N. DRIES LANE, SUITE 100 | PEORIA, IL 61604 | (309) 693-7615 | FAX (309) 693-7616
CANTON, IL 1670 EAST ASH STREET | CANTON, IL 61520 | (309) 647-7831 | FAX (309) 647-6155
MUNCIE, IN 5830 W. KILGORE AVENUE | MUNCIE, IN 47304 | (765) 273-6226 | FAX (309) 693-7616

ILLINOIS PROFESSIONAL DESIGN FIRM LICENSE #184-005754
www.mstutz.com "WORKING with YOU by DESIGN"

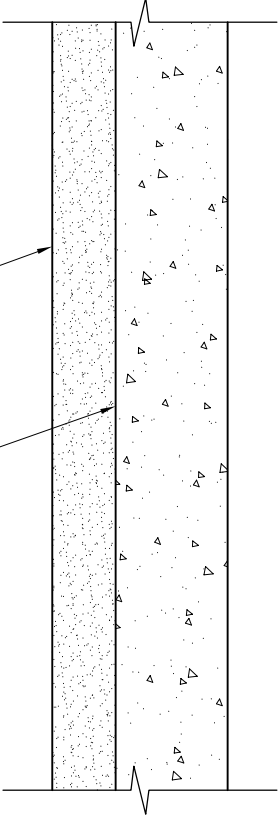
PROPOSED ADDITIONAL PARKING SPACES = 25



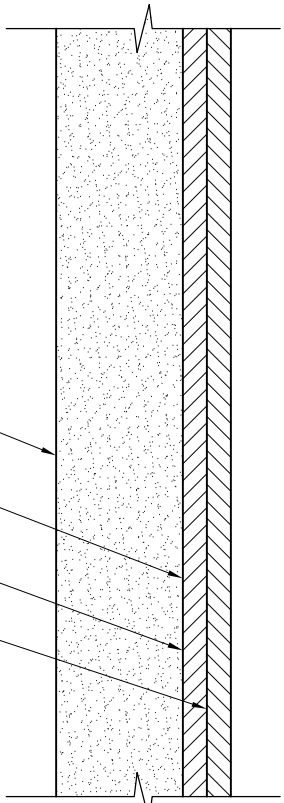
PROPOSED PCC WALL DETAIL
SCALE: NTS



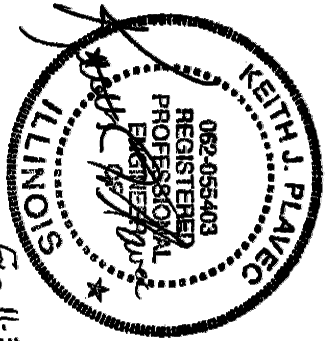
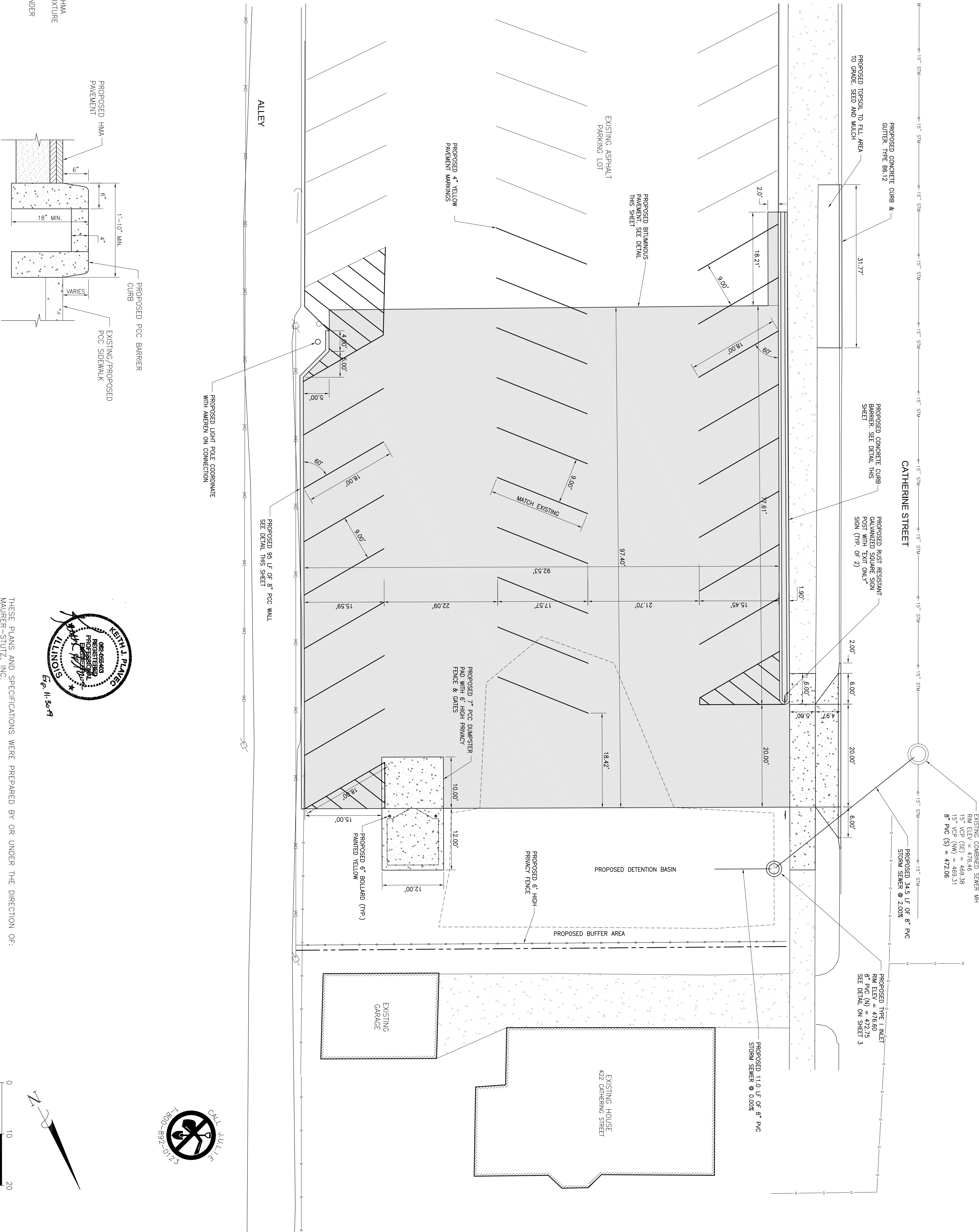
PROPOSED BOLLARD DETAIL
NOT TO SCALE



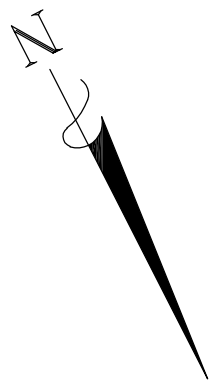
PROPOSED PCC DUMPSTER PAD DETAIL
NOT TO SCALE



PROPOSED HOT MIX ASPHALT (HMA) PAVEMENT DETAIL
SCALE: NTS



THESE PLANS AND SPECIFICATIONS WERE PREPARED BY OR UNDER THE DIRECTION OF:
MAURER-STUTZ, INC.
ILLINOIS PROFESSIONAL DESIGN FIRM 184-005754



0 10 20
SCALE: 1 INCH = 20 FEET



Sheet Title:

PROPOSED SITE PLAN

Project:

PROPOSED PARKING LOT ADDTION

3116 N. DRIES LANE, SUITE 100 | PEORIA, IL 61604 | (309) 693-7615 | FAX (309) 693-7616
CANTON, IL 61701 | 1670 EAST ASH STREET | CANTON, IL 61520 | (309) 647-7831 | FAX (309) 647-6155
MUNCIE, IN 47304 | 5830 W. KILGORE AVENUE | MUNCIE, IN 47304 | (765) 273-6228 | FAX (309) 693-7616

ILLINOIS PROFESSIONAL DESIGN FIRM LICENSE #184-005754
www.mstutz.com "WORKING with YOU by DESIGN"

REVISIONS		
No.	Date	Description

Client:

Preston-Hanley Funeral Home

Designed By:

Drawn By:

Reviewed By:

Date:

Project No.:

Drawing:



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: John Lebegue, Building & Inspections

AGENDA ITEM: Request for Special Use to Establish a Sober Living Community Residence Use at 1120 S. Capitol St.

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: As a result of a 3 to 3 tied vote, no recommendation was forthcoming from the Pekin Plan Commission to the City of Pekin City Council in regard to the request for Special Use authorization to establish a sober living community residence use at 1120 S. Capitol Street. The City Council has several options in regard to this Special Use request as the request can be sent back to the Pekin Plan Commission for further review and recommendation, approval of the Special Use request or denial of the Special Use request.

DESCRIPTION: Application #4: Consideration of a Special Use Petition submitted by Wendy McCready, on behalf of Fight the Fight, to establish a sober living community residence use at a property located at 1120 South Capitol Street, with a Legal Description of SEC 3 T24N R5W Chestnut Addn. Hecker & Lashbrook Subd. Lot 4 Block 16 SE ¼ in Tazewell County, Illinois, with the following P.I.N. # 04-10-03-409-010.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

Wendy McCready, on behalf of Fight the Fight, has submitted an application for Special Use Authorization to establish a sober living home use at 1120 S. Capitol Street. Given that the proposed community residence is for the purpose of housing persons for drug or alcohol shelter, the use constitutes a Special Use pursuant to Section 9-4A-3, (N) of the Pekin City Code. All properties within 150 feet of the property at 1120 S. Capitol Street were notified by registered mail of the Special Use petition for the proposed sober living facility. An operation plan for the proposed sober living community residence and other documents have been provided by the applicant that fully details the scope of the proposed use and how the use would be conducted and has been attached for review and consideration.

PROPERTY INFORMATION

Relevant Zoning Code Section: Section 9-4A-3, (N): Community Residences

Property Address: 1120 S. Capitol Street

Current Zoning Classification: R-4, One Family Residential

Current Use: Single Family Residence

Lot Area: 5,750 square feet

Square Foot Area of Home: 1,784 square feet

ANALYSIS AND DISCUSSION

In regard to available parking for the proposed sober living home use, it appears that there would be enough room to park 4 to 5 cars on the driveway of the home at 1120 S. Capitol Street, but the applicant must provide information as to how the parking of resident and staff vehicles will be accomplished, so as to minimize traffic congestion on the public streets in that neighborhood. On-street parking is permitted on S. Capitol Street, but any vehicle parking on the street would create congestion on the street that is currently not present in that neighborhood.

Upon review of the operating plan submitted by the applicant, it was stated that one house manager and 10 additional male residents would be housed in the proposed sober living community residence at 1120 S. Capitol Street, but the allowed number of occupants of the home would be based on the number of bedrooms and the square footage available in the bedrooms, as determined by the 2015 International Property Maintenance Code and by the requirement in the City of Pekin Zoning Code. In reviewing the definition of Community Residence, a small community residence shall have no more than 8 residents plus a maximum of 2 staff members. The applicant was asked to provide information as to the dimensions of the 5 bedrooms in the home to determine the number of occupants that could be allowed to occupy the home, and the information has been attached for your review and consideration. The relevant sections of the 2015 International Property Maintenance Code have also been attached for review and reference.

Wendy McCready, representing Fight the Fight, appeared before the Plan Commission and explained that her group had been working for 3 years on plans for the sober living home and provided information as to statistics on drug overdose and explained the need for such a use in the City of Pekin. Ms. McCready continued by explaining that the presence of a sober living home have had no impact on the sales of homes in Peoria, where other sober living homes exist, and that homes in the area sold for 96% of the asking price. Ms. McCready also stated that the property at 1120 S. Capitol Street is well suited for the proposed sober living home, as 4 to 5 cars could be parked in the driveway, and the lack of available parking would no longer be an issue. Ms. McCready then stated that she had provided the members of the Plan Commission with a copy of the federal laws pertaining to people with disabilities and the federal fair housing act and stated that she felt that the proposed sober living home should not be required

to get a Special Use and be allowed as a permitted use.

REVIEW AND RECOMMENDATION OF PLAN COMMISSION

Upon consideration of the petition for Special Use Authorization to establish a sober living, community residence use at 1120 S. Capitol Street, the members of the Pekin Plan Commission expressed concerns and questioned as to whether the proposed sober living home community residence and the manager of the home must have state certification in order to operate the home. Concerns were also expressed in regard to the potential of residents and visitors of the sober living home creating traffic and other problems for the neighborhood, and that a home with 10 or more residents was an inappropriate use in a single family residential district. Following discussion, by a vote of 3 to 3, the members of the Pekin Plan Commission did not render a recommendation in regard to the request for Special Use Authorization to establish a sober living community residence at 1120 S. Capitol Street.

FINANCIAL IMPACT: N/A

NEIGHBORHOOD CONCERNS: During the Public Hearing, 5 neighboring residential property owners appeared before the Pekin Plan Commission and expressed their opposition to the establishment of the proposed sober living community residence use at 1120 S. Capitol Street. Residents expressed concerns for the safety of children and their property in the neighborhood, felt that the proposed sober living home, with 10 residents and a live-in manager, exceeded the allowed 8 residents and 2 staff member limits as detailed in the City Code for a community residence, was an inappropriate use in a single-family residential district, the sober living home would increase traffic in the neighborhood, and the use would create overcrowding of the single-family residence at 1120 S. Capitol Street. Residents also expressed concerns that the proposed sober living community residence use, and those managing the home, should possess State of Illinois licensing and certification. Concerns were also expressed that the proposed sober living community residence would diminish property values in the neighborhood and would add a problem that currently does not exist in the neighborhood. While a number of residents acknowledged that there was a community need for such a facility, but felt that a residential neighborhood was not the appropriate area to establish such a use, as the use also was contrary to the expectations of residing in a single family residential district. Two residential property owners appeared before the Pekin Plan Commission and spoke in favor of the proposed sober living community residence use at 1120 S. Capitol Street, stating that the proposed use would address a dire need in the City and provide a safe environment for those recovering from substance abuse. Those speaking in favor of the use felt that since addiction was a community wide problem, the community needed to take some positive steps to address the serious addiction problem that exists in the City of Pekin and that the establishment of the sober living home would create a place where those suffering from substance abuse could receive additional assistance and support to get their lives on track and be an accountable and responsible citizen.

IMPACT IF APPROVED: Approval of the Special Use petition would allow for the establishment of a sober living community residence at 1120 S. Capitol Street.

IMPACT IF DENIED: Denial of the Special Use petition would prevent the establishment of a sober living community residence at 1120 S. Capitol Street.

ALTERNATIVES:

RELATED TO EFFICIENCY STUDY:

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark √ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
✓	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date: _____

Finance Department (Certification of Availability of Funds):

Date:
City: _____

City Manager:

Mark A. Rothert

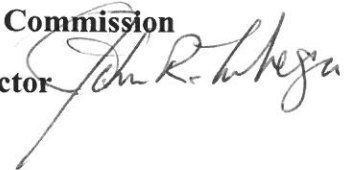
Mark A. Rothert, City Manager 1/23/2019

Mark A. Rothert, City Manager 1/23/2019

Date: _____

MEMORANDUM

TO: William Craig, Chairman and Members of the City of Pekin Plan Commission

FROM: John R. Lebegue, Building Inspections / Development Director 

DATE: January 2, 2019

RE: Petition for Special Use Authorization to Establish a Sober Living Home Use at 1120 S. Capitol Street.

SUMMARY AND BACKGROUND OF SUBJECT MATTER

Wendy McCready, on behalf of Fight the Fight, has submitted an application for Special Use Authorization to establish a sober living home use at 1120 S. Capitol Street. Given that the proposed community residence is for the purpose of housing persons for drug or alcohol shelter, the use constitutes a Special Use pursuant to Section 9-4A-3, (N) of the Pekin City Code. All properties within 150 feet of the property at 1120 S. Capitol Street were notified by registered mail of the Special Use petition for the proposed sober living facility. An operation plan for the proposed sober living community residence and other documents have been provided by the applicant that fully details the scope of the proposed use and how the use would be conducted and has been attached for review and consideration.

PROPERTY INFORMATION

Relevant Zoning Code Section: Section 9-4A-3, (N): Community Residences

Property Address: 1120 S. Capitol Street

Current Zoning Classification: R-4, One Family Residential

Current Use: Single Family Residence

Lot Area: 5,750 square feet

Square Foot Area of Home: 1,784 square feet

ANALYSIS AND DISCUSSION

No Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact. Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment, Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

The applicant must provide evidence at the Public Hearing as to how the proposed sober living, community residence use meets each of the above detailed, seven findings of fact standards.

In regard to available parking for the proposed sober living home use, it appears that there would be enough room to park 4 to 5 cars on the driveway of the home at 1120 S. Capitol Street, but the applicant must provide information as to how the parking of resident and staff vehicles will be accomplished, so as to minimize traffic congestion on the public streets in that neighborhood. On-street parking is permitted on S. Capitol Street, but any vehicle parking on the street would create congestion on the street that is currently not present in that neighborhood.

Upon review of the operating plan submitted by the applicant, it was stated that one house manager and 10 additional male residents would be housed in the proposed sober living community residence at 1120 S. Capitol Street, but the allowed number of occupants of the home would be based on the number of bedrooms and the square footage available in the bedrooms, as determined by the 2015 International Property Maintenance Code and by the requirement in the City of Pekin Zoning Code. In reviewing the definition of Community Residence, a small community residence shall have no more than 8 residents plus a maximum of 2 staff members. The applicant was asked to provide information as to the dimensions of the 5 bedrooms in the home to determine the number of occupants that could be allowed to occupy the home, and the information has been attached for your review and consideration. The relevant sections of the 2015 International Property Maintenance Code have also been attached for review and reference.



City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 - (309) 477-2315

SPECIAL USE APPLICATION

Address of Requested Special Use: 1120 S. Capitol St. Pekin, IL

Applicant Name: Fight the Fight - Wendy McCready
Address: 145 Urbandale Ave., East Peoria, IL
Phone #: _____ **Cell Phone #:** 309-309-2887 **E-Mail:** gotfightthefight@gmail

Owner Name: Fight the Fight, Wendy McCready as guaranti
Address: 145 Urbandale Ave., East Peoria, IL
Phone #: _____ **Cell Phone #:** 309-309-2887 **E-Mail:** gotfightthefight@gmail

Attorney / Representative: _____

Address: _____

Phone #: _____ **Cell Phone #:** _____

Phone #: _____ **Cell Phone #:** _____ **E-Mail:** _____

Property Information:

Lot Area: 5,599 **Zoning District:** R-4 **Present Use:** Residential

Use of Adjacent Property & Zoning:

North: R-4, One Family Resid. **South:** R-4, One Family Resid.

East: R-4, One Family Resid. **West:** R-4, One Family Resid.

Property Identification Number: 04-10-03-409-010

Legal Description: (Attach Separate Page)

Parcel # 041003409010
5-Bedroom, 2-Bath, 2-story, 2,000-Sq.Ft



City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Brief Summary and Reason for Request: Sober Living Home for
males who have completed treatment for
Substance Use Disorder (alcohol or drug addiction)

No Special Use shall be recommended for approval by the Plan Commission unless there is a concurring vote of a majority of all members regarding findings of fact. Clearly explain how the requested Special Use meets each of the following findings of fact standards:

- 1.) The proposed Special use is consistent with the intent of the Comprehensive Plan.
- 2.) The establishment, Maintenance, or operation of the Special Use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
- 3.) The Special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted nor substantially diminish property values within the neighborhood.
- 4.) The establishment of the Special Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 5.) Adequate utilities, access roads, drainage or necessary facilities have been or will be provided.
- 6.) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- 7.) The Special Use is necessary for public convenience at this location.

CERTIFICATION BY THE APPLICANT

I certify that all the information contained in this application form or any attachments, documents, or plans submitted herewith are true to the best of my knowledge and belief.

Wendy McCready
 Applicant Signature

12/17/18
 Date

CERTIFICATION BY PROPERTY OWNER

I certify that I am the owner of the property, which is the subject of this request. The applicant has received my approval to proceed with this request.

 Owner Signature

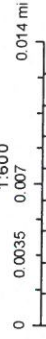
 Date

Tazewell County GIS



- I-155
- I-474
- I-74
- IL 29
- IL 98
- US 150
- US 24
- Streets

Tazewell County GIS parcel and map records contained herein are for property tax purposes only. This information has been compiled from the most accurate source data from the public records of Tazewell County, Illinois, and is provided for informational purposes only. The user assumes all risk of any inaccuracy or omission in the data and is not to be used for any other purpose. The information contained herein is for reference purposes only and should not be relied upon as a substitute for a title search. Any reliance on the information contained herein is at the user's own risk. The Tazewell County GIS assumes no responsibility for any use of the information contained herein or any loss resulting therefrom. Users of Tazewell County GIS assume all risk and liability when accessing any third-party site linked to this site. All data is subject to change.



Fight the Fight Recovery Living...

Alan's House: Operating Plan Highlights

- Fight the Fight (FTF) is a 501c3 non-profit corporation.
- Recovery House residents will consist of males only, 18+, who are in SUD (Substance Use Disorder) recovery. Must be clean/sober for a minimum of 28 days or a direct transfer from a recognized recovery setting or drug court.
- Alan's House has 5 bedrooms, 2 full baths and an extra shower in basement.
- Owner/Operator: Fight the Fight Against Addiction Organization and Wendy McCready, does not live on site, is responsible for all operations of the house, will be on site weekday afternoons and available 24/7 for emergencies.
- House Manager: Will live in Alan's House, will have a private bedroom, have a minimum of one year sobriety/clean time, will oversee the house and residents, and report to owner/operator.
- Each potential resident will go through an application process which includes an application form to complete, background check (no violent crimes or sex offenders), references including counselors.
- Residents must have a job or obtain one within two weeks of moving in, unless on disability or other special circumstances that have been approved by FTF.
- Residents required to attend a total of 3 meetings each week: AA, NA, Celebrate Recovery, etc... Signatures will be required.
- Random drug tests on all residents will be required.
- Residents will have a curfew of 10pm weeknights, midnight weekends, with approved work/other exceptions.
- Each resident will pay rent at \$TBD/week, which includes gas/electric, cable, internet, water, garbage (the house mgr will pay his portion of the utilities).
- Zero Tolerance for Alcohol or Drug use ON OR OFF property... ALL residents MUST remain clean/sober!!! First offense OFF property results in mandatory 90/90 (90 meetings in 90 days). ONLY ONE CHANCE! Second offense they will have to move out. NO TOLERANCE FOR ALCOHOL/DRUGS/PARIPH ON THE PROPERTY... INDIVIDUAL WILL BE REMOVED FROM PROPERTY IMMEDIATELY! Safety for ALL house men and neighbors comes first!
- Visitors will be monitored closely and must be approved by the house manager first. Visitors must not be under the influence of drugs or alcohol at visit and must not bring any drugs/alcohol on property.
- Transportation: Citylink bus per their bus route available at residents own expense, donated bicycles provided at the house. There is also plenty of parking for residents with vehicles, staff, and guests.

- Residents will have chores, house and yard, that they will each be responsible, per a weekly chore list.
- Residents will be responsible for their own groceries, food, personal hygiene items, toiletries, toilet paper, paper towels, etc. FTF will strive to also get donations to help the men out.
- Residents are responsible for their own cooking and cleaning up after themselves.
- FTF will pursue linkage agreements with treatment centers and drug court programs.

Services provided:

- Certified Life Coach will volunteer once a month to do a group coaching session/workshop focusing on different emotional struggles that are coming up for them. Coach will also be available for one-on-one appointments for a small fee and will work with each individual on payments, and will work on an emotional level with them on relationships, transitions, building future, etc.
- Resume building, remedial reading/writing classes... with lesson plans and one-on-one when the need is recognized. Volunteers will work with the men on life skills, such as cooking, cleaning, writing resumes, applying for jobs, preparing for job interviews, mock job interviews, budgeting, paying bills, etc.
- Free haircuts to all residents, compliments of Julie Rasmussen from Jul'z Kutz & Kolors.
- Alan's House offers a nice living room, large dining room, large eat-in kitchen, workout area downstairs with weights/bench and exercise equipment, pool table and air hockey table, nice fenced yard with patio, grill & patio furniture, internet, and basic cable.

Lebegue, John R.

From: Fight The Fight <gofightthefight@gmail.com>
Sent: Thursday, January 03, 2019 11:04 AM
To: Lebegue, John R.
Subject: Re: Fight the Fight Alan's House

For the Plan Commission...

Please go to the below link for MLS sheet with room sizes for the Capitol St house. Copy and paste into your internet browser:

<http://peoria.paragonrels.com/publink/default.aspx?GUID=c0c43ba0-f13e-4d2a-bed4-2a7abd3e6053&Report=Yes>

This house has 5 bedrooms, 2 full baths, and plenty of space. It has tons of parking! The driveway is long enough for 5 cars! It goes all the way to the back of the backyard! There is also street parking allowed. There should not be a traffic flow issue, as this house is not on a main road and is not on an alley.

There will be a linkage agreement between Gateway Foundation Drug & Alcohol Treatment Centers and my sober house. Gateway will handle all the drug testing and work close with me on this recovery house. Oxford House sober living recovery homes is also helping me get started. I have met with them and toured some of their houses in Springfield, and they have provided me with all their operating information (application, rules, etc), and have offered their help and support. My house will be ran similar to Oxford Houses, as they are very well respected and have a 75+% success rate! I also have a certified addiction recovery coach, Martha Brown, who is helping me and will be volunteering her time at Alan's House for group and private sessions, focusing on emotional and relationship issues, as well as life skills.

Please give me a few more minutes, as I might have more to add to this.

Thanks!

Wendy McCready
 Fight the Fight
 Alan's House
 309/369-2887

Attachment: Plan Commission Packet for 1120 S. Capitol St. Special Use (1609 : Request for Special Use to Establish a Sober Living

Lebegue, John R.

From: Fight The Fight <gofightthefight@gmail.com>
Sent: Thursday, January 03, 2019 12:26 PM
To: Lebegue, John R.
Subject: Re: Fight the Fight Alan's House
Attachments: Alans House_Operating Plan_FINAL.docx

Ok, in addition to the information I already sent you to provide to the Plan Commission, please also provide the below info:

This is what the houses near 1120 S. Capitol St are worth:



As you can see, most of the houses in this neighborhood are in the 40's, 50's, and 70's. This is not a "desirable" neighborhood with high priced homes. Most of the homes in this neighborhood are rentals.

This sober living house is truly not much different than a "rental" house. The only differences are: that all the people living in the slh will be SOBER (other rental homes are not exclusive to "sober" people, so people who partake in alcohol and/or drugs could live in other rental homes), tenants of the slh will have curfews and rules whereas people living in other rental homes have no rules or curfews, and the slh will have a "house manager" living there and an "owner/operator" to oversee things such as that all the rules are followed and that all tenants remain clean/sober. This will not be a "rehab" or "treatment center". The tenants at the slh will have already gone through an inpatient rehab or treatment center before living here. They will already be clean/sober with some clean/sober time under their belts already when moving in. They can live here as long as they want, as

long as they pay their rent, follow the rules, and stay clean/sober. This is just an extra step for them to gain more clean/sober time to get stronger in their recovery before they try it alone. In the slh there are a group of men going through the same thing and can offer each other support, encouragement, and strength that they do not get by living alone. They will work, pay rent, take care of the house and yard... all things that any other tenant living in any other rental house would do.

I have also attached our updated operating plan for Alan's House.

John, please let me know what else it's going to take to get this approved. What else do I need to do or to provide, in order to get this approved? Please let me know anything that could help. Please advise asap.

Regards,

Wendy McCready
Fight the Fight
Alan's House
309/369-2887

Information provided by applicant, Wendy McCready:

Sober living homes, often referred to as *transitional living arrangements*, are a step down from formal substance abuse treatment programs. These homes can offer an in-between option for individuals after completing a treatment program and before returning to their homes and lives. This transition can provide continued support and the ability to apply newly learned tools and skills for becoming self-reliant and remaining drug- or alcohol-free in a community environment.

Such facilities provide newly sober addicts and alcoholics with regular drug tests, support groups, and skills to live a sober life. Residential living is designed to familiarize men and women with community interaction and collaboration, preparing them for the transition into totally unsupervised living and instilling them with the skills necessary to maintaining success and productivity in the real world without professional regulation or daily observation. Accountability remains intact while personal freedoms are steadily regained personal, allowing for a slow and steady transition back into society without the aid of (or reliance upon) drugs or alcohol.

There will be an on-site house manager that actually lives on property with the clients. The manager will be available to help residents 24/7 with all potential issues that may arise – recovery-related and otherwise.

In these homes, peers in recovery live together and support each other as everyone becomes used to living a sober life. These facilities are a safe place for people new to recovery or those getting back on track to focus on the basics of daily living. Patients leaving rehab who aren't ready to live on their own benefit a great deal from living in a shared, sober residence.

A sober living home (SLH) is a functioning household much like any other home that roommates share. Only here, roommates are each working toward long-term recovery.

Everyone in an SLH has responsibilities, such as daily chores, jobs outside of the home, meeting attendance, or other requirements. Each resident also has the responsibility of paying rent and their share of utilities.

There are house rules for sober residents and everyone must follow them. If one member of the household fails to do so, the rules usually require them to leave the facility. While this sounds harsh, the safety of these homes includes safety from enabling behaviors.

SLH's have not been proven to lower property value of neighbors. This is an unjustified fear that some people have. There are two SLH's in Peoria and since they opened, the homes that have been listed for sale in these neighborhoods have all sold at 96+% of list price within 65 days of listing.

"It's an irrational fear that ties rising crime rates to alcohol and drug residences or residential treatment. There's no connection. Crime rates rise or fall for a number of reasons, but there's absolutely no connection between crime rates and the presence of alcohol- and drug-free residences or treatment programs," said Renfree of CBHDA (*County Behavioral Health Directors Association of California*). "I think that it would be foolish to not want to have these programs, because then you have people there who have untreated substance abuse and that can certainly be a crime problem."

People with SUD are protected by federal laws that protect people with disabilities from discrimination, including... The Fair Housing Act (FHA) and The Americans with Disabilities Act (ADA).

Local municipalities can violate federal laws when they attempt to implement zoning and land use laws that “treat groups of unrelated persons with disabilities less favorably than similar groups of unrelated persons without disabilities.”

“I think a community should value supporting one another and should create every opportunity for folks struggling to get back on their feet and succeed. It's important that our community take them in, not slam the door on folks trying to better their lives.”, said Wendy McCready, operator of Alan’s House. “At the end of the day we want individuals to reintegrate into society and be a positive citizen in the community they live in. People who suffer from SUD are our children, our parents, our neighbors, our friends. They are not people to be afraid of. My son died from a heroin overdose at age 24 in 2015. He was a wonderful, kind, caring person.”



MLS #: 1063618 **St:** Sold **Cat:** Residential LP
Area: 20 **Legal:** Chestnut Addn Hecker & Lashbrook Sub o
Addr: 1120 S CAPITOL
City: Pekin **IL** **Zip Code:** 616
Subd: Hecker & Lasbrook **Cnty:** Tazewell

	Bsmt	Lower	Main	Upper	Addl
Full Baths:	0	0	1	1	0
Half Baths:	0	0	0	0	0

Bedrooms: 5 **Year Built:** 1907 **Type:** Single
Fireplaces: 0 **New Constr:** No
Apx Acres: **County/City Bldg Code:** **Agnt C**
Apx Lot Size: 46 x 131 **Managing Bkr:** **Agnt F**

Virtual Tour

Directions: Derby to S. Capitol turn North

Room Dimensions/Levels:

Room	Dimensions	Level	Access	Other	Fin Lwr L
Living:	15 x 15	Main	C		
Great:	x				
Family:	x				
Fml Din:	15 x 14	Main	C		
Inf Din:	x				
Kitchen:	15 x 14	Main	V		
Mstr Br:	15 x 10	Main	C		
Bedrm 2:	10 x 10	Upper	V		
Bedrm 3:	15 x 14	Upper	V		
Bedrm 4:	11 x 10	Upper	V		
Bedrm 5:	15 x 13	Upper	V		
Bath/Mst BR:	No				
Den/Ofc:	x				
Laundry:	x				
Rec Rm:	x				
Pantry	7 x 5	Main	V		
Porch	15 x 7	Main	C		
Gar:	x				
#Cars:	0				
Rem:					
Total SQ					
Finish Bs					
Total Bsr					

Assoc Mo. Fee \$

Ann Taxes: \$1,056.32

Exemptions:

Parcel ID: 04-10-03-409-010

Assoc. Ann. Fee \$

Tax Yr: 2004

Zoning:

Short Sale:

Flood Ins: Possible

Flood Plain:

AGR: N

Util: Y

Also Ref MLS#

Elem School: Jefferson

Middle School: Washington

High School: Pekin Comm

LOVE AN OLDER HOME? NATURAL WOODWORK, HIGH CEILINGS & LARGE COUNTRY KITCHEN ACCENT THIS SPACIOUS HOME. HARDWOOD FLOOR CARPET. ROOF 6 YRS OLD, MANY REPLACEMENT WINDOWS 6 YRS OLD, GAS/CA 13 YRS. TON OF HOUSE FOR THE MONEY!

Exterior:	Steel Siding	Style:	1.5 Story
Roofing:	Composition	Fireplace:	
Gar/Park:	None		
Basement:	Partial		
Heat/Cool:	Gas, Forced Air, Central Air, Whole House Fan		
Water/Sewer:	Public Water, Public Sewer		
Kitchen/Dining:	Dining Room/Formal, Eat-In Kitchen		
Appliances:			
Interior Amenities:			
Exterior Amenities:	Porch		
Add'l Amenities:			
Assoc Fee Includes:			
Lot Description:	Level		
Financing:	Cash, Conventional	Road/Access:	
Possession:	To Be Agreed	Occupied:	Tenant
Showing:	Appointment Required	Surveillance:	

Condo: No	Conversion:	Condo Project Name:	Unit Floor/Level:	Pets
Unit Style	/	Elevator:	Addl Fees:	Owner Occ Only:
LO: Coldwell Banker Devonshire Realty	LO Lic.:	Appt:	OLA:	
LA: Mary Ann Ladendorf	LA Lic.:	Fax: 309-347-5920		
PH:	Main Line: 309-347-5540			
Email: mladendorf@coldwellbanker.com				
CLO Off:	CLO Lic.:			
CLA:	CLA Lic.:			
CLA PH:				
Compensation: 3.50	Dual/Var: Yes	List Type: Exclusive Right to Sell	LD: 6/20/2005	XD:
CLOP: \$79,900	Selling Agent: Mary Ann Ladendorf	Co-Sell Office:		

LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

404.2 Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and *habitable basement* areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

404.4 Bedroom and living room requirements. Every *bedroom* and *living room* shall comply with the requirements of Sections 404.4.1 through 404.4.5.

404.4.1 Room area. Every *living room* shall contain not less than 120 square feet (11.2 m²) and every *bedroom* shall contain not less than 70 square feet (6.5 m²) and every *bedroom* occupied by more than one person shall contain not less than 50 square feet (4.6 m²) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

404.4.3 Water closet accessibility. Every *bedroom* shall have access to not less than one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to not less than one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities require-

ments of Chapter 5; the heating facilities and electrical receptacle requirements of Chapter 6; and the smoke detector and emergency escape requirements of Chapter 7.

404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

TABLE 404.5
MINIMUM AREA REQUIREMENTS

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a, b}	120	120	150
Dining room ^{a, b}	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1		

For SI: 1 square foot = 0.0929 m².

a. See Section 404.5.2 for combined living room/dining room spaces.

b. See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m²). A unit occupied by not more than two *occupants* shall have a minimum clear floor area of 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a minimum clear floor area of 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

Pekin Daily Times: Please publish one time on the 22nd day of December, 2018.

LEGAL NOTICE for PUBLIC HEARING

Notice is hereby given that a **PUBLIC HEARING** will be held for a Special Use Petition submitted by Wendy McCready, on behalf of Fight the Fight, to establish a community residence for the purpose of a sober living home use at a property located at 1120 S. Capitol Street, with a Legal Description of SEC 3 T24N R5W Chestnut Addn. Hecker & Lashbrook Subd. Lot 4 Block 16 SE ¼ in Tazewell County, Illinois, with the following P.I.N. # 04-10-03-409-010.

Said **Public Hearing** of the above petition to be held at a regular Meeting of the **Pekin Planning Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the 9th day of **January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.

Dated this 20th day of **December, 2018**.

John R. Lebegue, Secretary
Pekin Planning Commission



Community. Opportunity. Home.

City of Pekin- Zoning and Inspections Department

111 S. Capitol Street, Pekin, Illinois 61554 – (309) 477-2315

Current Resident/Owner,

Notice is hereby given that a **PUBLIC HEARING** will be held for a Special Use Petition submitted by Wendy McCready, on behalf of Fight the Fight, to establish a community residence for the purpose of a sober living home use at a property located at 1120 South Capitol Street, with a Legal Description of SEC 3 T24N R5W Chestnut Addn. Hecker & Lashbrook Subd. Lot 4 Block 16 SE ¼ in Tazewell County, Illinois, with the following P.I.N. # 04-10-03-409-010.

Said review of the above petition to be held at a regular Meeting of the **Pekin Plan Commission**, 111 South Capitol Street, City Hall, City of Pekin, Illinois, on the **9th day of January, 2019**, at the hour of **5:30 P.M.**

All persons having an interest there in may appear to be heard.

John R. Lebegue
Building Inspections / Development Director
City of Pekin

John R. Lebegue
Building Inspections / Development Director
jrlebegue@ci.pekin.il.us
Office: (309) 478-5370



I received your letter, and your request for us to go before the zoning board. This Sober /Recovery home does not meet the definition of a Halfway House per Townships Definition.

Ordinance of Definitions, ORDINANCE NO. 704, as revised August 2009.

Halfway House: A dwelling for the *transitional institutionalized supervision* of individuals who *have violated the law* and **who are sent** to a half-way house *upon release from, or in lieu of being sent to, a penal institution.*

The men are not transitioning from institutionalized supervision, they are not being sent to this home for violating any law or in lieu of prison or jail.

This home is 100% completely voluntary , The men will function as a common house hold , This house hold, will have non-routine support, addiction is considered under the Americans with disabilities act, they cannot be discriminated against, you cannot request more from this house than a family in this same neighborhood.

Please understand, none of these residents are a threat, or are currently using prescription drugs or illegal drugs.

Legally, I'm required to show no more than proof that the property is habitable like any other tenant-occupied rental unit.



Correction, . is not 500 feet away, it's more than a mile away, and our house should have no negative affect on any establishment, or school, or Medical Marijuana Dispensary, that in itself is discriminatory.

We will need no building permits as the property warrants no new building. Here are the Zoning regulations

202.2 Use Regulations

Uses by Right - The following principal uses are permitted by right in the R-8 Zone:

Group Home: The use of any lawful dwelling unit that meets all of the following criteria:

- A. Involves persons functioning as a common household unit.
- B. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, or mental retardation/developmental disability, or that the applicant proves to the satisfaction of the Zoning Officer and meets the definition of "handicap"* as defined by applicable Federal law.
- C. Does not meet the definition of a "group quarters."
- D. Does not involve the housing or treatment of persons who: a) could reasonably be considered a threat to the physical safety of others, and/or b) were previously convicted of a sexual offense committed against a minor.

(* NOTE: The Federal Fair Housing Act Amendments defined "handicap" as follows:



"1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in Section 802 of Title 21." This definition was subsequently adjusted by Section 512 of the Americans With Disabilities Act to address certain situations related to substance abuse treatment.)

Group Quarters: Any dwelling or portion thereof, which is designed or used for four (4) or more persons unrelated to each other or to any family occupying the dwelling unit and having common eating facilities. Group quarters include, but are not limited to, lodging or boarding houses, fraternity and sorority houses and dormitories and other quarters of an institutional nature. Group quarters must be associated with a parent religious, educational, charitable or philanthropic institution.

With that being here is the Federal Law

The Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status (the presence or anticipated presence of children under the age of 18 in a household) and disability. "Disability" was added to the Act in 1988, and one of the reasons Congress made this change was to address zoning restrictions and other barriers to housing for people with disabilities in residential neighborhoods.

The Act prohibits disparate treatment of people with disabilities, rules or policies that have a disparate impact on people with disabilities, and failure to make reasonable accommodations in rules, policies, practices or procedures to allow people with Imposing restrictions or additional conditions on group housing for persons with disabilities that are not imposed on families or other groups of unrelated individuals, by, for example, requiring an occupancy permit for



Persons with disabilities to live in a single-family home while not requiring a permit for other residents of single-family homes.

Imposing restrictions on housing because of alleged public safety concerns that are based on stereotypes about the residents' or anticipated residents' membership in a protected class, by, for example, requiring a proposed development to provide additional security measures based on a belief that persons of a particular protected class are more likely to engage in *criminal activity*. Individuals with disabilities are to have the same use and enjoyment of housing as people without disabilities.

The Fair Housing Act defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment.

The term "physical or mental impairment" includes, but is not limited to, diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, HIV infection, developmental disabilities, mental illness, drug addiction and alcoholism.

A household where two or more persons with disabilities choose to live together, as a matter of association, may not be subjected to requirements or conditions that are not imposed on households consisting of persons without disabilities.

The term "group home" includes homes occupied by persons in recovery from alcohol or substance abuse, who are persons with disabilities under the Act. Although a group home for persons in recovery may commonly be called a "sober home," the term does not have a specific legal meaning, and the Act treats persons with disabilities who reside in such homes no differently than persons with disabilities who reside in other types of group homes. Like other group homes, homes for persons in recovery are sometimes operated by individuals or organizations, both for-profit and not-for-profit, and support services or supervision are sometimes, but not always, provided.



The Fair Housing Act prohibits discrimination on the basis of disability, and persons with disabilities have the same Fair Housing Act protections whether or not their housing is considered a group home. State and local governments may not discriminate against persons with disabilities who live in group homes.

Federal laws such as the Fair Housing Act and The Americans with Disabilities Act take precedence over state and local laws.

While I understand your letter, you legally cannot require any more of this house than any other house that is bought by a family on the same street.

The House will be habitable, it will be safe and it will be no different than any other house in that neighborhood. The residents pose no more of a safety issue, than the other residence on the same street pose to them.

To: Pekin Planning Commission
Re: Special Use Petition

We the following home owners of Pekin do not think the special use petition be granted to allow the residence of 1120 South Capitol to operate as a sober living home. There are many unanswered questions and we the citizens of Pekin have many concerns within this special use petition. We have listed some of these concerns.

1. The home is two (2) blocks from Jefferson Grade School where many children walk back and forth to school passing this residence at 1120 S. Capitol.
2. Alcohol is sold two (2) blocks within walking distance of this home that according to information, drugs and alcohol are the reason all of the renters involved have at one time or more used one or both of these drugs.
3. What qualifications does the on site manager have and would that person be there all of the time? Would the person leave the home off and on, which would leave the people unsupervised.
4. Would there be smoking inside the residence? We all know that careless smoking could start a fire. There is a home close by on each side of 1120 South Capitol.
5. Where does the revenue that is needed come from that will take to operate this facility?
6. How many people will be allowed to stay in this residence and who will know what that amount may be other than the petitioner and/or the in-house manager.
7. The information provided by the applicant said if someone breaks the house rules it is noted that the rules say usually the residents are required to leave the facility. What does usually mean? Rules are rules. How would this eviction be enforced? What if a person refuses to leave, what then? There are laws that renters have and they are paying rent and a share of the utilities. How long would it take to remove that person and would force be used to do so and by whom?
8. Could or would renters have a vehicle and if so would everything about that vehicle be lawful to drive. What are the vehicle parking areas on this particular property? Keep in mind vehicles have to be removed of the street when there is two or more inches of snow.
9. Concerning the City of Pekin codes. We request all inspection departments to inspect this residence/building and everything is suppose to be fixed by license contractors or the owner has to bring it up to code. Not an inhouse site manager.
10. We were told that this facility was going to be at 912 Broadway and was turned down for parking and other reasons, see attached form from November 14th, 2018 Pekin Planning Commission minutes.

11. As of November 14th, 2018 the proposed facility has not been State of Illinois certified.

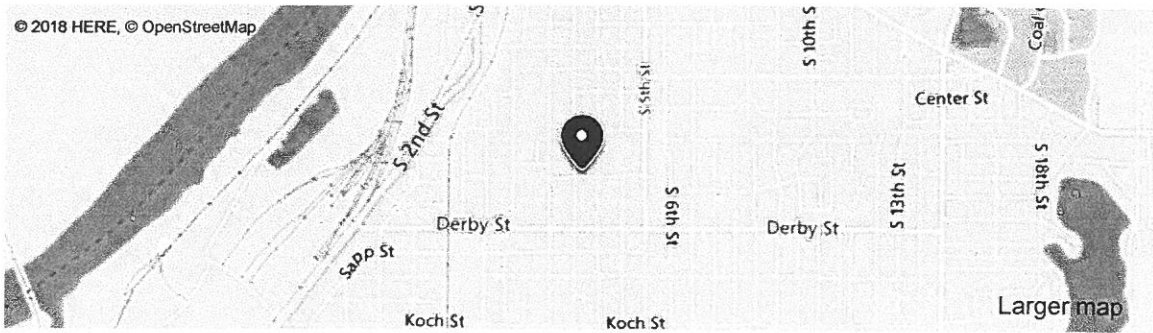
Below attached you will find the petition with peoples signature that are against having this sober living home within the residence for multiple reasons.

THE NAMES LISTED BELOW HAVE BEEN PRINTED TO SHOW THE PEKIN PLAN COMMISSION THAT THEY DO NOT WANT A SPECIAL USE PETITION FOR 1120 S. CAPITOL TO BE USED FOR A SOBER LIVING HOME.

1. MR & MRS ALAN JOHNSON 1113 S. 4TH ST. PEKIN, IL.
2. Mr & Mrs Donald D. Westmeyer 1108 S. Capitol Pekin, IL
3. Mr & Mrs Rick Hilst 1110 S. Capitol St. Pekin IL
4. Katherine Jennings 1118 S. Capitol St. Pekin
5. Mr & Mrs Shadd Owstey 1122 S. Capitol St. Pekin
6. Mr & Mrs Andrew Price 325 Charles St. Pekin
7. Melody Cheney 1123 S. Capitol St. Pekin
8. MR. ISBELL 1121 S. CAPITOL ST. PEKIN
9. Jeff Hopper 1119 S. CAPITOL ST. PEKIN
10. Mr & Mrs Tim Wynd 1116 S. CAPITOL ST. PEKIN
11. Mr. Rex E. Faust Jr. 1114 S. Capitol St. Pekin
12. MR. MRS. David Helm 334 Maple St. Pekin
13. MARCILLE FREVERT 1107 S. 4TH ST - PEKIN
14. SAMANTHA INGOLD 1105 S. 4TH ST. PEKIN
15. Heidi Nester 1101 S. 4th St. Pekin
16. Steph Schimmelpfennig 1101 S. Capitol St. PEKIN
17. Jason Hankins 1101 S. Capitol St. Pekin
18. William M. Snyder 1103 S. Capitol ST. Pekin
19. SHAWN FLYNN 1105 S. Capitol St. PEKIN
20. Luke LaMere 1106 S. Capitol St. Pekin
21. Justin Charbliss 318 Walnut St.
22. Brandon Charbliss 315 Walnut St
23. Ken Downey 1017 Summer
24. Kevin D. Downey " "
25. Sara Tucker 1014 Summer St.
26. John Tucker 1014 Summer ST
27. Judy Cooksey 1111 S. Capitol St.
28. David Cooksey 1111 S. Capitol St
29. BRENT GODSEY 1015 S. CAPITOL ST
30. Levi Godsey 1015 South Capitol St.
31. Mr & Mrs Mike Jones 1109 S. 4th St
32. Mr Rick Spemansky 1119 S. 4th

OVER

Including results for 1120 s capitol st pekin illinois.
Do you want results only for 1120 so capitol st pekin illinois?



1120 S Capitol St, Pekin, IL 61554

OKNorton

www.zillow.com/homedetails/1120-S-Capitol-St-Pekin-IL-61554/5311400_zpid

Sold	Beds	Baths	Sq ft
\$23,000	4	2	1,784

Directions

View on



Zillow



Realtor

1120 S Capitol St, Pekin, IL 61554 - realtor.com® OKNorton

<https://www.realtor.com/realestateandhomes-detail/1120-S-Capitol-St-Pekin-IL-61554>

Browse photos and price history of this 5 bed, 2 bath, 1,784 Sq. Ft. recently sold home at **1120 S Capitol St, Pekin, IL 61554** that sold on September 24, 2018 for Last Sold for \$23,000

1120 S Capitol St, Pekin, IL 61554 | Zillow OKNorton

www.zillow.com/illinois/pekin/61554/

1120 S Capitol St, Pekin, IL is a single family home that contains 2,000 sq ft and was built in 1908. It contains 4 bedrooms and 2 bathrooms. This home last sold for \$23,000 in September 2018.

4-BEDROOMS

?

1120 S Capitol St, Pekin, IL 61554 | Trulia OKNorton

<https://www.trulia.com/p/il/pekin/1120-s-capitol-st-pekin-il-61554/>

Sold IL Pekin 61554 **1120 S Capitol St** This is a Single-Family Home located at **1120 S Capitol St, Pekin IL, 61554**. **1120 S Capitol St** has 5 beds, 2 baths, and approximately 1,784 square feet. The property has a lot size of 6,098 sqft and was built in 1907. **1120 S Capitol St** is in Pekin ...

1120 S 4th St, Pekin, IL 61554 - realtor.com® OKNorton

https://www.realtor.com/.../1120-S-4th-St-Pekin_IL_61554_M83827-29906

1120 S 4th St, Pekin, IL 61554 is a single family home built in 1902. The \$126,700 estimated value is 40.93% greater than the median listing price of \$89,900 for the South of Broadway area ...



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Bruce Marston, Assistant

AGENDA ITEM: Amending Ordinance No 2812 - 18/19 Title 3 Chapter 2

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Approve Ordinance No. 2812 – 18/19 Amending Title 3, Chapter 2 of The Code of The City of Pekin Regarding Payment And Collection of Municipal Taxes

DESCRIPTION: The proposed changes to Title 3, Chapter 2 are to clarify the language that refers to sections within the ordinance, provide a uniform structure in the layout of the Chapter and amend the language referring to penalties so that they will be uniform across all taxes imposed in Title 3, Chapter 2.

FINANCIAL IMPACT:

Making all penalties across Title 3, Chapter 2 uniform would only result in a slight increase in revenue, but would more importantly provide equitable treatment across retailers and service providers and also create efficiencies in the imposition and collection of the penalties.

NEIGHBORHOOD CONCERNS: N/A

IMPACT IF APPROVED: corrections and changes in title 3, Chapter 2 would be codified.

IMPACT IF DENIED: Inconsistencies and ambiguities would still exist within the code.

ALTERNATIVES: None.

RELATED TO EFFICIENCY STUDY: N/A

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark ✓ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.

	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
X	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES
Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):
Bruce Q Marston

Bruce Q Marston, Assistant

1/23/2019

Date:

City Manager:
Mark A. Rothert

Mark A. Rothert, City Manager

1/23/2019

Date:

**Ordinance No. 2812-18/19 An Ordinance Amending Title 3, Chapter 2 of the Code
of the City of Pekin Regarding Payment and Collection of Municipal Taxes**

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 3, CHAPTER 2
OF THE CODE OF THE CITY OF PEKIN
REGARDING PAYMENT AND COLLECTION OF MUNICIPAL TAXES**

WHEREAS, the City of Pekin is a home rule municipality as described in Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and function pertaining to its government and its affairs, including municipal taxation; and

WHEREAS, the provisions of Title 3, Chapter 2 of the Code of the city of Pekin have been reviewed by the Finance Department regarding the imposition and collection of penalties for violations of said provisions; and

WHEREAS, the Finance Department has recommended amendments to the Code for the purposes of implementing uniform penalties and collection procedures for violations of said Title 3, Chapter 2; and

WHEREAS, the City Council of the City of Pekin has determined that it is in the best interests of the City and its residents to adopt such revisions as recommended by the Finance Department and as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Title 3, Chapter 2 of the Code of the City of Pekin is hereby amended as follows (insertions indicated by underline, deletions by ~~striketrough~~).

3-2-1: HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX:

- A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in this municipality at the rate of one and one-quarter percent (1 ¼ -1/4%) of the gross receipts from such sales made in the course of such business in accordance with the terms, conditions and limitations of Chapter 65, Illinois ~~Compiled~~Consolidated Statutes, Section 5/8-11-1. (Ord. No. 2465 03/27/06)

~~B. Administration and Enforcement: The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue of the State of Illinois shall have full power to administer and enforce the provisions of this Article.~~

3-2-2: HOME RULE MUNICIPAL SERVICE OCCUPATION TAX:

A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of making sales of service at the rate of one and one-quarter percent (1 ¼ - 1/4%), as imposed by Section 3-2-1-A hereof, of the selling price of all tangible personal property transferred by such servicemen, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service in accordance with the terms, conditions and limitations of Chapter 65, Illinois Compiled~~Consolidated~~ Statutes, Section 5/8-11-5. (Ord. No. 2465 03/27/06)

~~B. Administration and Enforcement: The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue of the State of Illinois shall have full power to administer and enforce the provisions of this Article.~~

3-2-3: MUNICIPAL USE TAX:

A. Tax Imposed: A tax is hereby imposed in accordance with provisions of paragraph 8-11-6 of the Illinois Municipal Code (65 ILCS 5/8-11-6) upon the privilege of using in the City any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of Illinois government. This tax shall be at rate of one and one-quarter percent (1 1/4%) of the selling price of such tangible personal property with "selling price" to have the meaning as defined in the "Use Tax Act", approved July 14, 1955, as amended. Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the City. (Ord. No. 2465 03/27/06)

B. Collection by State; When Due: Such tax shall be collected by the Illinois Department of Revenue for the City and shall be paid before the title or certificate of registration for the personal property is issued.

3-2-~~54~~: MOTOR FUEL TAX:

A. TITLE. This Ordinance shall be known and cited as the Motor Fuel Tax Ordinance of the City of Pekin, Illinois.

B. DEFINITIONS. For the purposes of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:

(i) “BULK USER”. Any person who purchases motor fuel for storage in bulk storage facilities located within the City, which facilities are owned, leased, or controlled by the person, for subsequent dispensing into the supply tanks or internal combustion engines operated by the person.

(ii) “GASOHOL”. A fuel used chiefly in internal combustion engines which is —
—comprised chiefly of gasoline and ethyl alcohols in variable quantities.

(iii) “GASOLINE” or “DIESEL FUEL”. A volatile, highly flammable or combustible, liquid mixture of hydrocarbons produced by the fractional distillation of petroleum and used chiefly as a fuel in internal combustion engines, but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

(iv) “MOTOR FUEL”. Gasohol and gasoline and diesel fuel as defined in this —
—section.

(v) “PERSON”. Any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, contractor, supplier, vendor, vendee, operator, user or owners, or any officer, agents, employees, or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

(vi) “RETAIL GASOLINE DEALER”. Any person who engages in the business of selling motor fuel in the City, to a purchaser for use or consumption and not for resale in any form.

(vii) “SALE”, “RESALE” and “SELLING”. Any transfer of ownership or —
—possession, or both, exchange or barter, conditional or otherwise, in any manner —or by any means whatsoever for a valuable consideration.

(viii) E-85 Blend Fuel: A fuel consisting of 85% ethanol and 15% gasoline.
(Ord. No. 2459 02/27/06)

C. TAX IMPOSED AND EXEMPTIONS

(i) There is levied and imposed upon the purchase of each gallon of motor fuel, or fraction thereof sold at retail within the corporate limits of the City, irrespective of the unit of measure in which it is actually sold, a tax at the rate of four cents (\$.04) per gallon, except on the retail sale of E-85, which shall be exempt from the four cents (\$.04) per gallon tax until December 31, 2009. The tax herein levied shall be paid in addition of any and all other taxes and charges, but such other taxes and charges shall not be construed as part of the purchase price upon which the tax herein is levied. (Ord. No. 2459 02/27/06)

(ii) The ultimate incident of and liability for payment of the tax is to be borne by the retail purchaser of motor fuel. Nothing in this ArticleSection shall be construed to impose a tax upon the occupation of persons engaged in the retail sale of motor fuel.

(iii) It shall be the duty of every retail gasoline dealer to secure the tax from the purchaser at the time the dealer collects the purchase price for the motor fuel and to pay over the tax to the Finance Department as provided in this ArticleSection except in the case of a sale to a bulk user, in which case the bulk user shall pay over the tax to the Department as provided in this ArticleSection.

(iv) A retail gasoline dealer may make tax free sales with respect to which he is otherwise required to collect the tax when the sale is made to the federal government, the State of Illinois, any municipality, or unit of local government as those terms are defined by Section I of Article VII of the Constitution of the State of Illinois of 1970, or any school district.

D. TAX AND REPORT TRANSMITTAL.

(i) Every retail gasoline dealer shall transmit to the Treasurer, or the City Clerk, at the Manager's discretion for receipt by the Department no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax collected for the preceding calendar month, accompanied by a report upon forms supplied by the Treasurer, or the City Clerk, at the Manager's discretion, indicating the gross gallons of motor fuel sold for the preceding calendar month, and such other information as the Treasurer, or the City Clerk, at the Manager's discretion may require for enforcement of this ArticleSection. (Ord. No. 2568-08/09 10-14-08)

(ii) Every bulk user shall transmit to the Finance Department for receipt by the Department, no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax owing for the preceding calendar month, accompanied by a report upon forms supplied by the Finance Department indicating the gross gallons of motor fuel purchased for the preceding calendar month, and such other information as the Department may require for enforcement of this ArticleSection.

(iii) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection F. may retain an amount equal to one percent (1%) of the total tax due.

(iv) Failure to File Return or Remit Tax.

~~(iii)(a)~~ In case any Any person who ~~is required under this article to file a tax return to the City~~ fails to file a return when and as required under this ~~article~~ Section 3-2-4, such person shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ~~fiveten~~ percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a ~~20~~ twenty percent (20%) penalty shall be imposed for any fraudulent failure to ~~file a return~~ transmit such tax. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

~~(a)(b)~~ In case any Any person who ~~is required under this article to file a tax return to the City~~ files a return at the time required by this Section 3-2-4 but fails to transmit the tax proceeds, or any portion thereof to the City when due, shall pay to the City, in addition to the amount of tax required under this Section, a penalty of ~~fiveten~~ percent of the amount of tax not transmitted to the City for each thirty (30) day period during which the tax remains unpaid shall be added thereto; provided, however, the fraudulent failure to pay such tax shall result in a 20 percent (20%) penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.

~~(b)(c)~~ In addition to any penalty for which provision is made in this ~~article~~ Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.

~~(d)~~ In addition to any of the previous penalties above set forth, any person who is required under this Section to file a return and to transmit the tax proceeds, but fails to do so in a timely manner, shall be ineligible for any reimbursement of funds from the City if they were in arrears at the time the event for which reimbursement is sought occurs; or if they have been in arrears for any amount of time, on two or more occasions in the previous preceding twelve months from when application for reimbursement was made.

~~(iv)(e)~~ Any officer or employee of any corporation which is an owner subject to the provisions of this ~~article~~ Section who has the control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax imposed by this ~~article~~ Section and who ~~will~~ fully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for any such amounts collected, including interest and penalties thereof, if after proper proceedings for the collection of such amount such corporation is unable to pay such amounts to the City, and the personal liability of such officer or employee, as provided in this ~~article~~ Section, shall survive dissolution of the corporation. For purposes of this subsection, a person ~~will~~ fully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the City to pay any other corporation obligations.

E. RECORDS; INSPECTION.

(i) Every retail gasoline dealer shall keep complete and accurate records, including a daily sheet showing the gross gallons of motor fuel sold for each day, and the amount of motor fuel tax collected on each day.

(ii) Every bulk user shall keep complete and accurate records of purchases of motor fuel, including the dates of the purchases, the gross gallons purchased on each of the dates, and the names and addresses of the retail gasoline dealers from whom each of the purchases were made.

(iii) For the purpose of administering and enforcing this ~~Article~~Section, the Finance Department shall have the right to inspect all books, records and reports of retail gasoline dealers and bulk users during their normal business hours.

F. MOTOR FUEL TAX FUNDS.

(i) The Finance Department shall deliver the proceeds of the motor fuel tax imposed by this ~~article~~Section to the City Treasurer for deposit into a separate fund to be designated as the "Motor Fuel Tax Fund". The City Treasurer shall deposit investment earnings and other monies including penalties credited to the motor fuel tax fund into the fund.

(ii) Said fund shall be specifically designated for the express purpose of capital improvements, including street construction and rehabilitation, curb and gutter work, storm sewer, sidewalk and other street-related improvements. By a majority vote of the corporate authorities, the funds may be pledged by the City to be used for capital improvement as defined in this section.

G. COLLECTION. Whenever any person shall fail to pay any tax as provided in this ~~article~~Section, the Corporation Council shall, upon the request of the ~~City Manager~~Treasurer, bring or cause to be brought an action to enforce the payment of such tax on behalf of the City in any manner authorized by law or this Code~~in any court of competent jurisdiction~~. (Ord. No. 2568-08/08 10-14-08)

H. PENALTY FOR VIOLATION.

(i) Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this ~~article~~Section 3-2-5, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of ~~(a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, whichever is higher, for a second or subsequent offense. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense. \$200.00 nor more than \$300.00 for the first offense and not less than \$300.00 nor more than as provided in Section 1-4-1 of this Code for the second and each subsequent offense in any 180 day period.~~

~~(ii) Repeated offenses in excess of three within any 180 day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months. A separate and distinct offense shall be regarded as committed each day upon which such person shall continue any such violation or permit any such violation to exist after notification thereof.~~

I. EFFECTIVE DATE. The motor fuel tax shall be levied, imposed and collected commencing May 1, 1996.

3-2-~~65~~:HOTEL/MOTEL USE TAX. (Ord. No. 2024 03-25-96)

A. DEFINITIONS. The following words, terms and phrases, when used in this ~~article~~Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(i) Hotel or motel means a structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment-hotel, lodging house, dormitory or place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals.

(ii) Hotel room or motel room means a room within a structure kept, used or maintained as or advertised or held out to the public to be in an inn, motel, hotel, apartment-hotel, lodging house, dormitory or place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, with or without meals. One room offered for rental, with or without an adjoining bath, shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the bases of those rooms utilized for the purpose of sleeping.

(iii) Owner means any person having a sufficient proprietary interest in conducting the operation of a hotel or motel room or receiving the consideration for the rental of such hotel or motel room so as to entitle such person to all or a portion of the net receipts thereof.

(iv) Person means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agent, governmental corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights or duties.

B. TAX.

(i) There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the City a tax of five ~~(5%)~~ percent (5%) of the rental or leasing charge for each such hotel and motel room rented for each 24-hour period or any portion thereof; provided, however, that the tax shall not be levied and imposed upon any person who works and lives in the same hotel or motel. (Ord. No. 2272 11-13-01) (Ord No. 2398 11-22-04)

The tax shall not be levied and imposed upon any person that rents a hotel or motel room for use by the same natural person or persons for more than 30 consecutive days, the tax imposed herein applicable to the first 30 days of a hotel room rental which extends beyond 30 days. Upon the 31st consecutive day of rental, the renter is due a refund or credit from the tax collector for the 30 consecutive days of tax paid. Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this

articleSection.

(Ord. No. 2583-09/10 05-11-09)

(ii) The ultimate incident of and liability for payment of such tax shall be borne by the person who seeks the privilege of occupying any such hotel or motel room, such person thereafter referred to as "renter".

(iii) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every hotel or motel to act as trustee for and on account of the City, and to secure such tax from the renter of the hotel or motel room and pay over to the Finance Director or as otherwise provided in this articleSection.

(iv) Every person required to collect the tax levied by this articleSection shall secure such tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon the invoice receipt or other statement or memorandum, if the rent is given to the renter at the time of payment, the amount due under the tax provided in this articleSection shall be stated separately on such documents.

C. -RULES AND REGULATIONS. The Finance Director may promulgate rules and regulations not inconsistent with the provisions of this articleSection concerning enforcement and application of this articleSection. The term "rules and regulations" includes, but not limited to, case-by-case determination of whether or not the tax imposed by this articleSection applies.

D. LICENSE REQUIRED.

(i) It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained, upon any property owned or controlled by him a hotel or motel within the City without having first obtained a license therefor from the City Clerk or without complying with all provisions of this articleSection.

(ii) No license shall be issued or annually renewed for a hotel or motel delinquent in payment of the use and privilege tax or the payment of any fines and/or penalties assessed for the non-payment or late payment thereof.

(iii) The annual fee for such license for a hotel or motel shall be \$10.00. The license shall be valid for one year.

E. BOOKS AND RECORDS. The Finance Director, or any person certified as his deputy or representative, may enter the premises of any hotel or motel for inspection and examination of books and records in order to effectuate the proper administration of this articleSection and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the Finance Director or his duly authorized deputy or representative in the discharge of his duties and the performance of this articleSection. It shall be the duty of every owner to keep accurate and complete books and records to which the Finance Director or his deputy or authorized representative shall at all times have access, which records shall include a daily sheet showing:

(i) The number of hotel or motel rooms rented during the 24-hour period, including multiple rentals of the same hotel rooms where such shall occur; and

(ii) The actual hotel or motel tax receipts collected for the date in question.

F. TRANSMITTAL OF TAX REVENUE.

(i) The owner of each hotel or motel room within the City shall file tax returns showing tax receipts received with respect to each hotel and motel room during each monthly period commencing on May 1, 1996, and continuing on the first day of every month thereafter on forms prescribed by the Finance Director. The return shall be due on or before the 30th day of the calendar month succeeding the end of the monthly filing period. Such owner shall file an application with the city finance department for a city taxpayer identification number prior to filing the first tax return. (Ord. No. 2052 08-31-96) (Ord No. 2662 07-09-12 effective 09-01-12)

(ii) The first taxing period for the purpose of this articleSection shall commence on May 1, 1996; and the tax return and payment for such period shall be due on or before June 30, 1996. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this articleSection. At the time of filing such tax returns, the owner shall pay to the Finance Department all taxes due for the period to which the tax return applies.

(iii) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection F. may retain an amount equal to one percent (1%) of the total tax due.

(iv) The person filing such return shall attach thereto a copy of its Illinois Retailer's Sales and Use Tax or Hotel Operator's Tax returns for the month for which a return is made under this Section.

(v) Failure to File Return or Remit Tax.

~~(iii)(a)~~ In case any ~~Any~~ person who ~~is required under this article to file a tax return to the City~~ fails to file a return when and as required under this ~~article~~ Section 3-2-5, ~~such person~~ shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ~~five (5%) percent~~ ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty ~~(20%)~~ percent (20%) penalty shall be imposed for any fraudulent failure to ~~file a return~~ transmit such tax. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

~~(a)(b)~~ In case any ~~Any~~ person who ~~is required under this article to file a tax return to the City~~ files a return as required by this Section 3-2-5 ~~at the time required~~ but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ~~five (5%)~~ ten percent (10%) of the amount of tax not transmitted to the City ~~shall be added thereto for each thirty (30) day period that the tax remains unpaid~~; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.

~~(b)(c)~~ In addition to any penalty for which provision is made in this ~~article~~ Section, any amount of tax not transmitted when due shall bear interest at the rate of two ~~(2)~~ percent (2%) per month, or fraction thereof, until fully transmitted.

~~(e)(d)~~ In addition to any of the previous penalties above set forth, any person who is required under this ~~Article~~ Section to file a return and to transmit the tax proceeds, but fails to do so in a timely manner, shall be ineligible for any reimbursement of funds from the City if they were in arrears at the time the event for which reimbursement is sought occurs; or if they have been in arrears for any amount of time, on two or more occasions in the previous preceding twelve months from when application for reimbursement was made. (Ord. No. 2568-08/09 10-14-08)

(~~ive~~) Any officer or employee of any corporation which is an owner subject to the provisions of this ~~article~~Section who has control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax herein imposed by this ~~article~~Section and who willfully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for such amounts collected, including interest and penalties thereon, if after proper proceedings for the collection of such amount, such corporation is unable to pay such amounts to the City; and the personal liability of such officer or employee, as provided in this ~~article~~Section, shall survive dissolution of the corporation. For purposes of this subsection, a person willfully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the City to pay any other corporation obligations.

~~(v) The person filing such return shall attach thereto a copy of its Illinois Retailer's Sales and Use Tax or Hotel Operator's Tax returns for the month for which a return is made under this article.~~

G. COLLECTION. Whenever any person shall fail to pay any tax as provided in this ~~article~~Section, the Corporation Council shall, upon the request of the ~~Treasurer~~City Manager, bring or cause an action to enforce the payment of such tax on behalf of the City in any ~~manner authorized by law or this Code~~court of competent jurisdiction. (Ord. No. 2568-08/09 10-14-08)

H. PROCEEDS OF TAXES AND FINES. All proceeds resulting from the imposition of the tax under this ~~article~~Section, including penalties, shall be paid into the city treasury and shall be credited to and deposited in the corporate fund of the City. Such proceeds shall be used exclusively for the promotion of tourism and conventions within the city or to attract overnight non-resident visitors to the City. No Hotel/Motel tax funds received by the City shall be used to advertise for or otherwise promote new competition in the hotel business. (Ord. No 2398 11-22-04)

I. SUSPENSION OF LICENSES. If the Mayor, after hearing held by or for him, shall find that any person has willfully avoided payment of the tax imposed by this ~~article~~Section, or any fines and/or penalties assessed for the non-payment or late payment of such tax, he may suspend or revoke all city licenses held by such tax evader. The owner, manager or operator of the hotel or motel shall have an opportunity to be heard at such hearing to be held not less than five days after notice of the time and place of the hearing to be held, addressed to him at his last known place of business.

J. PENALTIES.

(i) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this ~~article~~Section 3-2-6, except when otherwise specifically provided herein, upon conviction thereof, shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, whichever is higher, for a second or subsequent offense. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense.~~\$200.00 nor more than \$300.00 for the first offense and not less than \$300.00 nor more than as provided in Section 1-4-1 of this Code for the second and each subsequent offense in any 180 day period.~~

~~(ii) Repeated offenses in excess of three within any 180 day period may also be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months. A separate and distinct offense shall be regarded as committed each day upon which such person shall continue any such violation or permit any such violation to exist after notification thereof.~~

K. **PURPOSES OF PENALTIES.** The purpose of imposing the penalties provided for the violation of this ~~article~~Section is to ensure the integrity of the collection process established pursuant to this ~~article~~Section.

3-2-~~67~~: **PACKAGE LIQUOR TAX**

~~SECTION 1—ENTITLEMENT.~~

A. ~~TITLE.~~ -This ~~Division~~Section 3-2-6 shall be known and cited as the City of Pekin privilege tax upon the privilege of purchasing alcoholic liquor at retail, and the tax herein imposed shall be know and cited as the City of Pekin privilege tax upon the privilege of purchasing alcoholic liquor at retail.

B. ~~SECTION 2—DEFINITIONS.~~ For the purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:

(i) Alcoholic liquor: Alcoholic liquor is defined in the same manner as the term is defined in the Municipal Code, City of Pekin, Illinois, as amended, except, however, the term shall not include alcoholic liquor beverages purchased for immediate consumption on the premises where sold.

(ii) Liquor establishment: Any premises required to obtain a retail liquor license pursuant to the Municipal Code, City of Pekin, Illinois, as amended, and any premises which may sell alcoholic liquor at retail without a City of Pekin license.

(iii) Owner: Any person or persons having a sufficient proprietary interest in conducting the

operation of a liquor establishment so as to entitle such a person or persons to all or a portion of the net receipts thereof.

(iv) Person: The term shall mean any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.

(v) Sale at retail: Means any transfer of the ownership of alcoholic liquor to a purchaser for the purposes of use or consumption and shall include any transfer to a purchaser for use or consumption by any other person to whom such purchaser may transfer the alcoholic liquor without a valuable consideration.

(vi) City: Means City of Pekin.

~~SECTION 3 – IMPOSITION OF TAX~~

C. TAX IMPOSED. From and after May 1, 2009, there is hereby levied and imposed upon the privilege of purchasing alcoholic liquor at any liquor establishment in the City, a tax of two percent (2%) of the purchase price, exclusive of any other tax charged for such alcoholic liquor.

~~SECTION 4 – LIABILITY FOR PAYMENT~~

~~D. LIABILITY FOR PAYMENT~~

(i) The ultimate incidence of and liability for payment of said tax shall be borne by the person who seeks the privilege of purchasing alcoholic liquor at retail at any liquor establishment, said person hereinafter referred to as "consumer".

(ii) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every liquor establishment to secure said tax from the consumer of a liquor establishment and remit to the City of Pekin said tax under the rules and regulations prescribed by the Treasurer and as otherwise provided in this article.

~~SECTION 5 – COLLECTION OF TAX~~

~~D.E.~~ COLLECTION OF TAX. Every person required to collect the tax levied by this ~~article~~Section shall secure said tax from the consumer at the time he collects payment for the sale of alcoholic liquor at retail. The amount due under the tax provided in this ~~article~~Section shall be stated separately on the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment, unless the

person required to collect the tax does not have a cash register that separately states such tax. In any event the person required to collect the tax shall keep records that clearly support total liquor sales and liquor taxes due hereunder.

SECTION 6 – RULES AND REGULATIONS.

E.F. RULES AND REGULATIONS. The Treasurer of the City of Pekin may promulgate rules and regulations not inconsistent with the provisions of this Chapter concerning the enforcement and application of this Chapter. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed by this Chapter applies.

SECTION 7 – FILING OF RETURN.

F.G. FILING OF RETURN. The owner or owners of each liquor establishment within the City of Pekin shall file tax returns showing tax receipts received during each monthly period on forms prescribed by the Treasurer. The returns shall be due on or before the 20th day of the calendar month succeeding the end of the monthly filing period. At the time of filing said returns, the owner shall remit to the City of Pekin all taxes collected for the period to which the tax return applies. As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection G. may retain an amount equal to one percent (1%) of the total tax due.

SECTION 8 – FAILURE TO PAY, COLLECT, OR REMIT TAX.

H. FAILURE TO PAY, COLLECT, OR REMIT TAX.

(i) Any person who fails to file a return when and as required under this Section 3-2-6 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

(ii) Any person who files a return as required by this Section 3-2-6 but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent (10%) of the amount of tax not transmitted to the City for each thirty (30) day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.

(iii) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.~~If for any reason any tax is not collected or remitted when due, a~~

~~penalty at the rate of two (2) percent per month on the amount of tax which remains unremitted shall be added and collected. Additionally, a one (1) time late filing fee of seven and one half percent (7 1/2%) may be imposed and collected for any filings remitted after the 20th of the month.~~

~~(i)(iv)~~ Whenever any person shall fail to pay, collect, or remit any tax as herein provided, the Corporation Counsel upon the request of the City Manager shall bring or cause to be brought an action to enforce compliance in any manner authorized by law or this Code~~court of competent jurisdiction. As compensation for services rendered in the collection and payment of this tax, retailers filing a tax return may retain an amount of money equal to one percent (1%) of the tax.~~ (Ord. No. 2595-09/10 09-28-09)

SECTION 9 – RECORDS.

G.I. RECORDS

(i) Every owner, manager, or operator of a liquor establishment in the City of Pekin shall keep books and records which, at a minimum, include a daily sheet showing:

(a) The amount of taxable receipts within the twenty-four (24) hour period; and

(b) The actual liquor establishment tax receipts collected for the date in question.

(ii) The City Manager or his delegate shall at all reasonable times have full access to said books and records.

(iii) The financial records of any liquor establishment submitted pursuant to this ~~article~~Section or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy except when necessary in any action to enforce collection of tax under this Division.

SECTION 10 – EXEMPTIONS.

~~H.J.~~ **EXEMPTIONS.** The tax imposed under this Chapter shall not apply or be imposed upon a person organized and operated exclusively for charitable, religious, or educational purposes to the extent alcoholic liquor is purchased by such person and used solely for the charitable, religious or educational purposes of such person and is not resold for profit.

SECTION 11 – SUSPENSION OR REVOCATION OF LICENSES FOR FAILURE TO COMPLY; HEARING.

K. SUSPENSION OR REVOCATION OF LICENSES FOR FAILURE TO COMPLY; HEARING.

(i) Procedure for persons not holding a City liquor license: If the City Manager, after a

hearing held by or for him, shall find that any person has willfully avoided collection or remittance of the tax imposed by this Chapter, he may suspend or revoke all city licenses held by such person. The owner, manager, or operator of the liquor establishment shall have an opportunity to be heard and such hearing to be held not less than five (5) days after notice of the time and place of the hearing addressed to the owner, manager, or operator at his last known place of business. The suspension or revocation of any license shall not release or discharge the owner, manager, or operator of the liquor establishment from his civil liability for the collection or remittance of the tax nor for prosecution of such offense.

(ii) Procedure for persons holding a City liquor license: If the Liquor Commissioner, after a hearing held by or for him, shall find that any person has willfully avoided collection or remittance of the tax imposed by this Chapter, he may suspend or revoke the retail liquor license held by said person. The suspension or revocation of the retail liquor license shall not release or discharge the owner, manager or operator of the liquor establishment from his civil liability for the collection or remittance of the tax nor for prosecution of such offense.

SECTION 12 – DISPOSITION OF PROCEEDS OF TAX.

I.L. DISPOSITION OF PROCEEDS OF TAX. All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be paid into the treasury of the City of Pekin, and shall be credited to and deposited in the corporate fund of the City.

SECTION 13 – PENALTY.

J.M. PENALTY. Any retailer found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provision of this Division, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, ~~and (b)~~ not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00) for the second offense, ~~and (c)~~ not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, ~~and (d)~~ not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offenses. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense. ~~A separate and distinct offense shall be regarded as committed each day said retailer shall continue any such violation, or permit any such violation to exist after notification thereof.~~

(Ord. No. 2578-09/10 02-24-09 Effective 05-01-09)

3-2-~~78~~:FOOD AND BEVERAGE TAX

SECTION 1 – DEFINITIONS.

A. **DEFINITIONS.** For the purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:

(i) Alcoholic Liquor means any spirits, wine, beer, ale or other liquid containing more than one half of one percent of alcohol by volume, which is capable of being consumed as a beverage by a human being.

(ii) Prepared Food Item for Immediate Consumption means and includes any and all material, whether solid, semi-solid or liquid used or intended to be used for human consumption and for nourishment of the human body. The term defined herein includes any and all alcoholic liquor except alcoholic liquor purchased in original package for consumption off the premises where sold. The term includes soft drinks as defined in Section 2-10 of the Illinois Retailers' Occupation Tax Act (35 ILCS 120/2-10). The term shall include and be limited to:

(a) Food items purchased at a restaurant, bar or other establishment where facilities are provided for on-premise consumption, but such term shall not include food items not intended for immediate consumption purchased from other areas of any such establishment where such facilities providing on-premise consumption utilize a separate means of collecting receipts for such food purchased for immediate consumption and are physically separated from such other areas in the establishment.

(b) Food items purchased from concession stands, snack shops and other establishments which sell food items primarily in individual sized servings, such as ice cream cones, candy bars and individually serve sandwiches, for immediate on-premises or off-premises consumptions; and

(c) Food items which are purchased hot or are otherwise purchased prepared by immediate on-premise or off-premise consumption from catering establishments and restaurants with delivery services, except food items prepared off the premises.

For purposes of this Section, "food items prepared off the premises" means food items which are grilled, broiled, baked, fried or cooked in some other similar manner off the premises of the retailer. Such term shall not include food items which are precooked and then heated or warmed-up off the premises or food items which were previously cooked or prepared and then reheated off the premises.

(iii) Retailer means any person or persons having a sufficient proprietary interest in conducting a business which sells prepared food items for immediate consumption so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof.

(iv) Person means any natural person, trustee, court appointed representative, syndicate,

association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

(v) Restaurant means and includes any public place kept, used, maintained, advertised and held out to the public, as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

(vi) Bar means and includes an establishment for the serving of alcoholic liquor.

SECTION 2—IMPOSITION OF TAX.

B. TAX IMPOSED.

(i) From and after May 1, 2009, there is hereby levied and imposed upon the privilege of purchasing food items prepared for immediate consumption and alcoholic liquor served or prepared at a restaurant, bar or other establishment covered by this ~~article~~Section in the City of Pekin, a tax of two (2%) percent of the purchase price, exclusive of any other tax charged for such food items.

(ii) Exempt from the tax imposed above are persons purchasing food items prepared for immediate consumption served or prepared at:

- (a) A restaurant owned by a church, grade school, junior high school or high school within the City of Pekin.
- (b) Restaurants used primarily in conjunction with institutional living establishments within the City of Pekin, including but not limited to dormitories, fraternities, sororities, residential care facilities and hospitals;
- (c) Premises or operations of not-for-profit organizations who serve food on an occasional and irregular basis.

SECTION 3—LIABILITY FOR PAYMENT.

C. LIABILITY FOR PAYMENT.

(i) The ultimate incidence of and liability for payment of said tax shall be borne by the person who purchases prepared food for immediate consumption. Said person hereinafter referred to as “consumer.”

- (ii) All retailers shall jointly and severally have the duty to collect and shall collect and account for the tax imposed in Section 2 from each consumer at the time that the consideration for such purchase is paid. Such retailers shall be the trustee for the City in the collection and remittance of said taxes.

SECTION 4 – COLLECTION OF TAX.

- D. **COLLECTION OF TAX.** Every person required to collect the tax levied by this Section shall secure said tax from the consumer at the time he collects payment for the service of prepared food. Upon the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment, the amount due under the tax provided in this Division shall be stated separately on said documents or combined with the amount of the Illinois Retailer's Occupation Tax Act.

SECTION 5 – RULES AND REGULATIONS.

- E. **RULES AND REGULATIONS.** The Treasurer of the City of Pekin may promulgate rules and regulations not inconsistent with the provisions of this Division concerning the enforcement and application of this Division. The term "rules and regulations" includes, but it not limited to, a case-by-case determination whether or not the tax imposed by this Division applies.

SECTION 6 – FILING OF APPLICATION.

- F. **FILING OF APPLICATION.** The owner of each restaurant shall complete a City of Pekin Application for Registration within thirty (30) days of opening for business. The application shall be filed with the City Clerk of the City of Pekin. Existing businesses shall complete their application before the 15th day of April, 2009.

SECTION 7 – FILING OF RETURN.

- G. **Filing of Return.**

(i) All retailers shall pay to the City of Pekin all taxes collected. The owner of each restaurant within the City of Pekin shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Treasurer. The return shall be filed before the 20th day of the calendar month next succeeding the month for which the return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said return. See return attached hereto as Exhibit "A".

(ii) The first taxing period for the purpose of this Section shall commence on May 1, 2009, and the tax return and payment for such period shall be due on or before June 20, 2009. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Section.

(iii) Any payment made by check which is returned to the City of Pekin because of

insufficient funds may result in the Treasurer requiring the retailer to make future payments by cashier's check or money order.

~~(iii)~~(iv) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection G. may retain an amount equal to one percent (1%) of the total tax due.

SECTION 8 – FAILURE TO FILE RETURN AND PAY TAX.

H. Failure to File Return and Pay Tax.

(i) Any person who fails to file a return when and as required under this Section 3-2-7 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

(ii) Any person who files a return as required by this Section 3-2-6 but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent (10%) of the amount of tax not transmitted to the City for each thirty (30) day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such taxes.

(iii) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.

Whenever any person shall fail to pay, collect, or remit any tax as herein provided, the Corporation Counsel upon the request of the City Manager shall bring or cause to be brought an action to enforce compliance in any manner authorized by law or this Code. If for any reason any tax is not paid when due, a penalty at the rate of ten percent (10%) per thirty (30) day period or portion thereof, from the day of delinquency, shall be added and collected.

(iv)

1. In addition to the penalty assessed, any amount of tax which is not paid when due shall bear interest at the rate of two percent (2%) per month or fraction thereof from the date when such tax becomes past due until such tax is paid or a judgment thereof is obtained by the City of Pekin.

2. As compensation for services rendered in the collection and payment of this tax, retailers

~~filing a tax return may retain an amount of money equal to one percent (1%) of the tax due.~~

SECTION 9 – FINANCIAL RECORDS.

I. FINANCIAL RECORDS.

(i) All retailers shall cause complete and accurate books, records and accounts showing the gross receipts for sale of taxable prepared food items and the taxes collected each day, which shall be made available in the City for examination by the City upon reasonable notice and during customary business hours.

(ii) The financial records of any restaurant submitted pursuant to this Division or any rule and regulation promulgated thereunder shall be considered confidential proprietary information and shall not be disclosed except as allowed by law.

SECTION 10 – FAILURE TO REMIT; LICENSING.

J. **FAILURE TO REMIT; LICENSING.** Payment and collection of said tax may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over any tax collected from purchasers of taxable items shall be cause for revocation of any City license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Ordinance.

SECTION 11 – VIOLATIONS; PENALTIES.

K. **VIOLATIONS; PENALTIES.** Any retailer found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provision of this Division, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, ~~and~~ (b) not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00) for the second offense, ~~and~~ (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, ~~and~~ (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, ~~or~~ (e) five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offenses. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense. ~~A separate and distinct offense shall be regarded as committed each day said retailer shall continue any such violation, or permit any such violation to exist after notification thereof.~~

(Ord. No. 2579-09/10 02/24/09 effective 05-01/09)

Section 3. This Ordinance is an addition to all other ordinances on this subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance and in the event of such conflict, the provisions hereof shall govern.

Section 4. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is hereby ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.).

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND OPEN SESSION, THIS ____ DAY OF _____, 2019, AND UPON ROLL CALL VOTE AS FOLLOWS:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this ____ day of _____, 2019

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 3, CHAPTER 2
OF THE CODE OF THE CITY OF PEKIN
REGARDING PAYMENT AND COLLECTION OF MUNICIPAL TAXES**

WHEREAS, the City of Pekin is a home rule municipality as described in Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and function pertaining to its government and its affairs, including municipal taxation; and

WHEREAS, the provisions of Title 3, Chapter 2 of the Code of the city of Pekin have been reviewed by the Finance Department regarding the imposition and collection of penalties for violations of said provisions; and

WHEREAS, the Finance Department has recommended amendments to the Code for the purposes of implementing uniform penalties and collection procedures for violations of said Title 3, Chapter 2; and

WHEREAS, the City Council of the City of Pekin has determined that it is in the best interests of the City and its residents to adopt such revisions as recommended by the Finance Department and as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Title 3, Chapter 2 of the Code of the City of Pekin is hereby amended as follows (insertions indicated by underline, deletions by ~~striketrough~~).

3-2-1: HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX:

- A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail in this municipality at the rate of one and one-quarter percent (1 ¼ %) of the gross receipts from such sales made in the course of such business in accordance with the terms, conditions and limitations of Chapter 65, Illinois Compiled Statutes, Section 5/8-11-1. (Ord. No. 2465 03/27/06)

3-2-2: HOME RULE MUNICIPAL SERVICE OCCUPATION TAX:

- A. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of making sales of service at the rate of one and one-quarter percent (1 ¼ %), as imposed by Section 3-2-1-A hereof, of the selling price of all tangible personal property transferred by such servicemen, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service in accordance with the terms, conditions and limitations of Chapter 65, Illinois Compiled Statutes, Section 5\8-11-5. (Ord. No. 2465 03/27/06)

3-2-3: **MUNICIPAL USE TAX:**

- A. Tax Imposed: A tax is hereby imposed in accordance with provisions of paragraph 8-11-6 of the Illinois Municipal Code (65 ILCS 5/8-11-6) upon the privilege of using in the City any item of tangible personal property which is purchased at retail from a retailer, and which is titled or registered with an agency of Illinois government. This tax shall be at rate of one and one-quarter percent (1 1/4%) of the selling price of such tangible personal property with "selling price" to have the meaning as defined in the "Use Tax Act", approved July 14, 1955, as amended. Such tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the City. (Ord. No. 2465 03/27/06)
- B. Collection by State; When Due: Such tax shall be collected by the Illinois Department of Revenue for the City and shall be paid before the title or certificate of registration for the personal property is issued.

3-2-4: **MOTOR FUEL TAX:**

- A. TITLE. This Ordinance shall be known and cited as the Motor Fuel Tax Ordinance of the City of Pekin, Illinois.
- B. DEFINITIONS. For the purposes of this Ordinance, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:
- (i) "BULK USER". Any person who purchases motor fuel for storage in bulk storage facilities located within the City, which facilities are owned, leased, or controlled by the person, for subsequent dispensing into the supply tanks or internal combustion engines operated by the person.
- (ii) "GASOHOL". A fuel used chiefly in internal combustion engines which is comprised chiefly of gasoline and ethyl alcohols in variable quantities.

(iii) "GASOLINE" or "DIESEL FUEL". A volatile, highly flammable or combustible, liquid mixture of hydrocarbons produced by the fractional distillation of petroleum and used chiefly as a fuel in internal combustion engines, but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

(iv) "MOTOR FUEL". Gasohol and gasoline and diesel fuel as defined in this section.

(v) "PERSON". Any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, contractor, supplier, vendor, vendee, operator, user or owners, or any officer, agents, employees, or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

(vi) "RETAIL GASOLINE DEALER". Any person who engages in the business of selling motor fuel in the City, to a purchaser for use or consumption and not for resale in any form.

(vii) "SALE", "RESALE" and "SELLING". Any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

(viii) E-85 Blend Fuel: A fuel consisting of 85% ethanol and 15% gasoline.
(Ord. No. 2459 02/27/06)

C. TAX IMPOSED AND EXEMPTIONS

(i) There is levied and imposed upon the purchase of each gallon of motor fuel, or fraction thereof sold at retail within the corporate limits of the City, irrespective of the unit of measure in which it is actually sold, a tax at the rate of four cents (\$.04) per gallon, except on the retail sale of E-85, which shall be exempt from the four cents (\$.04) per gallon tax until December 31, 2009. The tax herein levied shall be paid in addition of any and all other taxes and charges, but such other taxes and charges shall not be construed as part of the purchase price upon which the tax herein is levied. (Ord. No. 2459 02/27/06)

(ii) The ultimate incident of and liability for payment of the tax is to be borne by the retail purchaser of motor fuel. Nothing in this Section shall be construed to impose a tax upon the occupation of persons engaged in the retail sale of motor fuel.

(iii) It shall be the duty of every retail gasoline dealer to secure the tax from the purchaser at the time the dealer collects the purchase price for the motor fuel and to pay over the tax to the Finance Department as provided in this Section except in the case of a sale to a bulk user, in which case the bulk user shall pay over the tax to the Department as provided in this Section.

(iv) A retail gasoline dealer may make tax free sales with respect to which he is otherwise required to collect the tax when the sale is made to the federal government, the State of Illinois, any municipality, or unit of local government as those terms are defined by Section I of Article VII of the Constitution of the State of Illinois of 1970, or any school district.

D. TAX AND REPORT TRANSMITTAL.

(i) Every retail gasoline dealer shall transmit to the Treasurer, or the City Clerk, at the Manager's discretion for receipt by the Department no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax collected for the preceding calendar month, accompanied by a report upon forms supplied by the Treasurer, or the City Clerk, at the Manager's discretion, indicating the gross gallons of motor fuel sold for the preceding calendar month, and such other information as the Treasurer, or the City Clerk, at the Manager's discretion may require for enforcement of this Section. (Ord. No. 2568-08/09 10-14-08)

(ii) Every bulk user shall transmit to the Finance Department for receipt by the Department, no later than the last day of each calendar month, a sum of money equal to the amount of motor fuel tax owing for the preceding calendar month, accompanied by a report upon forms supplied by the Finance Department indicating the gross gallons of motor fuel purchased for the preceding calendar month, and such other information as the Department may require for enforcement of this Section.

(iii) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection F. may retain an amount equal to one percent (1%) of the total tax due.

(iv) Failure to File Return or Remit Tax.

- (a) Any person who fails to file a return when and as required under this Section 3-2-4 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.
- (b) Any person who files a return at the time required by this Section 3-2-4 but fails to transmit the tax proceeds, or any portion thereof to the City when due, shall pay to the City, in addition to the amount of tax required under this Section, a penalty of ten percent of the amount of tax not transmitted to the City for each thirty (30) day period during which the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a 20 percent (20%) penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.

- (c) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.
- (d) In addition to any of the previous penalties above set forth, any person who is required under this Section to file a return and to transmit the tax proceeds, but fails to do so in a timely manner, shall be ineligible for any reimbursement of funds from the City if they were in arrears at the time the event for which reimbursement is sought occurs; or if they have been in arrears for any amount of time, on two or more occasions in the previous preceding twelve months from when application for reimbursement was made.
- (e) Any officer or employee of any corporation which is an owner subject to the provisions of this Section who has the control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax imposed by this Section and who willfully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for any such amounts collected, including interest and penalties thereof, if after proper proceedings for the collection of such amount such corporation is unable to pay such amounts to the City, and the personal liability of such officer or employee, as provided in this Section, shall survive dissolution of the corporation. For purposes of this subsection, a person willfully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the City to pay any other corporation obligations.

E. RECORDS; INSPECTION.

- (i) Every retail gasoline dealer shall keep complete and accurate records, including a daily sheet showing the gross gallons of motor fuel sold for each day, and the amount of motor fuel tax collected on each day.
- (ii) Every bulk user shall keep complete and accurate records of purchases of motor fuel, including the dates of the purchases, the gross gallons purchased on each of the dates, and the names and addresses of the retail gasoline dealers from whom each of the purchases were made.
- (iii) For the purpose of administering and enforcing this Section, the Finance Department shall have the right to inspect all books, records and reports of retail gasoline dealers and bulk users during their normal business hours.

F. MOTOR FUEL TAX FUNDS.

- (i) The Finance Department shall deliver the proceeds of the motor fuel tax imposed by this Section to the City Treasurer for deposit into a separate fund to be designated as the "Motor Fuel Tax Fund". The City Treasurer shall deposit investment earnings and other monies including penalties credited to the motor fuel tax fund into the fund.

(ii) Said fund shall be specifically designated for the express purpose of capital improvements, including street construction and rehabilitation, curb and gutter work, storm sewer, sidewalk and other street-related improvements. By a majority vote of the corporate authorities, the funds may be pledged by the City to be used for capital improvement as defined in this section.

G. **COLLECTION.** Whenever any person shall fail to pay any tax as provided in this Section, the Corporation Council shall, upon the request of the City Manager, bring or cause to be brought an action to enforce the payment of such tax on behalf of the City in any manner authorized by law or this Code. (Ord. No. 2568-08/08 10-14-08)

H. **PENALTY FOR VIOLATION.**

(i) Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Section 3-2-5, except when otherwise specifically provided, upon conviction thereof, shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, whichever is higher, for a second or subsequent offense. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense..

I. **EFFECTIVE DATE.** The motor fuel tax shall be levied, imposed and collected commencing May 1, 1996.

3-2-5: HOTEL/MOTEL USE TAX. (Ord. No. 2024 03-25-96)

A. **DEFINITIONS.** The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(i) Hotel or motel means a structure kept, used or maintained as or advertised or held out to the public to be an inn, motel, hotel, apartment-hotel, lodging house, dormitory or place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, whether with or without meals.

(ii) Hotel room or motel room means a room within a structure kept, used or maintained as or advertised or held out to the public to be in an inn, motel, hotel, apartment-hotel, lodging house, dormitory or place where sleeping, rooming, office, conference or exhibition accommodations are furnished for lease or rent, with or without meals. One room offered for rental, with or without an adjoining bath, shall be considered as a single hotel or motel room. The number of hotel or motel rooms within a suite shall be computed on the bases of those rooms utilized for the purpose of sleeping.

(iii) Owner means any person having a sufficient proprietary interest in conducting the operation of a hotel or motel room or receiving the consideration for the rental of such hotel or motel room so as to entitle such person to all or a portion of the net receipts thereof.

(iv) Person means any natural person, trustee, court-appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agent, governmental corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representative acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights or duties.

B. TAX.

(i) There is hereby levied and imposed upon the use and privilege of renting a hotel or motel room within the City a tax of five percent (5%) of the rental or leasing charge for each such hotel and motel room rented for each 24-hour period or any portion thereof; provided, however, that the tax shall not be levied and imposed upon any person who works and lives in the same hotel or motel. (Ord. No. 2272 11-13-01) (Ord No. 2398 11-22-04)

The tax shall not be levied and imposed upon any person that rents a hotel or motel room for use by the same natural person or persons for more than 30 consecutive days, the tax imposed herein applicable to the first 30 days of a hotel room rental which extends beyond 30 days. Upon the 31st consecutive day of rental, the renter is due a refund or credit from the tax collector for the 30 consecutive days of tax paid. Persons engaged in the business of renting, leasing or letting rooms in a hotel only to permanent residents are exempt from the provisions of this Section. (Ord. No. 2583-09/10 05-11-09)

(ii) The ultimate incident of and liability for payment of such tax shall be borne by the person who seeks the privilege of occupying any such hotel or motel room, such person thereafter referred to as "renter".

(iii) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every hotel or motel to act as trustee for and on account of the City, and to secure such tax from the renter of the hotel or motel room and pay over to the Finance Director or as otherwise provided in this Section.

(iv) Every person required to collect the tax levied by this Section shall secure such tax from the renter at the time he collects the rental payment for the hotel or motel room. Upon the invoice receipt or other statement or memorandum, if the rent is given to the renter at the time of payment, the amount due under the tax provided in this Section shall be stated separately on such documents.

C. **RULES AND REGULATIONS.** The Finance Director may promulgate rules and regulations not inconsistent with the provisions of this Section concerning enforcement and application of this Section. The term “rules and regulations” includes, but not limited to, case-by-case determination of whether or not the tax imposed by this Section applies.

D. **LICENSE REQUIRED.**

(i) It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained, upon any property owned or controlled by him a hotel or motel within the City without having first obtained a license therefor from the City Clerk or without complying with all provisions of this Section.

(ii) No license shall be issued or annually renewed for a hotel or motel delinquent in payment of the use and privilege tax or the payment of any fines and/or penalties assessed for the non-payment or late payment thereof.

(iii) The annual fee for such license for a hotel or motel shall be \$10.00. The license shall be valid for one year.

E. **BOOKS AND RECORDS.** The Finance Director, or any person certified as his deputy or representative, may enter the premises of any hotel or motel for inspection and examination of books and records in order to effectuate the proper administration of this Section and to assure the enforcement of the collection of the tax imposed. It shall be unlawful for any person to prevent, hinder, or interfere with the Finance Director or his duly authorized deputy or representative in the discharge of his duties and the performance of this Section. It shall be the duty of every owner to keep accurate and complete books and records to which the Finance Director or his deputy or authorized representative shall at all times have access, which records shall include a daily sheet showing:

(i) The number of hotel or motel rooms rented during the 24-hour period, including multiple rentals of the same hotel rooms where such shall occur; and

(ii) The actual hotel or motel tax receipts collected for the date in question.

F. **TRANSMITTAL OF TAX REVENUE.**

(i) The owner of each hotel or motel room within the City shall file tax returns showing tax receipts received with respect to each hotel and motel room during each monthly period commencing on May 1, 1996, and continuing on the first day of every month thereafter on forms prescribed by the Finance Director. The return shall be due on or before the 30th day of the calendar month succeeding the end of the monthly filing period. Such owner shall file an application with the city finance department for a city taxpayer identification number prior to filing the first tax return. (Ord. No. 2052 08-31-96) (Ord No. 2662 07-09-12 effective 09-01-12)

(ii) The first taxing period for the purpose of this Section shall commence on May 1, 1996; and the tax return and payment for such period shall be due on or before June 30, 1996. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Section. At the time of filing such tax returns, the owner shall pay to the Finance Department all taxes due for the period to which the tax return applies.

(iii) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection F. may retain an amount equal to one percent (1%) of the total tax due.

(iv) The person filing such return shall attach thereto a copy of its Illinois Retailer's Sales and Use Tax or Hotel Operator's Tax returns for the month for which a return is made under this Section.

(v) Failure to File Return or Remit Tax.

- (a) Any person who fails to file a return when and as required under this Section 3-2-5 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.
- (b) Any person who files a return as required by this Section 3-2-5 but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent (10%) of the amount of tax not transmitted to the City for each thirty (30) day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.
- (c) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.
- (d) In addition to any of the previous penalties above set forth, any person who is required under this Section to file a return and to transmit the tax proceeds, but fails to do so in a timely manner, shall be ineligible for any reimbursement of funds from the City if they were in arrears at the time the event for which reimbursement is sought occurs; or if they have been in arrears for any amount of time, on two or more occasions in the previous preceding twelve months from when application for reimbursement was made. (Ord. No. 2568-08/09 10-14-08)

(e) Any officer or employee of any corporation which is an owner subject to the provisions of this Section who has control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax herein imposed by this Section and who willfully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for such amounts collected, including interest and penalties thereon, if after proper proceedings for the collection of such amount, such corporation is unable to pay such amounts to the City; and the personal liability of such officer or employee, as provided in this Section, shall survive dissolution of the corporation. For purposes of this sub-section, a person willfully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the City to pay any other corporation obligations.

- G. COLLECTION. Whenever any person shall fail to pay any tax as provided in this Section, the Corporation Council shall, upon the request of the City Manager, bring or cause an action to enforce the payment of such tax on behalf of the City in any manner authorized by law or this Code. (Ord. No. 2568-08/09 10-14-08)
- H. PROCEEDS OF TAXES AND FINES. All proceeds resulting from the imposition of the tax under this Section, including penalties, shall be paid into the city treasury and shall be credited to and deposited in the corporate fund of the City. Such proceeds shall be used exclusively for the promotion of tourism and conventions within the city or to attract overnight non-resident visitors to the City. No Hotel/Motel tax funds received by the City shall be used to advertise for or otherwise promote new competition in the hotel business. (Ord. No 2398 11-22-04)
- I. SUSPENSION OF LICENSES. If the Mayor, after hearing held by or for him, shall find that any person has willfully avoided payment of the tax imposed by this Section, or any fines and/or penalties assessed for the non-payment or late payment of such tax, he may suspend or revoke all city licenses held by such tax evader. The owner, manager or operator of the hotel or motel shall have an opportunity to be heard at such hearing to be held not less than five days after notice of the time and place of the hearing to be held, addressed to him at his last known place of business.
- J. PENALTIES.

(i) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Section 3-2-6, except when otherwise specifically provided herein, upon conviction thereof, shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00) nor more than Two Thousand Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, whichever is higher, for a second or subsequent offense. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense..

K. **PURPOSES OF PENALTIES.** The purpose of imposing the penalties provided for the violation of this Section is to ensure the integrity of the collection process established pursuant to this Section.

3-2-6: **PACKAGE LIQUOR TAX**

A. **TITLE.** This Section 3-2-6 shall be known and cited as the City of Pekin privilege tax upon the privilege of purchasing alcoholic liquor at retail, and the tax herein imposed shall be know and cited as the City of Pekin privilege tax upon the privilege of purchasing alcoholic liquor at retail.

B. **DEFINITIONS.** For the purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section:

(i) **Alcoholic liquor:** Alcoholic liquor is defined in the same manner as the term is defined in the Municipal Code, City of Pekin, Illinois, as amended, except, however, the term shall not include alcoholic liquor beverages purchased for immediate consumption on the premises where sold.

(ii) **Liquor establishment:** Any premises required to obtain a retail liquor license pursuant to the Municipal Code, City of Pekin, Illinois, as amended, and any premises which may sell alcoholic liquor at retail without a City of Pekin license.

(iii) **Owner:** Any person or persons having a sufficient proprietary interest in conducting the operation of a liquor establishment so as to entitle such a person or persons to all or a portion of the net receipts thereof.

(iv) **Person:** The term shall mean any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm co-partnership, joint venture, club,

company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise, whenever the term "person" is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.

(v) Sale at retail: Means any transfer of the ownership of alcoholic liquor to a purchaser for the purposes of use or consumption and shall include any transfer to a purchaser for use or consumption by any other person to whom such purchaser may transfer the alcoholic liquor without a valuable consideration.

(vi) City: Means City of Pekin.

C. TAX IMPOSED. From and after May 1, 2009, there is hereby levied and imposed upon the privilege of purchasing alcoholic liquor at any liquor establishment in the City, a tax of two percent (2%) of the purchase price, exclusive of any other tax charged for such alcoholic liquor.

D. LIABILITY FOR PAYMENT.

(i) The ultimate incidence of and liability for payment of said tax shall be borne by the person who seeks the privilege of purchasing alcoholic liquor at retail at any liquor establishment, said person hereinafter referred to as "consumer".

(ii) The tax herein levied shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every liquor establishment to secure said tax from the consumer of a liquor establishment and remit to the City of Pekin said tax under the rules and regulations prescribed by the Treasurer and as otherwise provided in this article.

E. COLLECTION OF TAX. Every person required to collect the tax levied by this Section shall secure said tax from the consumer at the time he collects payment for the sale of alcoholic liquor at retail. The amount due under the tax provided in this Section shall be stated separately on the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment, unless the person required to collect the tax does not have a cash register that separately states such tax. In any event the person required to collect the tax shall keep records that clearly support total liquor sales and liquor taxes due hereunder.

F. RULES AND REGULATIONS. The Treasurer of the City of Pekin may promulgate rules and regulations not inconsistent with the provisions of this Chapter concerning the

enforcement and application of this Chapter. The term "rules and regulations" includes, but is not limited to, a case by case determination whether or not the tax imposed by this Chapter applies.

G. **FILING OF RETURN.** The owner or owners of each liquor establishment within the City of Pekin shall file tax returns showing tax receipts received during each monthly period on forms prescribed by the Treasurer. The returns shall be due on or before the 20th day of the calendar month succeeding the end of the monthly filing period. At the time of filing said returns, the owner shall remit to the City of Pekin all taxes collected for the period to which the tax return applies. As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection G. may retain an amount equal to one percent (1%) of the total tax due.

H. **FAILURE TO PAY, COLLECT, OR REMIT TAX.**

(i) Any person who fails to file a return when and as required under this Section 3-2-6 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

(ii) Any person who files a return as required by this Section 3-2-6 but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent (10%) of the amount of tax not transmitted to the City for each thirty (30) day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such tax.

(iii) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted

(iv) Whenever any person shall fail to pay, collect, or remit any tax as herein provided, the Corporation Counsel upon the request of the City Manager shall bring or cause to be brought an action to enforce compliance in any manner authorized by law or this Code. (Ord. No. 2595-09/10 09-28-09)

I. RECORDS

(i) Every owner, manager, or operator of a liquor establishment in the City of Pekin shall keep books and records which, at a minimum, include a daily sheet showing:

(a) The amount of taxable receipts within the twenty-four (24) hour period; and

(b) The actual liquor establishment tax receipts collected for the date in question.

(ii) The City Manager or his delegate shall at all reasonable times have full access to said books and records.

(iii) The financial records of any liquor establishment submitted pursuant to this Section or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy except when necessary in any action to enforce collection of tax under this Division.

J. EXEMPTIONS. The tax imposed under this Chapter shall not apply or be imposed upon a person organized and operated exclusively for charitable, religious, or educational purposes to the extent alcoholic liquor is purchased by such person and used solely for the charitable, religious or educational purposes of such person and is not resold for profit.

K. SUSPENSION OR REVOCATION OF LICENSES FOR FAILURE TO COMPLY; HEARING.

(i) Procedure for persons not holding a City liquor license: If the City Manager, after a hearing held by or for him, shall find that any person has willfully avoided collection or remittance of the tax imposed by this Chapter, he may suspend or revoke all city licenses held by such person. The owner, manager, or operator of the liquor establishment shall have an opportunity to be heard and such hearing to be held not less than five (5) days after notice of the time and place of the hearing addressed to the owner, manager, or operator at his last known place of business. The suspension or revocation of any license shall not release or discharge the owner, manager, or operator of the liquor establishment from his civil liability for the collection or remittance of the tax nor for prosecution of such offense.

(ii) Procedure for persons holding a City liquor license: If the Liquor Commissioner, after a hearing held by or for him, shall find that any person has willfully avoided collection or remittance of the tax imposed by this Chapter, he may suspend or revoke the retail liquor license held by said person. The suspension or revocation of the retail liquor license shall not release or discharge the owner, manager or operator of the liquor establishment from his civil liability for the collection or remittance of the tax nor for prosecution of such offense.

- L. **DISPOSITION OF PROCEEDS OF TAX.** All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be paid into the treasury of the City of Pekin, and shall be credited to and deposited in the corporate fund of the City.
- M. **PENALTY.** Any retailer found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provision of this Division, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, or (e) five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offenses. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense.

(Ord. No. 2578-09/10 02-24-09 Effective 05-01-09)

3-2-7: FOOD AND BEVERAGE TAX

- A. **DEFINITIONS.** For the purposes of this Chapter, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section:
- (i) Alcoholic Liquor means any spirits, wine, beer, ale or other liquid containing more than one half of one percent of alcohol by volume, which is capable of being consumed as a beverage by a human being.
- (ii) Prepared Food Item for Immediate Consumption means and includes any and all material, whether solid, semi-solid or liquid used or intended to be used for human consumption and for nourishment of the human body. The term defined herein includes any and all alcoholic liquor except alcoholic liquor purchased in original package for consumption off the premises where sold. The term includes soft drinks as defined in Section 2-10 of the Illinois Retailers' Occupation Tax Act (35 ILCS 120/2-10). The term shall include and be limited to:
- (a) Food items purchased at a restaurant, bar or other establishment where facilities are provided for on-premise consumption, but such term shall not include food items not intended for immediate consumption purchased from other areas of any such establishment where such facilities providing on-premise consumption utilize a

separate means of collecting receipts for such food purchased for immediate consumption and are physically separated from such other areas in the establishment.

- (b) Food items purchased from concession stands, snack shops and other establishments which sell food items primarily in individual sized servings, such as ice cream cones, candy bars and individually serve sandwiches, for immediate on-premises or off-premises consumptions; and
- (c) Food items which are purchased hot or are otherwise purchased prepared by immediate on-premise or off-premise consumption from catering establishments and restaurants with delivery services, except food items prepared off the premises.

For purposes of this Section, “food items prepared off the premises” means food items which are grilled, broiled, baked, fried or cooked in some other similar manner off the premises of the retailer. Such term shall not include food items which are precooked and then heated or warmed-up off the premises or food items which were previously cooked or prepared and then reheated off the premises.

(iii) Retailer means any person or persons having a sufficient proprietary interest in conducting a business which sells prepared food items for immediate consumption so as to entitle such person or persons to all or a portion of the net receipts from the sale thereof.

(iv) Person means any natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees or other representatives, acting either for himself or herself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular or plural is included in any circumstance.

(v) Restaurant means and includes any public place kept, used, maintained, advertised and held out to the public, as a place at which prepared food items for immediate consumption are served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

(vi) Bar means and includes an establishment for the serving of alcoholic liquor.

B. TAX IMPOSED.

(i) From and after May 1, 2009, there is hereby levied and imposed upon the privilege of purchasing food items prepared for immediate consumption and alcoholic liquor served or

prepared at a restaurant, bar or other establishment covered by this Section in the City of Pekin, a tax of two (2%) percent of the purchase price, exclusive of any other tax charged for such food items.

(ii) Exempt from the tax imposed above are persons purchasing food items prepared for immediate consumption served or prepared at:

- (a) A restaurant owned by a church, grade school, junior high school or high school within the City of Pekin.
- (b) Restaurants used primarily in conjunction with institutional living establishments within the City of Pekin, including but not limited to dormitories, fraternities, sororities, residential care facilities and hospitals;
- (c) Premises or operations of not-for-profit organizations who serve food on an occasional and irregular basis.

C. LIABILITY FOR PAYMENT.

(i) The ultimate incidence of and liability for payment of said tax shall be borne by the person who purchases prepared food for immediate consumption. Said person hereinafter referred to as “consumer.”

(ii) All retailers shall jointly and severally have the duty to collect and shall collect and account for the tax imposed in Section 2 from each consumer at the time that the consideration for such purchase is paid. Such retailers shall be the trustee for the City in the collection and remittance of said taxes.

D. COLLECTION OF TAX. Every person required to collect the tax levied by this Section shall secure said tax from the consumer at the time he collects payment for the service of prepared food. Upon the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment, the amount due under the tax provided in this Division shall be stated separately on said documents or combined with the amount of the Illinois Retailer’s Occupation Tax Act.

E. RULES AND REGULATIONS. The Treasurer of the City of Pekin may promulgate rules and regulations not inconsistent with the provisions of this Division concerning the enforcement and application of this Division. The term “rules and regulations” includes,

but it not limited to, a case-by-case determination whether or not the tax imposed by this Division applies.

F. **FILING OF APPLICATION.** The owner of each restaurant shall complete a City of Pekin Application for Registration within thirty (30) days of opening for business. The application shall be filed with the City Clerk of the City of Pekin. Existing businesses shall complete their application before the 15th day of April, 2009.

G. **Filing of Return.**

(i) All retailers shall pay to the City of Pekin all taxes collected. The owner of each restaurant within the City of Pekin shall file monthly tax returns showing tax receipts received during each monthly period on forms prescribed by the Treasurer. The return shall be filed before the 20th day of the calendar month next succeeding the month for which the return is made and shall be accompanied by payment of all taxes due and owing for the month covered by said return. See return attached hereto as Exhibit "A".

(ii) The first taxing period for the purpose of this Section shall commence on May 1, 2009, and the tax return and payment for such period shall be due on or before June 20, 2009. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Section.

(iii) Any payment made by check which is returned to the City of Pekin because of insufficient funds may result in the Treasurer requiring the retailer to make future payments by cashier's check or money order.

(iv) As compensation for services rendered by a retailer in the collection and payment of this tax, retailers filing a tax return in the manner provided in this subsection G. may retain an amount equal to one percent (1%) of the total tax due.

H. **Failure to File Return and Pay Tax.**

(i) Any person who fails to file a return when and as required under this Section 3-2-7 shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent (10%) of the tax that such person is required to transmit to the City for each thirty (30) day period that the return remains unfiled; provided, however, a twenty percent (20%) penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three (3) months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the

return shall be deemed a failure to file a return and may be subject to penalties pursuant to this subsection.

(ii) Any person who files a return as required by this Section 3-2-6 but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent (10%) of the amount of tax not transmitted to the City for each thirty (30) day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a twenty (20%) percent penalty. Failure to pay taxes due within three (3) months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay such taxes.

(iii) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent (2%) per month, or fraction thereof, until fully transmitted.

(iv) Whenever any person shall fail to pay, collect, or remit any tax as herein provided, the Corporation Counsel upon the request of the City Manager shall bring or cause to be brought an action to enforce compliance in any manner authorized by law or this Code.

I. FINANCIAL RECORDS.

(i) All retailers shall cause complete and accurate books, records and accounts showing the gross receipts for sale of taxable prepared food items and the taxes collected each day, which shall be made available in the City for examination by the City upon reasonable notice and during customary business hours.

(ii) The financial records of any restaurant submitted pursuant to this Division or any rule and regulation promulgated thereunder shall be considered confidential proprietary information and shall not be disclosed except as allowed by law.

J. FAILURE TO REMIT; LICENSING. Payment and collection of said tax may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over any tax collected from purchasers of taxable items shall be cause for revocation of any City license of such retailer or applicable to the premises thereof, in addition to any other penalty provided in this Ordinance.

K. VIOLATIONS; PENALTIES. Any retailer found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provision of this Division, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of (a) not less than Two Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, (b) not less than Five Hundred Dollars (\$500.00), nor more than Two Thousand

Dollars (\$2,000.00) for the second offense, (c) not less than One Thousand Dollars (\$1,000.00) nor more than Four Thousand Dollars (\$4,000.00) for the third offense, (d) not less than Two Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars (\$5,000.00) for the fourth and each subsequent offense, (e) five (5) times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offenses. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense.

(Ord. No. 2579-09/10 02/24/09 effective 05-01/09)

Section 3. This Ordinance is an addition to all other ordinances on this subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance and in the event of such conflict, the provisions hereof shall govern.

Section 4. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is hereby ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.).

Section 5. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND OPEN SESSION, THIS ____ DAY OF _____, 2019, AND UPON ROLL CALL VOTE AS FOLLOWS:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this ____ day of _____, 2019

MAYOR

ATTEST:

CITY CLERK



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Bruce Marston, Assistant

AGENDA ITEM: Adopt Ord No. 2813 & Policy No. 21-18/19 - Procurement

AGENDA DATE REQUESTED: January 28, 2019

ACTION TO BE TAKEN: Adopt Ordinance No. 2813-18/19 & Policy No. 21-18/19 Regarding the City of Pekin Procurement Policy and Amending the Code of the City of Pekin relating to Contracting for Public Improvements; Duties of the Manager; and rescinding the Local Bidders Policy

DESCRIPTION: The purpose of this Procurement Policy is to obtain the highest quality goods and services for the City of Pekin at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing. This policy applies to the purchase of goods or services for all City Departments despite purpose, funding source, or dollar amount.

Amendments to the City Code entail a) removing Title 1, Chapter 9, Section 7 regarding Contracts for Public Improvement that will now be found in the Procurement Policy and b) amending Title 1, Chapter 7, Section 5 by clarifying that the City Manager shall generally supervise all purchases in accordance with the City of Pekin Procurement Policy and issue rules governing purchase procedures within the administrative organization that are in line with such Procurement Policy. The City Council is also being asked to rescind the Local Bidders Policy relating to providing a local bidder preference as that too will be included in the new Procurement Policy.

FINANCIAL IMPACT: None

NEIGHBORHOOD CONCERNS: N/A

IMPACT IF APPROVED: The City will have updated guidance on making purchases

IMPACT IF DENIED: Existing policies (or lack thereof) will remain in effect

ALTERNATIVES: N/A

RELATED TO EFFICIENCY STUDY: N/A

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more than 2 boxes. Copy this check mark √ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
√	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Bruce Q Marston

Bruce Q Marston, Assistant

1/25/2019

Date:

City Manager:

Mark A. Rothert

Mark A. Rothert, City Manager

1/25/2019

Date:

**Ordinance No. 2813-18/19 & Policy No. 21-18/19 City of Pekin Procurement Policy
and Amending the Code of the City of Pekin 1995 relating to Contracting for Public
Improvements; Duties of the Manager; and rescinding the Local Bidders Policy**

MAYOR

ATTEST:

CITY CLERK

CITY of PEKIN

PROCUREMENT POLICY

January 28, 2019

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PURPOSE

The **City of Pekin**, acting as a trustee of public funds, has an obligation to grant opportunities for all interested parties who provide goods and services. The City also has a responsibility to secure goods and services of the highest quality at the best price.

The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the City of Pekin at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

This policy applies to the purchase of goods, supplies, services and the contracting for public improvement projects for all City Departments despite purpose, funding source, or dollar amount.

As a home-rule community, the City of Pekin has the local ability and powers to establish its own purchasing policies by ordinance. The State of Illinois also has adopted competitive bidding-statutes for municipalities. Where possible, the City shall strive for consistency with such statutes.

AFFIRMATIVE ACTION AND LOCAL PREFERENCE

Whenever possible, qualified small, minority and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases. If the purchase is federally funded in whole or in part, minority and women owned businesses must be included in the solicitation lists and all other affirmative action requirements outlined in any grant provisions must be followed. The City of Pekin may exercise a preference for local businesses for purchases funded exclusively by the City of Pekin but only if such a preference is not greater than 5% more than the lowest responsible bid or proposal or does not result in unreasonable prices or rates due to a lack of competition. For purchases funded in whole or in part with federal funding, the City of Pekin may not exercise a preference for local businesses.

CODE OF CONDUCT

Employees, officers and agents of the City of Pekin who are involved in the procurement and selection of bids and purchases shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest. No employee, officer or agent of the City of Pekin shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- the employee, officer or agent,
- any member of his or her immediate family,
- his or her partner, or
- an organization which employs, or is about to employ, any of the above has a financial or personal interest in the firm/vendor selected for award.

An employee, officer or agent of the City of Pekin who is involved in the procurement and selection of a bid or purchase and who has a real or apparent conflict of interest must disclose that conflict of interest within the context of a duly-noticed City Council meeting that occurs before the bid selection or purchase takes place. Such disclosure must be documented in the minutes for that meeting which shall be retained as part of the official record surrounding the bid or purchase.

Officers, employees and agents who fail to follow the above Code of Conduct may be sanctioned or disciplined, to the extent permitted by law, for violations of the above standards.

Contract Interference. Employees, officers and agents of the City of Pekin who are involved in the procurement and selection of bids and purchases shall follow 720 ILCS 5/33E-1 (summarized in Attachment A to this policy) that prohibits certain acts that have the effect of interfering with public contracts.

Conflict of Interest. Employees, officers and agents of the City of Pekin who are involved in the procurement and selection of bids and purchases shall follow the following state statutes (summarized in Attachment B to this policy) that prohibit public officials and officers engaging in conduct that divides their loyalty between their personal interests and their public duties:

- Municipal Code—Conflict of Interest Statute (65 ILCS 5/3.1-55-10)
- Public Officer Prohibited Activities Act (50 ILCS 105/0.01 et seq.)
- Criminal Code—Official Misconduct Statute (720 ILCS 5/33-3)

DOCUMENTATION

Records documenting the procurement process for any Minor or Major purchases, as those terms are defined below, including the reason for the specific procurement method chosen, the basis for the award and contract pricing (showing evidence that the process was fair and equitable), as well as any other significant decisions that were part of the procurement process shall be maintained by the City of Pekin in accordance with its retention and disposition schedules. For grant funded projects, records shall be maintained for a period of at least three years from the date of the submission to the Federal government of the final expenditure report, or until the completion of any litigation, claim, negotiation, audit, or other action involving the records, whichever is longer.

PURCHASING AUTHORITY

In accordance with 65 ILCS 5/8-1-7(a), no expense shall be incurred by any of the officers or departments of the City of Pekin, whether the object of the expenditure has been ordered by the corporate authorities or not, unless an appropriation (i.e. via an annual budget) has been previously made concerning that contract or expense. Any contract made, or any expense otherwise incurred, in violation of this provision shall be null and void as to the city, and no money belonging thereto shall be paid on account thereof, except for expenses incurred that are directly related to a collective bargaining agreement (65 ILCS 5/8-1-7(d)).

Purchasing Agents. The following employees are designated to act as Purchasing Agents for the City of Pekin:

- City Manager or his/her administrative designee
- Department Head or his/her administrative designee

Purchasing Agents are responsible for ensuring that the best possible price and quality are obtained with each purchase and shall review all proposed procurements to avoid unnecessary or duplicative purchases of equipment, supplies and services. Purchasing Agents shall also ensure that the principals for free and open competition set forth in this Policy are adhered to.

PURCHASING THRESHOLDS

Incidental Purchases. Purchasing Agents may make purchases of up to \$5,000 without prior approval, provided those purchases are within the budget authorized by the City Council. Incidental Purchases fall under the “Micro Purchases” procurement method. If recurring purchases from the same vendor within one fiscal year would exceed \$10,000, then prior approval of the City Manager and an appropriate procurement method are required.

Minor Purchases. Purchasing Agents may make purchases with a value between \$5,000 and \$10,000 only with prior approval of their Department Head and provided that such purchases are within the budget authorized by the City Council. Minor Purchases fall under the “Small Purchase” procurement method. If recurring purchases from the same vendor within one fiscal year would exceed \$10,000, then prior approval of the City Manager and an appropriate procurement method are required.

Major Purchases. All purchases over \$10,000 require prior approval of the City Manager. Purchases of \$25,000 or more shall require prior approval of the City Council. The City Manager shall review all proposed major purchases to avoid unnecessary or duplicative purchases of equipment, supplies and services. The City Manager shall also ensure that the principals of free and open competition set forth in this Policy are adhered to.

If federal funding is used for purchases between \$3,000 (\$2,000 in the case of construction projects subject to Davis Bacon Act requirements) and \$150,000, price or rate quotes must be obtained from two or more qualified sources following the affirmative action provision of this policy and all provisions regarding fair and unrestricted competition.

For all major purchases with a value between \$10,000 and \$25,000, price and rate quotations shall be obtained from at least two qualified vendors to ensure that the City has received a fair and reasonable price. Vendors will be selected based on cost, the quality of the goods and services offered, and the ability, capacity, and skill of the vendor demonstrated under prior contracts with the City of Pekin.

Major purchases with a value over \$25,000 must follow the competitive proposals procurement or a sealed bid process. Purchases of \$150,000 or more must follow the sealed bid process outlined below.

Purchases at or exceeding \$150,000 or construction projects of any value that are funded with federal dollars must follow a sealed bid process as outlined below and also follow any procurement guidance as outlined in the applicable grant agreement. In addition, a pricing analysis must be completed by the purchasing agent or a qualified consultant prior to issuing the request for proposal to ensure that there is a reasonable estimate against which to compare bid proposal pricing.

SEALED BID PROCESS:

The sealed bid process shall be initiated by the issuance of a Request for Bids prepared by the Purchasing Agent. Notice of the Request for Bids shall be made by letters to known providers soliciting bid responses, advertisements posted on the City's website, and advertisements placed in a newspaper of general circulation in the region.

Bid Specifications. A list of bid specifications shall be prepared for each purchase over \$25,000 and shall be available for inspection at City Hall. Bid specifications shall include:

1. Bid name.
2. Bid submission deadline.
3. Date, location, and time of bid opening.
4. Specifications for the project or services including quantity, design, and performance features.
5. Bond and/or insurance requirements.
6. Bid deposit requirements, if any.
7. A copy of the proposed contract.
8. Any special requirements unique to the project or purchase.
9. Delivery or completion date.
10. For construction projects, language that sets a requirement for a bid guarantee in the amount of 5% of the bid price from all bidders, as well as performance and payment bonds in the amount of 100% of the contract price from the contractor awarded the bid. If federally grant funded, the bidders must also include costs for Davis Bacon Act compliance if that is a requirement of the federal agency providing the funding.
11. For construction projects over \$2,000 funded with federal grants, a statement that contractors will be provided with a copy of the most current wage determination (from the DOL website at <http://www.wdol.gov/dba.aspx>) and must comply with the Davis Bacon Act.
12. Language that reserves for the City of Pekin the right, at its sole discretion, to reject any and all bids, wholly or in part, to waive any informalities or any irregularities therein, to accept any bid even though it may not be the lowest bid, to call for rebids, to negotiate with any bidder, and to make an award which in its sole and absolute judgment will best serve the City's interest. The City of Pekin reserves the right to investigate the financial condition of any bidder to determine his or her ability to assure service throughout the term of the contract.

Once a Request for Bids has been issued, the bid specifications will be available for inspection at the City's offices at 111 S. Capitol Street, Pekin, IL 61554.

Bid Submission. All bids must be submitted in sealed envelopes, addressed to the City of Pekin and plainly marked with the name of the bid and the time of the bid opening. Bid proposals will be date stamped on the outside of the envelope immediately upon receipt. Any bid may be withdrawn in writing prior to the scheduled time for the opening of bids. Any bids received after the time and date specified shall not be considered and shall be returned to the bidder unopened.

Bidders shall bid to specifications and any exceptions must be noted by the bidder. A bidder submitting a bid thereby certifies that the bid is made in good faith without fraud, collusion, or connection of any kind with any other bidder for the same work, and that the bidder is competing solely on his/her behalf without connection with or obligation to any undisclosed person or firm.

Bid Opening. Every bid received prior to the bid submission deadline will be publicly opened and read aloud by the Purchasing Agent. The bid opening will include the name and address of the bidder; for lump sum contracts, the lump sum base bid and the bid for each alternate; for unit price contracts, the unit price for each item and the total, if stated; and the nature and the amount of security furnished with the bid if required.

Criteria For Bid Selection. In evaluating bids, the Purchasing Agent will consider the following criteria:

1. Price.
2. Bidder's ability to perform within the specified time limits.
3. Bidder's experience and reputation, including past performance for the City.
4. Quality of the materials and services specified in the bid.
5. Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
6. Bidder's financial responsibility.
7. Bidder's availability to provide future service, maintenance, and support.
8. Nature and size of bidder.
9. Contract provisions that are acceptable to the City of Pekin.
10. For construction projects over \$2,000 and subject to the Davis Bacon Act compliance, contractor's indication of acceptance of wages in the current wage determination provided as part of the Request for Bids.
11. Any other factors that the City determines are relevant and appropriate in connection with a given project or service.

In addition to the above, in the case of a contract supported by federal funds, the additional criteria shall apply:

1. There shall be no preference exercised for local contractors or suppliers.
2. Minority and women-owned businesses must be included in the solicitation list for the request for proposal.

3. The City of Pekin will not select a bidder who is listed on the Excluded Parties List System website (<https://www.sam.gov>).

Change Orders. If specification changes are made prior to the close of the bid process, the Request for Bids will be amended and notice shall be sent to any bidder who already submitted a bid and a new bid process will be initiated. Once a bid has been accepted, if changes to the specifications become necessary, the City will prepare a change order specifying the scope of the change. Once approved, the contractor and an authorized agent of the City must sign the change order.

Exceptions. The following exceptions to the sealed bid process may apply, however there must be written documentation created and maintained that outlines the process and rationale for such exceptions:

Competitive Proposals. If time does not permit the use of sealed bids, or the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Bids (RFB) or Request for Qualifications (RFQ) prepared by the Purchasing Agent that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the City has received a fair and reasonable price and all notification and record keeping requirements of the sealed bid process shall be followed. If architectural or engineering services are being solicited, this process should be used with the most qualified firm or individual awarded the bid and price or fees negotiated after the award. If competitive proposals are used, all of the above steps in the sealed bid process should be followed except that: 1) the bid submission need not be sealed; and 2) price will not be the primary factor in the proposal selection.

Sole Source Purchases. If the Purchasing Agent determines that there is only one possible source for a proposed purchase, it may waive the bid process and authorize the purchase from the sole source.

Recurring Purchases. If the total value of a recurring purchase of a good or service is anticipated to exceed \$25,000 during any fiscal year, the bid process shall be utilized and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future purchases shall be made from that bidder without necessity of additional bids, until such time as the City desires to initiate a new bid process.

Emergency Purchases. The City may award contracts and make purchases for the purpose of meeting a public emergency without complying with the bid process. Emergency expenditures may include immediate repair or maintenance of city property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in substantial impairment of the delivery of important city services.

Professional Services. In accordance with the Local Government Professional Services Selection Act (50 ILCS 510), professional services such as architectural, engineering, or land-surveying services do not fall under the competitive bidding requirements. Those services, instead, must be selected based on qualifications and experience. The bid process shall also not apply to the selection of providers for services that are characterized by a high degree of professional judgment and discretion including legal, financial, auditing, risk management, information technology and insurance services with a value of up to \$25,000.

Public Improvements. Any public improvement exceeding \$25,000 may be contracted or let through the aforementioned policy guidelines or in accordance with 65 ILCS 5/8-9 through:

- (1) A contract let to the “lowest, responsive, and responsible bidder” after advertising for bids in a competitive proposals procurement or a sealed bid process. The lowest, responsive, responsible bidder shall be defined as a person or entity who a) has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance; b) is financially responsible and is able to discharge one’s obligations in accordance with what may be expected or demanded under the terms of the contract; and c) has complied with all of the requirements of and submitted all of the materials and information in the invitation for bids.
- (2) City employees performing work on the public improvement where all project materials of a value of \$25,000 and upward used in the construction of the work or other public improvement is competitively bid and let to the lowest responsible bidder.

Exceptions to Public Improvement Competitive Bidding (in accordance with 65 ILCS 5/8-9-1)

- (1) Funded by Special Assessment or Taxation. Public improvement projects that are paid in whole or in part by a special assessment or special taxation shall be exempt from competitive bidding.
- (2) Federal Contracts. Competitive bidding under this policy for public improvements shall not apply to any contract with the federal government or any agency of the federal government.
- (3) Super Majority Votes of City Council. Two-Thirds (2/3) of the city council may affirmatively vote to award a contract without competitive bidding. Additionally, the municipality may, by a vote of 2/3rds of the city council, opt to construct the public improvement itself using its own employees. In this instance, all material with a value of \$25,000 or more that is used in the construction of the project must be purchased through a contract let by competitive bidding.
- (4) When the City of Pekin anticipates utilizing State of Illinois funding for a public work improvement contract, the City shall follow the rules set out by the ruling State agency.

Public Works Contract Change Orders. Per the Public Works Contract Change Order Act (50 ILCS 525/5 et seq.), the City shall bid (rather than negotiate) change orders on public works or improvements contracts entered into by the city where the change order necessitates any increase:

- (1) in the contract price that is 50% or more of the original contract price; or
- (2) in the price of a subcontract under the contract that is 50% or more of the original subcontract price.

Any such change orders:

- (1) must be resubmitted for bidding in the same manner for which the original contract was bid;
- (2) are subject to any requirements to employ women and minorities on the public works project that existed at the bidding for the original contract, together with any later requirements imposed by law.

These requirements apply to any contract that was not procured in accordance with the Illinois Procurement Code and the State Finance Act. The Act preempts home rule powers.

Public Construction Bond Act (30 ILCS 550/0.01 *et seq.*). This Act requires that the City shall require a contractor of a public works project exceeding \$5,000 to post a bond to ensure the completion of the work and for the payment for all material and labor, whether by subcontractor or otherwise, except that for most contracts under \$100,000, the contractor may post a non-diminishing irrevocable bank letter of credit in lieu of the bond, so long as the letter of credit contains the same provisions required by the Act.

Prevailing Wage Act Compliance. The Illinois Prevailing Wage Act (820 ILCS 130/0/01 *et seq.*) shall apply to the wages paid by the City of Pekin for labor by workers, laborers and mechanics employed in the construction of a “public work,” which includes all fixed works constructed whole or in part with public funds; and for the maintenance, repair, assembly, and disassembly of equipment being used in the construction of public works, regardless of whether such equipment is owned, leased or rented by the City.

GENERAL PROCEDURES AND PRINCIPLES

These general procedures apply to all procurement regardless of type.

Federally funded non-competitive purchases for \$150,000 or more require a cost analysis to determine the reasonableness of the proposed pricing and should be completed in accordance with the requirements of the federal or state agency issuing the grant funding.

Competitive purchases covered by this policy will be authorized by a signed Contract, Agreement, Payment Authorization, or Client Services Authorization. Only the City Manager and the Mayor are authorized signatories for contracts and other agreements that bind the City.

As soon as feasible for the City to establish a purchasing order system and process, a Purchase Order will be prepared for all purchases except those relating to a contract or participant costs.

A Purchase Order will be completed by the appropriate staff and approved by the City Manager, Department Head or Purchasing Agent prior to placing the order. The Purchase Order must then be maintained by the department making the purchase, with one copy sent to the Finance Department.

Orders placed through the internet should have a confirming order sent or a copy printed off of the screen and must be maintained by the department making the purchase, with one copy sent to the Finance Department.

Upon receipt of goods, a packing slip or other proof of receipt should be signed and dated by the person accepting the goods. All documentation must be sent to the Finance Department.

Competition. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The purchasing agent shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specification requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements.

Competition may not be restricted or eliminated by:

- Placing unreasonable requirements on firms in order for them to qualify to do business,
- Requiring unnecessary experience and excessive bonding,
- Noncompetitive pricing practices between firms or between affiliated companies,
- Non-competitive awards to consultants who are on retainer contracts,
- Organizational conflicts of interest,
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement, and
- Any arbitrary action in the procurement process.
- Sub-grantees will conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference.

Joint & Cooperative Purchasing. Pursuant to the Governmental Joint Purchasing Act (30 ILCS 525/0.01 et seq.), the City of Pekin may procure personal property, supplies and services under any contract let by the State of Illinois pursuant to lawful procurement procedures. The City of Pekin may enter into a joint purchases agreement with another governmental unit, whereby one of the governmental units shall conduct the competitive selection process for services or goods. The City of Pekin may also authorize the procurement of personal property, supplies and services which have been procured through a competitive process by a federal agency; a consortium of governmental entities; or a group purchasing organization of which the City is a member or affiliate.

Procurement Procedures

- Purchasing Agents shall avoid purchasing unnecessary items.
- Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical and practical procurement.
- Solicitations for goods and services shall provide for all of the following:
 - i) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
 - ii) Requirements which the bidder must fulfill and all other factors to be used in evaluating bids or proposals.
 - iii) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
 - iv) The specific features of 'brand name or equal' descriptions that bidders are required to meet when such items are included in the solicitation.
- To foster greater economy and efficiency, purchasing agents are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

Cost and Price Analysis. Some form of cost or price analysis shall be made and documented in the procurement files in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices or similar indicators, together with discounts.

Cost analysis is the review and evaluation of each element of cost to determine reasonableness. A cost analysis will be necessary when adequate price competition is lacking, and for sole source procurements, including contract modifications or change orders, unless price reasonableness can be established on the basis of a catalog or market price of a commercial product sold in substantial quantities to the general public or based on prices set by law or regulation.

Procurement records. Purchasing Agents will maintain records sufficient to detail the significant history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, and contractor selection. Additionally, certifications of publication or tear sheets are needed as documentation for RFP's or Sealed Bid procurements.

Procurement records and files for purchases in excess of the small purchase threshold shall include the following at a minimum:

- (a) basis for contractor selection,
- (b) Justification for lack of competition when competitive bids or offers are not obtained, and
- (c) basis for award cost or price.

Insurance Reimbursements. Purchases for goods or services that are covered by and will be reimbursed by third-party insurance providers should follow the direction given by the third party insurance providers on the selection of vendors. When the third party insurance provider does not establish a vendor to use, then the City's procurement policy must be followed.

The above standards will apply to all procurements.

Requirements for Selection of Contractors. Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

TYPES OF PROCUREMENT

The following methods are available for the acquisition of goods and services:

1. Micro Purchases
2. Small Purchases
3. Sealed Bids (Formal Advertising)
4. Competitive Proposals
5. Noncompetitive Proposals

1. Micro Purchases. Micro Purchases are purchases with an aggregate dollar amount less than \$5,000. These purchases do not require price quotes. Vendor selection should be distributed equitably among qualified suppliers in an effort to promote competition.

2. Small Purchases. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than \$10,000. Competitive price or rate quotations shall be obtained from at least two qualified sources whenever possible. Staff shall anticipate total purchases in the aggregate with a single vendor during the same fiscal year. If a future purchase exceeds the dollar limitation, an alternate procurement method must be used.

3 Sealed Bids (Formal Advertising) – Outlined in “SEALED BID PROCESS” pg. 4

4. Competitive Proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be honored to the maximum extent practical;
- Proposals will be solicited from an adequate number of qualified sources;
- Purchasing Agents will have a method for conducting technical evaluations of the proposals received and for selecting awardees;
- Awards will be made to the responsible firm whose proposal is most advantageous to the City, with price and other factors considered.

For all procurements excluding contracts, the successful bid will be presented to the Department Head of the department making the procurement. If the Department Head rejects the bid, the City Manager will conduct a review/rating and cost/price analysis or may request the staff to re-rate the proposals. All proposals may be rejected. The award decision cannot be changed without re-rating the proposals using the published criteria.

The competitive proposal procedure is suited for procuring contracts. Upon the direction of the Department Head making the procurement, a Request for Proposal (RFP) packet will be prepared and will be publicized through the media and the providers/contractors list. On receipt of bids, appropriate staff will rate the proposals and conduct a cost/price analysis. The successful bid will be presented to the Department Head stating the reasons for the award.

5. Noncompetitive Proposals. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- A) The item is available only from a single source.
- B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- C) If grant funds are utilized, the awarding agency authorizes noncompetitive proposals [or performs the procurement]; or
- D) After solicitation of a number of sources, competition is determined inadequate.

Sole source procurements are rare; a failure to plan for needs is not an emergency purchase.

ATTACHMENT A - Interference With Public Contracting

Overview. Article 33E of the Criminal Code of 2012 prohibits certain acts that have the effect of interfering with public contracts. 720 ILCS 5/33E-1 *et seq.* Article 33E was enacted to assure that the best price for the best quality of goods, services, and construction paid for by public monies is obtained.

A. Application.

Article 33E applies to **all** contracts for goods, services, or construction let to any person *with or without competitive bidding* by any unit of local government. 720 ILCS 5/33E-2.

B. General Prohibitions.

1. During Bidding and Award - All Contracts.

- Except as otherwise required by law, a public official or employee cannot convey, outside of the competitive bidding process, information concerning contract specifications, other than publicly disseminated clarifications, or the identity of certain subcontractors where including such information or subcontractors in a bid or offer would make it more likely that such bid or offer would be accepted. 720 ILCS 5/33E-6.
- A public official or employee cannot inform a bidder or someone offering a contract that the bid or offer will be accepted only if specified individuals are included as subcontractors. 720 ILCS 5/33E-6.
- A public official cannot award a contract based on criteria not publicly disseminated via any applicable solicitation for contracts procedure. 720 ILCS 5/33E-6.
- A public official or employee cannot share in or receive, directly or indirectly, any money, profit, property, or benefit through the contract with the unit of local government or school district, with the intent to defraud the unit of local government or school district. 720 ILCS 5/33E-17.
- No person shall knowingly string or assist in stringing or attempt to string any contract or job order with a unit of local government or school district (“stringing” means knowingly structuring a contract or job order to avoid competitive bidding requirements). 720 ILCS 5/33E-18.

2. During Bidding and Award - Competitively Bid Contracts.

- A public official or employee cannot open a sealed bid at a time other than the time designated or outside the presence of witnesses required by statute or ordinance. 720 ILCS 5/33E-5.
- A public official or employee cannot disclose to interested parties any information related to the terms of a sealed bid or any bidder’s responsiveness to a request for bids, except as provided by law or as necessary to the performance of duties relating to the bid, *unless* such disclosure is also made generally available to the public. 720 ILCS 5/33E-5.

3. During Contract Administration. A public official or employee cannot approve a change order or a series of change orders that *increase or decrease* the contract price by \$10,000 or

more, or the time of completion by 30 days or more, without first obtaining a *written determination* from the governing body of the unit of local government or its designee that:

- the circumstances said to necessitate the change were not reasonably foreseeable at the time the contract was signed; or
 - the change is germane to the original contract as signed; or
 - the change order is in the best interests of the unit of local government and authorized by law.
- 720 ILCS 5/33E-9.

C. Exemptions from General Prohibitions (720 ILCS 5/33E-12).

1. Disclosures of information related to the name of bidders, offerors, or contractors.
2. Disclosures of information related to acceptable alternatives or substitutes to plans or specifications if such information is also made generally available to the public.
3. Negotiations with the lowest responsible bidder to obtain a reduction in price.
4. Negotiations under the Local Government Professional Services Selection Act.

D. Penalties. A public official or employee who violates Article 33E is guilty of either:

- a Class 4 felony and is subject to not less than one year and not more than three years in prison *and* a fine of up to \$25,000.00 (720 ILCS 5/33E-5; 720 ILCS 5/33E-6; 720 ILCS 5/33E-9; 730 ILCS 5/5-8-1(a)(7); 730 ILCS 5/5-9-1(a)(1)); or
- a Class 3 felony and is subject to not less than two years and not more than five years in prison *and* a fine of up to \$25,000.00 (720 ILCS 5/33E-5; 720 ILCS 5/33E-6; 730 ILCS 5/5-8-1(a)(6); 730 ILCS 5/5-9-1(a)(1)).

ATTACHMENT B - Conflicts of Interest

Overview. The Illinois Legislature has codified sweeping prohibitions against public officials and officers engaging in conduct that divides their loyalty between their personal interests and their public duties.

A. Public Officer Prohibited Activities Act, 50 ILCS 105/0.01 *et seq.*

1. Application: all elected or appointed officials, except those serving on advisory panels or commissions. 50 ILCS 105/3(a).
2. General Prohibitions:
 - Interests in Contracts. A public official cannot have a direct or indirect interest in any contract or work where the official may be called upon to act or vote on the award of such contract or work. 50 ILCS 105/3(a).
 - Representation. A public official cannot represent any person, association, trust, or corporation on any application or bid for any contract or work where the official may be called upon to act or vote on the award of such contract or work. 50 ILCS 105/3(a).
 - Influences. A public official cannot directly or indirectly take money or any other thing of value as a gift, bribe, or means of influencing his or her vote or action. 50 ILCS 105/3(a).
3. Exemptions from General Prohibitions:
 - Small Contracts (more than \$1,500; \$25,000 annual aggregate limit). Members of the governing body of a public entity *may* provide materials, merchandise, property, services, or labor to the public entity if *all* of the following conditions are satisfied:
 - (a) the interested member owns *less than* a 7.5 % share in the person, firm, partnership, association, corporation, or cooperative doing business with the public entity; and
 - (b) the interested member *publicly discloses* the nature and extent of his or her interest prior to or during deliberations concerning the proposed award of the contract; and
 - (c) the interested member *abstains from voting* on the award of the contract, though he or she shall be considered present for purposes of establishing a quorum; and
 - (d) the contract is *approved by a majority vote* of those members presently holding office; and the contract is awarded pursuant to a *sealed bidding* procedure if the amount of the contract *exceeds* \$1,500; and
 - (e) the award of the contract would *not cause the aggregate amount* of all such contracts awarded to the same person, firm, association, partnership, corporation, or cooperative in the same fiscal year *to exceed* \$25,000.
50 ILCS 105/3(b)(1).

- Smaller Contracts (\$2,000 or less; \$4,000 annual aggregate limit). Members of the governing body of a public entity **may** provide materials, merchandise, property, services, or labor to the public entity if **all** of the following conditions are satisfied:
 - (a) the interested member *publicly discloses* the nature and extent of his or her interest prior to or during deliberations concerning the proposed award of the contract; and
 - (b) the interested member *abstains from voting* on the award of the contract, though he or she shall be considered present for purposes of establishing a quorum; and
 - (c) the contract is *approved by a majority vote* of the governing body of the public entity; and
 - (d) the amount of the contract does *not exceed* \$2,000; and
 - (e) the award of the contract would *not cause the aggregate amount* of all contracts awarded to the same person, firm, association, partnership, corporation, or cooperative in the same fiscal year to *exceed* \$4,000.
 50 ILCS 105/3(b)(2).
- Minor Interests (less than 1% share). Members of the governing body of a public entity **may** provide materials, merchandise, property, services, or labor to the public entity if **all** of the following conditions are satisfied:
 - (a) the interested member owns *less than* a 1% share in the person, firm, partnership, association, corporation, or cooperative doing business with the public entity; and
 - (b) the interested member *publicly discloses* the nature and extent of his or her interest prior to or during deliberations concerning the proposed award of the contract; and
 - (c) the interested member *abstains from voting* on the award of the contract, though he or she shall be considered present for purposes of establishing a quorum; and
 - (d) the contract is *approved by a majority vote* of the governing body of the public entity.
 50 ILCS 105/3(b-5).
- Public Utilities. Members of the governing body of a public entity **may** approve utility service contracts with a public utility of which the member is an officer, employee, or holder of an ownership interest of 7½% or less. 50 ILCS 105/3(c).
- Public Companies (direct interests). Members of the governing body of a public entity **may** approve contracts with a public company (a company whose stock is traded on a nationally recognized securities market) of which the member is an employee or holder of an ownership interest of 1% or less in the member's own name if **all** of the following conditions are satisfied:
 - (a) the interested member *publicly discloses* that he or she is an employee or holds an interest of 1% or less in the company *before deliberations* concerning the proposed award of the contract; and

- (b) the interested member *refrains from* evaluating, negotiating, recommending, approving, deliberating, or otherwise participating in the negotiation, approval, or award of the contract; and
- (c) the interested member *abstains from voting* on the award of the contract, though he or she shall be considered present for purposes of establishing a quorum; and
- (d) the contract is *approved by a majority vote* of those members presently holding office.
50 ILCS 105/3(e).

- Public Companies (indirect interests). Members of the governing body of a public entity **may** approve contracts with a public company (a company whose stock is traded on a nationally recognized securities market) of which the member holds an ownership interest of *1% or less* if the ownership interest is held not in the member's own name but *through a mutual fund*. 50 ILCS 105/3(e).

- Local Banks. Members of the governing body of a public entity **may** approve contracts with a local financial institution of which the member is a director, officer, employee, or holder of an ownership interest of *less than 7½%* if **all** of the following conditions are satisfied:

- (a) the interested member *publicly discloses* the nature and extent of the interest *during deliberations*; and
- (b) the interested member *does not participate in deliberations*; and
- (c) the interested member *does not vote* on the award of the contract; and
- (d) the contract is approved at a *regularly scheduled meeting* by a *majority vote* of those members presently holding office.
50 ILCS 105/3.2.

4. Penalties:

- A public official who violates the Public Official Prohibited Activities Act is guilty of a Class 4 felony and is subject to not less than one year and not more than three years in prison *and* a fine of up to \$25,000.00. 50 ILCS 105/4; 730 ILCS 5/5-8-1(a)(7); 730 ILCS 5/5-9-1(a)(1).
- A public official convicted under the Public Official Prohibited Activities Act forfeits his or her office or official position. 50 ILCS 105/4.
- A contract procured in violation of the Public Official Prohibited Activities Act is void.
50 ILCS 105/3(a).

B. Municipal Code—Conflict of Interest Statute, 65 ILCS 5/3.1-55-10.

1. Application: applies only to municipal officers. 65 ILCS 5/3.1-55-10(a).
2. General Prohibitions:
 - Interests in Contracts. A municipal officer cannot have a direct or indirect interest in:
 - (a) any contract, work, or business of the municipality; or
 - (b) the sale of any article,
 whenever the cost of such contract, work, business, or article is paid either from the treasury of the municipality or by assessment. 65 ILCS 5/3.1-55-10(a).
 - Purchase of Property. A municipal officer cannot have a direct or indirect interest in the purchase of any property that:
 - (a) belongs to the municipality;
 - (b) is sold for taxes or assessments; or
 - (c) is sold by virtue of legal process at the suit of the municipality.
 65 ILCS 5/3.1-55-10(a).
3. Exemptions from General Prohibitions:
 - The Municipal Conflict of Interest Statute does not prohibit any person serving on a municipal advisory panel or commission or non-governing board or commission from having an interest in a contract, work, or business of the municipality unless the municipal officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business. 65 ILCS 5/3.1-55-10(a).
 - The Municipal Conflict of Interest Statute allows for exemptions identical to those set forth in the Public Officer Prohibited Activities Act. 65 ILCS 5/3.1-55-10(a); 65 ILCS 5/3.1-55-10(b)(1); 65 ILCS 5/3.1-55-10(b)(2); 65 ILCS 5/3.1-55-10(b-5); 65 ILCS 5/3.1-55-10(c); 65 ILCS 5/3.1-55-10(e).
4. Penalties:
 - A municipal officer who violates the Municipal Conflict of Interest Statute is guilty of a Class 4 felony and is subject to not less than one year and not more than three years in prison *and* a fine of up to \$25,000. 65 ILCS 5/3.1-55-10(d); 730 ILCS 5/5-8-1(a)(7); 730 ILCS 5/5-9-1(a)(1).
 - A municipal officer convicted under the Municipal Conflict of Interest Statute forfeits his or her office or official position. 65 ILCS 5/3.1-55-10(d).

C. Criminal Code—Official Misconduct Statute, 720 ILCS 5/33-3.

1. Application: applies to all public officers and employees. 720 ILCS 5/33-3.
2. General Prohibitions: A public officer or employee is guilty of misconduct where, in an official capacity, he or she:
 - intentionally or recklessly fails to perform a mandatory duty; or
 - knowingly performs an act that he or she is forbidden by law to perform; or

- performs an act in excess of his or her authority with the intent to obtain personal advantage for himself or herself or for another; or
 - solicits or knowingly accepts a fee or reward not authorized by law.
- 720 ILCS 5/33-3.

3. Solicitation Misconduct:

- An employee of a chief executive officer of a local government commits solicitation misconduct when he or she knowingly solicits or receives contributions from a person engaged in a business or activity over which that person has regulatory authority.

720 ILCS 5/33-3.2.

4. Penalties:

- A public officer or employee who violates the Official Misconduct Statute is guilty of a Class 3 felony and is subject to not less than 2 years and not more than 5 years in prison and a fine of up to \$25,000. 720 ILCS 5/33-3; 730 ILCS 5/5-8-1(a)(6); 730 ILCS 5/5-9-1(a)(1).
- Solicitation misconduct is a Class A misdemeanor. An employee of a chief executive officer of a local government convicted of committing solicitation misconduct forfeits his or her employment. 720 ILCS 5/33-3.2(d).
- A public officer or employee who violates the Official Misconduct Statute forfeits his or her office or employment. 720 ILCS 5/33-3.

ORDINANCE NO. 2813-18/19

AN ORDINANCE AMENDING _____

WHEREAS, the City of Pekin is a home rule municipality as described in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City of Pekin, as a home rule municipality, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to, the power to legislate for the protection of the public health, safety, and welfare; and

WHEREAS, the City Council finds that it is in the interest of efficient administration of the City government to implement a procurement policy setting forth with specificity the authority of City officials and staff to make procurements on behalf of the City; and

WHEREAS, the Finance Department has recommended the adoption of the Procurement Policy attached hereto as Exhibit A; and

WHEREAS, the City Council finds it is in the best interest of the City, its residents, and the efficient administration of the City government to adopt and implement the Procurement Policy attached hereto as Exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. The Procurement Policy attached hereto as Exhibit A is hereby approved and adopted, and shall govern all procurements and contracts entered into by the City from the date of the passage of this Ordinance.

Section 3. All policies addressing procurement of goods or supplies, or bidding and approval of contracts by the City in existence prior to the passage of this Ordinance, including but not limited to the Local Bidders Policy, are hereby rescinded.

Section 4. Title 1, Chapter 7, Section 5 of the City Code is hereby amended as follows (additions indicated by underline, deletions by ~~strike through~~):

1-7-5: DUTIES: The City Manager shall be the administrative head of the municipal government and shall be responsible for the efficient administration of all departments; and shall:

A. Enforce the laws and ordinances within the municipality;

- B. Appoint and remove all directors of departments and all other employees other than those hired by the Board of Fire and Police Commissioners and those appointed by the Mayor pursuant to Chapter 6 of this Article. No appointments shall be made upon any basis other than that of merit and fitness, except as otherwise provided by a collective bargaining agreement to which the City is bound.
- C. Exercise control of all departments and divisions of the City and coordinate the preparation and release of all public statements and press releases for the City;
- D. Have all the powers and exercise all the duties granted by law to the City Clerk and City Comptroller with respect to the preparation of a report of estimated funds necessary to defray the expenses of the City for the fiscal year for the consideration of the Council prior to the preparation of the annual appropriation ordinance;
- E. Attend all meetings of the Council with the right to take part in the discussion, but no right to vote;
- F. Recommend to the Council for adoption such measures as he or she may deem necessary or expedient;
- G. Supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget in accordance with the City of Pekin Procurement Policy adopted January 28, 2019, as may be further amended or modified by the City Council, and issue rules consistent with the City of Pekin Procurement Policy governing purchase procedures within the administrative organization;
- H. Examine all proposed contracts to which the City may be a party and advise the Council on the advantages or disadvantages of contracts and bid proposals;
- I. Have access to all documents belonging to the City including, but not limited to, debts, mortgages, leases, contracts, judgment orders, notes, bonds, correspondence, maps, photographs, videotapes, records, discs, journals, accounts, invoices, audio reproductions, evidence of indebtedness, or other similar items;
- J. Consolidate or combine offices, positions, departments or units under the City Manager's jurisdiction with the prior approval of the Council;
- K. Recommend to the Council a standard schedule of pay for all directors of departments and employees not otherwise covered by a collective bargaining agreement;
- L. Investigate all complaints in relation to matters concerning the administration of the government and services of the City and see that all franchises, permits and privileges granted by the City are faithfully observed;
- M. Through the Assistant Financial Director, administer the Risk Management Program of the City;

N. Through the Financial Director, establish and maintain an integrated and compatible computer system;

O. Perform such other duties or powers as may be prescribed by Article 5 of the Illinois Municipal Code (65 ILCS 5/5-1-1 et seq.) or as may be required by ordinance or resolution or other direction of the Council.

(ORD. NO. 2393 10/25/04)

Section 5. Title 1, Chapter 9, Section 7 of the City Code is deleted in its entirety and replaced with the following:

1-9-7: CONTRACTS FOR PUBLIC IMPROVEMENTS: Contracts for public improvements shall be made in accordance with the purchase thresholds and bidding requirements set forth in the City of Pekin Procurement Policy, adopted January 28, 2019, as may be further amended or modified by the City Council.

Section 6. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 7. This Ordinance shall be in full force and effect from and after its passage, approval and period of publication in the manner provided by law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Pekin, this _____ day of _____, 20____; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 20____

Mayor

ATTEST:

City Clerk

CERTIFICATE

THE UNDERSIGNED CERTIFIES THAT SHE IS THE CITY CLERK FOR THE CITY OF PEKIN, ILLINOIS, AND THAT THE CITY COUNCIL AT A REGULARLY CONSTITUTED MEETING OF SAID CITY COUNCIL OF THE CITY OF PEKIN ON THE _____ DAY OF _____, 20____ ADOPTED ORDINANCE NO. _____ A TRUE AND CORRECT COPY OF WHICH IS CONTAINED IN THIS PAMPHLET

GIVEN UNDER MY HAND AND SEAL THIS _____ DAY OF _____, 20____.

(SEAL)

CITY CLERK



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Kurt Nelson, Fire Chief

Michael Guerra, City Engineer

AGENDA ITEM: Ordinance Amending Designated Truck Routes

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Approve Ordinance No. 1462-A358-18/19 Amending Title 8, Chapter 1, and Section 9 of the Code of the City of Pekin 1995 Regarding Designated Truck Routes.

DESCRIPTION: This ordinance is to amend the City of Pekin Code with regards to the designated truck routes in the City. This amendment is needed due to the jurisdictional transfers of Court Street to the City of Pekin and VFW Road to the Illinois Department of Transportation. The current code does not have Court Street listed as a truck route which is needed for enforcement.

This amendment also provides clarification that the designated truck routes in the City of Pekin are for be utilized for deliveries or destinations in the City. Trucks traveling through the area are required to stay on the State Highways of IL 9 and IL 29.

FINANCIAL IMPACT: There is no direct financial impact to the City other than allowing the police to enforce the ordinance for trucks not following the designated truck routes as required.

NEIGHBORHOOD CONCERNS: Trucks not following this ordinance or traveling through the City have a detrimental effect on the City roadways which increases the need for street maintenance and repair.

IMPACT IF APPROVED: The City of Pekin Code will be updated after the ten day objection timeframe.

IMPACT IF DENIED: The City of Pekin Code will not be updated.

ALTERNATIVES: None

RELATED TO EFFICIENCY STUDY: N/A

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS: [check no more

than 2 boxes. Copy this check mark ✓ and paste it to the left of the relevant theme.]

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.
	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
✓	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date:

City Manager:

Mark A. Rothert

Mark A. Rothert, City Manager

1/24/2019

Date:

**Ordinance No. 1462-A358-18/19 An Ordinance Amending Title 8, Chapter 1,
Section 9 of the Code of the City of Pekin 1995 Regarding Designated Truck Routes**

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 1462-A358-18/19

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 1, SECTION 9
OF THE CODE OF THE CITY OF PEKIN
REGARDING DESIGNATED TRUCK ROUTES**

WHEREAS, the City of Pekin is a home rule municipality as described in Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and function pertaining to its government and its affairs, including municipal taxation; and

WHEREAS, the Traffic Safety Committee has recommended amendments to the Code for the purposes of revising designated truck routes within the City; and

WHEREAS, the City Council of the City of Pekin has determined that it is in the best interests of the City and its residents to adopt such revisions as recommended by the Traffic Safety Committee and as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Title 8, Chapter 1, Section 9 of the Code of the City of Pekin is hereby amended as follows (insertions indicated by underline, deletions by ~~strikethrough~~).

8-1-9: WEIGHT LIMITATIONS - TRUCK ROUTES:

- A. Through Truck Routes Designated: The movement of all trucks traveling through the City of Pekin without destinations within the City shall be confined to the following designated truck routes, except as hereinafter provided:

ALL STATE HIGHWAYS

- B. Local Delivery Truck Routes Designated: The movement of all trucks traveling within the City of Pekin shall be confined to the following designated truck routes, except as hereinafter provided: (Ord. 1462, 12-15-80)

ALL STATE HIGHWAYS

ANN ELIZA: From 5th Street to 8th Street.

COURT STREET: From 8th Street to Veterans Drive.

BROADWAY: Eastern City limits west to Eighth Street.

DISTILLERY ROAD: From Second Street west to Front Street.

EIGHT STREET: From Court Street to Ann Eliza Street.

FAYETTE STREET: From Third Avenue west to Front Street.

FOURTEENTH STREET: From the southern City limits north to Court Street

FRONT STREET: From Distillery Road north to Fayette Street

HANNA DRIVE: From Illinois Route 29 to South Fifth Street

MARGARET STREET: From 5th Street to 8th Street.

~~MALL ROAD: From Commercial Drive to Southern City Limits~~

PARKWAY DRIVE: From Court Street to Broadway Road.

VETERANS DRIVE From Commercial Drive to Broadway Road

~~VFW ROAD: From Illinois Route 29 east to Illinois Central Railroad~~

~~VFW ROAD: From Fourteenth Street easterly 950 feet~~

BC. Exceptions:

1. The restrictions set forth herein shall not apply to trucks normally classified as one ton maximum and under, and having not more than two (2) axles.
2. Oversize Trucks or Trucks requiring to utilize City Truck routes for the purpose of traveling through the City without designations within the community may be allowed with permission acquired from Pekin Police Department at a minimum of 24 hours prior.
3. All trucks larger than those specified in subsection B1 herein may travel off of truck routes within the City only for the purpose of making local deliveries. Said trucks shall proceed to the delivery point via the shortest route, traveling, if possible, on the hard-surface streets and shall return by the same path to the truck routes. (Ord. 1462, 12-15-80)

ED. Signs Posted:

1. There shall be posted on all trucks routes at the City limits, signs which read as follows: "Trucks over One Ton - Truck Routes Only."

2. There shall be posted at periodic intervals along all truck routes and all truck route turn intersections signs denoting the direction of truck traffic.
(Ord. 1462, 12-15-80)

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PEKIN,
TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND OPEN SESSION, THIS ____
DAY OF _____, 2019, AND UPON ROLL CALL VOTE AS FOLLOWS:**

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this ____ day of _____, 2019

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 1462-A358-18/19

**AN ORDINANCE AMENDING TITLE 8, CHAPTER 1, SECTION 9
OF THE CODE OF THE CITY OF PEKIN
REGARDING DESIGNATED TRUCK ROUTES**

WHEREAS, the City of Pekin is a home rule municipality as described in Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and function pertaining to its government and its affairs, including municipal taxation; and

WHEREAS, the Traffic Safety Committee has recommended amendments to the Code for the purposes of revising designated truck routes within the City; and

WHEREAS, the City Council of the City of Pekin has determined that it is in the best interests of the City and its residents to adopt such revisions as recommended by the Traffic Safety Committee and as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Title 8, Chapter 1, Section 9 of the Code of the City of Pekin is hereby amended as follows.

8-1-9: WEIGHT LIMITATIONS - TRUCK ROUTES:

- A. Through Truck Routes Designated: The movement of all trucks traveling through the City of Pekin without destinations within the City shall be confined to the following designated truck routes, except as hereinafter provided:

ALL STATE HIGHWAYS

- B. Local Delivery Truck Routes Designated: The movement of all trucks traveling within the City of Pekin shall be confined to the following designated truck routes, except as hereinafter provided: (Ord. 1462, 12-15-80)

ALL STATE HIGHWAYS

ANN ELIZA: From 5th Street to 8th Street.

COURT STREET: From 8th Street to Veterans Drive.

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FOURTEENTH STREET: From the southern City limits north to Court Street

FRONT STREET: From Distillery Road north to Fayette Street

HANNA DRIVE: From Illinois Route 29 to South Fifth Street

MARGARET STREET: From 5th Street to 8th Street.

PARKWAY DRIVE: From Court Street to Broadway Road.

VETERANS DRIVE From Commercial Drive to Broadway Road

C. Exceptions:

1. The restrictions set forth herein shall not apply to trucks normally classified as one ton maximum and under, and having not more than two (2) axles.
2. Oversize Trucks or Trucks requiring to utilize City Truck routes for the purpose of traveling through the City without designations within the community may be allowed with permission acquired from Pekin Police Department at a minimum of 24 hours prior.
3. All trucks larger than those specified in subsection B1 herein may travel off of truck routes within the City only for the purpose of making local deliveries. Said trucks shall proceed to the delivery point via the shortest route, traveling, if possible, on the hard-surface streets and shall return by the same path to the truck routes. (Ord. 1462, 12-15-80)

D. Signs Posted:

1. There shall be posted on all trucks routes at the City limits, signs which read as follows: "Trucks over One Ton - Truck Routes Only."
2. There shall be posted at periodic intervals along all truck routes and all truck route turn intersections signs denoting the direction of truck traffic.
(Ord. 1462, 12-15-80)

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PEKIN,
TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND OPEN SESSION, THIS ____
DAY OF _____, 2019, AND UPON ROLL CALL VOTE AS FOLLOWS:**

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this ____ day of _____, 2019

MAYOR

ATTEST:

CITY CLERK



REQUEST FOR COUNCIL ACTION

To: Council Members

Date: January 23, 2019

From: Sue McMillan, City Clerk

AGENDA ITEM: Tobacco 21 and Electronic Smoking Devices

AGENDA DATE REQUESTED: January 28, 2019

ACTION REQUESTED: Adopt Ordinance 2814-18/19 regulating the sale and use of tobacco and electronic smoking “vaping” devices

DESCRIPTION: Raising the minimum legal sale age of tobacco products to age 21 (“Tobacco 21”) is an emerging strategy to reduce smoking, save lives and improve public health. The strategy also builds upon other approaches to limit smoking, such as tobacco prevention and cessation programs; cigarette taxes and smoke-free zones. In a 2015 report from the Institute of Medicine, the organization predicted that nationally raising the tobacco sale age to 21 would reduce the smoking rate by about 12% and smoking-related deaths by 10%, over time. This would translate to 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer and 4.2 million fewer years of life lost (source: www.tobacco21.org).

Currently by law it is illegal for a retailer to sell tobacco products to persons younger than 18 years of age. More recently and since 2015, over 270 localities across the United States have enacted ordinances or regulations increasing the minimum age for tobacco sales to 21.

The attached ordinance aims to raise the legal sale age of tobacco products to 21 in the City of Pekin.

Additionally, the ordinance also addresses the sale and use of electronic smoking “vaping” devices and puts in place restrictions similar to those regarding tobacco. Vaping is the act of inhaling and exhaling aerosol, often referred to as vapor, produced by a vaping device. Such devices do not produce tobacco smoke. Rather, they produce an aerosol, not water vapor, which consists of fine particles that contain varying amounts of toxic chemicals, potentially linked to cancer and respiratory and heart disease.

A vaping device consists of a mouthpiece, cartridge for containing an e-juice or e-liquid, a battery, and a heating component powered by the battery to heat the liquid. The battery heats the heating component to turn the e-liquid into an aerosol. The user inhales the aerosol into the

lungs and then exhales it.

The e-liquids used in vaping devices often contain a propylene glycol or vegetable glycerin-based liquid, nicotine, flavoring and other chemicals. Users have also used synthetic drugs (i.e. flakka) or THC (the active ingredient in marijuana) with their vaping devices. Many vaping devices come in flavors, attractive to adolescents and young adults. According to the US Surgeon General, e-cigarette use (vaping) among youth has been declared an epidemic in the United States. In his 12/18/18 advisory, Surgeon General Jerome Adams stated that 11% of high school seniors, 8% of 10th graders and 3.5% of 8th graders reported vaping with nicotine in a one month period, per a national survey conducted by the University of Michigan in 2017. The addiction to nicotine and a later conversion or dual use with cigarettes is of great concern to health officials.

FINANCIAL IMPACT: Any financial impact will be seen in a broader community scale by having fewer sales to minors and fewer minors becoming addicted to the tobacco products. As a community was also stand to gain with reduced illness, disease and death associated with tobacco use. Some business owners may have concerns that a regulation, such as Tobacco 21, will hurt their business if enacted. However, we have seen similar regulations in the past where similar arguments have been made (i.e. banning of indoor smoking in public establishments), but no real substantial impact to the businesses was realized.

NEIGHBORHOOD CONCERNS: The police department would have to develop a plan to conduct more random initiatives to ensure that businesses that are selling tobacco products are complying and not selling to minors.

IMPACT IF APPROVED: Pekin would be in line with many other communities throughout the state of Illinois who have already implemented this policy. We also stand a good chance of addressing not only issues as they relate to tobacco and vaping use (and the disease associated with tobacco), but potentially other issues as they relate to addiction.

IMPACT IF DENIED: Pekin would continue to enforce the current ordinance. We may be required to comply in any event should the State of Illinois adopt Tobacco 21 into law, compelling local governments to comply.

ALTERNATIVES: N/A

RELATED TO EFFICIENCY STUDY: N/A

RELATIONSHIP TO THE CONCEPTUAL PLANNING PROCESS:

	A Prosperous Community. To promote and sustain a balanced economy that supports expansion and retention of family-wage jobs.
	A Safe Community. To protect community life and property by providing effective, principled police and fire services.
	A Strong Foundation. To improve and maintain existing infrastructure and leverage opportunities for new infrastructure.

✓	A High Quality of Life. To support or provide services that improve the quality of life for Pekin's residents.
	An Effective Government. To deliver effectively the services that Pekin's residents want, need, and are willing to support.

REQUIRED SIGNATURES

Department Directors and City Staff:

Date:

Finance Department (Certification of Availability of Funds):

Date: _____

City Manager:

Mark A. Rothert
 Mark A. Rothert, City Manager 1/24/2019

Date:

1/24/2019

**Ordinance No. 2814-18/19 Amending Title 6, Chapter 2, Sections 5 and 6 of the
Code of the City of Pekin 1995 Regarding Use of Electronic Smoking Devices in
Public Places and Sale and Delivery to Minors**

<Insert Ordinance Legislation>

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. 2814-18/19

**AN ORDINANCE AMENDING TITLE 6, CHAPTER 2, SECTIONS 5 AND 6
OF THE CODE OF THE CITY OF PEKIN
REGARDING USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES AND
SALE AND DELIVERY OF TOBACCO PRODUCTS TO MINORS**

WHEREAS, the City of Pekin is a home rule municipality as described in Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois, and as such may exercise any power and function pertaining to its government and its affairs, including municipal taxation; and

WHEREAS, the City Council finds that the use of tobacco products poses serious health risks, and that tobacco products are disproportionately marketed toward and harmful to young people; and

WHEREAS, the City Council finds there has been an increase in the use of electronic smoking devices in public areas throughout the City, including restaurants and other public places; and

WHEREAS, the U.S Food and Drug Administration has extended its regulations over tobacco products to include certain electronic smoking devices due to health concerns related to these electronic smoking devices; and

WHEREAS, the City Council finds that the use of any electronic smoking devices in public places poses a risk to the health of residents within the City of Pekin and to the public in general; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-60-2), the City has the authority to define, prevent, and abate nuisances; and

WHEREAS, the City Council further finds that the use of any electronic smoking devices in public constitutes a public nuisance for members of the general public and City residents subjected to the emissions from such electronic smoking devices; and

WHEREAS, the City Council finds that it is in the best interests of the City, City residents, and the general public that the smoking of electronic smoking devices be prohibited in public areas and places; and

WHEREAS, the City Council further finds that it is in the best interests of the City, City residents, and the general public that the use and possession of tobacco products and electronic smoking devices by and sale of tobacco products to any person under 21 years of age be prohibited within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Title 6, Chapter 2, Section 5 of the Code of the City of Pekin is hereby amended by the addition of a new subsection 10 as follows (insertions indicated by underline, deletions by ~~striketrough~~):

6-2-5-10: USE OF ELECTRONIC SMOKING DEVICES IN PUBLIC PLACES

- A. It is unlawful for any person to smoke or otherwise use an electronic smoking device in any manner that emits smoke or vapor while in a public place, within fifteen (15) feet of any entrance to a public place, or in any enclosed indoor area used by the public.
- B. It is unlawful for any person to smoke or otherwise use an electronic smoking device in any manner that emits smoke or vapor while in a city vehicle, or in a city building or facility or within 15-feet of an entrance to a city building or facility, including all the indoor areas of the City Hall complex located at 111 S. Capitol Street, except in a designated smoking area or when a person is in a personal vehicle with all doors to said vehicle closed.
- C. "Electronic smoking device" means any electronically operated device which causes the user to inhale or exhale any smoke, nicotine, vapor, or other substance other than those produced by unenhanced human expiration of air from the lungs. "Electronic smoking device" includes any such device, whether manufactured, distributed, marked, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, or any other similar device. "Electronic smoking device" does not include any asthma inhaler or other medical device or product specifically approved by the U.S. Food and Drug Administration for the use in the mitigation, treatment, or prevention of a medical condition and when such device or product is being used solely for such purpose.

"Public place" shall have the same meaning as set forth in section 10 of the Smoke Free Illinois Act, and shall not include any areas or places that are exempt under Section 35 of the Smoke Free Illinois Act (410 ILCS 82/1 et seq.), as may be amended from time to time by state legislation or otherwise implemented by regulations by the department of public health or other authorized state agency, and shall not include retail businesses or establishments commonly known as "vape shops" that derive more than eighty (80) percent of their gross revenue from the sale of electronic smoking devices and related products and accessories, including but not limited to, atomizers, cartridges, drip tips, and e-liquids, and in which the sale of any other products is merely incidental to such retail business or establishment. "Vape shops" do not include a tobacco department or section of a retail or commercial establishment or any establishment holding a valid liquor, food or restaurant license.

- D. Any person convicted of violating this section shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00) for each offense.

Section 3. Title 6, Chapter 2, Section 6, Subsection 3 of the Code of the City of Pekin is hereby amended by the addition of a new subsection 10 as follows (insertions indicated by underline, deletions by ~~strike through~~):

6-2-6-3: SALE AND DELIVERY OF TOBACCO PRODUCTS TO MINORS:

- A. For the purpose of this Article, the following words and phrases shall have the meanings respectively ascribed to them: "Tobacco Products" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco. "Electronic smoking device" has the meaning set forth in Section 6-2-5-10 of this Code.
- B. It shall be unlawful for any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products or electronic smoking device to any person under the age of twenty-one (21) years.
- C. It shall be unlawful for any person under the age of twenty-one (21) years to purchase tobacco products or electronic smoking devices, or to misrepresent his or her identity or age, or to use any false or altered identification for the purpose of purchasing tobacco products or electronic smoking devices.
- D. It shall be unlawful for any person under the age of twenty-one (21) years to possess any tobacco products or electronic smoking devices; provided that the possession by a person under the age of twenty-one (21) years under the direct supervision of the parent or legal guardian of such person in the privacy and confines of the parent's or guardian's home shall not be prohibited.
- E. It shall be unlawful for any licensee or any person in the business of selling or otherwise distributing, promoting or advertising tobacco products or electronic smoking devices, or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, or any other person, to distribute, give away or deliver tobacco products or electronic smoking devices free of charge to any person in any right-of-way, park, playground or other property owned by the city, or property owned by any school district, park district or public library.
- F. Penalty: A person convicted of a violation of any provisions of this Section shall be subject to penalty of not less than twenty five dollars (\$25.00) nor more than five hundred dollars (\$500.00).

Section 4. This Ordinance is an addition to all other ordinances on this subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance and in the event of such conflict, the provisions hereof shall govern.

Section 5. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is hereby ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code (65 ILCS 5/1-1-1 et seq.).

Section 6. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, IN REGULAR AND OPEN SESSION, THIS ____ DAY OF _____, 2019, AND UPON ROLL CALL VOTE AS FOLLOWS:

AYES: _____

NAYS: _____

ABSENT: _____

ABSTAINING: _____

APPROVED this ____ day of _____, 2019

MAYOR

ATTEST:

CITY CLERK