

**CITY OF PEKIN**

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**ORDINANCE NO. 2872-19/20**

**AN ORDINANCE AMENDING TITLE 4, CHAPTER 2 OF THE CITY CODE  
REGARDING STREET AND RIGHT OF WAY OPENINGS**

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PASSED BY THE CITY COUNCIL  
OF THE CITY OF PEKIN  
THE 24TH DAY OF FEBRUARY 2020

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PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE CITY  
COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS,  
THIS 24TH DAY OF FEBRUARY 2020

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EFFECTIVE MARCH 5, 2020

**ORDINANCE NO. 2872-19/20**

**AN ORDINANCE AMENDING TITLE 4 CHAPTER 2 OF THE CITY CODE  
REGARDING STREET AND RIGHT OF WAY OPENINGS**

**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 Infrastructure Committee of the City of Pekin has recommended changes to the provisions of the City Code regulating the opening of streets and rights of way within the City; and

**WHEREAS**, the City Council of the City of Pekin finds that it is in the best interest of the City and its residents to adopt the changes recommended by the Infrastructure Committee as set forth below.

**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.** Title 4, Chapter 2, Section 1 of the City of Pekin, Illinois, Municipal Code is hereby amended as follows:

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

**Section 3.** Title 4, Chapter 2, Section 2 of the City of Pekin, Illinois, Municipal Code is hereby amended as follows:

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

A. Permit Required:

1. Right of Way Openings: That no public street, alley, sidewalk, curb, or driveway approach may be cut or opened except by a contractor licensed pursuant to section 4-4B-2 of this Code and who shall first have obtained a permit for same.

2. Sidewalk and driveway repairs and replacements completed by a homeowner or a homeowner's contractor shall comply with Section 4-2-4-2.
3. Openings or Stairways: It shall be unlawful to construct or maintain any opening or stairway in any public street or sidewalk or alley without a permit from the Department of Inspections and Zoning. All such lawfully maintained openings shall be guarded by a suitable strong cover or a railing approved by the Department of Inspections and Zoning.

B. Obtaining Permits; Fees:

1. The permit for said cut or opening shall be obtained from the Department of Public Works, after first having paid a fee for street, sidewalk, or driveway approach opening, or cut, in the amount as set forth below. Said fee shall cover the cost of inspection. A permit may be denied to any contractor who has previously failed to comply with 4-2-4-1 of this Code.
2. Franchise Utility Companies. Franchisees may pay said fees on a monthly basis upon compliance with reporting requirements established by the Department of Public Works.
  - a. Maintenance and excavation opening permit for replacement or renewal/removal of facilities:
    - i. Open cut: \$2.00 per square foot. Minimum \$120.00 charge per opening.
    - b. Patch replacement permit: 2 ½ the normal street opening fee. This fee will be waived if permit process initiated prior to notification of patch failure by the City.
    - c. Repair permit for failed areas outside the original patch resulting from utility failure: 2 ½ times the normal street opening fee.
3. Utility Companies without a Franchise Agreement:
  - a. Permit cost shall be 2 times the amount listed for franchised utility companies as listed above.
4. Private Development/ Residential Contractors:
  - a. Permit cost shall be 1.5 times the amount listed for franchised utility companies as listed above

5. Any permit fee charged pursuant to subsections 2 or 3 of this Section 2B shall be trebled if the application for permit is submitted to the City within one year after inspection and acceptance by the Department of Public Works of a new or reconstructed street or alley.
- C. Compliance with Specifications of City Council: All street and sidewalk pavements shall be made in conformity with specifications laid down or approved from time to time by the City Council or Department of Public Works.

**Section 4.** Title 4, Chapter 2, Section 4 of the City of Pekin, Illinois, Municipal Code is hereby amended as follows:

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

**4-2-4-1: RIGHT OF WAY OPENING REPAIRS:** The permittee must repair the area affected by the disruption of the street surface and subsurface to a condition equal to or better than the surrounding street surface and maintain the base/fill of the repair for the life of the repair and the surface the area affected by the disruption until such time as the street is either rebuilt or overlaid. The permittee must warranty all sidewalk, driveway, or curb repairs for a period of five years or until replaced, whichever is less. The permittee must further repair or remove and replace any street or other surface scarred by work performed pursuant to this paragraph. All repairs shall be inspected and approved by Department of Public Works upon completion. If a repair is not approved by the Department of Public Works, it must be repaired again to meet approval.

All sidewalk restoration shall be in accordance with the most current draft of the Proposed Pedestrian Right of Way Accessibility Guidelines. Restoration or repair of streets shall be in accordance with the most current edition of the "Standard Specifications for Water and Sewer Main Construction in Illinois," and the most current edition of the Illinois Department of Transportation "Standard Specification for Road and Bridge Construction" with all applicable "Supplemental Specifications and Recurring Special Provisions" subject to the provisions in Subsection A and Subsection B following.

- A. All street openings that are to be installed or repaired in the area of an existing or proposed pavement subgrade or where the inner edge of a trench for such conduits of closer than 2 feet to the edge of the existing pavement, stabilized shoulder, curb, gutter or sidewalk shall be backfilled with the following materials:
  1. If the excavation is less than ten (10) feet deep from the existing ground level to the bottom of the excavation, the restoration or repair shall be made as follows

- a. All trenches, structures, culverts, utility cuts and other work extending under pavement locations shall be filled with an approved mix design for control low strength material (CLSM). No material excavated may be placed back in the excavation.
2. If the excavation is greater than ten (10) feet deep from the existing ground level to the bottom of the excavation, the restoration or repair may be made as provided in Subsection A.1.a. preceding, or shall be made as follows:
  - a. The top 10 feet shall comply with the CLSM requirements as provided in Subsection A.1.a., preceding. Below the top 10 feet of CLSM, selected granular backfill materials for the repair of said openings shall consist only of sand, stone sand, crushed stone, or crushed gravel with gradations as specified in 20-2, 21C of the said Standard Specifications for Water and Sewer Main Construction in Illinois. This backfill material is to be placed and compacted in lifts not to exceed eighteen (18) inches.
- B. Areas that have been opened in existing pavement to facilitate the installation or repair of utilities shall be constructed in the following manner:
  1. Timeframe for repair: Unless written permission is granted by the Department of Public Works, a permanent patch shall be constructed within 21 calendar days of the initial opening.
  2. Materials:
    - a. Surface Repairs.
      - i. Concrete, the same thickness of concrete as the existing pavement, but not less than 6 inches of PCC concrete;
      - ii. Bituminous surface, 2 inches of bituminous cap and PCC concrete base matching the depth of the existing pavement, but not less than 6 inches of PCC concrete or bituminous of the same thickness as the existing bituminous, but not less than 4 inches of bituminous.
      - iii. Brick, original materials, or their equivalents.
    - b. Fill/Bedding/haunching:
      - i. The material for granular cradle or bedding of sanitary sewers, storm sewers or water distribution shall be stone, screening, crushed stone, pit run gravel, washed gravel, crushed boiler slag, or other granular material approved by the City or its representative and conform to gradations specified in said Standard Specifications.

3. Construction Limits:

- a. All repairs shall be saw cut to provide a square edge with the existing pavement, or if the existing pavement is brick, the edge may conform with the pattern of the bricks.
- b. For repairs whose width exceed 75% of the roadway driving lane, then the surface repair shall be extended to be the entire width of the lane.
- c. For surface repairs within 3 feet of a curb, performed joint or definable surface crack shall be extended to the curb, performed joint or past the definable surface crack.

4. Clean-up:

- a. As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the director. From time to time, as may be ordered by the director and in any event immediately after completion of such work, the permittee shall, at his own expense, clean up and remove all refuse and unused materials of any kind resulting from such work, and upon failure to do so within 24 hours after having been notified to do so by the director, such work may be done by the director and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder

5. All repairs that cannot be permanently patched within the allotted time set above shall be temporarily patched with a minimum of 3 inches of aggregate base course and 3 inches of bituminous cold patch mixture. All temporary patches shall be replaced with permanent patches per the requirements above by June 1<sup>st</sup> of each year unless a written extension is granted by the Public Works Department. Contractor shall maintain the temporary patch to the satisfaction of the City of Pekin until the time that a permanent patch can be constructed.

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

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

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

- A. All franchisees, utility companies, and other users of the public ways for utility purposes shall barricade as necessary to respond to emergency situations involving or caused by their use of the public ways as directed by the Police Department, Fire Department, or Department of Public Works. If the emergency is discovered by the City and the City barricades, the user shall reimburse the City for its costs, including labor.
- B. All franchisees, utility companies, and other users of the public ways for utility purposes shall notify the Department of Public Works when they become aware of actual or potential structural damage to the public right-of-way or structures which is or may be caused by their installations.
- C. The Department of Public Works shall be notified by each permittee of its schedule for backfilling and roadway repairs prior to commencing the work. Roadway repairs made without notification are subject to the fines listed in SECTION 4-2-4-3-I. and will require re-excavation and replacement in compliance with SECTION 4-2-4-1-A. or SECTION 4-2-4-1-B., as applicable. All franchisees, utility companies, and other users of the public ways for utility purposes shall supply the Department of Public Works with proof the backfilling materials, i.e. CLSM tickets, within 7 days of the completion of the backfilling.
- D. Franchisees, utility companies and other users of the public ways for utility purposes shall remove or repair all utility structures determined by the Department of Public Works to pose a threat to public safety within 24 hours after notification by the City.
- E. Failed patches shall be repaired within 5 days after notification by the City.
- F. All temporary patches shall be converted to approved permanent patches by June 1 of each year unless an written extension is approved by the Public Works Department.
- G. All test holes drilled in public ways shall be backfilled with CLSM, or compatible fill, capped with a permanent patch on the same day that the public way is patched.

- H. Franchisees, utility companies, and other users of the public ways for utility purposes shall use normally accepted treatment and precautionary measures to control water and ice on streets and sidewalks resulting from breakage or repair work. If such measures are not used promptly after notification by the city, the City may take such measures as it deems necessary to control water and ice and the user shall reimburse the City for its costs, including labor.
- I. Fines and Penalties:
  - 1. Violations of sections 4-2-4-3-A., B., C. and H. shall be subject to a fine of \$200.00 per violation.
  - 2. Violations of sections 4-2-4-3-D., E., and F. shall be subject to a fine of \$200.00 per day per violation.
  - 3. Violations of section 4-2-4-3-G. shall be subject to a fine of \$50.00 per day per hole.

**Section 5.** Title 4, Chapter 2, Section 6, Subsection 1 of the City of Pekin, Illinois, Municipal Code is hereby amended as follows:

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

**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.

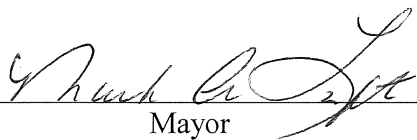
**Section 7.** This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

**PASSED AND APPROVED** at the regular meeting of the City Council of the City of Pekin, this 24<sup>th</sup> day of February, 2020; and upon roll call the vote was as follows:

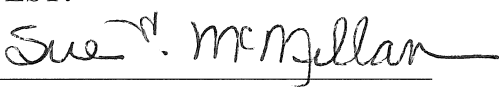
AYES: Abel, Hohimer, Orrick, Garrison, Hilst, Nutter and Luft  
 NAYS: None  
 ABSENT: None  
 ABSTAINING: None



APPROVED this 24<sup>th</sup> day of February, 2020

  
\_\_\_\_\_  
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 24<sup>th</sup> DAY OF February, 20 20 ADOPTED ORDINANCE NO. 2872-19/20 A TRUE AND CORRECT COPY OF WHICH IS CONTAINED IN THIS PAMPHLET

GIVEN UNDER MY HAND AND SEAL THIS 24<sup>th</sup> DAY OF February, 20 20

(SEAL)

Sue<sup>rd</sup>. McMullan  
CITY CLERK