



**BOA Meeting Agenda
Peculiar City Board of Aldermen
Work Session Meeting and Public Hearing
City Hall – 250 S. Main St
Monday November 4, 2013 6:30 p.m.**

Notice is hereby given that the Board of Aldermen of the City of Peculiar will hold a regularly scheduled meeting on Monday, November 4, 2013 at 6:30 pm, in the Council Chambers at 250 S. Main St. Representatives of the news media may obtain copies of this notice by contacting the City Clerk at City Hall, 250 S. Main St Peculiar, MO 64078 or by calling 816-779-2221. All proposed Ordinances and Resolutions will be available for viewing prior to the meeting in the Council Chambers.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Board of Alderman Statement
5. Public Comment – Robert Elliott – Liquor Permit Requirements
6. Public Comment – Jennifer Bedford – Twin Oaks Home Owners Association
Topic for Discussion – Twin Oaks Home Owners Association
7. Business
 - A. Bill No. 2013-19 - AN ORDINANCE AMENDING CHAPTER 250 AND CHAPTER 415 AND ESTABLISHING CHAPTERS 420, 425 AND 430 OF THE PECULIAR MUNICIPAL CODE TO ALIGN LAND-USE REQUIREMENTS IN THE CITY'S MUNICIPAL CODE.
**2nd Reading*
 - B. Bill No 2013-20 - AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$1,245,000 PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2013, OF THE CITY OF PECULIAR, MISSOURI; PRESCRIBING THE FORM AND DETAILS OF SAID BONDS AND THE COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO.
1st Reading
8. Topics for Discussion
 - A. Ordinance to join the Missouri Clean Energy District (MCED)
9. Aldermen Concerns or Additional Topics for Discussion by Aldermen
10. Aldermen Directives Reported by City Administrator
11. Adjournment

City Administrator
Brad Ratliff

City Clerk
Nick Jacobs

City Attorney
Reid F. Holbrook



City Engineer
Carl Brooks

Business Office
Trudy Prickett

City Planner
Cliff McDonald

Municipal Offices - 250 S. Main St., Peculiar, MO 64078
Phone: 816.779.2221 Facsimile: 816.779.5213

AGENDA REQUEST FORM
(Board of Aldermen)

This form must be completed and submitted to the office of the City Clerk. Complete materials for the agenda shall be submitted no later than Thursday at 5:00 pm, 9 business days prior to the next Board of Aldermen's meeting. If an observed holiday falls on a Thursday, materials will be accepted until 5:00 pm on Wednesday. The Board of Aldermen's Regular Meeting is to be held the Third Monday of each month.

Date of Request: 10/24/13 Scheduled Meeting Date: 11/4/13

Full Name of Speaker: Robert Wayne Elliott Organization: NONE

Home Address: 10006 E 222nd Street City Peculiar State MO Zip 64078

Home Phone # (916) 401-605 Work Phone #: — Cell #: — Email: —
Resident of the City of Peculiar? Yes No

Specifics of Topic:
Would like to propose change in ordinance outlawing all felons from obtaining liquor permit.

Desired Outcome: To update ordinance with other city's as to go along with Missouri's laws on seperating felon's who qualify from felon's who don't
If applicable has this item been previously presented to any of the following Boards for consideration?

| | | |
|-------------------------------|--------------------------|-------------------|
| <u>NA</u> Board of Aldermen | Date Presented <u>NA</u> | Outcome <u>NA</u> |
| <u>NA</u> Planning Commission | Date Presented <u>NA</u> | Outcome <u>NA</u> |
| <u>NA</u> Park Board | Date Presented <u>NA</u> | Outcome <u>NA</u> |
| <u>NA</u> Board of Adjustment | Date Presented <u>NA</u> | Outcome <u>NA</u> |

***I have been made aware of the date and time of the next scheduled Board of Aldermen meeting.

Office Use Only:

Date request
Received: 10/24/13

Signature: Robert Elliott

City Administrator
Brad Ratliff

Mayor
Ernie Jungmeyer

City Attorney
Reid F. Holbrook

City Clerk
Nick Jacobs



City Engineer
Carl Brooks

Chief of Police
Harry Gurin

City Planner
Carl Brooks

Municipal Offices – 250 S. State Rt C, Peculiar, MO 64078
Phone: 816.779.5212 Facsimile: 816.779.5213

To: Board of Aldermen
From: Harry Gurin, Chief of Police
Date: October 29, 2013
Re: Amending Section 600.097, A, 5, of the Municipal Code for permit for retail sale of alcohol

GENERAL INFORMATION

Applicant: City Staff
Requested Actions: Informational Item Ordinance 600.096
Purpose: Denial of liquor license for felony conviction

PROPOSAL

The police department is required to do a background check on all individuals applying for a permit to sell alcoholic beverages within the city limits of Peculiar. The city ordinance, Chapter 600, Section 600.096 addresses convicted felons not being eligible for a liquor sales license.

SECTION 600.096: PERMIT ELIGIBILITY

No person shall be issued a permit by the Supervisor unless the person is at least twenty-one (21) years of age. No person shall be issued an employee permit if the person has been convicted of a felony, is otherwise disqualified by the State Statutes or by Code of State Regulations for employment on the licensed premises of an alcoholic beverage establishment or has been issued an alcoholic beverage license or permit from this or any other City or State that is currently suspended or that has been revoked within five (5) years immediately preceding the application. (Ord. No. 030204C §7, 3-2-04)

The State of Missouri does not issue permits for individuals to sell alcoholic beverages as an employee of an establishment that has a state liquor license. Missouri State Statute 311.060.2.(2). Addresses convicted felons working for an establishment with a state liquor license:

(2) No license issued under this chapter shall be denied, suspended, revoked or otherwise affected based solely on the fact that an employee of the licensee has been convicted of a felony unrelated to the manufacture or sale of intoxicating liquor. Each employer shall report the identity of any employee convicted of a felony to the division of liquor control. The division of liquor control shall promulgate rules to enforce the provisions of this subdivision.

This section requires reporting to the state, by the establishment, after hiring a convicted felon.

STAFF RECOMMENDATION

No change to this ordinance

City Administrator
Brad Ratliff

City Clerk
Nick Jacobs

City Attorney
Reid F. Holbrook



City Engineer
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AGENDA REQUEST FORM
(Board of Aldermen)

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Date of Request: 10/21/13 Scheduled Meeting Date: Nov. 4th, 2013

Full Name of Speaker: Jennifer Bedford Organization: N/A

Home Address: 12415 Live Oaks Circle City Peculiar State MO Zip 64078

Home Phone #: _____ Work Phone #: _____ Cell #: 816-726-5498 Email: bedfordj@comcast.net
Resident of the City of Peculiar? Yes No

Specifics of Topic:
Twin Oaks Neighborhood HOA.

Desired Outcome: Is that our concerns regarding to proposed HOA be heard by the city and taken into consideration.

If applicable has this item been previously presented to any of the following Boards for consideration?

Yes, but not by me.

| | | |
|---|----------------------|---------------|
| <input checked="" type="checkbox"/> Board of Aldermen | Date Presented _____ | Outcome _____ |
| <input type="checkbox"/> Planning Commission | Date Presented _____ | Outcome _____ |
| <input type="checkbox"/> Park Board | Date Presented _____ | Outcome _____ |
| <input type="checkbox"/> Board of Adjustment | Date Presented _____ | Outcome _____ |

***I have been made aware of the date and time of the next scheduled Board of Aldermen meeting.

Office Use Only:
Date request
Received: 10/21/13

Signature: [Handwritten Signature]

**ARTICLES OF INCORPORATION
OF
TWIN OAKS HOME ASSOCIATION, INC.**

We, the undersigned, Brad Ratliff, Nick Jacobs, and Ernie Jungmeyer, being natural persons of the age of twenty-one (21) years or more and citizens of the United States, for the purpose of forming a Public Mutual Benefit Corporation pursuant to RSMo. 355.881, do hereby adopt the following Articles of Incorporation.

ARTICLE I

The name of the corporation is Twin Oaks Home Association, Inc.

ARTICLE II

The duration of the corporation is: Perpetual. This corporation is a public benefit corporation.

ARTICLE III

The address of the initial registered office in the State of Missouri is 250 S. Main, Peculiar, Missouri and the name of its initial registered agent at such address is Brad Ratliff.

ARTICLE IV

The incorporators shall be three (3) in number, their names and addresses being as follows:

| <u>Name</u> | <u>Address</u> |
|-----------------|-----------------------------|
| Brad Ratliff | 250 S. Main Peculiar, MO |
| Nick Jacobs | 250 S. Main Peculiar, MO |
| Ernie Jungmeyer | 250 S. Main Peculiar, MO |

ARTICLE V

The Corporation is formed exclusively for the purposes for which a corporation may be formed under the Not For Profit Corporation Law and not for pecuniary profit or financial gain. No part of the assets, income, or profits of the corporation shall be distributable to, or inure to the benefit of, its members, directors, or officers except to the extent permitted under the Not For

Profit Corporation Law of the State of Missouri, and the purposes for which the Corporation is organized are as follows:

A. To advance the general welfare of the subdivision known as Twin Oaks Home Association, Inc. in the City of Peculiar, Cass County, Missouri.

B. To conduct and administer a homes association for the benefit and advantage of the present and any future owners of tracts or lots now or hereafter to be platted as Twin Oaks, Cass County, Missouri, and to perform and execute the powers and duties set forth in all Homes Association Declarations now existing or hereafter created related to tracts or lots now or hereafter to be platted as parts of Twin Oaks.

C. To enforce, either in its own name, or in the name of any owner in Twin Oaks, any and all restrictions which may have been heretofore, or may hereafter be imposed upon any of the Residential Tracts and/or Common Areas Tracts located in Twin Oaks, as it now or thereafter exists, as such restrictions were originally stated or as modified subsequently thereto.

D. Notwithstanding anything hereto the contrary the Corporation shall exercise only such powers as are in furtherance of the exempt purposes of organizations set forth in Section 501 of the Internal Revenue Code of 1954 and the regulations thereunder as the same now exist or as they may be hereafter amended from time to time. To exercise such other powers and rights as are pertinent thereto, and which may be exercised by Not For Profit Corporations under the laws of Missouri.

E. To adopt by-laws for the governance and orderly procedure of the corporation.

F. To enter into contracts and agreements providing for performance, in the name and behalf of the corporation, of any of the aforementioned purposes.

ARTICE VI

The corporation shall have two classes of voting membership, as follows:

A. Class A: Each owner of a completed residence in Twin Oaks, a subdivision in the city of Peculiar, Cass County, Missouri, shall be a Class A member. Each Class A member shall be entitled to one vote for each unit (as defined in the Declaration of Covenants and Restrictions of Twin Oaks) in which he holds fee simple title. When more than one person holds such interest in any unit, all such persons shall be members, and the vote for such unit shall be exercised as they, among themselves determine, but in no event shall more than one vote be cast with respect to any unit.

B. Class B: Ray Pec Land, L.L.C., the Declarant in the Declaration of Covenants and Restrictions of Twin Oaks, as filed in the office of the Recorder of Deeds of Cass County, Missouri, or its successors and assigns shall be a Class B Member. The Class B Member shall be entitled to one (1) vote for each platted lot owned.

ARTICLE VII

The Articles of Incorporation of this corporation may be amended from time to time, in any and as many respects as may be desired, any such amendment or amendments to be made in accordance with the provisions of Chapter 355 of the Revised Statutes of Missouri.

ARTICLE VIII

In the event of any liquidation, dissolution, or winding up of the corporation, whether voluntary, involuntary or by operation of law, all assets of the corporation remaining after the satisfaction and discharge of all liabilities and obligations of the corporation shall be distributed subject to the limitations hereinafter set out, to such corporations, firms, foundations or other entities as the Board of Directors shall determine. No such distribution, however, shall be made to any organization filing to qualify as an exempt organization under Section 501 of the Internal Revenue Code of 1954.

IN WITNESS WHEREOF, we have hereunto set our hand this ____ day of October, 2013.

Brad Ratliff

Nick Jacobs

Ernie Jungmeyer

**BY-LAWS OF
TWIN OAKS HOME ASSOCIATION, INC.
A MISSOURI NOT FOR PROFIT CORPORATION**

**Article I
MEETING OF MEMBERS**

Section 1. ANNUAL MEETING. The annual meeting of Members shall be held at the registered office of the Corporation, in Peculiar, Cass County, Missouri, at 7:30 p.m. on the first Monday of January of each year, or at such other place in Missouri as the Board of Directors may determine. Fifteen days prior to the annual meeting, the Secretary shall serve, personally or by mail, a written notice thereof, addressed to each member at his address as it appears on the records of the corporation.

Section 2. QUORUM. Any number of members present at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast, whether in person or by proxy, at any meeting of the members shall determine any question, unless otherwise provided by the By-Laws.

Section 3. SPECIAL MEETINGS. Special meetings of members other than those required by statute, may be called at any time by a majority of the directors. Notice of such meeting stating the purpose for which it is called shall be served personally or by mail, not less than ten (10) days before the day set for such meeting. If mailed, it shall be directed to a member at his address as it appears on the records of the corporation. The Board of Directors shall also, in like manner, call a special meeting of members whenever so requested in writing by 51 % of the members of the corporation. No business other than that specified in the call for the meeting shall be transacted at any meeting of the Members.

Section 4. VOTING. At all meetings of the Members all questions, the manner of deciding which is not specifically regulated by the Articles of Incorporation of this corporation or by these By-Laws or by the "Homes Association Declaration" filed or to be filed in the Office of the Recorder of Deeds of Cass County, Missouri and any amendments thereto ("Declaration"), shall be determined by a majority vote of the members present in person or by proxy, shall be entitled to cast one vote for each assessable lot or tract owned by him or her within the District as the same is defined by the Articles of incorporation of this corporation. The Developer shall have the number of votes for each lot owned by it. All voting shall be viva voce, except that a membership vote shall be by ballot, each of which shall state the name of the member voting and the number of assessable lots or tracts within the District, owned by him or her, and in addition, if such ballot be cast by proxy, the name of the proxy shall be stated. In the event of a membership vote, aforesaid, not more than one vote shall be cast for each assessable lot or tract within said District.

Section 5. ORDER OF BUSINESS. The order of business at all meetings of the members shall be as follows:

1. Roll Call.
2. Proof of notice of meeting or waiver of notice.
3. Reading of minutes of preceding meeting.
4. Reports of Officers.
5. Reports of Committees.
6. Election of Inspectors of Election.
7. Election of Directors.
8. Unfinished Business.
9. New Business.

Article II DIRECTORS

Section 1. NUMBER. The affairs and business of this Corporation shall be managed by a Board of not less than three (3) nor more than ten (10) directors, who may not be members of record. Provided, however, that from January 1, 2014 through December 31, 2015 there shall be only five (5) directors.

Section 2. HOW ELECTED. At the annual meeting of members, the five persons receiving a majority of the votes cast shall be the directors and shall constitute the Board of Directors of the ensuing year; provided, however, the directors for the period of January 1, 2014 through December 31, 2014 shall consist of three (3) lot owners and two members of the Board of Aldermen for the City of Peculiar. The Mayor of Peculiar is conferred the authority to appoint he two (2) Alerdermen members and one (1) lot owner who resides in Twin Oaks. The remaining two (2) Board positions shall be chosen in accordance with the provisions of Section 2 hereof, provided however, that all Directors for the calendar year beginning January 1, 2015 shall be chosen in accordance with Section 2 thereof.

Section 3. TERM OF OFFICE. The term of office of each of the Directors shall be one year, and thereafter until his or her successor has been elected.

Section 4. DUTIES OF DIRECTORS. The Board of Directors shall have the control and general management of the affairs and business of the company. Such Directors shall in all cases act as a Board, regularly convened, by a majority, and they may adopt such rules and regulations for the conduct of their meetings and the management of the corporation as they may deem proper, not inconsistent with these By-Laws and the Laws of the State of Missouri, the Articles of Incorporation of this corporation, and the aforementioned Declaration, as may be hereinafter amended. The Directors shall have the duty and obligation to determine and cause to be determined and levied on or before March 31 of each calendar year, the annual assessment as authorized by the Declaration.

Section 5. DIRECTORS' MEETINGS. Regular meetings of the Board of Directors shall be held immediately following the annual meeting of the members, and at such other times as the Board of Directors may determine. Special meetings of the Board of Directors may be called by the President at any time, and shall be called by the President or the Secretary upon the written request of two directors. Any lot owner/resident is entitled to notice of any Board Meeting but must request in writing they be notified of the date, time and location of any such meeting.

Section 6. NOTICE OF MEETINGS. Notice of meetings, other than the regular annual meetings shall be given by service upon each Director in person, or by mailing to him or her at his or her last known post office address, at least five (5) days before the date therein designated for such meeting, including that day of mailing, of a written or printed notice thereof, specifying the time and place of such meeting, and the business to be brought before the meeting and no business other than that specified in such notice shall be transacted at any special meeting. At any meeting at which every member of the Board of Directors shall be present, although held without notice, any business may be transacted which might have been transacted if the meeting had been duly called.

Section 7. QUORUM. At any meeting of the Board of Directors, three (3) of the Board shall constitute a quorum for the transaction of business; but in the event of a quorum not being present, a less number may adjourn the meeting to some future time, not more than five (5) days later.

Section 8. VOTING. At all meetings of the Board of Directors, each Director is to have one vote.

Section 9. REMOVAL OF DIRECTORS. Anyone or more of the Directors may be removed either with or without cause, at any time, by a 3/4 vote of the members, at any special meeting called for the purpose.

Article III OFFICERS

Section 1. NUMBER. The officers of this Company shall be:

1. President
2. Vice President (optional)
3. Secretary/Treasurer

Section 2. ELECTION. All officers of the Corporation shall be elected annually by the Board of Directors of its meeting held immediately after the meeting of the members, and shall hold office for the term of one year or until their successors are duly elected.

Section 3. DUTIES OF OFFICERS. The duties and powers of the officers of the Company shall be as follows:

PRESIDENT

The President shall preside at all meetings of the Board of Directors and members.

He or she shall present at each annual meeting of the members and Directors a report of the conditions of the business of the corporation.

He or she shall cause to be called regular and special meetings of the members and directors in accordance with these By-Laws.

He or she shall appoint and remove, employ and discharge and fix the compensation of all servants, agents, employees and clerks of the Corporation other than the duly elected officers, subject to the approval of the Board of Directors.

He or she shall sign and make all deeds, contracts and agreements in the name of the corporation.

He or she shall sign all notes, drafts or bills of exchange, warrants or other orders for the payment of money duly drawn by the Treasurer.

He or she shall enforce the aforementioned Homes Association Declaration and these By-Laws and perform all the duties incident to the position and office, and which are required by law.

VICE PRESIDENT

During the absence and inability of the President to render and perform his or her duties or exercise his or her powers, as set forth in these By-Laws or in the acts under which this Corporation is organized, the same, including the execution of deeds of the corporation, shall be performed and exercised by the Vice President; and when so acting, he or she shall have all the powers and be subject to all the responsibilities hereby given to or imposed upon the President.

SECRETARY/TREASURER

The Secretary shall keep the minutes of the meetings of the Board of Directors and of the members in appropriate books.

He or she shall give and serve all notices of the Corporation.

He or she shall be custodian of the records and of the seal, and affix the latter when required.

He or she shall keep accurate records reflecting the owners of the real estate

within the District, alphabetically arranged, their respective places of residence, their post-office address, the number of lots or tracts owned by each, and the time at which each person became such owner; and keep such records, subject to the inspection of any member of the corporation, and permit such member to make extracts from said books to the extent and as prescribed by law.

He or she shall present to the Board of Directors at their stated meetings all communications addressed to him or her officially by the President or any officer or member of the Corporation.

He or she shall attend to all correspondence and perform all the duties incident to the office of Secretary.

TREASURER

The Treasurer shall have the care and custody of and be responsible for all the funds and securities of the corporation, and deposit all such funds in the name of the corporation in such bank or banks, savings and loans, trust company or trust companies or safe deposit vaults as the Board of Directors may designate.

He or she shall sign, make and endorse in the name of the corporation, all checks, drafts, warrants and orders for the payment of money, and payout and dispose of same and receipt therefor, under the direction of the President or the Board of Directors.

He or she shall exhibit at all reasonable times his or her books and accounts to any director or member of the corporation upon application at the office of the corporation during business hours.

He or she shall render a statement of the condition of the finances of the corporation at each regular meeting of the Board of Directors, and at such other times as shall be required of him or her and a full financial report at the annual meeting of the members.

He or she shall keep at the office of the Corporation, correct books of account of all its business and transactions and such other books of account as the Board of Directors may require.

He or she shall notify members of their annual assessment as levied by the Board of Directors, and under direction of the Board, effect collection of same.

He or she shall do and perform all duties pertaining to the office of Treasurer.

Section 4. BOND. The Treasurer shall, if required by the Board of Directors, give to the Company such security for the faithful discharge of his or her duties as the Board may direct.

Section 5. VACANCIES, HOW FILLED. All vacancies in any office shall be filled by the Board of Directors without undue delay, at its regular meeting, or at a meeting specifically called for that purpose.

Section 6. COMPENSATION OF OFFICERS. The officers shall receive no salary or compensation. Officers and Directors may however be reimbursed for actual expenses incurred while furthering the business of the corporation.

Section 7. REMOVAL OF OFFICERS. The Board of Directors may remove any officer by 2/3 vote at any time with or without cause.

Article IV BILLS, NOTES, ETC.

Section 1. HOW MADE. All bills payable, notes, checks or other negotiable instruments of the Corporation shall be made in the name of the Corporation, and shall be signed by the President and countersigned by the Treasurer. No officer or agent of the Corporation either singly or jointly with others, shall have the power to make any bill payable, note, check, draft or warrant or other negotiable instrument, or endorse the same in the name of the Corporation, or contract or cause to be contracted any debt or liability in the name or on behalf of the corporation, except as herein expressly prescribed and provided.

Article V FISCAL YEAR

Section 1. The fiscal year of the corporation shall be the calendar year.

Article VI INDEMNIFICATION

Section 1. INDEMNIFICATION OF DIRECTORS AND OFFICERS. When a person is sued or prosecuted in a criminal action, either alone or with others, because he or she is or was a director or officer of the corporation, or of another corporation serving at the request of this corporation, in any proceeding arising out of his or her alleged misfeasance or nonfeasance in the performance of his or her duties or with others, because he or she is or was a director or officer of the corporation, or of another corporation serving at the request of this corporation, in any proceeding arising out of his alleged misfeasance or nonfeasance in the performance of his duties or out of any alleged wrongful act against the corporation or by the corporation, he or she shall be indemnified for his or her reasonable expenses, including attorney's fees incurred in the defense of the proceedings, if both of the following conditions exist:

(a) The person sued is successful in whole or in part, or the proceeding against him or her is settled with the approval of the court.

(b) The court finds that his or her conduct fairly and equitably merits such indemnity.

The amount of such indemnity which may be assigned against the corporation, its receiver, or its trustee, by the court in the same or in a separate proceeding shall be so much of the expenses, including attorneys' fees incurred in the defense of the proceedings, as the court determines and finds to be reasonable. Application for such indemnity may be made either by the person sued or by the attorney or other person rendering services to him or her in connection with the defense, and the court may order the fee and expenses to be paid directly to the attorney or other person, although he or she is not a party to the proceeding. Notice of the application for such indemnity shall be served upon the corporation, its receiver, or its trustee, and upon the plaintiff and other parties to the proceedings. The court may order notice to be given also to the members in the manner provided in Article I, Section 1 for giving notice of members' meetings, in such form as the Court directs.

**Article VII
AMENDMENTS**

Section 1. HOW AMENDED. These By-Laws may be altered, amended, repealed or added to by a 2/3 vote of the Board of Directors at any regular meeting, or at a special meeting called for such purpose. However, if all Directors be present at any special meeting, these By-Laws may be amended by an affirmative vote, without any previous notice.

Section 2. CONFLICT. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

CERTIFICATE OF SECRETARY

I the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of Twin Oaks Homeowners Association, a Missouri not for profit corporation; and
2. That the foregoing bylaws constitute the original bylaws of said corporation, as duly adopted at the first meeting to the Board of Directors thereof.

IN TESTIMONY WHEREOF, I have hereunto subscribed by name on this ____ day of _____, 2013.

Secretary



1907 Christopher St
Harrisonville, MO 64701

October 28,2013

Twin Oaks Common Areas

Nick,

After looking at the areas to mow I would estimate 350.00-450.00 per mow. This price could change drastically depending on how often we would mow. This price is based off of one mow a month. If we mowed once a week it would be lower. Typical we mow twice a year for the codes department. Hope this helps please contact me with any questions.

Thanks

Mike Johnson
Excalibur Contracting

Thank you for your business.
excaliburcontracting5@yahoo.com

City Administrator
Brad Ratliff

City Planner
Cliff McDonald

City Attorney
Reid F. Holbrook

Business Office
Trudy Prickett



City Engineer
Carl Brooks

Chief of Police
Harry Gurin

City Clerk
Nick Jacobs

Parks Director
Nathan Musteen

Municipal Offices – 250 S Main, Peculiar, MO 64078
Phone: 816.779.5212 Facsimile: 816.779.5213

To: Board of Aldermen
From: Cliff McDonald, City Planner
Date: November 4, 2013
Re:

GENERAL INFORMATION

Applicant: City Staff
Status of Applicant: City Staff
Requested Actions: Consider Changes to Chapter 250, Storm Water Management Regulations and Chapter 400, Zoning Regulations to align Land-use and Land Development regulations into Chapter 400 and establish Chapter 420: Illicit Discharge into Municipal Storm Water System
Date of Application: October 21, 2013
Purpose: To Amend Chapter 250, Storm Water Management Regulations into Chapter 400, Zoning Regulations and reorganize Chapter 400 to align Land-use and Land Development regulations into one area and establish a new Chapter 420: Illicit Discharge into Municipal Storm Water System in support of the City’s MS-4 Permit requirements.

Property Location (if applicable): N/A

PROPOSAL

For the Board of Aldermen to consider approving amendments to Chapter 250, Storm Water Management Regulations and Chapter 400, Zoning Regulations to align Land-use and Land Disturbance regulations into one Chapter of the Municipal Code (Chapter 400) and establish a new Ordinance, Chapter 420: Illicit Discharge into Municipal Storm Water System which is necessary to meet the City’s MS-4 Permit requirements.

PREVIOUS ACTIONS

The Board of Aldermen approved the First Reading of the Ordinance to Amend these Chapters at their meeting held October 21, 2013 without any amendments. The reorganization of the City’s Land-use and Land Disturbance regulations into one place, Chapter 400, was also reviewed and approved by City Staff. This alignment action (see Atch 1) was initiated to consolidate requirements into one area of the Municipal Code and improve accessibility to engineers, developers and City Staff. The Planning Commission held a

Public Hearing on these proposed amendments to Chapter 250 and Chapter 400 on October 10th, 2013 and subsequently approved the proposed changes with no amendments. The Board of Aldermen has a Public Hearing scheduled on October 21, 2013 on these proposed amendments.

KEY ISSUES

The Ordinance presented for approval has Twelve (12) Changes which will realign Land-use regulations into Chapter 400 and amend seven (7) SECTIONS which reference Storm Water Management Regulations to reflect its new Chapter number.

STAFF RECOMMENDATIONS

I recommend the Board of Aldermen approve the changes presented to Chapter 250 and Chapter 400 in the Ordinance presented at tonight's meeting.

STAFF CONTACT: Clifford L. McDonald

EXISTING CHAPTER 400, MUNICIPAL ORDINANCE

TITLE IV. LAND USE

- CHAPTER 400: ZONING REGULATIONS
- CHAPTER 405: LAND SUBDIVISION REGULATIONS
- CHAPTER 410: FLOODPLAIN MANAGEMENT
- CHAPTER 415: PLANNING AND PLANNING COMMISSION
- CHAPTER 420: RESERVED

PROPOSED CHANGES TO CHAPTER 400

TITLE IV. LAND USE

- CHAPTER 400: ZONING REGULATIONS
- CHAPTER 405: LAND SUBDIVISION REGULATIONS
- CHAPTER 410: FLOODPLAIN MANAGEMENT
- **(Add)** CHAPTER 415: STORM WATER MANAGEMENT REGULATIONS
(Moved from Chapter 250)
- **(Add)** CHAPTER 420: ILLICIT DISCHARGE INTO MUNICIPAL STORM DRAINAGE SYSTEM
- **(Add)** CHAPTER 425:
(Reserved for Future Use - Land Disturbance Permit)
- **(Rename)** CHAPTER 430: PLANNING AND PLANNING COMMISSION

BILL NO. 2013-19
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 250 AND CHAPTER 415 AND ESTABLISHING CHAPTERS 420, 425 AND 430 OF THE PECULIAR MUNICIPAL CODE TO ALIGN LAND-USE REQUIREMENTS IN THE CITY'S MUNICIPAL CODE.

WHEREAS, the City Planner has recommended amending Chapter 250 and Chapter 415 and establishing Chapters 420, 425 and 430 of the City of Peculiar Municipal Code, and amendments to SECTIONS 400.130, 400.640, 405.260, 405.290, 405.480, 405.690 and 405.740, and

WHEREAS, the Planning Commission ("Commission") recommended approval of amending Chapter 250 and Chapter 415 and establishing Chapters 420, 425 and 430 of the City of Peculiar Municipal Code, and amendments to SECTIONS 400.130, 400.640, 405.260, 405.290, 405.480, 405.690 and 405.740 of the City Municipal Code following a Public Hearing held October 10, 2013.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI THAT CHAPTERS 250, 415, 420, 425 AND 430 AND SECTIONS 400.130, 400.640, 405.260, 405.290, 405.480, 405.690 AND 405.740 OF THE CITY MUNICIPAL CODE BE AMENDED AND ESTABLISHED AS FOLLOWS:

SECTION I: That Chapter 250 of the Peculiar Municipal Code be removed in its entirety and replaced with the following language:

CHAPTER 250: RESERVED

SECTION II: That existing Chapter 415 of the Peculiar Municipal Code (Planning and Planning Commission) be removed in its entirety and replaced with the following:

CHAPTER 415: STORM WATER MANAGEMENT REGULATIONS

ARTICLE I. GENERAL PROVISIONS

SECTION 415.010: TITLE

These regulations shall hereafter be known, cited and referred to as the "Storm Water Management Regulations" of the City of Peculiar. (Ord. No. 50189 §1.1, 5-1-89)

SECTION 415.020: APPLICABILITY

Any person, firm, corporation or business proposing to construct buildings or develop land within the City shall apply to the City Engineer for approval of a Storm Water Management Plan and issuance of a drainage permit as specified in these regulations. No land shall be developed except upon issuance of such permit. (Ord. No. 50189 §1.3, 5-1-89)

SECTION 415.030: PURPOSE

A. In order to promote the public health, safety, and general welfare of the citizens of Peculiar, these Storm Water Management Regulations are hereby enacted for the general purpose of assuring the proper balance between man's use of land and the preservation of a safe and beneficial environment.

B. More specifically, the provisions of these regulations, as amended from time to time, are needed to:

1. Reduce property damage and human suffering; and
2. To minimize the hazards of personal injury and loss of life due to flooding, to be accomplished through the approval of Storm Water Management Plans pursuant to the provisions of these regulations, which:
 - a. Establish the primary and secondary Storm Water Management Systems;
 - b. Define and establish Storm Water Management practices and use restrictions;
 - c. Establish guidelines for handling increases in volume and peak discharges of runoff; and
 - d. Establish a technical review committee to review decisions of the City Engineer. (Ord. No. 50189 §1.4, 5-1-89)

SECTION 415.040: DEFINITIONS

For the purpose of this Chapter certain terms and words shall be used, interpreted and defined as set forth in this Section. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words in the singular shall include the plural, and vice-versa; the word, "*person*," includes corporation, partnership, and unincorporated association of persons; and the word, "*shall*," is always mandatory.

BASE FLOOD: The flood having a one percent (1%) chance of being equalled or exceeded in any given year, i.e., the one hundred (100) year flood.

BOND: Any form of security for the completion or performance of a Storm Water Management Plan or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in an amount and form satisfactory to the governing body.

BUILDING: Any structure for the support, shelter or enclosure of persons, animals, chattels, or movable property of any kind.

CHANNEL: A watercourse of perceptible extent which periodically or continuously contains moving water, or which forms a connecting link between two (2) bodies of water, and which has a definite bed and banks.

DETENTION BASIN: Any man-made area which serves as a means of controlling and temporarily storing storm water runoff.

DETENTION STORAGE: The temporary detaining or storage of storm water in reservoirs, on rooftops, on parking lots and other areas under predetermined and controlled conditions.

DEVELOPMENT: Any change of land use or improvement on any parcel of land.

DIFFERENTIAL RUNOFF: The volume and rate of flow of storm water runoff discharged from a parcel of land or drainage area which is or will be greater than that volume and rate which pertained prior to proposed development or redevelopment.

DRAINAGE PERMIT: A permit issued by the City Engineer upon approval of a Final Storm Water Management Plan.

DRY BOTTOM BASIN: A facility designed for the temporary storage of storm water runoff.

EASEMENT: Authorization by a property owner for use by another party or parties of all or any portion of his/her land for a specified purpose.

FIFTY YEAR FLOOD: A flood having a two percent (2%) chance of occurrence in a given year.

FIFTY YEAR PEAK FLOW: The peak rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the fifty (50) year flood.

FIFTY YEAR STORM: Rainstorms of a specific duration having a two percent (2%) chance of occurrence in any given year.

FLOODPLAIN: A land area adjoining a river, stream, watercourse, or lake which is likely to be flooded.

FLOODWAY: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

FREEBOARD: A factor of safety expressed as the difference in elevation between the top of the detention basin dam and the design surface water flow elevation.

HABITABLE DWELLING UNIT: A dwelling unit intended for and suitable for human habitation.

ONE HUNDRED YEAR PEAK FLOW: The peak rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the base flood.

ONE HUNDRED YEAR STORM: Rainstorms of a specific duration having a one percent (1%) chance of occurrence in any given year.

PERMITTEE: A person, partnership or corporation to whom a permit is granted.

PLAT: A legally recorded plan of a parcel of land subdivided into lots with streets, alleys and other land lines drawn to scale.

PROJECT: A development involving the construction, reconstruction, or improvement of structures and/or grounds.

RATIONAL METHOD: An empirical formula for calculating peak rates of runoff resulting from rainfall.

STORM WATER RUNOFF: Water that results from precipitation which is not absorbed by the soil, evaporated into the atmosphere, or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.

STRUCTURE: Any object constructed above or below ground.

TRIBUTARY AREA: All of the area that contributes storm water runoff to a given point.

WET BOTTOM BASIN: A detention basin intended to have a permanent pool.

WATERCOURSE: Any surface stream, creek, brook, branch, depression, reservoir, lake, pond, or drainageway in or into which storm water runoff flows. (Ord. No. 50189 §1.5, 5-1-89)

ARTICLE II. STORM WATER RUNOFF MANAGEMENT SYSTEM

SECTION 415.050: GENERAL

This Article establishes the Storm Water Runoff Management System of Peculiar, Missouri, which shall be composed of a primary system, a secondary system, management controls, and management practices. These regulations shall apply in the secondary system. (Ord. No. 50189 §2.1, 5-1-89)

SECTION 415.060: THE PRIMARY SYSTEM

The primary system shall be composed of the regulatory floodplain as shown on the National Flood Insurance Program maps. (Ord. No. 50189 §2.2, 5-1-89)

SECTION 415.070: THE SECONDARY SYSTEM

The secondary system shall be composed of all watercourses and drainage structures, both public and private, that are not mapped as a part of the primary system. (Ord. No. 50189 §2.3, 5-1-89)

SECTION 415.080: MANAGEMENT CONTROLS

"*Management controls*" are regulations applicable to the secondary system under the provisions of this Chapter. Such controls shall limit any activity which will adversely affect hydraulic function of detention facilities, open channels, drainage swales, or enclosed storm water conveyance systems. (Ord. No. 50189 §2.4, 5-1-89)

SECTION 415.090: MANAGEMENT PRACTICES

The following practices may be utilized upon approval of the City Engineer.

1. *Storage.* Runoff may be stored in temporary or permanent detention basins, or through rooftop or parking lot ponding, or percolation storage, or by other means in accordance with the design criteria and performance standards set forth in these regulations.
2. *Open channels.* Maximum feasible use shall be made of existing drainageways, open channels and drainage swales that are designed and coordinated with design criteria and performance standards set forth in these regulations.
3. *Streets and curbs.* Streets, curbs, and gutters shall be an internal part of the storm water runoff management system. To the maximum extent possible, drainage systems, street layout and grades, lotting patterns and the location of the curbs, inlets and site drainage and overflow swales shall be concurrently designed in accordance with the design criteria and performance standards set forth in these regulations.
4. *Enclosed conveyance systems.* Enclosed conveyance systems consisting of inlets, conduits, and manholes may be used to convey storm water runoff. Where used, such systems must be designed in accordance with design criteria and performance standards set forth in these regulations.
5. *Other.* The storm water runoff management practices enumerated herein shall not constitute an exclusive listing of available management practices. Other generally

accepted practices and methods may be utilized if the purposes, design criteria and minimum performance standards of these regulations are complied with. (Ord. No. 50189 §2.5, 5-1-89)

SECTION 415.100: PUBLIC AND PRIVATE RESPONSIBILITIES UNDER THE STORM WATER MANAGEMENT SYSTEM

A. *Public Responsibilities.*

1. *Administration.* The administration of these regulations shall be the responsibility of the City Engineer, who shall review and approve Storm Water Management Plans as provided herein.

2. *Operation and Maintenance of Publicly Owned Facilities.* The City Public Works Department shall be responsible, during and after construction, for the operation and maintenance of all drainage structures and improved courses which are part of the storm water runoff management system under public ownership and which are not constructed and maintained by or under the jurisdiction of any State or Federal Agency.

B. *Private Responsibilities.*

1. Each developer of land within the City has the responsibility to provide on the developer's property all approved storm water runoff management facilities to ensure the adequate drainage and control of storm water on the developer's property both during and after construction of such facilities.

2. Each developer or owner has the responsibility and duty before and after construction to properly operate and maintain any on-site storm water runoff control facility which has not been accepted for maintenance by the public. Such responsibility is to be transmitted to subsequent owners through appropriate covenants. (Ord. No. 50189 §2.6, 5-1-89)

ARTICLE III. PROCEDURE FOR THE SUBMISSION, REVIEW AND APPROVAL OF STORM WATER RUNOFF MANAGEMENT PLANS

SECTION 415.110: GENERALLY

No development shall increase the quantity and rate of storm water emanation from said land areas except in accordance with an approved Storm Water Management Plan as provided in these regulations. The Storm Water Management Plan shall be prepared by a licensed professional engineer in the State where the development occurs. No building permits shall be issued until

and unless the Storm Water Management Plan has been approved by the City Engineer. (Ord. No. 50189 §3.1, 5-1-89)

SECTION 415.120: SUBMISSION OF PRELIMINARY STORM WATER MANAGEMENT PLAN

A. The Preliminary Storm Water Management Plan for any proposed development shall contain but not be limited to the following information and data:

1. Topographic map outlining the limits of the contributing area. Topographic maps should be the best available. U.S.G.S. 7.5 minute quadrangle topographic maps with a ten (10) foot contour interval will be accepted as a minimal requirement;
2. Site plan of suitable scale or contour interval, showing the land to be developed and such adjoining land whose topography may affect the layout or drainage patterns for the development;
3. The location of streams and other flood water runoff channels, the extent of flood plains at the established high water elevations, the limits of the floodway, if pertinent, and any additional information, all of which shall be properly identified;
4. The normal shoreline of lakes, ponds, swamps and detention basins including their flood plains and inflow and outflow structures if such structures exist;
5. The location and calculated flow rates of other existing storm drains, inlets and outfalls;
6. The location and calculated flow rates of any existing storm sanitary and combined sewers which occur within the proposed project site or adjacent thereto within a distance of approximately five hundred (500) feet from the perimeter of said site;
7. The location and observed flow rates of any flowing springs, existing wells or any existing seepage areas as determined by means of a field inspection of the property;
8. General information regarding the type and characteristics of soils which will be encountered within the project;
9. Concepts which will be considered within the development to handle safely all storm water runoff, including the methods for detention or control of increased storm water runoff generated by the project development;
10. A general plan showing the extent and nature of the storm drainage facilities which will be planned to serve the proposed project including preliminary calculations indicating the runoff which must be handled by such facilities, the methods and criteria

which have been utilized in calculating such runoff, and basic information regarding the receiving stream channel into which such drainage facilities will discharge;

11. Calculation supporting the method and capacity needed for the sale and temporary storage of increased runoff resulting from the proposed development, if temporary storage is needed;

12. Basic information regarding the receiving stream or channel into which proposed storm drainage facilities will discharge including the channel location, general cross section, existing downstream culverts and bridges and other waterway openings, any existing detention basins or lakes and other information required to determine, in preliminary form, the effect which the proposed development will have on downstream drainage conditions;

13. A general plan indicating the exterior perimeter of the site, the general development proposed for the project, and an indication by means of rough contours showing the terrain after grading the site.

B. The information received in Subsection (A) shall be submitted in accordance with existing subdivision plan approval procedures. (Ord. No. 50189 §3.2, 5-1-89)

SECTION 415.130: REVIEW OF PRELIMINARY STORM WATER MANAGEMENT PLAN

Following receipt of the Preliminary Storm Water Management Plan, and information to be included with such plan, the general drainage concepts and planning proposals will be reviewed by the City Engineer with representatives of the developer, including the developer's engineer, to review the overall concepts included in the Preliminary Storm Water Management Plan. The purpose of this review shall be to jointly agree upon an overall Storm Water Management Concept for the proposed development and to review criteria and begin design parameters which shall apply to final design of the project. (Ord. No. 50189 §3.3, 5-1-89)

SECTION 415.140: FINAL STORM WATER RUNOFF MANAGEMENT PLAN

Following review of the Preliminary Storm Water Management Plan and after the concept review meeting and general approval of the preliminary plan by the City Engineer, a Final Storm Water Management Plan shall be prepared for each phase of the proposed project as each phase is developed. The final plan shall constitute a refinement of the concepts approved in the Preliminary Storm Water Management Plan with preparation and submittal of the following additional detailed information unless specifically excluded during the preliminary concept review meeting:

1. A topographic map of the project site and adjacent areas, of suitable scale and contour interval, which shall define the location of streams, the extent of flood plains, and calculated high water elevations, the shoreline of lakes, ponds, swamps and detention basins including their inflow and outflow structures, if any;
2. The location and flowline elevation of all existing sanitary, storm, or combined sewers, and the location of any existing sewage treatment facilities, which fall within the project limits and within a distance of two hundred fifty (250) feet beyond the exterior boundaries of said project;
3. Detailed determination of runoff anticipated for the entire project site following development indication design volumes and rates of proposed runoff of each portion of the watershed tributary to the storm drainage system, the calculations used to determine said runoff volume and rates and restatement of the criteria which have been used by the project engineer throughout his/her calculations;
4. A refined layout of the proposed Storm Water Management System including the location and size of all drainage structures, storm sewers, channels and channel sections, detention basins, and analyses regarding the effect said improvements will have upon the receiving channel and its high water elevation;
5. The slope, type, size and flow calculations for all existing and proposed storm sewers and other waterways;
6. For all detention basins, if any, a plot or tabulation of storage volumes with corresponding water surface elevations and of the basin outflow rates for those water surface elevations;
7. For all detention basins, if any, design hydrographs of inflow and outflow for the hundred (100) year differential runoff from the site under proposed development conditions;
8. A refined grading plan for the entire project site drawn at a suitable scale and contour interval, or the terrain within the proposed project site including contours of the existing terrain along with contours indicating final grades which will be established during completion of the project. The grading plan shall also include a plotting of the line defining the high water elevation to be expected under one hundred (100) year peak flow conditions produced by the projected development of the contributing watershed based on the best available land use information;
9. A profile and one (1) or more cross-sections of all existing and proposed channels or other open drainage facilities, showing existing conditions and the proposed changes thereto, together with the high water elevations expected from storm water runoff under the controlled conditions called for by these regulations and the relationship of structures, streets, and other utilities to such channels. (Ord. No. 50189 §3.4, 5-1-89; Ord. No. 70290 §1b, 7-2-90)

SECTION 415.150: REVIEW AND APPROVAL OF FINAL STORM WATER MANAGEMENT PLANS

- A. Final Storm Water Management Plans shall be reviewed by the City Engineer. If it is determined according to present engineering practice that the proposed development will provide control of storm water runoff in accordance with the purposes, design criteria and performance standards of these regulations and will not be detrimental to the public health, safety and general welfare, the City Engineer shall approve the plan or conditionally approve the plan, setting for the conditions thereof. If approved, a drainage permit for the development shall be granted.
- B. If it is determined that the proposed development will not control storm water runoff in accordance with these regulations, the City Engineer shall disapprove the Final Storm water Management Plan.
- C. If disapproved, the application and date shall be returned to the applicant for resubmittal.
- D. Time frames for filing, review and approval of Storm Water Management Plans shall coincide with time periods applicable in existing subdivision regulations. (Ord. No. 50189 §3.5, 5-1-89)

ARTICLE IV. DESIGN CRITERIA AND PERFORMANCE STANDARDS

SECTION 415.160: DESIGN CRITERIA

Unless otherwise provided, the following rules shall govern the design improvements with respect to managing storm water runoff:

- 1. *Methods of determining storm water runoff.* Developments where the area contributing runoff is twenty-five (25) acres or less shall be designed using the Rational Method of calculating runoff. Developments where the area contributing runoff is four hundred (400) acres or less shall be designed using either the Rational Method of calculating runoff or other methods as approved by the City Engineer. For developments where the area contributing runoff is four hundred (400) acres or more, the applicant shall submit a proposed method of evaluation for the calculation of runoff to the City Engineer for review and approval. All such development proposals shall be prepared by a licensed professional engineer.
- 2. *Development design.* Streets, blocks, depth of lots, parks, and other public grounds shall be located and laid out in such a manner as to minimize the velocity of overland flow and allow maximum opportunity for infiltration of storm water into the ground, and to preserve and utilize existing and planned streams, channels, and detention basins, and include, whenever possible, streams and floodplains within parks and other public grounds.

3. *Enclosed systems and open channels.* Unless otherwise provided by the City Engineer, the Design Criteria for Storm Sewers and Appurtenances, Revised, 1973, prepared by the Kansas City Metropolitan Chapter of the American Public Works Association, Section 5100 to 5112, inclusive, or as amended, which is by reference made part hereof as though expressly rewritten and incorporated in this Chapter, shall govern the design enclosed systems and open channels within the City of Peculiar.

4. *Methods of controlling downstream flooding.* The City Engineer shall determine whether the proposed plan will cause or increase downstream development and an analysis of storm water runoff with and without the proposed development as set forth in the Article. When the City Engineer determines that the proposed development will cause or increase downstream flooding conditions during the one hundred (100) year storm, provisions to minimize such flooding conditions shall be included in the design of storm drainage improvements. Such provisions may include downstream improvements and/or the temporary controlled detention of storm water runoff and its regulated discharge to the downstream storm drainage system.

5. *Downstream improvements.* Improvements to minimize downstream flooding conditions may include, but not be limited to, the construction of dams, dikes, levees and floodwalls; culvert enlargements; and channel clearance and modification projects. Such downstream improvements should be discussed between the City Engineer and the developer's engineer so that appropriate provisions with the respect to planning and implementing said improvements can be made at the earliest possible date.

6. *Detention.* Developments also may include temporary detention of storm water runoff in order to minimize downstream flooding conditions. The following design criteria shall govern the design of temporary detention facilities;

a. *Storage volume.* The storage volume provided in detention basins shall be as stipulated in the Design Criteria for Storm Sewers and Appurtenances, Section 5600, 1990, Kansas City Chapter of American Public Works Association, or as amended.

b. *Free board.* Detention storage areas shall have adequate capacity to contain the storage volume of tributary storm water runoff with at least two (2) feet of freeboard above the water surface of flow in the emergency spillway in a one hundred (100) year storm or as required by State law.

c. *Outlet control works.*

1) Outlet works shall be designed to limit peak outflow rates from detention storage areas to or below peak flow rates that would have occurred prior to the proposed development.

2) Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.

3) Size and hydraulic characteristics shall be such that all water in detention storage is released to the downstream storm sewer systems with twenty-four (24) hours after the end of the design rainfall.

d. *Spillway.* Emergency spillways shall be provided to permit the safe passage of runoff generated from one hundred (100) year storm, or greater, if required by law, or if appropriate because of downstream high hazard, such as loss of life or damage to high value property.

e. *Design data submittal.* In addition to complete plans, the following design data shall be submitted to the City Engineer for all projects including temporary detention facilities;

1) Rainfall hyetograph plotted in units of inches per hour as ordinates, and time from beginning of the storm as abscissas.

2) Runoff hydrograph plotted in units of cubic feet per second runoff rate of the tributary area as ordinates, and time from the start of runoff as abscissas.

3) *Area.* Capacity curve for proposed detention facility plotted in units of datum elevation as ordinates, and cumulative volume of storage as abscissas.

4) Discharge characteristics curve or outlet works plotted in units of detention facility water surface elevation as ordinates, and discharge rate for cubic feet per second (CFS) as abscissas.

5) *Storage capacity.* Inflow and outflow curves in units of accumulated volume as ordinates, and time from start of runoff as abscissas. Curves shall be so arranged that the vertical distance between the accumulated storage and accumulated discharge will indicate the net volume in storage at any point in time. Curves shall be extended to the time required for complete discharge of all runoff stored in the detention facility.

f. *Detention methods.* In addition to the above criteria, the following shall be applicable, depending on the detention alternative(s) selected by the City Engineer and the developer's engineer.

1) *Wet bottom basins.* For basins designed with permanent pools;

a) *Minimum depths.* The minimum normal depth of water before the introduction of excess storm water shall be four (4) feet.

b) *Depth for fish.* If fish are to be used to keep the basin clean, at least one-quarter ($\frac{1}{4}$) of the area of the permanent pool must have a minimum depth of ten (10) feet.

c) *Facilities for emptying.* For emptying purposes, cleaning or shoreline maintenance, facilities shall be provided or plans prepared for the use of auxiliary equipment to permit emptying and drainage.

2) *Dry bottom basins.* For basins designed to be normally dry:

a) *Interior drainage.* Provisions must be incorporated to facilitate interior drainage to outlet structures.

b) *Multipurpose features.* These shall be designed to serve secondary purposes for recreation, open space or other types of use which will not be adversely affected by occasional or intermittent flooding.

3) *Rooftop storage.* Detention storage may be met in total or in part by detention on roofs. Details of such designs, which shall be included in the drainage permit applications, shall include the depth and volume of storage, details of outlet devices and downdrains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions. Direct connection of rooftop drains to sanitary sewers is prohibited.

4) *Parking lot storage.* Paved parking lots may be designed to provide temporary detention storage of storm water on all or a portion of their surfaces. Outlets will be designed so as to slowly empty the stored waters and depths of storage must be limited so as to prevent damage to parked vehicles.

5) *Other storage.* All or a portion of the detention storage may also be provided in underground or surface detention facilities, to include basins, tanks, or swales, etc. (Ord. No. 50189 §4.1, 5-1-89; Ord. No. 70290 §1a, 7-2-90)

SECTION 415.170: PERFORMANCE STANDARDS

A. *Storm water Channel Location.* General acceptable locations of storm water runoff channels in the design of a subdivision may include but not be limited to the following:

1. In a depressed median of a double roadway, street or parkway provided the median is wide enough to permit maximum three (3) to one (1) side slopes.

2. Centered on lot lines or entirely within the rear yards of a single row of lots or parcels.

3. In each of the foregoing cases, a drainage easement to facilitate maintenance and design flow shall be provided and shown on the plat. No structure shall be constructed within or across storm water channels.

B. *Storm Sewer Outlet.* The storm sewer outlet shall be designed so as to provide adequate protection against downstream erosion and scouring.

C. *Lot Lines.* Whenever the plans call for the passage and/or storage of floodwater, surface runoff or storm water along lot lines, the grading of all such lots shall be prescribed and established for the passage and/or storage of waters, and no structure may be erected which will obstruct the flow of storm water, no fences, shrubbery, or trees planted, or changes made to the prescribed grades and contours of the specified floodwater or storm water runoff channels.

D. *Manholes.* All sanitary sewer manholes constructed in a floodplain or in an area designed for the storage or passage of flood or storm water, shall be provided with either a water-tight manhole cover or be constructed with a rim elevation of a minimum of one (1) foot above the high water elevation of the base flood or the high water elevation of the design storm, whichever is applicable to the specific area.

E. *Easements.* Permanent easements for the detention and conveyance of storm water, including easements of access to structures and facilities, shall be dedicated to the City.

F. *Maintenance.* Provisions acceptable to the City for perpetual maintenance of detention facilities, outlet works, and appurtenances shall be made, as provided in [Section 415.190](#) of these regulations.

G. *Drainage Permits.* A drainage permit for projects including detention facilities may be granted by the City Engineer only after the Storm Water Management Plan has been approved and all easements have been dedicated, accepted, and recorded, and all required maintenance assurances and required bonds have been executed, as required in [Section 415.210, Subsection \(A\)](#) of these regulations. (Ord. No. 50189 §4.2, 5-1-89)

ARTICLE V. BONDS, MAINTENANCE ASSURANCE AND DRAINAGE PERMITS

SECTION 415.180: PERFORMANCE BONDS AND OTHER ASSURANCES FOR COMPLETION OF STORM WATER MANAGEMENT IMPROVEMENTS

Upon approval of the Final Storm Water Management Plan, but before the issuance of a drainage permit, the City Engineer shall require the applicant to post a performance bond, cash escrow, certified check, or other acceptable form of performance security for the amount of the work to be done pursuant to the approved Storm Water Management Plan. (Ord. No. 50189 §5.1, 5-1-89)

SECTION 415.190: MAINTENANCE AGREEMENT

A maintenance agreement, approved by the governing body of the City, assuring perpetual maintenance of Storm Water Management improvements shall be agreed upon by the City and the applicant. (Ord. No. 50189 §5.2, 5-1-89)

SECTION 415.200: MAINTENANCE BOND

A two (2) year maintenance bond against defects in workmanship may be required by the City for any portion of the Storm Water Management improvements dedicated to the public. (Ord. No. 50189 §5.3, 5-1-89)

SECTION 415.210: DRAINAGE PERMITS

A. Upon approval of the Final Storm Water Management Plan and acceptance of the applicant's assurances of performance and maintenance as provided in these regulations, the City Engineer shall issue a drainage permit. The drainage permit shall be issued to the applicant who shall then be known and thereafter be referred to as the permittee. The permit shall set forth the terms and conditions of the approved Storm Water Management Plan.

B. *Fees.* A fee of three hundred dollars (\$300.00) shall accompany each application for a drainage permit. (Ord. No. 50189 §§5.4-5.5, 5-1-89)

ARTICLE VI. ENFORCEMENT

SECTION 415.220: GENERAL

It shall be the duty of the City Engineer to bring to the attention of the City Attorney any violation or lack of compliance herewith. (Ord. No. 50189 §6.1, 5-1-89)

SECTION 415.230: VIOLATIONS AND PENALTIES

Any person, firm or corporation who fails to comply with or violates any of these regulations shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00), or be confined in the County

Jail for not more than ninety (90) days, or both as provided by ordinance. (Ord. No. 50189 §6.2, 5-1-89)

SECTION 415.240: INSPECTION

The City Engineer shall be responsible for determining whether the Storm Water Management Plan is in conformance with requirements specified in [Article IV](#), and whether development is proceeding in accordance with the approved drainage permit. Periodic inspection of the development site shall be made by the City Engineer. Through such periodic inspections the City Engineer shall ensure the Storm Water Management Plan is properly implemented and that the improvements are maintained. (Ord. No. 50189 §6.3, 5-1-89)

SECTION 415.250: REMEDIAL WORK

If it is determined through inspection that development is not proceeding in accordance with the approved Storm Water Management Plan and drainage permit, the City Engineer shall immediately issue written notices to the permittee and the surety of the nature and location of the alleged non-compliance, accompanied by documentary evidence demonstrating non-compliance and specifying what remedial work is necessary to bring the project into compliance. The permittee so notified shall immediately, unless weather conditions or other factors beyond the control of the permittee prevent immediate remedial action, commence the recommended remedial action and shall complete the remedial work within seventy-two (72) hours or within a reasonable time after receipt of said notice. Upon satisfactory completion of the remedial work, the City Engineer shall issue a notice of compliance and the development may proceed. (Ord. No. 50189 §6.4, 5-1-89)

SECTION 415.260: REVOCATION OF PERMITS -- STOP ORDERS

The City Engineer, after giving ten (10) days' written notice, may revoke a permit issued pursuant to these regulations for any project which is found upon inspection to be in violation of the provisions of these regulations, and for which the permittee has not agreed to undertake remedial work as provided in [Section 415.250](#). Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit the City Engineer shall issue a stop work order. Such stop work order shall be directed to the permittee and he shall immediately notify persons owning the land, the developer, and those persons or firms actually performing the physical work of clearing, grading and developing the land. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the development or a portion thereof which is not in compliance, except such remedial work necessary to bring the project into compliance. (Ord. No. 50189 §6.5, 5-1-89)

ARTICLE VII. GENERAL PROVISIONS

SECTION 415.270: INTERPRETATION, CONFLICT AND SEPARABILITY INTERPRETATIONS

A. *Interpretation.* In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.

B. *Conflict with Public and Private Provisions.*

1. *Public provisions.* These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, Statute or other provisions of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards, shall control.

2. *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determination made hereunder.

C. *Separability.* If any part or provision of these regulations or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to that part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application hereof to other persons or circumstances. The governing body hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application found to be unlawful or invalid. (Ord. No. 50189 §7.1, 5-1-89)

SECTION 415.280: SAVING PROVISIONS

These regulations shall not be construed as abating any action now under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the City under any Section or provision existing at the time of adoption of these

regulations, or as vacating or annulling any rights obtained by any person, firm or corporation, by lawful action of the City, except as shall be expressly provided for in these regulations. (Ord. No. 50189 §7.2, 5-1-89)

SECTION 415.290: AMENDMENTS

For the purpose of providing for the public health, safety and general welfare, the governing body may, from time to time, amend the provisions of these regulations. (Ord. No. 50189 §7.3, 5-1-89)

SECTION 415.300: APPEALS

Any person aggrieved by a decision of the City Engineer may appeal any order, requirement, decision or determination first to the Technical Review Committee and then to a court of competent jurisdiction in accordance with the procedures set forth below.

1. A hearing before the Technical Review Committee may be required within ten (10) days of a final order, requirement, decision or determination of the City Engineer. The Technical Review Committee shall consider any information offered by the aggrieved person bearing on the dispute and may recommend to the City Engineer an appropriate course of action: either reversal, modification, or confirmation. The City Engineer, who shall be present at the hearing, shall act on the recommendation in a manner consistent with his/her responsibilities under these regulations.

2. Any person aggrieved by any final decision of the City Engineer following review by the Technical Review Committee may seek review by a court of competent jurisdiction in the manner provided by the laws of the State of Missouri. (Ord. No. 50189 §7.4, 5-1-89)

SECTION 415.310: TECHNICAL REVIEW COMMITTEE

The Technical Review Committee on Storm water Management, which shall be appointed by the governing body, shall consist of three (3) members from the fields of hydrology, geology, environmental science, civil engineering or physical planning. The Chairman shall be elected by the members of the Committee. The Committee shall have the following responsibilities:

1. Participate in the review of appeals as provided in [Section 415.300\(1\)](#) above;
2. Mediate disputes regarding the interpretation and application capability of the technical provisions of this Chapter, particularly with respect to the design criteria and performance standards set forth in [Article IV](#); and

3. Submit recommendations and findings pertinent to any dispute to the City Engineer. (Ord. No. 50189 §7.5, 5-1-89)

ARTICLE VIII. LIABILITY

SECTION 415.320: DISCLAIMER OF LIABILITY

The performance standards and design criteria set forth herein establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee, or warranty of any kind by the City, or its Officers and employees, of adequacy of safety of any Storm Water Management structure or use of land. Nor shall the approval of a Storm Water Management Plan and the issuance of the drainage permit imply that land uses permitted will be free from damages caused by storm water runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or storm water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any Officer with respect to any legislative or administrative decision lawfully made hereunder. (Ord. No. 50189 §8.1, 5-1-89)

SECTION III: That a Chapter 420 of the Peculiar Municipal Code be added to read as follows:

CHAPTER 420: ILLICIT DISCHARGE INTO MUNICIPAL STORM DRAINAGE SYSTEM

ARTICLE I. PURPOSE, INTENT

SECTION 420.010: PURPOSE/INTENT

The purpose of this Chapter is to provide for the health, safety and general welfare of the citizens of the City of Peculiar through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by Federal and State law. This Chapter establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Chapter are:

1. To regulate the contribution of pollutants to the Municipal Separate Storm Sewer System (MS4) by stormwater discharges by any user;

2. To prohibit illicit connections and discharges to the Municipal Separate Storm Sewer System;
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Chapter.

ARTICLE II. DEFINITIONS

SECTION 420.020: DEFINITIONS

For the purposes of this Chapter, the following words or phrases shall mean:

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

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

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

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

HAZARDOUS MATERIALS: Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in [Section 420.070\(A\)](#) of this Chapter.

ILLICIT CONNECTIONS: An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-

stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency, or

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b) (14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT: A permit issued by EPA [or by a State under authority delegated pursuant to 33 USC 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NON-STORMWATER DISCHARGE: Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES: Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM: Facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

STORMWATER: Any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce

pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

WASTEWATER: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

ARTICLE III. APPLICABILITY AND RESPONSIBILITY

SECTION 420.030: APPLICABILITY

This Chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

SECTION 420.040: RESPONSIBILITY FOR ADMINISTRATION

The Public Works Department shall administer, implement and enforce the provisions of this Chapter. Any powers granted or duties imposed upon the Public Works Department may be delegated in writing by the Director of the department to persons or entities acting in the beneficial interest of or in the employ of the Public Works Department.

SECTION 420.050: SEVERABILITY

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

SECTION 420.060: ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore this Chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

ARTICLE IV. PROVISIONS FOR DISCHARGES

SECTION 420.070: DISCHARGE PROHIBITIONS

A. *Prohibition Of Illegal Discharges.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated--typically less than one (1) PPM chlorine), fire-fighting activities and any other water source not containing pollutants.

2. Discharges specified in writing by the Public Works Department as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the Public Works Department prior to the time of the test.

4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations and provided that written approval has been granted for any discharge to the storm drain system.

B. *Prohibition Of Illicit Connections.*

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this Chapter if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

SECTION 420.080: SUSPENSION OF MS4 ACCESS

A. *Suspension Due To Illicit Discharges In Emergency Situations.* The Public Works Department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment or to the health or welfare of persons or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Public Works Department may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.

B. *Suspension Due To The Detection Of Illicit Discharge.* Any person discharging to the MS4 in violation of this Chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Public Works Department will notify a violator of the proposed termination of its MS4 access. The violator may petition the Public Works Department for a reconsideration and hearing.

C. *Offense Committed.* A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section without the prior approval of the Public Works Department.

SECTION 420.090: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Public Works Department prior to the allowing of discharges to the MS4.

SECTION 420.100: MONITORING OF DISCHARGES

A. *Applicability.* This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

B. *Access To Facilities.*

1. The Public Works Department shall be permitted to enter and inspect facilities subject to regulation under this Chapter as often as may be necessary to determine compliance with this Chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

2. Facility operators shall allow the Public Works Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater and the performance of any additional duties as defined by State and Federal law.

3. The Public Works Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the department to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The Public Works Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Public Works Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Public Works Department access to a permitted facility is a violation of a stormwater discharge permit and of this Chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Public Works Department reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Chapter.

7. If the Public Works Department has been refused access to any part of the premises from which stormwater is discharged and he/she is able to demonstrate probable cause to believe that there may be a violation of this Chapter or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Public Works Department may seek issuance of a search warrant from the Cass County Circuit Court.

ARTICLE V. POLLUTION PREVENTION

SECTION 420.110: REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES

The Public Works Department will adopt requirements identifying Best Management Practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is or may be the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the Municipal Separate Storm Sewer System. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 420.120: WATERCOURSE PROTECTION

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

SECTION 420.130: NOTIFICATION OF SPILLS

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Public Works Department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Public Works Department within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

ARTICLE VI. ENFORCEMENT AND ABATEMENT

SECTION 420.140: ENFORCEMENT

Whenever the Public Works Department finds a person has violated a prohibition or failed to meet a requirement of this Chapter, the Department may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation, any or all of the following:

1. The performance of monitoring, analyses and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices or operations shall cease and desist;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
5. Payment of a sum of money equivalent to the administrative and remediation costs;
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the violator may be prosecuted for a violation of this Section, the City may seek injunctive relief or the work may be done by the Public Works Department or a contractor and the expense thereof shall be charged to the violator; all at the discretion of the Director.

SECTION 420.150: ENFORCEMENT MEASURES

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then representatives of the Public Works Department may enter upon the subject private property and are authorized to take any and all measures as necessary and permitted by Law to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the Public Works Department or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 420.160: COST OF ABATEMENT OF THE VIOLATION

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid

within thirty (30) days after notification of costs, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

SECTION 420.170: INJUNCTIVE RELIEF

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Chapter. If a person has violated or continues to violate the provisions of this Chapter, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

SECTION 420.180: VIOLATIONS DEEMED A PUBLIC NUISANCE

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety and welfare and is declared and deemed a nuisance and may be summarily abated or restored at the violator's expense and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken.

SECTION 420.190: CRIMINAL PROSECUTION

A. Any person that has violated or continues to violate this Chapter shall be liable to criminal prosecution to the fullest extent of the law and shall be subject to a penalty of no more than five hundred dollars (\$500.00) per violation per day and/or imprisonment for a period of time not to exceed ninety (90) days per violation per day.

B. The City of Peculiar may recover all attorneys' fees, court costs (fines or penalties assessed against the City by the Missouri Department of Natural Resources) and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses.

SECTION 420.200: REMEDIES NOT EXCLUSIVE

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable Federal or State law and it is within the discretion of the City to seek cumulative remedies.

SECTION IV: That a new Chapter 425 of the Peculiar Municipal Code be established to read as follows:

CHAPTER 425: RESERVED

SECTION V: That a new Chapter 430 of the Peculiar Municipal Code be established to read as follows:

CHAPTER 430: PLANNING AND PLANNING COMMISSION

ARTICLE I. PLANNING COMMISSION

SECTION 430.010: ESTABLISHED -- COMPOSITION

A Planning Commission is hereby established in the City of Peculiar, Missouri, to be composed of seven (7) members, including the Mayor or the Mayor's designate, a member of the Board of Aldermen selected by the Board of Aldermen as authorized in Section 89.320, RSMo., as amended, and five (5) citizen members of the City of Peculiar, Missouri. Each of the three (3) wards of the City will be represented by at least one (1) member. (Ord. No. 118 §1(a), 5-6-69; Ord. No. 080299B §1, 9-8-99; Ord. No. 070506B §1, 7-5-06)

SECTION 430.020: MEMBERS -- COMPENSATION, TERM, VACANCY OR REMOVAL

- A. All citizen members of the Commission shall serve without compensation.
- B. The term of each of the citizen members shall be for four (4) years, except that the terms of the citizen members first (1st) appointed shall be for varying periods so that succeeding terms will be staggered.
- C. Any vacancy in a membership shall be filled for the unexpired term by appointment as aforesaid.
- D. The Board may remove any citizen member for cause stated in writing and after public hearing.
- E. All citizen members of the Commission shall reside in the City limits for a minimum of one (1) year next preceding his appointment prior to becoming eligible to serve on the Commission. (Ord. No. 118 §1(c), 5-6-69; Ord. No. 011910A §1, 1-19-10)

SECTION 430.030: COMMISSION OFFICERS -- MEETINGS -- RULES AND RECORDS -- STAFF -- EXPENDITURES

- A. The Commission shall elect its Chairman and Secretary from among the citizen members. The term of Chairman and Secretary shall be for one (1) year with eligibility for re-election.
- B. The Commission shall hold regular meetings and special meetings as they provide by rule, and shall adopt rules for the transaction of business and keep a record of its proceedings. These records shall be public records.
- C. The Commission shall appoint the employees and staff necessary for its work, and may contract with City Planners and other professional persons for the services that it requires.
- D. The expenditures of the Commission, exclusive of grants and gifts shall be within the amounts appropriated for the purpose by the Board of Aldermen. (Ord. No. 118 §2, 5-6-69)

SECTION 430.040: POWERS OF THE COMMISSION -- RECOMMENDATIONS

- A. The Commission may make reports and recommendations relating to the plan and development of the City to public Officials and agencies, public utility companies, civic, educational, professional and other organizations and citizens.
- B. It may recommend to the executive or legislative Officials of the City programs for public improvements and the financing thereof.
- C. All public officials shall, upon request, furnish to the Commission, within a reasonable time, all available information it requires for its work.
- D. The Commission, its members and employees, in the performance of its functions, may enter upon any land to make examinations and surveys.
- E. In general, the Commission shall have the power necessary to enable it to perform its functions and promote City planning. (Ord. No. 118 §6, 5-6-69)

SECTION 430.050: FUNCTIONS OF COMMISSION -- TO ACT AS ZONING COMMISSION

The Commission shall have and perform all of the functions of the Zoning Commission provided for in Section 89.010 to 89.250, RSMo., as amended. (Ord. No. 118 §8, 5-6-69)

ARTICLE II. CITY PLAN AND ZONING PLAN

SECTION 430.060: CITY PLAN -- CONTENTS -- ZONING PLAN

A. The Commission shall make and adopt a City Plan for the physical development of the City of Peculiar. The City Plan, with the accompanying maps, plats, charts and descriptive and explanatory matter, shall show the Commission's recommendations for the physical development and uses of land, and may include, among other things, the general location, character and extent of streets and other public ways, grounds, places and spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned, the acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment or change of use of any of the foregoing; the general character, extent and layout of the replanning of blighted districts and slum areas.

B. The Commission may also prepare a Zoning Plan for the regulation of the height, area, bulk, location and use of private, non-profit and public structures and premises, and of population density, but the adoption, enforcement and administration of the Zoning Plan shall conform to the provisions of Sections 89.010 to 89.250, RSMo., as amended. (Ord. No. 118 §3, 5-6-69)

SECTION 430.070: CITY PLAN -- PURPOSE -- HOW PREPARED

In the preparation of the City Plan, the Commission shall make careful and comprehensive surveys and studies of the existing conditions and probable future growth of the City. The Plan shall be made with the general purpose of guiding and accomplishing a coordinated development of City which will, in accordance with existing and future needs, best promote the general welfare, as well as efficiency and economy in the process of development. (Ord. No. 118 §4, 5-6-69)

SECTION 430.080: CITY PLAN ADOPTION -- PROCEDURE

A. The Commission may adopt the Plan as a whole by a single resolution, or, as the work of making the whole City Plan progresses may from time to time adopt a part or parts thereof, any part to correspond generally with one (1) or more of the functional subdivisions of the subject matter of the Plan.

B. Before the adoption, amendment or extension of the Plan or portion thereof the Commission shall hold at least one (1) public hearing thereon. Fifteen (15) days' notice of the time and place of such hearing shall be published in at least one (1) newspaper having general circulation within the City. The hearing may be adjourned from time to time.

C. The adoption of the Plan requires a majority vote of the full membership of the Planning Commission.

D. The resolution shall refer expressly to the maps, descriptive matter and other matters intended by the Commission to form the whole or part of the Plan and the action taken shall be recorded on the adopted Plan or part thereof by the identifying signature of the Secretary of the Commission and filed in the office of the Commission, identified properly by file number, and a copy of the Plan or part thereof shall be certified to the Board of Aldermen and the City Clerk and a copy shall be recorded in the office of the County Recorder of Deeds and the office of City Clerk. (Ord. No. 118 §5, 5-6-69)

**SECTION 430.090: IMPROVEMENTS -- PLANNING COMMISSION TO APPROVE -
- DISAPPROVAL OVERRULED -- HOW**

A. Whenever the Commission adopts the Plan of the City or any part thereof, no street or other public facilities, or no public utility, whether publicly or privately owned, and, the location, extent and character thereof having been included in the recommendations and proposals of the Plan or portions thereof, shall be constructed or authorized in the City until the location, extent and character thereof has been submitted to and approved by the Planning Commission.

B. In case of disapproval, the Commission shall communicate its reasons to the Board of Aldermen, and the Board of Aldermen, by vote of not less than two-thirds (2/3) of its entire membership, may overrule the disapproval and, upon the overruling, the Board of Aldermen or the appropriate board or Officer may proceed, except that if the public facility or utility is one the authorization or financing of which does not fall within the province of the Board, then the submission to the Planning Commission shall be by the board having jurisdiction, and the Planning Commission's disapproval may be overruled by that board by a vote of not less than two-thirds (2/3) of its entire membership.

C. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, acquisition of land for, sale or lease of any street or other public facility is subject to similar submission and approval, and the failure to approve may be similarly overruled.

D. The failure of the Commission to act within sixty (60) days after the date of official submission to it shall be deemed approval. (Ord. No. 118 §7, 5-6-69)

**SECTION 430.100: COMMISSION TO MAKE RECOMMENDATIONS TO BOARD
OF ALDERMEN ON PLATS -- WHEN**

When the Planning Commission of any City adopts a City Plan which includes at least a major street plan or progresses in its City planning to the making and adoption of a major street plan, and files a certified copy of the major street plan in the office of the County Recorder of the County in which the City is located, no plat of a subdivision of land lying within the City shall be filed or recorded until it has been submitted to and a report and recommendation thereon made

by the Commission to the Board of Aldermen and the Board has approved the plat as provided by law. (Ord. No. 118 §9, 5-6-69)

SECTION 430.110: REGULATIONS GOVERNING SUBDIVISION OF LAND, CONTENTS -- PUBLIC HEARING

A. The Planning Commission shall recommend and the Board may by ordinance adopt regulations governing the subdivision of land within its jurisdiction. The regulations, in addition to the requirements provided by law for the approval of plats, may provide requirements for the coordinated development of the municipality; for the coordination of streets within subdivisions with other existing or planned streets or with other features of the City Plan or official map of the municipality; for adequate open spaces for traffic, recreation, light and air; and for a distribution of population and traffic.

B. The regulation may include requirements as to the extent and the manner in which the streets of the subdivision or any designated portions thereto shall be graded and improved as well as including requirements as to the extent and manner of the installation of all utility facilities, and compliance with all of these requirements is a condition precedent to the approval of the plat. The regulations or practice of the Board may provide for the tentative approval of the plat previous to the improvements and installations; but any tentative approval shall not be entered on the plat. The regulations may provide that, in lieu of the completion of the work and installations previous to the final approval of a plat, the Board may accept a bond in an amount and with surety and conditions satisfactory to it, providing for and securing the actual construction and installation of the improvements and utilities within a period specified by the Board and expressed in the bond; and the Board may enforce the bond by all appropriate legal and equitable remedies. The regulations may provide, in lieu of the completion of the work and installations previous to the final approval of a plat, for an assessment or other method whereby the Board is put in an assured position to do the work and make the installations at the cost of the owners of the property within the subdivision. The regulations may provide for the dedication, reservation or acquisition of lands and open spaces necessary for public uses indicated on the City Plan and for appropriate means of providing for the compensation, including reasonable charges against the subdivision, if any, and over a period of time and in a manner as is in the public interest.

C. Before adoption of its subdivision regulations or any amendment thereof, a duly advertised public hearing thereon shall be held by the Board. (RSMo. §89.410)

SECTION 430.120: COMMISSION TO APPROVE PLATS -- WHEN

Within sixty (60) days after the submission of a plat to the Commission, the Commission shall approve or disapprove the Plat; otherwise the Plat is deemed approved by the Commission, except that the Commission, with the consent of the applicant for the approval, may extend the sixty (60) day period. The ground of disapproval of any Plat by the Commission shall be made a matter of record. (Ord. No. 118 §11, 5-6-69)

SECTION 430.130: APPROVAL OF PLATS -- EFFECT

The approval of a Plat by the Commission does not constitute or effect an acceptance by the City of Peculiar or public of the dedication to public use of any street or other ground shown upon the Plat. (Ord. No. 118 §12, 5-6-69)

SECTION 430.140: APPROVAL OF PLATS REQUIRED FOR RECORDING

No Cass County Recorder shall receive for filing or recording any subdivision Plat required to be approved by a Board of Aldermen or City Planning Commission unless the Plat has endorsed upon it the approval of the Board of Aldermen under the hand of the Clerk and the Seal of the City, or by the Secretary of the Planning Commission. (Ord. No. 118 §13, 5-6-69)

**SECTION 430.150: USE OF UNAPPROVED PLAT IN SALE OF LAND -- PENALTY -
- VACATION OR INJUNCTION OF TRANSFER**

No owner, or agent of the owner, of any land located within the platting jurisdiction of the City of Peculiar, knowingly or with intent to defraud, may transfer, sell, agree to sell, or negotiate to sell that land by reference to or by other use of a Plat of any purported subdivision of the land before the Plat has been approved by the Board of Aldermen or Planning Commission and recorded in the office of the Cass County Recorder. Any person violating the provisions of this Section shall forfeit and pay to the City of Peculiar a penalty not to exceed three hundred dollars (\$300.00) for each lot transferred or sold or agreed or negotiated to be sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from this penalty. The City of Peculiar may enjoin or vacate the transfer or sale or agreement by legal action, and may recover the penalty in such action. (Ord. No. 118 §14, 5-6-69)

**SECTION 430.160: PUBLIC IMPROVEMENTS -- HOW APPROVED AFTER
ADOPTION OF MAJOR STREET PLAN**

Upon adoption of a major street plan and subdivision regulations, the City of Peculiar shall not accept, lay out, open, improve, grade, pave or light any street, lay or authorize the laying of water mains, sewers, connections or other utilities in any street within the City unless the street has received the legal status of a public street prior to the adoption of a City Plan; or unless the street corresponds in its location and lines with a street shown on a subdivision plat approved by the Board of Aldermen or Planning Commission or on a street plan made by and adopted by the Commission. The Board of Aldermen may locate and construct or may accept any other street if the ordinance or other measure for the location and construction or for the acceptance is first submitted to the Commission for its approval and approved by the Commission or, if disapproved by the Commission, is passed by the affirmative vote of not less than two-thirds (2/3) of the entire membership of the Board of Aldermen. (Ord. No. 118 §15, 5-6-69)

SECTION 430.170: MAJOR STREET PLAN -- BUILDING PERMITTED MUST BE IN COMPLIANCE

After the adoption of a major street plan, no building permit shall be issued for and no building shall be erected on any lot within the territorial jurisdiction of the Commission unless the street giving access to the lot upon which the building is proposed to be placed conforms to the requirements of Section 89.460, RSMo., as amended. (Ord. No. 118 §16, 5-6-69)

SECTION 430.180: ESTABLISHMENT OF BUILDING LINES

A. Whenever a plan for major streets has been adopted, the Board of Aldermen upon recommendation of the Planning Commission, is authorized and empowered to establish, regulate and limit and amend, by ordinance, building or setback lines on major streets, and to prohibit any new building being located within building or setback lines. When a plan for proposed major streets or other public improvements has been adopted, the Board of Aldermen is authorized to prohibit any new building being located within the proposed site or right of way when the centerline of the proposed street or the limits of the proposed sites have been carefully determined and are accurately delineated on maps approved by the Planning Commission and adopted by the Board of Aldermen.

B. The Board of Aldermen shall provide for the method by which this Section shall be administered and enforced and may provide for a Board of Adjustment with powers to modify or vary the regulations, in specific cases, in order that unwarranted hardship, which constitutes an unreasonable deprivation of use as distinguished from the mere grant of a privilege, may be avoided. The regulations of this Section shall not be adopted, changed or amended until a public hearing has been held thereon as provided in Section 89.360, RSMo., as amended. (Ord. No. 118 §17, 5-6-69)

SECTION 430.190: VIOLATION AND PENALTY

Any person violating the provisions of this Chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars (\$500.00), or by confinement in the County Jail for not more than ninety (90) days, or by both such fine and confinement. (Ord. No. 118 §18, 5-6-69)

SECTION 430.200: COMPLIANCE WITH STATE LAWS AND REGULATIONS

The Planning Commission and each member thereof is hereby authorized and directed to comply with the relevant Missouri Statutes in order that the City of Peculiar may qualify for State or Federal assistance, or both, whether financial or otherwise. (Ord. No. 118 §19, 5-6-69)

SECTION VI: That Peculiar Municipal Code § 400.130(D) be amended to read as follows:

D. No person shall engage in construction activity without meeting all applicable requirements for stormwater management in accordance with [Chapter 415](#), erosion and sedimentation control in accordance with [Chapter 500](#) and the preservation of minimum flood corridors in accordance with [Chapter 410](#) of the Peculiar Municipal Code.

SECTION VII: That Peculiar Municipal Code § 400.640.B.8.s.(9) be amended to read as follows:

(9) Evidence that all other regulations have been complied with, including a showing that applications have been submitted for approval of a Land Disturbance Permit in accordance with [Chapter 500](#), the approval of a Drainage Permit in accordance with [Chapter 415](#), or compliance with the Floodplain Management Regulations found in [Chapter 410](#), when applicable.

SECTION VIII: That Peculiar Municipal Code § 405.260(A) be amended to read as follows:

A. The installation of all improvements shall conform to the approved construction drawings. Construction drawings shall be submitted to the City Planner for review and approval by the City Engineer. Construction drawings shall not be approved prior to the approval of a Land Disturbance Permit in accordance with [Chapter 500](#), the approval of a Drainage Permit in accordance with [Chapter 415](#), or compliance with the Floodplain Management Regulations found in [Chapter 410](#) of the Peculiar Municipal Code.

SECTION IX: That Peculiar Municipal Code § 405.290(B) be amended to read as follows:

B. Construction plans shall be prepared by a professional engineer registered in the State of Missouri and shall be submitted, along with any additional required information and applicable fees, to the City Planner for review. Construction drawings shall show all information necessary for plan review and construction, including information required for a Land Disturbance Permit in accordance with [Chapter 500](#), the approval of a Drainage Permit in accordance with [Chapter 415](#), or compliance with the Floodplain Management Regulations found in [Chapter 410](#) of the Peculiar Municipal Code, when applicable and the following information:

SECTION X: That Peculiar Municipal Code § 405.480 be amended to read as follows:

SECTION 405.480: STORM DRAINAGE

The subdivider shall provide the subdivision with an adequate stormwater system consisting of culverts, sewers and drainage structures, including required stormwater detention areas and erosion control measures necessary to serve the subdivision and to the extent necessary to prevent excess runoff, flooding and erosion in accordance with [Chapter 415](#), of the Peculiar Municipal Code. All storm drainage calculations shall be made in accordance with the minimum design specifications approved by the City Engineer. (Ord. No. 111808 §1(405-411), 11-18-08)

SECTION XI: That Peculiar Municipal Code § 405.690(A) be amended to read as follows:

A. Easements shall be provided and dedicated where necessary for wires, cables, conduits, fixtures and equipment for distribution of electric power, wastewater collectors, storm drains, overland stormwater flow routes, sidewalks, pedestrian ways, bikeways, private streets and water mains at such locations and widths as determined by the City Engineer and in conformance with the requirements of [Chapter 415](#), of the Peculiar Municipal Code. The width of easements required for public wastewater collectors, storm drains and/or water mains shall be as specified by the City Engineer for the particular improvement.

SECTION XII: That Peculiar Municipal Code § 405.740 be amended to read as follows:

Where the subdivision contains sewers, sewage treatment plants, water supply systems, park areas, street trees, streets, street lighting, recreational facilities, stormwater drainage and storage facilities or other physical facilities ("private improvements") on parcels which are necessary or desirable for the welfare of the area and which are of common use or benefit and which the City does not maintain, the subdivider shall be responsible for the proper maintenance and supervision of the parcels and private improvements on a permanent and continuous basis and shall retain ownership of or the right of entry to the parcels in order to maintain the parcels and private improvements on said permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent continuous association of property owners who would be responsible for said maintenance obligation, provided that all such maintenance agreements are incorporated in covenants and restrictions in deeds to the subdivided property and the documents creating the association and the restrictive covenants have been reviewed and approved by the City Attorney and filed of record with the Cass County Recorder of Deeds. Notwithstanding the above, the subdivider shall not be relieved of this maintenance obligation for each specific private improvement until the registered professional engineer or nurseryman who supervised installation of said private improvement has certified to the City that the improvement has been installed in accordance with the approved plans and relevant standards. Stormwater management facilities shall be subject to the maintenance requirements of [Chapter 415](#), of the Peculiar Municipal Code. (Ord. No. 111808 §1(405-500.14), 11-18-08)

SECTION XIII: The effective date of this ordinance shall be _____, 2013.

First Reading: October 21, 2013

Second Reading: _____

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS ___ DAY OF _____, 2013, BY THE FOLLOWING VOTE:

Alderman Gallagher _____
Alderman Fines _____
Alderman Ray _____

Alderman Dunsworth _____
Alderman Turner _____
Alderman Stark _____

Approved:

Attest:

Ernest Jungmeyer, Mayor

Nick Jacobs, City Clerk

Memo to the Mayor and Board of Aldermen

The Ordinance is the first reading to authorize the issuance of 1,245,000 in waterworks and sewerage system bonds

If passed, we'll solicit bids for the purchase of our bonds and return on the 18th with the final interest rate terms and conditions for the board's consideration.

If you need anything else, let me know.

Joey

G. Joseph McLiney

President

[McLiney And Company](#)

Investment Bankers

2800 McGee Trafficway
Kansas City, Missouri 64108

[\(816\) 221.4042](tel:8162214042)

ORDINANCE NO. _____

OF

CITY OF PECULIAR, MISSOURI

PASSED NOVEMBER ____, 2013

AUTHORIZING

\$1,245,000

COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS

SERIES 2013

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BILL NO. 2013-20
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE OF \$1,245,000 PRINCIPAL AMOUNT OF COMBINED WATERWORKS AND SEWERAGE SYSTEM REVENUE BONDS, SERIES 2013, OF THE CITY OF PECULIAR, MISSOURI; PRESCRIBING THE FORM AND DETAILS OF SAID BONDS AND THE COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF; AND AUTHORIZING CERTAIN ACTIONS AND DOCUMENTS AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Peculiar, Missouri (the “City”), is a city of the fourth class and political subdivision duly organized and existing under the laws of the State of Missouri, and pursuant to Chapter 250, RSMo (the “Act”), now owns and operates a revenue producing combined waterworks and sewerage system serving the City and its inhabitants and others within its service area (the “System,” as hereinafter more fully defined); and

WHEREAS, the City has no bonds or other obligations outstanding payable from the Net Revenues (as hereinafter more fully defined) of the System save and except the following:

| <u>Series of Bonds</u> | <u>Dated</u> | <u>Amount Issued</u> | <u>Amount Outstanding</u> |
|--|--------------|--------------------------|-------------------------------|
| Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds (State Revolving Fund Program), Series 1994A | 08/01/1994 | \$2,605,000 | \$ 383,000 |
| Combined Waterworks and Sewerage System Revenue Bonds (State Revolving Fund Program), Series 1999 | 06/01/1999 | 1,365,000 | 600,000 |
| Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007 | 11/14/2007 | 605,000 | 605,000 |
| Combined Waterworks and Sewerage System Revenue Bonds, Series 2011 | 02/24/2011 | 3,125,000 | 2,940,000 |

WHEREAS, the City is authorized under the provisions of the Act to issue and sell revenue bonds for the purpose of providing funds for purchasing, constructing, extending and improving the System upon obtaining the required voter approval and provided that the principal of and interest on such revenue bonds shall be payable solely from the revenues derived from the operation of the System; and

WHEREAS, pursuant to such authority, a special bond election was duly held in the City on April 7, 2009, on the question whether to issue the combined waterworks and sewerage system revenue bonds in the principal amount of \$48,000,000 for the purpose of extending and improving the combined waterworks and sewerage system of the City, and it was found and determined that a simple majority of the qualified electors of the City voting on the question had voted in favor of the issuance of said revenue

bonds for the purpose aforesaid, the vote on said question having been 223 votes for said question to 111 votes against said question; and

WHEREAS, \$3,125,000 of the bonds so authorized have heretofore been issued and the City proposes to issue an additional \$1,245,000 of the bonds so authorized to provide funds for said purpose (the “Project”); and

WHEREAS, plans and specifications for the Project and an estimate of the cost thereof have been prepared and made by a Consultant (as hereinafter defined) to the City and the same are hereby accepted and approved and are on file in the office of the City Clerk; and

WHEREAS, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants that revenue bonds be issued and secured in the form and manner as hereinafter provided to provide funds for the Project;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI, AS FOLLOWS:

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. In addition to words and terms defined elsewhere herein, the following capitalized words and terms as used in this Ordinance shall have the following meanings:

“Accountant” means an independent certified public accountant or firm of certified public accountants.

“Act” means Chapter 250, RSMo.

“Average Annual Debt Service” means the average of the Debt Service Requirements as computed for the then current and all future fiscal years.

“Bond Counsel” means Gilmore & Bell, P.C., Kansas City, Missouri, or any other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the City.

“Bond Payment Date” means any date on which principal of or interest on any Bond is payable at the Maturity thereof or on any Interest Payment Date.

“Bond Purchase Agreement” means the Bond Purchase Agreement between the City and the Purchaser.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

“Bondowner,” “Owner” or “Registered Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

“**Bonds**” means the Combined Waterworks and Sewerage System Revenue Bonds, Series 2013, of the City, in the aggregate principal amount of \$1,245,000, authorized and issued pursuant to this Ordinance.

“**Business Day**” means a day, other than a Saturday, Sunday or holiday, on which the Paying Agent is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“**Cede & Co.**” means Cede & Co., as nominee name of The Depository Trust Company, New York, New York, and any successor nominee with respect to the Bonds.

“**City**” means the City of Peculiar, Missouri, and any successors or assigns.

“**Code**” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“**Consultant**” means an independent engineer or engineering firm having a favorable reputation for skill and experience in the construction, financing and operation of public utilities and the preparation of management studies and financial feasibility studies in connection therewith, selected by the City for the purpose of carrying out the duties imposed on the Consultant by this Ordinance.

“**Continuing Disclosure Agreement**” means the Continuing Disclosure Agreement attached to this Ordinance as **Exhibit C**.

“**Debt Service Account**” means the Debt Service Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2013, created by **Section 501** hereof.

“**Debt Service Requirements**” means the aggregate principal payments ******(including scheduled mandatory redemption requirements)****** and net interest or interest-like payments (net of any Subsidy Payments) on all System Revenue Bonds for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with the Paying Agent or other commercial bank or trust company located in the State of Missouri and having full trust powers.

“**Debt Service Reserve Account**” means the Debt Service Reserve Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2013, created by **Section 501** hereof.

“**Debt Service Reserve Requirement**” means the sum of \$_____.

“**Defaulted Interest**” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“**Defeasance Obligations**” means any of the following obligations:

- (a) United States Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (i) not subject to redemption prior to maturity or (ii) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or United States Government Obligations that may be applied only to principal of, premium, if any, and interest payments on such obligations;

(3) such cash and the principal of and interest on such United States Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and United States Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and United States Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) the obligations are rated in a rating category by Moody's or Standard & Poor's Ratings Group that is no lower than the rating category then assigned by that rating agency to United States Government Obligations.

“Depreciation and Replacement Account” means the account by that name ratified and confirmed by **Section 501** hereof.

“Dissemination Agent” means First Bank of Missouri, Gladstone, Missouri, and any successors or assigns.

“Expenses” means all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than interest paid on System Revenue Bonds and depreciation and amortization charges during the period of determination), determined in accordance with generally accepted accounting principles, including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, Paying Agent fees and expenses, annual audits, properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, short-term indebtedness incurred and payable within a particular fiscal year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, but shall exclude all general administrative expenses of the City not related to the operation of the System.

“Federal Tax Certificate” means the City's Federal Tax Certificate relating to the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“Interest Payment Date” means the Stated Maturity of an installment of interest on any Bond.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or by call for redemption or otherwise.

“Net Revenues” means all Revenues less all Expenses.

“Operation and Maintenance Account” means the account by that name ratified and confirmed by **Section 501** hereof.

“Ordinance” means this Ordinance as from time to time amended in accordance with the terms hereof.

“Outstanding,” when used with reference to Bonds, means, as of any particular date of determination, all Bonds theretofore issued and delivered hereunder, except the following Bonds:

(a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;

(b) Bonds deemed to be paid in accordance with the provisions of **Section 1101** hereof; and

(c) Bonds in exchange for or in lieu of which other Bonds have been registered and delivered hereunder.

“Parity Bonds” means the Previously Issued Parity Bonds and any additional bonds or other obligations hereafter issued or incurred pursuant to **Section 902** hereof and standing on a parity and equality with the Bonds with respect to the payment of principal and interest from the Net Revenues of the System.

“Parity Ordinances” means the Previously Issued Parity Ordinances and the ordinance or ordinances under which any additional Parity Bonds are hereafter issued pursuant to **Section 902** hereof.

“Participants” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“Paying Agent” means First Bank of Missouri, Gladstone, Missouri, and any successors and assigns.

“Permitted Investments” means any of the following securities and obligations, if and to the extent the same are at the time legal for investment of the moneys held in the funds and accounts listed in **Section 501** hereof:

(a) United States Government Obligations;

(b) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by United States Government Obligations which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits; and

(c) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State of Missouri.

“Person” means any natural person, corporation, partnership, firm, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Previously Issued Parity Bonds” means the outstanding (i) Combined Waterworks and Sewerage System Revenue Bonds (State Revolving Fund Program), Series 1999, (ii) Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007 and (iii) Combined Waterworks and Sewerage System Revenue Bonds, Series 2011, described in the Recitals to this Ordinance.

“Previously Issued Parity Ordinances” means Ordinance No. 99-15 of the City passed on May 19, 1999, Ordinance No. 101607A of the City passed on October 16, 2007, and Ordinance No. 02022011A of the City passed on February 2, 2011, respectively, under which the Previously Issued Parity Bonds have been issued.

“Project” means extending and improving the combined waterworks and sewerage system of the City.

“Project Fund” means the fund by that name created by **Section 501** hereof.

“Purchase Price” means the principal amount of the Bonds, less a discount of \$_____, together with accrued interest thereon to the date of delivery and payment.

“Purchaser” means _____, _____, Missouri, the original purchaser of the Bonds.

“Record Date” for the interest payable on any Interest Payment Date means the 15th day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date.

“Redemption Date” when used with respect to any Bond to be redeemed means the date fixed for such redemption pursuant to the terms of this Ordinance.

“Redemption Price” when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Ordinance, including the applicable redemption premium, if any, but excluding installments of interest whose Stated Maturity is on or before the Redemption Date.

“Replacement Bonds” means Bonds issued to the beneficial owners of the Bonds in accordance with **Section 210(b)** hereof.

“Revenue Fund” means the fund by that name ratified and confirmed by **Section 501** hereof.

“Revenues” means all income and revenues derived from the ownership and operation of the System, including investment and rental income, net proceeds from business interruption insurance, and any amounts deposited in escrow in connection with the acquisition, construction, remodeling, renovation and equipping of System facilities to be applied during the period of determination to pay interest on System Revenue Bonds, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“Senior Lien Bonds” means the outstanding Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds (State Revolving Fund Program), Series 1994A, described in the recitals to this Ordinance.

“Senior Lien Ordinance” means Ordinance No. 080294 of the City passed on August 2, 1994, under which the Senior Lien Bonds have been issued.

“Series 1999 Bonds” means the outstanding Combined Waterworks and Sewerage System Revenue Bonds (State Revolving Fund Program) Series 1999, of the City, dated June 1, 1999.

“Series 2007 Bonds” means the outstanding Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007, of the City, dated November 14, 2007.

“Series 2011 Bonds” means the outstanding Combined Waterworks and Sewerage System Revenue Bonds, Series 2011, of the City, dated February 24, 2011.

“Series 1999 Ordinance” means Ordinance No. 99-14 of the City passed on May 19, 1999, authorizing the issuance of the Series 1999 Bonds.

“Series 2007 Ordinance” means Ordinance No. 101607A of the City passed on October 16, 2007, authorizing the issuance of the Series 2007 Bonds.

“Series 2011 Ordinance” means Ordinance No. 02022011A of the City passed on February 2, 2011, authorizing the issuance of the Series 2011 Bonds.

“Special Record Date” means the date fixed by the Paying Agent pursuant to **Section 204** hereof for the payment of Defaulted Interest.

“Stated Maturity” when used with respect to any Bond or any installment of interest thereon means the date specified in such Bond and this Ordinance as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

“Subsidy Payments” means funds received by the City that either (1) must be used, or (2) have been and are expected to continue to be used, to reduce the interest or principal payments on System Revenue Bonds. Such Subsidy Payments would include, but are not limited to (a) payments received by the City through a federal or State of Missouri program, or (b) payments related to an interest rate swap, exchange, hedge or similar agreement.

“**Surplus Account**” means the account by that name ratified and confirmed by **Section 501** hereof.

“**System**” means the entire combined waterworks plant and system and sewerage plant and system owned and operated by the City for the production, storage, treatment and distribution of water, and for the collection, treatment and disposal of sewage, to serve the needs of the City and its inhabitants and others, including all appurtenances and facilities connected therewith or relating thereto, together with all extensions, improvements, additions and enlargements thereto hereafter made or acquired by the City.

“**System Revenue Bonds**” means collectively the Bonds and all other revenue bonds or other obligations which are payable out of, or secured by an interest in, the Net Revenues of the System.

“**United States Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States of America, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States of America (including the interest component of obligations of the Resolution Funding Corporation).

“**Valuation Date**” means the first business day of each fiscal year of the System.

ARTICLE II

AUTHORIZATION OF BONDS

Section 201. Authorization of Bonds. There is hereby authorized and directed to be issued a series of bonds of the City, designated “Combined Waterworks and Sewerage System Revenue Bonds, Series 2013,” in the principal amount of \$1,245,000 (the “Bonds”) for the purpose of providing funds for the Project.

Section 202. Description of Bonds. The Bonds shall consist of fully registered bonds without coupons, numbered in a manner determined by the Paying Agent, in denominations of \$5,000 or any integral multiple thereof. The Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in **Exhibit A** attached hereto, and shall be subject to registration, transfer and exchange as provided in **Section 205** hereof. The Bonds shall be dated as of the date of delivery and payment therefor, shall become due in the amounts on the Stated Maturities (subject to redemption prior to Stated Maturity as provided in **Article III** hereof), and shall bear interest at the rates per annum, as follows:

SERIAL BONDS

| <u>Stated Maturity</u> <u>November 1</u> | <u>Principal</u> <u>Amount</u> | <u>Annual Rate</u> <u>of Interest</u> | <u>Price</u> |
|---|---|--|---------------------|
| 2014 | | | |
| 2015 | | | |
| 2016 | | | |
| 2017 | | | |
| 2018 | | | |
| 2019 | | | |
| 2020 | | | |
| 2021 | | | |
| 2022 | | | |
| 2023 | | | |
| 2024 | | | |
| 2025 | | | |
| 2026 | | | |
| 2027 | | | |
| 2028 | | | |
| 2029 | | | |
| 2030 | | | |
| 2031 | | | |
| 2032 | | | |
| 2033 | | | |

****TERM BONDS****

| <u>Stated Maturity</u> <u>November 1</u> | <u>Principal</u> <u>Amount</u> | <u>Annual Rate</u> <u>of Interest</u> |
|---|---|--|
|---|---|--|

The Bonds shall bear interest at the above-specified rates (computed on the basis of a 360-day year of twelve 30-day months) from the dated date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for, payable semiannually on May 1 and November 1 in each year, beginning on May 1, 2014.

Section 203. Designation of Paying Agent. First Bank of Missouri, Gladstone, Missouri, is hereby designated as the City's Paying Agent for the payment of principal of and interest on the Bonds and as bond registrar with respect to the registration, transfer and exchange of Bonds (herein called the "Paying Agent").

The City will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The City reserves the right to appoint a successor Paying Agent by (1) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (2) causing notice of the appointment of the successor Paying Agent to be given by first class mail to each Bondowner. The Paying Agent may resign upon giving written notice by first class mail to the City and the Bondowners not less than 60 days prior to the date such resignation is to take effect. No resignation or removal of the

Paying Agent shall become effective until a successor has been appointed and has accepted the duties of the Paying Agent.

Every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company located in the State of Missouri organized and in good standing and doing business under the laws of the United States of America or of the State of Missouri and subject to supervision or examination by federal or state regulatory authority.

The Paying Agent shall be paid its fees and expenses for its services in connection herewith, which fees and expenses shall be paid as other Expenses are paid.

Section 204. Method and Place of Payment of Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency of the United States of America that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity by check or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the principal corporate trust office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to such Registered Owner at the address shown on the Bond Register by electronic transfer to such Registered Owner.

Notwithstanding the foregoing provisions of this Section, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as hereinafter specified in this paragraph. The City shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the City of such Special Record Date and, in the name and at the expense of the City, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of payment of principal and Redemption Price of and interest on all Bonds and shall upon the written request of the City at least annually forward a copy or summary of such records to the City.

Section 205. Registration, Transfer and Exchange of Bonds. The City covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the office of the Paying Agent for the registration, transfer and exchange of Bonds as herein provided. Each Bond when issued shall be registered in the name of the owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this Section. Upon surrender of any Bond at the principal payment office of the Paying Agent, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The City shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Ordinance and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

The City and the Paying Agent shall not be required (a) to register the transfer or exchange of any Bond after notice calling such Bond or portion thereof for redemption has been given or during the period of fifteen days next preceding the first mailing of such notice of redemption; or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the City of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

The City and the Paying Agent may deem and treat the Person in whose name any Bond is registered in the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on said Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

Section 206. Execution, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitution for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Mayor, attested by the manual or facsimile signature of the City Clerk, and shall have the official seal of the City affixed thereto or imprinted thereon. In case any officer whose signature appears on any Bond ceases to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the

execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Mayor and City Clerk are hereby authorized and directed to prepare and execute the Bonds as herein specified, and when duly executed, to deliver the Bonds to the Paying Agent for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually executed by an authorized signatory of the Paying Agent, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Ordinance or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. Upon authentication, the Paying Agent shall deliver the Bonds to or upon the order of the Purchaser of the Bonds upon payment of the Purchase Price to the City.

Section 207. Mutilated, Destroyed, Lost and Stolen Bonds. If (a) any mutilated Bond is surrendered to the Paying Agent or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the City and the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the City and the Paying Agent that such Bond has been acquired by a bona fide purchaser, the City shall execute and the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Paying Agent, in its discretion may pay such Bond instead of delivering a new Bond.

Upon the issuance of any new Bond under this Section, the City or the Paying Agent may require the payment by the Registered Owner of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this Section shall constitute a replacement of the prior obligation of the City, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds.

Section 208. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and shall file an executed counterpart of such certificate with the City.

Section 209. Sale of Bonds. The Mayor is hereby authorized to enter into the Bond Purchase Agreement between the City and the Purchaser in substantially the form attached hereto as **Exhibit B**, under which the City agrees to sell the Bonds to the Purchaser at the Purchase Price upon the terms and conditions set forth therein and with such changes therein as shall be approved by the Mayor, which officer is authorized to execute the Bond Purchase Agreement for and on behalf of the City, such officer's signature thereon being conclusive evidence of his or her approval thereof.

Section 210. Book-Entry Bonds; Securities Depository.

(a) The Bonds shall initially be registered to Cede & Co., the nominee for the Securities Depository, and no beneficial owner will receive certificates representing their respective interests in the Bonds, except in the event the Paying Agent issues Replacement Bonds as provided in subsection (b) hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of principal of, premium, if any, and interest on, the Bonds to the Participants until and unless the Paying Agent authenticates and delivers Replacement Bonds to the beneficial owners as described in subsection (b).

(b) (1) If the City determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, or (2) if the Paying Agent receives written notice from Participants having interests in not less than 50% of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Owner other than Cede & Co. is no longer in the best interests of the beneficial owners of the Bonds, then the Paying Agent shall notify the Owners of such determination or such notice and of the availability of certificates to Owners requesting the same, and the Paying Agent shall register in the name of and authenticate and deliver Replacement Bonds to the beneficial owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under (1)(A) or (1)(B) of this subsection (b), the City, with the consent of the Paying Agent, may select a successor securities depository in accordance with **Section 210(c)** hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when at least one Bond is registered in the name of the Securities Depository or its nominee. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Paying Agent, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the City, the Paying Agent or Owners are unable to locate a qualified successor of the Securities Depository in accordance with **Section 210(c)** hereof, then the Paying Agent shall authenticate and cause delivery of Replacement Bonds to Owners, as provided herein. The Paying Agent may rely on information from the Securities Depository and its Participants as to the names and addresses of and principal amounts held by the beneficial owners of the Bonds. The cost of printing, registration, authentication and delivery of Replacement Bonds shall be paid for by the City.

(c) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, the City may appoint a successor Securities Depository provided the Paying Agent and the City receive written evidence with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities and Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Paying Agent upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Optional ~~and Mandatory~~ Redemption of Bonds.

(a) Optional Redemption by City. At the option of the City, Bonds maturing on November 1, 20__, and thereafter may be called for redemption and payment prior to their Stated Maturity on November 1, 20__, and at any time thereafter in whole or in part in such amounts for each Stated Maturity as shall be determined by the City at the Redemption Price of _____% of the principal amount thereof, plus accrued interest thereon to the Redemption Date.

(b) Mandatory Redemption. The Term Bonds shall be subject to mandatory redemption and payment prior to Stated Maturity pursuant to the mandatory redemption requirements of this Section at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The payments specified in **Section 602** hereof which are to be deposited into the Debt Service Account shall be sufficient to redeem, and the City shall redeem on November 1 in each year, the following principal amounts of such Bonds:

Term Bonds Maturing on November 1, _____

| <u>Year</u> | <u>Principal Amount</u> |
|--------------------|--------------------------------|
|--------------------|--------------------------------|

*Final Maturity

| <u>Term Bonds Maturing on November 1, _____</u> | |
|--|--------------------------------|
| <u>Year</u> | <u>Principal Amount</u> |

| <u>Term Bonds Maturing on November 1, _____</u> | |
|--|--------------------------------|
| <u>Year</u> | <u>Principal Amount</u> |

*Final Maturity

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the City may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on said mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on said mandatory Redemption Date from any Registered Owner thereof, whereupon the Paying Agent shall expend such funds for such purpose to such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the City under this Section for any Term Bonds subject to mandatory redemption on said mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection (b)) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection (b). Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the City to redeem Term Bonds of the same Stated Maturity

on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity in chronological order, and the principal amount of Term Bonds of the same Stated Maturity to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the City intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the City will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of said clauses (1), (2) and (3) are to be complied with with respect to such mandatory redemption payment.**

Section 302. Selection of Bonds to Be Redeemed.

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date of written instructions from the City specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. If any Bonds are refunded more than 90 days in advance of such Redemption Date, any escrow agreement entered into by the City in connection with such refunding shall provide that such written instructions to the Paying Agent shall be given by the escrow agent on behalf of the City not less than 45 days prior to the Redemption Date. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** are met. **The foregoing provisions of this paragraph shall not apply to the mandatory redemption of Bonds hereunder, and Bonds shall be called by the Paying Agent for redemption pursuant to such mandatory redemption requirements without the necessity of any action by the City and whether or not the Paying Agent shall hold in the Debt Service Fund moneys available and sufficient to effect the required redemption.**

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount in such equitable manner as the Paying Agent may determine.

(c) In the case of a partial redemption of Bonds at the time Outstanding in denominations greater than \$5,000, then for all purposes in connection with such redemption each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as aforesaid, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 30 days prior to the Redemption Date to the Purchaser of the Bonds and each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds of a maturity are to be redeemed, the identification number, Stated Maturity, and, in the case of partial redemption of any Bonds, the respective principal amounts of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the principal corporate office of the Paying Agent.

The failure of any Registered Owner to receive notice given as heretofore provided or any defect therein shall not invalidate any redemption.

On or prior to any Redemption Date, the City shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date at the Redemption Price therein specified, and from and after the Redemption Date (unless the City defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been redeemed shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The Paying Agent is also directed to comply with any mandatory standards established by the Securities and Exchange Commission and then in effect for processing redemptions of municipal securities. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

For so long as the Securities Depository is effecting book-entry transfers of the Bonds, the Paying Agent shall provide the notices specified in this Section to the Securities Depository. It is expected that the Securities Depository shall, in turn, notify its Participants and that the Participants, in turn, will notify or cause to be notified the beneficial owners. Any failure on the part of the Securities Depository or a Participant, or failure on the part of a nominee of a beneficial owner of a Bond (having been mailed notice from the Paying Agent, the Securities Depository, a Participant or otherwise) to notify the beneficial owner of the Bond so affected, shall not affect the validity of the redemption of such Bond.

ARTICLE IV

SECURITY FOR BONDS

Section 401. Security for Bonds. The Bonds shall be special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System, and the City hereby pledges said Net Revenues to the payment of the principal of and interest on the Bonds. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional or statutory provision, limitation or restriction, and the taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest.

The covenants and agreements of the City contained herein and in the Bonds shall be for the equal benefit, protection and security of the legal Owners of any or all of the Bonds, all of which Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, Stated Maturity and right of redemption prior to Stated Maturity as provided in this Ordinance. The Bonds shall stand on a parity and be equally and ratably secured with respect to the payment of principal and interest from the Net Revenues of the System and in all other respects with any Parity Bonds. The Bonds shall not have any priority with respect to the payment of principal or interest from said Net Revenues or otherwise over Parity Bonds and Parity Bonds shall not have any priority with respect to the payment of principal or interest from said Net Revenues or otherwise over the Bonds.

The Bonds shall be junior and subordinate with respect to the payment of principal and interest from the Net Revenues of the System and in all other respects to the Senior Lien Bonds and, in the event of any default in the payment of either principal of or interest on any of the Senior Lien Bonds, all of the Net Revenues of the System will be applied solely to the payment of the principal of and interest on the Senior Lien Bonds until such default is cured.

ARTICLE V

CREATION AND RATIFICATION OF FUNDS AND ACCOUNTS; DEPOSIT AND APPLICATION OF BOND PROCEEDS

Section 501. Establishment of Funds and Accounts. There are hereby created or ratified and ordered to be established and maintained in the treasury of the City the following separate funds and accounts to be known respectively as the:

- (a) Combined Waterworks and Sewerage System 2013 Project Fund (the "Project Fund");
- (b) Combined Waterworks and Sewerage System Revenue Fund (the "Revenue Fund");
- (c) Combined Waterworks and Sewerage System Operation and Maintenance Account (the "Operation and Maintenance Account");
- (d) Debt Service Account for Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007 (the "Series 2007 Debt Service Account");

- (e) Debt Service Reserve Account for Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007 (the “Series 2007 Debt Service Reserve Account”);
- (f) Debt Service Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2011 (the “Series 2011 Debt Service Account”);
- (g) Debt Service Reserve Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2011 (the “Series 2011 Debt Service Reserve Account”);
- (h) Debt Service Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (the “Debt Service Account”);
- (i) Debt Service Reserve Account for Combined Waterworks and Sewerage System Revenue Bonds, Series 2013 (the “Debt Service Reserve Account”);
- (j) Combined Waterworks and Sewerage System Depreciation and Replacement Account (the “Depreciation and Replacement Account”); and
- (k) Combined Waterworks and Sewerage System Surplus Account (the “Surplus Account”).

The City acknowledges the creation and continuing existence of the following accounts for the Senior Lien Bonds and the Previously Issued Parity Bonds:

- For the Senior Lien Bonds:
- (1) the Debt Service Account, the Principal Account and the Interest Account (hereinafter referred to collectively as the “Senior Lien Debt Service Account”), and
 - (2) the Reserve Account (the “Senior Lien Debt Service Reserve Account”).
- For the Series 1999 Bonds:
- (3) the Debt Service Account, the Principal Account and the Interest Account (hereinafter referred to collectively as the “Series 1999 Debt Service Account”), and
 - (4) the Reserve Account (the “Series 1999 Debt Service Reserve Account”).

The funds and accounts referred to in paragraphs (b), (c), (j) and (k) of this Section shall be maintained and administered by the City solely for the purposes and in the manner as provided in the Act and in this Ordinance, in the Senior Lien Ordinance and in the Previously Issued Parity Ordinances so long as any of the Bonds, the Senior Lien Bond or the Previously Issued Parity Bonds remain outstanding within the meaning of this Ordinance, said Senior Lien Ordinance or said Previously Issued Parity Ordinances, respectively. The funds and accounts referred to in paragraphs (a), (h) and (i) of this Section shall be maintained and administered by the City so long as any of the Bonds remain outstanding. The funds and accounts referred to in paragraphs (d) and (e) of this Section shall be maintained and administered by or on behalf of the City so long as any of the Series 2007 Bonds remain outstanding. The funds and accounts referred to in paragraphs (f) and (g) of this Section shall be maintained and administered by or on behalf of the City so long as any of the Series 2011 Bonds remain outstanding.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds, including any premium or accrued interest thereon, shall be deposited simultaneously with the delivery of the Bonds, as follows:

- (a) Any amount received on account of accrued interest on the Bonds shall be paid and credited to the Debt Service Account and applied in accordance with **Section 602** hereof.

(b) The sum of \$_____ from the proceeds of the Bonds shall be paid and credited to the Debt Service Reserve Account and applied in accordance with **Section 602** hereof.

(c) The remaining balance of the proceeds of the Bonds shall be deposited in the Project Fund and applied in accordance with **Section 503** hereof.

Section 503. Application of Moneys in the Project Fund. Moneys in the Project Fund shall be used solely for the purpose of (a) paying the cost of the Project as hereinbefore provided, in accordance with the plans and specifications therefor prepared by the City's Consultant for the Project, as heretofore approved by the Board of Aldermen of the City and on file in the office of the City Clerk, including any alterations in or amendments to said plans and specifications deemed advisable by the Consultant and approved by the Board of Aldermen of the City, and (b) paying the costs and expenses incident to the issuance of the Bonds.

Withdrawals from the Project Fund shall be made only when authorized by the Board of Aldermen and only on duly authorized and executed warrants or vouchers therefor accompanied by a certificate executed by the Consultant that such payment is being made for a purpose within the scope of this Ordinance and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the Project Fund of all costs and expenses incident to the issuance of the Bonds or withdrawals of sums for investment or reinvestment purposes under the terms of this Ordinance without a certificate from the Consultant.

Upon completion of the Project as hereinbefore provided, any surplus moneys remaining in the Project Fund and not required for the payment of unpaid costs thereof shall be deposited in the Debt Service Account and applied to the payment of the next installment of interest due on the Bonds.

ARTICLE VI

APPLICATION OF REVENUES

Section 601. Revenue Fund. The City covenants and agrees that from and after the delivery of the Bonds, and continuing as long as any of the Bonds remain Outstanding hereunder, all of the Revenues shall as and when received be paid and deposited into the Revenue Fund unless otherwise specifically provided by this Ordinance. Said Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the City and shall not be commingled with any other moneys, revenues, funds and accounts of the City. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in this Ordinance.

Section 602. Application of Moneys in Funds and Accounts. The City covenants and agrees that from and after the delivery of the Bonds and continuing so long as any of the Bonds shall remain Outstanding, it will on the first day of each month administer and allocate all of the moneys then held in the Revenue Fund as follows:

(a) **Operation and Maintenance Account.** There shall first be paid and credited to the Operation and Maintenance Account an amount sufficient to pay the estimated Expenses during the ensuing month. All amounts paid and credited to the Operation and Maintenance

Account shall be expended and used by the City solely for the purpose of paying the Expenses of the System.

(b) **Senior Lien Debt Service Account.** There shall next be paid and credited to the debt service account for the Senior Lien Bonds the amount required to be so paid and credited by the Senior Lien Ordinance.

(c) **Senior Lien Debt Service Reserve Account.** There shall next be paid and credited to the debt service reserve account for the Senior Lien Bonds the amount required to be so paid and credited by the Senior Lien Ordinance.

(d) **Debt Service Account.** There shall next be paid and credited to the Debt Service Account, to the extent necessary to meet on each Bond Payment Date the payment of all interest on and principal of the Bonds, the following sums:

(1) Beginning with the first of said deposits and continuing on the first day of each month thereafter to and including April 1, 2014, an equal pro rata portion of the amount of interest becoming due on the Bonds on May 1, 2014; and thereafter, beginning on May 1, 2014, and continuing on the first day of each month thereafter so long as any of the Bonds shall remain outstanding and unpaid, an amount not less than 1/6 of the amount of interest that will become due on the Bonds on the next succeeding Interest Payment Date; and

(2) Beginning with the first of said deposits and continuing on the first day of each month thereafter to and including October 1, 2014, an equal pro rata portion of the amount of principal becoming due on the Bonds on November 1, 2014; and thereafter, beginning on November 1, 2014, and continuing on the first day of each month thereafter so long as any of the Bonds shall remain outstanding and unpaid, an amount not less than 1/12 of the amount of principal that will become due on the Bonds on the next succeeding Maturity.

The amounts required to be paid and credited to the Debt Service Account pursuant to this Section shall be so paid at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service accounts established for the payment of principal and interest on Parity Bonds under the provisions of the Parity Ordinances.

Any Subsidy Payments received by the City and applied to debt service or amounts deposited in the Debt Service Account as accrued interest in accordance with **Section 502** hereof or as unused proceeds in accordance with **Section 503** hereof shall be credited against the City's payment obligations as set forth in this Section.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Account and to the debt service accounts established to pay the principal of and interest on any Parity Bonds, the available moneys in the Revenue Fund shall, unless otherwise directed by the Previously Issued Parity Ordinances, be divided among such debt service accounts in proportion to the respective principal amounts of said series of bonds at the time outstanding which are payable from the moneys in said debt service accounts.

All amounts paid and credited to the Debt Service Account shall be expended and used by the City for the sole purpose of paying the interest on and principal of the Bonds as and when the same become due on each Bond Payment Date.

(e) ***Debt Service Reserve Account.*** There shall next be paid and credited to the Debt Service Reserve Account the amount required by this subsection (e). Except as hereinafter provided in this section, moneys in the Debt Service Reserve Account shall be expended and used by the City solely to prevent any default in the payment of interest on or principal of the Bonds on any Bond Payment Date if the moneys in the Debt Service Account are insufficient to pay the interest on or principal of said Bonds as they become due. So long as the Debt Service Reserve Account aggregates the Debt Service Reserve Requirement, no payments into said Account shall be required, but if the City shall ever be required to expend and use a part of the moneys in said Account for the purpose herein authorized and such expenditure shall reduce the amount of said Account below the Debt Service Reserve Requirement, the City shall begin or resume and continue monthly payments of one-twelfth (1/12) of such deficiency each month into said Account until said Account shall again aggregate the Debt Service Reserve Requirement.

The amounts required to be paid and credited to the Debt Service Reserve Account pursuant to this Section shall be so paid at the same time and on a parity with the amounts at the time required to be paid and credited to the debt service reserve accounts established for Parity Bonds under the provisions of the Parity Ordinances.

If at any time the moneys in the Revenue Fund are insufficient to make in full the payments and credits at the time required to be made to the Debt Service Reserve Account and to the debt service reserve accounts established to protect the payment of any Parity Bonds, the available moneys in the Revenue Fund shall, unless otherwise directed by the Previously Issued Parity Ordinances, be divided among such debt service reserve accounts in proportion to the respective principal amounts of said series of bonds at the time outstanding which are payable from the moneys in such debt service reserve accounts.

Moneys in the Debt Service Reserve Account may be used to call the Bonds for redemption and payment prior to their Stated Maturity, provided all of the Bonds at the time Outstanding are called for payment and funds are available to pay the same according to their terms. Moneys in the Debt Service Reserve Account shall be used to pay and retire the last Outstanding Bonds unless such Bonds and all interest thereon are otherwise paid. Any amounts in the Debt Service Reserve Account in excess of the Debt Service Reserve Requirement on any Valuation Date shall be transferred to the Revenue Fund.

(f) ***Depreciation and Replacement Account.*** There shall next be paid and credited to the Depreciation and Replacement Account the amounts required to be so paid and deposited therein pursuant to the Senior Lien Ordinance and the Previously Issued Parity Ordinances, and, in addition thereto, in each month in which no deposit is required to be made to the Debt Service Reserve Account, the amount of \$_____ so long as any of the Bonds remain outstanding and unpaid. Except as hereinafter provided in **Section 603**, moneys in the Depreciation and Replacement Account shall be expended and used by the City, if no other funds are available therefor, solely for the purpose of making unusual or extraordinary replacements and repairs in and to the System as may be necessary to keep the System in good repair and working order and to assure the continued effective and efficient operation thereof, including replacing or repairing portions of the System or major items of any plant or equipment which either have been fully

depreciated and are worn out or have become obsolete, inefficient or uneconomical, or for the purpose of extending, improving or enlarging the System.

(g) **Surplus Account.** After all payments and credits required at the time to be made under the provisions of the foregoing paragraphs of this Section have been made, all moneys remaining in the Revenue Fund shall be paid and credited to the Surplus Account. Moneys in the Surplus Account may be expended and used for the following purposes as determined by the Board of Aldermen of the City:

(1) Paying Expenses of the System to the extent that may be necessary after the application of the moneys held in the Operation and Maintenance Account under the provisions of paragraph (a) of this Section;

(2) Paying the cost of extending, enlarging or improving the System;

(3) Preventing default in, anticipating payments into or increasing the amounts in the debt service accounts or debt service reserve accounts for System Revenue Bonds or the Depreciation and Replacement Account, or any one of them, said payments made to prevent default to be made in the order prescribed in this **Section 602** of this Ordinance or in the applicable sections of ordinances authorizing additional System Revenue Bonds hereafter issued, or establishing or increasing the amount of any debt service account or debt service reserve account created by the City for the payment of any additional System Revenue Bonds; or

(4) Calling, redeeming and paying prior to Stated Maturity, or, at the option of the City, purchasing in the open market at the best price obtainable not exceeding the redemption price (if any bonds are callable), the Bonds or any other System Revenue Bonds, including principal, interest and redemption premium, if any; or

(5) Any other lawful purpose in connection with the operation of the System and benefitting the System.

So long as any of the Bonds remain Outstanding, no moneys derived from the operation of the System shall be diverted to the general governmental or municipal functions of the City.

(h) **Deficiency of Payments into Funds and Accounts.** If at any time the Revenues shall be insufficient to make any payment on the date or dates hereinbefore specified, the City will make good the amount of such deficiency by making additional payments or credits out of the first available Revenues thereafter received by the City, such payments and credits being made and applied in the order hereinbefore specified in this Section.

Section 603. Transfer of Funds to Paying Agent. The Treasurer or other authorized officer of the City is hereby authorized and directed to withdraw from the Debt Service Account, and, to the extent necessary to prevent a default in the payment of either principal of or interest on the Bonds, from the Debt Service Reserve Account, the Surplus Account and the Depreciation and Replacement Account as provided in **Section 602** hereof, sums sufficient to pay the principal of and interest on the Bonds as and when the same become due on any Bond Payment Date, and to forward such sums to the Paying Agent in a manner which ensures the Paying Agent will have available funds in such amounts on or before the Business Day immediately preceding each Bond Payment Date. If, through lapse of time, or otherwise, the Registered Owners of Bonds shall no longer be entitled to enforce payment of their obligations, it

shall be the duty of the Paying Agent forthwith to return said funds to the City as provided in **Section 605** hereof. All moneys deposited with the Paying Agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

Section 604. Payments Due on Saturdays, Sundays and Holidays. In any case where a Bond Payment Date is not a Business Day, then payment of principal, Redemption Price or interest need not be made on such Bond Payment Date but may be made on the next succeeding Business Day with the same force and effect as if made on such Bond Payment Date, and no interest shall accrue for the period after such Bond Payment Date.

Section 605. Nonpresentment of Bonds. In the event any Bond shall not be presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond shall have been made available to the Paying Agent all liability of the City to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Ordinance or on, or with respect to, said Bond. If any Bond is not presented for payment within one year following the date when such Bond becomes due at Maturity, the Paying Agent shall repay to the City without liability for interest thereon the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an unsecured obligation of the City, and the Registered Owner thereof shall be entitled to look only to the City for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the City shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VII

DEPOSIT AND INVESTMENT OF MONEYS

Section 701. Deposit and Investment of Moneys.

(a) Moneys in each of the funds and accounts created by and referred to in this Ordinance shall be deposited in a bank or banks or other legally permitted financial institutions located in the State of Missouri that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the banks or financial institutions holding such deposits as provided by the laws of the State of Missouri.

(b) Moneys held in any fund or account referred to in this Ordinance may be invested in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the moneys invested may be needed for the purpose for which such fund or account was created. All earnings on any investments held in any fund or account shall accrue to and become a part of the Revenue Fund; provided that, (a) during the period of construction of the Project, all earnings on the investment of moneys in the Project Fund shall be credited to the Project Fund, and (b) at any time that the balance on hand in the Debt Service Reserve Account is less than the Debt Service Reserve Requirement, all earnings on investments held in the Debt Service Reserve Account shall accrue to and become a part of such Account until the amount on deposit in such Account shall aggregate the Debt Service Reserve Requirement. In determining the amount held in any fund or account under any of the provisions of this Ordinance, obligations shall be valued at the lower of the cost or the market value thereof; provided, however, that investments held in the Debt Service Reserve Account shall be valued at

market value only. If and when the amount held in any fund or account shall be in excess of the amount required by the provisions of this Ordinance, the City shall direct that such excess be paid and credited to the Revenue Fund.

(c) So long as any of the Senior Lien Bonds or the Previously Issued Parity Bonds remain outstanding and unpaid, any investments made pursuant to this Section shall be subject to any restrictions in the Senior Lien Ordinance or the Previously Issued Parity Ordinances with respect to the funds and accounts created or ratified by and referred to in the Senior Lien Ordinance or the Previously Issued Parity Ordinances.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

The City covenants and agrees with each of the Registered Owners of the Bonds that so long as any of the Bonds remain Outstanding it will comply with each of the following covenants:

Section 801. Efficient and Economical Operation. The City will continuously own and will operate the System as a revenue producing System in an efficient and economical manner and will keep and maintain the same in good repair and working order.

Section 802. Continuing Disclosure Agreement. The City is authorized to enter into the Continuing Disclosure Agreement in substantially the form attached hereto as **Exhibit C**. The Mayor is authorized to execute the Continuing Disclosure Agreement with such changes, omissions, insertions and revisions therein, as such official deems advisable. The execution of the Continuing Disclosure Agreement by the Mayor shall be conclusive evidence of such approval. The Continuing Disclosure Agreement is subject to amendment and modification only as provided therein. Notwithstanding any other provision of this Ordinance, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered a default under this Ordinance. Remedies for a default under the Continuing Disclosure Agreement shall be limited to those set forth in the Continuing Disclosure Agreement.

Section 803. Rate Covenant. The City will fix, establish, maintain and collect such rates and charges for the use and services furnished by or through the System as will produce Revenues sufficient to (a) pay the Expenses of the System; (b) pay the principal of and interest on the Bonds as and when the same become due; and (c) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the System as provided in this Ordinance. The City further covenants and agrees that such rates and charges will be sufficient to enable the City to have in each fiscal year Net Revenues not less than 110% of the Debt Service Requirements for such fiscal year. The City will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. The City will, from time to time as often as necessary, in accordance with and subject to applicable legal requirements, revise the rates and charges aforesaid in such manner as may be necessary or proper so that the Net Revenues will be sufficient to cover the obligations of the City under this Section and otherwise under the provisions of this Ordinance.

Section 804. Reasonable Charges for all Services. None of the facilities or services provided by the System will be furnished to any user (excepting the City itself) without a reasonable charge being made therefor. If the Revenues are at any time insufficient to pay the Expenses of the System and also to pay all interest on and principal of the Bonds as and when the same become due, then

the City will thereafter pay into the Revenue Fund a fair and reasonable payment in accordance with effective applicable rates and charges for all use and services furnished to the City by the System, and such payments will continue so long as the same may be necessary in order to prevent or reduce the amount of any default in the payment of the interest on or principal of the Bonds.

Section 805. Corporate Existence. The City will maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities and duties of the City and is obligated by law to comply with the terms and provisions of this Ordinance without materially adversely affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Section 806. Restrictions on Mortgage or Sale of System. The City will not mortgage, pledge or otherwise encumber the System or any part thereof, nor will it sell, lease or otherwise dispose of the System or any material part thereof; provided, however, the City may:

(a) sell at fair market value any portion of the System which shall have been replaced by other similar property of at least equal value, or which shall cease to be necessary for the efficient operation of the System, and in the event of sale, the City will apply the proceeds to either (1) redemption of Outstanding Bonds in accordance with the provisions governing redemption of Bonds in advance of Stated Maturity, or (2) replacement of the property so disposed of by other property the Revenues of which shall be incorporated into the System as hereinbefore provided;

(b) cease to operate, abandon or otherwise dispose of any property which has become obsolete, nonproductive or otherwise unusable to the advantage of the City; or

(c) lease, (1) as lessor, any real or personal property which is unused or unimproved, or which has become obsolete, nonproductive or otherwise unusable to the advantage of the City, or which is being acquired as a part of a lease/purchase financing for the acquisition and/or improvement of such property; and/or (2) as lessee, with an option of the City to purchase, any real or personal property for the extension and improvement of the System. Property being leased as lessor and/or lessee pursuant to this subparagraph (c) shall not be treated as part of the System for purposes of this **Section 806** and may be mortgaged, pledged or otherwise encumbered.

Section 807. Insurance. The City will carry and maintain insurance with respect to the System and its operations against casualties, contingencies and risks (including but not limited to property and casualty, fire and extended coverage insurance upon all of the properties forming a part of the System insofar as the same are of an insurable nature, public liability insurance, business interruption insurance, worker's compensation and employee dishonesty insurance), such insurance to be of the character and coverage and in such amounts as would normally be carried by other municipalities or public entities engaged in similar activities of comparable size and similarly situated. In the event of loss or damage, the City, with reasonable dispatch, will use the proceeds of such insurance in reconstructing and replacing the property damaged or destroyed, or in paying the claims on account of which such proceeds were received, or if such reconstruction or replacement is unnecessary or impracticable, then the City will pay and deposit the proceeds of such insurance into the Revenue Fund. The City will annually review the insurance it maintains with respect to the System to determine that such insurance is customary and adequate to protect its property and operations. The cost of all insurance obtained pursuant to the requirements of this Section shall be paid as an Expense out of the Revenues.

Section 808. Books, Records and Accounts. The City will install and maintain proper books, records and accounts (entirely separate from all other records and accounts of the City) in which complete

and correct entries will be made of all dealings and transactions of or in relation to the System. Such accounts shall show the amount of Revenues of the System, the application of such Revenues, and all financial transactions in connection therewith. Said books shall be kept by the City according to standard accounting practices as applicable to the operation of facilities comparable to the System.

Section 809. Annual Audit. Annually, promptly after the end of the fiscal year, the City will cause an audit of the System to be made for the preceding fiscal year by an Accountant to be employed for that purpose and paid from the Revenues. Said annual audit shall cover in reasonable detail the operation of the System during such fiscal year.

Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the City Clerk, and a duplicate copy of said audit shall be mailed to the Purchaser of the Bonds. Such audits shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, any user of the services of the System, any Registered Owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer, user or Registered Owner. A copy of any such audit will, upon request and upon receipt by the City of payment of the reasonable cost of preparing and mailing the same, be sent to any Bondowner or prospective Bondowner.

As soon as possible after the completion of the annual audit, the governing body of the City shall review such audit, and if any audit shall disclose that proper provision has not been made for all of the requirements of this Ordinance, the City will promptly cure such deficiency and will promptly proceed to increase the rates and charges to be charged for the use and services furnished by the System as may be necessary to adequately provide for such requirements.

Section 810. Right of Inspection. The Purchaser of the Bonds or any Registered Owner or Owners of 10% of the principal amount of the Bonds then Outstanding shall have the right at all reasonable times to inspect the System and all records, accounts and data relating thereto, and shall be furnished all such information concerning the System and the operation thereof which the Purchaser or such Registered Owner or Owners may reasonably request.

Section 811. Sanitary Sewer Hook-on Requirements. The City will, to the extent permitted by law, require that the owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sanitary and storm sewer of the City, must, at the owner's expense, install suitable toilet facilities therein and connect such facilities directly with the proper part of the System within such reasonable time and pursuant to such regulations as shall be provided by the City.

Section 812. Performance of Duties and Covenants. The City will faithfully and punctually perform all duties, covenants and obligations with respect to the operation of the System now or hereafter imposed upon the City by the Constitution and laws of the State of Missouri and by the provisions of this Ordinance.

Section 813. Parity Bond Certification. The City hereby represents and covenants that the Bonds directed to be issued by this Ordinance are so issued in full compliance with the restrictions and conditions upon which the City may issue additional bonds payable out of the Net Revenues of the System and which stand on a parity with the Previously Issued Parity Bonds now outstanding, as set forth and contained in the Previously Issued Parity Ordinances, and that the Bonds herein directed to be issued are so issued in all respects on a parity and equality with the Previously Issued Parity Bonds now outstanding.

Section 814. Junior Lien Bond Certification. The City hereby represents and covenants that the Bonds directed to be issued by this Ordinance are so issued in full compliance with the restrictions and conditions upon which the City may issue additional bonds payable out of the Net Revenues of the System and which are junior and subordinate to the Senior Lien Bonds, as set forth and contained in the Senior Lien Ordinance, and that the Bonds herein directed to be issued are so issued as junior and subordinate in all respects to the Senior Lien Bonds.

Section 815. Tax Covenants.

(a) The City covenants and agrees that (1) it will comply with all applicable provisions of the Code necessary to maintain the exclusion from federal gross income of the interest on the Bonds and (2) comply with all provisions and requirements of the Federal Tax Certificate. The Mayor is hereby authorized to execute the Federal Tax Certificate in a form approved by Bond Counsel, for and on behalf of and as the act and deed of the City. The City will also pass such other ordinances or resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions in order to ensure that the interest on the Bonds will remain excluded from federal gross income, to the extent any such actions can be taken by the City.

(b) The covenants contained in this Section and in the Federal Tax Certificate shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to **Article XI** of this Ordinance or any other provision of this Ordinance until the final Maturity of all Bonds Outstanding.

ARTICLE IX

ADDITIONAL BONDS AND OBLIGATIONS

Section 901. Senior Lien Bonds. The City covenants and agrees that so long as any of the Bonds remain Outstanding, the City will not issue any additional bonds or incur or assume any other debt obligations appearing as liabilities on the balance sheet of the System for the payment of moneys determined in accordance with generally accepted accounting principles consistently applied, including capital leases as defined by generally accepted accounting principles, payable out of the Net Revenues of the System or any part thereof which are superior to the Bonds.

Section 902. Parity Bonds and Other Obligations. The City covenants and agrees that so long as any of the Bonds remain Outstanding, it will not issue any additional bonds or other long-term obligations payable out of the Net Revenues of the System or any part thereof which stand on a parity or equality with the Bonds (“Parity Bonds”) unless the following conditions are met:

(a) The City shall not be in default in the payment of principal of or interest on any Bonds or any Parity Bonds at the time outstanding or in making any payment at the time required to be made into the respective funds and accounts created by and referred to in this Ordinance or any Parity Ordinance for Parity Bonds at the time outstanding (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default); and

(b) Either of the following:

(1) The average annual Net Revenues as set forth in the two most recent annual audits for the fiscal years preceding the issuance of additional bonds, as determined by an Accountant, are equal to at least 110% of the Average Annual Debt

Service required to be paid out of Net Revenues in fiscal years succeeding the issuance of such additional bonds on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the Net Revenues for the purpose of this subsection, the City may adjust said Net Revenues by adding thereto, in the event the City shall have made any increase in rates for the use and services of the System and such increase shall not have been in effect during all of the two fiscal years immediately preceding the issuance of additional bonds, the amount of the additional Net Revenues which would have resulted from the operation of the System during said two preceding fiscal years had such rate increase been in effect for the entire period, as certified by an Accountant or Consultant; or

(2) The estimated average annual Net Revenues for the two fiscal years immediately following the fiscal year in which the improvements to the System, the cost of which is being financed by such additional bonds, are to be in commercial operation, as certified by a Consultant, is at least 110% of the average annual Debt Service Requirements to be paid out of said Net Revenues in succeeding fiscal years following the commencement of such commercial operation on account of both principal (at maturity or upon mandatory redemption) and interest becoming due with respect to all System Revenue Bonds of the City, including the additional bonds proposed to be issued. In determining the amount of estimated Net Revenues for the purpose of this subsection, a Consultant may adjust said estimated Net Revenues by adding thereto any estimated increase in Net Revenues resulting from any increase in rates for the use and services of the System which have been approved by the City.

Additional combined waterworks and sewerage system revenue bonds of the City issued under the conditions set forth in this Section shall stand on a parity with the Bonds and shall enjoy complete equality of lien on and claim against the Net Revenues with the Bonds, and the City may make equal provision for paying said bonds and the interest thereon out of the Revenue Fund and may likewise provide for the creation of reasonable debt service accounts and debt service reserve accounts for the payment of such additional bonds and the interest thereon out of moneys in the Revenue Fund.

Section 903. Junior Lien Bonds and Other Obligations. Nothing in this Section contained shall prohibit or restrict the right of the City to issue additional revenue bonds or other revenue obligations for any lawful purpose in connection with the operation of the System and to provide that the principal of and interest on said revenue bonds or obligations shall be payable out of the Net Revenues of the System, provided at the time of the issuance of such additional revenue bonds or obligations the City shall not be in default in the performance of any covenant or agreement contained in this Ordinance (unless such additional revenue bonds or obligations are being issued to provide funds to cure such default), and provided further that such additional revenue bonds or obligations shall be junior and subordinate to the Bonds so that if at any time the City shall be in default in paying either interest on or principal of the Bonds, or if the City shall be in default in making any payments required to be made by it under the provisions of paragraphs (a), (b), (c), (d) and (e) of **Section 602** of this Ordinance, the City shall make no payments of either principal of or interest on said junior and subordinate revenue bonds or obligations until said default or defaults be cured. In the event of the issuance of any such junior and subordinate revenue bonds or obligations, the City, subject to the provisions aforesaid, may make provision for paying the principal of and interest on said revenue bonds or for paying said obligations out of moneys in the Revenue Fund.

Section 904. Refunding Bonds. The City shall have the right, without complying with the provisions of **Section 902** hereof, to refund any of the Bonds under the provisions of any law then

available, and the refunding bonds so issued shall enjoy complete equality of pledge with any of the Bonds which are not refunded, if any, upon the Net Revenues of the System; provided, however, that if only a portion of the Bonds are refunded and if said Bonds are refunded in such manner that the aggregate amount of principal and interest scheduled to become due on the refunding bonds in any fiscal year (taking into account scheduled mandatory redemptions) exceeds the aggregate amount of principal and interest scheduled to become due on the refunded Bonds in said fiscal year (taking into account scheduled mandatory redemptions), then said Bonds may be refunded without complying with the provisions of **Section 902** hereof only by and with the written consent of the Registered Owners of a majority in principal amount of the Bonds not refunded.

ARTICLE X

DEFAULT AND REMEDIES

Section 1001. Acceleration of Maturity Upon Default. The City covenants and agrees that if it defaults in the payment of the principal of or interest on any of the Bonds as the same shall become due on any Bond Payment Date, or if the City or its governing body or any of the officers, agents or employees thereof fail or refuse to comply with any of the provisions of this Ordinance or of the constitution or statutes of the State of Missouri, and such default continues for a period of 60 days after written notice specifying such default has been given to the City by the Registered Owner of any Bond then Outstanding, then, at any time thereafter and while such default continues, the Registered Owners of 25% in principal amount of the Bonds then Outstanding may, by written notice to the City filed in the office of the City Clerk or delivered in person to said City Clerk, declare the principal of all Bonds then Outstanding to be due and payable immediately, and upon any such declaration given as aforesaid, all of said Bonds shall become and be immediately due and payable, anything in this Ordinance or in the Bonds contained to the contrary notwithstanding. This provision, however, is subject to the condition that if at any time after the principal of said Outstanding Bonds has been so declared to be due and payable, all arrears of interest upon all of said Bonds, except interest accrued but not yet due on such Bonds, and all arrears of principal upon all of said Bonds has been paid in full and all other defaults, if any, by the City under the provisions of this Ordinance and under the provisions of the statutes of the State of Missouri have been cured, then and in every such case the Registered Owners of a majority in principal amount of the Bonds then Outstanding, by written notice to the City given as hereinbefore specified, may rescind and annul such declaration and its consequences, but no such rescission or annulment shall extend to or affect any subsequent default or impair any rights consequent thereon.

Section 1002. Other Remedies. The provisions of this Ordinance, including the covenants and agreements herein contained, shall constitute a contract between the City and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the City and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Ordinance or by the constitution and laws of the State of Missouri;
- (b) by suit, action or other proceedings in equity or at law to require the City, its officers, agents and employees to account as if they were the trustees of an express trust; and

(c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

Section 1003. Limitation on Rights of Bondowners. No one or more Bondowners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

Section 1004. Remedies Cumulative. No remedy conferred herein upon the Bondowners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Bondowner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Ordinance may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Bondowner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or shall have been determined adversely to such Bondowner, then, and in every such case, the City and the Registered Owners of the Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Bondowners shall continue as if no such suit, action or other proceedings had been brought or taken.

Section 1005. No Obligation to Levy Taxes. Nothing contained in this Ordinance shall be construed as imposing on the City any duty or obligation to levy any taxes either to meet any obligation incurred herein or to pay the principal of or interest on the Bonds.

Section 1006. Exception for Continuing Disclosure. This **Article X** shall not apply to **Section 802** of this Ordinance regarding continuing disclosure requirements, and Bondowners or Beneficial Owners of Bonds shall have no remedies for enforcement of said **Section 802** other than the remedies provided in said **Section 802**.

ARTICLE XI

DEFEASANCE

Section 1101. Defeasance. When any or all of the Bonds or the interest payments thereon shall have been paid and discharged, then the requirements contained in this Ordinance and the pledge of Net Revenues made hereunder and all other rights granted hereby shall terminate with respect to the Bonds or interest payments so paid and discharged. Bonds or the interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Ordinance if there has been deposited with the Paying Agent or other commercial bank or trust company located in the State of Missouri and having full trust powers, at or prior to the Stated Maturity or Redemption Date of said Bonds or the interest payments thereon, in trust for and irrevocably appropriated thereto, moneys and/or Defeasance Obligations which, together with the interest to be earned thereon, will be sufficient for the payment of the principal or Redemption Price of said Bonds, and/or interest to accrue on such Bonds to the Stated Maturity or Redemption Date, as the case may be, or if default in such payment shall have occurred on such date, then to the date of the tender of such payments; provided, however, that if any such Bonds shall be redeemed

prior to the Stated Maturity thereof, (1) the City shall have elected to redeem such Bonds, and (2) either notice of such redemption shall have been given, or the City shall have given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to redeem such Bonds in compliance with **Section 302(a)** of this Ordinance. Any moneys and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the City, for the purpose of paying and discharging any of the Bonds or the interest payments thereon, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of such Bonds, and such moneys shall be and are hereby irrevocably appropriated to the payment and discharge thereof. All moneys and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions contained in this Ordinance.

ARTICLE XII

MISCELLANEOUS PROVISIONS

Section 1201. Amendments. The rights and duties of the City and the Bondowners, and the terms and provisions of the Bonds or of this Ordinance, may be amended or modified at any time in any respect by ordinance of the City with the written consent of the Registered Owners of not less than a majority in principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the City Clerk, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the City is required to pay by way of principal of or interest on any Bond;
- (c) permit the creation of a lien on the Net Revenues of the System prior or equal to the lien of the Bonds or Parity Bonds;
- (d) permit preference or priority of any Bonds over any other Bonds; or
- (e) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Ordinance.

Any provision of the Bonds or of this Ordinance may, however, be amended or modified by ordinance duly adopted by the governing body of the City at any time in any respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Bondowners, the City may amend or supplement the Ordinance for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Bondowners.

Every amendment or modification of the provisions of the Bonds or of this Ordinance to which the written consent of the Bondowners is given, as above provided, shall be expressed in an ordinance passed by the governing body of the City amending or supplementing the provisions of this Ordinance

and shall be deemed to be a part of this Ordinance. Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the City Clerk a copy of the ordinance of the City herein provided for, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification. A certified copy of every such amendatory or supplemental proceedings and a certified copy of this Ordinance shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Ordinance, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental proceedings or of this Ordinance will be sent by the City Clerk to any such Bondowner or prospective Bondowner.

The City shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Ordinance made hereunder which affects the duties or obligations of the Paying Agent under this Ordinance.

Section 1202. Notices, Consents and Other Instruments by Bondowners. Any notice, consent, request, direction, approval, objection or other instrument required by this Ordinance to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (except for the assignment of ownership of a Bond as provided for in the form of Bond set forth in **Exhibit A** hereto), if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Registered Owners of the requisite principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Ordinance, Bonds owned by the City shall be disregarded and deemed not to be Outstanding under this Ordinance, except that, in determining whether the Bondowners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Bondowners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as aforesaid if the pledgee establishes to the satisfaction of the Bondowners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the City.

Section 1203. Further Authority. The officers of the City, including the Mayor and City Clerk, shall be, and they hereby are, authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 1204. Severability. If any section or other part of this Ordinance, whether large or small, shall for any reason be held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance.

Section 1205. Governing Law. This Ordinance shall be governed exclusively by and constructed in accordance with the applicable laws of the State of Missouri.

Section 1206. Effective Date. This Ordinance shall take effect and be in full force from and after its passage by the Board of Aldermen and approval by the Mayor.

Section 1207. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

[Remainder of this page intentionally left blank.]

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS ___ DAY OF _____, 2013, BY THE FOLLOWING VOTE:

Alderman Gallagher _____
Alderman Fines _____
Alderman Ray _____

Alderman Dunsworth _____
Alderman Turner _____
Alderman Stark _____

Approved:

Attest:

Ernest Jungmeyer, Mayor

Nick Jacobs, City Clerk

This Bond is one of a duly authorized series of bonds of the City designated "Combined Waterworks and Sewerage System Revenue Bonds, Series 2013," aggregating the principal amount of \$1,245,000 (the "Bonds"), issued by the City for the purpose of extending and improving the combined waterworks and sewerage system of the City (said combined waterworks and sewerage system, together with all future improvements and extensions thereto hereafter constructed or acquired by the City, being herein called the "System"), under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly Chapter 250, RSMo, and pursuant to an election duly held in the City and an ordinance duly passed by the Board of Aldermen of the City (herein called the "Ordinance"). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Ordinance.

At the option of the City, Bonds or portions thereof maturing on November 1, 20__, and thereafter may be called for redemption and payment prior to maturity on November 1, 20__, and at any time thereafter in whole or in part in such amounts for each maturity as shall be determined by the City (Bonds of less than a full maturity to be selected in multiples of \$5,000 principal amount in such equitable manner as the Paying Agent shall designate) at the Redemption Price of _____% of the principal amount thereof, plus accrued interest thereon to the Redemption Date.

The Bonds are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements of the Ordinance at a redemption price equal to 100% of the Principal Amount thereof plus accrued interest to the Redemption Date.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first class mail at least 30 days prior to the Redemption Date, to the original Purchaser of the Bonds and to each Registered Owner of each of the Bonds to be redeemed at the address shown on the Bond Register. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the City defaults in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One Bond certificate with respect to each date on which the Bonds are stated to mature, registered in the nominee name of the Securities Depository, is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The City and the Paying Agent will recognize the Securities Depository nominee, while the registered owner of this Bond, as the owner of this Bond for all purposes, including (i) payments of principal of, and redemption premium, if any, and interest on, this Bond, (ii) notices and (iii) voting. Transfers of principal, interest and any redemption premium payments to participants of the Securities Depository, and transfers of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The City and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of

principal of and interest on this Bond shall be made in accordance with existing arrangements among the City, the Paying Agent and the Securities Depository.

EXCEPT AS OTHERWISE PROVIDED IN THE ORDINANCE, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

The Bonds are issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof. This Bond may be exchanged at the office of the Paying Agent for a like aggregate principal amount of Bonds of the same maturity of other authorized denominations upon the terms provided in the Ordinance.

This Bond is transferable by the Registered Owner hereof in person or by the Registered Owner's agent duly authorized in writing, at the office of the Paying Agent, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance and upon surrender and cancellation of this Bond. The City shall pay all costs incurred in connection with the issuance, payment and initial registration of the Bonds and the cost of a reasonable supply of bond blanks.

The Bonds are special obligations of the City payable solely from, and secured as to the payment of principal and interest by a pledge of, the Net Revenues of the System, and the taxing power of the City is not pledged to the payment of the Bonds either as to principal or interest. The Bonds shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. The Bonds stand on a parity and are equally and ratably secured with respect to the payment of principal and interest from the Net Revenues and in all other respects with (i) an issue of Combined Waterworks and Sewerage System Revenue Bonds (State Revolving Fund Program) Series 1999 of the City, dated June 1, 1999, originally issued in the principal amount of \$1,365,000 (the "Series 1999 Bonds"), (ii) an issue of Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds, Series 2007, of the City, dated November 14, 2007, originally issued in the principal amount of \$605,000 (the "Series 2007 Bonds") and (iii) an issue of Combined Waterworks and Sewerage System Revenue Bonds, Series 2011, of the City, dated February 24, 2011, originally issued in the principal amount of \$3,125,000 (the "Series 2011 Bonds"). The Bonds, the Series 1999 Bonds, the Series 2007 Bonds and the Series 2011 Bonds are junior and subordinate with respect to the payment of principal and interest from the Net Revenues and in all other respects to an issue of Combined Waterworks and Sewerage System Refunding and Improvement Revenue Bonds (State Revolving Fund Program), Series 1994A, of the City dated August 1, 1994, originally issued in the principal amount of \$2,605,000 (the "Series 1994A Bonds") and, in the event of any default in the payment of either principal of or interest on the Series 1994A Bonds, all of the Net Revenues will be applied solely to the payment of the principal of and interest on the Series 1994A Bonds until such default is cured. Under the conditions set forth in the Ordinance, the City has the right to issue additional parity bonds and other obligations payable from and secured by the Net Revenues; provided, however, that such additional bonds may be so issued only in accordance with and subject to the covenants, conditions and restrictions relating thereto set forth in the Ordinance.

The City hereby covenants and agrees with the Registered Owner of this Bond that it will keep and perform all covenants and agreements contained in the Ordinance, and will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System as will produce Revenues sufficient to pay the costs of operation and maintenance of the System, pay the principal of and interest on the Bonds as and when the same become due, and provide reasonable and adequate reserve funds. Reference is made to the Ordinance for a description of the covenants and

agreements made by the City with respect to the collection, segregation and application of the Revenues of the System, the nature and extent of the security of the Bonds, the rights, duties and obligations of the City with respect thereto, and the rights of the Registered Owners thereof.

This Bond may be transferred or exchanged, as provided in the Ordinance, only on the Bond Register kept for that purpose at the principal payment office of the Paying Agent, upon surrender of this Bond together with a written instrument of transfer or exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination having the same Maturity Date and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance and upon payment of the charges therein prescribed. The City and the Paying Agent may deem and treat the Person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Ordinance until the Certificate of Authentication hereon has been executed by the Paying Agent.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, happened and been performed in due time, form and manner as required by law, and that before the issuance of the Bonds, provision has been duly made for the collection and segregation of the Revenues of the System and for the application of the same as provided in the Ordinance.

IN WITNESS WHEREOF, THE CITY OF PECULIAR, MISSOURI, has executed this Bond by causing it to be signed by the manual or facsimile signature of its Mayor and attested by the manual or facsimile signature of its City Clerk and its official seal to be affixed hereto or imprinted hereon.

CERTIFICATE OF AUTHENTICATION

CITY OF PECULIAR, MISSOURI

This Bond is one of the Bonds of the issue described in the within-mentioned Ordinance.

By: _____
Mayor

Registration Date: _____

FIRST BANK OF MISSOURI,
Paying Agent

(SEAL)

ATTEST:

By: _____
Authorized Signatory

City Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Bond on the Bond Register kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

By: _____
Title: _____

**EXHIBIT B
TO ORDINANCE**

FORM OF BOND PURCHASE AGREEMENT

**EXHIBIT C
TO ORDINANCE**

FORM OF CONTINUING DISCLOSURE AGREEMENT

Memo to Mayor and Board of Aldermen

The energy / solar resolution is an economic development tool to offer business already inside the city as well as to help attract additional businesses. It is a tool that will not burden or obligate the city. However, you must join the state wide district to be eligible for your community to participate.

Here are a few details:

Local Governments in Missouri may provide access to unlimited capital for citizens and businesses within their community -- at no cost and without liability to the sponsoring municipality.

The Mid Missouri Clean Energy Development Board was established for the purpose of providing funding to private property owners of qualifying energy efficiency and renewable energy projects.

The Mid-Missouri Clean Energy Development Board was created as a state political subdivision. In 2010 the Missouri legislature passed the PACE Act providing authority for Clean Energy Development Boards to provide land based funding of qualifying projects.

The board has established its operating guidelines within the framework of the federal PACE Act. Applications, when received by the board or its administrator, will be reviewed for compliance with funding guidelines.

Once approved, the applicant is notified and the project may be undertaken. Once the project is completed, the property owner receives funds to pay for the projects costs and enters into a special property tax assessment contract with the board.

G. Joseph McLiney
President

[McLiney And Company](#)
Investment Bankers

2800 McGee Trafficway
Kansas City, Missouri 64108
[\(816\) 221.4042](tel:8162214042)

BILL NO. 2013-21
ORDINANCE NO. _____

AN ORDINANCE TO ENABLE THE CITY OF PECULIAR, MISSOURI TO JOIN THE MISSOURI CLEAN ENERGY DISTRICT PURSUANT TO SECTIONS §67.2800 TO §67.2835, INCLUSIVE, RSMO., THE “PROPERTY ASSESSED CLEAN ENERGY ACT,” AND STATING THE TERMS UNDER WHICH THE CITY WILL CONDUCT ACTIVITIES WITHIN THE CITY AS A MEMBER OF SUCH DISTRICT.

WHEREAS, the 95th General Assembly of Missouri has enacted Sections §67.2800 to §67.2835, inclusive, RSMo., the “Property Assessment Clean Energy Act” (the “Act”); and

WHEREAS, the development, production, and efficient use of clean energy and renewable energy, as well as the installation of energy efficiency improvements to publicly and privately owned real property, will create jobs for residents of the City of Peculiar, Missouri, advance the economic well-being and public and environmental health of the City of Peculiar, Missouri, and contribute to the energy independence of our nation; and

WHEREAS, the primary intent of funding energy efficiency and renewable energy improvements pursuant to the Act is to promote the public purposes described above; and

WHEREAS, Section §67.2810.1 authorizes one or more Municipalities (as defined in Section §67.2800.7) to establish a Clean Energy Development Board to initiate and administer a Property Assessed Clean Energy (“PACE”) Program so that owners of qualifying property can access funding for energy efficiency improvements to their properties located in such Municipalities; and

WHEREAS, on January 3, 2011, a clean energy development board now named the Missouri Clean Energy District was created with the intention that all Municipalities within the State of Missouri would be eligible to join and participate by approving an appropriate ordinance or resolution; and

WHEREAS, it is in the best interests of the City of Peculiar, Missouri and for the benefit of its residents to join and participate in the District.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PECULIAR, MISSOURI AS FOLLOWS:

SECTION ONE: The City hereby approves and authorizes joining and participation in the Missouri Clean Energy District.

SECTION TWO: The City declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The City enacts this Ordinance pursuant to Sections 67.2800 to 67.2835 of the Missouri Revised Statutes (2000), as amended.

Subsection One. Title and Definitions.

A. Title. This Ordinance shall be known and may be cited as “The City of Peculiar, Missouri Property Assessed Clean Energy (PACE) Ordinance.”

B. Definitions. Except as specifically defined below, word and phrases used in this Ordinance shall have their customary meanings. Words and phrases defined in Section 67.2800.2 of the Missouri Revised Statutes (2000), as amended, shall have their defined meanings when used in this Ordinance. As used in this Ordinance, the following words and phrases shall have the meanings indicated.

“Missouri Clean Energy District” or “District” means the Missouri Clean Energy District.

“PACE Assessment” means a special assessment made against qualifying property in consideration of PACE Funding.

“PACE Funding” means funds provided to the owner(s) of qualified property by the District for an energy efficiency improvement.

“Qualifying Property” means real property located in The City of Peculiar, Missouri.

Subsection Two. Program Administration.

The Missouri Clean Energy District shall administer the functions of the PACE Program within the City by

- A. providing property owners with an application in order to apply for PACE Funds;
- B. developing standards for the approval of projects submitted by property owners;
- C. reviewing applications and select qualified projects;
- D. entering into Assessment Contracts with property owners;
- E. providing a copy of each executed Notice of Assessment to the County Assessor and causing a copy of each such Notice of Assessment to be recorded in the real estate records of the Recorder of Deeds for the County;
- F. authorizing and disbursing the PACE Funds to the property owners;
- G. receiving the PACE Assessment from the County Collector; and
- H. recording any lien, if needed, due to nonpayment of a PACE Assessment.

Subsection Three. Liability of City Officials; Liability of City.

Notwithstanding any other provision of law to the contrary, officers and other officials of the City, the District and the County in which the City is located, including, without limitation, tax assessors and tax collectors, shall not be personally liable to any person for claims, of whatever kind or nature, under or related to the City's PACE Program, including, without limitation, claims for or related to uncollected PACE Assessments. The City has no liability to a property owner for or related to energy savings improvements funded under a PACE Program. The District shall for all purposes be considered an independent entity and shall not be considered a subdivision of the City of Peculiar.

SECTION THREE: The Mayor of the City is hereby authorized to deliver a duly executed copy of this Ordinance to the Board of Directors of the District or its designee in accordance with section 7-632(c) of the CEDB Ordinance as amended, together with the jurisdictional and geographic boundaries of The City for addition to the District (as defined in the CEDB Ordinance as amended).

SECTION FOUR: The City does hereby request that _____ be approved by the Board of Directors of the District as a duly authorized member of the Advisory Board of Missouri Clean Energy District.

Effective Date. The effective date of this ordinance shall be the ____ day of _____, 2013.

First Reading: _____ Second Reading: _____

BE IT REMEMBERED THE PRECEDING ORDINANCE WAS ADOPTED ON ITS SECOND READING THIS ____ DAY OF _____, 2013, BY THE FOLLOWING VOTE:

| | |
|--------------------------|-----------------------|
| Alderman Gallagher _____ | Alderman Ray _____ |
| Alderman Dunsworth _____ | Alderman Stark _____ |
| Alderman Fines _____ | Alderman Turner _____ |

APPROVED:

ATTEST:

Ernest Jungmeyer, Mayor

Nick Jacobs, City Clerk