

ORDINANCE NO. 3287

AN ORDINANCE ESTABLISHING AN IMPACT FEE FOR THE PURPOSE OF RECOVERING THE COST OF CERTAIN SANITARY SEWER IMPROVEMENTS IN THE DAWSON'S COTTAGE ADDITION TO THE CITY OF ABILENE, KANSAS.

BE IT ORDAINED by the governing body of the City of Abilene, Kansas:

SECTION ONE. Authority. This ordinance is adopted pursuant to Ordinance No. 2846 ("Infrastructure Impact Fee Ordinance") and the City's home rule authority under Article 12, Section 5 of the Kansas Constitution, all in accordance with K.S.A. 12-137.

SECTION TWO. Legislative Findings. The governing body finds that:

A. The City has caused certain water, sanitary sewer, street and storm drainage improvements to be installed for the benefit of the Dawson's Cottage Addition to the City of Abilene, Kansas (the "Project"); the Project was completed as a property owner-initiated project under the Kansas General Improvement and Assessment Law (K.S.A. 12-6a01 *et seq.*).

B. In Resolution Number 061013-2, as amended by Resolution Number 030915-2, the governing body identified the area it deemed to be benefited when identifying the improvement district for the Project (the "Improvement District"); in Resolution No. 061013-2, the governing body further determined that 100% of the Project costs should be assessed to the Improvement District.

C. The Improvement District includes, among other tracts, the following described real property (collectively, the "Benefit Area"):

Lots 3, 4, 5 and 6, Block 1 and Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, Block 2, Dawson's Cottage Addition to the City of Abilene, Kansas

D. A component of the overall Project included the installation of sanitary sewer taps to serve the Benefit Area, which improvements cost a total of \$24,086.55 ("Sewer Tap Costs").

E. By Ordinance No. 3273 (the "Assessment Ordinance"), the governing body levied special assessments against the various tracts within the Improvement District for the purpose of paying certain Project costs totaling \$326,278.91.

F. The City installed the sanitary sewer tap improvements as part of the overall Project, but the Sewer Tap Costs were not included in the total amount of special assessments levied against the Improvement District; the Sewer Tap Costs have therefore been incurred by the City-at-large.

G. The City of Abilene Improvement Policy Manual, adopted July 12, 1993 by the governing body, established the City's development policy for the financing of public improvements within the City. The policy provides, in part:

Section 4. DEVELOPER OR USER IMPROVEMENTS: The developer or user shall pay for the installation of all sanitary sewer lines and appurtenances. A benefit district may be established for the purpose of assessing the cost of such improvements. The City may accept petitions for special assessment to finance the cost of such improvements unless otherwise accepted in this policy.

H. In addition, the City's Infrastructure Impact Fee Ordinance provides for the establishment and assessment of an impact fee on all new development found by the governing body to benefit from specific city infrastructure improvements.

I. New development within the Benefit Area will benefit from the City's installation of the sanitary sewer tap improvements.

J. Consistent with the City's policy regarding the distribution of costs for financing public sanitary sewer systems, as set forth in the Improvement Policy Manual, and consistent with the requirements of the City's Infrastructure Impact Fee Ordinance, the public interest is most fairly served by the assignment of the Sewer Tap Costs to the Benefit Area, rather than the City-at-large, as such costs would be assigned to similarly situated properties located elsewhere within the City.

K. The Benefit Area includes 163,568.36 square feet, more or less. Consequently, the Sanitary Sewer Costs allocated on a per-square-foot basis equals \$0.147257 per square foot.

SECTION THREE. Policy Objective. The policy objective of this ordinance is to provide for the reimbursement of the City for the cost of assessments paid by the City-at-large attributable to the Sanitary Sewer Costs.

SECTION FOUR. Imposition of Impact Fee. After the effective date of this ordinance, any owner of land who seeks to develop property located within the Benefit Area shall be required to pay a fee of \$0.147257 per square foot, plus interest at the compound rate of 1.97% per annum (which equals the average rate of interest paid by the City under its most recent general obligation bond issue in August, 2015) calculated from the effective date of this ordinance until the date the fee is paid (the "Impact Fee").

SECTION FIVE. Payment of Impact Fee. Payment of the Impact Fee to the City shall be made as a condition of the issuance of a building permit for construction of any development project within the Benefit Area. The amount of the Impact Fee shall be based upon the developable square footage of the legally described parcel for which the permit is being issued. All Impact Fees collected shall be used exclusively to reimburse the City for the Sanitary Sewer Costs incurred by the City-at-large as a component of the Project.

SECTION SIX. Effective Date. In accordance with K.S.A. 12-137, this ordinance shall be published once each week for two (2) consecutive weeks in the official city newspaper and shall be effective sixty (60) days after its final publication, unless within sixty (60) days of its final publication a petition signed by a number of electors of the city equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular city election shall be filed with the county election officer of Dickinson County demanding that such ordinance be submitted to a vote of the electors, in which case it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon.

SECTION SEVEN. Recording of Notice. Following the effective date of this ordinance, the City Clerk is directed to record with the Office of the Dickinson County Register of Deeds a Notice of Impact Fee with a certified copy of this ordinance and a legal description of the Benefit Area attached.

PASSED AND APPROVED by the governing body of the City of Abilene, Kansas, on this 14th day of December, 2015.

CITY OF ABILENE, KANSAS

By: *Dennis P. Weishaar*
Dennis P. Weishaar, Mayor



Penny L. Soukup, CMC
Penny L. Soukup, CMC
City Clerk