

ORDINANCE NO. 23-3425

AN ORDINANCE ESTABLISHING SECTION 1-310 OF THE ABILENE CITY CODE PERTAINING TO THE DETERMINATION OF LICENSE FEES, PERMIT FEES, AND OTHER USER RELATED FEES OR CHARGES ESTABLISHED BY ORDINANCES OF THE CITY OF ABILENE, KANSAS, AND AMENDING EXISTING CITY CODE SECTIONS 1-1312, 1-1313, 1-1314, 2-204, 3-105, 3-121, 3-125, 3-302, 3-402, 3-502, 3-602, 3-702, 3-804, 3-811, 3-902, 3-903, 3-1003, 3-1012, 3-1014, 3-1104, 3-1303, 3-1403, 3-1503, 3-1603, 4-123, 4-124, 4-204, 4-212, 5-311, 5-415, 6-502, 6-518, 7-103, 7-104, 7-108, 7-204, 7-403, 7-602, 7-607, 7-703, 7-805, and 7-1009 PERTAINING TO LICENSE FEES, PERMIT FEES, AND VARIOUS OTHER USER RELATED FEES OR CHARGES, SO AS TO PROVIDE FOR SUCH FEES AND CHARGES TO BE DETERMINED BY RESOLUTION OF THE CITY COMMISSION.

BE IT ORDAINED, BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

SECTION 1. Section 1-310 of the City Code of the City of Abilene, Kansas is hereby established to read as follows:

1-310. License fees, permit fees and other user related fees.

- (a) The city commission shall determine, by resolution, all license fees, permit fees and other user related fees or charges established by the ordinances of the city. All fees and charges shall be in such amounts as will adequately reimburse the city for the services rendered by it in connection therewith.
- (b) The city manager shall annually review all license fees, permit fees and other user related fees or charges so as to ensure that the fees charged adequately reimburse the city for the services rendered by it. In order to assure an equitable adjustment, the city manager is authorized and directed to increase or decrease such license fees, permit fees and other user related fees or charges in approximately the same proportion to any increase or decrease in the general fund for the ensuing year.

SECTION 2. Section 1-1312 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

1-1312. Inspection Fee

- (a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, there shall be no inspection fee charged to the requester.
- (b) In all cases not covered by subsection (a), a record inspection fee shall be charged as prescribed in section 1-310.
- (c) No inspection fee will be assessed when a denial of a request is made.

SECTION 3. Section 1-1313 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

1-1313. Copying Fee; Facsimile Fee.

- (a) A fee shall be charged for photocopying public records, which shall cover the cost of labor, materials and equipment. The fee shall be as prescribed in section 1-310.
- (b) A fee shall be charged for facsimile transmission of public records, which shall cover the cost of labor, materials, and equipment. The fee shall be as prescribed in section 1-310.

SECTION 4. Section 1-1314 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

1-1314. Mailing fee.

The record custodian assess a charge for mailing and handling costs accrued in responding to requests received and processed through the mail service. The fee shall be as prescribed in section 1-310.

SECTION 5. Section 2-204 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

2-204. Permits required.

Any person, firm or corporation desiring the installation of any new facilities for Plumbing, Electrical, Mechanical/HVAC, or proposing any alteration or additions to any existing wiring, plumbing, mechanical/HVAC system in, upon or attached to any building or structure in the city shall make application in writing to the Community Development Department for a permit. No permit shall be required for maintenance of minor repairs as determined by the Community Development Inspector. Furthermore:

(a) No site grading, foundation, building or structure shall be commenced, erected, enlarged, remodeled, or moved within the city without a permit therefore from the City Clerk who may require a plan of the proposed work together with a statement of the estimated cost of materials and labor to be used. Such permit shall be issued upon approval of the Building Inspector and shall be conditional upon compliance with the provisions of this article.

(b) For the purposes of this section, remodeling means the reconstruction or alteration of any portion of a structure in which rooms are added, load bearing members are altered, or the alteration affects the life safety of the occupants of the structure.

(c) If construction is not commenced within thirty (30) days or completed within one (1) year from date of application, the permit shall be void and a new building application shall be made to the Community Development Department.

(d) All Fees for development permits shall be as prescribed in section 1-310. All fees shall be paid prior to issuance of a development permit, unless otherwise stated herein. Payment of fees may be submitted to the Community Development Department in the form of cash or check, credit/debit card. Licensed contractors may establish with the Community Development Department, an escrow account at the discretion of the Community Development Director and Finance Director. The Community Development Director at his/her discretion may approve a permit prior to receipt of payment, provided payment is received no later than ten (10) working days from the date of issuance of permit.

(e) A roof permit shall be required for all projects involving the removal and replacement of roofing materials. A new permit shall be required for each separate project,

with fees as prescribed in section 1-310. All roofing contractors must register with the City of Abilene and obtain a license to operate as a roofing contractor in the City of Abilene. This license is renewed annually beginning on July 31, 2015 with fees as prescribed in section 1-310. All roofing contractors must show proof of certification through the State of Kansas Attorney General's office. No person shall engage in business as a roofing contractor without filing with the City evidence of a current policy of public liability insurance in the following amounts:

- (1) Three hundred thousand dollars (\$300,000.00) for bodily injury liability;
- (2) Three hundred thousand dollars (\$300,000.00) for the loss, destruction or injury of any property;
- (3) Automobile liability insurance in the amount of (\$300,000.00).

Such policy shall be conditioned or extended to cover and include within its terms all employees, assistants and agents of the insured.

The fees for building inspections shall be as prescribed in section 1-310 and shall include, but not be limited to, inspections for footings, stemwall, frames, and final inspections.

(f) Any corporation, association, trust, foundation, or business organization which is qualified to accept donations that are deductible for federal income tax purposes pursuant to the Internal Revenue Code, specifically Sections 170(c) and 501 (c) and 501 (c)(3) thereof, shall be exempt from the building permit fees imposed by subsection (d) above, provided however, that this exemption shall not be construed to include inspection fees or similar charges established by other provisions of the City Code. This exemption shall not apply to public entities, such as the United States, the State of Kansas, or any political subdivision thereof.

(g) No building used as a residence, commercial or industrial establishment shall be occupied unless a Certificate of Occupancy has been issued by the Community Development Inspector.

SECTION 6. Section 3-105 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-105. License fees.

The cereal malt beverage retail license fees shall be as follows:

- (a) The annual license fee for each place of business selling cereal malt beverages at retail for consumption on the premises shall be as prescribed in section 1-310.
- (b) The annual license fee for each place of business selling cereal malt beverages at retail in original and unopened containers and not for consumption on the premises shall be as prescribed in section 1-310.
- (c) The City Clerk shall also collect, in addition to the fees listed herein, any fees required by statute to be passed on to the state of Kansas.

The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

SECTION 7. Section 3-121 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-121. License fees.

There is hereby levied a Special Event Permit Fee on each group or individual applying for said Special Event Permit. Such fee shall be as prescribed in section 1-310. The fee shall be in addition to any applicable fees required to be remitted to the Division of Alcohol Beverage Control and shall be paid before the event begins. The permit fee shall be not refunded to the applicant for any reason.

SECTION 8. Section 3-125 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-125. License fees.

The City shall require the payment of a special event permit fee as prescribed in section 1-310. Such fee shall be in addition to any applicable fees required to be remitted to the Division of Alcohol Beverage Control and shall be paid before the event begins. The permit fee shall not be refunded to the applicant for any reason.

SECTION 9. Section 3-302 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-302. Permit fee.

The temporary permit fee for each person or group holding a temporary permit issued by the City Clerk shall be as prescribed in section 1-310, which fee shall be paid before the event is begun.

SECTION 10. Section 3-402 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-402. Permit fee.

The biennial license fee on each private club located in the city which has a private club license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license, shall be as prescribed in section 1-310 for either a Class "A" Club and for a Class "B" Club. The license fee may be paid in two annual installments by paying one-half at the time of the application and the remaining one-half plus 10% of such remaining balance of the license fee due and payable one year from the date of issuance of the license. Failure to pay the full amount due under this section on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.

SECTION 11. Section 3-502 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-502. License fee.

The biennial license fee on each drinking establishment located in the city which has a drinking establishment license issued by the State Director of Alcoholic Beverage Control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license, shall be as prescribed in section 1-310. The license fee may be paid in two annual installments by paying one-half at the time of the application and the remaining one-half plus 10% of such remaining balance of the license fee due and payable one year from the date of issuance of the license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.

SECTION 12. Section 3-602 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-602. License fees.

A separate biennial license fee, as prescribed in section 1-310, shall be assessed to and paid by each distributor or retailer of alcoholic liquors, including beer containing more than three and two-tenths percent (3.2%) of alcohol by weight, for consumption off the premises, sales in the original package only, as follows:

(a) A biennial license for an alcoholic liquor distributor's license for each distributing place of business operated in the city by the same licensee and wholesaling and jobbing alcoholic liquors.

(b) A biennial license fee for an alcoholic liquor retailer's license for each retail place of business operated in the city by the same licensee and selling alcoholic liquor, including beer containing more than three and two-tenths percent (3.2%) of alcohol by weight, for consumption off the premises, sales in the original package only.

(c) The license fee may be paid in two annual installments by paying one-half at the time of the application and the remaining one-half plus 10% of such remaining balance of the license fee due and payable one year from the date of issuance of the license. Failure to pay the full amount due under this paragraph on the date it is due shall result in the automatic cancellation of such license for the remainder of the license term.

SECTION 13. Section 3-702 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-702. Permit fee.

The temporary permit fee for each person or group holding a temporary permit issued by the State of Kansas Director of Alcoholic Beverage Control shall be a per day fee, as prescribed in section 1-310, which fee shall be paid before the event is begun under a state permit.

SECTION 14. Section 3-804 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-804. Investigation fee.

At the time of filing the application, a fee in an amount prescribed by section 1-310 shall be paid to the City Clerk to cover the cost of investigation of the facts stated in the foregoing application.

SECTION 15. Section 3-811 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-811. Mobile Food Vendors.

(a) Purpose. The Governing Body finds that, in order to advance the health, safety and welfare of the residents of the City of Abilene, Kansas, it is necessary to regulate various activities, including those of Mobile Food Vendors.

(b) Definitions. The following words, terms and phrases, when used in this Article, shall, except where the context clearly indicates otherwise, have the following meanings:

- (1) "City Clerk" for the purpose of this Article, shall mean the City Clerk, the Interim City Clerk, anyone fulfilling the duties of the City Clerk on either a temporary or a permanent basis, or any designee of the City Clerk.
- (2) "Mobile Food Vendor" shall mean any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.
- (3) "Mobile Food Unit" shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale.
- (4) "City Approved Event" shall mean any event sanctioned by Permit issued by the City, including but not limited to a Temporary Special Event Permit, a Temporary Use of Public Right of Way Permit, or a Parks and Recreation Special Use Permit.

(c) Mobile food vendor's license required. No person, corporation, association, or other entity, however organized, shall operate within the corporate limits of the City as a Mobile Food Vendor without first obtaining a valid Mobile Food Vendor's License.

(d) Mobile food vendor's license fee. The application fee for a Mobile Food Vendor's License shall be as prescribed in section 1-310. The fee shall not be pro-rated or refunded for any reason, including denial of an application or revocation of a license.

(e) Mobile food vendor's license application. Application for a Mobile Food Vendor's License shall be made to the City Clerk on a form provided by the City Clerk for that purpose. In addition to paying the Mobile Food Vendor's License Fee, the applicant shall attest to the truthfulness of the application and shall complete the application in full, providing the following information:

- (1) The applicant's full legal name, date of birth, place of birth and Social Security Number.
- (2) The applicant's permanent address, business mailing address and telephone number.
- (3) A copy of the applicant's government-issued photo identification.
- (4) The applicant's valid Kansas sales tax number

- (5) A brief description of the nature of the business and the food and/or beverage to offered for sale.
 - (6) A photograph of each Mobile Food Unit and, if licensed, the license plate number of each Mobile Food Unit.
 - (7) A copy of a valid State of Kansas license for food service establishments, if such is required.
 - (8) Proof of general liability insurance in the amount of \$500,000.00 or more.
 - (9) A statement indicating whether or not the applicant has had a Mobile Food Vendor's License, or any similar license, revoked in this jurisdiction within the preceding two (2) years.
 - (10) The applicant's signature.
- (f) Mobile food vendor's license issuance; denial.
- (1) The City Clerk shall review each application for a Mobile Food Vendor's License. Within five (5) business days of the application, the City Clerk shall approve the application and shall issue to the applicant a Mobile Food Vendor's License together with an official copy for each Mobile Food Unit identified in the application unless:
 - (A) The application is incomplete.
 - (B) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement.
 - (C) The applicant has had a Mobile Food Vendor's License revoked by the City for any reason within the preceding two (2) years.

If the application is deficient for any of the reasons set forth in subsection (f), then the City Clerk shall deny the application by giving Notice of Denial to the applicant. Notice of Denial shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the applicant the reason for denial, and shall inform the applicant that he or she has fourteen (14) days from the date of the Notice of Denial in which to appeal the denial of the application to the Governing Body. The City Clerk shall maintain a copy of the Notice of Denial in his or her files.

- (g) Mobile food vendor's license appearance; duration
- (1) The Mobile Food Vendor's License shall contain the seal of the City, the name of the licensee, and the expiration date of the license.
 - (2) The Mobile Food Vendor's License shall be valid for a period not to exceed one year and shall expire on December 31 of the year in which it is issued.
- (h) Mobile food vendor's license subsequent mobile food unit.
- In the event that a license Mobile Food Vendor begins using a Mobile Food Unit that was not identified in an application for the Mobile Food Vendor's License, the Mobile Food Vendor shall, before using said Mobile Food Unit, present to the City Clerk a photograph of the Mobile Food Unit, the license plate number, if licensed, and a copy of the original Mobile Food License. Upon receipt of that information, the City Clerk shall issue to the licensee an official copy of the Mobile Food License for the new Mobile Food Unit.
- (i) Mobile food vendor's license displayed.
- Mobile Food Vendors shall display the Mobile Food Vendor's License in a prominent place on a Mobile Food Unit at all times that the Mobile Food Unit is engaged in any of the activities licensed by this Article.

- (j) Mobile food vendor's license non-transferable.
No Mobile Food Vendor's License issued in accordance with the provisions of this Article shall be used by any person other than the person, corporation, association, or other entity, however organized, to whom it was issued.
- (k) Mobile food vendor's license restrictions.
- (1) Mobile Food Vendors shall obtain the permission of the property owner before engaging in any activities licensed by this Article.
 - (2) Mobile Food Vendors may only engage in activities licensed by this Article on improved surfaces in commercial, industrial, and nonresidential special purpose zoning districts as defined in Chapter 3, Article 8 of the code of the City of Abilene.
 - (3) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a public right of way, except as part of a City Approved Event.
 - (4) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from any unoccupied or vacant lot, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (7) of this Section.
 - (5) No more than two (2) Mobile Food Units may be operated at the same time on any single property, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (7) of this Section.
 - (6) Mobile Food Vendors are prohibited from offering for sale any food and/or beverage from a single property for more than three (3) hours out of every day, except as part of a City Approved Event or pursuant to a City-approved Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of the site in accordance with subsection (7) of this Section.
 - (7) The City may approve a Site Plan establishing a location for Mobile Food Vendors as a permanent or seasonal element of a site only when the following conditions are met:
 - (A) The owner must submit to the City, for its approval, a standard Site Plan showing, among other things, the location on the site of Mobile Food Vendors as either a permanent or seasonal element of the site;
 - (B) The proposed Site Plan must meet all requirements of the Zoning Code of the City of Abilene, as amended, and the provisions of this Article.
- (l) Mobile food unit standards.
All Mobile Food Units shall comply with the following standards:
- (1) All Mobile Food Units shall be maintained in good, operable condition and shall, at all times, be capable of being moved.
 - (2) The exterior of all Mobile Food Units shall be maintained in good repair, shall be sound, shall be free from peeling or flaking paint, and shall be clean and sanitary so as not to pose a threat to the public health, safety and welfare.
 - (3) All Mobile Food Units, unless completely self-contained, shall be located in close proximity to and shall be connected safely to electricity and other

necessary utilities, such that they do not pose a threat to the public health, safety, and welfare.

- (4) Signs shall be limited to those that may be mounted or incorporated on the Mobile Food Unit. Signs shall not exceed the dimensions of the Mobile Food Unit by more than one (1) foot in any direction. No flashing signs shall be permitted. Illuminated signs are permitted, provided that the signs are only illuminated when the Mobile Food Unit is stationary, that such signs are only illuminated during hours that the Mobile Food Unit is being operated, and that any such signs, within five hundred (500) feet of any traffic signal, are not green, amber, or red in color. When the sign is illuminated by a light or lights reflected upon it, direct rays of light shall not beam upon any residential building or into any residential neighborhood or street.
- (m) Mobile food vendor's license revocation.
- (1) The City Clerk may revoke any Mobile Food Vendor's License issued under this Article for one or more of the following reasons:
 - (A) Fraud, misrepresentation, or false statement contained in the application for the Mobile Food Vendor's License;
 - (B) Any violation of the provisions of this Article;
 - (C) Conducting a licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety, or welfare of the residents of the City;
 - (D) Unauthorized use of a public right of way;
 - (E) Violation of a site plan requirement for an existing land use or for any other violation of the zoning code; or
 - (F) Revocation or denial of any license issued by the State of Kansas for food service establishments.
 - (2) Notice of Revocation shall be in writing, shall be mailed to the applicant at his or her given address, shall inform the licensee of the reason for revocation, and shall inform the licensee that he or she has fourteen (14) days from the date of the Notice of Revocation to appeal the revocation to the Governing Body. The City Clerk shall maintain a copy of the Notice of Revocation in his or her files.
- (n) Mobile food vendor's license appeal.
- Any person aggrieved by the action of the City Clerk in denying an application for a Mobile Food Vendor's License or in revoking a Mobile Food Vendor's License shall have the right to appeal that action to the Governing Body. Such appeal shall be taken by filing with the City Clerk a Notice of Appeal within fourteen (14) days of the date of the Notice of Denial or the Notice of Revocation. The Notice of Appeal must be in writing and must set forth why the applicant or the licensee believes that the denial or the revocation is erroneous. After the Notice of Appeal is filed, the Governing Body shall set a time and place for hearing the appeal. Notice of the hearing shall be given to the applicant or licensee in the same manner as the Notice of Denial or the Notice of Revocation. The Governing Body's decision and order on such appeal shall be the final order of the City.
- (o) Mobile food vendor's license municipal offense.

Operating as a Mobile Food Vendor without a Mobile Food Vendor's License shall be a municipal offense. Any person, upon an adjudication of guilt or the entry of a plea of no contest, shall be subject to a fine of a minimum of \$500.00 and a maximum of \$1,000.00. The municipal court judge shall have no authority to suspend all or any portion of the minimum fine.

(p) Mobile food vendor's license exemptions.

The provisions of this Article shall not apply to the following activities:

- (1) Ice cream vendors licensed under Article 8, Chapter 3 of the City of the City of Abilene.
- (2) Vendors selling at the Dickinson County or Abilene Fairgrounds.
- (3) Vendors selling at the Farmers' Market.
- (4) Vendors selling on school campuses.
- (5) Vendors selling as part of a City Approved Event.

SECTION 16. Section 3-902 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-902. Exemptions.

The provisions of this article shall not apply to the following:

- (a) Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business.
- (b) Sales or displays at trade shows, expositions or conventions.
- (c) Sales of goods, wares or merchandise by sample catalogue or brochure for future delivery.
- (d) Sales or displays at fairs, conventions or shows operated primarily for purposes of amusement, entertainment, recreation or education.
- (e) Sales or displays at sales, fairs, auctions or bazaars operated by church, religious or charitable organizations.
- (f) Garage sales held on premises devoted to residential use.
- (g) Sales or displays at sales or shows of crafts or items made by hand and sold, offered for sale or displayed by the individual making such crafts or handmade items.
- (h) Sales of agricultural products, farm, garden or aquacultural products.
- (i) Sales to the owner or legal occupant of residential premises, at such premises pursuant to an invitation issued by such owner or legal occupant.
- (j) Sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools or educational institutions.
- (k) Sales of paraphernalia used in the celebration of any nationally recognized holiday.
- (l) Sales or displays at fairs or expositions sponsored by the state, a county or another governmental entity or a convention or tourism committee created pursuant to either K.S.A. 12-1695 or 12-16,101, and amendments thereto.
- (m) Sales or displays at sales, exchanges or shows of collectibles or hobby or investment items of personal property, including but not limited to pets, gems and minerals, stamps, coins, photographs and photographic equipment, guns and belt buckles.
- (n) Sales or displays in connection with and at the site of, athletic tournaments, events, contests or expositions.
- (o) Events sponsored by nonprofit organizations.

- (p) Occasional accessory business uses operated in conjunction with a legally conforming business located in the city, provided the business owner shall obtain a temporary business permit and pay a processing fee at the office of the City Clerk, which fee shall be in an amount as prescribed in section 1-310.

The exemptions provided by section shall apply regardless of whether the transient merchant is sponsoring or operating the activity giving rise to the exemption or is participating in the activity as a seller or exhibitor. A transient merchant not otherwise exempted from the provisions of this act shall not be relieved or exempted from the provisions of this act by reason of temporary association with any local dealer, auctioneer, trader, contractor or merchant or by conducting temporary or transient business in connection with or in the name of any local dealer, auctioneer, trader, contractor or merchant.

SECTION 17. Section 3-903 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-903. License.

Any person desiring to transact business in this city as a transient merchant shall make application for and obtain a license. An application fee as prescribed in section 1-310 shall be paid to the City Clerk at the time of the filing of an application for a transient merchants license. The maximum fee chargeable to any one transient merchant shall be as prescribed in section 1-310. The application for license shall be filed with the City Clerk and shall include the following information:

(a) The name and permanent address of the individual or transient merchant making the application and, if the transient merchant is not an individual, the names and addresses of the offices of the corporation or the members of the partnership, association or other entity, as the case may be.

(b) If the applicant is a corporation, a statement of the date of incorporation, the state of incorporation and, if the applicant is a corporation formed in another state, the date on which such corporation qualified to transact business as a foreign corporation in this state.

(c) A statement showing the kind of business proposed to be conducted, the length of time for which the applicant desires to transact such business, and the location of such proposed place of business.

(d) If the applicant is not a resident of the State of Kansas, the name and permanent address of the transient merchant's registered agent or office with a copy of the agreement of the registered agent designated by the applicant, as provided by K.S.A. 19-2237 and amendments thereto.

SECTION 18. Section 3-1003 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1003. License fee.

The annual fee for a taxicab license shall be as prescribed in section 1-310. The license shall expire on December 31st after issuance.

SECTION 19. Section 3-1012 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1012. Application fee.

Each application for a certificate of identification shall be accompanied by the payment of a fee as prescribed in section 1-310, and in the event the applicant is refused a certificate of identification, such fee shall be retained by the city.

SECTION 20. Section 3-1014 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1014. Expiration and renewal.

A certificate of identification shall be valid until the December 31 of each year, and may be renewed without a new application upon payment of a fee as prescribed in section 1-310, provided that, if in the opinion of the Police Chief, more recent information is needed for proper identification, a new application shall be required.

SECTION 21. Section 3-1104 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1104. Fee.

No license shall be issued unless the applicant shall pay to the City Clerk an annual fee as prescribed in section 1-310 for each vehicle used in the collection and transportation of solid waste. No license shall be issued for the collection and transportation of liquid waste unless the applicant shall pay to the City Clerk an annual fee as prescribed in section 1-310.

SECTION 22. Section 3-1303 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1303. Fee.

The fee for an electrician's license for the first year, and the renewal fee for each year thereafter, shall be as prescribed in section 1-310, provided that if such fee is not paid by February 15, the first year fee shall be charged.

SECTION 23. Section 3-1403 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1403. Fee.

The fee for a plumber's license for the first year, and the renewal fee for each year thereafter, shall be as prescribed in section 1-310, provided that if such fee is not paid by February 15, the first year fee shall be charged.

SECTION 24. Section 3-1503 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1503. Fee.

The fee for a mechanical contractor's license for the first year, and the renewal fee for each year thereafter, shall be as prescribed in section 1-310, provided that if such fee is not paid by February 15, the first year fee shall be charged.

SECTION 25. Section 3-1603 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

3-1603. License fees.

An annual sexually oriented business license fee shall be charged for each place of business, as prescribed in section 1-310. The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

SECTION 26. Section 4-123 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

4-123. Exception; miniature pigs.

The provisions of this article are not applicable to owners, keepers or harborers of registered purebred miniature Vietnamese pot-bellied pigs and other similar registered purebred miniature pigs which may be maintained within the city limits, subject to the following restriction:

(a) **REQUIREMENTS.** It shall be unlawful for any person to maintain a registered purebred miniature pig which is:

- (1) not spayed or neutered upon reaching maturity or
- (2) has not undergone a blood test to show that the animal is free from pseudorabies, or
- (3) is maintained as a food source.

(b) **IT SHALL BE UNLAWFUL FOR ANY PERSON TO:**

- (1) keep a registered purebred miniature pig without a current city issued license;
or
- (2) maintain more than one registered purebred miniature pig at one licensed premise.

(c) **LICENSE.** A one-time application fee as prescribed in section 1-310 shall be paid to the city before a registered purebred miniature pig may be licensed and maintained within the city limits. Thereafter, an annual license fee as prescribed in section 1-310 shall be paid to the City of Abilene, renewable in January of each year in order for any person to continue to maintain a registered purebred miniature pig within the city limits.

The license shall continue until any of the following shall occur:

- (1) the annual renewal fee is not timely paid;
- (2) the license is revoked;
- (3) the animal dies;

(4) the animal is no longer kept or maintained at the location stated in the license;
or

(5) the licensee no longer resides at the location stated in the license.

(d) **REVOCAION OF LICENSE.** The license may be revoked by the city if the licensee shall fail to abide by all applicable city codes and ordinances. No person who has had a permit revoked shall be permitted to make application for another license within one year from the date of the revocation of the previous license.

(e) **PENALTY.**

A violation of this Section shall constitute a class C violation. Any person who shall be convicted in municipal court of violating any provision of this section shall be punished by a fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation.

SECTION 27. Section 4-124 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

4-124. Exception; chickens.

The provisions of this article are not applicable to owners, keepers, or harborers of permitted chickens which may be maintained within the city limits, subject to the requirements of this section:

(a) **Definitions.**

(1) *Permittee* means a person to whom a permit has been issued by the city under this section.

(2) *Chicken* means an individual animal of the species *Gallus gallus domesticus*.

(3) *Hen* means the female chicken.

(4) *Rooster* means a male chicken.

(b) **Permit required.** No person shall own, keep, or harbor a chicken within the city limits without a permit issued pursuant to this section.

(c) **Locations permitted.** Only persons residing in residential zoning districts shall be eligible for a permit under this section.

(d) **Number allowed.** A permittee shall not own, keep, or harbor more than six (6) hens, unless the permittee's dwelling is situated upon more than one (1) acre, in which case the permittee shall be allowed to own, keep, and harbor an additional three (3) hens for each full additional one (1) acre of property that is under the permittee's control and possession.

(e) **Roosters prohibited.** It shall be unlawful to own, keep, or harbor a rooster within the city limits.

(f) **Setbacks.** Coops and cages housing hens shall not be located within:

(1) Twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the permittee's dwelling;

(2) Five (5) feet of a side or rear yard lot line;

(3) In a front yard; or

(4) Ten (10) feet of the permittee's principal dwelling.

(g) **Enclosures.** Hens shall be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop or cage shall allow at least two (2) square feet of space per hen. Any coop or cage exceeding 100

square feet in size shall be considered an accessory structure as defined in the Zoning Regulations and must meet all standards outlined therein. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the permittee's property and to prevent predators from accessing the birds.

(h) Sanitation. The coop or cage, and the outdoor enclosure, must be kept in a sanitary condition and free from offensive odors. The coop or cage, and the outdoor enclosure, must be cleaned at least once each week to prevent the accumulation of waste.

(i) Slaughtering. No person shall engage in the outdoor slaughtering of chickens. The remnants from slaughtering shall be properly disposed of, in accordance with applicable laws.

(j) Permit applications.

(1) Each applicant seeking to obtain a permit under this section shall apply for a permit in writing on such form as the city clerk may prescribe, and shall pay a non-refundable fee to the city clerk as prescribed in section 1-310.

(2) Each application for a permit shall be signed by the applicant, who shall be at least eighteen (18) years old, and who shall be in actual control or possession of the dwelling on the subject property. The application shall include or be accompanied by the following information:

(A) The name, address, telephone number, and date of birth of the applicant.

(B) A description of the location and size of the subject property.

(C) The number of hens the applicant proposes to keep on the subject property.

(D) A description and precise dimensions of the coop(s) or cage(s) and outdoor enclosure(s) to be maintained on the subject property, along with a description or depiction of the precise location(s) of these enclosures in relation to the property lines and adjacent properties.

(E) If the applicant proposes to keep hens in the yard of a multi-family dwelling, the applicant must include a signed statement from the owner(s) and all tenants of the multi-family dwelling, indicating their consent to the applicant's proposal for keeping hens on the premises.

(F) Such other information as is required by this chapter or reasonably required by the city to determine the applicant's eligibility and qualifications for a permit in accordance with the criteria, standards, and qualifications set forth in this section.

(k) Issuance or denial of permit.

(1) The city clerk shall process each valid and administratively complete application for a permit within ten (10) business days.

(2) No permit shall be approved for any person ineligible pursuant to the provisions of this section.

(3) No permit shall be approved for any person who has been convicted, or who resides with any person in the subject property who has been convicted, of a crime related to maltreatment, mistreatment, neglect, or cruelty to any animal.

(l) Duration of initial permit; renewal.

(1) Any permit issued pursuant to this article shall be for a term of the remainder of the calendar year in which the permit is issued. A permit may be renewed by making timely payment of an annual renewal fee as prescribed in section

1-310 to the city clerk on or before December 31 of each calendar year. If the annual renewal fee is not made during the time provided herein, the permit shall expire on December 31 and a new application shall be required.

(2) A permit issued under this section may be revoked or temporarily suspended by the city manager for any of the following reasons:

(A) Violation of or failure to comply with any provision of this section, or any other provision in this code or applicable city ordinances; or

(B) Fraud, misrepresentation, or false statement contained in the application for the permit.

(m) Appeal. Any person aggrieved by the city clerk's denial of an initial permit application, or a decision of the city manager to suspend or revoke a permit, shall have the right to appeal such decision to the city commission within ten (10) days after the notice of the action or decision has been mailed to the applicant or the permittee, as applicable. An appeal to the city commission shall be taken by filing with the city clerk a written statement setting forth the grounds for the appeal. An appeal shall be considered by the city commission at a regular meeting to be held within fifteen (15) days of receipt of the written appeal. The city commission may affirm, overrule, or modify the decision. Any person aggrieved by the city commission's decision on appeal may seek judicial review in a manner provided by law.

(n) Inspection. As a condition of the permit, the permittee agrees to the entry and inspection of any premises, building, enclosure, or other premises where the hens are kept or allowed to inhabit. Such inspection shall be conducted at reasonable times, with or without notice, by such city representatives designated by the city manager as being responsible for administration of this section.

(o) Transferability. A permit issued under this section shall not be assignable or transferable under any circumstances from one person to another person.

(p) Penalty. A violation of this section shall constitute a class C violation. Any person who shall be convicted in municipal court of violating any provision of this section shall be punished by a fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation.

SECTION 28. Section 4-204 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

4-204. Registration fee.

The City Clerk shall collect an annual registration fee as prescribed in section 1-310 for each neutered male dog or spayed female dog, and for each unneutered male dog or unspayed female dog, without regard to the time of ownership or acquisition of such dog. The registration year shall be from January 1 through December 31 of each year. The fee shall be due on January 1 and payable before March 1 of each year without penalty. Every owner of a dog who shall fail to register and license the same prior to March 1 of each licensing year or within thirty (30) days of the acquisition of a dog, whichever is later, shall pay in addition to the license fee hereinabove provided a penalty fee for late registration as prescribed in section 1-310.

SECTION 29. Section 4-212 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

4-212. Kennel licenses.

Kennel licenses must be renewed annually. The annual kennel license fee shall be as prescribed in section 1-310. Payment of such license fee is in addition to, and not in lieu of, the dog license fees otherwise required under this article. No kennel license shall be issued until an inspection certificate has been given by the Animal Control Officer certifying approval of the kennel and compliance with the applicable laws of the city and State of Kansas, and a certificate by the Zoning Administrator has been issued certifying that the applicant for the kennel license is not violating zoning laws of the city. If the City Clerk has not received a protest against the kennel, the City Clerk may issue a renewal of an existing kennel license at the same location without any report from the Animal Control Officer and Zoning Administrator. If the Animal Control Officer or the Zoning Administrator finds that the holder of any kennel license is violating any zoning law, or any other law of the State of Kansas, or of the city, or is maintaining the facility in a manner detrimental to the health, safety or peace of mind of any person residing in the immediate vicinity, he or she shall report such fact to the City Clerk, and the license shall not be renewed except after a public hearing before the City Commission.

SECTION 30. Section 5-311 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

5-311. Sale of fireworks.

(a) The retail sale of fireworks, which are defined as “Class C Fireworks”, not including “bottle rockets” by the Rules and Regulations of the Kansas State Fire Marshal, shall be permitted between the hours of 8:00 a.m. to 10:00 p.m. on the days of June 30 through July 4 each year by persons or organizations holding a valid, unrevoked permit issued by the City of Abilene, Kansas. The permit application fee shall be as prescribed in section 1-310. Such fee shall be paid to the City Clerk by cash, certified check or money order.

(b) Fireworks may only be sold in areas of the city zoned “C-1, Office and Service Business District,” “C-2, Restricted Commercial District,” “C-3, General Commercial District,” “I-1, Light Industrial District,” and “I-2, Heavy Industrial District.” No sale of Fireworks shall be permitted in areas zoned for residential use or in the “C-4, Central Business District.” The Fire Chief, or his designee, and the building official shall approve all locations proposed for sale and storage of fireworks before a permit is issued.

(c) All applications for permits shall be reviewed by the Fire Chief, or his designee. Applications must be received no later than fourteen business days prior to the permit issuance date to allow the Fire Chief time to investigate. The Fire Chief must approve all applications before any license is issued by the City Clerk. As a condition of the City issuing a permit, the applicant shall provide proof of a sales tax number or an exemption certificate issued by the Kansas State Department of Revenue.

(d) Licensee shall hold the City harmless from and indemnify it against all claims of liability arising, in any way, from sale of fireworks. Licensee shall further secure and

maintain in force a policy of comprehensive general liability with a combined single limit of \$1,000,000. A certificate evidencing such insurance shall be furnished to the City.

(e) The Fire Chief shall adopt administrative regulations, which may be amended from time to time, regarding the type of sale facility and all related safety/code requirements, which are hereby incorporated by reference.

(f) All licenses for sale of fireworks shall be renewed annually.

SECTION 31. Section 5-415 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

5-415. Work-site utility vehicles and micro utility trucks.

(a) As used in this section, the following words and phrases shall have the meanings respectively ascribed to them in this section, except when the context requires otherwise.

- (1) "Micro utility truck" means any motor vehicle as defined in the most current Standard Traffic Ordinance adopted by the city. "Micro utility truck" does not include a work-site vehicle.
- (2) "Work-site utility vehicle" means any motor vehicle as defined in the most current Standard Traffic Ordinance. "Work-site utility vehicle" does not include a micro utility truck.
- (3) "Special purpose vehicle" means micro utility truck and work-site utility vehicle, either individually or collectively.

(b) OPERATION OF SPECIAL PURPOSE VEHICLES ON CITY STREETS; SPECIAL CONDITIONS AND RESTRICTIONS ON OPERATION.

- (1) Micro utility trucks may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.
 - (A) No micro utility truck shall be operated on any public highway, street, road or alley, unless such truck complies with the equipment requirements under Article 17 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto.
 - (B) No micro utility truck shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a micro utility truck from crossing a federal or state highway.
- (2) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the city.
 - (A) No work-site utility vehicle shall be operated on any public highway, street or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.
 - (B) No work-site utility vehicle shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a work-site utility vehicle from crossing a federal or state highway.

(c) SAME; VALID DRIVER'S LICENSE REQUIRED; PENALTY; DUTIES AND RESPONSIBILITIES.

- (1) No person shall operate a special purpose vehicle on any public highway, street, road or alley within the corporate limits of the city unless such person

has a valid unrestricted by age driver=s license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

(2) Every person operating a special purpose vehicle on the public highways, streets, roads and alleys of the city shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

(d) SAME; INSURANCE REQUIRED; PENALTY.

(1) Every owner of a special purpose vehicle shall provide liability coverage in accordance with Section 200 of the Standard Traffic Ordinance, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq., and amendments thereto.

(2) All provisions of Section 200 of the Standard Traffic Ordinance, and amendments thereto, including penalty provisions, shall be applicable to all owners and operators of special purpose vehicles.

(e) SAME; REGISTRATION AND LICENSE; FEE; APPLICATION; INSPECTION; PENALTY. Before operating any special purpose utility vehicle on any public highway, street, road or alley within the corporate limits of the city, the vehicle shall be registered with the police department and display a valid registration decal affixed and displayed in such a manner as to be clearly visible from the rear of the vehicle. The application shall be made upon forms provided by the city and each application shall contain the name of the owner, the owner's residence address, or bona fide place of business, a brief description of the vehicle to be registered (including make, model and serial number, if applicable). Proof of insurance shall be furnished at the time of application for registration. A one time registration fee for a special purpose vehicle shall be as prescribed in section 1-310. The license issued hereunder is not transferrable.

(f) PENALTY. Unless specifically provided for herein, a violation of this section shall be deemed an ordinance traffic infraction. Upon an entry of a plea of guilty or no contest or upon being convicted of such violation, the penalty imposed shall be in accordance with Section 201, 2009 Standard Traffic Ordinance, and amendments thereto, or such other similar provision as the city may then have in effect.

SECTION 32. Section 6-502 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-502. Driveway permit.

It shall be unlawful for any person to cut or remove any curb along a street or alley, except after making application to and receiving a permit from the City Clerk, the fee for which shall be as prescribed in section 1-310, to so construct a service driveway in accordance with the plans and specifications filed with and approved by the City Engineer.

SECTION 33. Section 6-518 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-518. Rules for right-of-way management and use.

(a) Authorization From City Required.

- (1) No person, firm, corporation, association, utility, or entity, shall enter upon the right-of-way of the City, or in any manner establish a physical presence on, upon, in or over the right-of-way of the City, for the purpose of installing, construction, maintaining or operating lines, conduits, wires, fiber optic wires, cables, pipes, pipelines, poles, towers, vaults, or appliances, or related facilities or appurtenances thereto, without the express written permission of the City. The permission of the City may be granted by a franchise agreement pursuant to the provisions of K.S.A. 12-2001 et seq. or by such other agreement as the governing body determines best protects the public interest in the right-of-way.
- (2) Nothing in this section shall be interpreted as granting an occupant the authority to construct, maintain, or operate any facility or related appurtenance on property owned by a city outside of the public right-of-way.
- (3) The City shall process each valid and administratively complete application for use of the right-of-way within 30 days.

(b) Health, Safety, and Welfare Regulations.

- (1) The authority of a provider to use and occupy the public right-of-way shall always be subject and subordinate to the reasonable public health, safety, and welfare requirements and regulations of the City.
- (2) If the City denies a request to use or occupy a specific portion of the public right-of-way, the requester shall be served a notice of such denial by first class mail. The notice shall indicate that the requester shall have 10 days from the date of the receipt of the notice to request a public hearing by the City governing body concerning the denial. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the denial before the governing body. The hearing shall be held by the governing body within 30 days after the filing of the request therefore, and the potential occupant shall be advised by the City of the time and place of the hearing. Following the public hearing, if the City governing body denies a potential occupant's request to use or occupy a specific portion of the public right-of-way, such determination may be appealed to district court.

(c) Compliance With Manual of Uniform Traffic Control Devices. Any occupant of the public right-of-way shall comply with the provisions of Standards and Guides for Traffic Controls for Street and Highway Construction, Maintenance, Utility, and Incident Management Operations Part VI of the Manual of Uniform Traffic Control Devices (MUTCD), published by the U.S. Department of Transportation, Federal Highway Administration, 1988 Edition, Revision 3, dated September 3, 1993, which is incorporated herein by reference as if fully set forth herein.

(d) Emergencies. If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public right-of-way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association, utility, or entity notifies the City promptly after beginning the

work and timely thereafter meets any permit or other requirement had there not been such an emergency.

(e) Repair. Any occupant of the public right-of-way is hereby required to repair all damage to a public right-of-way caused by the activities of that occupant, or of any agent affiliate, employee, or subcontractor of that occupant, while occupying, installing, repairing, or maintaining facilities in a public right-of-way and to return the right-of-way to its functional equivalence before the damage pursuant to the reasonable requirements and specifications of the city. If the occupant fails to make the repairs required by the city, the city may effect those repairs and charge the occupant the cost of those repairs.

(f) Relocation. Whenever requested by the City, in order to accomplish construction and maintenance activities directly related to improvements for the health, safety, and welfare of the public, an occupant promptly shall remove its facilities from the public right-of-way or shall relocate or adjust its facilities within the public right-of-way at no cost to the political subdivision. Such relocation or adjustment shall be completed as soon as reasonably possible within the time set forth in any request by the City for such relocation or adjustment. Any damages suffered by the City or its contractors as a result of such occupant's failure to timely relocate or adjust its facilities shall be borne by such occupant.

(g) Fees. The following fees shall be assessed against occupants of the public right-of-way:

- (1) A permit fee as prescribed in section 1-310;
- (2) An inspection fee as prescribed in section 1-310;
- (3) Repair and restoration costs associated with repairing and restoring the public right-of-way because of damage caused by the provider, its assigns, contractors, and/or subcontractors in the right-of-way; and
- (4) A performance bond, in a form acceptable to the city, from a surety licensed to conduct surety business in the state of Kansas, insuring appropriate and timely performance in the construction and maintenance of facilities located in the public right-of-way.

(h) Indemnity.

- (1) Occupants shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the occupant, any agent, officer, director, representative, employee, affiliate, or subcontractor of the provider, or their respective officers, agents, employees, directors or representatives, while installing, repairing or maintaining facilities in a public right-of-way.
- (2) The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the City, its officers, employees, contractors, or subcontractors. If an occupant and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any

governmental immunity available to the City under state law and without waiving any defenses of the parties under state or federal law.

(3) This section is solely for the benefit of the City and occupant and does not create or grant any rights, contractual, or otherwise, to any other person or entity.

(i) Claim Notification. An occupant shall promptly advise the other in writing of any known claim or demand against the provider or the City related to or arising out of the occupant's activities in a public right-of-way.

SECTION 34. Section 7-103 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-103. Application fee.

Each customer shall pay to the City Clerk with the application for connection to the municipal water and sewer system a fee. Such fee shall be as prescribed in section 1-310.

SECTION 35. Section 7-104 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-104. Transfer fee.

Each customer shall pay to the City Clerk with the application for transfer of service to the municipal water and sewer system an amount as prescribed in section 1-310.

SECTION 36. Section 7-108 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-108. Reconnection.

In the event water or sewer service shall be discontinued under the authority of this article, said water or sewer service shall not be restored until the delinquent account and a reconnection fee have been paid by the user whose water or sewer service has been discontinued. Such fee shall be as prescribed in section 1-310.

SECTION 37. Section 7-204 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-204. Application.

The owner or an agent shall make application on a form furnished by the city. The permit application shall be supplemented with any plans, specifications, or other information considered pertinent in the judgment of the Director of Public Works or an authorized representative. A permit and inspection fee for a residential or commercial building sewer permit, as prescribed in section 1-310, shall be paid to the City Clerk at the time the application is filed.

SECTION 38. Section 7-403 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-403. Connection fee.

Any person whose property is situated outside the city shall pay a sanitary sewer connection charge as prescribed in section 1-310. All installations shall be done by the applicant under the supervision of an authorized representative of the city.

SECTION 39. Section 7-602 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-602. Permit.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Director of Public Works. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Director of Public Works or KSOR or an authorized representative. A permit and inspection fee as prescribed in section 1-310 shall be paid to the City Clerk at the time the application is filed.

SECTION 40. Section 7-607 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-607. Private sewer lines right-of-way use.

A private sewer line may be installed across a public right-of-way when an adjacent public sewer service is not available. A right-of-way use agreement must be entered into by the property owner and City to include the follow provisions.

(a) PERMIT AND AGREEMENT.

(1) Procedure.

- (A) Prior to the preparation of the design drawings and permit, the consulting engineer and/or property owner shall meet with the Public Works Director and City Engineer to discuss the extent and nature of the project, the relevant information to be provided and the permit approval process. The information required may be adjusted to account for unique circumstances as agreed upon by the applicant and City Engineer.
- (B) The property owner must submit an engineer certified design and permit form which will be reviewed by the City Engineer for completeness and form.
- (C) The City Engineer will review the design and permit and will determine if the design is appropriate. If the City Engineer finds the design and permit acceptable, the permit will be approved and the applicant will be provided a Right-of-Way Use Agreement.
- (D) If the City Engineer determines that additional information is necessary, the submittal will be returned to the applicant with a request for additional information. The additional information request will clearly identified and describe the information sought.

- (E) Once the property owner signed the ROW Use Agreement, it will be forwarded to the City Manager for acceptance by the City.
 - (F) The property owner is responsible to file a copy of the City Manager endorsed ROW Use Agreement in the Register of Deeds Office and said agreement is to be cited to the record of the subject property.
 - (G) Approved drawings and supplemental information shall be attached to the connection permit, and ultimately filed with the ROW use agreement and in the Register of Deeds Office.
 - (H) Any modifications to an approved permit must be submitted by the property owner and accepted by the City Engineer. All review processes of modifications are to follow the same procedure as required for the initial permit.
 - (I) The property owner may appeal a permit denial or request for additional information to the City Manager. The appeal must be accompanied with a justification for the grounds of appeal. The City Manager may: uphold the permit denial or request for more information; or approve the design and permit. The determination of the City Manager may be appealed to the City Commission upon the receipt of a written appeal request from the property owner stating the grounds for appeal.
- (2) Submittals.
- (A) The permit must be filed with a one-time non-refundable fee as prescribed in section 1-310.
 - (B) The design submittal shall be a surveyed and engineered drawing prepared by a licensed professional engineer in the State of Kansas. Improvement specifications must be included on the drawing.
 - (C) The following information is required as a minimum and additional information may be requested by the City Engineer as stipulated in Section 7-607(a)(1)(D). The design submittal must:
 - (i) Be in a plan and profile format;
 - (ii) Be to scale at least a 1:20 scale and include a north arrow;
 - (iii) Show the location of and identify ROW lines, property lines, public utilities, franchise utilities and easements within 40 feet either side of the proposed private sewer line;
 - (iv) Location, size, material and directional flow of the private line;
 - (v) Include letters from the utilities verifying the receipt of the submittal and identifying any conflict and its resolution shall be provided;
 - (vi) Include contact information for the property owner and engineer; and
 - (vii) Traffic control shall be illustrated on the drawings.
- (b) REQUIREMENTS.
- (1) Design
 - (A) The design must include a tracing wire along the sewer line.
 - (B) Street ROW crossings, regardless of the surface composition of the street shall be backfilled with flowable fill or bored and cased under the street improvement.

- (C) When currently published KDHE standards are applicable to the project, the design drawing and accompanying documentation must comply with KDHE requirements.
- (2) Maintenance, Liability and Assurances
 - (A) All costs associated with the installation, maintenance and removal of the private sewer line, including the necessary replacement, relocation or repair of disturbed public facilities (water lines, public sewer lines, streets, curbs, drainage improvements, electrical facilities, gas lines, telephone lines, television lines, etc.) are to be the responsibility of the property owner.
 - (B) The property owner accepts all liability associated with the private sewer line and any modifications to public facilities necessitated by the installation, removal, replacement or maintenance of the private sewer line, to include repairs to public facilities damaged as a result of failure of the private sewer line.
 - (C) The property owner or the future assignees of the property will not allow any additional users to connect to the private sewer line.
 - (D) A certificate of insurance and bond or surety in the amount of \$1,000,000 will be provided payable to the City. City shall be held harmless.
- (c) INSTALLATION AND INSPECTION.
 - (1) Installation of the line must follow the design as approved in the permit.
 - (2) The property owner will be responsible to ensure that all public utilities are located and marked prior to beginning the installation of the sewer line.
 - (3) The property owner must provide notice to the Public Works Director and property owners adjacent to the project at least one week prior to the commencing of excavation.
 - (4) The approved traffic control measures must be provided during construction.
 - (5) The City Engineer and City Inspector must be notified and conduct an inspection of the sewer line and connection to the public sewer line prior to burying of the line. Burial of the line can not commence until the improvement passes inspection by the City Inspector.
 - (6) Repetitive failure to pass inspection will result in revocation of the permit and requirement to remove the sewer line and repair to all grounds and improvements disturbed due to the installation.
- (d) SUBSEQUENT CONNECTION. - The property owner will abandon and remove the private sewer lines and install a new private service line at such time as a public sewer line is made available adjacent to the subject property. This work must be completed within sixty (60) days of the public line being made available.

SECTION 41. Section 7-703 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-703. Recycling fee.

In order to provide the funds necessary for the maintenance and operation of the municipal recycling utility there is hereby established a fee for each residential and business connection to the municipal water system of the City of Abilene, Kansas. The fee shall be

as prescribed in section 1-310. All moneys derived from said fee shall be placed in a separate fund and shall be used exclusively for the purpose of the municipal recycling utility.

SECTION 42. Section 7-805 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-805. Testing.

The city reserves the right to remove meters from the premises of customers at any time whether owned by the customer or the city. The city shall periodically remove all meters and test their accuracy at its discretion. The cost of such removal, test, inspection, repair, replacement, and replacement in service if caused by the customer through his own fault or negligence shall be paid 100% by the customer. The removal of a water meter for test and inspection may be requested by the customer served by the meter. If a meter so removed is found to be registering by more than 2%, the cost of removal, test and replacement shall be borne by the city and the water bill for the previous six months shall be adjusted accordingly, otherwise a testing fees, as prescribed in section 1-310, shall be paid by the customer.

SECTION 43. Section 7-1009 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-1009. Reconnection fee.

A reconnection fee, as prescribed in section 1-310, shall be paid for the reconnection of any water service terminated pursuant to Section 7-1008(a). In the event of subsequent violations within a one year period, the applicable reconnection fee shall be increased to a fee as prescribed in section 1-310.

SECTION 44. Existing Sections 1-1312, 1-1313, 1-1314, 2-204, 3-105, 3-121, 3-125, 3-302, 3-402, 3-502, 3-602, 3-702, 3-804, 3-811, 3-902, 3-903, 3-1003, 3-1012, 3-1014, 3-1104, 3-1303, 3-1403, 3-1503, 3-1603, 4-123, 4-124, 4-204, 4-212, 5-311, 5-415, 6-502, 6-518, 7-103, 7-104, 7-108, 7-204, 7-403, 7-602, 7-607, 7-703, 7-805, and 7-1009 of the City Code of the City of Abilene, Kansas are hereby repealed.

SECTION 45. This ordinance shall be in full force and effect from and after January 23, 2023, following its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 23-3425 Summary

On January 9, 2023, the City Commission passed Ordinance No. 23-3425. The ordinance establishes a new Section 1-310 of the Abilene City Code pertaining to the determination of license fees, permit fees, and other user related fees or charges established by ordinances of the City of Abilene, Kansas, and amending existing City Code Sections 1-1312, 1-1313, 1-1314, 2-204, 3-105, 3-121, 3-125, 3-302, 3-402, 3-502, 3-602, 3-702, 3-804, 3-811, 3-902, 3-903, 3-1003, 3-1012, 3-1014, 3-1104, 3-1303, 3-1403, 3-1503, 3-1603, 4-123, 4-124, 4-204, 4-212, 5-311, 5-415,

6-502, 6-518, 7-103, 7-104, 7-108, 7-204, 7-403, 7-602, 7-607, 7-703, 7-805 and 7-1009 pertaining to license fees, permit fees, and various other user related fees or charges, so as to provide for such fees and charges to be determined by resolution of the City Commission. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 9th day of January, 2023.



A handwritten signature in black ink, appearing to read "Trevor D. Witt".

Trevor D. Witt, Mayor

Attest:

A handwritten signature in blue ink, appearing to read "Shayla Mohr".

Shayla Mohr, City Clerk

The publication summary set forth above is certified this 9th day of January, 2023.

A handwritten signature in blue ink, appearing to read "A. O. Martin".

Aaron O. Martin, Legal Counsel