



City of Abilene City Council Agenda

Weldon Hurt, Mayor Pro-tem
Shane Price, Council Member
Lynn Beard, Council Member
Robert Hanna, City Manager

Anthony Williams, Mayor

Donna Albus, Council Member
Kyle McAlister, Council Member
Travis Craver, Council Member
Stanley Smith, City Attorney
Shawna Atkinson, City Secretary

Notice is hereby given of a meeting of the City Council of City of Abilene to be held on December 15, 2022, at 8:30 a.m., at City Hall, 555 Walnut Street, Council Chambers, Abilene, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

CALL TO ORDER

INVOCATION

1. Councilmember Lynn Beard

PLEDGE TO THE UNITED STATES FLAG AND THE TEXAS FLAG

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS AND ANNOUNCEMENTS

CONSENT AGENDA AND PUBLIC COMMENTS

All items listed in the Consent Agenda are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion or presentation of these items unless otherwise requested by a Council Member. In the event one or more Council Members remove an item from the consent Agenda for separate discussion or presentation, the item or items removed will be considered in numerical order as part of the Regular Agenda and shall include a public hearing.

After the Council Members have requested any item on the consent Agenda be considered separately, the public comment period will be held. The public comment section of the consent agenda allows members of the public to present any ideas or information to the City Council and staff, and also allows for public comment on the consent agenda items not otherwise pulled for separate consideration. Neither the City Council nor staff will engage in discussion with the public during the public comments unless the item is listed on the Council agenda.

Members of the public will have a total time limit of three (3) minutes to speak during the public comments section.

2. **Minutes:** Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on December 1, 2022 **(Shawna Atkinson)**
3. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter **(Shawna Atkinson)**
 - Abilene-Taylor County Child Advocacy Center Board
 - Airport Development Board
 - Board of Adjustment
 - Civil Service Commission
 - Development Corporation of Abilene
 - Landmarks Commission
4. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Casting a Vote for the Rolling Plains Central Boll Weevil Eradication Zone Program Board **(Shawna Atkinson)**
5. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving the Google Workspace License Renewal **(Mark Yearwood)**
6. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Authorizing the Second Amendment to Services Contract Between the City of Abilene and Smith Pump Company, Inc. for the Repair of the Raw Water Intake Pump #1 **(Rodney Taylor)**
7. **Resolution:** Receive a Report, Hold a Discussion, and Take Action on Approval of MOUs with Abilene ISD and Abilene Christian University for use of PEG Funds for Capital Expenditures in Support of Creation of Broadcast Content for the City of Abilene Suddenlink/Optimum Cable Channel 2 **(Mari Cockerell)**
8. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving Miscellaneous FY23 Cumulative Purchases Over \$50,000 **(Don Green)**
9. **Resolution:** Receive a Report, Hold a Discussion and Take Action on the purchase of three (3) Ford F250 Three-Quarter Ton Pickup Trucks for Solid Waste and Water Department Divisions from local vendor Arrow Ford through Bid CB-2314. **(Don Green)**
10. **Resolution:** Receive a Report, Hold a Discussion and Take Action on authorizing the City Manager to enter into a Professional Services Agreement for legislative services with JPC Strategies, LLC. **(Robert Hanna)**
11. **Resolution:** Receive a Report, Hold a Discussion and Take Action on Approving a Professional Services Agreement with BOKA Powell, LLC for design services for the Festival District **(Robert Hanna)**
12. **Ordinance (First Reading) Z-2022-28:** Receive a Report, Hold a Discussion, and Take Action on a Request from Buffalo Gap I & E, Represented by Harris Acoustics, to Change the Zoning of Approximately 5.83 Acres **Located at 888 Ben Richey Drive** from Agricultural Open (AO) to Heavy Commercial (HC). **(Tim Littlejohn)**
13. **Ordinance (First Reading) CUP-2022-11:** Receive a Report, Hold a Discussion, and Take Action on a Request from Hallum, Represented by Art Attack Tattoo, for a Conditional Use

Permit of Approximately 0.08 Acres Located at 226 Pine Street Zoned Central Business (CB) to Allow a Tattoo Parlor as a Permitted Use. (Tim Littlejohn)

14. **Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on AMENDING CHAPTER 8, ARTICLE VI, "CODES AND OTHER REGULATIONS," DIVISION 1, "GENERALLY;" DIVISION 2, "BUILDING CODE;" DIVISION 3, "ELECTRICAL CODE;" DIVISION 4, "PLUMBING CODE;" DIVISION 5, "MECHANICAL CODE;" DIVISION 7, "RESIDENTIAL CODE;" DIVISION 8, "FUEL GAS CODE;" DIVISION 9, "ENERGY CODE;" DIVISION 10, "EXISTING BUILDING CODE;" ADDING DIVISION 11, "PROPERTY MAINTENANCE CODE;" ADDING DIVISION 12, "SWIMMING POOL AND SPA CODE;" AND DELETING IN ITS ENTIRETY CHAPTER 29.5 "SWIMMING POOLS AND SPAS" of the Code of Ordinances . (Tim Littlejohn)

REGULAR AGENDA - ORDINANCES AND PUBLIC HEARINGS - RESOLUTIONS

15. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approving an Ordinance establishing the 2023 Standards of Care (Lesli Andrews)
16. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Certifying the Charter Amendments Approved by Voters on November 8, 2022 and Incorporating the Amendments into a Single Form (Stanley Smith)
17. **Ordinance (Final Reading):** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 5, "Ambulance Services," Article I, "In General," Abilene Code of Ordinances. (Cande Flores)
18. **Ordinance (Final Reading) Z-2022-24** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Leticia Leija, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5 Acres From Agricultural Open (AO) To Heavy Commercial (HC) (Tim Littlejohn)
19. **Ordinance (Final Reading) Z-2022-25** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Mike And Buffi Awtry, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5.27 Acres From Agricultural Open (AO) To Heavy Commercial (HC) (Tim Littlejohn)
20. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action Establishing Rules and Regulations for the Abilene Public Library Strictly Prohibiting Obscene and Harmful Material and Performance, and **Discussion** of Progress of Implementing Prior Council Direction Regarding the Library's Collection Policy (Robert Hanna)

EXECUTIVE SESSION

21. **The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:**
- A. 551.071 (Consultation with Attorney)**
1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
 2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
 3. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
 4. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020

5. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
6. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
7. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
8. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
9. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
10. Easement on Burger King property located at 3901 N. 1st Street

B. 551.072 (Deliberations about Real Property)

1. Easement on Burger King property located at 3901 N. 1st Street.

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards & Commissions May be Discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F. 551.087 (Business Prospect/Economic Development)

RECONVENE

REGULAR AGENDA

22. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving DCOA Project Little Giant **(Misty Mayo)**
23. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving DCOA Project Fox Hill **(Misty Mayo)**
24. **Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter into a Chapter 380 Economic Development Agreement with Rainy Creek Abilene LP, a Texas Limited Partnership **(Robert Hanna)**

ADJOURNMENT

In compliance with the Americans with Disabilities Act, the City of Abilene will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please call 325-676-6208.

CERTIFICATION

I hereby certify the above meeting notice was posted on the bulletin board at the City Hall of the City of Abilene, Texas, on the 9th day of December, 2022, at 1:30 p.m.

Shawna Atkinson, TRMC, CMC
City Secretary



**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 2. Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on December 1, 2022
(*Shawna Atkinson*)

GENERAL INFORMATION

Approval of the Minutes from the Regular meeting held on December 1, 2022

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the Minutes

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. 12-01-2022 Minutes - Regular - Morning

**CITY COUNCIL MEETING
December 1, 2022 at 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL**

The City Council of the City of Abilene, Texas met in Regular Session on December 1, 2022, at 8:30 a.m. in the Council Chambers, 555 Walnut St. Mayor Anthony Williams was present and presiding, along with Mayor Pro-tem Weldon Hurt, Deputy Mayor Pro-tem Donna Albus, and Councilmembers Shane Price, Lynn Beard and Kyle McAlister. Councilmember Travis Craver was absent. Also present were City Manager Robert Hanna, City Attorney Stanley Smith, and City Secretary Shawna Atkinson.

Deputy Mayor Pro-tem Donna Albus delivered the invocation.

Gracie Birdwell and Hanna Archuleta, kindergarteners, and Andrew and Bryce Brodie, 2nd graders, all from Wylie East Elementary, led the Pledge of Allegiance to the Flag of the United States of America and State of Texas Flag.

PRESENTATIONS, RECOGNITIONS, PROCLAMATIONS, ANNOUNCEMENTS

- Service Awards:
 - Nicholas Reagan - 20 Years - Water Utilities
- Proclamations:
 - Law Enforcement Records and Evidence Personnel Day accepted by Records and Evidence personnel, as well as Admin from the Abilene Police Department.
- Recognitions:
 - Deputy Mayor Pro-tem Albus recognized the Abilene High Varsity Volleyball team and their coaches for placing 16th in the State.

EXECUTIVE SESSION

Mayor Williams recessed into Executive Session at 8:47 a.m., pursuant to the following of the Open Meetings Act, with the following issues discussed during this session, as listed on the agenda and authorized by the noted Texas Government Code Section:

- 22. A. 551.071 (Consultation with Attorney)
 - 11. Library Collection Regulation and Policy

The Executive Session ended at 9:06 a.m. and reconvened to Open Session. Mayor Williams reported no votes or action were taken in Executive Session.

PRESENTATION OF CONSENT AGENDA

The Consent Agenda consisted of items 4-15. No items were pulled for individual consideration.

PUBLIC COMMENTS

Mayor Williams opened the public comment period. The following addressed the city council:

- David Swart – spoke about the military and how they were unable to spend the holiday with their families. Mr. Swart also spoke about the condemned property at 302 Mockingbird and questioned who the owner is.
- Cynthia Alvidrez – spoke about the property David Swart mentioned and stated the owner lived in Frisco. She also spoke about the City employee she had a negative encounter with and requested the employee be fired. Ms. Alvidrez also requested ADA compliant seating for the Council Chambers.

With no other speakers coming forward, the public comment period was closed.

CONSENT AGENDA

Councilmember Beard moved to approve the consent agenda consisting of items 4-15. Deputy Mayor Pro-tem Albus seconded the motion. Motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard and McAlister

NAYS (0): None

ABSENT (1): Councilmember Craver

- Minutes: Receive a Report, Hold a Discussion and Take Action on Approving the Minutes from the Regular Meeting Held on November 17, 2022, and the Special Meeting Held on November 21, 2022
- Receive a Report, Hold a Discussion and Take Action on Appointing Members to Various Boards and Commissions per the City Charter

[ASSIGNED RESOLUTION NO. 208-2022]

Board	Term End Date
<i>Board of Adjustment</i>	
Scott Hay [Regular] [Reappointment]	Nov-24
Bob Thomas [Alternate] [Reappointment]	Nov-24
<i>Board of Building Standards</i>	
Will Dugger [Regular] [New]	Nov-24
Gary Webb [Regular] [Reappointment]	Nov-24
<i>Citizen's Advisory Board for People with Disabilities</i>	
Michele Daniels [Reappointment]	Oct-24
<i>Neighborhood Services Advisory Board</i>	
Darla Mayes [Reappointment]	Nov-24
Terry Cagle [Reappointment]	Nov-24
<i>Visual Arts Jury</i>	
Robert Green [New] [ACU Rep]	

- Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase of Axon Taser 7 Conducted Energy Weapons, Holsters, Batteries, Training, and Cartridges from Axon Enterprises, Inc.
[ASSIGNED RESOLUTION NO. 209-2022]
- Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase of a Mobile Command Center from LDV Custom Specialty Vehicles
[ASSIGNED RESOLUTION NO. 210-2022]
- Resolution: Receive a Report, Hold a Discussion and Take Action on Awarding a Contract to MCS of Tampa for Dyess Single-Mode Fiber Expansion Project
[ASSIGNED RESOLUTION NO. 211-2022]

9. Resolution: Receive a Report, Hold a Discussion and Take Action on a gift to Dyess Air Force Base for the Single-Mode Fiber Expansion Project
[ASSIGNED RESOLUTION NO. 212-2022]
10. Resolution: Receive a Report, Hold a Discussion and Take Action on the Purchase and Implementation of Samsara Telematics Software, Hardware and Integration Services from Samsara Inc Through Sourcewell Cooperative Contract Number 020221-SAM
[ASSIGNED RESOLUTION NO. 213-2022]
11. Resolution: Receive a Report, Hold a Discussion, and Take Action to Authorize an Agreement with Sedgwick Claims Management Services, Inc. to provide a Family and Medical Leave Act (FMLA) and Leave of Absence (LOA) System
[ASSIGNED RESOLUTION NO. 214-2022]
12. Receive a Report, Hold a Discussion and Take Action on adopting a resolution in support of the West Central Texas Municipal Water District's intention to seek legislative relief for broadening the criteria for board residency requirements
[ASSIGNED RESOLUTION NO. 215-2022]
13. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on approving an Ordinance establishing the 2023 Standards of Care and Setting a Public Hearing for December 15, 2022
14. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Certifying the Charter Amendments Approved by Voters on November 8, 2022 and Incorporating the Amendments into a Single Form
15. Ordinance (First Reading): Receive a Report, Hold a Discussion and Take Action on Amending Chapter 5, "Ambulance Services," Article I, "In General," Abilene Code of Ordinances

REGULAR AGENDA

16. Ordinance (Final Reading) Z-2022-24 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Leticia Leija, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5 Acres From Agricultural Open (AO) To Heavy Commercial (HC)
[NOT CONSIDERED]
17. Ordinance (Final Reading) Z-2022-25 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Mike And Buffi Awtry, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5.27 Acres From Agricultural Open (AO) To Heavy Commercial (HC)
[NOT CONSIDERED]
18. Ordinance (Final Reading) Z-2022-26 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From West Texas Land Guys, Represented By Sean Hanfeld, To Change The Zoning Of Approximately 187 Acres From Agricultural Open (AO) To Planned Development District 177 (PDD-177) To Allow For Single Family Residential Uses, Multi-Family Uses, And Commercial Uses
[ASSIGNED ORDINANCE NO. 62-2022]

Randal Anderson, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Agricultural Open Space (AO) to a Planned

Development District 177 (PDD-177), to allow for single family residential, multi-family and commercial uses.

Mayor Williams opened the public hearing. The following addressed the city council:

- Lisa Lambert – spoke in opposition of this item.
- JoAnn Wilson – spoke in opposition of this item
- Jennifer Welch – spoke in opposition of this item
- Corey Doolin, represents the developers – stated that the developer is a resident of Abilene, Jon Loudermilk, and that they heard the concerns of the residents within the notification area and are taking care of the issues regarding drainage. Mr. Doolin also went over the project as a whole.
- Roger Welch – spoke in opposition of this item.

With no other speakers coming forward, the public hearing was closed.

Mayor Pro-tem Hurt moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (6): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price, Beard and McAlister

NAYS (0): None

ABSENT (1): Councilmember Craver

Councilmember Beard left the meeting at this point.

19. Ordinance (Final Reading) Z-2022-27 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From John Felder To Change The Zoning Of Approximately 3.02 Acres From Heavy Commercial (HC) To General Retail (GR)
[ASSIGNED ORDINANCE NO. 63-2022]

Mayor Pro-tem Hurt had a conflict of interest on this item. He left the room during deliberation and abstained from voting. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Randal Anderson, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would rezone the above referenced property from Heavy Commercial to General Retail to allow for an extended stay motel.

Mayor Williams opened the public hearing. The following addressed city council:

- Jon Felder, applicant – stated he is the new owner of this hotel. Mr. Felder's goal is to bring new light to this property and hope to make it a multi-family extended stay area.

With no other speakers coming forward, the public hearing was closed.

Councilmember Price moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (4): Mayor Williams, Deputy Mayor Pro-tem Albus, and Councilmembers Price, and McAlister
NAYS (0): None

ABSENT (2): Councilmember Craver and Beard

ABSTAINED (1): Mayor Pro-tem Hurt

20. Ordinance (Final Reading) CUP-2022-09 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From John Felder, To Apply A Conditional Use Permit To Approximately 3.02 Acres To Allow Multi-Family Uses In General Commercial
[ASSIGNED ORDINANCE NO. 64-2022]

Mayor Pro-tem Hurt had a conflict of interest on this item. He left the room during deliberation and abstained from voting. A Conflict of Interest Affidavit was filled out before the meeting and filed with the City Secretary's office.

Randal Anderson, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would approve a conditional use permit to the referenced property, to allow for an extended stay motel.

Mayor Williams opened the public hearing. With no speakers coming forward, the public hearing was closed. Councilmember Price moved to approve the item as presented. Councilmember McAlister seconded the motion; motion carried.

AYES (4): Mayor Williams, Deputy Mayor Pro-tem Albus, and Councilmembers Price, and McAlister
NAYS (0): None
ABSENT (2): Councilmember Craver and Beard
ABSTAINED (1): Mayor Pro-tem Hurt

21. Ordinance (Final Reading) TC-2022-03 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on a Request from the City of Abilene, Applicant, to Abandon Simmons Avenue Between Ambler Avenue and University Boulevard
[ASSIGNED ORDINANCE NO. 65-2022]

Randal Anderson, Assistant Director of Planning & Development Services, presented the item. Adoption of the item would abandon Simmons Avenue between Ambler Avenue and University Boulevard.

Mayor Williams opened the public hearing. The following addressed the city council:

- BJ Pritchard, represents the applicant – stated that this request is made because of the new residence hall they are building at Simmons and Ambler Avenue. They are displacing parking and there is a desire to make sure students are safe crossing back and forth on Simmons Avenue.

With no other speakers coming forward, the public hearing was closed.

Councilmember McAlister moved to approve the item as presented. Councilmember Price seconded the motion; motion carried.

AYES (5): Mayor Williams, Mayor Pro-tem Hurt, Deputy Mayor Pro-tem Albus, and Councilmembers Price and McAlister
NAYS (0): None
ABSENT (2): Councilmember Craver and Beard

23. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter into a Chapter 380 Economic Development Agreement with Rainy Creek Abilene LP, a Texas Limited Partnership
[NOT CONSIDERED]

ADJOURNMENT

There being no further business, the meeting adjourned at 9:57 a.m.

Shawna Atkinson
City Secretary

Anthony Williams
Mayor

Minutes approved on: _____



**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor & Members of City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 3.

Resolution: Receive a Report, Hold a Discussion and Take Action on
Appointing Members to Various Boards and Commissions per the City Charter
(*Shawna Atkinson*)

- Abilene-Taylor County Child Advocacy Center Board
- Airport Development Board
- Board of Adjustment
- Civil Service Commission
- Development Corporation of Abilene
- Landmarks Commission

GENERAL INFORMATION

The item provides for reappointment of new members as well as new members to certain boards and commissions.

SPECIAL CONSIDERATIONS

Member terms vary per board and commission and are outlined in Exhibit A of the resolution.

FUNDING/FISCAL IMPACT

No cost consideration to the city.

STAFF RECOMMENDATION

(Re)Appointment

BOARD OR COMMISSION RECOMMENDATION

N/A

ATTACHMENTS:

1. B&C Resolution
2. Exhibit A
3. B&C Presentation Slide

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, APPOINTING MEMBERS TO VARIOUS BOARDS AND COMMISSIONS AS REQUIRED BY THE CHARTER OF THE CITY OF ABILENE AND STATUTES OF THE STATE OF TEXAS

WHEREAS, the Charter of the City of Abilene and the Statutes of the State of Texas require that certain Boards and Commissions be established with a portion of the memberships thereof to be filled by appointment each year; and

WHEREAS, the City Council is of the opinion that the following members should be appointed to the designated Boards and Commissions, and has requested the Mayor to appoint same with the approval of the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the list of Members is attached hereto as Exhibit A, shall be in all things, approved.

PART 2: That this resolution shall take effect immediately from and after its passage.

PASSED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

RESOLUTION NO. _____
EXHIBIT "A"

Board	Term End Date
<i>Abilene-Taylor County Child Advocacy Center Advisory Board</i>	
Delores Moore [Reappointment]	December 2025
Jason Shaw [Reappointment]	December 2025
<i>Airport Development Board</i>	
Nanci Liles [New]	November 2025
<i>Board of Adjustment</i>	
Shawnda Rixey [New] [Regular]	November 2024
<i>Civil Service Commission</i>	
Regi McCabe-Gossett [Reappointment]	November 2025
<i>Development Corporation of Abilene, Inc.</i>	
Floyd Miller [Reappointment]	December 2025
Shae Hall [Reappointment]	December 2025
<i>Landmarks Commission</i>	
Steve Butman [Reappointment]	November 2025



Resolution: Appointing Member(s) to various Boards and Commissions per the City Charter

- Abilene-Taylor County Child Advocacy Center Board
- Airport Development Board
- Board of Adjustment
- Civil Service Commission
- Development Corporation of Abilene
- Landmarks Commission





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and Members of the City Council

FROM: Shawna Atkinson, City Secretary

SUBJECT: 4. Resolution: Receive a Report, Hold a Discussion and Take Action on Casting a Vote for the Rolling Plains Central Boll Weevil Eradication Zone Program Board (*Shawna Atkinson*)

GENERAL INFORMATION

The City of Abilene may nominate, by resolution, one candidate for the directorship of the board.

SPECIAL CONSIDERATIONS

The only nominee on the ballot is Mr. Woody Anderson, from Mitchell County

FUNDING/FISCAL IMPACT

None

STAFF RECOMMENDATION

Approval of the vote for Mr. Woody Anderson, Mitchell County, for the Rolling Plains Central Boll Weevil Eradication Zone Program Board

BOARD OR COMMISSION RECOMMENDATION

None

ATTACHMENTS:

1. Boll Weevil Resolution
2. Ballot
3. Boll Weevil Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, CASTING
OUR VOTES FOR THE ROLLING PLAINS CENTRAL BOLL WEEVIL ERADICATION ZONE
PROGRAM BOARD**

WHEREAS, the Texas Department of Agriculture conducts referenda to establish eradication zones and assessments and elections to elect members to the Texas Boll Weevil Eradication's Board of Directors;

WHEREAS, the City of Abilene, as a landowner/lessor on the Jones County Farm Service Agency records, desires to cast votes for a person to said board;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ABILENE, TEXAS:**

SECTION 1: The City Council of the City of Abilene hereby resolves to cast our votes for the following individual for a position on the Board of Rolling Plains Central Boll Weevil Eradication Zone Program:

Woody Anderson

PASSED AND APPROVED THIS THE 15th DAY OF DECEMBER 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**BALLOTS MUST BE
POSTMARKED
ON OR BEFORE MIDNIGHT ON
December 16, 2022**
Texas Department of Agriculture
P.O. Box 12847 * Austin, TX 78711



****AUTO**ALL FOR AADC 795

T20 P1
CITY OF ABILENE
PO BOX 60
ABILENE TX 79604-0060

Official Ballot

Rolling Plains Central Boll Weevil Eradication Zone Program Board Election
Authorized by Tex.Agri.Code Chapter 74, Subchapter D.

Board Member Election

Eligible cotton growers who planted cotton in 2021 in the Rolling Plains Central Boll Weevil Eradication Zone may vote to elect a cotton grower to represent the zone on the Texas Boll Weevil Eradication Foundation Board of Directors.

The following cotton growers are candidates to represent the Rolling Plains Central Boll Weevil Eradication Zone on the Texas Boll Weevil Eradication Foundation Board of Directors. The ONE person who receives the most votes shall serve a four-year term. Cotton growers shall vote in a board election every four years of program activity.

VOTE FOR ONLY ONE, INCLUDING WRITE-INS

☐ Woody Anderson, Mitchell County

Write-in _____ Write-in's address _____

Verification of Production

A ballot must bear a qualified signature of the grower or person authorized to sign for the grower, and an address if not already printed on the ballot, to be valid. By signing this ballot, you certify that you are an eligible cotton grower or crop-sharing landlord who planted cotton within the zone in 2021.

Signature of grower, or if an entity other than an individual, a person eligible to sign for the entity named below:

Person signing on behalf of an entity or individual must provide title.

Signature _____ Title: _____



Voting Instructions
Rolling Plains Central Boll Weevil Eradication Zone
Board Election

In this board election, eligible cotton growers and crop-sharing landowners may vote to elect a cotton grower to serve as a Board Member of the Texas Boll Weevil Eradication Foundation and represent the area designated by rule as the Rolling Plains Central Boll Weevil Eradication Zone. The Rolling Plains Central Boll Weevil includes all of Knox, Baylor, Stonewall, Haskell, Throckmorton, Young, Scurry, Fisher, Jones, Shackelford, Stephens, Palo Pinto, Mitchell, Nolan, Callahan, Eastland, Brown, Comanche, and Erath counties and portions of Taylor, Borden, and Archer counties.

The one person who receives the most votes shall serve a four-year term. Cotton growers shall vote in a board election every four years of program activity.

An eligible grower is defined as a person who grows cotton intended to be commercial cotton. The term includes an individual who as owner, landlord, tenant, or sharecropper is entitled to share in the cotton grown and available for marketing from a farm or share in the proceeds from the sale of the cotton from the farm or from an indemnity or other payment received from or related to the planting, growing, or failure of the cotton. For example, if a person farms individually, he or she votes once. If a person is involved in multiple entities, and each entity receives income from cotton sold, each entity receives a vote. Voter eligibility information comes from Farm Service Agency records and reflects year 2021 planting information. **Any grower who planted cotton in the year 2021 in the zone is eligible to vote.**

Each ballot must be signed, or it will not be counted. If the voter is an entity other than an individual grower, the person signing the ballot must indicate his or her authority to vote on behalf of that entity. For example, if the entity is ABC Farms and Joe Smith is authorized to sign as president, he should indicate that on the ballot in the space provided for "title."

This ballot was mailed by the Texas Department of Agriculture in Austin, Texas. **Ballots should be returned, in the envelope provided, postmarked on or before midnight on December 16, 2022. Ballots postmarked after December 16 are invalid and will not be counted.** A canvassing committee will be appointed by the Commissioner and will include persons without knowledge of individual growers in the zone and disinterested in the outcome. The committee will count the votes beginning on December 21, 2022, at TDA headquarters in Austin. It is expected that the Commissioner will certify the results on or before December 23, 2022. The zone will be canvassed as a whole; individual county information is not required by the statute and will not be maintained. Once counted, ballots will be held under security in the TDA office for 30 days and will then be destroyed.

For more information on the board election contact the Texas Department of Agriculture at (800) 835-5832. For the hearing impaired, call Relay Texas (800) 735-2989.

For more information on boll weevil eradication contact the Texas Boll Weevil Eradication Foundation office at (800) 687-1212.

SUMMARY OF RULES ADOPTED BY THE TEXAS DEPARTMENT OF AGRICULTURE

Under Texas Agriculture Code, Chapter 74, Subchapter D, Sections 74.114, 74.118 & 74.120

ELECTION PROCEDURES

(Found at 4 Tex.Admin. Code §§3.1-3.7. and 3.110-3.111)

These sections provide procedures for the Texas Department of Agriculture (the Department) to conduct referenda to establish eradication zones and assessments and elections to elect members to the Texas Boll Weevil Eradication's (the Foundation) Board of Directors. The procedures include voter eligibility requirements, board candidate requirements, election notice requirements, voting and canvassing requirements, ballot requirements, and procedures for approval of zones, assessment rates and/or board elections, and procedures for requesting a transfer or addition to a zone or a recall referendum.

ESTABLISHMENT OF FOUNDATION RULES, PROCEDURES, AND METHODS OF TREATMENT

(Found at 4 Tex.Admin.Code §§3.20-3.24)

These sections provide direction and guidelines for the Foundation to use in developing its zone eradication plans. The sections include a general statement of purpose and establish the Department's role, definitions to be used in these sections, general requirements for the Foundation to protect individuals, livestock, wildlife, and honeybee colonies located in eradication zones, and more specific guidelines for the Foundation to develop procedures for implementing the boll weevil eradication program and treatment methods for specific eradication zones.

PROHIBITION OF PLANTING OF COTTON AND REQUIREMENTS FOR PARTICIPATION IN THE ERADICATION PROGRAM AND ADMINISTRATIVE PENALTY ENFORCEMENT

(Found at 4 Tex.Admin.Code §§3.50-3.54 and 3.70-3.78)

These sections provide for the prohibition of planting commercial and non-commercial cotton in certain designated areas, for obtaining a permit to grow non-commercial cotton, and for public notices of prohibitions. The sections also provide for grower participation in the boll weevil eradication program and for public notices of participation requirements. A **grower's responsibilities for participation** include: timely reporting to the Foundation of information regarding acreage and location of all commercial cotton fields and of non-commercial patches of cotton grown for ornamental, research or other purposes; payment of the assessment in the amount and manner established by the Foundation for that eradication zone; and compliance with any procedures established by the Foundation or rules established by the Department for implementation of the eradication program in that eradication zone.

Finally, these sections provide **penalties for failure to comply** with the sections and enforcement procedures to be followed by the Department and provide for an appeal of a penalty assessed by the Department under these sections. **Current administrative penalties to be assessed for failure to comply with these sections** are as follows:

- (1) for failure to comply with requirements for program participation, other than reporting requirements: **up to \$50 per acre;**
- (2) for failure to comply with reporting requirements: **up to \$50 per acre.**

Other penalties found in Chapter 74, Subchapter D. In addition to the penalties provided above, a grower who fails to pay an assessment properly levied under Subchapter D may be subject, after notice and opportunity for hearing, to other available remedies in accordance with Sections 74.115 and 74.126.

SUMMARY OF RULES ADOPTED BY THE TEXAS DEPARTMENT OF AGRICULTURE Under Texas Agriculture Code, Chapter 74, Subchapter D, Section 74.115

PAYMENT OF ASSESSMENTS, ASSESSMENT LIENS

Section 74.115 allows the Commissioner of Agriculture to, in addition to any other remedies for the collection of assessments and penalties, adopt rules relating to a compliance certificate program that may include: provisions relating to the obligations of growers, ginner and buyers; incentives for early payment of assessments; penalties for late payment of assessments; and other proper provisions. The section also states that a lien in favor of the Texas Boll Weevil Eradication Foundation (the Foundation) attaches and is perfected 60 days after the date the Foundation mails its first notice of assessment on cotton produced and harvested that year from the acreage that is subject to the assessment that is due and unpaid. A buyer of cotton may take cotton free of this lien if the buyer receives a compliance certificate or purchases the cotton by a check on which the Texas Department of Agriculture (the Department) is named as a joint payee.

NOTICE OF ASSESSMENT, PAYMENT OF ASSESSMENTS, COMPLIANCE CERTIFICATES (Found at 4 Tex.Admin.Code §§3.503-3.505)

The Foundation will send notice of assessments to each cotton grower in each active zone at least 30 days before the date set by the Commissioner as the due date for assessments in that zone. The notice will include the date the assessment is due, the full amount of the assessment, information regarding early payment discounts, information regarding late payment, and notice that a lien will attach to the cotton grown on that acreage 60 days after the date of notice unless the assessment is paid, or written arrangements are made to pay the assessment by that date.

All assessments are due in full, postmarked to the Foundation by the due date. If a grower pays the full amount at least 15 days before the due date, the grower will be entitled to a reduction of the total assessment of at least 2%. Assessments not paid by the due date will be subject to a late fee not to exceed 1.5% per month. Assessments not paid 30 days or more after the due date may be referred to the Department for assessment of administrative penalties.

When a grower has paid all assessments in full for the current crop year for a farm or for all farms, the Foundation will issue a compliance certificate for that farm or farms on which the assessment has been paid in full. The compliance certificate will contain the name and identification number of the grower and all farm numbers on which the grower has an interest in cotton and the full assessment has been paid. The Foundation will also maintain a limited-access website that lists, by zone, growers whose assessments are due and unpaid beginning the date an assessment lien is attached and perfected in each zone. Should a grower's name not appear on this list on the day a first buyer disburses funds to the grower, the grower will be considered as having paid the assessment in full.

ATTACHMENT OF LIEN, NOTICE TO BUYERS, LIEN PRIORITY, AND RELEASE OF LIEN (Found at 4 Tex.Admin.Code §§3.500-3.509)

The lien attaches to harvested cotton from acreage for which an assessment has not been paid for the current year 60 days after the Foundation mails first notice to growers.

The lien attaches only as to the first buyer of cotton, and all subsequent buyers take the cotton free of the lien. A first buyer may take cotton free of the lien by receiving a compliance certificate, or other acceptable documentation, or by paying for the cotton with a check naming the Department as a joint payee. The lien is not effective against a first buyer until written notice of the lien is received by the buyer from the Foundation.

In the event a check is issued naming the Department as a joint payee, the grower should contact the Department or the Foundation for instructions on how to obtain an endorsement of the check and release of lien. This assessment lien does not have priority over prior liens on the harvested cotton.

Once an assessment has been paid in full or adequate documentation has been provided indicating a prior lien holder is entitled to all or a portion of the proceeds from the sale of the cotton, the Foundation will issue a release of lien to the grower.

Copies of regulations cited above may be obtained by contacting Patrick Dudley, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711, (800) 835-5832. These and other rules relating to the boll weevil eradication program are also available on the TDA Home Page found at <http://www.texasagriculture.gov>.

Resolution: Casting a Vote for the Rolling Plains Central Boll Weevil Eradication Zone Program Board





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Mark Yearwood, Interim IT Director

SUBJECT: 5. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving the Google Workspace License Renewal (Mark Yearwood)

GENERAL INFORMATION

The City uses Google's Workspace license services for email, calendars, documents, meetings, and many other products, and the last contract was approved by the City Council in 2019, and the agreement is due for renewal. The proposed license renewal is for 1,850 Workspace Enterprise Plus Accounts and 950 Archived User user licenses at an annual amount of \$332,940 for three years, totaling \$998,820.

SPECIAL CONSIDERATIONS

None

FUNDING/FISCAL IMPACT

Projected and allocated in the Technology Fund Program.
The three year option is \$332,940 annually, for a total amount of \$998,820, while the one year option is \$367,560 annually, for a total amount of \$1,102,680.

STAFF RECOMMENDATION

Staff recommends the 3-year option versus the 1-year option due to the annual savings of \$34,620, for a total savings of \$103,860 over the contract term of 3 years.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution - Google License Renewal Nov 2022
2. Google License comparison 1 year vs 3 year Nov 2022
3. SADA - Order Document (3yr) Nov 2022
4. 1 Year - SADA - 2022 Workspace Renewal - Ordering Document
5. G Suite Terms of Service – G Suit 10-8-2019e
6. US Communities Reseller Agreement
7. PowerPoint Google License renewal City Council - Nov 2022

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO RENEW THE GOOGLE WORKSPACE
SOFTWARE LICENSES FROM SADA SYSTEMS, INC.**

WHEREAS, The City uses Google's Workspace license services for email, calendars, documents, meetings, and many other products, and the last contract was approved by the City Council in 2019, and the agreement is due for renewal; and

WHEREAS, the proposed license renewal is for 1,850 Workspace Enterprise Plus Accounts and 950 Archived User user licenses at an annual amount of \$332,940 for three years, totalling \$998,820; and

WHEREAS, city staff has recommended renewing the licenses and selecting the 3 year agreement through SADA Systems Inc. which saves the City \$103,860 over the contract term.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS:**

Part 1: The City Council authorizes the City Manager to sign the renewal agreement for Google Workspace licenses from Sada Systems Inc., for \$332,940 annually, for a contract total of \$998,820 over three years.

Part 2: That this Resolution takes effect immediately upon its adoption.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

3 -Year Contract

Year	Product/Licens	User/Month	Cost	Count	Total	Annual
1	Workspace Enter	\$13.20	\$158.40	1,850	\$293,040	
	Archived User -	\$3.50	\$42.00	950	\$39,900	\$332,940
2	Workspace Enter	\$13.20	\$158.40	1,850	\$293,040	
	Archived User -	\$3.50	\$42.00	950	\$39,900	\$332,940
3	Workspace Enter	\$13.20	\$158.40	1,850	\$293,040	
	Archived User -	\$3.50	\$42.00	950	\$39,900	\$332,940
Total Contract						\$998,820

1 -Year Contract

1	Workspace Enter	\$14.40	\$172.80	1,850	\$319,680	
	Archived User -	\$4.20	\$50.40	950	\$47,880	\$367,560
Total Contract over 3 years						\$1,102,680

Savings w/multi year contract	Year 1	Year 2	Year 3	Total
	-\$34,620	-\$34,620	-\$34,620	-\$103,860

SADA Systems, Inc.

Google Workspace Ordering Document

This Google Workspace Ordering Document (the "Ordering Document") and the corresponding Customer Agreement (the "Agreement") between SADA Systems, Inc. and Customer (as defined below) governs Customer's access to and use of the Services. Undefined capitalized terms used in this Ordering Document will have the meanings set forth in the Agreement.

Customer: City of Abilene, Texas

Address: 555 Walnut Street Abilene, TX 79601

Pricing

Product Description	Annual Price	Quantity	Amount
Year 1			
Workspace Enterprise Plus Accounts	158.40	1,850	\$293,040.00
Archived User - Workspace Enterprise Plus	\$42.00	950	\$39,900.00
Year 1 Sub Total			\$332,940.00
Year 2			
Workspace Enterprise Plus Accounts	\$158.40	1,850	\$293,040.00
Archived User - Workspace Enterprise Plus	\$42.00	950	\$39,900.00
Year 2 Sub Total			\$332,940.00
Year 3			
Workspace Enterprise Plus Accounts	\$158.40	1,850	\$293,040.00
Archived User - Workspace Enterprise Plus	\$42.00	950	\$39,900.00
Year 3 Sub Total			\$332,940.00
Sales Tax (not included)			Plus Applicable Tax
Grand Total			\$998,820.00

*** All sales taxes, including State sales tax, Local sales tax, Federal Regulatory Assessment Fee, Federal Universal Service Fund and State 911 Fee, which are properly payable in connection with this Agreement under the Applicable law shall be paid by Customer. These prices may NOT include applicable taxes, electronic waste recycling fee, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above.

If Customer is tax exempt, then it is incumbent upon Customer to declare its exemption by initializing here (Customer must initial here if claiming tax exempt status).

Note: Fees, such as Telecom Regulatory Fees, associated with telephony charges stemming from Google Voice licenses (if such licenses are part of this Ordering Document) are not eligible for any exemptions.

Initial if tax exempt

Pricing is valid only if this Ordering Document is executed by the Parties by December 15, 2022.

Contract Term: 11/30/2022 - 11/29/2025

Invoices and Payment Schedule

Invoice Start Date and Frequency	Amount of Each Invoice
First invoice will be issued at the beginning of the Contract Term, followed by 2 annual invoice(s). There will be a total of 3 payment(s) over the 36 month Contract Term.	\$332,940.00

SADA will invoice Customer for all amounts due under any executed Ordering Document in accordance with the schedule set forth above. Each invoice submitted to Customer pursuant to this Ordering Document will be due and payable by Customer within 30 days of receipt. Payment is accepted by check or ACH/EFT in U.S. Dollars.

Bank Information:

Bank Information
Automated Clearing House (ACH) or
Electronic Funds Transfer (EFT):
Wells Fargo Bank
Swift Code: WFBIUS6
464 California Street
San Francisco, CA 94104
Routing Number: 121042882
Account Name: SADA Systems, Inc.
Account Number: 7757670067

Remittance Address:

SADA Systems, Inc
5250 Lankershim Blvd., Suite 620
North Hollywood, CA 91601
ATTN: Accounting
accounting@sadasystems.com

Customer Information

Accounts Payable Information	
Full Name (required)	Mark Yearwood
Phone	
Email Address (required)	mark.yearwood@abilenetx.gov
Technical Administrator Contact Information	
Full Name (required)	Mark Yearwood
Phone	
Off Domain Email Address (eg, john.smith@gmail.com or IT123@yahoo.com)	[same as on file]
Email Address (required)	mark.yearwood@abilenetx.gov

Terms and Conditions

- 1) All terms are as specified in the original Agreement executed on 11/21/2019.
- 2) Customer agrees that all licenses will be provisioned on the primary domain, and that the primary domain is accurate as listed here <http://abilenetx.gov>
- 3) Additional licenses purchased during the Contract Term will be priced at the price per month (for any sku listed above) multiplied by the number of partial or whole months remaining in the Contract Term.
- 4) Payment for additional licenses purchased during the Contract Term will be due in full upon receipt of an invoice, and will be exempt from the Payment Schedule above.

Notices:

Any notices under this Agreement will be directed, if to SADA, at:

Patrick Monaghan, Chief Legal Officer

SADA Systems, Inc.

5250 Lankershim Blvd., Suite 620

North Hollywood, CA 91601

Email: legal@sada.com

and if to Customer, at the Main Contact above.

**CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS ORDERING DOCUMENT AND THE
CORRESPONDING AGREEMENT, AND UNDERSTANDS AND AGREES TO BE LEGALLY BOUND
BY THEIR TERMS.**

IN WITNESS WHEREOF, this Ordering Document has been executed by the parties through their duly
authorized officers.

SADA Systems, Inc.

City of Abilene, Texas

Signature

Signature

Name

Name

Title

Title

Date

Date

SADA Systems, Inc.

Google Workspace

Ordering Document

This Google Workspace Ordering Document (the "Ordering Document") and the corresponding Customer Agreement (the "Agreement") between SADA Systems, Inc. and Customer (as defined below) governs Customer's access to and use of the Services. Undefined capitalized terms used in this Ordering Document will have the meanings set forth in the Agreement.

Customer: City of Abilene, Texas

Address: 555 Walnut Street Abilene, TX 79601

Pricing

Product Description	Annual Price	Quantity	Amount
Year 1			
Workspace Enterprise Plus Accounts	\$172.80	1,850	\$319,680.00
Archived User - Workspace Enterprise Plus	\$50.40	950	\$47,880.00
Year 1 Sub Total			\$367,560.00
Sales Tax (not included)			Plus Applicable Tax
Grand Total			\$367,560.00

*** All sales taxes, including State sales tax, Local sales tax, Federal Regulatory Assessment Fee, Federal Universal Service Fund and State 911 Fee, which are properly payable in connection with this Agreement under the Applicable law shall be paid by Customer. These prices may NOT include applicable taxes, electronic waste recycling fee, insurance, shipping, delivery, setup fees, or any cables or cabling services or material unless specifically listed above.

If Customer is tax exempt, then it is incumbent upon Customer to declare its exemption by initializing here (Customer must initial here if claiming tax exempt status).

Note: Fees, such as Telecom Regulatory Fees, associated with telephony charges stemming from Google Voice licenses (if such licenses are part of this Ordering Document) are not eligible for any exemptions.

Initial if tax exempt

Pricing is valid only if this Ordering Document is executed by the Parties by December 2, 2022.

Contract Term: 11/30/2022 - 11/29/2023

Invoices and Payment Schedule

Invoice	Invoice Amount
One invoice will be issued immediately upon the execution of this Ordering Document.	\$367,560.00

SADA will invoice Customer for all amounts due under any executed Ordering Document in accordance with the schedule set forth above. Each invoice submitted to Customer pursuant to this Ordering Document will be due and payable by Customer within 30 days of receipt. Payment is accepted by check or ACH/EFT in U.S. Dollars.

Bank Information:

Bank Information
Automated Clearing House (ACH) or
Electronic Funds Transfer (EFT):
Wells Fargo Bank
Swift Code: WFBIUS6
464 California Street
San Francisco, CA 94104
Routing Number: 121042882
Account Name: SADA Systems, Inc.
Account Number: 7757670067

Remittance Address:

SADA Systems, Inc
5250 Lankershim Blvd., Suite 620
North Hollywood, CA 91601
ATTN: Accounting
accounting@sadasystems.com

Customer Information

Accounts Payable Information	
Full Name (required)	Bob Van Wolfradt
Phone	
Email Address (required)	Robert.vonWolfradt@abilenetx.gov
Technical Administrator Contact Information	
Full Name (required)	Bob Van Wolfradt
Phone	
Off Domain Email Address (eg, john.smith@gmail.com or IT123@yahoo.com)	[same as on file]
Email Address (required)	Robert.vonWolfradt@abilenetx.gov

Terms and Conditions

1) All terms are as specified in the original Agreement executed on 11/21/2019.

2) Customer agrees that all licenses will be provisioned on the primary domain, and that the primary domain is accurate as listed here abilenetx.gov

3) Additional licenses purchased during the Contract Term will be priced at the price per month (for any sku listed above) multiplied by the number of partial or whole months remaining in the Contract Term.

4) Payment for additional licenses purchased during the Contract Term will be due in full upon receipt of an invoice, and will be exempt from the Payment Schedule above.

Notices:

Any notices under this Agreement will be directed, if to SADA, at:

Patrick Monaghan, Chief Legal Officer

SADA Systems, Inc.

5250 Lankershim Blvd., Suite 620

North Hollywood, CA 91601

Email: legal@sada.com

and if to Customer, at the Main Contact above.

CUSTOMER ACKNOWLEDGES THAT IT HAS READ THIS ORDERING DOCUMENT AND THE CORRESPONDING AGREEMENT, AND UNDERSTANDS AND AGREES TO BE LEGALLY BOUND BY THEIR TERMS.

IN WITNESS WHEREOF, this Ordering Document has been executed by the parties through their duly authorized officers.

SADA Systems, Inc.

City of Abilene, Texas

Signature

Signature

Name

Name

Title

Title

Date

Date

G Suite (Online) Agreement

Go to the [Additional Terms](#) for services made available with the new accounts infrastructure.

This G Suite (Online) Agreement (the “Agreement”) is entered into between Google LLC, with offices at 1600 Amphitheatre Parkway Mountain View, California 94043 (“Google”) and the entity agreeing to these terms (“Customer”). This Agreement is effective as of the date you click the “I Accept” button below or, if applicable, the date the Agreement is countersigned (the “Effective Date”). If you are accepting on behalf of your employer or another entity, you represent and warrant that: (i) you have full legal authority to bind your employer or the applicable entity to these terms; (ii) you have read and understand this Agreement; and (iii) you agree on behalf of the party that you represent to this Agreement. If you don't have the legal authority to bind your employer or the applicable entity please do not click the “I Accept” button below (or, if applicable, do not sign this Agreement). This Agreement governs Customer's access to and use of the Services as ordered in the applicable Order Form.

1. **Services**. Google will provide the Services ordered in the applicable Order Form in accordance with the applicable SLA. Customer may use the Services ordered in the applicable Order Form in accordance with this Agreement.

1.1 **Facilities and Data Transfer**. All facilities used to store and process Customer Data will adhere to reasonable security standards no less protective than the security standards at facilities where Google stores and processes its own information of a similar type. As part of providing the Services, Google may transfer, store and process Customer Data in the United States or any other country in which Google or its agents maintain facilities. By using the Services, Customer consents to this transfer, processing and storage of Customer Data.

1.2 **No Ads**. Notwithstanding any other term of the Agreement, Google will not process Customer Data for Advertising purposes or serve Advertising in the Services.

1.3 **New Features or Services**. Google may make new applications, features or functionality for the Services available from time to time, the use of which may be contingent upon Customer's agreement to additional terms.

1.4 **Verification to Use Services**. Customer must verify a Domain Email Address or a Domain Name to use the Services. If Customer does not have valid permission to use the Domain Email Address or does not own or control the Domain Name, then Google will have no obligation to provide Customer with the Services and may delete the Account without notice.

1.5 **Service Specific Terms**. The Service Specific Terms are incorporated by this reference into the Agreement.

2. **Modifications**.

2.1 **Modifications to Services**.

(a) **Deprecation Policy**. Google will notify Customer at least 12 months before a Significant Deprecation unless Google reasonably determines that: (i) Google is not permitted to do so by law or by contract (including if there is a change in applicable law or contract), or (ii) continuing

to provide the Service that is subject to the Significant Deprecation could create a (A) security risk or (B) substantial economic or technical burden.

(b) **(Other Modifications)**. Subject to Section 2.1(a) (Deprecation Policy), Google may make changes to the Services, which may include adding, updating, or discontinuing any Services or portions of feature(s) of the Services. Google will notify Customer of any material change to the Core Services.

2.2 **Modifications to URL Terms.**

(a) **Changes to URL Terms**. Google may change the URL Terms, subject to Section 2.2(d) (Objection to Changes).

(b) **Notification of Material Changes**. Google will notify Customer of any material change to the URL Terms.

(c) **When Changes take Effect**. Material changes to the URL Terms will become effective 30 days after the notice is given, except that (i) materially adverse SLA changes will become effective 90 days after notice is given; and (ii) changes applicable to new Services or functionality will be effective immediately.

(d) **Objection to Changes**. Unless Google's change to the URL Terms is required by a court, judicial or administrative order issued by the competent authority or by applicable law, or applies to new Services or Functionality, then the following will apply:

(i) If a change to the URL Terms has a material adverse impact on Customer, then Customer may object to the change by notifying Google within 30 days after Google provides notice.

(ii) If Customer so notifies Google, then Customer will remain governed by the URL Terms in effect immediately before the change until the earlier of: (A) the end of the then-current Order Term or (B) 12 months after the notice was given.

3. **Customer Obligations.**

3.1 **Compliance**. Customer will (a) ensure that Customer and its End Users' use of the Services, including all access to and use of Customer Data by it and its End Users, complies with this Agreement and with any of its applicable contract terms or policies, including any employment contracts or employer's policies regarding technology usage, security, or confidentiality; (b) use commercially reasonable efforts to prevent unauthorized access or use of the Services; and (c) promptly notify Google of any unauthorized use of, or access to, the Services of which Customer becomes aware.

3.2 **Additional Products**. Google makes optional Additional Products available to Customer and its End Users. Use of Additional Products is subject to the Additional Product Terms.

3.3 **Administration of Services.**

(a) **Admin Console**. Google will provide Customer access to the Admin Console for the Administrator to manage its use of the Services (and use of the Services by its End Users, if applicable). Customer may use the Admin Console to specify one or more Administrators who will have the rights to access Admin Account(s). Customer is responsible for: (a) maintaining the confidentiality and security of the End User Accounts and associated passwords; and (b) any use of the End User Accounts. Customer agrees that Google's responsibilities do not extend to the internal management or administration of the Services for Customer or any End Users.

(b) **Administrator Access to End User Accounts**. An Administrator will have the ability to access, monitor, use, modify, withhold, or disclose Customer Data associated with any End User Accounts and control End User's access to the Services. An Administrator may also have the ability to: (i) control account settings for End User Accounts (including changing End User Account passwords) and (ii) remove or disable any Services or Additional Products or other services/products enabled or installed using the End User Account. Use of Additional Products or other services/products with the End User Accounts is at Customer's own risk.

(c) **Reseller as Administrator**. If Customer orders Services via Reseller, at Customer's discretion, Reseller may have access to Customer's Account and Customer's End User Accounts. As between Google and Customer, Customer is solely responsible for: (i) any access by Reseller to Customer's Account or Customer's End User Accounts; and (ii) defining in the Reseller Agreement any rights or obligations as between Reseller and Customer with respect to the Services.

(d) **Consents**. Customer will obtain and maintain all required consents to permit: (i) Customer's, and its End Users' if applicable, use of the Services; and (ii) accessing, storing, and processing of Customer Data under this Agreement.

3.4 **Use Restrictions**. Customer will not, and will not allow End Users or third parties under its control to: (a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any of the source code of the Services (except to the extent such restriction is expressly prohibited by applicable law); (b) sublicense, transfer or distribute any of the Services; (c) sell, resell, or otherwise make the Services available to a third party as part of a commercial offering that does not have material value independent of the Services; or (d) access or use the Services: (i) for High Risk Activities; (ii) in a manner intended to avoid incurring Fees; (iii) for materials or activities that are subject to the International Traffic in Arms Regulations (ITAR) maintained by the United States Department of State; (iv) in a manner that breaches, or facilitates the breach of, Export Control Laws; or (v) to transmit, store, or process health information subject to United States HIPAA regulations except as permitted by an executed HIPAA BAA. Unless otherwise permitted in the Service Specific Terms, Customer will not use, and will not allow End Users to use, the Services to place or receive emergency service calls.

3.5 **Abuse Monitoring**. Customer is solely responsible for monitoring, responding to and otherwise processing emails sent to the "abuse" and "postmaster" aliases for any Domain Name(s) verified for use with the Services, but Google may monitor emails sent to these aliases for Domain Names to allow Google to identify Services abuse.

3.6 **Requesting Additional End User Accounts During Order Term**. Customer may purchase additional End User Accounts during an Order Term by: (a) executing an additional Order Form with Google or Reseller, as applicable, or (b) via the Admin Console. Such additional End User Accounts will have a pro-rated term ending on the last day of the applicable Order Term.

4. **Payment**.

4.1 **Orders via Reseller**. If Customer orders the Services from Reseller, then: (a) fees for the Services will be set between Customer and Reseller, and any payments will be made directly to Reseller under the Reseller Agreement; (b) the remaining provisions in this Section 4 (Payment) will not apply to the Services; (c) Customer will receive applicable Service Credits (if any) from Reseller; (d) Customer may request additional End User Accounts during the Order Term by contacting Reseller; and (e) Google may share Customer Confidential Information with Reseller as a Delegate subject to Section 7.1 (Confidentiality Obligations) of this Agreement.

4.2 **Usage and Invoicing.** Customer will pay all Fees for the Services. Google will invoice Customer all Fees for the Services. Google's measurement tools will be used to determine Customer's usage of the Services. Customer may elect one of the following billing options, or from among other options offered by Google, when placing its order for the Services. Google may change its offering of billing options, including by limiting or ceasing to offer any billing option, upon thirty days' written notice to Customer (which may be by email). Billing options may not be available to all customers. Customer may pay for the Services using the payment options listed in Section 4.3 (Payment) below.

(a) **Monthly Plan.** If Customer selects this option, Customer will not be committed to purchase the Services for a pre-defined term, but will pay for the Services on a monthly basis. Google will bill Customer: (i) Fees based upon Customer's daily usage of the Services during the preceding month; and (ii) monthly in arrears for its use of the Services. Google will provide Customer with the monthly rate for the Services when Customer orders the Services, and will use this rate to calculate the Fees, on a prorated basis, for Customer's daily usage during that month. Any partial day of Services usages will be rounded up to a full day of Services usage for the purposes of calculating Fees.

(b) **Annual Plan.** If Customer selects this option, Customer will be committed to purchasing the Services from Google for an annual term. Google will bill Customer according to the terms associated with Customer's elections on the Order Form.

4.3 **Payment.** All payments due are in U.S. dollars unless otherwise indicated on the Order Form or invoice.

(a) **Credit Card or Debit Card.** Fees for orders where Customer is paying with a credit card, debit card or other non-invoice form of payment, are due at the end of the month during which Customer received the Services. For credit cards, or debit cards, as applicable: (i) Google will charge Customer for all applicable Fees when due and (ii) these Fees are considered overdue thirty days after the end of the month during which Customer received the Services.

(b) **Invoices.** Payments for invoices are due thirty days after the invoice date, unless otherwise specified on the Order Form, and are considered overdue after such date.

(c) **Other Forms of Payment.** Customer may change its payment method to those available within the Admin Console. Google may enable other forms of payment by making them available in the Admin Console. These other forms of payment may be subject to additional terms which Customer may have to accept prior using the additional forms of payment.

4.4 **Overdue Payments.**

(a) Customer's payment of Fees is overdue if Google has not received it by the payment due date. If Customer's payment is overdue, Google may (i) charge interest on the overdue amount at 1.5% per month (or the highest rate permitted by law, if less) from the payment due date until paid in full, and (ii) Suspend or terminate the Services.

(b) Customer will reimburse Google for all reasonable expenses (including attorneys' fees) incurred by Google in collecting overdue payments, except where such payments are due to Google's billing inaccuracies.

4.5 **Purchase Orders.** If Customer requires a purchase order number on its invoice, Customer will provide a purchase order number in the Order Form. If Customer does not provide a purchase order number, then: (a) Google will invoice Customer without a purchase order number; and (b) Customer will pay invoices without a purchase order number. Any terms on a purchase order are void.

4.6 **Taxes. Taxes are not included in the Fees.** Customer will pay Taxes for the Services. If legally required, Customer will withhold Taxes from its payments to Google and provide a withholding Tax certificate. Unless Customer provides a timely and valid tax exemption certificate, Customer will pay any invoiced Taxes for the Services. Without limiting Customer's obligation to pay Fees, Customer will withhold Taxes if legally required.

4.7 **Price Revisions.** Google may modify its Prices at any time unless otherwise expressly agreed in an addendum or Order Form. Google will notify Customer at least 30 days in advance of any Price increases.

5. **Technical Support Services.** Google will provide TSS to Customer during the Order Term in accordance with the TSS Guidelines subject to payment of support Fees, if applicable. If Customer orders the Services from Reseller, then Customer acknowledges and agrees that Reseller may disclose Customer Data to Google as reasonably required in order for Reseller to handle any support issues that Customer escalates to or via Reseller.

6. **Suspension.**

6.1 **Limitations on Services Suspension.** Google may Suspend Services as described in Sections 6.2 (AUP Breaches) and 6.3 (Emergency Suspension). Any Suspension under those Sections will be to the minimum extent and for the shortest duration required to: (a) prevent or terminate the offending use, (b) prevent or resolve the Emergency Security Issue, or (c) comply with applicable law.

6.2 **AUP Breaches.** If Google becomes aware that Customer's or any End User's use of the Services breaches the AUP, Google will request that Customer correct the breach. If Customer fails to correct such breach within 24 hours or such request, or if Google is otherwise required by law to take action, then Google may Suspend Services.

6.3 **Emergency Suspension.** Google may immediately Suspend Customer's or any End User's use of the Services or an End User Account if: (a) there is an Emergency Security Issue, or (b) Google is required to Suspend such use to comply with applicable law. At Customer's request, unless prohibited by law, Google will notify Customer of the basis for the Suspension as soon as is reasonably possible. For Suspensions of End User Accounts, Google will provide Customer's Administrator the ability to restore End User Accounts in certain circumstances.

7. **Confidentiality.**

7.1 **Obligations.** Subject to Section 7.2 (Disclosure of Confidential Information) the recipient will use the other party's Confidential Information only to exercise rights and fulfill obligations under this Agreement. The recipient will use reasonable care to protect against disclosure of the other party's Confidential Information to other parties other than the recipient's employees, Affiliates, agents, or professional advisors ("Delegates") who need to know it and who have a legal obligation to keep it confidential. The recipient will ensure that its Delegates are also subject to the same non-disclosure and use obligations.

7.2 **Disclosure of Confidential Information.**

(a) **General.** Regardless of any other provision in the Agreement, the recipient or its Affiliates may disclose the other party's Confidential Information (i) in accordance with a Legal Process, subject to Section 7.2(b) (Legal Process Notification) or (ii) with the other party's written consent.

(b) **Legal Process Notification.** The recipient will use commercially reasonable efforts to notify the other party before disclosing that party's Confidential Information in accordance with Legal Process. Notice is not required before disclosure if the recipient is informed that (i) it is legally

prohibited from giving notice or (ii) the Legal Process relates to exceptional circumstances involving danger of death or serious physical injury.

(c) **Opposition**. The recipient and its Affiliates will comply with the other party's reasonable requests to oppose disclosure of its Confidential Information.

8. **Intellectual Property**.

8.1 **Intellectual Property Rights**. Except as expressly stated in the Agreement, the Agreement does not grant either party any rights, implied or otherwise, to the other's content or Intellectual Property. As between the parties, Customer retains all Intellectual Property Rights in Customer Data, and Google retains all Intellectual Property Rights in the Services.

8.2 **Brand Features**. Google will display only those Customer Brand Features that Customer authorizes Google to display by uploading them into the Services. Google will display those Customer Brand Features within designated areas of the web pages displaying the Services to Customer or its End Users. Google may also display Google Brand Features on such web pages to indicate that the Services are provided by Google.

8.3 **Feedback**. At its option, Customer may provide Feedback about the Services to Google. If Customer provides Feedback, then Customer assigns to Google all right, title, and interest in that Feedback.

9. **Marketing and Publicity**. Each party may use the other party's Brand Features in connection with this Agreement only as permitted in the Agreement. Customer may state publicly that it is a Google customer and display Google Brand Features in accordance with the Trademark Guidelines. Google may (a) orally state that Customer is a Google customer and (b) include Customer's name or Customer Brand Features in a list of Google customers in Google's promotional materials. Any use of a party's Brand Features will inure to the benefit of the party holding Intellectual Property Rights to those Brand Features. A party may revoke the other party's right to use its Brand Features with written notice to the other party and a reasonable period to stop the use.

10. **Representations, Warranties and Disclaimers**.

10.1 **Representations and Warranties**. Each party represents that it: (a) has full power and authority to enter into the Agreement; and (b) will comply with all laws and regulations applicable to its provision, or use, of the Services, as applicable.

10.2 **Disclaimers**. Except as expressly provided for in the Agreement, to the fullest extent permitted by applicable law, Google (a) does not make any other warranties of any kind, whether express, implied, statutory or otherwise, including warranties of merchantability, fitness for a particular use, noninfringement, or error-free or uninterrupted use of the Services; and (b) makes no representation about content or information made accessible through the Services. Unless otherwise stated in Agreement, Customer acknowledges the Services are not capable of placing or receiving emergency services calls.

11. **Term and Termination**.

11.1 **Agreement Term**. This Agreement will remain in effect for the Term unless it expires or is terminated in accordance with the Agreement.

11.2 **Renewal**.

(a) **With a Monthly Plan**. With a Monthly Plan Customer is not committed to purchase the Services for a pre-defined term. As a result, there is no renewal event for the Monthly Plan. Rather, Google will continue billing Customer fees consistent with Section 4.1(a) above.

(b) **With an Annual Plan.** At the end of each Order Term, the Services will renew consistent with Customer's elections on the Order Form or Admin Console.

(c) **Generally.** Customer may alter the number of End User Accounts to be renewed via the Admin Console. Customer will continue to pay Google the then-current Fees for each renewed End User Account unless Customer and Google mutually agree otherwise. If one party does not want the Services to renew, then it will provide the other party written notice to this effect at least fifteen days before the end of the then current Order Term. This notice of non renewal will be effective upon the conclusion of the then current Order Term.

11.3 Termination for Breach. Either party may terminate the Agreement if the other party: (a) is in material breach of the Agreement and fails to cure that breach within thirty days after receipt of written notice; or (b) ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within ninety days.

11.4 Termination for Inactivity. Google reserves the right to terminate the Agreement and the provision of the Services upon 30 days advance notice if, for a period of 60 consecutive days, Customer, including any End Users: (a) has not accessed the Admin Console or (b) has not used the Services.

11.5 Effects of Termination. If the Agreement terminates or expires, then all Order Forms also terminate or expire, as applicable. If the Agreement terminates or expires, then: (a) all rights and access to the Services under the Agreement will terminate (including access to Customer Data); and (b) Google will send Customer a final invoice.

11.6 Survival. The following Sections will survive expiration or termination of this Agreement: Section 4 (Payment), 7 (Confidentiality), 8 (Intellectual Property), 10.2 (Disclaimer), 11.5 (Effects of Termination), 12 (Indemnification), 13 (Liability), 15 (Miscellaneous) and 16 (Definitions).

12. Indemnification.

12.1 Google Indemnification Obligations. Google will defend Customer and its Affiliates participating under this Agreement ("Customer Indemnified Parties"), and indemnify them against Indemnified Liabilities in any Third-Party Legal Proceeding to the extent arising from an allegation that Customer Indemnified Parties' use in accordance with this Agreement of any of Google Indemnified Materials infringes the third party's Intellectual Property Rights.

12.2 Customer Indemnification Obligations. Unless prohibited by applicable law, Customer will defend Google and its Affiliates and indemnify them against Indemnified Liabilities in any Third-Party Legal Proceeding to the extent arising from: (a) any Customer Indemnified Materials; or (b) Customer's or an End User's use of the Services in violation of the Acceptable Use Policy or the Use Restrictions.

12.3 Indemnification Exclusions. Sections 12.1 (Google Indemnification Obligations) and 12.2 (Customer Indemnification Obligations) will not apply to the extent the underlying allegation arises from: (a) the indemnified party's breach of the Agreement; or (b) a combination of Google Indemnified Materials or Customer Indemnified Materials (as applicable) with materials not provided by the indemnifying party under the Agreement, unless the combination is required by the Agreement.

12.4 Indemnification Conditions. Sections 12.1 (Google Indemnification Obligations) and 12.2 (Customer's Indemnification Obligations) are conditioned on the following:

- (a) The indemnified party must promptly notify the indemnifying party in writing of any allegation(s) that preceded the Third-Party Legal Proceeding and cooperate reasonably with the indemnifying party to resolve the allegation(s) and Third-Party Legal Proceeding. If breach

of this Section 12.4(a) prejudices the defense of the Third-Party Legal Proceeding, the indemnifying party's obligations under Sections 12.1 (Google Indemnification Obligations) or 12.2 (Customer Indemnification Obligations) (as applicable) will be reduced in proportion to the prejudice.

(b) The indemnified party must tender sole control of the indemnified portion of the Third-Party Legal Proceeding to the indemnifying party, subject to the following: (i) the indemnified party may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring the indemnified party to admit liability, pay money, or take (or refrain from taking) any action, will require the indemnified party's prior written consent, not to be unreasonably withheld, conditioned, or delayed.

12.5 **Remedies.**

(a) If Google reasonably believes the Services might infringe a third party's Intellectual Property Rights, then Google may, at its sole option and expense: (i) procure the right for Customer to continue using the Services; (ii) modify the Services to make them non-infringing without materially reducing their functionality; or (iii) replace the Services with a non-infringing, functionally equivalent alternative.

(b) If Google does not believe the remedies in Section 12.5(a) are commercially reasonable, then Google may Suspend or terminate the impacted Services.

12.6 **Sole Rights and Obligations.** Without affecting either party's termination rights, this Section 12 (Indemnification) states the parties' sole and exclusive remedy under this Agreement for any third party allegations of Intellectual Property Rights Infringement covered by this Section 12 (Indemnification).

13. **Liability.**

13.1 **Limited Liabilities.**

(a) To the extent permitted by applicable law and subject to Section 13.2 (Unlimited Liabilities), neither party will have any Liability arising out of or relating to the Agreement for any: (i) lost revenues, profits, savings or goodwill; or (ii) indirect, special, incidental, consequential, or punitive damages.

(b) Each party's total Liability for damages arising out of or relating to the Agreement is limited to the Fees paid by Customer under the Agreement during the 12 month period before the event giving rise to liability.

13.2 **Unlimited Liabilities.** Nothing in the Agreement excludes or limits either party's Liability for: **(a) death, personal injury or tangible personal property damage resulting from its negligence or the negligence of its employees or agents; (b) its fraud or fraudulent misrepresentation; (c) obligations under Section 12 (Indemnification); (d) its infringement of the other party's Intellectual Property Rights; (e) its payment obligations under the Agreement; or (f) matters for which liability cannot be excluded or limited under applicable law.**

14. **Miscellaneous.**

14.1 **Notices.** Google may provide any notice to Customer by: (a) sending an email to Notification Email Address or by (b) posting a notice in the Admin Console. Customer may provide notice to Google by sending an email to legal-notices@google.com. Notice will be treated as received when (x) the email is sent, whether or not the other party has received the email or (y) notice is posted in the

Admin Console. Customer is responsible for keeping its Notification Email Address current throughout the Term.

14.2 **Emails.** Under this Agreement, the parties may use emails to satisfy written approval and consent requirements.

14.3 **Assignment.** Neither party may assign the Agreement without the written consent of the other party, except to an Affiliate where: (a) the assignee agrees in writing to be bound by the terms of the Agreement; (b) the assigning party remains liable for obligations incurred under the Agreement if the assignee defaults on them; and (c) the assigning party has notified the other party of the assignment. Any other attempt to assign is void.

14.4 **Change of Control.** If a party experiences a change of Control other than an internal restructuring or reorganization: (a) that party will give written notice to the other party within 30 days after the change of Control; and (b) the other party may immediately terminate the Agreement any time within 30 days after it receives that written notice.

14.5 **Force Majeure.** Neither party will be liable for failure or delay in performance of its obligations to the extent caused by circumstances beyond its control, including acts of God, natural disaster, terrorism, riots, or war.

14.6 **Subcontracting. Google may subcontract obligations under the Agreement but will remain liable to Customer for any subcontracted obligations.**

14.7 **No Waiver.** Neither party will be treated as having waived any rights by not exercising (or delaying the exercise of) any rights under the Agreement.

14.8 **Severability.** If any Section (or part of a Section) of the Agreement is invalid, illegal, or unenforceable, the rest of the Agreement will remain in effect.

14.9 **No Agency.** The Agreement does not create any agency, partnership or joint venture between the parties.

14.10 **No Third-Party Beneficiaries.** This Agreement does not confer any benefits on any third party unless it expressly states that it does.

14.11 **Equitable Relief.** Nothing in this Agreement will limit either party's ability to seek equitable relief.

14.12 **Governing Law.** All claims arising out of or relating to this Agreement or the Services will be governed by California law, excluding that state's conflict of laws rules, and will be litigated exclusively in the federal or state courts of Santa Clara County, California; the parties consent to personal jurisdiction in those courts.

14.13 **Amendments.** Except as specifically stated otherwise in the Agreement, any amendment to the Agreement must be in writing, expressly state that it is amending the Agreement and signed by both parties.

14.14 **Independent Development.** Nothing in this Agreement will be construed to limit or restrict either party from independently developing, providing, or acquiring any materials, services, products, programs, or technology that are similar to the subject of the Agreement; provided, that the party does not breach its obligations under the Agreement in doing so.

14.15 **Entire Agreement.** The Agreement states all terms agreed between the parties and supersedes any prior or contemporaneous agreements between the parties relating to the subject matter of this Agreement. In entering into the Agreement, neither party has relied on, and neither party will have any right or remedy based on, any statement, representation, or warranty (whether

made negligently or innocently), except those expressly stated in the Agreement. The Agreement includes URL links to other terms (including the URL Terms), which are incorporated by reference into the Agreement.

14.16 **Conflicting Terms**. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: the Order Form, the Agreement, and the URL Terms.

14.17 **Counterparts**. The parties may execute this Agreement in counterparts, including facsimile, PDF or other electronic copies, which taken together will constitute one instrument.

14.18 **Electronic Signatures**. The parties consent to electronic signatures.

14.19 **Headers**. Headings and captions used in the Agreement are for reference purposes only and will not have any effect on the interpretation of the Agreement.

15. **Definitions**.

“Acceptable Use Policy” or **“AUP”** means the acceptable use policy for the Services available at https://gsuite.google.com/intl/en/terms/use_policy.html.

“Account” means Customer’s Google account credentials and correlating access to the Services under this Agreement.

“Additional Products” means products, services and applications that are not part of the Services but that may be accessible for use with the Services.

“Additional Product Terms” means the then-current terms at https://gsuite.google.com/intl/en/terms/additional_services.html.

“Admin Account” means a type of End User Account that Customer (or Reseller, if applicable) may use to administer the Services.

“Admin Console” means the online console(s) and tool(s) provided by Google to Customer for administering the Services.

“Administrators” mean the Customer-designated technical personnel who administer the Services on Customer’s behalf, and may have the ability to access Customer Data and End User Accounts.

“Advertising” means online advertisements displayed by Google to End Users, excluding any advertisements Customer expressly chooses to have Google or any of its Affiliates display in connection with the Services under a separate agreement (for example, Google AdSense advertisements implemented by Customer on a website created by Customer using the “Google Sites” functionality within the Services).

“Affiliate” means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with a party.

“BAA” or **“Business Associate Agreement”** is an addendum to this Agreement covering the handling of Protected Health Information (as defined in HIPAA).

“Brand Features” means each party’s trade names, trademarks, logos, domain names, and other distinctive brand features.

“Confidential Information” means information that one party (or Affiliate) discloses to the other party under the Agreement, and that is marked as confidential or would normally be considered confidential information under the circumstances. Customer Data is Customer’s Confidential Information. Confidential Information does not include information that is independently developed by the recipient, is shared with the recipient by a third party without confidentiality obligations, or becomes public through no fault of the recipient.

“Control” means control of greater than 50% of the voting rights or equity interests of a party.

“Core Services” means the Core Services for G Suite as described in the Services Summary.

“Customer Data” means data submitted, stored, sent or received via the Services by Customer, its Affiliates or End Users.

“Customer Indemnified Materials” means the Customer Data and Customer Brand Features.

“Domain Email Address” means the email address on the Domain Name for use in connection with the Services.

“Domain Name” mean the domain name specified in the Order Form to be used in connection with the Services.

“Emergency Security Issue” means either: (a) Customer’s or End Users’ use of the Services in violation of the Acceptable Use Policy, where such use could disrupt: (i) the Services; (ii) other customers’ use of the Services; or (iii) the Google network or servers used to provide the Services; or (b) unauthorized third party access to the Services.

“End Users” means the individuals Customer permits to use the Services and who are managed by an Administrator.

“End User Account” means a Google-hosted account established by Customer through its Administrator for an End User to use the Services.

“Export Control Laws” means all applicable export and re-export control laws and regulations, including (a) the Export Administration Regulations (“EAR”) maintained by the U.S. Department of Commerce, (b) trade and economic sanctions maintained by the U.S. Treasury Department’s Office of Foreign Assets Control, and (c) the International Traffic in Arms Regulations (“ITAR”) maintained by the U.S. Department of State.

“Feedback” means feedback or suggestions about the Services provided to Google by Customer.

“Fees” means the product of the amount of the Services used or ordered by Customer multiplied by the Prices, plus any applicable Taxes.

“Google Indemnified Materials” means Google’s technology used to provide the Services and Google’s Brand Features.

“High Risk Activities” means activities where the use or failure of the Services could lead to death, personal injury, or environmental damage, including operation of nuclear facilities, air traffic control, life support systems, or weaponry.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as may be amended from time to time, and any regulations issued thereunder.

“including” means including but not limited to.

“Indemnified Liabilities” means any (i) settlement amounts approved by the indemnifying party; and (ii) damages and costs finally awarded against the indemnified party and its Affiliates by a court of competent jurisdiction.

“Intellectual Property” or “IP” means anything protectable by an Intellectual Property Right.

“Intellectual Property Rights” means all patent rights, copyright, rights in trade secret (if any), trademark rights, design rights, database rights, domain name rights, moral rights, and any other intellectual property rights (registered or unregistered) throughout the world.

“Legal Process” means an information disclosure request made under law, governmental regulation, court order, subpoena, warrant, governmental regulatory or agency request, or other valid legal

authority, legal procedure, or similar process.

“Liability” means any liability, whether under contract, tort (including negligence), or otherwise, regardless of whether foreseeable or contemplated by the parties.

“Notification Email Address” means the email address(es) designated by Customer in the Admin Console.

“Order Form” means the online order page or pages, or other ordering document acceptable to Google under this Agreement, issued by Google and accepted by Google specifying the Services Google will provide to Customer under the Agreement.

“Order Term” means the period of time starting on the Services Start Date for the Services and continuing for the period indicated on the Order Form, subject to early termination in accordance with this Agreement.

“Other Services” means the “Other Services for G Suite” as described in the Services Summary.

“Prices” means the applicable prices stated at <https://gsuite.google.com/intl/en/pricing.html>, unless otherwise agreed to in an Order Form or amendment.

“Reseller” means, if applicable, the authorized non-Affiliate third party reseller that sells the Services to Customer.

“Reseller Agreement” means the separate agreement between Customer and Reseller regarding the Services. The Reseller Agreement is independent of and outside the scope of this Agreement.

“Service Specific Terms” means the terms specific to one or more Services at:
<https://gsuite.google.com/intl/en/terms/service-terms/>.

“Services” means the applicable Core Services and Other Services that are ordered in the applicable Order Form.

“Services Start Date” means the date stated in the Order Form or, if later, the date Google makes the Services available to Customer.

“Services Summary” means the then-current description set out at
https://gsuite.google.com/intl/en/terms/user_features.html.

“Significant Deprecation” means a material discontinuation of or backwards incompatible change to the Core Services that results in Services no longer enabling Customer or End Users to: (1) send and receive e-mail messages; (2) schedule and manage events; (3) create, share, store and synchronize files; (4) communicate with other End Users in real time; or (5) search, archive, and export email messages.

“SLA” means the then-current service level agreements at:
<https://gsuite.google.com/intl/en/terms/sla.html>.

“Suspend” or “Suspension” means the disabling of access to or use of the Services, or components of the Services.

“Taxes” means all government-imposed taxes, except for taxes based on Google’s or Customer’s net income, net worth, asset value, property value, or employment.

“Term” means the period starting on the Effective Date and will remain in effect so long as there is an active Order Form.

“Third-Party Legal Proceeding” means any formal legal proceeding filed by an unaffiliated third party before a court or government tribunal (including any appellate proceeding).

“Trademark Guidelines” means Google’s Brand Terms and Conditions, located at <http://www.google.com/permissions/trademark/brand-terms.html>.

“TSS” means the technical support services provided by Google to Customer under the TSS Guidelines.

“TSS Guidelines” means the then-current support service guidelines at: <https://gsuite.google.com/intl/en/terms/tssg.html>.

“URL Terms” means the Acceptable Use Policy, Service Specific Terms, the SLA, and the TSS Guidelines.

“Use Restrictions” means the restrictions in Section 3.5 (Use Restrictions) of the Agreement and any additional restrictions on the use of Services in the Service Specific Terms.

Version: December 14, 2018

Cooperative Contract Reseller Agreement

Agreement # _____

This Cooperative Contract Reseller Agreement ("CCRA") is made between Carahsoft Technology Corp. with its offices at 1860 Michael Faraday Drive, Suite 100, Reston, VA 20190-5328 (Carahsoft) (U.S Communities Government Purchasing Alliance (U.S Communities) #4400006642) and SADA Systems, Inc., with its primary offices at 5250 Lankershim Boulevard, Suite 620, North Hollywood, CA 91601(Reseller).

Under this CCRA, Carahsoft agrees to allow Reseller to place orders against their U.S Communities Contract # 4400006642. Orders under this Reseller Agreement are subject to the terms and conditions of the aforementioned Cooperative Contract.

The Term of this CCRA shall be twelve (12) months from the effective date of this CCRA and shall renew for subsequent twelve (12) month periods unless terminated by either party, or until the contract expires. Either party may terminate this agreement, at will, at any time, with or without cause, by written notice given to the other not less than thirty (30) days prior to the effective date of such notice.

Both parties are performing this CCRA as independent contractors. The parties hereto have not created a partnership and nothing contained in this CCRA shall in any manner whatsoever constitute any party the partner or legal representative of any other party, nor create any fiduciary relationship between them for any purpose whatsoever except that Reseller may act as a limited agent of Carahsoft for the sole purpose of soliciting and fulfilling orders pursuant to this CCRA.

Non-solicitation. Reseller agrees that during the existence of the Agreement and for a period of twelve (12) months thereafter, Reseller shall not solicit, entice away, endeavor to employ or employ any employee or other representative of Carahsoft without Carahsoft giving its written consent thereto.

Limitation of Liability Carahsoft's total cumulative liability in connection with this agreement and the software for any claim of any kind, shall in no case exceed the amount paid by reseller to Carahsoft for the products and demo software in the twelve (12) months prior to the claim.

Product Delivery. Unless stated otherwise in a quote or other exhibit from Carahsoft, delivery of Products shall be F.O.B. manufacturer point of shipment, upon transfer to a common carrier and Reseller shall assume all risk of loss or damage to Products while in transit. Reseller shall be responsible for all costs of shipping, transportation, freight, insurance, taxes and similar items. Absent shipping instructions to the contrary, Carahsoft shall select methods and routes for shipment, but shall not assume any liability in connection with shipment or constitute any carrier as its agent.

Partial Shipments of Incomplete Orders. Carahsoft shall, at Reseller's request, make partial shipments on account of Reseller's Orders, in which case payment therefor shall be made to correspond to the occurrence of actual shipment, and payment for such partial shipments shall be due and payable on exactly the same terms and conditions provided herein. Subsequent delays in shipment or delivery of any other installment shall not relieve Reseller of its obligation to accept delivery and remit payment for the remaining items in the Order(s).

Reseller will act as the Prime Contractor; perform all administrative, reporting, invoicing and program management activities required by the Cooperative Contract order(s). Reseller may name Carahsoft as a partner for opportunities. This CCRA will not obligate Carahsoft in any way other than for the purposes stated herein.

Carahsoft may terminate this CCRA immediately in the event that Reseller should fail to perform any obligation, duty or responsibility imposed under Carahsoft's Cooperative Contract or terms set forth in this CCRA. In consideration of appointment as a Reseller under Carahsoft's Cooperative Contract, Reseller agrees to the following:

- a. Comply with the same terms and conditions regarding prices as Carahsoft's Contract #4400006642, for sales made under the Cooperative Contract;

- b. Product/s covered by this CCRA shall be purchased through Carahsoft only;
- c. Be subject to audit by the State, with respect to sales made under the Cooperative Contract;
- d. The fee will be calculated on Reseller's sale price to the end user. In order to provide proper pricing on each quote, Reseller will be required to supply the sale price to the customer for each line item on each opportunity under this agreement as part of the quoting process;
- e. Notify Carahsoft immediately of any contractual problems associated with any ordering entity that involves the Cooperative Contract;
- f. For sales under the Cooperative Contract, any price variations lower than the current Contract Price must be approved by Carahsoft in writing;
- g. Reseller agrees to supply copies of end user orders to Carahsoft upon request;
- h. Reseller agrees to permit Carahsoft, upon thirty days prior written notice, to conduct an annual review of its activities as they relate to this Agreement. The review shall focus on sales activities related to the Products. Information to be reviewed shall include, at a minimum, sales records, purchase orders, invoices, payment receipts, and related notes, emails or letters. Carahsoft may conduct an annual review of Reseller at its own expense and in a manner to ensure the minimum disturbance to Reseller's business as practicable. In the event a discrepancy in excess of 5% of reported sales is discovered during the course of the annual review, an additional review may be required. Reviews beyond the annual review shall be performed at Reseller's expense and may include reasonable professional fees for professional auditors, accountants or legal professionals.
- i. A Report of Sales shall be submitted to Carahsoft five (5) days following the completion of the monthly reporting period. \$0 sales reports are also required. Items sold through open market or non-contract vehicles to customers must be clearly identified as such on the report. The report shall be submitted containing the following information as shown in Att. A. Reports shall be submitted to: ResellerReports@carahsoft.com

- | | |
|--|--|
| (1) The date of sale, | (6) The price at which it was sold, including discounts, |
| (2) The customer name to which the sale was made, | (7) Your PO Number to us, and |
| (3) The customer's P.O Number, | (8) All other significant sales order data. |
| (4) The product/model sold-part # and description, | |
| (5) The quantity of each product/model sold, | |

Following receipt of approved monthly report, Carahsoft will compute the applicable contract fee (2%) and invoice Reseller for these fees. Reseller agrees to remit payment for the contract fees with thirty (30) days of receipt of invoice. This fee is subject to change upon notification from U.S Communities to Carahsoft. Carahsoft will notify the Reseller of the Fee change which will take place immediately.

If there are conflicts with any of the Terms and Conditions set forth in this Agreement and the terms and conditions set forth in Carahsoft's U.S Communities Contract #4400006642, the terms and conditions in U.S Communities Contract #4400006642 take precedence.

To the extent possible, Reseller will support Carahsoft in fulfilling the following commitments to U.S. Communities:

The pricing, terms and conditions of the Master Agreement shall, at all times, be Supplier's primary contractual offering of Products and Services to Public Agencies. All of Supplier's direct and indirect marketing and sales efforts to Public Agencies shall demonstrate that the Master Agreement is Supplier's primary offering and not just one of Supplier's contract options.

Supplier's sales force (including inside, direct and/or authorized dealers, distributors and representatives) shall always present the Master Agreement when marketing Products or Services to Public Agencies.

Supplier shall advise all Public Agencies that are existing customers of Supplier as to the pricing and other value offered through the Master Agreement.

Sales Commitment. Supplier shall market the Master Agreement through Supplier's sales force or dealer network that is properly trained, engaged and committed to offering the Master Agreement as Supplier's

primary offering to Public Agencies. Supplier's sales force compensation and incentives shall be greater than or equal to the compensation and incentives earned under other contracts to Public Agencies.

Sales Force Training. Supplier shall train its national sales force on the Master Agreement and U.S. Communities program. U.S. Communities shall be available to train regional or district managers and generally assist with the education of sales personnel.

The Reseller hereby certifies that its participation in the performance of the Cooperative Contract will be in accordance with all terms, conditions, and prices of the Carahsoft Cooperative Contract.

Carahsoft Technology Corp	Reseller
Name: Ellen Lord	Name: Annie Safoian
Title: Contracts Manager	Title: Chief Financial Officer
Signature:	Signature: 
Date:	Date: May 10, 2016

Attachment A

Monthly Report of Sales

<u>Reseller:</u>	
<u>Contact Name:</u>	
<u>Contact Tel, Email:</u>	
<u>Reporting Period:</u>	

<u>Date of Sale</u>	<u>Cust. Name/End User</u>	<u>Cust. PO # (if CC, first 4 #s)</u>	<u>Item #</u>	<u>Item Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Ext. Price</u>	<u>PO # to Carahsoft</u>	<u>TCPN or OM</u>	<u>Comments</u>

Attachment B

Company Information

COMPANY INFORMATION				
(If already on file with Carahsoft, only fill POC info)				
Company Name:				
Address:				
City, State & Zip:				
Main Phone #:			D&B #:	
Business Type:			# of Employees:	
Tax ID #:				
Ownership: ☐ Partnership ☐ Proprietorship ☐ Corporation		Date Business Established:		
CONTACT INFORMATION				
	Name	Phone Number	Fax Number	E-mail Address
Billing	Craig Peppin	(818) 766-2400	(818) 766-0090	accounting@sadasystems.com
Sales	Mike Kulinski	(571) 295-5071	(818) 766-0090	mike.kulinski@sadasystems.com
Contracts/Reports	Mike Kulinski	(571) 295-5071	(818) 766-0090	mike.kulinski@sadasystems.com

Google License Renewal

The City uses Google's Workspace licensing services for email, calendars, documents, meetings, and many other products.

The last contract was approved by the City Council in 2019.

This agreement is due for renewal for \$332,940 annually and for three years.

Staff recommends the 3-year option versus the 1-year option due to the annual savings of \$34,620, for a total savings of \$103,860 over the contract term of 3 years.





City Council Agenda Memo

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Rodney Taylor, Director

SUBJECT: 6. Resolution: Receive a Report, Hold a Discussion and Take Action on Authorizing the Second Amendment to Services Contract Between the City of Abilene and Smith Pump Company, Inc. for the Repair of the Raw Water Intake Pump #1 (*Rodney Taylor*)

GENERAL INFORMATION

Water Utilities staff is recommending that the Abilene City Council authorize Second Amendment to Services Contract Between City of Abilene and Smith Pump Company for the repair of Ivie Intake Pump #1. The Second Amendment provides for additional repairs not included in the original scope of work or in the First Amendment, and which was identified after the repaired pump was reinstalled and initially operated. The additional repairs include shortening of six 36-inch diameter flanged steel pump column sections and shortening six 2 11/16" shaft sections by 30-inches each, and make two additional coupling assemblies. The work of this amendment is necessary to eliminate critical speed shaft whipping which is prematurely ruining shaft bearings. The total increase in the price paid to Contractor pursuant to this Second Amendment is \$70,444.00. The First Amendment had a price of \$81,650.00. The revised contract price for the total repair is now \$266,894.00.

SPECIAL CONSIDERATIONS

The Ivie Intake Pump Station is located on Lake O.H. Ivie approximately 50 miles south of Abilene. The pump station includes three vertical turbine pumps used to pump raw lake water into the Ivie Pipeline System for delivery to the Hargesheimer Water Treatment Plant. Pump #1 has a capacity of 5,200 gallons per minute. Pump #1 is currently disassembled in the repair shop of Smith Pump Company. The pump repair is necessary due to excessive vibration and noise related to worn internal parts. The original contract provides for Pump #1 to be pulled, repaired, reinstalled, and tested to verify performance. The original price of \$114,000.00 includes repair or replacement of normal wear parts, machining, labor, and transportation. The First Amendment additional work is for the repair and replacement of parts that are not considered normal wear parts. The Second Amendment additional work is for the shortening of the pump's flanged columns and related rotating shaft sections in order to resolve critical speed shaft whipping that is inherent to the current pump configuration. Smith Pump and City staff believe that this work is necessary to permanently

resolve the critical speed issue and should provide many years of reliable service to this pump.

FUNDING/FISCAL IMPACT

Funding for the repair of Ivie Intake Pump #1 will come from Water Utilities funds designated for capital improvement projects.

STAFF RECOMMENDATION

Staff recommends that the Abilene City Council authorize the Second Amendment to Services Contract between City of Abilene and Smith Pump Company for the shortening of six pump column segments and six shaft segments to resolve critical speed issues with Ivie Raw Water Intake Pump #1 in the amount of \$70,444.00 for a revised contract price of \$266,894.00 as described herein.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. WrittenResolution-WtrDpt-Smith Pump Company-Second Amendment to Contract-Ivie Intake P1 Repair-12-15-2022
2. Contract-Second Amendment to Services Contract-Smith Pump-Ivie Intake No 1-12-15-2022
3. Quote 34899-Smith Pump Company-Abilene OH Ivie RWP 1-Second Amendment-12-15-2022
4. Presentation-Authorize Second Amendment to Contract-Smith Pump Company-Repair of Ivie Intake P1-12-15-2022

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING SECOND AMENDMENT TO SERVICES CONTRACT BETWEEN CITY OF ABILENE AND SMITH PUMP COMPANY FOR THE REPAIR OF IVIE INTAKE PUMP #1.

WHEREAS, the City of Abilene (City) owns and operates the Ivie Pipeline System which includes the Intake Pump Station, Booster Pump Station, the Ovalo Terminal Storage Tank, the transmission pipeline, and an electrical transmission system; and

WHEREAS, the Ivie Intake Pump Station includes three vertical turbine pumps to transfer raw lake water through the pipeline system to the Hargesheimer Water Treatment Plant; and

WHEREAS, Ivie Intake Pump #1 is inoperable and in need of repairs and City staff was able to secure its repair through a contract with Smith Pump Company, Inc.; and

WHEREAS, the original contract provided for the removal and disassembly of Pump #1 by the Contractor and the replacement of normal wear parts for \$114,800.00, and First Amendment provided for additional parts and work not included in the original contract \$81,650.00; and

WHEREAS, the rebuilt and reinstalled Pump #1 failed startup protocols due to excessive vibration, and subsequent intensive evaluation revealed a critical speed shaft whipping issue causing the vibration and premature shaft bushing failures; and

WHEREAS, staff recommends authorizing Second Amendment to Service Contract with Smith Pump Company for additional work to shorten six 36-inch diameter flanged columns and six steel shafts in order to eliminate critical speed shaft whipping for \$70,444.00, resulting in the revised contract price of \$266,894.00; and

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

That the City Manager is authorized to execute Second Amendment to Services Contract Between City of Abilene and Smith Pump Company for additional repairs to Ivie Intake Pump #1 for \$70,444.00, resulting in the revised contract price of \$266,894.00.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley E. Smith, City Attorney

SECOND AMENDMENT TO SERVICES CONTRACT BETWEEN THE CITY OF ABILENE AND SMITH PUMP COMPANY

This is the Second Amendment (“Amendment”) to that certain Services Agreement dated November 18, 2021 by and between the City of Abilene, Texas (“City”) and Smith Pump Company (“Contractor”). The Agreement was for the repair of the raw water intake pump #1.

WHEREAS, the City and Contractor are parties to the Agreement and desire to amend the Agreement to address the terms set forth herein; and

WHEREAS, on November 15, 2022, pursuant to the terms of the First Amendment, Pump Unit P1-1 was modified at the Contractor’s facility; and

WHEREAS, upon inspection, the pump unit was found to have significant wear on all of the internal components of the pump, and with many components severely out of the manufacturer’s tolerances; and

WHEREAS, excessive wear of the internal pump components, the column pipes need to be repaired in order to restore alignment; and

WHEREAS, the modifications described below are necessary to change the pump’s shaft critical speed due to the issue causing pump vibration that has decreased the lifespan of the pump; and

WHEREAS, the described repairs were not anticipated nor included in the terms of the Agreement or the First Amendment, and the Agreement needs to be amended to include these discovered repairs to the pump unit; and

WHEREAS, the Amendment is procured through buyboard contract number 672-22.

NOW THEREFORE; in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The Agreement is hereby amended to include the following additional repairs:
 - A. MODIFY SIX (6) FIG COLUMN PIPE WITH INTEGRATED ENCLOSING, to include:
 - i) Torch new flange and new centralizing vanes
 - ii) Remove bronze line shaft bearing
 - iii) Grit blast column bottom end
 - iv) Weld supports to enclosing tube to hold locating in center of pipe
 - v) Cut column pipe wall and enclosing tube to length
 - vi) Orient and weld on new flange
 - vii) Weld on new centralizing vanes
 - viii) Clad weld male aligning register and male enclosing tube gland
 - ix) Thermal stress relief
 - x) Machining with CNC horizontal boring mill
 - xi) Prep for blasting
 - xii) Blast to sspc-sp10 near white metal
 - xiii) Coat with epoxy paint

B. MODIFY SIX (6) LINESHAFTS, to include:

- i) Shorten six (6) shafts from 120" to 90"
 - ii) Face ends of shaft & cut minor and intermediate diameters
 - iii) Mill two keyways to cut end at 180 degrees apart
 - iv) Test fit coupling to shaft
 - v) Make two (2) new ring & key coupling assembly
 - vi) SPCO will replace two shafts which were damaged by heat. both ends of these shafts will need to be machined
2. The cost of the Modified Colum Pipe is \$53,834.00. The cost of the Modified Line shafts is \$16,610.00. The total increase in the price paid to Contractor pursuant to this Amendment is \$70,444.00. The original contract price is \$114,800.00. The price of the first amendment is \$81,650.00. Therefore, the revised contract price is \$266,894.00.

3. **General Provisions.**

- a. Except as specifically set forth in this Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect.
- b. The Parties agree that in the event of any conflict between the terms of the Agreement and this Amendment, the provisions of this Amendment shall control.
- c. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

IN WITNESS THEREOF, the Parties through their duly authorized representatives have executed this Amendment as of the date set forth below.

AGREED and APPROVED:

CITY OF ABILENE, TEXAS

SMITH PUMP COMPANY

By: Robert Hanna

Title: City Manager

Date: _____



By: Trent Brown

Title: President

Date: 12/1/22



Smith Pump Company, Inc.

301 MB Industrial Blvd
Waco, TX 76712 US

Phone: 800-299-8909
Fax: 254-776-0023
www.smithpump.com

Quote No: 34899

Tuesday, November 15, 2022
Page: 1

Prepared For: Wes Stawarczik

Shipping: Wes Stawarczik

City of Abilene

P.O. Box 60
Abilene, TX 79604
Phone: 325-676-6038
Fax: 325 548 2017

City of Abilene

OH Ivie RWPS
GPS Coord: 31.5778 N, 99.7241 W
OH Ivie, TX

Shipping Method
SPCO Truck

Freight Terms
FOB Destination

Payment Terms
Net 30 Days

Salesperson:
TXWEST - Christopher Burress

This quotation represents additional work to modify the Raw Water Pump #1 at Lake O.H. Ivie. These proposed modifications are necessary to change the Pump's Shaft Critical Speed - an issue which causes the pump to vibrate and decreases lifespan.

The services of repair which were previously agreed to and performed will be charged under the City's previously issued PO. Smith Pump assumes responsibility for labor and expenses associated with removal, reinstallation, and start-up following repair as a failure to properly diagnose the root cause of vibration.

Please give us a call if you require additional information.

Sincerely,

Trent Brown

trentb@smithpump.com

Line: 1

Part ID: 4611-003

Rev: 0

Modify (6) Flg Column Pipe w/ Integrated Enclosing

Column Pipe Modification to Reduce Bearing Spans from 120" to 90".
Performed on (6) 36" Flanged Steel Columns.

INCLUDES:

1. Torch New Flange and New Centralizing Vanes
1. Remove Bronze Lineshaft Bearing
2. Grit Blast Column Bottom End
3. Well Supports to Enclosing Tube to Hold Location in Center of Pipe
4. Cut Column Pipe Wall and Enclosing Tube to Length
5. Orient and Weld On New Flange
6. Weld On New Centralizing Vanes
7. Clad Weld Male Aligning Register and Male Enclosing Tube Gland
8. Thermal Stress Relief
9. Machining with CNC Horizontal Boring Mill
10. Prep for Blasting
11. Blast to SSPC-SP10 Near White Metal
12. Coat with Epoxy Paint

ADDITIONAL:

1. Install Oil Lubricating Lines to Exterior of Column for Lubrication during Installation

**Smith Pump Company, Inc.**301 MB Industrial Blvd
Waco, TX 76712 US

Phone: 800-299-8909

Fax: 254-776-0023

www.smithpump.com

Quote No: 34899**Tuesday, November 15, 2022**

Page: 2

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	53,834.00000			\$53,834.00 *

Line: 2

Part ID: 4611-004

Rev: 0

Modify (6) Lineshafts

Lineshaft Modification to Shorten (6) Shafts from 120" to 90".
Ring & Key Style Shafts / 2-11/16" Shaft Diameter

INCLUDES:

1. Cut Shaft to Length
2. Face Ends of Shaft & Cut Minor and Intermediate Diameters
3. Mill Two Keyways to Cut End at 180 Degrees Apart
4. Test Fit Coupling to Shaft

ADDITIONAL:

1. Make (2) New Ring & Key Coupling Assembly

NOTES:

1. SPCO will replace two shafts which were damaged by heat.
Both Ends of these shafts will need to be machined.

Quantity	U/M	Unit Price	Discount	Discounted Unit Price	Line Price
1.00	EA	16,610.00000			\$16,610.00 *

* Indicates which quantity price is included in the Total

Total:**\$70,444.00**

Prices are Valid Until Thursday, December 15, 2022

ACCEPTED BY: _____

PRINTED NAME: _____

PURCHASE ORDER (IF APPLICABLE): _____

SIGNED ON DATE: _____

Quotation is made in accordance with Buyboard Contract 672-22.



Smith Pump Company, Inc.

301 MB Industrial Blvd
Waco, TX 76712 US

Phone: 800-299-8909
Fax: 254-776-0023
www.smithpump.com

Quote No: 34899

Tuesday, November 15, 2022

Page: 3

Terms and Conditions

1. **Applicability** - These Terms and Conditions of Sale ("Terms") shall govern all sales of equipment or services to Customer. These Terms supersede any prior written or oral agreement, understanding, representation or promise and any pre-printed or standard terms and conditions contained in Customer's request for quote, purchase order, invoice, order acknowledgement or similar document. These Terms may not be amended, supplemented, changed or modified except by concurrent or subsequent written agreement signed by an authorized representative of both Smith Pump Company ("SPCO") and Customer. SPCO's acknowledgement of Customer's purchase order shall not constitute acceptance of any terms or conditions contained therein which are in any way inconsistent with the Terms. Any additional or different terms or conditions included in any acceptance of this quotation are expressly disclaimed and rejected in advance, and unless there is prior mutual agreement otherwise, shall not become a part of any contract resulting from this quotation.
2. **Price** - Unless otherwise stated in this quotation, all prices are FOB shipping point. All transportation, insurance and similar charges incident to delivery shall be borne by the Customer. This quotation is valid for thirty (30) days only. Shipping dates are approximate and are based on prompt receipt of all necessary information. In the case of delay in furnishing complete information to SPCO, dates of shipment may be extended for a reasonable time. In the event SPCO provides transport services, these will be quoted as a lump sum price based on destination and shipping mode. In the event Customer requests a delay or suspension in the completion and/or shipment of equipment or services covered by this quotation, or any part thereof, for any reason, the parties shall agree upon any cost and/or scheduling impact of such delay and all such costs to Customer's account. Any delay period beyond thirty (30) days after original scheduled shipment date shall require Customer to (i) take title and risk of loss of any equipment covered by this quotation, and (ii) make arrangements for the storage of such equipment with SPCO or other party. SPCO's invoice, which is contractually based on shipment, shall be issued upon SPCO's readiness to ship the equipment covered by this quotation. SPCO shall not be liable for delay and delivery due to causes beyond its reasonable control including, but not limited to, acts of God, acts of government, acts of Customer, fires, labor disputes, boycotts, floods, epidemics, quarantine restrictions, war, insurrection, terrorism, riot, civil or military authority, freight embargos, transportation shortages or delays, unusually severe weather or inability to obtain necessary labor, materials or manufacturing facilities due to such causes. In the event of any such delay, the date of delivery shall be extended for a length of time equal to the period of the delay.
3. **Warranty** - SPCO warrants new equipment or parts to be free from defects in materials and workmanship for a period of eighteen (18) months from the date of shipment or twelve (12) months from the date of startup or initial use, whichever comes first. SPCO SHALL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR LIQUIDATED DAMAGES. NO EXPRESSED OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE SHALL APPLY. Repairs performed by SPCO are warranted against defects in workmanship and/or materials for a period of twelve (12) months from the date of shipment. SPCO will not be responsible for any removal or reinstallation charges or transportation charges in cases where equipment has failed under these warranty conditions. SPCO's sole obligation and Customer's sole remedy under this warranty is repair or replacement at SPCO's election. Customer agrees to provide SPCO reasonable and clear access to any equipment covered by this warranty which may include removal or materials or structures as well as supplying any equipment, materials or structures which are necessary to provide reasonable access to the equipment being repaired or replaced. Costs to remove and/or reinstall equipment for warranty purposes shall be the responsibility of Customer. Replacement parts or repairs furnished under this warranty shall be subject to warranty provisions herein for the remaining warranty period. All equipment repaired or replaced will be re-warranted only for the remainder of the original warranty period. SPCO does not warrant the equipment covered by this quotation or any repair/replacement part against the effects of erosion, corrosion, or normal wear and tear due to operation or the environment. The warranty and remedies set forth herein are conditioned upon proper storage, installation, use and maintenance of the equipment covered by this quotation in all material respects, and in accordance with SPCO's written recommendations. Customer must notify SPCO in writing of any warranty claim during the warranty period or within thirty (30) days thereafter. SPCO will not be liable under this warranty if warranted goods have been exposed or subjected to any (1) maintenance, repair, installation, handling, packaging, transportation, storage, operation, or use which is improper or otherwise not in compliance with SPCO's instructions, (2) alteration, modification or repair by anyone other than SPCO or those specifically authorized by SPCO, (3) accident, contamination, foreign object damage, abuse, neglect, or negligence after shipment to Customer, (4) damage caused by failure of a SPCO supplied product not under warranty or by any hardware or software not supplied by SPCO, (5) use of counterfeit or replacement parts that are not manufactured by the manufacturer of goods provided by SPCO or approved by SPCO for use in goods provided by SPCO, or (6) goods which are normally consumed in operation or which have normal life inherently shorter than the warranty period including, but not limited to, consumables (e.g. lamps, batteries, storage capacitors).
4. **Payment** - All prices are net cash to be paid thirty (30) days after date of invoice. Customer agrees to make payment within that period. Discounts will apply only as stated on the invoice. Invoices unpaid for thirty (30) days after issuance shall bear interest at the highest lawful rate due and payable on any invoiced account, which is delinquent and not paid within the stated terms. Should Customer for any reason fail to pay in accordance with these terms, Customer agrees to pay all collection costs, attorney's fees and expenses incurred in collecting payment. If Customer's financial condition is or becomes unsatisfactory to SPCO, SPCO reserves the right to (a) require payment from Customer on a cash in advance basis, (b) require a letter of credit or other acceptable security before shipment, (c) cancel shipment at any time prior to delivery without further obligation or liability on SPCO's part, (d) terminate any contract or obligation on the part of SPCO, or (e) require other special payment terms acceptable to SPCO to assure payment. All extensions of credit are subject to the approval of SPCO's credit department and management.
5. **Joint Check Agreement** - If Customer fails to pay laborers and materialmen within thirty (30) days after payment by SPCO, SPCO will have the right to make future payments by check payable jointly to Customer and laborers or materialmen to the extent of unpaid indebtedness arising out of the job. SPCO will credit joint checks against the contract sum on the next payment application.
6. **Taxes** - The amount of all federal, state or local taxes applicable to the sale, use, delivery or transportation of the equipment or services sold hereunder and all duties, imports, tariffs, and other similar levies shall be added to the contract price and paid by the Customer except where the Customer shall furnish an appropriate certificate of exemption.
7. **Property Damage** - SPCO shall not be responsible for damage to topsoil or groundcover in connection with the work or service performed under this contract. SPCO shall not be responsible for claims arising from the pumping of water onto the ground which is necessary in connection with the service or work provided by SPCO. The customer agrees to hold SPCO harmless from claims arising out of damage caused by the pumping of water onto the ground.
8. **Startup** - If the equipment supplied pursuant to this quotation has a warranty requirement, qualified SPCO personnel must be present during the initial equipment startup and commissioning. Failure to request and assure the presence of qualified SPCO personnel will void any warranty herein. Requests for startup must occur at least seven (7) days prior to the scheduled date of the startup.
9. **Limitation of Liability** - The remedies set forth herein are exclusive and the total liability of SPCO with respect to this quotation, and any contract for goods or services arising from this quotation, or for any breach thereof, whether based on contract, warranty, torts (including negligence), indemnity, strict liability or otherwise, shall not exceed the quotation or sales price of the specific equipment or service which gives rise to the claim.
10. **Setoff** - All amounts that Customer owes SPCO under this quotation shall be due and payable in accordance with the terms of the quotation. Customer shall not setoff such amounts or any portion thereof, whether or not liquidated, against sums which Customer asserts are due to it, its parent, affiliates, subsidiaries or other division under other transactions with SPCO.
11. **Customer Cancellation** - Customer may cancel this order only upon written notice and payment to SPCO of reasonable and proper cancellation charges. In the event of cancellation, Customer must pay for all material, expense and labor costs incurred by SPCO in connection with the materials and services to be provided pursuant to this quotation, as well as all expenses relating to any specially fabricated materials and restocking charges.
12. **Assignment** - Neither party may assign this order or any portion thereof without the advance, written consent of the other party, which consent shall not be unreasonably withheld.
13. **Waiver/Severability** - Failure by SPCO to assert all or any of its rights upon any breach by Customer shall not be deemed a waiver of such rights either with respect to such breach or any subsequent breach, nor shall any waiver be implied from the acceptance of any payment. No waiver of any right shall extend to or affect any other right Customer may possess nor shall such waiver extend to any subsequent similar or dissimilar breach. If any portion of these Terms are determined to be illegal, invalid or unenforceable for any reason, such provision shall be deemed stricken for the purposes of the dispute in question and all other provisions shall remain in full force and effect.
14. **Applicable Law** - The contract involving the sale of the equipment and services covered by this quotation shall be interpreted in accordance with the laws of the State of Texas. This contract is performable in McLennan County, Texas and venue for any court action in any way relating to or arising out of this contract shall be McLennan County, Texas.

Authorize Second Amendment to Services Contract Between
City of Abilene and Smith Pump Company for the
Repair of Ivie Intake Pump #1.





- The Ivie Intake Pump Station has three vertical turbine pumps that transfer raw lake water into the Ivie Pipeline System for delivery to the Hargesheimer Water Treatment Plant.
- Ivie Intake Pump #1 is inoperable and in need of repairs.
- Smith Pump Company Inc. contracted for the repair of Ivie Pump #1 including the removal, disassembly, machining, repair and/or replacement of normal wear parts, and reinstallation and testing for \$114,800.00





- First Amendment to Services Contract provided for additional necessary work not considered as normal wear parts costing \$81,650.00.
- Reinstallation and startup of the pump revealed excessive vibration, which required the pump to be repulped and intensively inspected.
- Analysis revealed that the pump is operating at a Critical Speed resulting in shaft whipping which causes vibration and premature bearing failure.





- Second Amendment to Service Contract provides for additional work including shortening six 36-inch diameter flanged column sections and six associated rotating shaft sections.
- The shortened sections will move the critical shaft speed to outside of the normal operation speed of the pump assembly.
- The price of the second Amendment work is \$77,444.00.
- The revised contract price is \$266,894.00.



**LAKE O.H. IVIE INTAKE PUMP STATION
17 MILES SOUTHEAST OF BALLINGER, TX**



Authorize Second Amendment to Services Contract Between City of Abilene and Smith Pump Company for the Repair of Ivie Intake Pump #1.

Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Mari Cockerell, Communications Manager

SUBJECT: 7. Resolution: Receive a Report, Hold a Discussion, and Take Action on Approval of MOUs with Abilene ISD and Abilene Christian University for use of PEG Funds for Capital Expenditures in Support of Creation of Broadcast Content for the City of Abilene Suddenlink/Optimum Cable Channel 2 (Mari Cockerell)

GENERAL INFORMATION

A revised Memorandum of Understanding (MOU) between the City of Abilene and Abilene Independent School District will provide updated and more specific parameters between the City and AISD in the use of PEG funds for capital expenditures that support the creation of broadcast content for the City of Abilene Suddenlink/Optimum Public Broadcast Cable Channel 2. This revised MOU with Abilene ISD provides for an annual expenditure limit, an annual time frame in which that expenditure will take place, and a minimum quantity of content AISD will provide for the City broadcast on Cable Channel 2 in return.

An MOU between the City of Abilene and Abilene Christian University (ACU) will set specific parameters between the City and ACU in the use of PEG funds for capital expenditures that support the creation of broadcast content for the City of Abilene Suddenlink/Optimum Public Broadcast Cable Channel 2. This MOU provides for an annual expenditure limit, an annual time frame in which that expenditure will take place, and a minimum quantity of content and recording services ACU will make available for the City and broadcast on Cable Channel 2 in return.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Up to a total of \$40,000 annually (\$20,000 AISD; \$20,000 ACU) from the City's PEG fund.

STAFF RECOMMENDATION

Staff recommends approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. AISD ACU PEG MOU Resolution
2. AISD Peg Fund Interlocal REVISED
3. ACU Peg Fund Agreement revised 120822
4. Slides for AISD ACU MOUS Council Presentation 2022

RESOLUTION NO. XXXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH ABILENE INDEPENDENT SCHOOL DISTRICT AND ABILENE CHRISTIAN UNIVERSITY

WHEREAS, The City of Abilene desires to use PEG funding for capital expenditures on behalf of Abilene Independent School District and Abilene Christian University that enable the creation of content for the City of Abilene public access broadcast channel; and

WHEREAS, The City of Abilene will broadcast a combined total of at least 20 hours per month of content from Abilene Independent School District (10 hrs.) and Abilene Christian University (10 hrs.), and have up to 10 hours of access to the ACUTV studio per month.

WHEREAS, The City Council authorizes the City Manager to execute a memorandum of understanding with Abilene Independent School District and Abilene Christian University that allows for the purchase of up to a combined \$40,000 on capital expenditures per year.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS

PART 1: The City Council authorizes the City Manager to execute a memorandum of understanding with Abilene Independent School District and Abilene Christian University

PART 2: That the agreement is in the amount of a combined \$40,000 per year.

PART 3: That this resolution will take effect immediately from and after passage.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

**REVISED INTERLOCAL AGREEMENT BETWEEN THE CITY OF ABILENE
AND THE ABILENE INDEPENDENT SCHOOL DISTRICT
FOR THE USE OF PEG FUNDS FOR EQUIPMENT**

This Revised AGREEMENT is made this 15th day of December, 2022, between the City of Abilene ("City"), a municipality incorporated under the laws of the State of Texas, and the Abilene Independent School District ("AISD"), a political subdivision of the State of Texas, under the Interlocal Cooperation Act. On or about April 14, 2016, the City and AISD entered into an Interlocal Agreement for the use of PEG Funds for Equipment. This Revised Agreement replaces and revises that April 14, 2016 Interlocal Agreement.

The City and AISD AGREE as follows:

1. Purpose of the Agreement and Consideration

The City and AISD seek to cooperate so that AISD may provide content for the City of Abilene PEG Channel and/or online broadcast though online streaming of the PEG Channel. The City will provide capital equipment or improvements though PEG (Public, Educational and Governmental) funds at a rate not to exceed \$20,000 a year so that AISD has the ability to provide content to the City. On occasion, the annual amount of PEG funds provided by the City may exceed \$20,000 provided that the City Manager, City Communications Director, and AISD are in agreement on the capital equipment or improvements being purchased, and their intended use in relation to the terms of this Agreement.

2. Term.

The term of this agreement is for five (5) years from the date of execution. This agreement shall automatically renew year-to-year thereafter. Either party may terminate this agreement by submitting written notice to the other party at least six-months prior to the expiration of the term.

3. Amendment.

This agreement shall be amended only by written agreement of both parties.

4. Duties of the City.

At its sole discretion, the City of Abilene will purchase the necessary capital equipment

and improvements for AISD to record and provide quality content for the PEG Channel. The City will allow AISD to use capital equipment or improvements purchased with PEG funds for the purpose of providing content for the PEG Channel. Orders for capital equipment or improvements provided by the City with PEG funds shall be placed by June 30 each year. Capital equipment or improvements so purchased shall remain property of the City.

5. Duties of the AISD.

AISD must provide the City with a request for capital expenditures for PEG Channel facilities and equipment by March 31st each year this Agreement is effective. AISD shall provide at least 10 hours of content per month for the City's PEG Channel.

6. Current Revenue.

Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

7. Entire Agreement.

This constitutes the entire agreement of the parties. This Agreement replaces the Interlocal Agreement between the parties executed on or about April 14, 2016.

IN WITNESS WHEREOF, THE CITY AND AISD have entered into this Agreement.

CITY OF ABILENE

ATTEST

City Manager

City Secretary

Approved:

City Attorney

**ABILENE INDEPENDENT SCHOOL
DISTRICT**

ATTEST

Superintendent or designee

**AGREEMENT BETWEEN THE CITY OF ABILENE
AND THE ABILENE CHRISTIAN UNIVERSITY
FOR THE USE OF PEG FUNDS FOR EQUIPMENT**

This AGREEMENT is made this 15th day of December, 2022, between the City of Abilene ("City"), a municipality incorporated under the laws of the State of Texas, and the Abilene Christian University ("ACU"), a private university located in Abilene, Texas.

The City and ACU AGREE as follows:

1. Purpose of the Agreement and Consideration

The City and ACU seek to cooperate so that ACU may provide content for the City of Abilene PEG Channel and/or online broadcast through online streaming of the PEG Channel. The City will provide capital equipment or improvements through PEG (Public, Educational and Governmental) funds at a rate not to exceed \$20,000 a year so that ACU has the ability to provide content to the City.

2. Term.

The term of this agreement is for five (5) years from the date of execution. This agreement shall automatically renew year-to-year thereafter. Either party may terminate this agreement by submitting written notice to the other party at least six-months prior to the expiration of the term.

3. Amendment.

This agreement shall be amended only by written agreement of both parties.

4. Duties of the City.

At its sole discretion, the City of Abilene will purchase the necessary capital equipment and improvements for ACU to record and provide quality content for the PEG Channel. The City will allow ACU to use capital equipment or improvements purchased with PEG funds for the purpose of providing content for the PEG Channel. Orders for capital equipment or improvements provided by the City with PEG funds shall be placed by June 30 each year. Capital equipment or improvements so purchased shall remain property of the City.

5. Duties of the ACU.

ACU must provide the City with a request for capital expenditures for PEG Channel facilities and equipment by March 31st each year this Agreement is effective. ACU shall provide at least 10 hours of content per month for the City's PEG Channel.

ACU shall provide the City with up to 10 hours of access per month to the ACU Television studio and staff for the City's recording purposes. City recordings completed in the ACU Television studio shall be delivered by ACU to the City via Google Drive, or other agreed method, within 24 hours of the end of the recording start time.

6. Current Revenue.

Any party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

7. Entire Agreement.

This constitutes the entire agreement of the parties.

8. Public Purpose

The providing of PEG funds from the City to ACU is a public purpose, and will benefit the residents of the City of Abilene, Texas.

[Remainder of this page left blank intentionally]

IN WITNESS WHEREOF, THE CITY AND ACU have entered into this Agreement.

CITY OF ABILENE

ATTEST

City Manager

City Secretary

Approved:

City Attorney

ABILENE CHRISTIAN UNIVERSITY

ATTEST

President or designee

Approval of MOUs with Abilene ISD and ACU for use of PEG Funds





Approval of MOUs with Abilene ISD and ACU for use of PEG Funds

Revised MOU with Abilene ISD to provide for:

- Annual PEG fund expenditure limit (\$20,000)

- Annual time frame for the expenditure

- Minimum quantity of content AISD will provide for broadcast on Ch. 2

MOU with ACU to provide for:

- Annual PEG fund expenditure limit (\$20,000)

- Annual time from for the expenditure

- Minimum quantity of content and recording services ACU will provide for broadcast on Ch. 2





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 8. Resolution: Receive a Report, Hold a Discussion and Take Action on on Approving Miscellaneous FY23 Cumulative Purchases Over \$50,000 (*Don Green*)

GENERAL INFORMATION

The City of Abilene must purchase parts and services to repair city vehicles and equipment throughout each fiscal year. It is often difficult for staff to anticipate many purchases in advance and must make such purchases when needed to return City vehicles and equipment to operation in a timely manner. These miscellaneous purchases cumulatively may exceed \$50,000 with a single vendor throughout FY 23.

Purchases that individually exceed \$50,000 will continue to be brought to Council for prior approval. However, through this resolution, the City may purchase parts and services from the following companies, each cumulatively exceeding \$50,000 in FY 23:

Abilene Equipment Center, Alliance Bus Group, Arrow Ford, ASCO Equipment, B&H Photo Supply, Big Country Supply, Bruckner's Truck Center, BTE Body Company, Inc., Corley-Wetsel Freightliner, Creative Bus, Elwood Staffing, Heil of Texas, K&M Elevator, Karl Klements, Lawrence Hall Chevrolet, Mayfield, MHC, Napa Auto Parts, O'Bar Wrecker Service, O'Reilly Auto Parts, Pannell Industries, Roberts Truck Center, Schindler Elevator/Escalator, Southern Tire Mart, Unifirst, United Oil, Warren Cat, Western Trailer & Equipment, Wingfoot Commercial Tire, Yellowhouse Machinery

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

These purchases are typically planned for in the budget.

STAFF RECOMMENDATION

Staff has reviewed historical purchases to develop this list and recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Cumulative Large Purchases Resolution 12-15-22
2. FY23 Cumulative Purchases Presentation (12-15-22)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF ABILENE, TEXAS APPROVING PURCHASES OF
PARTS AND SERVICES WITH VARIOUS VENDORS EXCEEDING \$50,000 IN
FISCAL YEAR 2023**

WHEREAS, the City of Abilene has the need to purchase parts and services to repair city vehicles and equipment; and

WHEREAS, the City of Abilene cannot anticipate many purchases in advance and must make such purchases when needed to return its vehicles and equipment to operation in a timely manner; and

WHEREAS, such purchases cumulatively may exceed \$50,000 with a single company throughout FY 23; and

WHEREAS, such purchases that individually exceed \$50,000 will continue to be brought to Council for prior approval; and

WHEREAS, the City may purchase parts and services from the following companies, each cumulatively exceeding \$50,000 in FY 23:

Abilene Equipment Center
Alliance Bus Group
Arrow Ford
ASCO Equipment
B&H Photo Supply
Big Country Supply
Bruckner's Truck Center
BTE Body Company, Inc.
Corley-Wetsel Freightliner
Creative Bus
Elwood Staffing
Heil of Texas
K&M Elevator
Karl Klements
Lawrence Hall Chevrolet
Mayfield
MHC
Napa Auto Parts
O'Bar Wrecker Service
O'Reilly Auto Parts
Pannell Industries
Roberts Truck Center
Schindler Elevator/Escalator
Southern Tire Mart
Summit Truck
Unifirst
United Oil
Warren Cat
Western Trailer & Equipment

Wingfoot Commercial Tire
Yellowhouse Machinery

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That City Council approves cumulative purchases exceeding \$50,000 with each of the abovenamed companies in FY 23.

PART 2: Individual purchases exceeding \$50,000 will continue to be brought to City Council for approval.

PART 3: That this Resolution shall take effect immediately from and after passage.

ADOPTED this 15th day of December, 2022

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

City Council Meeting

12/15/2022





Vehicles and Equipment Parts and Services Cumulative Purchases Authorization For FY 23

- During the course of each fiscal year, City Staff is required to make numerous purchases of materials, services, parts, and equipment from various companies to maintain and repair City vehicles and equipment.
- Many of these purchases are not planned and occur as needed to return the vehicle or equipment to operation.
- This results in cumulative purchases with individual companies exceeding \$50,000 in a Fiscal Year.
- Individual purchases exceeding \$50,000 have been and will continue to be brought to Council for approval consideration.





- Cumulative purchases with the following companies may exceed \$50,000 in FY 23:

Abilene Equipment Center, Alliance Bus Group, Arrow Ford, ASCO Equipment, B&H Photo Supply, Big Country Supply, Bruckner's Truck Center, BTE Body Company, Inc., Corley-Wetsel Freightliner, Creative Bus, Elwood Staffing, Heil of Texas, K&M Elevator, Karl Klements, Lawrence Hall Chevrolet, Mayfield, MHC, Napa Auto Parts, O'Bar Wrecker Service, O'Reilly Auto Parts, Pannell Industries, Roberts Truck Center, Schindler Elevator/Escalator, Southern Tire Mart, Summit Truck, Unifirst, United Oil, Warren Cat, Western Trailer & Equipment, Wingfoot Commercial Tire, Yellowhouse Machinery





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Don Green, Director

SUBJECT: 9. Resolution: Receive a Report, Hold a Discussion and Take Action on the purchase of three (3) Ford F250 Three-Quarter Ton Pickup Trucks for Solid Waste and Water Department Divisions from local vendor Arrow Ford through Bid CB-2314. (*Don Green*)

GENERAL INFORMATION

Fleet Services seeks to purchase three (3) Ford F250 Three-Quarter Ton pickup trucks from Arrow Ford. Two units are to be 2WD Regular Cab Three-Quarter Ton Pickups for Solid Waste Services to replace one existing unit and one unit that was wrecked and totalled. The remaining unit is to be a 4WD 4DR Three-Quarter Ton Pickup for Water Distribution services to replace an existing unit. This purchase was advertised as Bid CB-2314.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Funds for the purchase are to be provided by the Fleet Replacement fund and total \$142,129.00. The funds for two of the units for this purchase were planned and included in the FY23 Budget. The third unit was totaled in a wreck after the budget process. This purchase is \$63,129.00 over budget, \$46,596.00 of which is for the wrecked unit which will be fixed in the budget at Revised.

STAFF RECOMMENDATION

Fleet Staff and Division Staff have approved the specifications and recommend the purchase of these three units.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. CB-2314 Three Quarter Ton Pickups Resolution
2. CB-2314 Three Quarter Ton Addtl Info
3. CB-2314 Three Quarter Ton Budget vs Actual
4. CB2314 Three Quarter Ton Pickups Tabsheet
5. CB-2314 Three Quarter Ton Presentation PiP

RESOLUTION NO _____

A RESOLUTION OF THE CITY OF ABILENE, TEXAS

**TO PURCHASE ONE (1) CREW CAB 4WD STANDARD BED, TWO (2) REGULAR CAB 2WD STANDARD BED
THREE QUARTER-TON PICKUP TRUCKS FROM ARROW FORD, ABILENE TX THROUGH CB-2314**

WHEREAS, City of Abilene has a need for three (3) three quarter-ton pickup trucks; and

WHEREAS, City of Abilene budgeted two of these three purchases for Fiscal Year 2023; and

WHEREAS, City of Abilene received pricing for three (3) three quarter-ton pickup trucks through sealed bids (CB-2314); and

WHEREAS, Arrow Ford is the lowest bidder to provide one (1) crew cab 4WD standard bed and two (2) regular cab 2WD standard bed three quarter-ton pickup trucks;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That the City Council approves this purchase from Arrow Ford of Abilene, Texas in the amount of One Hundred Forty Two Thousand One Hundred Twenty Nine Dollars and Zero Cents (\$142,129.00) for three (3) three quarter-ton pickup trucks.

PART 2: That this resolution shall take effect immediately from and after passage

ADOPTED this 15th day December, 2022

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

ADDITIONAL INFORMATION FOR COUNCIL MEETING ITEM
Three Quarter Ton Pickups

Unit #	Assignment	Year	Make	Model	Mileage	Hours	Total Maintenance Costs	Disposal Method	Points	Replacement Reasoning
4327	Water Distribution	2013	Chevrolet	Silverado 2500	111,191	0	\$ 19,512.60	TBD	3 of 4	Met 3 of the 4 replacement criteria
4252	Solid Waste	2012	Chevrolet	Silverado 2500	140,098	10,136	\$ 17,716.46	TBD	3 of 4	Wrecked
4262	Solid Waste	2012	International	Durastar 4300M7	120,053	11,539	\$ 42,058.49	TBD	3 of 4	Met 3 of the 4 replacement criteria

BUDGET vs ACTUAL COSTS**Three Quarter Ton Pickup**

Repl For Unit #	Division #	Division Name	Type Equipment	Budgeted Cost	Actual Cost	Budgeted vs Actual Variance	
4327	8050	Water Distribution	Three Quarter Ton Pi	\$44,000.00	\$48,937.00	\$4,937.00	
4252*	4060	Solidwaste	Three Quarter Ton Pi	\$0.00	\$46,596.00	\$46,596.00	
4262	4060	Solidwaste	Three Quarter Ton Pi	\$35,000.00	\$46,596.00	\$11,596.00	
				\$79,000.00	\$142,129.00	\$63,129.00	Over Budget

* Vehicle wrecked and was not budgeted. Will correct at revised.

**CITY OF ABILENE
PURCHASING DIVISION
TABULATION OF BIDS**

PAGE
1 OF 1

DEPARTMENT: FMO
BID NO.: CB-2314
TIME OF OPENING: 11:00 A.M.
DATE OF OPENING: NOVEMBER 29, 2022

CALDWELL COUNTRY
CHEVROLET
CALDWELL, TX

ARROW FORD
ABILENE, TX *

RUSH TRUCK CENTER DALLAS
LMD
DALLAS, TX

ITEM	DESCRIPTION	QTY	UNIT	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
1.	THREE-QUARTER TON PICKUP TRUCKS														
	4WD 4DR Long Bed	1		\$49,445.00	\$49,445.00	\$48,937.00	\$48,937.00	\$55,445.00	\$55,445.00						
	2WD Reg Cab Standard Bed	2		\$48,950.00	\$97,900.00	\$46,596.00	\$93,192.00	\$53,355.00	\$106,710.00						
BASE BID					\$147,345.00		\$142,129.00 *		\$162,155.00						
DISCOUNT															
TOTAL BID					\$147,345.00		\$142,129.00 *		\$162,155.00						

*NOTES: INDICATES RECOMMENDED AWARD

City Council Meeting

12/15/2022





3/4-Ton Pickup Trucks

- Replacing units 4327 for Water Distribution and 4252, 4262 for Solid Waste.
- One unit to be a 2023 Ford F-250 Crew Cab 4x4 and two units to be a 2023 Ford F-250 Regular Cab.
- Recommend award of units to Arrow Ford.





3/4-Ton Pickup Trucks





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 10. Resolution: Receive a Report, Hold a Discussion and Take Action on authorizing the City Manager to enter into a Professional Services Agreement for legislative services with JPC Strategies, LLC. (Robert Hanna)

GENERAL INFORMATION

Staff is requesting the City Council authorize the City Manager to execute a professional services agreement with JPC Strategies, LLC, doing business under the name Gentium Strategies, to advise and assist the City of Abilene in identifying, developing, and implementing federal strategies to enhance and create new relationships with the Congress of the United States to advance and protect the interests and goals of the City of Abilene.

Special emphasis will be placed on liaison with Members of Congress representing the Abilene area. Additionally, Gentium Strategies will advise and assist the City of Abilene in further developing and maintaining relationships with the Presidential Administration and other federal agencies.

Gentium will be responsible for facilitating and providing a constant flow of communication to Abilene regarding legislative and administrative developments in D.C., and in turn advising the City of Abilene of potential opportunities to engage with the Delegation and or the Administration.

The cost of the agreement for the scope of work will be \$7,500 monthly plus any pre-approved expenses.

The term of the agreement will be a 3 year agreement and will end on December 31, 2026.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

Contract fiscal impact will be \$90,000 plus pre-approved expenses annually, \$270,000 plus pre-approved expenses for the life of the contract term. Appropriate funds are budgeted for FY 2023 and will be budgeted for the following fiscal years.

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Resolution Agreement JPC Strategies
2. ABI JPC Strategies Contract 1.01.2023 thru 12.31.2026
3. JPC Strategies Slide

RESOLUTION _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES
AGREEMENT WITH JPC STRATEGIES, LLC D/B/A GENTIUM STRATEGIES**

WHEREAS, the City of Abilene has historically contracted with a legislative and regulatory consultant for purposes of advising and representing the City with members of the U.S. Congress; and

WHEREAS, the City's current consultant has retired, and the City desires to enter into an agreement with a new consultant; and,

WHEREAS, JPC Strategies, LLC d/b/a Gentium Strategies is a qualified consultant with over twenty years experience working with the Federal Government; and

WHEREAS, the annual cost of services will be \$90,000 plus expenses, and staff recommends a three-year agreement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

Part 1: That the City Manager is hereby authorized to execute professional services agreement with JPC Strategies, LLC d/b/a Gentium Strategies for legislative and regulatory consulting services beginning January 1, 2023 for a period of three years, with an annual cost of \$90,000 plus expenses.

Part 2: That this Resolution is effective immediately upon passage.

ADOPTED this 15th day of December, 2022.

ATTEST:

City Secretary

Mayor

APPROVED:

City Attorney



PROFESSIONAL SERVICES CONTRACT (Not Architect or Engineer)

This contract, dated the 1st day of January, 2023, is between the City of Abilene, a home rule municipal corporation of the State of Texas ("City"), and JPC Strategies, LLC dba Gentium Strategies ("Professional").

The City is engaged in developing and implementing strategies with members of the U.S. Congress, and desires to engage the services of Professional, as an independent contractor and not as an employee, to assist in the project and to render his or her services on the terms and conditions provided in this Contract.

The Professional is a qualified consultant with over twenty years experience working with the Federal Government. Professional desires to render professional services as further described in Attachment A to the City on the terms and conditions provided in this Contract.

The Professional must perform services with the professional skill and care ordinarily provided by competent professionals practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent professional.

THEREFORE, the City engages the services of the Professional. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

I. TERM

In consideration of the compensation stated in Paragraph II and further described in Attachment B., the Professional must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Professional must complete all services beginning on January 1, 2023 through December 31, 2026.

II. PAYMENT

For the services to be rendered under this Contract, the Professional will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

III. ASSIGNMENT

The Professional may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Professional to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Professional's successors and assigns and may be enforced by the City against such successors and assigns.

IV. STATUS OF PROFESSIONAL

The Professional is an Independent Contractor. Professional and Professional's employees are not the agents, servants or employees of the City.

V. AMENDMENT OR MODIFICATION

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent, which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

VI. OWNERSHIP OF DOCUMENTS AND MATERIALS

Ownership of Documents and Materials is according to Attachment C.

VII. NONDISCLOSURE

The Professional may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other materials which Professional prepares or acquires in performing this contract, including any duplicate copies kept by Professional. The Professional may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

VIII. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

“Claims” shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

“Damages” shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- (i) injury or damage to any property or right
- (ii) injury, damage, or death to any person or entity
- (iii) attorneys fees, witness fees, expert witness fees and expenses, and
- (iv) all other costs and expenses of litigation

“Premise Defects” shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

“Professional” includes the corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

“Professional’s employees” shall mean any employees, officers, agents, subcontractors, licensee and invitees of Professional.

“Proven” shall mean that a court of competent jurisdiction has entered a final unappealable judgment on a claim adjudging an entity or person liable for a monetary judgment.

“Sole negligence” shall mean negligence of a party that is unmixed with the fault of any other person or entity.

B. Indemnity

The Professional must indemnify, hold harmless, and defend the City from and against liability for any claims arising out of the Professional's work and activities conducted in connection with this Contract.

The Professional is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Professional must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Professional's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Professional or Professional's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Professional.

The City and Professional must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Professional or City. The City has the right to compromise and defend the same to the extent of its own interests.

BOTH CITY AND PROFESSIONAL EXPRESSLY INTEND THIS CONTRACT'S INDEMNITY PROVISION TO REQUIRE PROFESSIONAL TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE CITY IS PARTICIPATING IN THIS CONTRACT, WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE DAMAGES. THIS CONTRACT'S INDEMNITY PROVISION DOES NOT APPLY TO ANY CLAIM WHERE DAMAGE IS PROVEN TO RESULT FROM THE SOLE NEGLIGENCE OF THE CITY.

IX. INSURANCE

No Insurance Required

X. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

XI. TERMINATION

This contract may be terminated at any time upon 30 days written notice by City to Professional. In the event of termination, Professional will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Professional fails to fulfill his obligations under this contract, or if the Professional violates any of the agreements of this contract, the City has the right to terminate the contract by giving five days written notice to the Professional. The Professional will be compensated for work satisfactorily performed before the termination date.

The Professional, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Professional. The City may withhold any payments to Professional for the purpose of setoff until the exact amount of damages due the City from the Professional is determined and paid.

XII. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Professional and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means, methods, techniques, or procedures employed by Professional. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Professional's control.

XIII. NOTICE

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

City – ATTN:

**Robert Hanna, City Manager
555 Walnut Street
Abilene, Texas 79601**

Professional - ATTN:

**JPC Strategies, LLC dba Gentium Strategies
812 K Street, NE
Washington, D.C. 20002**

XIV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Professional, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Professional must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

XV. NO INDEBTEDNESS

Professional agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Professional is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to

the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

XVI. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bonafide occupational qualifications. The City shall continually review its employment practices and personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XVII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Professional must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Professional -- not City -- must verify eligibility for employment as required by IRCA.

XVIII. MINORITY AND WOMEN BUSINESS ENTERPRISES

The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XIX. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Professional. The Professional must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Professional is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

XX. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

XXI. BOYCOTT OF ISRAEL

In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, "company" does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XXII. SECTIONS AND OTHER HEADINGS

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

XXIII. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one instrument.

{Remainder of Page Intentionally Left Blank—Signature Page Follows}

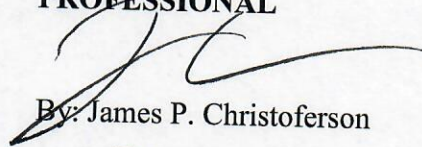
IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

CITY OF ABILENE

By: Robert Hanna

Title: City Manager

PROFESSIONAL


By: James P. Christoferson

Title: President

Address: 812 K Street, NE, Washington,
D.C. 20002

Phone Number: (202) 841-7036

Federal Tax ID#: 82-2897633

ATTEST:

City Secretary

ATTEST: (if corporation)

Corporation's Secretary

APPROVED:

By: _____
City Attorney

Corporate Seal (if available)

ATTACHMENT A

Scope of Services

Scope of Work: JPC Strategies, LLC, doing business as Gentium Strategies, shall advise and assist the City of Abilene in identifying, developing, and implementing federal strategies to enhance and create new relationships with the Congress of the United States to advance and protect the interests and goals of the City of Abilene. Special emphasis shall be placed on liaison with Members of Congress (hereinafter referred to as the Delegation) representing the Abilene area. Additionally, Gentium Strategies shall advise and assist the City of Abilene in further developing and maintaining relationships with the Presidential Administration and other federal agencies(hereinafter referred to as the Administration).

Gentium shall be responsible for facilitating and providing a constant flow of communication to Abilene regarding legislative and administrative developments in D.C., and in turn advising the City of Abilene of potential opportunities to engage with the Delegation and or the Administration.

In consultation with the City of Abilene, Gentium Strategies shall advise and assist in coordinating meetings in which the City of Abilene will brief the Delegation and or the Administration on the activities and projects. Gentium Strategies shall also advise the City of Abilene on the timing for such briefings, as necessary. Gentium Strategies will work with the City of Abilene in providing feedback, regarding the effectiveness of the briefings.

ATTACHMENT B
PAYMENT SCHEDULE

Payment is a fixed fee amount of \$7,500.00 plus any pre-approved expenses, payable per month upon completion of the work and written acceptance by City's Project Representative.

ATTACHMENT C

OWNERSHIP OF DOCUMENTS AND MATERIALS

Parties to initial option chosen

(Option 1) X

All documents and materials prepared by Professional under the terms of this contract are the City's property from the time of preparation, and Professional must deliver the documents and materials to the City or make them available for inspection whenever requested. Professional has the right to make duplicate copies of such documents or materials for its own file or for other such purposes as the City authorizes in writing.

(Option 2)

All documents and materials prepared by the Professional remain the property of the Professional; however, Professional must furnish City, at no additional cost, one set of reproducible mylars of the original drawings of the work and/or one copy of all documents prepared by the Professional pursuant to this Agreement.

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Approval of a professional services agreement for legislative services with JPC Strategies, LLC.





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 11. Resolution: Receive a Report, Hold a Discussion and Take Action on Approving a Professional Services Agreement with BOKA Powell, LLC for design services for the Festival District (Robert Hanna)

GENERAL INFORMATION

The area between the Abilene Convention Center and the new Double Tree Hotel is designated as the "Festival District". BOKA Powell has been working with Garfield as part of the team designing the new Double Tree Hotel, and therefore are the most qualified to provide the design services required for the Festival District. BOKA Powell will be using both local and regional firms to complete the Festival District design. This agreement will result in contract documents and specifications that will be used by the City of Abilene to publicly advertise and bid this project.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

This contract will be paid from existing Hotel Funds.

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. Resolution.Professional Services Agreement.BOKA Powell
2. PROFESSIONAL SERVICES CONTRACT.Festival District
3. PRESENTATION-Professional Services Agreement with BOKA Powell

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS,
AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES
CONTRACT BETWEEN THE CITY OF ABILENE AND BOKA POWELL, LLC FOR A&E
SERVICES TO DESIGN THE FESTIVAL DISTRICT**

WHEREAS, The City of Abilene desires to design and build the Festival District located between the Abilene Convention Center and the Hilton Double Tree Hotel; and,

WHEREAS, BOKA Powell has been working on the design and construction of the Hilton Double Tree Hotel, and they will continue to work on the design and construction of the Hilton Double Tree Hotel; and,

WHEREAS, the Festival District plays a vital role in the development and support of the Abilene Convention Center, the Hilton Double Tree Hotel, and the Downtown Central Business District.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS**

PART 1: The City Council authorizes the City Manager to execute an agreement with BOKA Powell, LLC for the fixed fee amount of \$59,300.00.

PART 2: That this resolution will take effect immediately from and after passage.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



PROFESSIONAL SERVICES CONTRACT Engineers & Architects

This contract, dated the 15th day of December, 2022 is between the City of Abilene, a home rule municipal corporation of the State of Texas (“City”), and BOKA Powell, a LLC organized under the laws of the State of Texas (“Consultant”).

The City is engaged in architectural and engineering and design services for the Abilene Festival District and desires to engage the services of Consultant, as an independent contractor and not as an employee, to assist in the project and to render its services on the terms and conditions provided in this Contract.

The Consultant is a qualified architect properly licensed to practice in the State of Texas. Consultant desires to render professional services to the City on the terms and conditions provided in this Contract. The Consultant’s Basic Services consist of those described in Attachment A and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Attachment A are Additional Services pursuant to Section II.

The Consultant must perform services with the professional skill and care ordinarily provided by competent architects practicing in the same or similar locality and under the same or similar circumstances and professional license, and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect.

THEREFORE, the City engages the services of the Consultant. In consideration of the mutual promises contained in this Contract, the parties agree as follows:

I. TERMS

In consideration of the compensation stated in paragraph II, the Consultant must provide all services as described in Attachment A, which is incorporated by reference for all purposes. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices. As soon as practicable after the date of this Agreement, the Consultant shall submit for the Owner’s approval a schedule for the performance of the Consultant’s services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner’s review, for the performance of the Owner’s consultants, and for approval of submissions by authorities having

jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Consultant or Owner. With the Owner's approval, the Consultant shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

The Owner and Consultant may reasonably rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Consultant shall appropriately adjust the Consultant's services, schedule for the Consultant's services, and the Consultant's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

The Consultant shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Consultant's written approval.

The Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. In the event the Consultant or any other party encounters asbestos or hazardous or toxic materials at the job-site, or should it become known in any way that such materials may be present at the job-site or in any adjacent areas that may affect the performance of the Consultant's service, the Consultant may, at his or her option and without liability for consequential or other damages, suspend performance of services on the project until the Owner retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos, hazardous or toxic materials and warrant that the job-site is in full compliance with applicable laws and regulations. The Consultant shall give written notice to the Owner of the discovery of hazardous materials before the Consultant suspends performance of services on the project.

The Consultant shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Consultant's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Consultant's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

The Consultant shall advise and consult with the Owner during the Construction Phase Services. The Consultant shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Consultant shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Consultant be responsible for

the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Consultant shall be responsible for the Consultant's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Consultant shall provide two (2) site visits per month during construction of the Project.

The Consultant shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

The Consultant shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Consultant shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any error, omission, or inconsistency in such services or information.

Redesign: If the Owner chooses revise the Project program, scope or quality as required to reduce the cost of the work, the Consultant, specifically excluding its subconsultants fees, shall expend up to three percent (3%) of the Consultant's basic services fee defined in Attachment B to modify the Instruments of Service Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted by the Owner. If the Owner requires the Consultant to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Consultant could not reasonably anticipate, the Owner shall compensate the Consultant for the modifications as an Additional Service pursuant to this section; otherwise the Consultant's services for modifying the Construction Documents shall be without additional compensation. In any event, the Consultant's modification of the Construction Documents shall be the limit of the Consultant's responsibility under this Article I.

II. FEE

For the services to be rendered under this Contract, the Consultant will be entitled to a fee as described in Attachment B, which is incorporated by reference for all purposes.

For Additional Services that may arise during the course of the Project, the Owner shall compensate the Consultant per an agreed upon fee based on Consultant's hourly rates herein below plus a ten percent (10%) markup on any Sub-Consultant fees.

For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant and the Consultant's subconsultants plus ten percent (10 %) of the expenses incurred.

The Owner shall not withhold amounts from the Consultant's compensation to impose a penalty or liquidated damages on the Consultant, or to offset sums requested by or paid to

contractors for the cost of changes in the Work, unless the Consultant agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

III. FACILITIES

The Consultant will furnish all facilities and equipment that may be necessary to perform services required under this agreement.

IV. ASSIGNMENT

The Consultant may not assign in whole or in part any rights, duties, obligations or interest arising from this agreement without the City's prior written consent. In the event of an assignment by the Consultant to which the City has consented, the assignee or assignee's legal representative must agree in writing with the City to personally assume, perform, and be bound by all the provisions of this Contract. All of the terms and provisions of this Contract are binding on Consultant's successors and assigns and may be enforced by the City against such successors and assigns.

V. STATUS OF CONSULTANT

The Consultant is an Independent Contractor. Consultant and Consultant's employees are not the agents, servants or employees of the City.

VI. AMENDMENT OR MODIFICATION

This contract, including attachments, constitutes the entire agreement of the parties. Any statements, promises, or agreements made by either party or its agent which are not contained in this contract are of no effect. This contract may not be amended or modified except by both parties' written consent. This Contract supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter of this Contract.

VII. OWNERSHIP OF DOCUMENTS AND MATERIALS

All documents and materials prepared by Consultant under the terms of this contract are the City's property from the time of preparation as long as Consultant is timely paid for all services rendered on this Project. Consultant will deliver copies of the documents and materials to the City or make them available for inspection *whenever requested*. City has the right to make duplicate copies of such documents or materials for its own file or use for any other such purposes as the City deems necessary and there shall be no additional costs incurred because of such copying or use.

In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Consultant and Consultant's subconsultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Consultant and its subconsultants from all costs

and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section VII.

VIII. NONDISCLOSURE

The Consultant may not show to any person or entity any documents, reports, plans, programs, reports, drawings, or any other material which Consultant prepares or acquires in performing this contract, including any duplicate copies kept by Consultant. The Consultant may not disclose to any person or entity any information regarding the City's activities. The City may, however, specifically authorize a limited disclosure at its discretion.

IX. INDEMNITY

A. Definitions

For the purpose of this section the following definitions apply:

"City" shall mean all officers, agents and employees of the City of Abilene.

"Claims" shall mean all claims, liens, suits, demands, accusations, allegations, assertions, complaints, petitions, proceedings and causes of action of every kind and description brought for damages.

"Consultant" includes the person, corporation, company, partnership, or other entity, its owners, officers, and/or partners, and their agents, successors, and assigns.

"Consultant's employees" shall mean any employees, officers, agents, subcontractors, licensee and invitees of Consultant.

"Damages" shall mean each and every injury, wound, hurt, harm, fee, damage, cost, expense, outlay, expenditure or loss of any and every nature, including but not limited to:

- i. **injury or damage to any property or right**
- ii. **injury, damage, or death to any person or entity**
- iii. **attorneys fees, witness fees, expert witness fees and expenses, and**
- iv. **all other costs and expenses of litigation**

"Premise Defects" shall mean any defect, real or alleged, which now exists or which may hereafter arise upon the premises.

B. Indemnity

The Consultant shall, on a comparative basis, indemnify, hold harmless the City against liability for damage that is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed

by the Consultant or the Consultant's agent, or another entity over which the Consultant exercises control.

The Consultant is an independent contractor and is not, with respect to its acts or omissions, an agent or employee of the City.

Consultant must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of Consultant's employees while in the vicinity where the work is being done. The City is not liable or responsible for the negligence or intentional acts or omissions of the Consultant or Consultant's employees.

The City assumes no responsibility or liability for damages which are directly or indirectly attributable to premise defects. Responsibility for all such defects is expressly assumed by the Consultant.

The City and Consultant must provide the other prompt and timely notice of any covered event which in any way affects or might affect the Consultant or City. The City has the right to compromise and defend the same to the extent of its own interests.

X. INSURANCE

A. GENERAL REQUIREMENTS

The Consultant agrees to maintain the type and amounts of insurance required in this contract throughout the term of the agreement. The Consultant is solely responsible for providing the required certificates of insurance. The City may terminate this agreement if the Consultant fails to timely comply with the insurance requirements.

The required insurance must be issued by a company or companies of sound and adequate financial responsibility and authorized to do business in the State of Texas. All policies are subject to examination and approval by the City for their adequacy as to content, form of protection, and providing company.

The required insurance naming the City as additional insured must be primary insurance and not contributing with any other insurance available to City, under any third party liability policy.

Before the City executes the notice to proceed with any work under this agreement, the Consultant must provide the City Secretary with either an original certificate of insurance or a certified copy of the insurance policy evidencing the required insurance. Thereafter, the Consultant must furnish new certificates or copies of the policy before the expiration date.

Texas Labor Code Section 406.096 requires a city to ensure that contractors carry workers' compensation for each employee when the city is a party to any "building or construction contract." The code enumerates that "building and construction" includes:

(A) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;

(B) remodeling, extending, repairing, or demolishing a structure; or

(C) otherwise improving real property or an appurtenance to real property through similar activities.

B. ADDITIONAL REQUIREMENTS

The required liability insurances and their certificates must:

1. Name the City as an additional insured with respect to operations for which this agreement is made.
2. Provide for 30 days advance written notice of cancellation or material change.

C. TYPES AND AMOUNTS OF INSURANCE

The types of insurance required in this contract are those indicated by initials. If no initials appear on any of items 1 through 6, items 1 through 4 shall be required.

<u>Type</u>	<u>Amount</u>
<u>X</u> 1. Workers' Compensation Employer's Liability	Statutory \$100,000 per occurrence
<u>X</u> 2. Commercial (Public) Liability including, but not limited to: • Premises/Operations • Independent Contractors • Products/Completed Operations • Contractual Liability (insuring above indemnity) and where the exposures exist • Explosion Collapse and Underground	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
<u>X</u> 3. Business Automobile Liability to include coverage for: • Owned/Leased Autos • Non-Owned Autos • Hired Cars	\$500,000 combined single limit for bodily injury and property damage (per occurrence)
<u>X</u> 4. Professional Liability	\$500,000 combined single limit (per occurrence)

___ 5. See Addendum for Special Coverages and/or revisions

___ 6. No Insurance Required

XI. VENUE, CHOICE OF LAW AND INTERPRETATION

Venue for any cause of action arising under this contract is Taylor County, Texas. This contract is governed by the laws of the State of Texas both as to interpretation and performance. This contract shall, in any dispute over its meaning or application, be interpreted fairly and reasonably, and not more strongly for or against either party.

XII. TERMINATION

This contract may be terminated at any time upon seven (7) days written notice by City to Consultant. In the event of termination, Consultant will be compensated for work satisfactorily performed before the termination date.

If, through any cause, the Consultant fails to fulfill its obligations under this contract, or if the Consultant violates any of the agreements of this contract, the City has the right to terminate the contract by giving (5) five days written notice to the Consultant. The Consultant will be compensated for work satisfactorily performed before the termination date.

The Consultant, however, is not relieved of liability to the City for damages sustained by the City because of any breach of contract by Consultant. The City may withhold any payments to Consultant for the purpose of setoff until the exact amount of damages due the City from the Consultant is determined and paid.

If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of the Consultant, the Consultant may terminate this Agreement by giving not less than seven (7) days' written notice. If stoppages occur in excess of ninety (90) days, there will be a re-start fee equal to 5% of fees earned to the point the team was notified in writing to stop.

If the Owner suspends the Project, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's fees for the remaining services and the time schedules shall be equitably adjusted.

XIII. PROJECT REPRESENTATION

The City agrees to appoint a Project Representative to assist in obtaining information from various City departments as requested by Consultant and in coordinating, monitoring, and evaluating the project to its completion. The Project Representative has no control over the means,

methods, techniques, or procedures employed by Consultant. The City is interested only in the results obtained under this contract; the manner and means of obtaining those results is solely under the Consultant's control.

XIV. NOTICE

All notices must be in writing, hand-delivered or mailed by certified mail, to the other party at the address below. The name and address for notification may be changed by notice to the other party.

City – ATTN:
Michael Rice
PO Box 60
Abilene, TX 79604

Consultant – ATTN:
Joseph L. Hilliard, AIA
BOKA Powell, LLC
8070 Park Ln, Ste 300, Dallas, TX 75231

XV. COMPLIANCE WITH LAWS, CHARTER, ORDINANCES

Consultant, its agents, employees and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Abilene, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies. Consultant must obtain all necessary permits and licenses required in completing the work contracted for in this agreement.

XVI. NO INDEBTEDNESS

Consultant agrees that no payments owed by him of any nature whatsoever to the City, including payment in advance for service charges or any sums of any character whatsoever, shall become delinquent or in arrears.

The City will not knowingly award contracts for goods or services to any bidder in arrears to the City for any debt, claim, demand, or account whatsoever, including taxes, penalty and interest. Consultant is responsible for ensuring that no indebtedness exists.

Section 130 of the City Charter authorizes the City to counterclaim and offset against any debt, claim, demand or account owed by the City to any person, firm or corporation in arrears to the City for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest.

XVII. EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of the City to recruit, employ, and to provide compensation, promotion, and other conditions of employment without regard to race, color, religion, sex, age, national origin, or disability. The City affirms that employment decisions shall be made only on the basis of bona fide occupational qualifications. The City shall continually review its employment practices and

personnel procedures and take positive steps to assure that equality of employment opportunity in the City of Abilene, Texas, is a fact as well as an ideal.

XVIII. VERIFICATION OF EMPLOYMENT ELIGIBILITY

Consultant must comply with the Immigration Reform and Control Act (IRCA) and may not knowingly obtain labor or services of an unauthorized alien. Consultant -- not City -- must verify eligibility for employment as required by IRCA.

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The City hereby gives notice that Minority and Women Business Enterprises will be afforded equal opportunities to submit bids in for this contract and will not be discriminated against on the grounds of race, ethnicity, color, sex, religion or national origin in awarding the contract. Technical assistance is available to Minority and Women Business Enterprises through the Texas Tech University Small Business Development Center, 749 Gateway St., #301, Building C, Abilene, Texas, 79602, 325-670-0300.

XX. SALES TAX

The City qualifies as an exempt agency under the Texas Limited Sales, Excise and Use Tax Act (the "Tax Act"), and is not subject to any State or City sales taxes on materials incorporated into the project. Labor used in the performance of this contract is also not subject to State or City sales taxes. The City will provide an exemption certificate to the Consultant. The Consultant must have a sales tax permit issued by the Comptroller of Public Accounts and shall issue a resale certificate complying with the Tax Act, as amended, when purchasing said materials. The Consultant is responsible for any sales taxes applicable to equipment purchases, rentals, leases, consumable supplies which are not incorporated into the project, tangible personal property purchased for use in the performance of this contract and not completely consumed, or other taxable services used to perform this contract, or other taxes required by law in connection with this contract.

XXI. LEGAL CONSTRUCTION

In the event that any one or more of the provisions contained in this Contract is for any reason held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability will not affect any other provisions, and the Contract will be construed as if the invalid, illegal, or unenforceable provision had never been contained in it.

XXII. BOYCOTT OF ISRAEL

In accordance with Chapter 2270, Texas Government Code, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

This section only applies to a contract that: (a) is between a governmental entity and a company with 10 or more full-time employees, and (b) has a value of \$100,000 or more that is to be paid wholly or partly from public funds of the governmental entity. Additionally, “company” does not include a sole proprietorship.

If this section is applicable, the signatory executing this contract on behalf of company verifies that the company does not boycott Israel and will not boycott Israel during the term of this contract.

XXIII. SECTIONS AND OTHER HEADINGS

Section, paragraph, and other headings contained in this Contract are for reference purposes only and do not affect in any way the meaning or interpretation of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in two or more counterparts (including fax, email, or electronic PDF counterparts), each of which shall be deemed an original and all of which together shall constitute one instrument.

{Remainder of Page Intentionally Left Blank—Signature Page Follows}

IN WITNESS HEREOF, the parties hereto have executed this contract effective as of the date written above:

CITY OF ABILENE

BOKA POWELL, LLC

a Texas limited liability company

By: _____

By: _____

Name: Robert Hanna

Name: Donald R. Powell, Jr., FAIA

Title: City Manager

Title: Member

Address: 8070 Park Ln, Ste 300, Dallas, TX
75231

Phone Number: 972-701-9000

Federal Tax ID#: 75-2850109

ATTEST:

City Secretary

APPROVED:

By: _____
City Attorney

ATTACHMENT A

Scope of Services

BOKA Powell's services shall be provided in consecutive phases as described below. Basic Services include Architectural and engineering services provided by engineering sub-consultants. The engineering services for Basic Services in this proposal include MEP (mechanical, electrical, and plumbing), Civil, and Landscape. The project will be documented utilizing BIM software.

1. Contract Documents (herein "CD" or "CD's")

Based on the approved design development drawings and approved GMP, BOKA Powell and the consultant team will prepare Contract Documents and Specifications for the purposes of construction. BOKA Powell will review, and coordinate documents prepared by the project consultants for incorporation into the contract documents.

2. Bidding and Negotiating (herein "BN")

BOKA Powell will assist in pre-bid conference(s) with prospective bidders and respond in writing during the bid period to all questions and clarifications raised. Coordinate with the general contractor to identify long lead items and establish pre-purchase package for these items. Prepare and issue addenda as necessary. Assist and advise the owner in the analysis of cost quotes, bids and/or proposals, and the content, issuance and/or awarding of final contracts and purchase orders. Assist and advise the owner in negotiations with successful contractor. Advise the owner on selection of substitutions and alternatives.

3. Construction Administration (herein "CA")

BOKA Powell will observe the development and progress of the work to verify that work is being constructed in accordance with the contract documents and approved shop drawings. Periodic site visits will be made as required, depending upon the stage of construction, to determine if the work complies with the statutory requirements for the State of Texas and in accordance with the contract documents.

ADDITIONAL SERVICES / SPECIFIC EXCLUSIONS

1. Additional in-house rendered views may be provided for a lump sum fee of \$3,500.00 ea.
2. Out-of-House renderings, models and graphics.
3. Additional consultants such as soil testing, structural, environmental, and any additional outside consultants that may be required by the project.
4. Cost Estimating including Statement of Probable Cost and Project Scheduling services.
5. Project Management Services (Design Team Management Services included).
6. Site Visits during the CA Phase in addition to those included in Basic Services or site visits related to owner or general contractor initiated changes.

7. A/E Services for value engineering requested by the owner which exceeds 3% of the A or E fees earned @ any month on a cumulative basis.
8. Fees are based on standard delivery method. Fast Track Schedule or early packages for permitting or bidding are not included but can be provided for as additional services.
9. Fees are based upon no stoppages once the A/E team receives "Notice to Proceed". If stoppages occur in excess of 90 days, there will be a re-start fee equal to 5% of fees earned to the point the team was notified in writing to stop.
10. F.F. & E. Design, Selection, and Procurement.

-END-

ATTACHMENT B

COMPENSATION PAYMENT SCHEDULE

Compensation shall be a fixed fee of **\$59,300.00**.

Invoices will be issued monthly based on the percentage complete of Basic Services on behalf of the project, any additional services on an hourly basis, and reimbursable expenses incurred during the previous month. Payment for services and reimbursable expenses will be due within thirty (30) days of Owner's receipt of invoice. Invoices remaining unpaid for an additional thirty days (total of sixty (60) days) will result in a suspension of work pending receipt of payment or mutually acceptable settlement.

COMPENSATION FOR ADDITIONAL SERVICES

Additional Services shall be billed on an hourly basis at our Standard Rates.

Standard Hourly Rates

Principal I.....	\$ 300.00
Principal II	\$ 250.00
Associate Principal.....	\$ 200.00
Sr. Project Manager	\$ 185.00
Sr. Project Architect	\$ 185.00
Sr. Project Designer	\$ 185.00
Sr. Interior Project Manager	\$ 165.00
Sr. Interior Project Designer	\$ 165.00
Project Manager.....	\$ 160.00
Project Architect	\$ 160.00
Project Designer.....	\$ 160.00
Construction Administrator	\$ 160.00
Graphic Designer	\$ 160.00
Interior Project Manager	\$ 140.00
Interior Project Designer	\$ 140.00
Professional Staff III.....	\$ 120.00
Professional Staff II	\$ 105.00
Professional Staff I.....	\$ 90.00
Administrative	\$ 75.00

ATTACHMENT C

STATE MANDATED WORKERS' COMPENSATION INSURANCE LANGUAGE

THIS ATTACHMENT IS ONLY APPLICABLE IF WORKERS' COMPENSATION COVERAGE IS PROVIDED

a. Definitions

Certificate of coverage ("certificate") - a copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the Professional's/person's work on the project has been completed and accepted by the City.

Persons providing services on the project ("subcontractors" in 406.096) - includes all persons or entities performing all or part of the services the Professional has undertaken to perform on the project, regardless of whether that person contracted directly with the Professional and regardless of whether that person has employees. This includes, without limitation, independent contractors, subprofessionals, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitations, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

- b. The Professional shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the Professional providing services on the project, for the duration of the project.
- c. The Professional must provide a certificate of coverage to the City prior to being awarded the contract.
- d. If the coverage period shown on the Professional's current certificate of coverage ends during the duration of the project, the Professional must, prior to the end of the coverage period, file a new certificate of coverage with the City showing that coverage has been extended.
- e. Professional shall obtain from each person providing services on a project and provide to City:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the City will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven (7) days after receipt by the Professional, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

- f. The Professional shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.
- g. The Professional shall notify the City in writing by certified mail or personal delivery, within ten (10) days after the Professional knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- h. The Professional shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- i. The Professional shall contractually require each person with whom it contracts to provide services on a project to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the Professional, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing service on the project, for the duration of the project;

(3) provide the Professional, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the Professional:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the City in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing service on the project;

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

j. By signing this contract or providing or causing to be provided a certificate of coverage, the Professional is representing to the City that all employees of the Professional who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Professional to administrative penalties, criminal penalties, civil penalties, or other civil actions.

k. The Professional's failure to comply with any of these provisions is a breach of contract by the Professional which entitles the City to declare the contract void if the Professional does not remedy the breach within ten (10) days after rec

Professional Services Agreement with BOKA Powell, LLC





Professional Services Agreement with BOKA Powell, LLC

Questions





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **12. Ordinance (First Reading) Z-2022-28: Receive a Report, Hold a Discussion, and Take Action on a Request from Buffalo Gap I & E, Represented by Harris Acoustics, to Change the Zoning of Approximately 5.83 Acres *Located at 888 Ben Richey Drive* from Agricultural Open (AO) to Heavy Commercial (HC).
*(Tim Littlejohn)***

GENERAL INFORMATION

The request is to rezone approximately 5.8 acres from Agricultural Open (AO) to Heavy Commercial (HC). The owner intends to use the property for commercial purposes. The subject property is located at 888 Ben Richey Drive and is legally described as Lot 1, Block A of the Baacks Subdivision.

SPECIAL CONSIDERATIONS

The subject property was annexed in 1963. The existing building was constructed in 2003 and was used for automotive repairs. Amendments to the Zoning Ordinance and Land Development Code no longer allowed most commercial uses in the AO zoning district, resulting in the use being grandfathered. The grandfathered use has ceased to exist for more than six months, so that use is considered by the LDC to have been abandoned. The owner is requesting HC rezoning to allow a variety of commercial uses.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 6-0.

ATTACHMENTS:

1. Z-2022-28 Ordinance
2. Z-2022-28 Staff Report
3. Responses
4. Z-2022-28 Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 15th day of December, 2022

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19th day of November 2022, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 12th day of January 2023, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 12th day of January, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

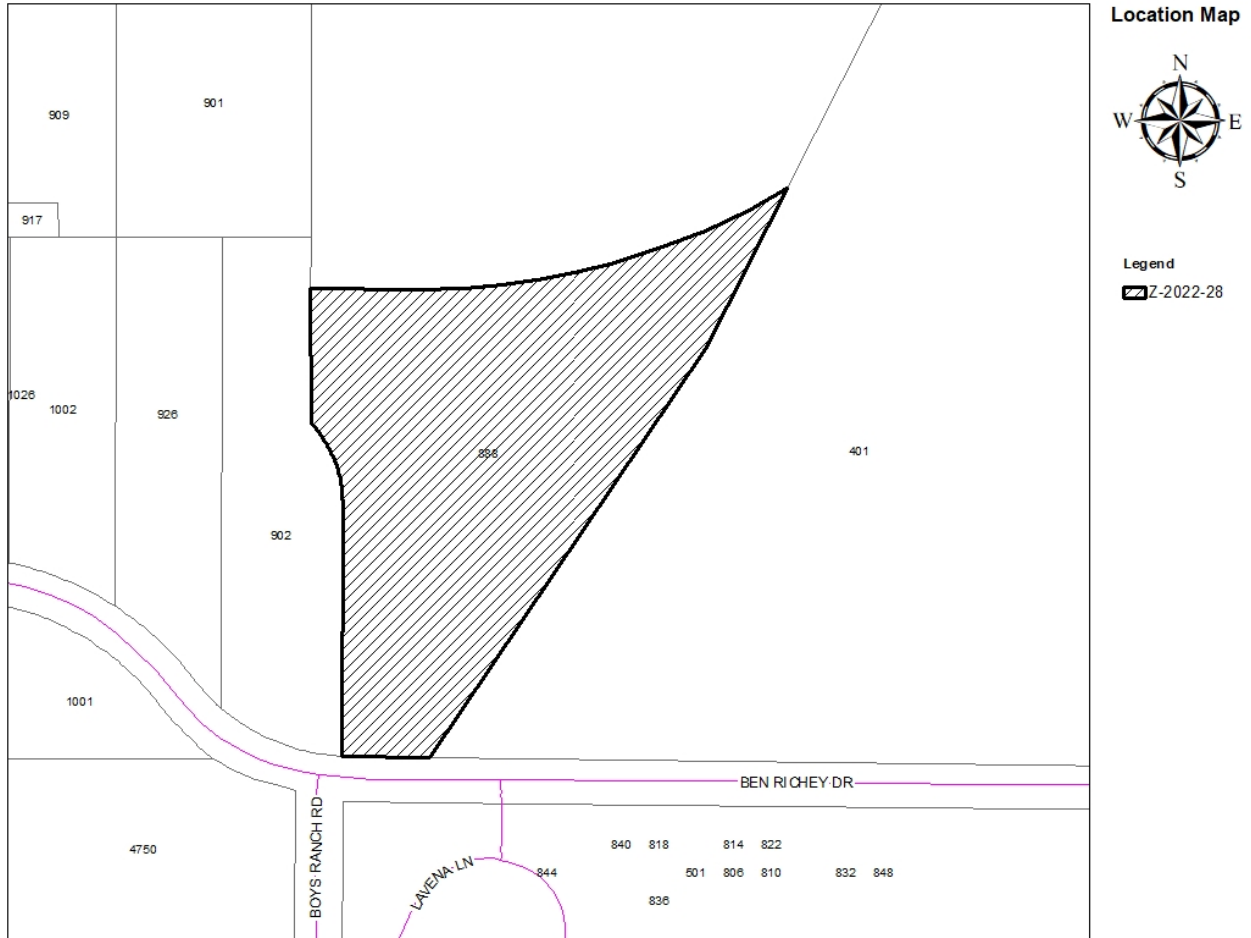
CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Change the zoning classification of the following described land, from an Agricultural Open (AO) district to a Heavy Commercial (HC) District:

Location: Lot 1, Block A, Baacks Subdivision



END

ZONING CASE Z-2022-28

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: December 6, 2022

City Council 1st Reading: December 15, 2022

City Council 2nd Reading: January 12, 2023

Applicant

Owner: Buffalo Gap I&E

Agent: Harris Acoustics

Case Manager

Adam Holland – Planner I

Request

Rezoning of approximately 5.8 acres from Agricultural Open (AO) to Heavy Commercial (HC). The owner intends to use the property for commercial purposes.

Location

The subject property is located at 888 Ben Richey Drive and is legally described as Lot 1, Block A of the Baacks Subdivision.

Background

- The subject property was annexed in 1963.
- The existing building was constructed in 2003 and was used for automotive repairs.
- Amendments to the Zoning Ordinance and Land Development Code no longer allowed most commercial uses in the AO zoning district, resulting in the use being grandfathered.
- The grandfathered use has ceased to exist for more than six months, so that use is considered by the LDC to have been abandoned.
- The owner is requesting HC rezoning to allow a variety of commercial uses.

Zoning, Existing and Proposed Land Use

Heavy Commercial (HC) zoning is located west of the subject property. Light Industrial and Heavy Industrial zoning districts are located across Ben Richey Drive to the west. To the northeast and east is an Agricultural Open zoning district. The Ben Richey Boys Ranch is immediately south of the subject property.

Comprehensive Plan (Future Land Use Map)

The 100-year floodplain covers the northern portion of the subject site. The existing building is located just south of the floodplain. The attached exhibit shows the subject site and 100- and 500-year floodplain boundaries. The floodplain information is noteworthy because it was a factor in the Future Land Use Map use recommendation of open space for the subject site. Development in the 100- and 500-year floodplains is permitted.

When Future Land Use Maps are created, it is not typical for the authors to review individual properties when considering boundaries between different land uses, but rather to generalize those boundaries. Had that level of detail been considered for this site, it's likely that the commercial use boundary on the lot to the immediate west would have been extended to include the subject site.

Based on those circumstances, the request, if approved, would be generally consistent with the spirit and intent of the Future Land Use Map, the zoning of properties to the immediate west, and the historic use of the site.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.**

As described in detail above, the proposed request would be generally consistent with the spirit and intent of the Comprehensive Plan and Future Land Use Map (FLUM) and would establish the appropriate boundary between commercial and open space development.

- (2) Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

The proposed Heavy Commercial (HC) is consistent with zoning immediately west of this site and is appropriate given the close proximity of industrial development to the south/southwest.

- (3) Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

This property has access to all required utilities.

- (4) Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

None.

P&Z Recommendation

The Commission recommends **approval**.

Notification

X – Not applicable

O – Opposed

F – In favor

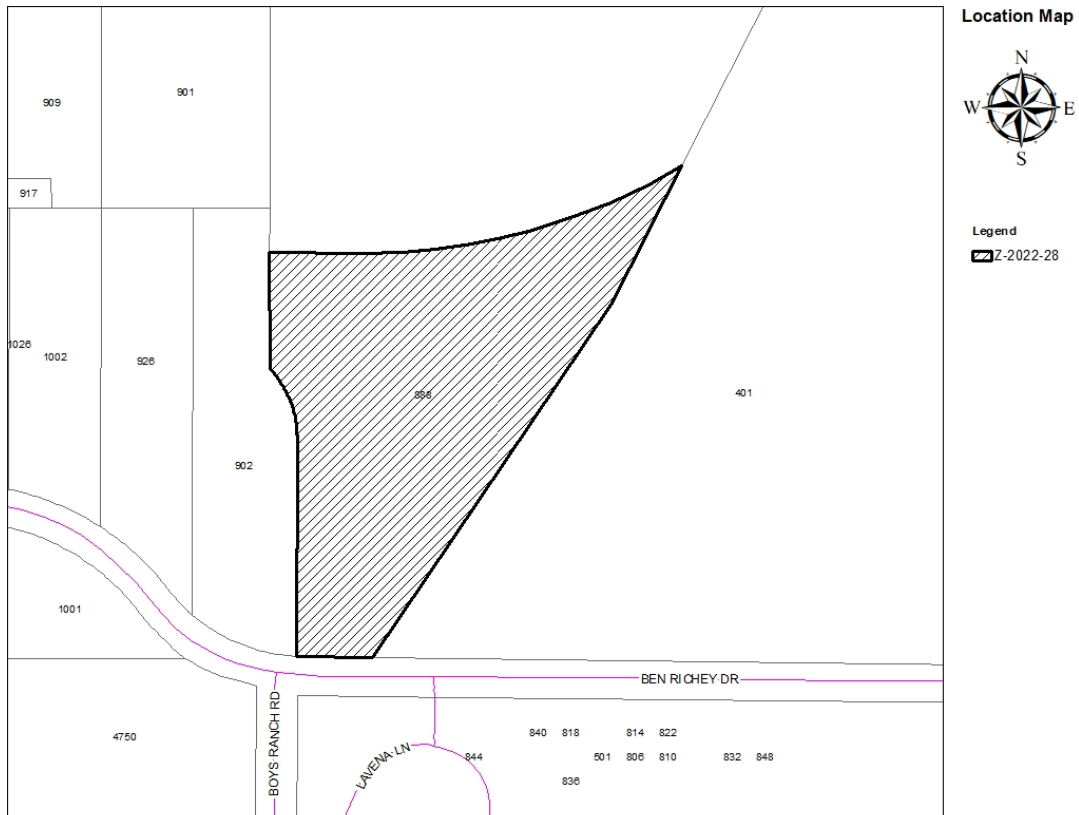
Owner

Owner	Property ID	Situs	Response
ABILENE ASSET MANAGEMENT LLC	77199	4750 BOYS RANCH RD	
ARRINGTON RICHARD SHANE &	72566	901 PETROLEUM DR	
ARRINGTON RICHARD SHANE &	21525		
CITY OF ABILENE	68390	501 BEN RICHEY DR	X
PAK HARRIS ENTERPRISES LTD	10185	902 BEN RICHEY DR	F
PAK HARRIS ENTERPRISES LTD	10079	926 BEN RICHEY DR	F
PAK HARRIS ENTERPRISES LTD	76201	1001 BEN RICHEY DR	F
PITTMAN HERB	21526	888 BEN RICHEY DR	
SHOOK MARKLIN ROBERT	1079223	401 BEN RICHEY DR	

Property ID

Owner	Property ID	Situs	Response
PAK HARRIS ENTERPRISES LTD	10079	926 BEN RICHEY DR	F
PAK HARRIS ENTERPRISES LTD	10185	902 BEN RICHEY DR	F
ARRINGTON RICHARD SHANE &	21525		
PITTMAN HERB	21526	888 BEN RICHEY DR	
CITY OF ABILENE	68390	501 BEN RICHEY DR	X
ARRINGTON RICHARD SHANE &	72566	901 PETROLEUM DR	
PAK HARRIS ENTERPRISES LTD	76201	1001 BEN RICHEY DR	F
ABILENE ASSET MANAGEMENT LLC	77199	4750 BOYS RANCH RD	
SHOOK MARKLIN ROBERT	1079223	401 BEN RICHEY DR	

LOCATION MAP



ZONING MAP



EXISTING FLOODPLAIN/ZONING BOUNDARIES

ArcGIS Web Map



12/1/2022, 2:14:48 PM

 Zoning Districts  Flood Layer  500 Year .2%  100 Year 1%

1:1,128
0 0.01 0.03 0.05 mi
0 0.01 0.03 0.05 km
City of Atlanta, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin,
GeoTechnology, Inc., USGS, EPA, USDA
ArcGIS Web AppBuilder
City of Atlanta, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, GeoTechnology, Inc., USGS, EPA, USDA



PAK HARRIS ENTERPRISES LTD
PO BOX 5615
ABILENE, TX 79608-5615

NOTICE OF PUBLIC HEARING

RE: Zoning Application Number Z-2022-28

11/21/2022

The Planning and Zoning Commission will hold a public hearing on **December 6, 2022 at 1:30 PM**, in the Council Chambers at 555 Walnut St. in Abilene, Texas vote to recommend approval or denial to City Council on a request from Buffalo Gap I & E, represented by Harris Acoustics, to change the zoning of approximately 5.83 acres from Agricultural Open (AO) to Heavy Commercial (HC). Legal description being Lot 1, Block A Baacks Subdivision, Abilene in Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **January 12, 2023 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Adam Holland at telephone 325-676-6230 or by email address planning@abilenetx.gov

For the PLANNING & ZONING COMMISSION

Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2022-28

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: PAK HARRIS ENTERPRISES LTD

Parcel I.D.: 76201

Address: 1001 BEN RICHEY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: _____



PAK HARRIS ENTERPRISES LTD
PO BOX 5615
ABILENE, TX 79608-5615

NOTICE OF PUBLIC HEARING

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11/21/2022

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For the PLANNING & ZONING COMMISSION
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You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: PAK HARRIS ENTERPRISES LTD
Parcel I.D.: 10079
Address: 926 BEN RICHEY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: _____



PAK HARRIS ENTERPRISES LTD
PO BOX 5615
ABILENE, TX 79608-5615

NOTICE OF PUBLIC HEARING

RE: Zoning Application Number Z-2022-28

11/21/2022

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This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

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For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: Z-2022-28

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: PAK HARRIS ENTERPRISES LTD
Parcel I.D.: 10185
Address: 902 BEN RICHEY DR

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☒

I am opposed ☐

Additional Comments:

Signature: _____

A handwritten signature in blue ink, appearing to be "PAK HARRIS", is written over a horizontal line.



REZONE REQUEST

Case: Z-2022-28

Owner: Buffalo Gap Instrumentation and Electrical Co.

Agent: Harris Acoustics

Request: Rezoning from AO to HC

Location: 888 Ben Richey Drive

Notification: 3 in Favor, 0 Opposed

Planning & Zoning: December 6, 2022

City Council Hearing: December 15, 2022
January 12, 2023





Z-2022-28 LOCATION MAP



Location Map



Legend

- Z-2022-28
- CourierParcels



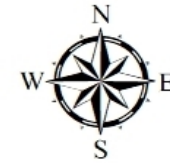
CITY OF
ABILENE
TEXAS



Z-2022-28 ZONING MAP



Zoning Map



Legend

- Z-2022-28
- Collector
- Collector
- AO - Agricultural Open Space
- HC: Heavy Commercial
- LI: Light Industrial
- HI: Heavy Industrial
- PD: Planned Development



CITY OF
ABILENE
TEXAS

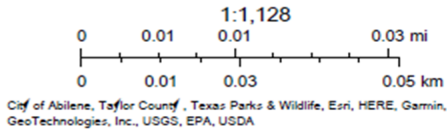


Z-2022-28 FLOODPLAIN/ZONING MAP



12/1/2022, 2:14:48 PM

 Zoning Districts  Flood Layer  500 Year .2%  100 Year 1%



ArcGIS Web AppBuilder
City of Abilene, Taylor County, Texas Parks & Wildlife, Esri, HERE, Garmin, GeoTechnologies, Inc., USGS, EPA, USDA



CITY OF
ABILENE
TEXAS



Permitted Uses in AO Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden



LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Permitted Uses in HC Zoning

RESIDENTIAL USES:

C	Hotel/Motel
<u>ACCESSORY AND INCIDENTAL USES:</u>	
P	Accessory Structure (Also see Division 4 of this article)
P	Antenna, Non-Commercial/Amateur
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Drive-Through Facility
TP	Field Office or Construction Office (temporary)
P	Freight Container
P	Fuel Sales
TP	Itinerant Business
P	Manufacturing (incidental)
C	Mobile Home (permanent security residence)
TP	Mobile Home (temporary security residence)
P	Mobile Home or Temporary Building (office for sales and service)
P	Recycling Collection Point
C	Travel Trailers (accessory to hospitals)
P/SE	Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

C	Adult Entertainment Enterprise
P	Civic, Social, and Fraternal Organization
P	Cultural Facilities
P	Drive-in Theater
C	Motorized Racing
P	Recreation – Outdoors (active)
P	Recreation – Outdoors (passive)
P	Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

P	Ambulance Service
C	Correction, Detention, or Penal Facilities
P	Fire/Police Station
P	Homeless/Emergency Shelter
P	Hospital
P	Medical/Dental Laboratory
P	Military and Armed Forces Reserve Center
P	Post Office
P	Rehabilitation Facility
C	Sanitary Landfill
P	Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

P	Arts School
C	Cemetery, Crematorium, and Mausoleum
P	Church or Place of Worship
P	Educational and Scientific Research
P	School: Public/Private
P	Trade/Business School

SERVICE

P/C	Automobile Wash
P	Contractor Services
P	Funeral Home/ Mortuary/Morgue
P	Kennel (With Outdoor Pens)
P	Kennel (Without Outdoor Pens)
P	Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
P	Laundry/Dry Cleaning Services & Facilities
P	Office (general, professional, financial)
P	Printing, Copying, Reproduction, Publishing
P	Recycling Collection and Processing Center
P	Repair and Maintenance Services - Automobile/Small Truck (major)
P	Repair and Maintenance Services - Automobile/Small Truck (minor)
P	Repair and Maintenance Services (indoor)
P	Repair and Maintenance Services (outdoors)
P	Repair and Maintenance Services (truck and other large vehicles)
P	Scales (public)
P	Storage - Self-Service Units
P	Tattoo Parlor
P	Taxidermist
P	Veterinary Service (all size animals)
P	Veterinary Service (small animals)
P	Wrecker/Towing

TRADE – RETAIL USES

P	Aircraft and Accessories
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Fuel Sales
P	Head Shop
P	Liquor Store (Off Premises Consumption) (Defined under Liquor Store)
P	Liquor Store (On Premises Consumption) (Defined under Liquor Store)
P	Restaurant, Brew Pub
P	Restaurant, Fast Food
P	Restaurant, Standard
P	Retail Sales/Rental (automobile/small truck)
P	Retail Sales/Rental (indoor)
P	Retail Sales/Rental (outdoors, non-vehicle)
P	Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

P	Liquor, Wholesale/Distribution
P	Wholesaling and Storage (indoor)
C	Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P	Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
C	Antenna Tower - Commercial
P	Automobile Parking Lot or Structure - Commercial
P	Broadcast Studio
P	Passenger Ground Transportation Terminal
P	Pressure Control Station
P	Public Utility Facility
C	Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

P	Petroleum or Gas Well
C	Manufacturing (light)
P	Urban Garden



CITY OF
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LEGEND

P	Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
C	Permitted as a Conditional Use Permit, Requiring Approval by City Council
TP	Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Z-2022-28 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES

West Neighboring Property



Subject Property



East Neighboring Property

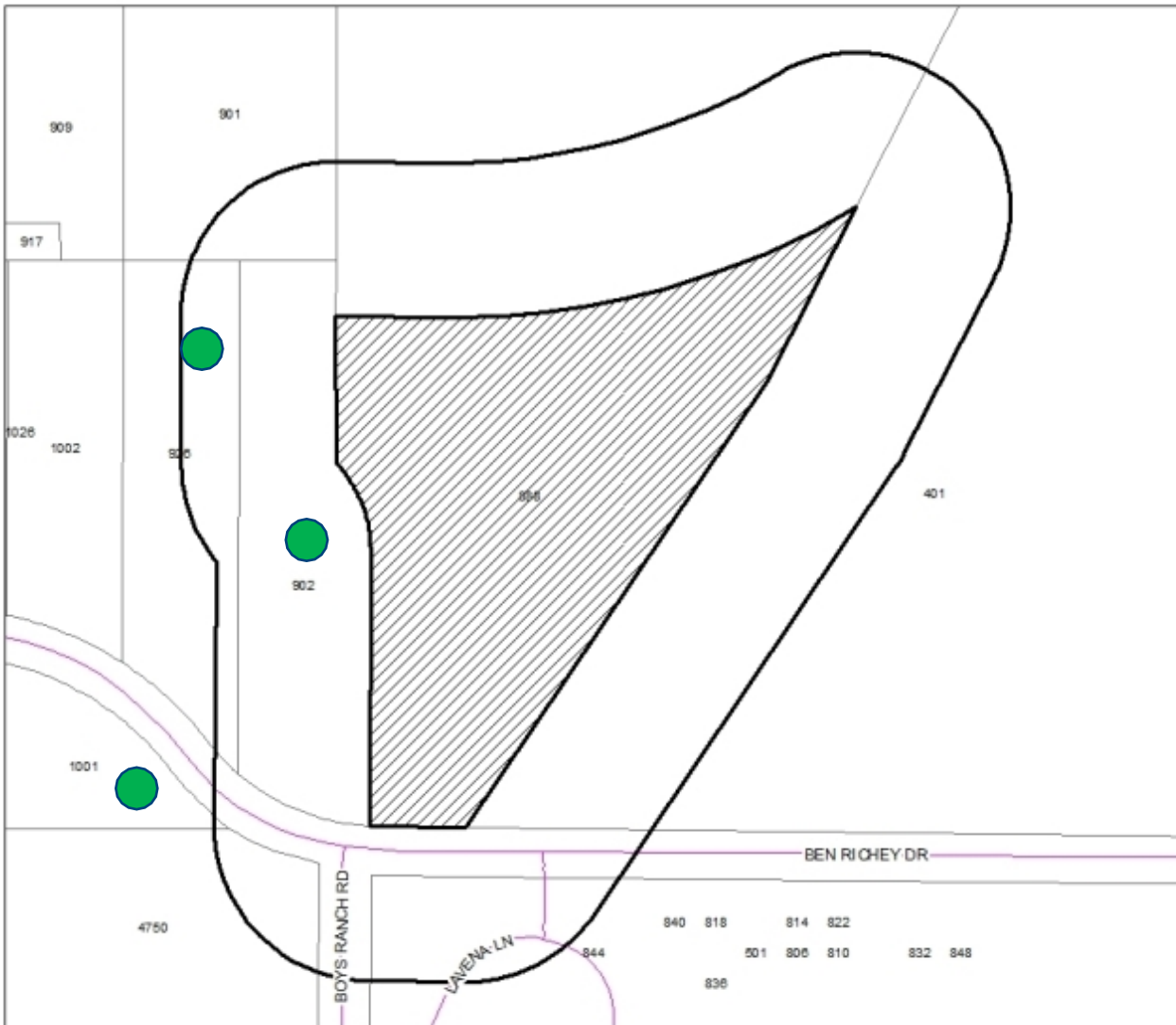


South Neighboring Property





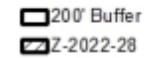
Z-2022-28 NOTIFICATION AREA MAP



Notification Map



Legend



3- In Favor-



0- Opposed-



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FINDINGS AND RECOMMENDATIONS

The proposed request for HC rezoning is *consistent* with:

- The surrounding uses and zoning;
- The spirit and intent of the Comprehensive Plan;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **13. Ordinance (First Reading) CUP-2022-11: Receive a Report, Hold a Discussion, and Take Action on a Request from Hallum, Represented by Art Attack Tattoo, for a Conditional Use Permit of Approximately 0.08 Acres Located at 226 Pine Street Zoned Central Business (CB) to Allow a Tattoo Parlor as a Permitted Use. (Tim Littlejohn)**

GENERAL INFORMATION

The request is for a Conditional Use Permit to approximately 0.08 acres of land in the Central Business District to allow a Tattoo Parlor located at 226 Pine Street.

SPECIAL CONSIDERATIONS

The subject property is located in the Original Town of Abilene. The applicant proposes to use a portion of the building at 226 Pine Street as a tattoo parlor. A Plan of Operation from the applicant describing the proposed use of the site is attached with this report.

This property is located in the Central Business district. Surrounding the subject site are the Abilene ISD building to the east, retail uses to the south, a restaurant to the west, and a brewery further south.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **approval**, subject to compliance with the proposed Plan of Operation.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of this request by a vote of 6-0.

ATTACHMENTS:

1. CUP-2022-11 Council Ordinance
2. CUP-2022-11 Staff Report
3. 241 Cypress
4. 241 Pine Street
5. CUP-2022-11 Presentation

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY APPROVING A CONDITIONAL USE PERMIT (CUP) AFFECTING CERTAIN PROPERTY; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by approving a Conditional Use Permit (CUP) as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto.

PASSED ON FIRST READING the 15th day of December 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 19th day of November 2022, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 12th day of January 2023, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 12th day of January 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. _____

EXHIBIT A

Approve a Conditional Use Permit (CUP) to allow a Tattoo Parlor to be located on property zoned Central Business (CB).

Subject to compliance with the attached Plan of Operation (Exhibit B)

Legal description being Lot 9, Block 8, Original Town of Abilene, City of Abilene, Taylor County, Texas.

Located at 226 Pine Street, Abilene, Taylor County, Texas.

EXHIBIT B

226 Pine Street
Art Attack Tattoo

Hours

Sun-Mon	Tues-Wed	Thur-Sat
Closed	1pm-9pm	1pm-12am

Services:

Tattooing

Piercing

Reasoning:

Desire a good, clean, safe enviroment for the establishment.

The block provides what is needed to establish a high end clientel base.

We seek to set the bar to a higher standard in the industry.

The area is perfect and we would eventually buy the building.

ZONING CASE CUP-2022-11

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: December 6, 2022

City Council 1st Reading: December 16, 2022

City Council 2nd Reading: January 12, 2023

Applicant

Owner: Cary Hallum

Agent: Art Attack Tattoo

Case Manager

Clarissa Ivey - Planner I

Request

A Conditional Use Permit to approximately 0.08 acres of land in the Central Business District to allow a Tattoo Parlor

Location

Lot 9, Block 8, Old Town Abilene, at 226 Pine Street

Background

The subject property is located in the Original Town of Abilene. The applicant proposes to use a portion of the building at 226 Pine Street as a tattoo parlor. A Plan of Operation from the applicant describing the proposed use of the site is attached with this report.

Zoning, Existing and Proposed Land Use

This property is located in the Central Business district. Surround the subject site are the Abilene ISD building to the east, retail uses to the south, a restaurant to the west, and a brewery further south.

Criteria Assessment

Staff has reviewed the request based upon the factors established in Section 1.4.3.5, Criteria for Approval, of the Land Development Code. These factors are identified and addressed below:

- 1. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan.**
The Future Land Use Map shows the subject site is within the Central Business district which encourages a multitude of different walkable uses.
- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations**
The proposed use is consistent with the surrounding zoning and is appropriate at this location.

3. **The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development-related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods.**

The use will be conducted indoors and should not negatively affect the surrounding uses.

4. **The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood.**

The Central Business District encourages walkable, pedestrian oriented uses and development.

5. **The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development-generated traffic on neighborhood streets.**

The proposed use does not generate a level of traffic that would adversely affect the existing road network in the vicinity of the subject site.

6. **The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties.**

The use will be conducted indoors and should not generate any visual impacts that would need to be mitigated.

7. **The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.**

The use would comply with all applicable LDC requirements. Site plan requirement was waived because all improvements are existing, and no new improvements are proposed.

P&Z Recommendation

The Commission recommends **approval**, subject compliance with the proposed Plan of Operation.

X – Not Applicable

O – Opposed

F – In Favor

Notification

Owner	Property ID	Situs	Response
ABILENE CITY OF	61712	209 CYPRESS ST	X
ABILENE IMPROVEMENT CORP	56726	101 CYPRESS ST	
ABILENE IMPROVEMENT CORP	56726	166 PINE ST	
ABILENE IND SCHOOL DISTRICT	60364	241 PINE ST	O
ABILENE MAJESTIC LLC SERIES J	60795	258 PINE ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	957 N 2ND ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	959 N 2ND ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	101 PINE ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	951 N 2ND ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	189 PINE ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	951 1/2 N 2ND ST	
BOWEN LATIMER M	61058	234 PINE ST	
CASTILLO TRES GENERACIONES LLC	61308	216 PINE ST	
HALLUM CARY E	61181	226 PINE ST	
KEY CITY FOODS LLC	62232	241 CYPRESS ST	F
KEY CITY FOODS LLC	62232	233 CYPRESS ST	F
LE MUSEE IMAGINAIRE INC	61848	1060 N 2ND ST	
MOTIS INVESTMENTS LLC	61436	202 PINE ST	
SILVERTHORNE INVESTMENTS LLC	1085040	244 PINE ST	
STATE NATIONAL BANK	60502	290 PINE ST	
STATE NATIONAL BANK	60656	266 PINE ST	
STATE NATIONAL BANK	62356	257 CYPRESS ST	
STATE NATIONAL BANK	62494	265 CYPRESS ST	
STATE NATIONAL BANK	62620	275 CYPRESS ST	
STATE NATIONAL BANK	62620	1049 N 3RD ST	
THIRD AND PINE LP	60220	993 N 3RD ST	
VAGABOND PIZZA LLC	61972	1056 N 2ND ST	
VLETAS JODY KLOTZ	61847	1080 N 2ND ST	
VLETAS JODY KLOTZ	62096	233 N 2ND ST	

Owner	Property ID	Situs	Response
ALEXANDER TRUST REAL ESTATE LLC	55174	957 N 2ND ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	959 N 2ND ST	
ALEXANDER TRUST REAL ESTATE LLC	55174	101 PINE ST	
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ABILENE IMPROVEMENT CORP	56726	166 PINE ST	
THIRD AND PINE LP	60220	993 N 3RD ST	
ABILENE IND SCHOOL DISTRICT	60364	241 PINE ST	O
STATE NATIONAL BANK	60502	290 PINE ST	
STATE NATIONAL BANK	60656	266 PINE ST	
ABILENE MAJESTIC LLC SERIES J	60795	258 PINE ST	
BOWEN LATIMER M	61058	234 PINE ST	
HALLUM CARY E	61181	226 PINE ST	
CASTILLO TRES GENERACIONES LLC	61308	216 PINE ST	
MOTIS INVESTMENTS LLC	61436	202 PINE ST	
ABILENE CITY OF	61712	209 CYPRESS ST	X
VLETAS JODY KLOTZ	61847	1080 N 2ND ST	
LE MUSEE IMAGINAIRE INC	61848	1060 N 2ND ST	
VAGABOND PIZZA LLC	61972	1056 N 2ND ST	
VLETAS JODY KLOTZ	62096	233 N 2ND ST	
KEY CITY FOODS LLC	62232	241 CYPRESS ST	F
KEY CITY FOODS LLC	62232	233 CYPRESS ST	F
STATE NATIONAL BANK	62356	257 CYPRESS ST	
STATE NATIONAL BANK	62494	265 CYPRESS ST	
STATE NATIONAL BANK	62620	275 CYPRESS ST	
STATE NATIONAL BANK	62620	1049 N 3RD ST	
SILVERTHORNE INVESTMENTS LLC	1085040	244 PINE ST	

LOCATION MAP



ZONING MAP



planning@ablienetx.gov

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

CASE #: CUP-2022-11

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below.
You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@ablienetx.gov

Name: KEY CITY FOODS LLC
Parcel I.D.: 62232
Address: 241 CYPRESS ST

I am in favor ☒ I am opposed ☐

Additional Comments:

Signature: _____

Heather Katelyn



ABILENE IND SCHOOL DISTRICT
BOARD OF TRUSTEES
PO BOX 981
ABILENE, TX 79604-0981

NOTICE OF PUBLIC HEARING

RE: Conditional Use Permit Application Number CUP-2022-11

11/21/2022

The Planning and Zoning Commission will hold a public hearing on **December 6, 2022 at 1:30 PM**, in the Council Chambers at 555 Walnut St. in Abilene, Texas vote to recommend approval or denial to City Council on a request from Cary Hallum, represented by Art Attack Tattoo, for a Conditional Use Permit of approximately 0.08 acres zoned Central Business (CB) to allow a tattoo parlor as a permitted use. Legal description being Lot 9, Block 8, Original Town of Abilene, Abilene in Taylor County, Texas.

This hearing is open to any interested person. Opinions, objections and/or comments relative to this matter may be expressed in writing or in person at the hearing. At the bottom of this letter is a form that you may cut off, fill out, and mail. Comments are also accepted by email as indicated below. All written responses must be signed.

The attached map shows the area of this request. Only the area highlighted by striped lines shown on that map is being considered for a change of zoning. The solid boundary line surrounding this subject area is only a notification area. If approved by the Planning and Zoning Commission, or if denied and promptly appealed to Abilene's City Council, this case will be heard by City Council for 2nd and Final Reading with a public hearing on **January 12, 2023 at 8:30 AM** in Council Chambers on the second floor of City Hall, 555 Walnut Street.

If you have any questions, please contact Clarissa Ivey at telephone 325-676-6382 or by email address planning@abilenetx.gov

For the PLANNING & ZONING COMMISSION
Please call (325) 676-6237 if you have any questions about this notice.

DEC 5 AM 11:42

CASE #: CUP-2022-11

You may indicate your position on the above request by detaching this sheet at the dotted line and returning it to the address below. You may attach additional sheets if needed. You may also email your position to the email address listed below. All correspondence must include your name and address.

Name: ABILENE IND SCHOOL DISTRICT
Parcel I.D.: 60364
Address: 241 PINE ST

Mailing To: Planning and Development Services
P.O. Box 60, Abilene TX 79604-0060

Email: planning@abilenetx.gov

I am in favor ☐

I am opposed ☒

Additional Comments:

Signature:

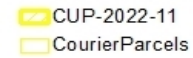

ASD TRUSTEE



CONDITIONAL USE PERMIT REQUEST

Case:	CUP-2022-11
Owner:	Cary E. Hallum
Agent:	Art Attack Tattoo
Request:	A Conditional Use Permit to allow a tattoo parlor in the CB zoning district
Location:	226 Pine Street
Notification:	2 in Favor, 1 Opposed
Planning & Zoning:	December 6, 2022
City Council Hearing:	December 15, 2022 January 12, 2023







CUP-2022-11 ZONING MAP



Zoning Map



Legend

- CUP-2022-11
- Minor Arterial
- CB: Central Business



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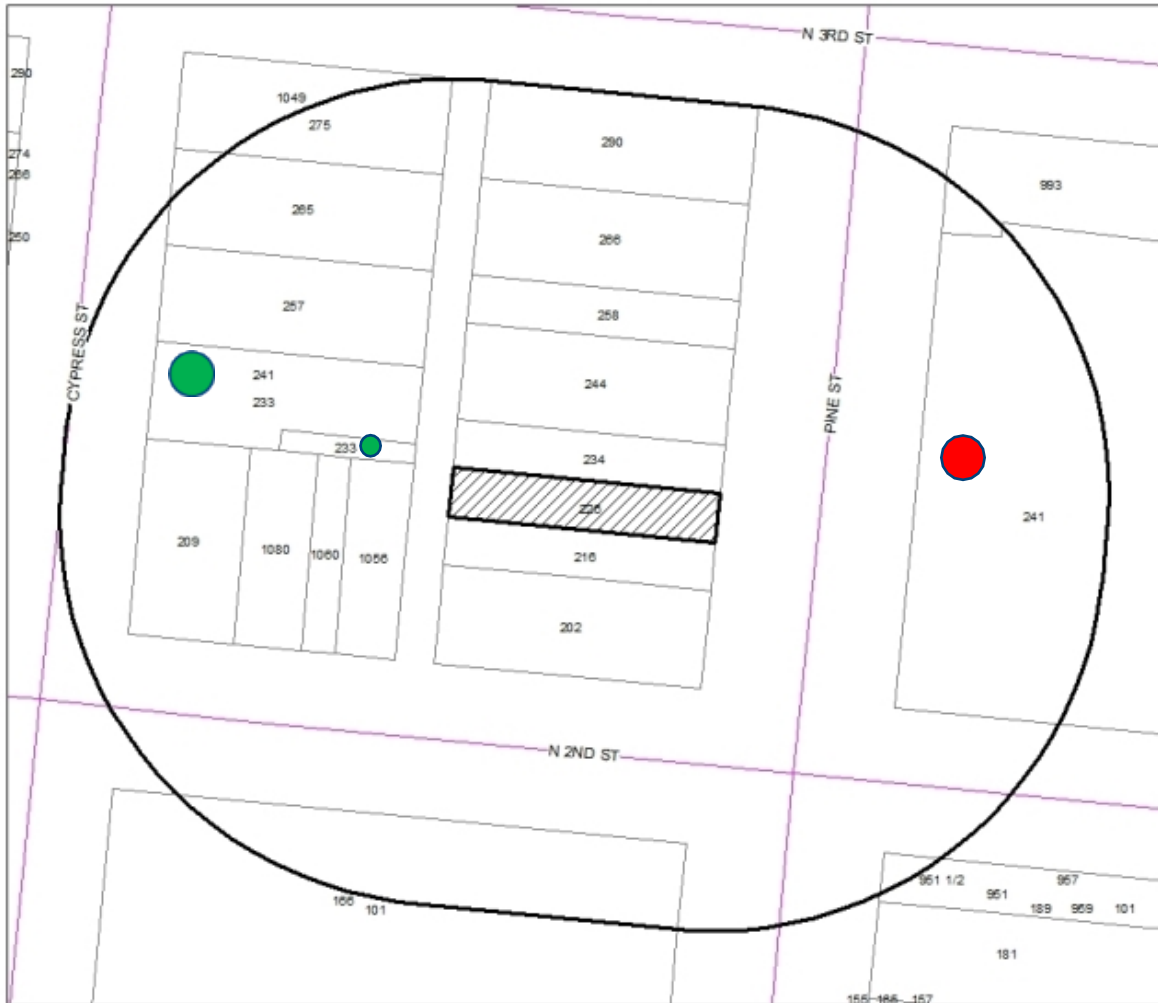


CUP-2022-11 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES





CUP-2022-11 NOTIFICATION AREA MAP



Notification Map



Legend

- 200' Buffer
- CUP-2022-11

2- In Favor-



1- Opposed-



11.21% Opposition



CITY OF
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FINDINGS AND RECOMMENDATIONS

The proposed request is consistent with:

- The *Comprehensive Plan*;
 - The surrounding uses and zoning;
 - Generally accepted planning principals; and
 - The Criteria for Approval in the LDC.
- P&Z Recommendation: **Approval**





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **14. Ordinance (First Reading):** Receive a Report, Hold a Discussion and Take Action on AMENDING CHAPTER 8, ARTICLE VI, "CODES AND OTHER REGULATIONS," DIVISION 1, "GENERALLY;" DIVISION 2, "BUILDING CODE;" DIVISION 3, "ELECTRICAL CODE;" DIVISION 4, "PLUMBING CODE;" DIVISION 5, "MECHANICAL CODE;" DIVISION 7, "RESIDENTIAL CODE;" DIVISION 8, "FUEL GAS CODE;" DIVISION 9, "ENERGY CODE;" DIVISION 10, "EXISTING BUILDING CODE;" ADDING DIVISION 11, "PROPERTY MAINTENANCE CODE;" ADDING DIVISION 12, "SWIMMING POOL AND SPA CODE;" AND DELETING IN ITS ENTIRETY CHAPTER 29.5 "SWIMMING POOLS AND SPAS" of the Code of Ordinances . (Tim Littlejohn)

GENERAL INFORMATION

An Ordinance adopting, with amendments, the 2021 International Building Code, the 2020 National Electrical Code, the 2021 International Plumbing Code, the 2021 International Mechanical Code, the 2021 International Residential Code, the 2021 International Fuel Gas Code, the 2021 International Energy Conservation Code, the 2021 International Existing Building Code, the 2021 International Property Maintenance Code, and the 2021 International Swimming Pool and Spa Code.

SPECIAL CONSIDERATIONS

The City will be adopting the International Property Maintenance Code and the International Swimming Pool and Spa Code for the first time.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Approval

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Ordinance Enacting Intl Codes
2. 2020 NEC Amendments
3. 2021 IEBC Amendments
4. 2021 IECC Amendments
5. 2021 IFGC Amendments
6. 2021 IMC Ammendments
7. 2021 IPC Amendments
8. 2021 ISPSC Amendments
9. IBC Final (2)
10. 2021 IBC attachment
11. IRC Final (2)
12. 2021 IRC attachments
13. Chapter_29.5___SWIMMING_POOLS_AND_SPAS delete redline
14. 2021 IPMC amendments
15. Building Code Adoption 2021 powerpoint

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 8, ARTICLE VI, "CODES AND OTHER REGULATIONS," DIVISION 1, "GENERALLY," ADDING SECTION 8-471, "PENALTIES FOR VIOLATION;" DIVISION 2, "BUILDING CODE," SECTION 8-481, "ADOPTED," SECTION 8-482 "AMENDMENTS," SECTION 8-483, "PENALTIES FOR VIOLATION;" DIVISION 3, "ELECTRICAL CODE" SECTION 8-496, "ADOPTED"; DIVISION 4, "PLUMBING CODE" SECTION 8-511 "ADOPTED;" DIVISION 5, "MECHANICAL CODE" SECTION 8-526, "ADOPTED;" DIVISION 7, "RESIDENTIAL CODE" SECTION 8-581, "ADOPTED;" DIVISION 8, "FUEL GAS CODE," SECTION 8-601, "ADOPTED;" DIVISION 9, "ENERGY CODE," SECTION 8-603, "ADOPTED;" DIVISION 10, "EXISTING BUILDING CODE" SECTION 8-612, "ADOPTED," SECTION 8-613, "PENALTIES FOR VIOLATION;" ADDING DIVISION 11, "PROPERTY MAINTENANCE CODE," SECTION 8-616, "ADOPTED;" ADDING DIVISION 12, "SWIMMING POOL AND SPA CODE," SECTION 8-620, "ADOPTED;" AND DELETING IN ITS ENTIRETY CHAPTER 29.5, "SWIMMING POOLS AND SPAS;" AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, there is a need to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, the current provisions of the Building Code, Electrical Code, Plumbing Code, Mechanical Code, Residential Code, Fuel Gas Code, Energy Code, and the Existing Building Code, adopting the 2012 International Codes and 2014 National Electrical Code, are no longer adequate to meet the needs of the community; and

WHEREAS, the 2021 International Codes and 2020 National Electrical Code are currently the standard used throughout other cities in Texas; and

WHEREAS, Section 8-482 governing temporary amusement buildings is no longer needed because the requirements for fire sprinklers in temporary amusement buildings are governed by the adopted International Fire Code; and

WHEREAS, Sections 8-483, 8-613 set forth criminal penalties for violations of the Building Code and Existing Building Code, respectively, but it is more expeditious to have one section establish criminal penalties for any violation of Article VI, and delete the text of 8-843 and 8-613; and

WHEREAS, it is in the best interest of the citizens of the City of Abilene to adopt the International Property Maintenance Code; and

WHEREAS, Chapter 29.5, Swimming Pools and Spas, is no longer needed because the adoption of the International Swimming Pool and Spa Code will regulate both public, private and residential facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- PART 1:** That Chapter 8, Article VI, Division 1 “Generally,” Division 2, “Building Code” Section 8-481, “Amendments” 8-482; Division 3, “Electrical Code” Section 8-496; “Plumbing Code” Section 8-511, “Mechanical Code” Section 8-526, “Residential Code” Section 8-581, “Fuel Gas Code” Section 8-601, “Energy Code” Section 8-603, and “Existing Building Code” Section 8-612 of the Code of Ordinances, City of Abilene, Texas, are hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That Chapter 8, Article VI, Division 11, “Property Maintenance Code” Section 8-616 is hereby added as set out in Exhibit B, attached and made part of this ordinance for all purposes.
- PART 3:** That Chapter 29.5, “Swimming Pools and Spas” be deleted in its entirety, and Chapter 8, Article VI, Division 12, “Swimming Pool and Spa Code” Section 8-620 is hereby added as set out in Exhibit C, attached and made part of this ordinance for all purposes
- PART 4:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 5:** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code.
- PART 6:** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 15th day of December, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 8th day of January, 2023, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 12th day January, 2023, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 12th day of January, 2023.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

CHAPTER 8. CONSTRUCTION REGULATIONS

ARTICLE VI. CODES AND OTHER REGULATIONS

DIVISION 1. GENERALLY

Sec. 8-471 Penalties for violation.

Any person violating the provisions of this article, or any amendment thereto, shall be punished as provided by section 1-9 of this Code.

DIVISION 2. BUILDING CODE

Sec. 8-481. Adopted.

The International Building Code, 2012 2021 edition, published by the International Code Council, Inc., together with a building code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the building code for the City, and is hereby incorporated herein. The building code pamphlet, along with the International Building Code, are on file in the Building Official's and City Secretary's offices.

Sec. 8-482. - ~~Amendments.~~ Reserved.

~~The building code adopted by the provisions of this division has been amended by the City in the following aspects:~~

~~411.9 Temporary Amusement Buildings. Temporary Amusement Buildings are not required to be fire sprinklered if the area does not exceed 5,000 square feet and the maximum travel distance from any point in the area does not exceed 75 feet to a lighted exit way and does not exceed 150 feet to an exterior exit. The areas are required to meet the exit width and door requirements in Chapter 10 of this Code, and the alarm requirements in Amusement Buildings in Section 907.2.1 of the 2000 International Fire Code.~~

Sec. 8-483. - ~~Penalties for violation.~~ Reserved.

~~Any person violating the provisions of the building code adopted by the provisions of this article, or any amendment thereto, shall be punished as provided by section 1-9 of this Code.~~

DIVISION 3. ELECTRICAL CODE

Sec. 8-496. Adopted.

The National Electrical Code, ~~2014~~ 2020 edition, published by the National Fire Protection Association together with standards of the National Electrical Manufacturers Association and the American National Standards Institute, together with an electrical code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the electrical code for the city, and is hereby incorporated herein. The electrical code pamphlet, along with the National Electrical Code, are on file in the building official's and city secretary's offices.

DIVISION 4. PLUMBING CODE

Sec. 8-511. - Adopted.

The International Plumbing Code, ~~2012~~ 2021 edition, published by the International Code Council, Inc., together with a plumbing code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the plumbing code for the City, and is hereby incorporated herein. The plumbing code pamphlet, along with the International Plumbing Code, are on file in the Building Official's and City Secretary's offices.

DIVISION 5. MECHANICAL CODE

Sec. 8-526. - Adopted.

The International Mechanical Code, ~~2012~~ 2021 edition, published by the International Code Council, Inc., together with a mechanical code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the mechanical code for the City, and is hereby incorporated herein. The mechanical code pamphlet, along with the International Mechanical Code, are on file in the Building Official's and City Secretary's offices.

DIVISION 7. RESIDENTIAL CODE

Sec. 8-581. - Adopted.

The International Residential Code, ~~2012~~-2021 edition, published by the International Code Council, Inc., together with a residential code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the residential code for the City, and is hereby incorporated herein. The residential code pamphlet, along with the International Residential Code, are on file in the Building Official's and City Secretary's offices.

DIVISION 8. FUEL GAS CODE

Sec. 8-601. - Adopted.

The International Fuel Gas Code, ~~2012~~ 2021 edition, published by the International Code Council, Inc., together with a fuel gas code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the fuel gas code for the City, and is hereby incorporated herein. The fuel gas code pamphlet, along with the International Fuel Gas Code, are on file in the Building Official's and City Secretary's offices.

DIVISION 9. ENERGY CODE

Sec. 8-603. - Adopted.

The International Energy Conservation Code, ~~2012~~ 2021 Edition, published by the International Code Council, Inc., together with an energy conservation code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the energy conservation code for the City of Abilene, and is hereby incorporated herein. The energy conservation code pamphlet, along with the International Energy Conservation Code, are on file in the Building Official's and City Secretary's offices.

DIVISION 10. EXISTING BUILDING CODE

Sec. 8-612. - Adopted.

The International Existing Building Code, ~~2012~~ 2021 edition, published by the International Code Council, Inc., together with an existing building code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the existing building code for the City, and is hereby incorporated herein. The existing building code pamphlet, along with the International Existing Building Code, are on file in the Building Official's and City Secretary's offices.

Sec. 8-613. - ~~Penalties for violation.~~ Reserved.

~~Any person violating the provisions of the existing building code adopted by the provisions of this article, or any amendment thereto, shall be punished as provided by section 1-9 of this Code.~~

EXHIBIT B

CHAPTER 8. CONSTRUCTION REGULATIONS

ARTICLE VI. CODES AND OTHER REGULATIONS

{add the following}

DIVISION 11. PROPERTY MAINTENANCE CODE

Sec. 8-616. - Adopted.

The International Property Maintenance Code, 2021 edition, published by the International Code Council, Inc., together with a property maintenance code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the property maintenance code for the City, and is hereby incorporated herein. The property maintenance code pamphlet, along with the International Property Maintenance Code, are on file in the Building Official's and City Secretary's offices.

EXHIBIT C

{delete in its entirety}

CHAPTER 29.5 SWIMMING POOLS AND SPAS

{add the following}

CHAPTER 8. CONSTRUCTION REGULATIONS

ARTICLE VI. CODES AND OTHER REGULATIONS

DIVISION 12. SWIMMING POOL AND SPA CODE

Sec. 8-620. - Adopted.

The International Swimming Pool and Spa Code, 2021 edition, published by the International Code Council, Inc., together with a swimming pool and spa code pamphlet amending and supplementing that code, are hereby enacted and adopted by reference, as the swimming pool and spa code for the City, and is hereby incorporated herein. The swimming pool and spa code pamphlet, along with the International Swimming Pool and Spa Code, are on file in the Building Official's and City Secretary's offices.



Amendments to the 2020 National Electrical Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2020 National Electrical Code are hereby amended as follows:

Annex E, G, H, and J are excluded from adoption.

{Creation of Article 80 as follows:}

Article 80 – Administration

(Reason: To reflect the administration sections of the International Codes for consistency.)

80.1 Title. These regulations shall be known as the “Electrical Code” of the city of Abilene, may be cited as such and will be referred to herein as “this code”.

80.2. Existing Electrical Systems and Equipment.

(a) Additions, Alterations, or Repairs. Additions, alterations, or repairs may be made to an electrical system and equipment to comply with all the requirements of this code, provided the addition, alteration or repair conforms to that required for a new electrical system and equipment, and provided further that no hazard to life, health or safety will be created by such additions, alterations or repairs.

Minor additions, alterations and repairs to existing electrical system and equipment may be made in accordance with the law in effect at the time the original installation was made, when approved by the Electrical Inspector.

(b) Existing Installations. Electrical systems and equipment lawfully in existence at the time of the adoption of this code may have their use, maintenance or repair continued, if the use, maintenance or repair is in accordance with the original design and no hazard to life, health or property has been created by such electrical system and equipment

(c) Changes in Building Occupancy. Electrical systems and equipment which are a part of any building or structure undergoing a change in use or occupancy, as defined in Building Code, shall comply with the requirements of this code which are applicable to the new use or occupancy.

(d) Maintenance. All electrical systems and equipment, both existing and new, and all parts thereof, shall be maintained in a proper operating condition in accordance with the original design and in a safe and hazard-free condition. All devices or safeguards, which are required by this code, shall be maintained in conformance with this code. The owner, or designated agent, shall be responsible for the maintenance of the electrical system. To determine compliance with this subsection, the Building Official may cause any electrical system to be reinspected.

(e) Moved Building. Electrical systems and equipment, which are a part of buildings or structures moved into or within this jurisdiction, shall comply with the provisions of this code for new installations.

(f) Residential Rehabilitated and Condemned Buildings. Existing buildings which have been condemned may have existing serviceable electrical systems left in place, provided these systems were installed in accordance with the standards applicable at the time the building was built, and further provided that the following minimum provisions are met:

1. Services:

- a. All exterior service equipment shall be of weatherproof materials, fittings and devices.
- b. Latest approved service mast heights and points of attachment to structures shall be maintained.

- c. Services shall be of a capacity large enough to carry anticipated load. No service conductor shall be less than 100 amps.

2. Circuits:

- a. Existing two conductor non-metallic sheathed cable, if in safe condition, shall be allowed to remain with the addition of a single grounding conductor run separately to outlets located in bathroom, kitchen countertops, and laundry room areas. In lieu of grounding wire, a GFCI outlet may be substituted.
- b. Other conforming wiring methods, not presently approved by the City of Abilene Electrical Code, may remain, if in safe condition, and not disturbed in any manner, other than reconnection to an electrical panel, provided also that these systems were legal at the time of original installation.
- c. Receptacles shall be sufficient in numbers to serve the desired space in a practical manner, but not less than three (3) duplex receptacles per sleeping room and living areas, such as dens.
- d. These Code requirements are not required to be added to existing serviceable electrical systems:
 - (1) Exterior plugs for residences.

Where there is a question regarding the safety of any installed electrical system in a building which is being rehabilitated, the Electrical Inspector may require that the owner obtain the services of a licensed Master Electrician to completely examine and test the system and report on its safety. When systems are found to be unsafe, they must be replaced in accordance with the requirements of the National Electrical Code, as adopted by the City of Abilene.

80.3. License Requirement. All persons who engage in or work at the actual installation, alteration, repair, renovation and or maintenance of any and all electrical wiring systems and the appurtenances, apparatus, or equipment used in connection with the use of electrical energy in, on outside or attached to a building, residence, structure, property, or premises shall possess the appropriate license in accordance with the State of Texas Electrical Safety and Licensing Act, Title 8, Occupational Code, Chapter 1305.

80.3.1. Homestead Exemption. A homeowner performing electrical work in accordance with Section 1305.003 (6) Exemptions shall additionally comply with the following:

1. The owner shall file with the Building Inspections Division approved plans and specifications, shall satisfy the division as to his/her ability to install electrical wiring, shall apply for and secure a permit, shall pay the required fees, shall do work in accordance with this code and shall request the required inspections for approval.

2. Installation by an owner under this subsection shall be by him/herself, for him/herself on their homestead premises.

80.3.2. On Site Supervision of Apprentices. Apprentices shall not perform work unless they are under direct on-site supervision of a qualified licensed electrician through the Texas Electrical Safety and Licensing Act, Title 8, Occupational Code, Chapter 1305.

80.4. Conflicting Provisions. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

80.5. Alternate Materials and Methods of Construction. The provisions of this code are not intended to prevent the use of any material or method of construction not specifically prescribed by this code, provided any alternate has been approved and its use authorized by the Building Official.

The Building Official may approve any alternate, provided that the proposed design is satisfactory and complies with the provisions of this code, and that the material, method or work offered is for the purpose intended, and is at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability and safety.

The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims, regarding the use of alternates. The details of an action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

80.6. Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the Building Official may grant modifications for individual cases, provided that a special individual reason makes the strict letter of this code impractical, and the modification is in conformity with the intent and purpose of this code, and that such modification does not lessen health, life, and fire safety requirements. The detail of actions granting modifications shall be recorded and entered in the files of the code enforcement agency.

80.7. Tests. Whenever there is insufficient evidence of compliance with any of the provisions of this code or evidence that materials or construction do not conform to the requirements of this code, the Building Official may require tests as evidence of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by this code or by other recognized test standards. In the absence of recognized and accepted test methods for the proposed alternate, the Building Official shall determine test procedures.

All tests shall be made by an approved agency. Reports of such tests shall be retained by the Building Official for the period required for the retention of public records.

80.8. Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

80.8.1. Work commencing before permit issuance. The investigation fee for work done without a permit shall be equal to the amount of the permit fee required by this code in addition to the approved permit fee; However subsequent work commenced without obtaining a permit within 12 months of the previous violation shall be assessed a ten times fee for re-roofing, plumbing, mechanical, electrical, and irrigation.

80.8.2. Refunds. The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

80.9. Re-inspection Fee. A fee as established by city council resolution may be charged when:

1. The inspection called for is not ready when the inspector arrives;
2. No building address or permit card is clearly posted;
3. The building is locked or work otherwise not available for inspection when called;
4. The job site is red-tagged twice for the same item;
5. The original red tag has been removed from the job site.
6. Failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

80.10. Powers and Duties of the Building Official:

(a) General. The Building Official is hereby authorized and directed to enforce all the provisions of this code. For such purposes, the Building Official shall have the powers of a law enforcement officer.

(b) Deputies. In accordance with prescribed procedures, and with the approval of the appointing authority, the Building Official may appoint electrical inspectors and other related technical officers and inspectors and other employees as shall be authorized from time to time.

(c) Right of Entry. Whenever necessary to make an inspection to enforce the provisions of this code, or whenever the Building Official or an authorized representative has reasonable cause to believe that there exists in a building or upon a premises a condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Building Official, or an authorized representative, may enter such building or premises at all reasonable times to inspect the same, or to perform any duty imposed upon the Building Official by such codes, provided that if such building or premises be occupied, the Building Official shall first present proper credentials and request entry. If such building or premise is unoccupied, the Building Official or authorized representative, shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If entry is refused, the Building Official, or an authorized representative, shall have recourse to every remedy provided by law to secure entry.

When the Building Official, or an authorized representative, shall have first obtained a proper inspection warrant, or other remedy provided by law, to secure entry, an owner or occupant or other persons having charge, care or control of the building or premises, shall not fail or neglect, after proper request is made as herein provided, to promptly permit entry herein by the Building Official, or authorized representative, for the purpose of inspection and examination, pursuant to this code.

(d) Stop Orders. Whenever work is being done contrary to the provisions of this code, the Electric Inspector may order the work stopped, by notice in writing served on persons engaged in doing the work to be done; and such persons shall forthwith stop such work until authorized by the Electrical Inspector to proceed with the work.

(e) Authority to Disconnect Utilities in Emergencies. The Building Official, or authorized representative, shall have the authority to disconnect electric power or energy service supplied

to the building, structure, or building service equipment therein regulated by this code in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or electrical system, or equipment, of the decision to disconnect prior to taking such action, and shall notify the serving utility, owner and occupant of the building, structure or building service equipment, in writing, of the disconnection immediately thereafter.

(f) Authority to Condemn Electrical System and Equipment. Whenever the Electrical Inspector ascertains that an electrical system or equipment regulated in this code has become hazardous to life, health or property, the Electrical Inspector shall order, in writing, that such electrical system or equipment either be removed or restored to a safe condition, whichever is appropriate. The written notice itself shall fix a time limit for compliance with such order. Persons shall not use or maintain defective electrical system or equipment after receiving notice.

When equipment or an installation is to be disconnected, a written notice of such disconnection and causes therefor shall be given, within twenty-four (24) hours of the order to disconnect to the serving utility, the owner and occupants of the building, structure or premises.

When an electrical system or equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the Electrical Inspector shall institute appropriate action to prevent, restrain, correct, or abate the violation.

(g) Connection after Order to Disconnect. Persons shall not make connections from an energy or power supply, nor supply power to an electrical system or equipment, which has been disconnected or ordered to be disconnected, by the Electrical Inspector, or the use of which has been ordered to be discontinued by the Electrical Inspector, until the Electrical Inspector authorizes the reconnection and use of the electrical system or equipment.

(h) Liability. The Building Official, or an authorized representative charged with the enforcement of this code, acting in good faith and without malice in the discharge of duties, shall not hereby render the Building Official, or authorized representative, personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of duties. A suit brought against the Building Official or employee because of an act or omission performed by the Building Official in the enforcement of provisions of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

This code shall not be construed to relieve from or lessen the responsibility of a person owning, operating or controlling any building, structure or building service equipment therein,

for any damages to persons or property caused by defects, nor shall the code enforcement agency be held as assuming such liability by reason of the inspections authorized by this code or approvals issued under this code.

(i) Cooperation of Other Officials and Officers. The Building Official may request, and shall receive, so far as is required in the discharge of duties, the assistance and cooperation of other officials of this jurisdiction.

80.11. Unsafe Electrical Systems or Equipment. Electrical systems or equipment regulated by this code which are unsafe, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Use of electrical systems or equipment regulated by this code constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is, for the purpose of this section, an unsafe use.

Unsafe electrical systems or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, in accordance with the procedures set forth in the Current adopted code for the City of Abilene, or an alternate procedure as may be adopted by this jurisdiction. As an alternative, the Building Official, or other employee, or Official of this jurisdiction as designated by the governing body, may institute other appropriate action to prevent, restrain, correct, or abate the violation.

80.12. Violations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain an electrical system or equipment or cause or permit the same to be done in violation with this code.

80.13. Notice of Violation. The building official, or his/her representative, is authorized to serve notice of violation or order on the person responsible for an unlawful act. Such order shall direct the discontinuance of the illegal action and the abatement of the violation.

80.14. Prosecution of Violation. If the notice of the violation is not complied with in the allowed time stated in the notice, the building official, or his/her representative, is authorized to issue citations, or to request legal counsel of the jurisdiction to institute proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful act.

80.20. Permits Required. Except as specified in this section, no electrical system regulated by this code shall be installed, altered, repaired, replaced or remodeled, unless a separate electrical permit for each building or structure has first been obtained from the Building Official.

Exempt Work. An electrical permit shall not be required for the following:

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by this code.
2. Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.
3. Temporary decorative lighting.
4. Repair or replacement of current-carrying parts of any switch, contactor or control device.
5. Reinstallation of attachment plug receptacles, but not the outlets therefor.
6. Repair or replacement of any overcurrent device of the required capacity, in the same location.
7. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.
8. Taping joints.
9. Removal of electrical wiring.
10. Temporary wiring for experimental purposes in suitable experimental laboratories.
11. The wiring for temporary theater, motion picture or television stage sets.
12. Low-energy power, control and signal circuits of Classes II and III, as defined in this code.
13. A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus, or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility and placed upon easements of such company.

14. Reference 90-2 (b) (5). Installations, including associated lighting, under the exclusive control of electric utilities for the purpose of communications, metering, generation, control, transformation, transmission, or distribution of electric energy. Such installations shall be located in buildings used exclusively by utilities for such purposes; outdoors on property owned or leased by the utility; on or along public highways, streets, roads, etc.; or outdoors on private property by established rights such as easements. Utility companies shall provide documentation of easements, prior to commencing work for outdoor lighting. At any time a lighting system is no longer under the control of the utility company, the system shall be modified to meet the National Electrical Code. **EXCEPTION:** Single pole guard lights do not require written documentation to be filed with the City of Abilene Building Inspection Department.
15. A permit shall not be required for the installation or repair of electrical wiring, apparatus, or equipment, pertaining to exterior, underground airport lighting and airport signs.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of this code, or any other law, or ordinances of this jurisdiction.

80.21. Application. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

Identify and describe the work to be covered by the permit for which application is made:

1. Describe the land on which the proposed work is to be done, by legal description, street address or similar description, which will readily identify and definitely locate the proposed building or work.
2. Indicate the use or occupancy for which the proposed work is intended.
3. Be accompanied by plans, diagrams, computations and specifications and other data as required in this section.
4. Be signed by permittee, or authorized agent.
5. Give such other data and information as may be required by the Electrical Inspector

Exception: The Electrical Inspector may waive the submission of plans, calculations, etc., if the Electrical Inspector finds that the nature of the work applied for is such that reviewing of plans is not necessary to obtain compliance with this code.

80.21.1 Information on Plans and Specifications. Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in detail that it will confirm to the provisions of this code and all relevant laws, ordinances, rules and regulations.

80.22. Permit Issuance. The application, plans and specifications, and other data, filed by an applicant for permit, shall be reviewed by the Electrical Inspector. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws and ordinances, and that the fees specified in Section 304 have been paid, the Electrical Inspector shall issue a permit therefor to the applicant.

When the Building Official issues a permit, the plans and specifications shall be endorsed in writing or stamped "REVIEWED". Such approved plans and specifications shall not be changed, modified or altered without authorizations from the Electrical Inspector, and all work regulated by this code shall be done in accordance with the approved plans.

The Building Official may issue a permit for the construction of part of an electrical system before the entire plans and specifications for the whole system have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permits shall proceed at their own risk, without assurance that the permit for the entire building, structure or building service will be granted.

(b) Retention of Plans. One set of approved plans, specifications and computations shall be retained by the Building Official until final approval of the work covered therein. One set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all time during which the work authorized thereby is in progress.

(c) Validity of Permit. The issuance of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code, or of any other ordinance of the jurisdiction. Permits presuming to give authority

to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid.

The issuance of a permit based upon plans, specifications and other data shall not prevent the Electrical Inspector from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of these codes or any other ordinances of this jurisdiction.

(d) Expiration. Every permit issued by the Building Official under the provisions of this code shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within one hundred eighty (180) days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration exceeds one year, the permittee shall pay a new full permit fee.

A permittee holding an unexpired permit may apply for an extension of the time within which work may be commenced under that permit when the permittee is unable to commence work within the time required by this section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken.

(e) Suspension or Revocation. The Electrical Inspector may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation of the jurisdiction.



80.23. General. All electrical systems and equipment for which a permit is required by this code shall be subject to inspection by the Electrical Inspector, and the electrical system shall remain accessible and exposed for inspection purposes until approved by the Electrical Inspector.

It shall be the duty of the permit applicant to cause the electrical system to remain accessible and exposed for inspection purposes. Neither the Electrical Inspector nor the

jurisdiction shall be liable for the expense entailed in the removal or replacement of any material required to allow an inspection. When the installation of an electrical system and equipment is complete, an additional and final inspection shall be made.

Electrical systems and equipment regulated by this code shall not be connected to the energy source until authorized by the Electrical Inspector.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel provisions of this code or of other ordinances of the jurisdiction shall not be valid.

(a) Inspection Requests. It shall be the duty of the person doing the work authorized by a permit to notify the Electrical Inspector that such work is ready for inspection. The Electrical Inspector may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be online or by telephone. It shall be the duty of the person requesting inspections required by this code to provide access to and means for inspection of such work.

(b) Operation of Electrical Equipment. The requirements of this section shall not be construed to prohibit the operation of any electrical system or equipment installed to replace existing equipment. The request for inspection of such equipment must have been filed with the Electrical Inspector not more than forty eight (48) hours after such replacement work is completed and before any portion of such electrical system is concealed by any permanent portion of the building.

(c) Other Inspections. In addition to the called inspections required by this code, the Electrical Inspector may make or require other inspections of any work to ascertain compliance with the provisions of this code and other laws, which are enforced by the code enforcement agency.

Article 100

Requirements for Electrical Installations.

The use of aluminum/Copper clad conductors

All NEC articles related to the use of Aluminum/Copper clad aluminum conductors will be restricted to the uses permitted listed below.

110.5 Conductors

Aluminum/copper clad wire will be allowed to be installed as per NEC requirements (110.5, 310.3, Table 310.15 or any other Article for Aluminum/copper clad) for usage as service entrance conductors and/or feeders-wire size is not to be smaller than #2 AL. Aluminum/copper clad wire to be used as branch circuits of any size is not allowed.

When Aluminum/Copper clad conductors are used/installed, the following documentation must be submitted as part of each permit. This includes all projects.

Documentation of UL wire listing to make sure it meets the AA-8000 series AL/Copper clad required by the NEC. (Art. 310.3 A-1)

Documentation of torque sheet, that the torque requirements/recommendations per listing of each aluminum rated terminal is met per NEC. (Art. 110.14 A-D)

Article 200

210.1(a) Aluminum/Copper clad wire used as branch circuits of any size no allowed.

210.11 Branch Circuits Required.

(C) Dwelling Units.

(1) Small-Appliance Branch Circuits. *{Add the following.}*

- (a)** The small appliance circuits, as called for in the National Electrical Code, shall contain no more than six (6) outlets per circuit; provided further, the circuit conductor shall not be smaller than number 12 AWG. Loads shall be balanced.

210.19 Aluminum/Copper clad aluminum conductors used as branch circuit conductors of any type not allowed.

215.2 Aluminum/Copper clad aluminum conductors used as feeder conductors of all types shall not be smaller than #2 AWG.

220.14 Other Loads – All Occupancies

(J) Dwelling Occupancies

{Add the following.}

(4) General purpose circuits for residential wiring shall contain no more than six (6) outlets per circuit.

Exception: Where central heat and air are existing, or are being added, this may be increased to no more than ten (10) outlets per circuit on a fifteen (15) amp breaker, or fourteen (14) outlets per circuit on a twenty (20) amp breaker.

225.5 Outside Branch circuits and feeders. Service conductors

Aluminum/Copper clad conductors used as service conductors of all types shall not be smaller than #2 AWG.

225.6 Conductor Size and Support. *{Amend to add a new sub-article as follows:}*

(C) Aluminum Underground Conductors. For 1000 volts, nominal, or less, aluminum conductors installed underground shall not be smaller than #2 AWG aluminum. Feeders only aluminum/copper clad not allowed as branch circuits of any size.

230.23 (B) Minimum Size. *{Amend to read as follows:}*

The conductors shall not be smaller than 8 AWG copper or #2 aluminum or copper-clad aluminum. Overhead service conductors and service entrance conductors shall be type AA-8000 series electrical grade aluminum alloy conductor material. NEC Articles 310.3 (B) and 110.14 (A) through (D) shall apply.

230.28 (A) Strength. *{Add the following sentence at the end of paragraph.}*

The riser shall be a minimum of two (2) inch rigid steel conduit or IMC.

230.31 (B) Minimum Size. *{Amend to read as follows:}*

The conductors shall not be smaller than 8 AWG copper or #2 aluminum or copper-clad aluminum. Underground service conductors and service entrance conductors shall be type AA-

8000 series electrical grade aluminum alloy conductor material. NEC Articles 310.3 (B) and 110.14 (A) through (D) shall apply.

Article 300

334.12 (A) Uses Not Permitted. *{Add the following.}*

11. In other than residential structures, as defined in the City of Abilene Building Code, that are less than 5,000 square feet that are not constructed of convention wood frame construction.
12. In other than residential structures, as defined in the City of Abilene Building Code, 5,000 square feet or greater or when an addition to an existing structure increases the total building to 5,000 square feet or greater.
13. In other than residential structures, as defined in the City of Abilene Building Code, with a wiring system greater than 250 volts to ground and/or greater than a 400 Amp Service.

334.12 (B) Type NM – Addition of exception:

Exception: NM cable installed in conduit incased in concrete within a single family residence serving islands and floor plugs shall not be considered a wet/damp location.

END



Amendments to the 2021 International Existing Building Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Existing Building Code are hereby amended as follows:

Appendices excluded from adoption are as follows: A, B, C, and D.

{Amend to read as follows,}

101.1 Title. These regulations shall be known as the Existing Building code of the City of Abilene, Texas, hereinafter referred to as “this code”.

{Amend to read as follows,}

102.4 Referenced codes and standards. In all cases, local amendments, as adopted, are part of the referenced code.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{Amend section heading as follow,}

Section 103 – Department of the Building Inspections Division.

(Reason: To clarify the division responsible for enforcement.)

{Amend to read as follows,}

103.1 Creation of enforcement Division. The Building Inspections Division is hereby created and the Official in charge thereof shall be known as the Building Official.

{Delete reference to IPMC and insert the following,}

103.3 Deputies. *{Delete in its entirety}*

105.1.1 Annual permit. *{Delete in its entirety}*

105.1.2 Annual permit records. *{Delete in its entirety}*

105.2 Work exempt from permit. *{Amend as follows.}*

Building:

{Add the following to end of paragraph}

7. When repairing or replacing roofing 5 squares or less.

105.7 Placement of permit. *{Delete in its entirety}*

{Addition of sections 105.8, 105.9, and 105.10}

105.8 Trash and debris containment. It is the responsibility of each permit holder to make provisions for the containment of building materials, construction debris, and all other trash and debris generated within the property boundaries. Blowing trash, paper, building materials packaging, and other construction site related debris allowed to collect or accumulate outside the property boundaries shall constitute a violation of this section of the code. Such violations shall be subject to enforcement provisions as provided in the code up to and including a stop work order, revocation of permit, and a fine. The particular chosen method, which may include, but not limited to, refuse container, roll offs, and fenced areas or other types of containment shall be provided and maintained by the permit holder.

105.9 Bonds. Any person desiring to engage in the business of general contractor, roofing contractor, or engage in the business of altering, repairing, constructing, demolishing, or moving houses or buildings, or any construction work generally followed by building contractors within the City of Abilene, shall first file with the building inspections division, a surety bond in the penal sum of \$75,000, payable to the City of Abilene and conditioned on a faithful performance of all of the provisions and regulations of the building code, this chapter, and all other ordinances of the city. The surety of such bond shall be a company authorized to transact business in the State of Texas. In the event the City has filed on the contractors bond within the past 3 years, the bond shall increase to the penal sum of \$150,000.

105.10 Contractors registration required. All contractors shall first file with the building inspections division of the City of Abilene as a registered contractor, as per section 8-161 of the Municipal Code, Article IV, License and Registrations.

{Delete 2nd sentence and insert the following,}

106.1 General. The construction documents shall be prepared by a registered design professional in accordance with the State of Texas Board of Architectural Examiners, Title 6, Subtitle B, chapter 1051, Texas Statute Occupational Code, and the Texas Engineering Practice Act, Title 6, Subtitle A, Chapter 1001, Texas Statute, Occupational Code. In addition, buildings with a clear span exceeding 24' shall have the foundation and structural members designed by a professional engineer.

{Add following at the end of paragraph,}

108.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

{Add following at end of paragraph,}

108.4 Work commencing before permit issuance. The investigation fee for work done without a permit shall be equal to the amount of the permit fee required by this code in addition to the approved permit fee; However subsequent work commenced without obtaining a permit within 12 months of the previous violation shall be assessed a ten times fee for re-roofing, plumbing, mechanical, electrical, and irrigation.

{Delete paragraph and insert the following,}

108.6 Refunds. The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{Addition of section,}

108.7 Re-inspection Fee. A fee as established by city council ordinance may be charged when:

1. The inspection called for is not ready when the inspector arrives;
2. No building address or permit card is clearly posted;
3. The building is locked or work otherwise not available for inspection when called;
4. The job site is red-tagged twice for the same item;
5. The original red tag has been removed from the job site.

6. Failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(Reason: This fee is not a fine or penalty but is designed to compensate for time and trips when inspections are called for when not ready.)

{Amend to read as follows;}

112.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify appropriate board set by municipality.)

{114.4; amend last sentence as follows:}

114.4 Failure to Comply. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{Delete Section 117 Demolition in its entirety and replace with:}

Section 117 Demolition

117.1 General. Demolition shall comply with Chapter 8, Article VI, Division 6 of the City of Abilene code of ordinances.

{202 – Add definition for Enhanced Classroom Acoustics}

Enhanced Classroom Acoustics. The method to reduce background noise and reverberation in order to obtain a supportive and enhanced acoustic environment that enables students to increase retention and reduce fatigue.

{Delete reference to codes that are not adopted}

302.2 Additional Codes. International Private Sewage Disposal Code.

{Delete section 306 in its entirety and amend as follows:}

306.1 Scope. Accessibility shall be in accordance with the Texas Accessibility Standards..

END



**Amendments to the
2021 International Energy Conservation Code
IECC – Commercial Provisions
City of Abilene, Texas**

The following sections, paragraphs, and sentences of the 2021 International Energy Conservation Code are hereby amended as follows:

Appendices CA, CB, CC, RA, RB & RC are excluded from adoption.

{Amend to read as follow,}

C101.1 Title. This code shall be known as the Energy Conservation Code of the City of Abilene, Texas, hereinafter referred to as “this code”.

{C101.5.1 Compliance Materials; Add new subsection as follows}

C101.5.1.1 Approved software program. COMcheck or other approved software, 2009 edition or later, is an acceptable computer software program to be used to determine compliance with specific provisions of this code.

(Reason: Allow for more options for compliance.)

{Section C104 Fees; delete entire section and amend as follows}

C104.1 Fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

(Reason: To insure consistency)

{Section C109 Stop work order; delete entire section and amend as follows}

C109.1 Stop Work Order. Stop Work orders shall be in accordance with Section 115 of the Building Code.

(Reason: To insure consistency)

{Section C110 Board of Appeals; delete entire section and amend as follows}

C110 .1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify appropriate board set by municipality)

{Section C202 Definitions.} Add last sentence to paragraph

Wall, Above-Grade. An above-grade wall enclosing conditioned space which is vertical or sloped at an angle of sixty (60) degrees (1.1rad) or greater from the horizontal.

(Reason: Clarification to identify wall as opposed to roof)

{C401.3 Thermal envelope certificate. Delete section in its entirety}

{C402. Building Envelope Requirements}

C402.1 General

#2. Delete.

(Reason: To clarify specific penalties for such violations..)

{Table C402.1.3; Delete table and use Table 502.1.2 from the 2009 IECC.

{Table C402.1.4; Delete table and use Table 502(1) from the 2009 IECC.

{C405.2.3 Light-reduction controls. Amend Exception #3.1 to read as follows}

3.1 Areas that have 4 or fewer luminaires.

Amendments to the 2021 International Energy Conservation Code IECC – Residential Provisions

{Amend to read as follow,}

R101.1 Title. This code shall be known as the Energy Conservation Code of the City of Abilene, Texas, hereinafter referred to as “this code”.

{R101.5.1 Compliance Materials; Add new subsection as follows}

R101.5.1.1 Approved software program. REScheck or IC3 or other approved software, 2009 edition or later editions, are acceptable computer software program to be used to determine compliance with specific provisions of this code.

(Reason: Allow for more options for compliance.)

{Section R104 Fees; delete entire section and amend as follows}

R104.2 Fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

(Reason: To insure consistency)

{Section R109 Stop work order; delete entire section and amend as follows}

R109.1 Stop Work Order. Stop Work orders shall be in accordance with Section 114 of the Residential Building Code.

(Reason: To insure consistency)

Section R110 Board of Appeals; delete entire section and amend as follows}

R110 .1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify appropriate board set by municipality)

{Section R202 Definitions.}

Wall, Above-Grade. An above-grade wall enclosing conditioned space which is vertical or sloped at an angle of sixty (60) degrees (1.1rad) or greater from the horizontal.

(Reason: Clarification to identify wall as opposed to roof)

{Section R402 Building Thermal Envelope; Delete Tables R402.1.2 and R402.1.3 and add Table R402.1.4 to show the following prescriptive method minimum requirements for new construction and additions.

Table R402.1.4

Fenestration U-factor	.30
Skylight U- factor	.55
Glazed fenestration SHGC	.30
Ceiling Value	R-38
Wood frame wall value	R-13
Floor Value (pier and beam)	R-19
Slab on grade	0

Reason: clarify consistent requirements for new construction and additions.

Add new subsection:

R402.1.6 Replacement fenestration. When replacing more than 50% of the area of all glazed fenestration products (where the entire unit, including the frame, sash and glazing, is replaced) they shall meet the prescriptive fenestration criteria in Table R402.1.4.

(Reason: To make replacement of fenestration less restrictive)

{Section R402.4.1.2 Testing; Delete in its entirety and amend as follows}

R402.4.1.2 Testing. Building envelope airtightness and insulation installation shall be demonstrated to comply with one of the following options given by Section R402.4.2.1 or 402.4.2.2.

R402.4.2.1 Testing Option. Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven air changes per hour (ACH) when tested with a blower door at a pressure of 50 pascals (1 psf). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;
2. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers;
3. Interior doors shall be open;
4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling system(s) shall be turned off;
6. HVAC ducts shall not be sealed; and
7. Supply and return registers shall not be sealed.

R402.4.2.2 Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by the code official, and approved party independent from the installer of the insulation shall inspect the air barrier and insulation.

(Reason: To offer flexibility in testing and inspections)

R403.6.2 Whole-dwelling mechanical ventilation system fan efficacy. {Delete section in its entirety}

{R404.1 Lighting equipment; Amend to read as follows}

R404.1 Lighting equipment. A minimum of 50 percent of the lamps in permanently installed lighting fixtures shall be high efficacy lamps or a minimum of 50 percent of the permanently installed lighting fixtures shall contain only high efficacy lamps.

(Reason: To offer flexibility in construction practices)

R404.2 Interior lighting controls {Delete section in its entirety}

END



Amendments to the 2021 International Fuel Gas Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Fuel Gas Code are hereby amended as follows:

Appendix E is excluded from adoption.

{101.1; change to read as follows:}

101.1 Title. These regulations shall be known as the Fuel Gas Code of the City of Abilene, hereinafter referred to as “this code”.

(Reason: To reflect jurisdiction in charge.)

{Section 102.8; change to read as follows:}

102.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference.

102.8.1 Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC *Electrical Code* shall mean the Electrical Code as adopted.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{109.2; amend to read as follows:}

109.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

{109.6; amend to read as follows:}

109.6 Refunds. The Building Official shall authorize the refunding of fees as follows:

The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{113; Means of Appeal, amend first sentence to read as follows:}

113 General. In order to hear and decide appeals of order, decisions or determinations made by the code official relative to the application and interpretation of this code, a person shall have the right to appeal the decision of the code official to the Board of Building Standards. The Board of Building Standards shall be (the rest remains the same)

(Reason: To clarify the appropriate board.)

{114.1; Means of Appeal, amend to read as follows:}

114.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To allow the municipality to set up requirements for their board.)

{115.4; amend to read as follows:}

115.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law. Any such violation shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine, not to exceed \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Reason: To clarify the penalty and policy of a violation.)

{116; add last sentence as follows:}

116 Stop work orders. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{Section 306.3; change to read as follows:}

[M] 306.3 Appliances in attics. Attics containing appliances shall be provided . . . *{bulk of paragraph unchanged}* . . . side of the *appliance*. The clear *access* opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest *appliance*. As a minimum, for *access* to the attic space, provide one of the following:

1. A permanent stair.
2. A pull down stair with a minimum 300 lb (136 kg) capacity.
3. An *access* door from an upper floor level.
4. *Access* Panel may be used in lieu of items 1, 2, and 3 with prior approval of the code official due to building conditions.

(Reason: To provide a safe means of accessibility to appliances in attics and to allow for different types of construction limitations. Consistent with regional amendment to IMC 306.3.)

{Section 306.5; change to read as follows:}

[M] 306.5 Equipment and Appliances on Roofs or Elevated Structures. Where *equipment* requiring *access* or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet (4877 mm) above grade to access such equipment or appliances, an interior or exterior means of access shall be provided. Exterior ladders providing roof *access* need not extend closer than 12 feet (2438 mm) to the finish grade or floor level below and shall extend to the *equipment* and appliances' level service space. Such *access* shall . . . *{bulk of section to read the same}* . . . not require climbing over obstructions greater than 30" in height or walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall ... *{remainder of text unchanged}*.

(Reason: To assure safe access to roof appliances. Consistent with IMC amendments.)

{Section 306.5.1; change to read as follows:}

[M] 306.5.1 Sloped roofs. Where appliances, *equipment*, fans or other components that require service are installed on a roof having a slope of three units vertical in 12 units horizontal (25-percent slope) or greater and having an edge more than 30 inches (762 mm) above grade at such edge, a catwalk at least 16 inches in width with substantial cleats spaced not more than 16 inches apart shall be provided from the roof access to a level platform at the appliance. ...{remainder of text unchanged}.

(Reason: To assure safe access to roof appliances. Consistent with IMC amendments.)

{Section 404.12; change to read as follows:}

404.12 Minimum burial depth. Underground piping systems shall be installed a minimum depth of 12 18 inches (305 458 mm) top of pipe below grade, except as provided for in Section 404.12.1.

404.12.1 Delete in its entirety

(Reason: To provide increased protection to piping systems and address reference number change.)

{Section 406.4.1; change to read as follows:}

406.4.1 Test pressure. The test pressure to be used shall be no less than 3 psig (20 kPa gauge), or at the discretion of the Code Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge. For tests requiring a pressure of 3 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one half inches (3 ½"), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi for tests requiring a pressure of 3 psig. For tests requiring a pressure of 10 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one-half inches (3 ½"), a set hand, a minimum of 2/10 pound incrimination and a pressure range not to exceed 20 psi. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa) (1/2 psi) and less than 200 inches of water column pressure (52.2 kPa) (7.5 psi), the test pressure shall not be less than ten (10) pounds per square inch (69.6 kPa). For piping carrying gas at a pressure that exceeds 200 inches of water column (52.2 kPa) (7.5 psi), the test pressure shall be not less than one and one-half times the proposed maximum working pressure.

Diaphragm gauges used for testing must display a current calibration and be in good working condition. The appropriate test must be applied to the diaphragm gauge used for testing.

(Reason: To provide for lesser pressures to coordinate with the use of more accurate diaphragm gauges.)

{Section 409.1; add Section 409.1.4 to read as follows:}

409.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an *approved* termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system's piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the supporting piping.

(Reason: To provide proper security to CSST valves. These standards were established in this region in 1999 when CSST was an emerging technology.)

{Section 410.1; add a second paragraph and exception to read as follows:}

Access to regulators shall comply with the requirements for access to appliances as specified in Section 306.

Exception: A passageway or level service space is not required when the regulator is capable of being serviced and removed through the required attic opening.

(Reason: To require adequate access to regulators.)

{Section 621.2; add exception as follows:}

621.2 Prohibited use. One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

Exception: Existing *approved* unvented heaters may continue to be used in dwelling units, in accordance with the code provisions in effect when installed, when *approved* by the Code Official unless an unsafe condition is determined to exist as described in Section 108.7.

(Reason: Gives code official discretion.)

END



Amendments to the 2021 International Mechanical Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Mechanical Code are hereby amended as follows:

Appendices B and C are excluded from adoption.

{Section 101.1; change to read as follows:}

Section 101.1 Title. The regulations shall be known as the Mechanical Code of the City of Abilene, Texas, hereinafter referred to as “this code.”

(Reason: Legal wording to recognize municipality.)

{Section 102.8; change to read as follows:}

102.8 Referenced Codes and Standards. The codes and standards referenced herein shall be those that are listed in Chapter 15 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the adopted amendments. Any reference to NFPA 70 shall mean the Electrical Code as adopted.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{103.1; amend first sentence as follows:}

103.1 Creation of agency. The Building Inspections Division is hereby created... (remainder unchanged)

(Reason: To identify the division in charge of this code.)

{109.2; amend to read as follows:}

109.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.6+

(Reason: To direct applicant in the correct location.)

{109.6; amend to read as follows:}

109.6 Fee Refunds. The Building Official shall authorize the refunding of fees as follows:

The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{113.2; add last sentence as follows:}

113.2 Stop work orders. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{114.1; Means of Appeal, amend to read as follows:}

114.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify the appropriate board.)

{114.3; delete this section.}

114.3 Qualifications.

(Reason: To allow the municipality to set up requirements for their board.)

{115.4; amend to read as follows:}

115.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a

permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law. Any such violation shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine, not to exceed \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Reason: To clarify the penalty and policy of a violation.)

{Section 306.3; change to read as follows:}

[M] 306.3 Appliances in attics. Attics containing appliances shall be provided . . . *{bulk of paragraph unchanged}* . . . side of the *appliance*. The clear *access* opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), and large enough to allow removal of the largest *appliance*. As a minimum, for access to the attic space, provide one of the following:

1. A permanent stair.
2. A pull down stair with a minimum 300 lb (136 kg) capacity.
3. An access door from an upper floor level.
4. Access Panel may be used in lieu of items 1, 2, and 3 with prior approval of the code official due to building conditions.

(Reason: To provide a safe means of accessibility to appliances in attics and to allow for different types of construction limitations.)

{Section 306.5; change to read as follows:}

306.5 Equipment and Appliances on Roofs or Elevated Structures. Where *equipment* requiring *access* or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet (4877 mm) above grade to access such equipment or appliances, an interior or exterior means of access shall be provided. Exterior ladders providing roof access need not extend closer than 12 feet (2438 mm) to the finish grade or floor level below and shall extend to the equipment and appliances' level service space. Such *access* shall . . . *{bulk of section to read the same}* . . . not require climbing over obstructions greater than 30" in height or walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Such access shall not require the use of portable ladders. Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall ... *{remainder of text unchanged}*.

(Reason: To assure access to roof appliances and provide options to not extend exterior ladders to grade. Consistent with IFGC amendments.)

{Section 306.5.1; change to read as follows:}

306.5.1 Sloped Roofs. Where appliances, *equipment*, fans or other components that require service are installed on a roof having a slope of three units vertical in 12 units horizontal (25-percent slope) or greater and having an edge more than 30 inches (762 mm) above grade at such edge, a catwalk at least 16 inches in width with substantial cleats spaced not more than 16 inches apart shall be provided from the roof access to a level platform at the appliance. ...{remainder of text unchanged}.

(Reason: To assure safe access to roof appliances. Consistent with IFGC amendments.)

[Section 306; add Section 306.6 to read as follows:]

306.6 Water Heaters Above Ground or Floor. When the mezzanine or platform in which a water heater is installed is more than eight (8) feet (2438 mm) above the ground or floor level, it shall be made accessible by a stairway or permanent ladder fastened to the building.

Exception: A maximum 10 gallon water heater (or larger with approval) is capable of being accessed through a lay-in ceiling and the water heater installed is not more than ten (10) feet (3048 mm) above the ground or floor level and may be reached with a portable ladder.

(Reason: To provide safe access to water heaters and to provide lighting and receptacle for maintenance of equipment. Consistent with regional amendments to IFGC 306.3 and International Plumbing Code (IPC) 502.3.)

{307.2.1; add the following at the end of this section:}

307.2.1 Condensate disposal.

Approved places of disposal.

1. The fixture side of a code approved p-trap located within the interior of the structure.
2. Engineered French drain system.

Exception: Existing building may continue to drain onto the roof.

(Reason: To clarify the proper disposal locations.)

{Section 403.2.1; add an item 5 to read as follows:}

403.2.1 Recirculation of air.

5. Toilet rooms within private dwellings that contain only a water closet, lavatory, or combination thereof may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(Reason: Consistent with common regional practice. Consistent with regional amendment to

{Section 501.3; add an exception to read as follows:}

501.3 Exhaust Discharge. The air removed by every mechanical exhaust system shall be discharged outdoors at a point where it will not cause a public nuisance and not less than the distances specified in Section 501.3.1. The air shall be discharged to a location from which it cannot again be readily drawn in by a ventilating system. Air shall not be exhausted into an attic or crawl space, or be directed onto walkways.

Exceptions:

4. Toilet room exhaust ducts may terminate in a warehouse or shop area when infiltration of outside air is present.

(Reason: Provide a reasonable alternative in areas where a large volume of outside air is present.)

{505.3; amend exceptions 2.3 and 2.4;}

505.3 Exhaust ducts.

Exceptions: 2.3. (text unchanged) not more than 4 inch (102 mm) (text unchanged)

2.4. (text unchanged) not more than 4 inch (102 mm) (text unchanged)

(Reason: Provide a reasonable alternative in areas, consistent with local practices.)

{1111.1; add the following sentence to the end:}

1111.1 Testing required..... It shall be the owner or owner's representative's responsibility to ensure the following emergency devices:

(Reason: To provide who is responsible for these devices.)

End



Amendments to the 2021 International Plumbing Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Plumbing Code are hereby amended as follows:

Appendices A, F and plumbing provisions excepted from: ICC A117.1-2017 are excluded from adoption.

{101.1; addition of jurisdiction to the first sentence:}

101.1 Title. These regulations shall be known as the Plumbing Code of the City of Abilene hereinafter referred to as “this code.”

(Reason: To name jurisdiction.)

{Section 102.8; change to read as follows:}

102.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 15 and such codes, when specifically adopted, and standards shall be considered as part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the adopted amendments. Any reference to NFPA 70 shall mean the Electrical Code as adopted.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{103.1; amend first sentence as follows:}

103.1 Creation of agency. The Building Inspections Division is hereby created....(remainder unchanged)

(Reason: To identify division in charge of enforcement.)

{109.2; amend to read as follows:}

109.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

(Reason: To direct applicant in the correct location.)

{109.5; amend to read as follows:}

109.5 Refunds. The Building Official shall authorize the refunding of fees as follows:

The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{113; amend last sentence as follows:}

113.4 Stop work orders. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{114; Means of appeal, amend to read as follows:}

114.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify the appropriate board.)

{114.3; delete this section.}

114.3 Qualifications.

(Reason: To allow the municipality to set up requirements for their board.)

{115.4; amend to read as follows:}

115.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install alter or repair plumbing work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law. Any such violation shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine, not to exceed \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Reason: To clarify the penalty and policy of a violation.)

{305.4.1; amend to read as follows:}

305.4.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be installed not less than 12 inches (304 mm) below finish grade.

(Reason: Provides sewer depth that is common in this region.)

{312.10.2; amend section to read as follows:}

312.10.2 Testing.

All testing shall be in conformance with the City of Abilene Cross Connection Ordinance.

(Reason: To provide conformity with the Cross Connection Ordinance as adopted by water utilities)

{314.2.1; add the following at the end of this section:}

314.2.1 Condensate disposal.

Approved places of disposal.

1. The fixture side of a code approved p-trap located within the interior of the structure.
2. Engineered French drain system.

Exception: Existing building may continue to drain onto the roof.

(Reason: To clarify the proper disposal locations.)

{314.2.1.1; fix typo to read as follows:}

314.2.1.1 Condensate discharge.

{Section 413.4; change to read as follows:}

413.4 Required location for floor drains ~~Public laundries and central washing facilities.~~ Floor drains shall be installed in the following areas:

1. In public laundries and in the central washing facilities of multiple family dwellings, the rooms containing automatic clothes washers shall be provided with floor drains located to readily drain the entire floor area. Such drains shall have a minimum outlet of not less than 3 inches (76 mm) in diameter.
2. Commercial kitchens. In lieu of floor drains in commercial kitchens, the Code Official may accept floor sinks.
3. Public restrooms.

(Reason: To make more compatible with local health code practices.)

{421.3; amend first sentence as follows:}

421.3 Shower waste outlet. Waste outlets serving showers shall not be less than 2 inches (52 mm) $1\frac{1}{2}$ in diameter and, (remainder unchanged)

(Reason: Compatible with local practices for this type of fixture.)

{Section 502.3; change to read as follows:}

502.3 Water heaters installed in attics. Attics containing a water heater shall be provided . . . {bulk of paragraph unchanged} . . . side of the water heater. The clear access opening dimensions shall be not less than 20 inches by 30 inches (508 mm by 762 mm) where such dimensions are large enough to allow removal of the water heater. As a minimum, for access to the attic space, provide one of the following:

1. A permanent stair.
2. A pull-down stair with a minimum 300 lb (136 kg) capacity.
3. An access door from an upper floor level.
4. Access Panel may be used in lieu of items 1, 2, and 3 with prior approval of the Code Official due to building conditions.

Exceptions:

1. The passageway and level service space are not required where the appliance is capable of being serviced and removed... {remainder of text unchanged}

(Reason: To provide a safe means of accessibility to appliances in attics and to allow for different types of construction limitations. Consistent with amendment to IMC and IFGC)

{Section 502.6; add Section 502.6 to read as follows:}

502.6 Water heaters above ground or floor. When the attic, roof, mezzanine or platform in which a water heater is installed is more than eight (8) feet (2438 mm) above the ground or floor level, it shall be made accessible by a stairway or permanent ladder fastened to the building.

Exception: A max 10-gallon water heater (or larger with approval) is capable of being accessed through a lay-in ceiling and a water heater is installed is not more than ten (10) feet (3048 mm) above the ground or floor level and may be reached with a portable ladder.

(Reason: To provide safe access to water heaters. (Consistent with regional amendments to IFGC 306.3 and IMC 306.3. Note reference to amendment above.)

{Section 504.6; change to read as follows:}

504.6 Requirements for discharge piping. The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

1. Not be directly connected to the drainage system.
2. Discharge through an air gap. ~~located in the same room as the water heater.~~
3. Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.
4. Serve a single relief device and shall not connect to piping serving any other relief device or equipment.

Exception: Multiple relief devices may be installed to a single T & P discharge piping system when approved by the administrative authority and permitted by the manufacture's installation instructions and installed with those instructions.

5. Discharge ~~to the floor, to the pan serving the water heater or storage tank, to a waste receptor~~ an approved location or to the outdoors.

6 Through 14 to remain the same.

(Reason: To provide a higher degree of safety.)

{703.6: delete this section.}

703.6 Combined sanitary and storm public sewer.

(Reason: not a standard practice in this region)

{Table 709.1; amend bathtub and shower trap size as follows:}

Table 709.1 Drainage fixture units and groups.

Bathtub (with or without shower or whirlpool attachment)

DFU= 2 Min Trap size= 2"

Shower (based on total flow rate through shower head and body part)

5.7gpm or less DFU= 2 Min Trap size= 2"

(Reason: To adequately accommodate load and accommodate local standard practices.)

{Section 713, 713.1; change to read as follows:}

SECTION 713

ENGINEERED ~~COMPUTERIZED~~ DRAINAGE DESIGN

713.1 Design of drainage system. The sizing, design and layout of the drainage system shall be permitted to be designed by approved ~~computer~~ registered engineer using design methods.

(Reason: Code was too restrictive.)

{Section 717.2 change to read as follows:}

717.2 Applicability. The relining of existing building sewers and building drainage piping shall be limited to gravity drainage piping 2 inches (51 mm) *..remainder of text to stay the same.*

(Reason: common practice with local contractors)

{Section 903.1; change to read as follows:}

903.1.1 Roof extension unprotected. Open vent pipes that extend through a roof shall be terminated not less than six (6) inches (152 mm) above the roof.

(Reason: To provide regional guideline on standard installation method for this area and address reference number correction.)

{1003.3; amend to reference as follows:}

1003.3 Grease Interceptors. Grease interceptors shall adhere to the Fats, Oils, and Grease ordinance as adopted by the City of Abilene. You can access this information here:

<https://abilenetx.gov/DocumentCenter/View/4079/08-18-2017-Exhibit-A-City-of-Abilene-FOG-Ordinance-PDF>.

(Reason: To direct customers to the adopted regulations.)

{Section 1106.1; change to read as follows:}

1106.1 General. The size of the vertical conductors and leaders, building storm drains, building storm sewers, and any horizontal branches of such drains or sewers shall be based on six (6) inches per hour. ~~the 100-year hourly rainfall rate indicated in Figures 1106.1(1) through 1106.1(5) or on other rainfall rates determined from approved local weather data.~~

(Reason: Specify the roof drain size normally used in the area.)

{Section 1108.3; change to read as follows:}

1108.3 Sizing of secondary drains. Secondary (emergency) roof drain systems shall be sized in accordance with Section 1106. ~~based on the rainfall rate for which the primary system is sized~~ Scuppers shall be sized to prevent the depth of ponding water from exceeding that for which the roof was designed as determined by Section 1101.7. Scuppers shall not have an opening dimension of less than 4 inches (102 mm). The flow through the primary system shall not be considered when sizing the secondary roof drain system.

(Reason: Specify that overflow drainage is to be the same size as the normal roof drains.)

{Section 1109; delete this section.}

*****Section 1202.1; delete Exceptions 1 and 2.**

(Reason: State law already specifies that Med Gas systems must comply with NFPA 99.)

END



Amendments to the 2021 International Swimming Pool and Spa Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Swimming Pool and Spa Code are hereby amended as follows:

Appendices excluded from adoption are as follows: A

{Section 101.1; Amend to read as follows:}

Section 101.1 Title. The regulations shall be known as the Swimming Pool and Spa Code of the City of Abilene, Texas, hereinafter referred to as “this code”.

(Reason: Legal wording to recognize municipality.)

{Section 102.9; Amend to read as follows:}

Section 102.9 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law, to include but not limited to;

1. Texas Department of State Health Services (TDSHS); Standards for Public Pools and Spas;
§265.181 through §265.208, (TDSHS rules do not apply to pools serving one- and two family dwellings or townhouses).
2. Texas Department of Licensing and Regulation (TDLR); 2012 Texas Accessibility Standards (TAS), TAS provide the scoping and technical requirements for accessibility for Swimming Pool, wading pools and spas and shall comply with 2012 TAS, Section 242. (TAS rules do not apply to pools serving one- and two family dwellings or townhouses).

Exception: Elements regulated under Texas Department of Licensing and Regulation (TDLR) and built in accordance with TDLR approved plans, including any

variances or waivers granted by the TDLR, shall be deemed to be in compliance with the requirements of this Chapter.

(Reason: To clarify specific Texas statutes which regulate public pools and spas.)

{Section 103.1; Amend to read as follows:}

Section 103.1 Creation of agency. The Building Inspections Division is hereby created and the official in charge thereof shall be known as the *code official*. Environmental Health Department is hereby created and the official in charge thereof shall be known as the *code official* for operation and maintenance of any *public swimming pool* in accordance this code, local and state law.

(Reason: Reminder to be sure ordinance reads the same as designed by the City & the operation of public pools is enforced through the City's appropriate department procedure.)

{Add following at the end of paragraph,}

108.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

{Substitute "Board of Building Standards" where "board of appeals" is used;}

Section 111

{Delete and replace with the following;}

112.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building Official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify appropriate board set by municipality.)

{Section 113.4; Amend to read as follows:}

113.4 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law. Any such violation shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine, not to exceed \$500.00. Each day that a violation continues after due

notice has been served shall be deemed a separate offense.

(Reason: To clarify the penalty and policy of a violation.)

{Section 114.1; Add the following to the first sentence:}

114.1 Authority. . A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing. *(The remainder to stay the same)*

{Section 114.4; Amend to read as follows}

114.4 Failure to comply. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to preform to remove a violation or unsafe condition shall be in violation of this code.

(Reason: Covered by general provisions of the Municipal Code of Ordinances.)

{Section 202; DEFINITIONS; insert definition; change to read as follows:}

ENVIRONMENTAL HEALTH DEPARTMENT: Environmental Health Department regulates the operation of public pools. Routine inspections on pools and spas open to the public are conducted to document compliance with the standards set forth in State law.

(Reason: The operation of public pools is enforced through Environmental Health Department procedures.)

SPA.

{Insert the term hot tub in this location for clarification:}

Portable residential spa or hot tub. Definition to remain the same.

{Section 305; Change to read as follows:}

305.1 General.

The provisions of this section shall apply to the design of barriers for restricting entry into areas having pools and spas. Where spas or hot tubs are equipped with a lockable safety cover complying with ASTM F1346 and swimming pools are equipped with a powered safety cover that complies with ASTM F1346, the areas where those spas, hot tubs or pools are located shall not be required to comply with Sections 305.2 through 305.7.

(Reason: To clarify requirements for dwellings and commercial properties and specific Texas statutes which regulate public pools and spas.)

{Section 305.2; Change to read as follows:}

305.2 Outdoor swimming pools and spas. Outdoor pools and spas and indoor swimming pools shall be surrounded by a barrier that complies with Sections 305.2.1 through 305.7 and in accordance with the Texas Administrative Code, Texas Health and Safety Code 757 for public pools.

(Reason: To clarify specific Texas statutes which regulate public pools and spas.)

{Section 305.6; Change to read as follows:}

305.6 Natural barriers used in a one and two family dwelling or townhouse. In the case where the pool or spa area abuts the edge of a lake or other natural body of water, public access is not permitted or allowed along the shoreline, and required barriers extend to and beyond the water's edge a minimum of eighteen (18) inches, a barrier is not required between the natural body of water shoreline and the pool or spa.

(Reason: Specific Texas statutes do not allow the use of natural barriers in lieu of fencing for public pools per Chapter 757.003).

{Section 307.1.4 Accessibility; Add exception to Section to 307.1.4 as follows:}

Exception: Components of projects regulated by and registered with Architectural Barriers Division of Texas Department of Licensing and Regulation shall be deemed to be in compliance with the requirements of this chapter.

(Reason: To accommodate buildings regulated under state law. Further clarified to mean Components that are specifically addressed by TDLR shall be exempt.)

{Section 310; Change to read as follows:}

310.1 General. Suction entrapment avoidance for pools and spas shall be provided in accordance with APSP 7 or for public swimming pools in accordance with State of Texas Rules for Public Swimming Pools and Spas, Title 25 TAC Chapter 265 Subchapter L, Rule §265.190.

[Remainder unchanged]

(Reason: To clarify specific Texas statutes which regulate public pools and spas.)

{Section 313.7; Delete all and insert to read as follows:}

313.7 Emergency shutoff switch for spas and hot tubs. A clearly labeled emergency shutoff or control switch for the purpose of stopping the motor(s) that provide power to the recirculation system and jet system shall be installed at a point readily accessible to the users and not less than 1.5 m (5 ft.) away, adjacent to, and within sight of the spa or hot tub. This requirement shall not apply to one and two family dwellings and townhouses.

Exception: *Delete.*

(Reason: Language is from 2020 NEC Article 680.41.)

{Section 320.1; Change to read as follows.}

320.1 Backwash water or draining water. Backwash water and drainage water shall be discharged to the sanitary ~~or storm~~ sewer, or into *(Remainder to stay the same)*

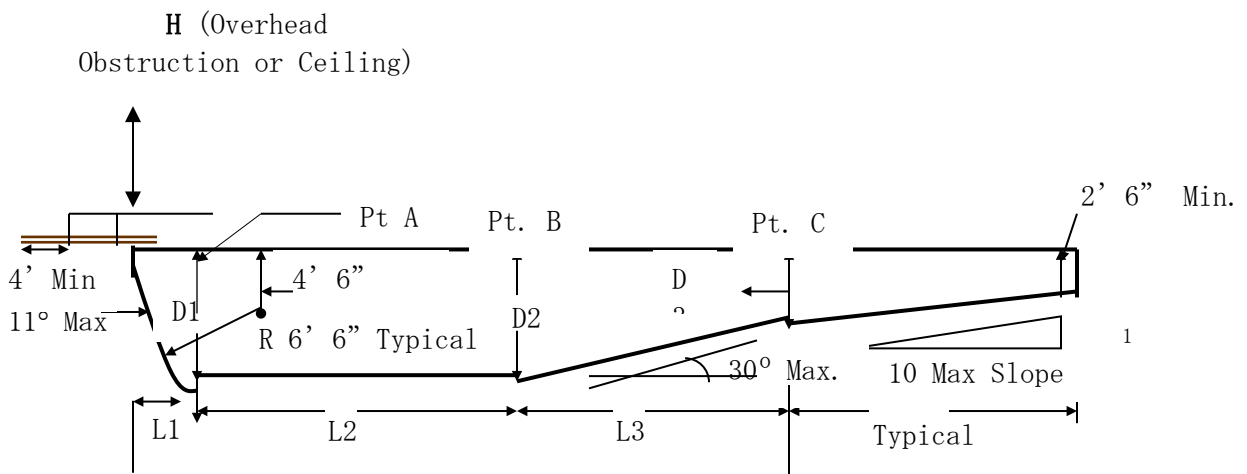
(Reason: To comply with TCEQ regulations)

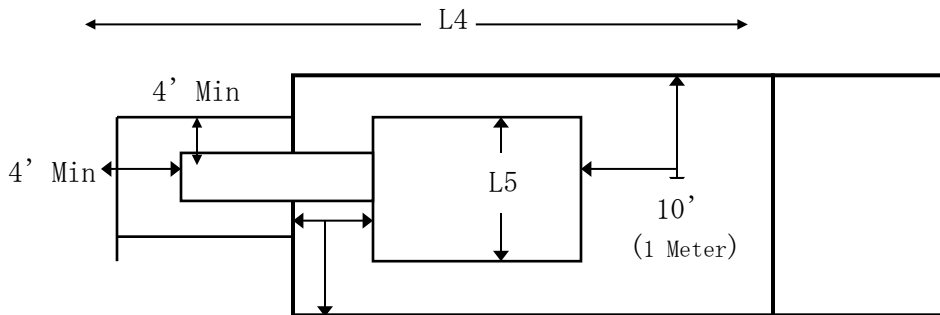
{Section 402.12; Change to read as follows:}

402.12 Water envelopes. The minimum diving water envelopes shall be in accordance with Texas department of State Health services, Administrative Code Title 25, Chapter 265, Section 186 (e) and Figure: 25 TAC 265.186 (e) (6). *(Delete Table 402.12 and Figure 402.12)*

ADD: Figure: 25 TAC §265.186 (e) (6)

Maximum Diving Board Height Over Water	$\frac{3}{4}$ Meter	1 Meter	3 Meters
Max. Diving Board Length	12 ft.	16 ft.	16 ft.
Minimum Diving Board Overhang	2 ft. 6 in.	5 ft.	5 ft.
D1 Minimum	8 ft. 6 in.	11 ft. 2 in.	12 ft. 2 in.
D2 Minimum	9 ft.	10 ft. 10 in.	11 ft. 10 in.
D3 Minimum	4 ft.	6 ft.	6 ft.
L1 Minimum	4 ft.	5 ft.	5 ft.
L2 Minimum	12 ft.	16 ft. 5 in.	19 ft. 9 in.
L3 Minimum	14 ft. 10 in.	13 ft. 2 in.	13 ft. 11 in.
L4 Minimum	30 ft. 10 in.	34 ft. 7 in.	38 ft. 8 in.
L5 Minimum	8 ft.	10 ft.	13 ft.
H Minimum	16 ft.	16 ft.	16 ft.
From Plumbet to Pool Wall at Side	9 ft.	10 ft.	11 ft. 6 in.
From Plumbet to Adjacent Plumbet	10 ft.	10 ft.	10 ft.





(Reason: To avoid conflict with 25 TAC Chapter 265.)

{Section 402.13; Add to read as follows:}

402.13 Ladders for diving equipment. Ladders shall be provided with two grab rails or two handrails. There shall be a uniform distance between ladder treads, with a 7 inch (178 mm minimum) distance and 12 inch (305 mm) maximum distance. Supports, platforms, steps and ladders for diving equipment shall be designed to carry the anticipated loads. Steps and ladders shall be of corrosion-resistant material, easily cleanable and with slip-resistant tread.

Exception: *Delete*

(Reason: To avoid conflict with 25 TAC Chapter 265.186 (c)(8)(d).)

{Section 411.2; Correct to read as follows:}

411.2 Pool stairs.with Sections 411.2.1 through 411.2.5

{Section 411.2.1; Correct to read as follows:}

411.2.1 Tread dimensions and area. and an unobstructed horizontal depth of not less than 12 inches (305 mm) at the centerline.

{Section 411.2.2; Correct to read as follows:}

411.2.2 Risers. Risers, except for the bottom riser, shall have a uniform height of not greater than 10 inches (254 mm) measured at the centerline.

****Section 411.5.1 & 411.5.2; Change to read as follows:**

411.5.1 Swimouts. Swimouts, located in either the deep or shallow area of a pool, shall comply

with all of the following:

1. Unchanged
2. Unchanged
3. Unchanged
4. The leading edge shall be visibly set apart and provided with a horizontal solid or broken stripe at least 1 inch wide on the top surface along the front leading edge of each step. This stripe shall be plainly visible to persons on the pool deck. The stripe shall be a contrasting color to the background on which it is applied, and the color shall be permanent in nature and shall be a slip-resistant surface

411.5.2 Underwater seats and benches. Underwater seats and benches, whether used alone or in conjunction with pool stairs, shall comply with all of the following:

1. Unchanged
2. Unchanged
3. Unchanged
4. Unchanged
5. The leading edge shall be visually set apart and provided with a horizontal solid or broken stripe at least 1 inch wide on the top surface along the front leading edge of each step. This stripe shall be plainly visible to persons on the pool deck. The stripe shall be a contrasting color to the background on which it is applied, and the color shall be permanent in nature and shall be a slip-resistant surface.
6. Unchanged
7. Unchanged

(Reason: To avoid conflict with 25 TAC Chapter 265.184 (u) & 265.186 (c)(10).)

{Section 603.2; Delete in its entirety and replace as follows:}

603.2 Class D-2 pools Class A and B pools: Class A and B pools over 5 feet deep: the transition point of the pool from the shallow area to the deep area of the pool shall be visually set apart with a 4-inch minimum width row of floor tile, a painted line, or similar means using a color contrasting with the bottom; and a rope and float line shall be provided between 1 foot and 2 feet on the shallow side of the 5-foot depth along and parallel to this depth from one side of the pool to the other side. The floats shall be spaced at not greater than 7-foot intervals; and the floats shall be secured so they will not slide or bunch up. The stretched float line shall be of sufficient size and strength to offer a good handhold and support loads normally imposed by users. If the owner or operator of the pool knows or should have known in the exercise of ordinary care that a rope or float is missing, broken, or defective, the problem shall be promptly remedied

(Reason: To avoid conflict with 25 TAC Chapter 265.199.)

{Section 610.5.1; Change to read as follows:}

610.5.1 Uniform height of 9 10 inches. Except for the bottom riser, risers at the centerline shall have a maximum uniform height of 9 10 inches (254 mm). The bottom riser height shall be permitted to vary from the other risers.

(Reason: To avoid conflict with 25 TAC Chapter 265.186 (c)(7)(B).)

{Section 610.5.5; Amend to read as follows:}

610.5.5 Tread horizontal depth. Treads shall have an unobstructed horizontal depth of not less than 12 Inches (305 mm).

611.3 Message delivery.

Delete #4 in its entirety.

{Section 804 Diving Water Envelopes; Change to read as follows:}

Section 804.1 General. The minimum diving water envelopes shall be in accordance with Table 804.1 and Figure 804.1, or the manufacturer's specifications, whichever is greater. Negative construction tolerances shall not be applied to the dimensions of the minimum diving water envelopes given in Table 804.1.

(Reason: To provide minimum standards and to clarify specific manufactures specifications of the diving equipment.)

END



Amendments to the 2021 International Building Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Building Code are hereby amended as follows:

Also included is Foundation Figure 18-1-E.

Appendices excluded from adoption are as follows: A through O

{Amend to read as follows,}

101.1 Title. These regulations shall be known as the Building code of the City of Abilene, Texas, hereinafter referred to as “this code”.

{Amend to read as follows,}

101.4 Referenced codes. The other codes specified in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code, when specifically adopted, shall be considered to be part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered part of the requirements of this code.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{Amend section heading as follow,}

Section 103 – Department of the Building Inspections Division.

(Reason: To clarify the division responsible for enforcement.)

{Amend to read as follows,}

103.1 Creation of enforcement Division. The Building Inspections Division is hereby created and the Official in charge thereof shall be known as the Building Official.

{Amend #1 and add item #14,}

105.2 Work exempt from permits.

1. Edit last sentence to - 200 square feet.

14. When repairing or replacing roofing 5 squares or less.

(Reason: To match the regulations stated in the International Residential Code.)

{Addition of sections 105.8, 105.9, and 105.10}

105.8 Trash and debris containment. It is the responsibility of each permit holder to make provisions for the containment of building materials, construction debris, and all other trash and debris generated within the property boundaries. Blowing trash, paper, building materials packaging, and other construction site related debris allowed to collect or accumulate outside the property boundaries shall constitute a violation of this section of the code. Such violations shall be subject to enforcement provisions as provided in the code up to and including a stop work order, revocation of permit, and a fine. The particular chosen method, which may include, but not limited to, refuse container, roll offs, and fenced areas or other types of containment shall be provided and maintained by the permit holder.

105.9 Bonds. Any person desiring to engage in the business of general contractor, roofing contractor, or engage in the business of altering, repairing, constructing, demolishing, or moving houses or buildings, or any construction work generally followed by building contractors within the City of Abilene, shall first file with the building inspections division, a surety bond in the penal sum of \$75,000, payable to the City of Abilene and conditioned on a faithful performance of all of the provisions and regulations of the building code, this chapter, and all other ordinances of the city. The surety of such bond shall be a company authorized to transact business in the State of Texas. In the event the City has filed on the contractors bond within the past 3 years, the bond shall increase to the penal sum of \$150,000.

105.10 Contractors registration required. All contractors shall first file with the building inspections division of the City of Abilene as a registered contractor, as per section 8-161 of the Municipal Code, Article IV, License and Registrations.

{Delete 2nd sentence and insert the following,}

107.1 General. The construction documents shall be prepared by a registered design professional in accordance with the State of Texas Board of Architectural Examiners, Title 6, Subtitle B, chapter 1051, Texas Statute Occupational Code, and the Texas Engineering Practice

Act, Title 6, Subtitle A, Chapter 1001, Texas Statute, Occupational Code. In addition, buildings with a clear span exceeding 24' shall have the foundation and structural members designed by a professional engineer.

{Add following at the end of paragraph,}

109.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

{Add following at end of paragraph,}

109.4 Work commencing before permit issuance. Any person who commences work on a building, structure, electrical, gas, mechanical, or plumbing system without first obtaining the required permits shall be subject to an additional fee established by the building official that shall be in addition to the required permit fee. The investigation fee shall be equal to the amount of the permit fee required by the Code, however subsequent work commenced within 12 months of the previous violation shall be assessed a ten times fee.

(Reason: To clarify specific penalties for such violations..)

{Delete paragraph and insert the following,}

109.6 Refunds. The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{Addition of section,}

109.7 Re-inspection Fee. A fee as established by city council ordinance may be charged when:

1. The inspection called for is not ready when the inspector arrives;
2. No building address or permit card is clearly posted;
3. The building is locked or work otherwise not available for inspection when called;
4. The job site is red-tagged twice for the same item;
5. The original red tag has been removed from the job site.

6. Failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(Reason: This fee is not a fine or penalty but is designed to compensate for time and trips when inspections are called for when not ready.)

{Amend to read as follows;}

113.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361 of the code of ordinances.

(Reason: To clarify appropriate board set by municipality.)

{115.4; amend last sentence as follows:}

115.4 Failure to Comply. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{Section 202; amend definition of Ambulatory Care Facility as follows:}

AMBULATORY CARE FACILITY. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to individuals who are rendered incapable of self-preservation by the services provided ~~or staff has accepted responsibility for care recipients already incapable.~~ This group may include but not be limited to the following:

- Dialysis centers
- Sedation dentistry
- Surgery centers
- Colonic centers
- Psychiatric centers

(Reason: To clarify the range of uses included in the definition. [Explanatory note related to Ambulatory Care Facilities: This group of uses includes medical or dental offices where persons are put under for dental surgery or other services. Section 903.2.2 will now require such uses to be sprinklered if on other than the floor of exit discharge or if four or more persons are put under on the level of exit discharge. Recommend (1.) jurisdictions document any pre-existing non-conforming conditions prior to issuing a new C of O for a change of tenant and, (2.) On any

medical or dental office specify on C of O the maximum number of persons permitted to be put under general anesthesia. It is recommended that before a Certificate of Occupancy is issued, a letter of intended use from the business owner shall be included and a C of O documenting the maximum number of care recipients incapable of self- preservation allowed.)

{Amend last sentence to read as follows:}

603.1.3 Electrical. shall be permitted when installed in accordance with the limitations of the Electrical Code as adopted by the City of Abilene.

{Add following sentence to end of paragraph.}

1010.2.4 Locks and latches.

4. The provision is not applicable when 3.2 of this section is applied, provided the manually operated flush bolts are openable or released without the use of a key or tool. A sign as stated in 3.2 shall be placed on both active and inactive doors.

{Add exception 6.}

1020.2 Construction.

Exceptions: 6. In a group B Office building with more than 1 means of egress, corridor walls and ceilings need not be of fire resistance construction within office spaces of a single tenant when the space is equipped with an approved automatic smoke detection system within the corridor. The actuation of any detector shall activate alarms audible in all areas of the served corridor. The smoke detection system shall be connected to the building fire alarm system where such is provided.

{Delete chapter sections in its entirety and add the following.}

Chapter 11 Accessibility

1101.1 Scope. Accessibility shall be in accordance with the Texas Accessibility Standards.

(Reason: To guide customers to the proper regulatory authority and standards.)

{1404.3.1 add following after exceptions.}

1404.3.1 Class I and II vapor retarders. In all framed walls, floors, and roof/ceilings compromising elements of the building thermal envelope, a vapor retarder, when installed, shall be installed in a manner so as to not trap moisture.

(Reason: To clarify the importance of proper drainage of condensate etc.)

{Insert the following sub-section}

1801.2 Minimum footing and foundation design. Footings and foundations shall be built in accordance with “Figure 18-1.E” for structures not required to be designed by a professional engineer and not exceeding 2 stories in height.

(Reason: To provide a minimum design standard for smaller structures such as accessory buildings etc. that is best suited for the soils located within the boundaries of the City of Abilene.)

Add section.

1804.8 Finish Floor Requirements. All structures shall be constructed in such a manner that the finish floor elevation meets the requirements of the Storm Water Ordinance provisions for the City of Abilene. Structures that lie outside of the flood plain or floodway shall have a finish floor elevation that is 18” above the highest point of the gutter, perpendicular to the footprint of the structure.

Add new sentence to the beginning of section.

1808.7.4 Foundation elevation. *When structures are more than 25 feet from the street gutter on graded sites*

{Delete section and add to read as follows,}

2701.1 Scope. This chapter governs the electrical components, equipment and systems used in buildings and structure covered by this code. Electrical components, equipment and systems shall be designed and constructed in accordance with the provisions of the Electrical Code as adopted by the City of Abilene.

{Chapter 29 – delete sub-section 2902.4.1}

2902.4.1 Directional signage.

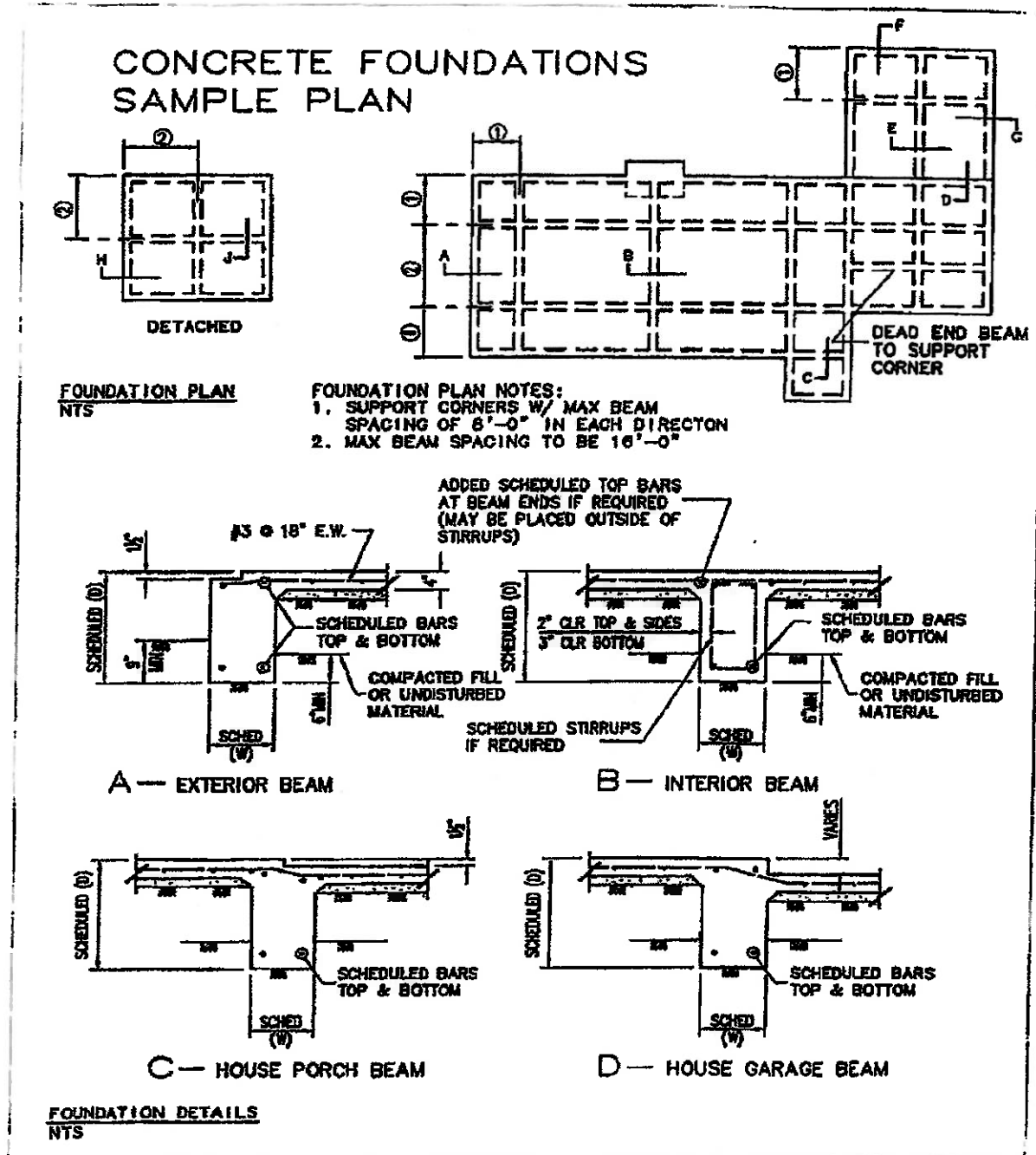
(Reason: Not common practice for the Big Country)

{Delete this section and add the following,}

3103.1 General. Reference section 108 of this code.

END

FIGURE 18-1-E



E-- GARAGE INTERIOR BEAM

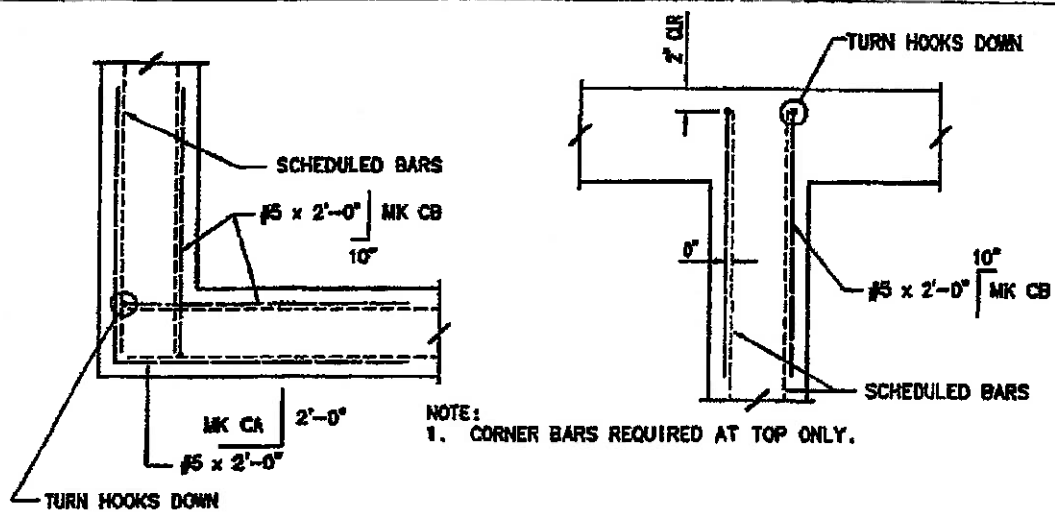
F— GARAGE EXTERIOR BEAM

**G— GARAGE EXTERIOR BEAM
AT ENTRANCE**

H- EXTERIOR BEAM
DETACHED BLDG.

J- INTERIOR BEAM
DETACHED BLDG.

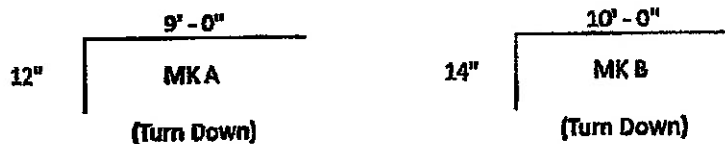
**GARAGE, PORCH, & DETACHED BLDG
FOUNDATION DETAILS**



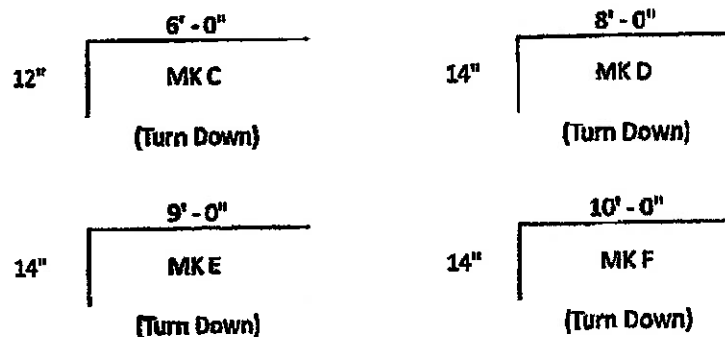
TYPICAL CORNER BARS

FOUNDATION CORNER BARS
N.T.S.

Single Story Beam Schedule								
Plasticity Indices (PI)	Exterior Beams			Interior Beams				
	Beam Size W X D	No.	Size & Locn	Beam Size W X D	No.	Size & Locn	Added Top Each End	Stirrups Each End
25 or Less	10 X 24	2	#5 T	10 X 24	2	#5 T	NOT REQUIRED	NOT REQUIRED
		2	#5 B		2	#5 B		
26 to 35	10 X 26	2	#6 T	10 X 26	2	#6 T	1 - #6 MK A	NOT REQUIRED
		2	#6 B		2	#6 B		
36 to 45	12 X 28	2	#6 T	12 X 28	2	#6 T	1 - #7 MK B	7 - #3 @ 12"
		2	#6 B		2	#6 B		



Two Story Beam Schedule								
Plasticity Indices (PI)	Exterior Beams			Interior Beams				
	Beam Size W X D	No.	Size & Locn	Beam Size W X D	No.	Size & Locn	Added Top Each End	Stirrups Each End
25 or Less	10 X 28	2	#6 T	10 X 28	2	#6 T	1 - #6 MK C	4 - #3 @ 12"
		2	#6 B		2	#6 B		
26 to 30	12 X 28	2	#6 T	12 X 28	2	#6 T	2 - #7 MK D	5 - #3 @ 12"
		2	#6 B		2	#6 B		
31 to 35	12 X 30	2	#7 T	12 X 30	2	#7 T	2 - #7 MK E	6 - #3 @ 12"
		2	#7 B		2	#7 B		
36 to 45	12 X 34	2	#7 T	12 X 34	2	#7 T	2 - #7 MK F	7 - #3 @ 12"
		2	#7 B		2	#7 B		



FOUNDATION BEAM SCHEDULES

General Notes:

- Use fill with P.I. (Plasticity Index) not to exceed 20: except where water table is encountered, use gravel, crushed stone or comparable material.
- Exterior and interior beams shall be a minimum depth below natural grade of 6". (Exception: when the exterior are placed on a compacted fill of 90% standard proctor density beams shall not be required to extend below natural grade, but shall be required to extend below finished grade a minimum of 6" into the compacted fill.) Exterior beams shall have a minimum of 9" of cover from the bottom of the beam. (See Detail A)
- All concrete shall be of a design mix to have a 28-day compressive strength of 3,000 p.s.i.
- Dead end beams not allowed except for corner support beams. Corner support beams shall pass through one intersecting beam and may dead end after connecting with the next intersecting beam. (See Detail on Concrete Foundation Sample Plan)
- All beam and slab reinforcing shall maintain minimum clearance of 2" from exterior forms on sides.
- All beam and slab reinforcing shall maintain minimum clearance of 3" from bottom of beams.
- Beam reinforcing shall be tied and supported every 4' - 0" minimum.
- Top corner reinforcing steel (bars) required at all perimeter beams. (See Typical Corner Bar Detail)
- LAP splices shall be in accordance with the following:
 - LAP #3 reinforcing steel (3/8" diameter bars) minimum 15"
 - LAP #4 reinforcing steel (1/2" diameter bars) minimum 20"
 - LAP #5 reinforcing steel (5/8" diameter bars) minimum 25"
 - LAP #6 reinforcing steel (3/4" diameter bars) minimum 30"
 - LAP #7 reinforcing steel (7/8" diameter bars) minimum 35"
- Anchor bolts - spacing 6' 0" O.C. (On Center) maximum. 12" from corners. 1/2" X 8" minimum size bolts.
- Provide chairs or other suitable supports for slab and beam reinforcing.
- All reinforcing except #3 reinforcing steel shall conform to ASTM grade 60-type steel. #3 reinforcing steel may be grade 40-type steel.
- Minimum slab thickness to be 4" and minimum reinforcing to be #3 bars at 18" B.W. (Both Ways)
- Beam sizes, spacing and reinforcing steel (bars) shall conform to the beam schedule. P.I (Plasticity Index) shall be determined for each proposed building site in accordance with the United States Department of Agriculture Soil Conservation Services Soil Survey of Taylor County, Texas, 1976. Exception: One soil test per 2500 square foot of foundation footprint shall be collected and tested by an approved testing agency. Spacing of multiple tests shall be in accordance with accepted engineering practices. Foundations for structures resting on soils with a P.I. greater than 40 shall be designed by an engineer licensed by the State of Texas.
- A foundation plan shall be required for all construction.



Amendments to the 2021 International Residential Code City of Abilene, Texas

The following sections, paragraphs, and sentences of the 2021 International Residential Code are hereby amended as follows:

Also included are Masonry Figure 1, Masonry Figure 2, Foundation Figure 18-1-E, King Truss Figure 502.5 and Handrail Figure R311.7.8.4-A

Appendices excluded from adoption are as follows: AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, and AW.

In 2009, the State Legislature enacted SB 1410 prohibiting cities from enacting fire sprinkler mandates in residential dwellings. However, jurisdictions with ordinances that required sprinklers for residential dwellings prior to and enforced before January 1, 2009, may remain in place. Reference; Section R313 Automatic Fire Sprinkler Systems.

The energy provisions in IRC Chapter 11 is deleted in its entirety.

Reference the 2021 IECC for energy code provisions and recommended amendments.

{Amend to read as follow,}

R101.1 Title. These regulations shall be known as the Residential Building code of the City of Abilene, Texas, hereinafter referred to as "this code".

{Section R102.4; change to read as follows:}

R102.4 Referenced codes and standards. The *codes*, when specifically adopted, and standards referenced in this *code* shall be considered part of the requirements of this *code* to the prescribed extent of each such reference and as further regulated in Sections R102.4.1 and R102.4.2. Whenever amendments have been adopted to the referenced *codes* and standards, each reference to said *code* and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the *Electrical Code* shall mean the *Electrical Code* as adopted.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{Section R103 and R103.1 amend to insert the Department Name}

Building Inspections Division

R103.1 Creation of enforcement agency. The [Building Inspections Division] is hereby created and the official in charge thereof shall be known as the Building Official.

(Reason: Reminder to be sure ordinance reads the same as designated by the city.)

{Section R105.2 add item #11}

R105.2 Work exempt from a permit.

11. When re-roofing 5 squares or less.

(Reason: To accommodate common roofing repairs.)

{Section R105.3.1.1& R106.1.4; delete these sections.}

R1053.1.1 Determination of substantially improved or substantially damaged existing buildings in flood hazard areas.

R106.1.4 Information for construction in flood hazard areas.

(Reason: Floodplain provisions are addressed locally.)

{105.10, 105.11, and 105.12; Addition of the following sections:}

R105.10 Trash and Debris Containment. It shall be the responsibility of each permit holder to make provisions for the containment of building materials, construction debris, and all other trash and debris generated within the property boundaries. Blowing trash, paper, building materials, packaging, and other construction site related debris, allowed to collect or accumulate outside the property boundaries for which a permit has been issued, in other than an approved container, shall constitute a violation of this code. Such violations shall be subject to enforcement provisions as provided for in the adopted code, including a stop work order, revocation of permit, and a possible fine.

R105.11 Bonds. Any person desiring to engage in the business of a general contractor, roofing contractor, or engage in the business of altering, repairing, construction, demolishing, or moving of structures, or any construction work generally followed by building contractors within the City, shall first file with the Building Official, a surety bond in the penal sum of \$75,000, payable to the City of Abilene and conditioned on a faithful performance of all provisions and regulations of the building code, this chapter, and all other ordinances of the City, and the surety of such bond shall be a company authorized to transact business in the State of Texas. In the event the City has filed on a contractors bond within the past 3 years, the bond shall increase to the penal sum of \$150,000.

R105.12 Contractors registration required. All contractors shall first file with the Building Official of the City of Abilene as a registered contractor, as per section 8-161 of the Municipal Code, Article IV, Licenses and Registration.

(Reason: To clarify contractor responsibilities and added protection for the customer.)

{Delete 2nd sentence and insert the following,}

R106.1 Submittal documents. The construction documents shall be prepared by a registered design professional when required in accordance with the Texas Engineering Practice Act, Title 6, Subtitle A, Chapter 1001. In addition, buildings with a clear span exceeding 24' shall have the foundation and structural members designed by a professional engineer.

(Reason: To clarify specific design requirements.)

{Add following at the end of paragraph,}

R108.2 Schedule of permit fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

{Delete paragraph and insert the following,}

R108.5 Refunds. The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid or collected. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{Addition of section,}

R108.7 Re-inspection Fee. A fee as established by city council ordinance may be charged when:

1. The inspection called for is not ready when the inspector arrives;
2. No building address or permit card is clearly posted;
3. The building is locked or work otherwise not available for inspection when called;
4. The job site is red-tagged twice for the same item;
5. The original red tag has been removed from the job site.
6. Failure to maintain erosion control, trash control or tree protection.

Any re-inspection fees assessed shall be paid before any more inspections are made on that job site.

(Reason: This fee is not a fine or penalty but is designed to compensate for time and trips when inspections are called for when not ready.)

Section R108.6 {Amend to read as follows}

R108.6 Work commencing before permit issuance. Any person who commences work on a building, structure, electrical, gas, mechanical, or plumbing system without first obtaining the required permits shall be subject to an additional fee established by the building official that shall be in addition to the required permit fee. The investigation fee shall be equal to the amount of the permit fee required by the Code, however subsequent work commenced within 12 months of the previous violation shall be assessed a ten times fee.

(Reason: To clarify specific penalties for such violations..)

{Section 112 Means of Appeals. Delete and replace as follows;}

R112.1 General. In order to hear and decide appeals of order, decisions or determinations made by the Building official relative to the application and interpretation of this code, appeals may be heard by the Board of Building Standards as established in Chapter 8, Sec. 8-361.

(Reason: To clarify appropriate board set by municipality.)

{R114.4; add last sentence as follows:}

114.4 Failure to Comply. A stop work order release fee in the amount of \$200.00 shall be paid prior to work commencing.

(Reason: To clarify the penalty.)

{Section R202; change definition of "Townhouse unit" to read as follows:}

TOWNHOUSE. A single-family dwelling unit in a townhouse, separated by property lines, that extends from foundation to roof and that has a yard or public way on not less than two sides.

(Reason: To distinguish Townhouses on separate lots.)

{Table R301.2 (1); fill in as follows:}

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGO RY ^f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^e	ICE BARRIER UNDER- LAYMENT ^h	FLOOD HAZARDS ^g	AIR FREEZING INDEX ⁱ	MEAN ANNUAL TEMP ^j
	SPEED ^d (MPH)	Topographic Effects ^k	Wind Special Detail	Windborne Debris ^m		Weathering ^a	Frost Line Depth ^b	Termite ^c					
5 lb/ft	115 (3 sec-gust)/ 76 fastest mile	No	No	No	A	Moderate	6"	Moderate-Heavy	20° F	No	Ord# 43- 1992	86	64.5 ° F

Delete remainder of table Manual J Design Criteria and footnote N

(Reason: To promote regional uniformity. Manual J is utilized by third party and not part of performed plan reviews. This is reference table only, not needed.)

{Section R302.1; add exception #6 to read as follows:}

Exceptions: {previous exceptions unchanged}

6. Open non-combustible carport structures may be constructed when also approved within adopted ordinances.

(Reason: Refers to other ordinances, such as zoning ordinances.)

{Section R302.5.1; amend to read as follows:}

R302.5.1 Opening protection. Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches (35 mm) thick, or 20-minute fire-rated doors. Doors shall be self-latching. ~~and equipped with a self-closing or automatic-closing device.~~

(Reason: Absence of data linking self-closing devices to increased safety.)

{Section R303.3, Exception; amend to read as follows:}

Exception: {existing text unchanged} Spaces containing only a water closet or water closet and a lavatory may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

(Reason: Consistent with common local practice as recirculating fans are recognized as acceptable air movement.)

Section R303.11; addition of section;}

R303.11 Required cooling. Every dwelling shall be provided with cooling facilities capable of maintaining a room temperature of not higher than 80 degrees at a point 3 feet above the floor and 2 feet from exterior walls in all habitable rooms. This installation of one or more portable cooling devices shall not be used to achieve compliance with this section.

Exception: Window air conditioning units shall not be considered a portable device.

(Reason: To protect the health of habitants due to the high temperatures in this area.)

{Section R304.1; delete and replace as follows;}

R304.1 Minimum area. A dwelling unit shall conform to the minimum area requirements of this code listed herein provided:

1. The unit shall have a separate living room of not less than 120 square feet of gross floor area.
2. The unit shall be provided with a separate sleeping room of not less than 70 square feet of gross area and every bedroom occupied by more than one person shall contain not less than 50 square feet of floor area for each occupant thereof.
3. The unit shall be provided with a kitchen area containing a sink, cooking appliance, and a refrigeration appliance with each having a clear passageway of 3 feet between countertops and appliances or countertops and walls. Kitchens shall be calculated as a separate area with not less than 35 square feet of gross area.
4. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.
5. A living room or bedroom shall be not less than 7 feet in any plan dimension.

(Reason: To protect the mental health of habitants.)

{Section R313.2 One and Two Family Dwellings; Delete this section and subsection in their entirety.}

(Reason: In 2009, the State Legislature enacted SB 1410, amending section 1301.551 subsection I of the occupation code, prohibiting cities from enacting fire sprinkler mandates one or two family dwellings only. However, jurisdictions with ordinances that required sprinklers for one or two family dwellings prior to and enforced before January 1, 2009, may remain in place.)

{Section R315.2.2 Alterations, repairs and additions; amend to read as follows:}

Exception:

1. Work involving the exterior surfaces of dwelling, such as the replacement of ~~roofing or~~ siding, or the addition or replacement of window or door, or the addition of a porch or deck.
2. Delete
3. (remains the same)

(Reason: Revised exception for clarity. Code intent is to protect against the products of combustion.)

{Section R401.1 addition of paragraph at the end;}

R401.1 Application..... Standard foundation design acceptable for one and two story buildings exempt from an engineer design, shall be designed in accordance with design figure 18-1-E.

(Reason: To require the City of Abilene's design resulted from a study for this area of high PI soils.)

{Add the following to the end of the section.}

R401.2 Requirements. All structures shall be constructed in such a manner that the finish floor elevation meets the requirements of the Storm Water Ordinance provisions for the City of Abilene. Structures that lie outside of the flood plain or floodway shall have a finish floor elevation that is 18" above the highest point of the gutter, perpendicular to the footprint of the structure.

{Section 403.1.8.1.2 addition of subsection;}

R403.1.8.1.2 Slab on grade foundation. Post tension slabs shall be designed by a professional engineer licensed by the State of Texas in accordance with the International Building Code section 1808.6.2

(Reason: To require an engineer's design on highly expansive soils.)

{Section 502.5 addition of exception}

502.5 Allowable girder and header spans.

Exception. A king truss constructed in accordance with figure R502.5 shall be acceptable.

(Reason: King truss is an engineered design successfully used in the area.)

{Section R703.8.3.3 addition of subsection;}

R703.8 Lintels....

R703.8.3.3. Garage door openings or other masonry openings over 11' and up to and including 18'3" where the masonry height does not exceed 2' may use a 7"x4"x3/8" steel lintel with a bearing of 10" on each end.

(Reason: Clearly lists requirement for this type of application and commonly used in this area.)

{Add section R703.8.4.1.2 Veneer Ties for Wall Studs; to read as follows:}

R703.8.4.1.2 Veneer Ties for Wall Studs. In stud framed exterior walls, all ties may be anchored to studs as follows:

1. When studs are 16 in (407 mm) o.c., stud ties shall be spaced no further apart than 24 in (737 mm) vertically starting approximately 12 in (381 mm) from the foundation; or
2. When studs are 24 in (610 mm) o.c., stud ties shall be spaced no further apart than 16 in (483 mm) vertically starting approximately 8 in (254 mm) from the foundation.

(This amendment had been a carryover amendment for years to provide clear instruction for placement of brick ties. It is now retained with changes to reflect its correct placement and use for clarity when attachment to framing lumber (studs). It should remain for those purposes. It is in addition to the new Table in 2018 which provides for brick ties directly to sheathing.)

{Section R802.11.2; amend first sentence as follows:}

R802.11.1.2 Rafter uplift resistance. Individual rafter spaced not more than 24" on center shall be attached to supporting wall assemblies in accordance with Table R602.3(1)

(Reason: To reflect appropriate fastening table.)

{Section *R905.7.1 Deck Requirements; Amend to read as follows;}

905.7.1 Deck requirements. Wood shingles shall be installed on solid wood sheathing.

(Reason: Common practice in this area.)

{Section R905.8.1 Deck requirements; Amend to read as follows;}

R905.8.1 Deck requirements. Wood shakes shall be installed on solid wood sheathing.

(Reason: Common practice in this area.)

{Chapter 11 [RE] – Energy Efficiency is deleted in its entirety; Reference the 2021 IECC for energy code provisions and recommended amendments.}

(Reason: The recommended energy code changes from the Energy and Green Advisory Board update the amendments for Chapter 11. The 2021 International Energy Conservation Code should be referenced for residential energy provisions. This approach simply minimizes the number of amendments to the IRC.)

{Section M1411.3; amend to read as follows:}

M1411.3 Condensate disposal. Condensate from cooling coils or evaporators shall be conveyed from the drain pan outlet to ~~an approved place of disposal~~ a sanitary sewer through a trap, by means of a direct or indirect drain. {remaining text unchanged}

(Reason: Reflects regional practice and to reduce excessive runoff into storm drains.)

{Section M1411.3.1, Items 3 and 4; add text to read as follows:}

M1411.3.1 Auxiliary and secondary drain systems. *{bulk of paragraph unchanged}*

1. *{text unchanged}*
2. *{text unchanged}*
3. An auxiliary drain pan... *{bulk of text unchanged}*... with Item 1 of this section. A water level detection device may be installed only with prior approval of the *building official*.
4. A water level detection device... *{bulk of text unchanged}*... overflow rim of such pan. A water level detection device may be installed only with prior approval of the *building official*.

(Reason: Reflects standard practice in this area.)

{Section M1411.3.1.1; add text to read as follows:}

M1411.3.1.1 Water-level monitoring devices. On down-flow units ...*{bulk of text unchanged}*... installed in the drain line. A water level detection device may be installed only with prior approval of the *building official*.

(Reason: Reflects standard practice in this area.)

{M1505.2 Change the 2nd sentence to read as follows:}

M1505.2 Recirculation of air. Exhaust air from bathrooms, toilet rooms and kitchens shall discharge outdoors, or into a properly ventilated attic at least 18 inches above ceiling joists.

(Reason: Reduce the number of penetrations in a roof)

{Section M2005.2; change to read as follows:}

M2005.2 Prohibited locations. Fuel-fired water heaters shall not be installed in a room used as a storage closet. Water heaters located in a bedroom or bathroom shall be installed in a sealed enclosure so that *combustion air* will not be taken from the living space. Access to such enclosure may be from the bedroom or bathroom when through a solid door, weather-stripped in accordance with the exterior door air leakage requirements of the *International Energy Conservation Code* and equipped with an *approved* self-closing device. Installation of direct-vent water heaters within an enclosure is not required.

(Reason: Corresponds with the provisions of IFGC Section 303.3, exception #5.)

{Section G2415.2.1 (404.2.1) CSST; add a second paragraph to read as follows:}

Both ends of each section of medium pressure gas piping shall identify its operating gas pressure with an *approved* tag. The tags are to be composed of aluminum or stainless steel and the following wording shall be stamped into the tag:

"WARNING: 1/2 to 5 psi gas pressure - Do Not Remove"

(Reason: To protect homeowners and plumbers.)

{Section G2415.12 (404.12) and G2415.12.1 (404.12.1); change to read as follows:}

G2415.12 (404.12) Minimum burial depth. Underground *piping systems* shall be installed a minimum depth of ~~12 inches (305 mm)~~ 18 inches (457 mm) below grade, ~~except as provided for in Section G2415.12.1.~~

G2415.12.1 (404.12.1) Individual Outdoor Appliances; Delete in its entirety

(Reason: To provide increased protection to piping systems.)

{Section G2417.1 (406.1); change to read as follows:}

G2417.1 (406.1) General. Prior to acceptance and initial operation, all *piping* installations shall be visually inspected and *pressure tested* to determine that the materials, design, fabrication, and installation practices comply with the requirements of this *code*. The *permit* holder shall make the applicable tests prescribed in Sections 2417.1.1 through 2417.1.5 to determine compliance with the provisions of this code. The *permit* holder shall give reasonable advance notice to the *building official* when the *piping system* is ready for testing. The *equipment*, material, power and labor necessary for the inspections and test shall be furnished by the *permit* holder and the *permit* holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests.

(Reason: To utilize language used in the IPC regarding who is responsible for testing procedures.)

{Section G2417.4.1; change to read as follows:}

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be no less than 3 psig (20 kPa gauge), or at the discretion of the Code Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge. For tests requiring a pressure of 3 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one half inches (3 ½"), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi for tests requiring a pressure of 3 psig. For tests requiring a pressure of 10 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one-half inches (3 ½"), a set hand, a minimum of 2/10 pound incrementation and a pressure range not to exceed 20 psi. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa) (1/2 psi) and less than 200 inches of water column pressure (52.2 kPa) (7.5 psi), the test pressure shall not be less than ten (10) pounds per square inch (69.6 kPa). For piping carrying gas at a pressure that exceeds 200 inches of water

column (52.2 kPa) (7.5 psi), the test pressure shall be not less than one and one-half times the proposed maximum working pressure.

Diaphragm gauges used for testing must display a current calibration and be in good working condition. The appropriate test must be applied to the diaphragm gauge used for testing

(Reason: To provide for lesser pressures to coordinate with the use of more accurate diaphragm gauges.)

{Section G2417.4.2; change to read as follows:}

G2417.4.2 (406.4.2) Test duration. The test duration shall be held for a length of time satisfactory to the Building Official, but in no case for be not less than 10-fifteen (15) minutes. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa), the test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than thirty (30) minutes.

(Reason: To comply with accepted regional practices.)

{Section G2420.1 (406.1); add Section G2420.1.4 to read as follows:}

G2420.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an approved termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system's piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the supporting piping.

(Reason: To provide proper security to CSST valves. These standards were established in this region in 1999 when CSST was an emerging technology.)

{Section G2420.5.1 (409.5.1); add text to read as follows:}

G2420.5.1 (409.5.1) Located within same room. The shutoff valve...{bulk of paragraph unchanged}... in accordance with the appliance manufacturer's instructions. A secondary shutoff valve must be installed within 3 feet (914 mm) of the firebox if appliance shutoff is located in the firebox.

(Reason: Reflects regional practice and provides an additional measure of safety.)

{Section G2421.1 (410.1); add text and Exception to read as follows:}

G2421.1 (410.1) Pressure regulators. A line pressure regulator shall be ... {bulk of paragraph unchanged}... approved for outdoor installation. Access to regulators shall comply with the requirements for access to appliances as specified in Section M1305.

Exception: A passageway or level service space is not required when the *regulator* is capable of being serviced and removed through the required *attic* opening.

(Reason: To require adequate access to regulators.)

{Section G2422.1.2.3 (411.1.3.3) Prohibited locations and penetrations; delete Exception 1 and Exception 4.}

(Reason: To comply with accepted regional practices.)

{Section G2445.2 (621.2); add Exception to read as follows:}

G2445.2 (621.2) Prohibited use. One or more *unvented room heaters* shall not be used as the sole source of comfort heating in a *dwelling unit*.

Exception: Existing *approved unvented room heaters* may continue to be used in *dwelling units*, in accordance with the *code* provisions in effect when installed, when *approved* by the *Building Official* unless an unsafe condition is determined to exist as described in *International Fuel Gas Code* Section 115.6 of the *Fuel Gas Code*.

(Reason: Gives code official discretion.)

{Section G2448.1.1 (624.1.1); change to read as follows:}

G2448.1.1 (624.1.1) Installation requirements. The requirements for *water heaters* relative to *access*, sizing, *relief valves*, drain pans and scald protection shall be in accordance with this *code*.

(Reason: To clarify installation requirements. Also corresponds with amendments regarding water heater access.)

{Section P2603.3; add to read as follows:}

P2603.3 Protection against corrosion. Metallic piping, except for cast iron, ductile iron and galvanized steel, shall not be placed in direct contact with steel framing members, concrete or masonry. Metallic piping shall not be placed in direct contact with corrosive soil. Where sheathing is used to prevent direct contact, the sheathing material thickness shall be not less than 0.008 inch (8 mil) (0.203 mm) and shall be made of an approved material plastic. Where sheathing protects piping that penetrates concrete or masonry walls or floors, the sheathing shall be installed in a manner that allows movement of the piping within the sheathing.

(Reason: Allows for other materials to be accepted.)

{Section P2603.5.1 Sewer Depth; change to read as follows:}

P2603.5.1 Sewer depth. Building sewers that connect to private sewage disposal systems shall be not less than 12 inches below finished grade at the point of septic tank connection. Building sewers shall be not less than 12 inches below grade.

(Reason: Provides sewer depth that is common in this region. Deleted reference to private sewage disposal because a private sewage disposal code is not typically adopted in this region.)

{Section P2604; add to read as follows:}

P2604.2.1 Plastic sewer and DWV piping installation. Plastic sewer and DWV piping installed underground shall be installed in accordance with the manufacturer's installation instructions. Trench width shall be controlled to not exceed the outside the pipe diameter plus 16 inches or in a trench which has a controlled width equal to the nominal diameter of the piping multiplied by 1.25 plus 12 inches. The piping shall be bedded in 4 inches of granular fill and then backfilled compacting the side fill in 6-inch layers on each side of the piping. The compaction shall be to minimum of 85 percent standard proctor density and extend to a minimum of 6 inches above the top of the pipe.

(Reason: To follow manufacturer backfill requirements and to be clear to Inspectors out in the field.)

{Section P2801.6.1; change to read as follows:}

Section P2801.6.1 Pan size and drain. The pan shall be not less than 1 1/2 inches (38 mm) deep and shall be of sufficient size and shape to receive dripping or condensate from the tank or water heater. The pan shall be drained by an indirect waste pipe of not less than 3/4 inch (19 mm). Piping for safety pan drains shall be of those materials listed in Table P2906.5. Multiple pan drains may terminate to a single discharge piping system when *approved* by the administrative authority and permitted by the manufactures installation instructions and installed with those instructions. {existing text unchanged}

(Reason: Regionally accepted practice.)

{Section P2804.6.1; change to read as follows:}

Section P2804.6.1 Requirements for discharge piping. The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

1. Not be directly connected to the drainage system.
2. Discharge through an air gap.
3. Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.

4. Serve a single relief device and shall not connect to piping serving any other relief device or equipment.
5. Discharge to an approved location or to the outdoors.

[Remainder unchanged]

(Reason: To ensure the T&P is ran to the exterior.)

{Section P2902.5.3; change to read as follows:}

P2902.5.3 Lawn irrigation systems. The potable water supply to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker, a double-check assembly or a reduced pressure principle backflow preventer. A valve shall not be installed downstream from an atmospheric vacuum breaker. Where chemicals are introduced into the system, the potable water supply shall be protected against backflow by a reduced pressure principle backflow preventer.

(Reason: To provide clarity.)

{Section P3111Combination waste and vent systems; delete this section in its entirety.}

(Reason: A combination waste and vent system is not approved for use in residential construction.)

{Section P3112.2 Vent Connection; delete and replace with the following:}

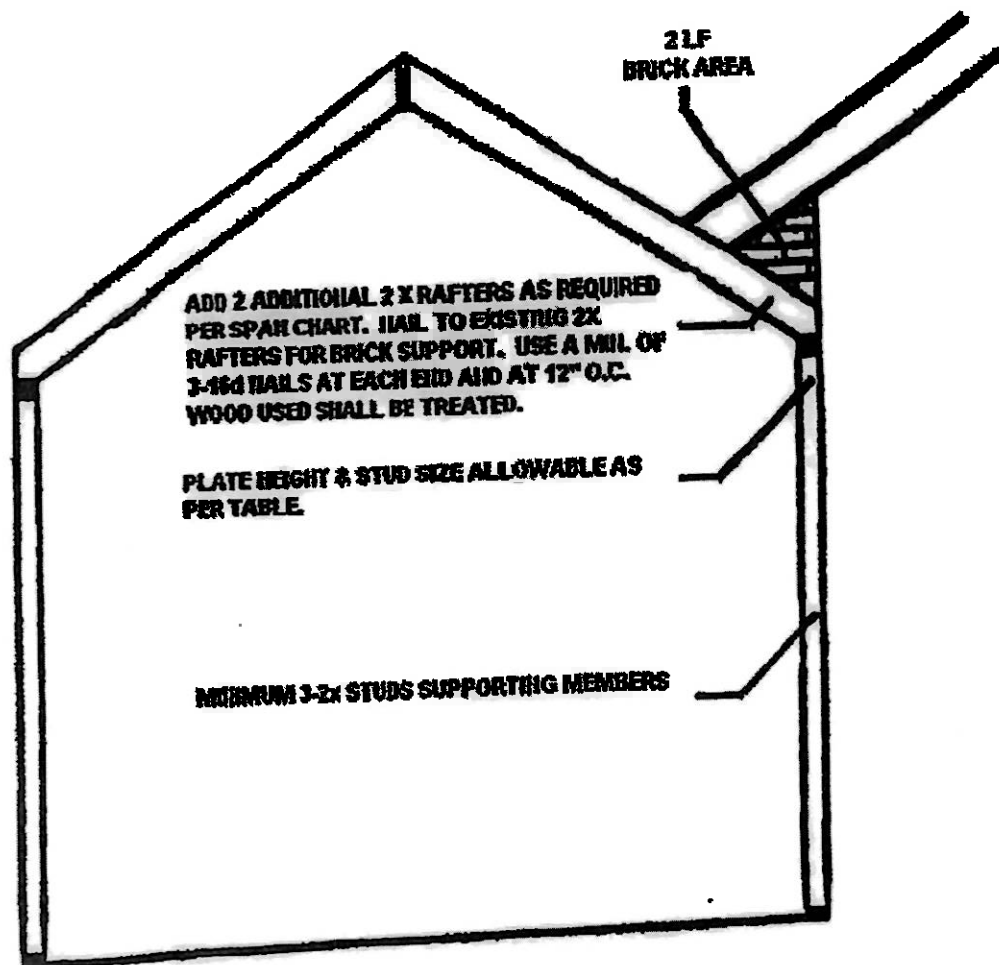
P3112.2 Installation. Traps for island sinks and similar equipment shall be roughed in above the floor and may be vented by extending the vent as high as possible, but not less than the drainboard height and then returning it downward and connecting it to the horizontal sink drain immediately downstream from the vertical fixture drain. The return vent shall be connected to the horizontal drain through a wye-branch fitting and shall, in addition, be provided with a foot vent taken off the vertical fixture vent by means of a wye-branch immediately below the floor and extending to the nearest partition and then through the roof to the open air or may be connected to other vents at a point not less than six (6) inches (152 mm) above the flood level rim of the fixtures served. Drainage fittings shall be used on all parts of the vent below the floor level and a minimum slope of one-quarter (1/4) inch per foot (20.9 mm/m) back to the drain shall be maintained. The return bend used under the drain-board shall be a one (1) piece fitting or an assembly of a forty-five (45) degree (0.79 radius), a ninety (90) degree (1.6 radius) and a forty-five (45) degree (0.79 radius) elbow in the order named. Pipe sizing shall be as elsewhere required in this Code. The island sink drain, upstream of the return vent, shall serve no other fixtures. An accessible cleanout shall be installed in the vertical portion of the foot vent.

(Reason: To clarify the installation of island venting and to provide a regional guideline on a standard installation method for this region.)

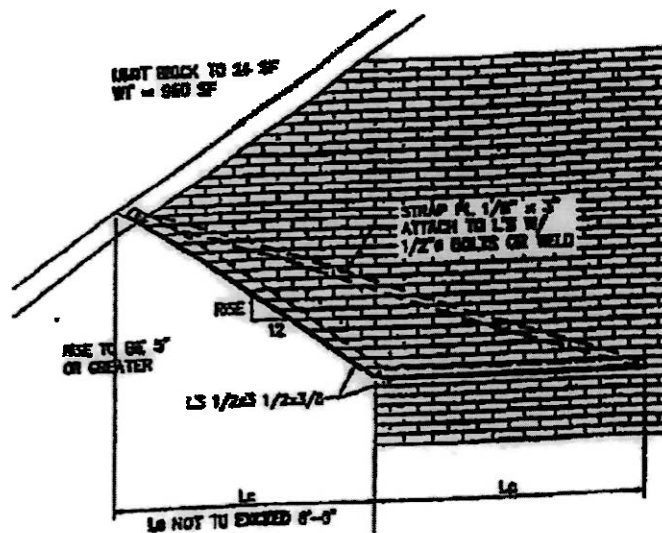
{Section 3201.7 Amend Table 3201.7 as follows:}

Table 3201.7 Size of traps for plumbing fixtures.

<u>Fixture</u>	<u>Min Trap size</u>
1. Bathtubs	2"
2. Bidet	1.5"
3. Clothes Washer	2"
4. Dishwasher	1.5"
5. Floor Drain	2"
6. Kitchen Sink	1.5"
7. Laundry tub	1.5"
8. Lavaratory	1 ¼"
9. Shower up to 12.3 gpm	2"
More than 12.3 gpm	3"



MASONRY FIGURE 1



LINTELS OVER PITCHED ROOFS

SCALE: 3/8" = 1'-0"



MASONRY FIGURE 2

CONCRETE FOUNDATIONS SAMPLE PLAN

FOUNDATION PLAN
NTS

FOUNDATION PLAN NOTES:

1. SUPPORT CORNERS W/ MAX BEAM SPACING OF 8'-0" IN EACH DIRECTION
2. MAX BEAM SPACING TO BE 16'-0"

DETAILED FOUNDATION DETAILS:

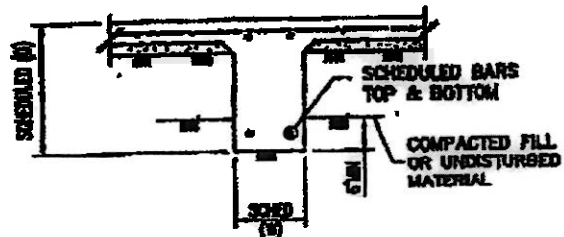
A - EXTERIOR BEAM

B - INTERIOR BEAM

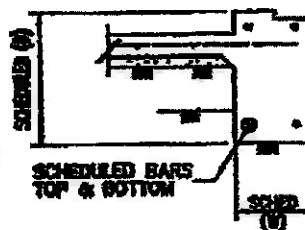
C - HOUSE PORCH BEAM

D - HOUSE GARAGE BEAM

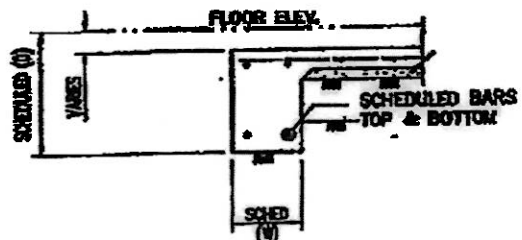
FOUNDATION DETAILS
NTS



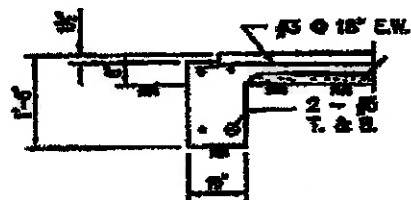
E — GARAGE INTERIOR BEAM



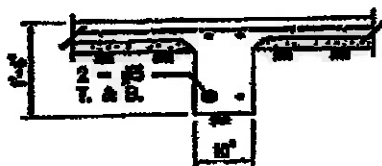
F — GARAGE EXTERIOR BEAM



G — GARAGE EXTERIOR BEAM AT ENTRANCE

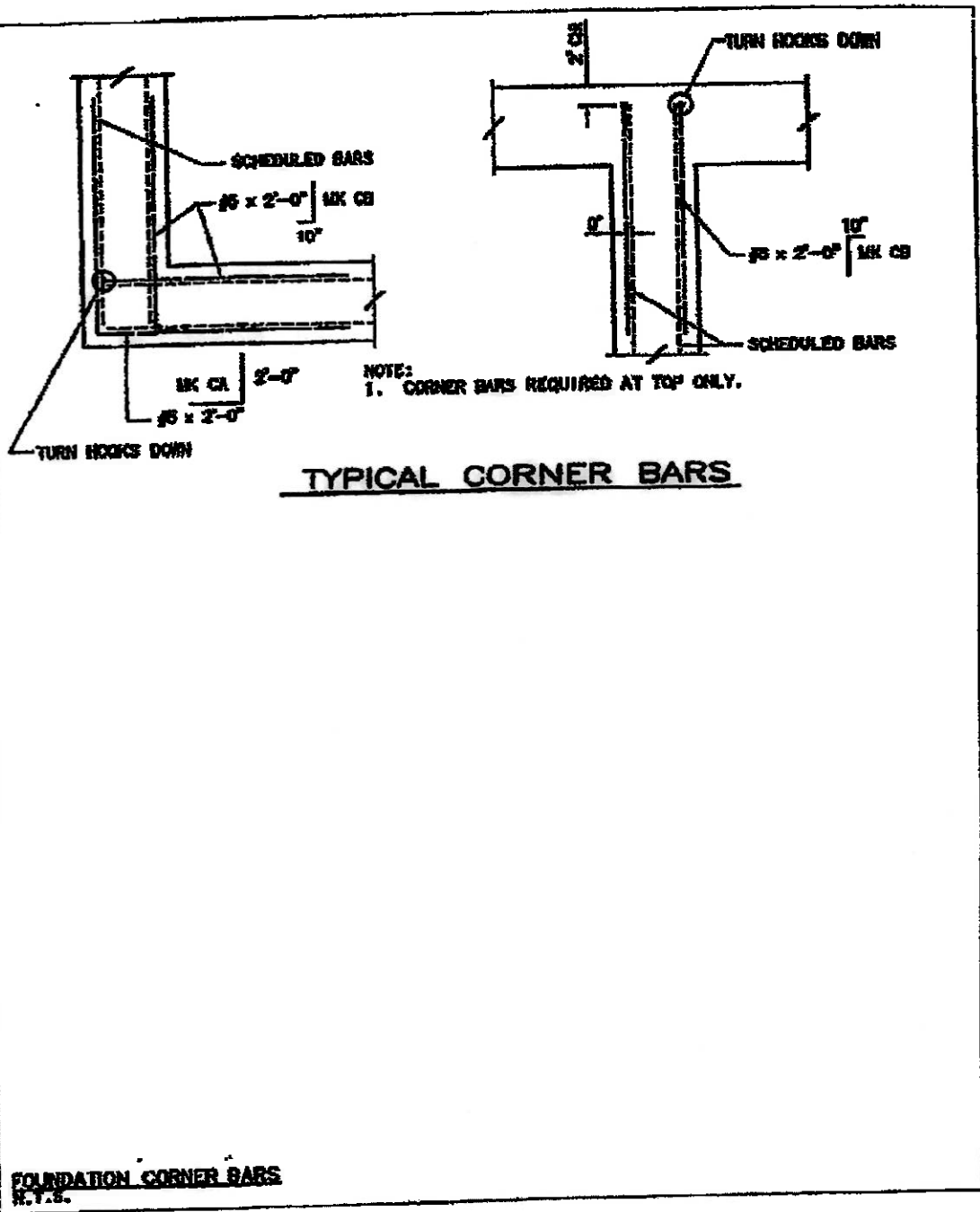


H — EXTERIOR BEAM DETACHED BLDG.



J — INTERIOR BEAM DETACHED BLDG.

**GARAGE, PORCH, & DETACHED BLDG
FOUNDATION DETAILS**



Single Story Beam Schedule								
Plasticity Indices (PI)	Exterior Beams			Interior Beams				
	Beam Size W X D	No.	Size & Locn	Beam Size W X D	No.	Size & Locn	Added Top Each End	Stirrups Each End
25 or less	10 X 24	2	#5 T	10 X 24	2	#5 T	NOT REQUIRED	NOT REQUIRED
		2	#5 B		2	#5 B		
26 to 35	10 X 26	2	#6 T	10 X 26	2	#6 T	1 - #6 MK A	NOT REQUIRED
		2	#6 B		2	#5 B		
36 to 45	12 X 28	2	#6 T	12 X 28	2	#6 T	1 - #7 MK B	7 - #3 @ 12"
		2	#6 B		2	#6 B		

9' - 0"
12" MK A
(Turn Down)

10' - 0"
14" MK B
(Turn Down)

Two Story Beam Schedule								
Plasticity Indices (PI)	Exterior Beams			Interior Beams				
	Beam Size W X D	No.	Size & Locn	Beam Size W X D	No.	Size & Locn	Added Top Each End	Stirrups Each End
25 or Less	10 X 28	2	#6 T	10 X 28	2	#6 T	1 - #6 MK C	4 - #3 @ 12"
		2	#6 B		2	#6 B		
26 to 30	12 X 28	2	#6 T	12 X 28	2	#6 T	2 - #7 MK D	5 - #3 @ 12"
		2	#6 B		2	#6 B		
31 to 35	12 X 30	2	#7 T	12 X 30	2	#7 T	2 - #7 MK E	6 - #3 @ 12"
		2	#7 B		2	#7 B		
36 to 45	12 X 34	2	#7 T	12 X 34	2	#7 T	2 - #7 MK F	7 - #3 @ 12"
		2	#7 B		2	#7 B		

6' - 0"
12" MK C
(Turn Down)

8' - 0"
14" MK D
(Turn Down)

9' - 0"
14" MK E
(Turn Down)

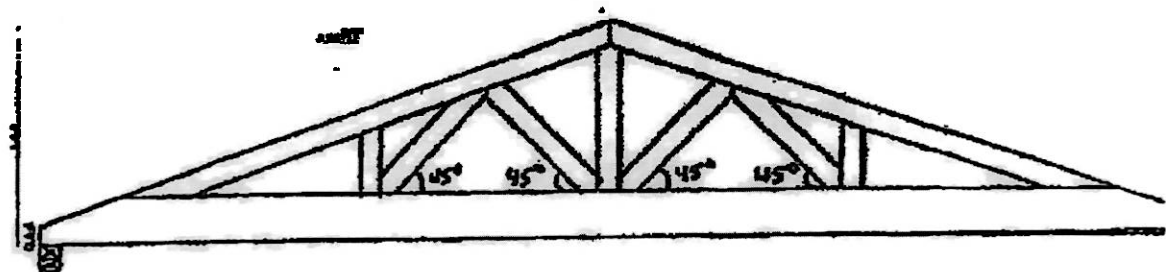
10' - 0"
14" MK F
(Turn Down)

FOUNDATION BEAM SCHEDULES

General Notes:

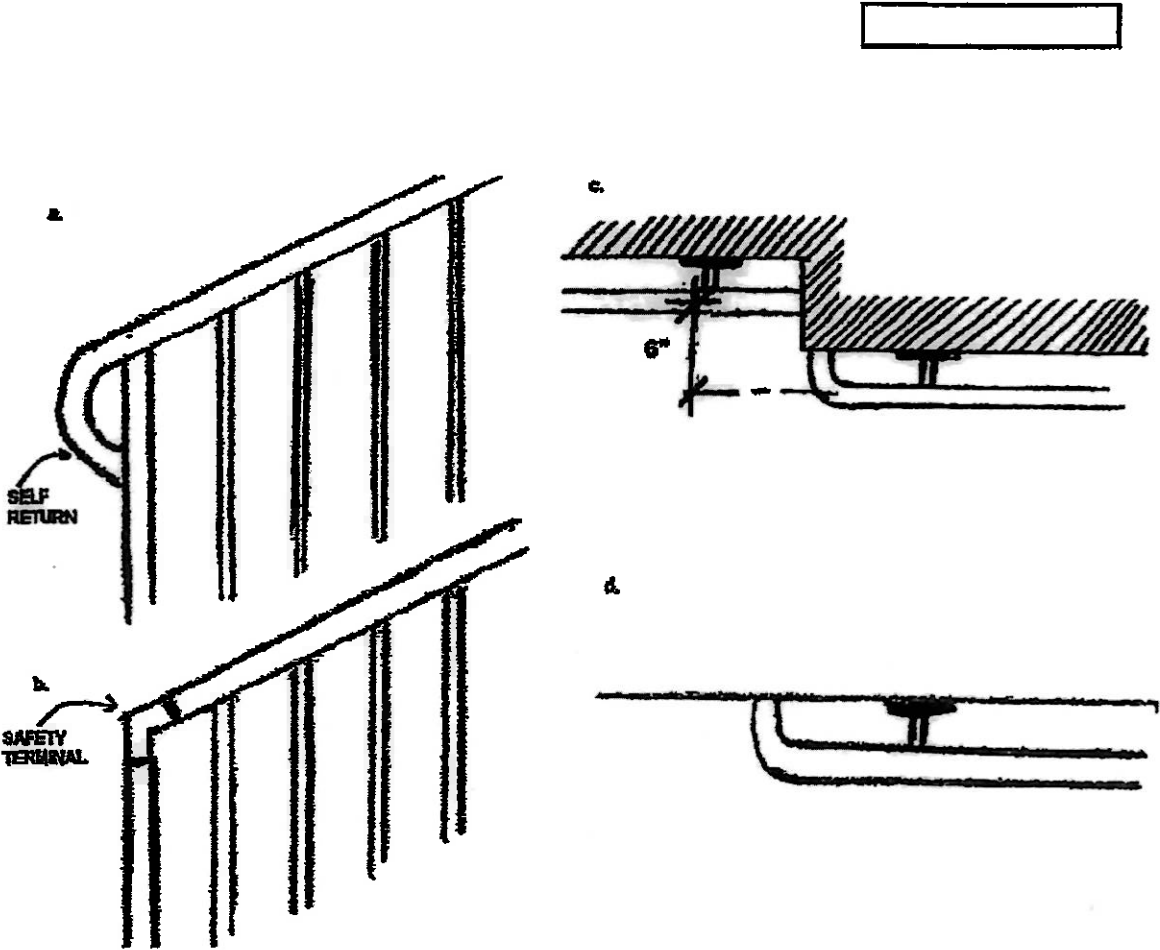
- Use fill with P.I. (Plasticity Index) not to exceed 20; except where water table is encountered, use gravel, crushed stone or comparable material.
- Exterior and interior beams shall be a minimum depth below natural grade of 6". (Exception: when the exterior are placed on a compacted fill of 90% standard proctor density beams shall not be required to extend below natural grade, but shall be required to extend below finished grade a minimum of 6" into the compacted fill.) Exterior beams shall have a minimum of 9" of cover from the bottom of the beam. (See Detail A)
- All concrete shall be of a design mix to have a 28-day compressive strength of 3,000 p.s.i.
- Dead end beams not allowed except for corner support beams. Corner support beams shall pass through one intersecting beam and may dead end after connecting with the next intersecting beam. (See Detail on Concrete Foundation Sample Plan)
- All beam and slab reinforcing shall maintain minimum clearance of 2" from exterior forms on sides.
- All beam and slab reinforcing shall maintain minimum clearance of 3" from bottom of beams.
- Beam reinforcing shall be tied and supported every 4' - 0" minimum.
- Top corner reinforcing steel (bars) required at all perimeter beams. (See Typical Corner Bar Detail)
- LAP splices shall be in accordance with the following:
 - LAP #3 reinforcing steel (3/8" diameter bars) minimum 15"
 - LAP #4 reinforcing steel (1/2" diameter bars) minimum 20"
 - LAP #5 reinforcing steel (5/8" diameter bars) minimum 25"
 - LAP #6 reinforcing steel (3/4" diameter bars) minimum 30"
 - LAP #7 reinforcing steel (7/8" diameter bars) minimum 35"
- Anchor bolts -- spacing 6" O.C. (On Center) maximum. 12" from corners. 1/2" X 8" minimum size bolts.
- Provide chairs or other suitable supports for slab and beam reinforcing.
- All reinforcing except #3 reinforcing steel shall conform to ASTM grade 60-type steel. #3 reinforcing steel may be grade 40-type steel.
- Minimum slab thickness to be 4" and minimum reinforcing to be #3 bars at 18" B.W. (Both Ways)
- Beam sizes, spacing and reinforcing steel (bars) shall conform to the beam schedule. P.I. (Plasticity Index) shall be determined for each proposed building site in accordance with the United States Department of Agriculture Soil Conservation Services Soil Survey of Taylor County, Texas, 1976. Exception: One soil test per 2500 square foot of foundation footprint shall be collected and tested by an approved testing agency. Spacing of multiple tests shall be in accordance with accepted engineering practices. Foundations for structures resting on soils with a P.I. greater than 40 shall be designed by an engineer licensed by the State of Texas.
- A foundation plan shall be required for all construction.

KING TRUSS BEAM
Figure 502.5



1. Truss span maximum 24'.
2. 2 x 12 bottom chord; 2 x 6 top cord; 2 x 6 Webs at 45 degrees. All members to be continuous.
3. 4 1/4" minimum heel height.
4. 4/12 minimum pitch.
5. 4' x 8' x 1/2" O.S.B or C.D. plywood lengthwise over joints on both sides of truss.
6. Equal perpendicular bracing both ways to truss to eliminate rotation or leaning of truss.
7. Solid blocking at bottom of 2 x 12's.
8. Material to be No. 2 SPF or better.

FIGURE R-311.7.8.4-A



Chapter 29.5 SWIMMING POOLS AND SPAS

Sec. 29.5-1. Purpose and scope.

The purpose of this chapter is to provide standards for the operation and maintenance of public and restricted access pools, spas, and interactive water features and fountains, to minimize health and safety hazards, and to regulate the design and construction of all swimming pools, spas, and interactive water features and fountains. The standards in these sections shall cover public and restricted access pools, spas, and interactive water features and fountains, operated by an owner, licensee, or concessionaire, regardless of whether a fee is charged for use, residential above-ground/in-ground swimming pools, permanently installed residential swimming pools and spas, and residential portable spas. Except where cited otherwise, the standards shall apply to those pools/spas/interactive water features and fountains constructed after the effective date of this chapter. This chapter applies within the corporate boundaries of the City.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)

Sec. 29.5-2. Design and construction of residential swimming pools.

The National Spa and Pool Institute "Standard for Residential Swimming Pools," together with a residential swimming pool design and construction pamphlet amending and supplementing those standards, are hereby enacted and adopted by reference as the "City of Abilene Residential Swimming Pool Design and Construction Standards." The code and the pamphlet are on file with the Building Official and City Secretary.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)

Sec. 29.5-3. Operation, maintenance, design, and construction of public and restricted access swimming pools, spas, and interactive water features and fountains.

Title 25, Chapter 265, Subchapter L of the Texas Administrative Code, "Standards for Public Pools and Spas," Chapter 265, Subchapter M of the Texas Administrative Code, "Public Interactive Water Features and Fountains," together with an operation, maintenance, design, and construction of public and restricted access pools and spas pamphlet amending and supplementing the Code, are hereby enacted and adopted by reference as the "City of Abilene Operation, Maintenance, Design and Construction of Public and Restricted Access Pools and Spas Standards." The code and the pamphlet are on file with the Building Official and City Secretary.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)

Sec. 29.5-4. Appeal.

Any person, firm, or corporation aggrieved by an interpretation or decision regarding the codes and standards adopted or enacted in this chapter may appeal such interpretation or decision. An appeal regarding design and construction of swimming pools and spas shall be to the Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals, established in section 8-391 of this Code. The provisions of chapter 8, article V, division 3, regarding the procedures of the Mechanical, Plumbing, Electrical, and Swimming Pool Board of Appeals apply to this section. An appeal regarding the maintenance and operation of public and restricted access pools, spas and interactive water features and fountains shall be to the Public Health Authority and the Director of

Planning and Development Services, as stated in Part I, Article A, Section 4.4 of the Abilene Swimming Pools and Spas Code pamphlet.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)

Sec. 29.5-5. Violations and penalties.

(a) — Any person who violates any provision of this section shall be guilty of a misdemeanor, punishable by a fine as set forth in section 1-9 of this Code.

(b) — Each day a violation occurs shall constitute a separate offense.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)

Sec. 29.5-6. Civil remedies.

(a) — The City Attorney may enforce any regulation, order, or ruling promulgated under this section by injunction, declaratory relief, or other action at law or in equity.

(b) — The City Attorney may initiate injunction, mandamus, abatement, or any other action available in law or equity to prevent, enjoin, abate, correct or remove the construction, use, or work done on any swimming pool or spa that is done contrary to the provisions of this chapter.

(Ord. No. 43-2008, pt. 1(Exh. A), 8-28-08; Ord. No. 17-2012, pt. 1(Exh. A), 4-12-12)



Amendments to the 2021 International Property Maintenance Code City of Abilene, Texas

{Section 101.1; amend to read as follows:}

Section 101.1 Title. The regulations shall be known as the International Property Maintenance Code of the City of Abilene, Texas, hereinafter referred to as “this code.”

(Reason: Legal wording to recognize municipality.)

{Section 102.8; amend to read as follows:}

102.8 Referenced Codes and Standards. The codes and standards referenced herein shall be those that are listed and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the adopted amendments. Any reference to NFPA 70 shall mean the Electrical Code as adopted.

(Reason: Legal wording to recognize locally adopted codes and amendments adopted with referenced codes.)

{103.1; delete and replace to read as follows:}

103.1 General. Property Maintenance inspections shall be part of the Planning and Developments Services Department and the executive in charge thereof shall be known as the code official.

(Reason: To identify the division in charge of this code.)

{104.1; delete and replace to read as follows:}

104.1 Fees. Permit fees are set by Abilene City Council ordinance. Fees are located here: <https://www.abilenetx.gov/business/city-fee-schedule/fee-schedule>. Fees published are subject to change at any time by Council action to ordinance.

(Reason: To direct applicant in the correct location and recognize fees are subject to change.)

{104.2; delete and replace to read as follows:}

104.2 Fee Refunds. The Building Official shall authorize the refunding of fees as follows:

The building official shall authorize refunding of any fee paid hereunder in which was erroneously paid, collected, or cancelled. The building official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The building official shall not authorize refunding of any fee paid except on written application filed by the permit holder not later than 180 days after the date of fee payment.

(Reason: Clarification of interpretation.)

{107.1; amend to read as follows:}

107.1 General. In order to hear and decide appeals of orders, decisions or determinations made by the code official relative to the application and interpretation of this code, there shall be and is hereby created the Board of Building Standards. The Board of Building Standards... *(remainder of text unchanged)*

(Reason: To clarify appropriate board for this process)

{109.4; delete and replace to read as follows:}

109.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install alter or repair mechanical work in violation of the approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law. Any such violation shall be a misdemeanor and upon conviction thereof, shall be punishable by a fine, not to exceed \$500.00. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(Reason: To clarify the penalty and policy of a violation.)

{Delete Section 113 Demolition in its entirety and replace with:}

Section 113 Demolition

113.1 General. Demolition shall comply with Chapter 8, Article VI, Division 6 of the City of Abilene code of ordinances.

End

City Council Meeting

2021 CODE ADOPTION





Codes up for adoption

- **2021 International Building Code with amendments**
- **2021 International Residential Code with amendments**
- **2021 Internationals Existing Building Code with amendments**
- **2021 International Swimming Pool and Spa Code with amendments**
- **2020 National Electrical Code with amendments**
- **2021 International Energy Conservation Code with amendments**
- **2021 International Plumbing Code with amendments**
- **2021 International Fuel and Gas Code with amendments**
- **2021 International Mechanical Code with amendments**
- **2021 International Property Maintenance Code with amendments**





2021 IBC Review Committee

- Bill Newman
- Scot Colley
- Jonathan Schmutz
- Kevin Phillips
- Terry Williams
- Perry Haynes

BMC

RHS

Cadco

Harris Acous.

Hendricks

PH Eng.





2021 IRC Review Committee

- Bill Newman
- Bob Bein
- Gene Lantrip
- Mike Hall
- Jon Loudermilk
- Tim McClarty

BMC

Bein2

Lantrip CH

McCoys

Loudermilk CH

TRM Arch.





2021 IECC Review Committee

- Gene Lantrip
- Bob Bein
- Bill Newman
- Jon Loudermilk
- Ron Smith
- Terry Williams
- Jeremy McBrayer

Lantrip CH

Bein2

Abilene Lumber

Loudermilk CH

Precision Unl.

Hendricks

Lantrip CH



CITY OF
ABILENE
T E X A S



2021 IPC Review Committee

- Darrin Black
- Sean McNeil
- David Gay
- Steve Parks
- Steve Smith
- Craig Sartor
- Rick Kelly

Black Plbg.

Batjer Assoc.

WTA

BP & Assoc

Morris Supply

Custom Plbg.

Rick's Plbg.



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T E X A S



2021 IMC Review Committee

- Kenneth Rich
- Tom Hawkins
- Chris Toponce
- Johnny Rose
- Richard Bryan
- Henry Sanchez

Hall Air

Hawkins A/C

ACS Heat/Air

Bradshaw Eng.

Bryan Parks & Assoc.

HRS





2021 ISPSC Review Committee

- Frank Perez
- Randy Glenn
- Bobby Gilbreth

Southwest Pools
Extreme Exteriors
West Tex Pools





Code Adoption

- **Modern, regularly updated building codes and a strong system of code enforcement ensure that individuals and communities are safe in the buildings where they live, work and play — codes build confidence. As we face disasters on an unprecedented scale — from hurricanes and tornados to wildfires and earthquakes — building codes become increasingly important to the safety, health and wellbeing of our families and communities.**
- **“Building safety is about preparing for the future. The Code Council, in partnership with our members and stakeholders, develops model codes that integrate new technologies and the latest advancements in building science.”**
- **The codes before you today are minimum standards, Staff has made some minor adjustments in order to follow standard practices for Abilene, but please be reminded that these are minimal construction standards and requirements. Staff would like to ensure our citizens that any structure built within the corporate city limits of Abilene are built to these standards in order to protect the health and life safety of our community.**





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Lesli Andrews, Director

SUBJECT: 15. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on approving an Ordinance establishing the 2023 Standards of Care (Lesli Andrews)

GENERAL INFORMATION

In August of 1997 the 74th Legislature enacted 42.041(14) of the Texas Human Resources Code, which exempts youth programs operated by a municipality from state child-care licensing requirements. The Texas Human Resources Code provides that in order for a municipality to be exempt from the state's licensing requirements, the governing body of the municipality must annually adopt standards of care by ordinance after a public hearing. The major difference in the City's standards is that we have established standards for 6-13 years of age, whereas the state's standard is for 0-6 years of age, a population we mostly do not serve.

SPECIAL CONSIDERATIONS

The standards of care require three levels of inspection. Review levels are performed each year to ensure compliance. The first level is performed by the Recreation Coordinator to confirm adherence to the standards themselves. The second is a visual inspection of the facilities to be conducted by the division manager with the assistance of a Parks and Recreation professional not associated with the City of Abilene. The visual inspection was conducted on November 8, 2022. The Parks and Recreation Professional who assisted was Travis Pence, Parks and Recreation Athletics Coordinator from Wichita Falls, Texas. The third level is an annual inspection by both the Fire Department and Environmental Health. All of these inspections and reviews were satisfactorily completed and the program is in compliance. A copy of the 2023 Standards of Care will be online for additional access.

The only change in the 2023 Standard of Cares was the year and the logo.

FUNDING/FISCAL IMPACT

No funding or fiscal impact.

STAFF RECOMMENDATION

Staff recommends adopting the 2023 Standards of Care.

BOARD OR COMMISSION RECOMMENDATION

The 2023 Standards of Care were approved at the November 15, 2022 Parks and Recreation board meeting.

ATTACHMENTS:

1. 2023_Ordinance_Standards_of_Care
2. Exhibit A Standards of Care 2023
3. Standards of Care Letter and Inspection Documentation 2023
4. Presentation Standards of Care 2023

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, ESTABLISHING STANDARDS OF CARE FOR CITY OF ABILENE YOUTH PROGRAMS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; AND CALLING A PUBLIC HEARING.

WHEREAS, the City of Abilene, through the Division of Recreation, provides youth programs that contribute to the overall wellbeing of youth and families of the City of Abilene; and

WHEREAS, these youth programs are presently held at the Recreation Centers; and

WHEREAS, the 74th Legislature enacted Section 42.041(14) of the Texas Human Resources Code, which would exempt youth programs operated by a municipality from child-care state licensing requirements provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing; and

WHEREAS, The City of Abilene has had Standards of Care in place for twenty two years which have functioned well; and

WHEREAS, Abilene Parks and Recreation Board the Administrator of Recreation for the City of Abilene recommends the Standards of Care as set forth in Exhibit "A" be adopted by the City of Abilene:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- Section 1.** That all of the recitals and preambles hereinabove stated are found to be true and correct and are incorporated herein and made a part of this ordinance.
- Section 2.** That the Youth Programs' Standards of Care for the City of Abilene, as detailed in Exhibit "A" attached hereto and incorporated herein for all purposes, are hereby approved and adopted.
- Section 3.** That all ordinances or parts of ordinances in conflict with the provisions of the ordinance are hereby repealed.
- Section 4.** That, if any provision of this ordinance will be held to be invalid or unconstitutional, the remainder of such ordinance will continue in full force and effect, the same as if such invalid or unconstitutional provision had never been a part hereof.
- Section 5.** That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED ON FIRST READING this 1st day of December, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 11th day of December 2022, to permit the public to be heard prior to final consideration of this ordinance.

PASSED ON SECOND AND FINAL READING this 15th day of December 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

City of Abilene Recreation Division



Standards of Care for Youth Programs 2023

Parks and Recreation
633 Walnut Street
Abilene, TX 79601
(325) 676-6217

www.abilenetx.gov/parksandrec
parksandrec@abilenetx.gov

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ABILENE YOUTH PROGRAMS

STANDARDS OF CARE

General Administration

1. Organization

- A. The governing body of the City of Abilene Youth Programs is the Abilene City Council.
- B. Implementation of the Youth Program's Standards of Care is the responsibility of the Recreation Administrator and departmental employees.
- C. Youth Programs ("Program") to which these Standards apply are the programs held at the City Recreation Centers currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene.
- D. Each of the City of Abilene Youth Program sites will have a current copy of the Standards of Care available for public and staff review.
- E. Parents of participants will be provided a current copy of the Standards of Care during the registration process or the Standards of Care can be accessed on the City of Abilene website at www.abilenetx.gov/camps. Parents of participants will be informed that the City of Abilene Youth Programs is not licensed by the State.
- F. Criminal background checks will be conducted on prospective Youth Program employees. If results of the criminal checks indicate that an applicant has been convicted for any of the following offenses, he or she may not be considered for employment:
 - (1) A felony or a misdemeanor classified as an offense against a person or family;
 - (2) A felony or misdemeanor classified as public indecency;
 - (3) A felony or misdemeanor violation of any law intended to control the possession or distribution of any controlled substance or any violation of the City Policy;
 - (4) Any offense involving moral turpitude;
 - (5) Any offense that would potentially put the City of Abilene or participants of the Program at risk.
 - (6) In addition, a nationwide check of databases for the Sex Offender Registration Program will be conducted on prospective Program Staff. If results of the check indicate that an applicant is a registered sex offender, he or she will not be considered for employment.

2. Definitions

- A. City: City of Abilene.
- B. City Council: City Council of the City of Abilene.
- C. Department: Parks and Recreation Department of the City of Abilene.
- D. Director: City of Abilene Director of Parks and Recreation Department or designee.
- E. Division: Recreation Services Division of the City of Abilene.
- F. Employee: Someone who has been employed by the City of Abilene and has been assigned responsibility for managing, administering, or implementing some portion of the City of Abilene Youth Programs.
- G. Parent(s): A parent or guardian who has legal custody and authority to enroll a child in the City of Abilene Youth Programs.
- H. Participant: A youth whose parent has completed all required registration procedures and who has been determined to be eligible for the City of Abilene Youth Programs.
- I. Program Manual: A notebook of policies, procedures, required forms, and organizational and programming information relevant to City of Abilene's Youth Programs.
- J. Program Site: Any area or facility where the City of Abilene Youth Programs is held.
- K. Recreation Coordinator: City of Abilene Recreation Division full-time Programmer who has been assigned administrative responsibility for the City of Abilene Youth Programs.
- L. Recreation Specialist or Recreation Leader: Any City of Abilene Recreation Division employee (full-time or part-time) who has been assigned responsibility to implement the City of Abilene Youth Programs.
- M. Playground Supervisor or Playground Aide: Any City of Abilene Recreation Division temporary employee who has been assigned responsibility to implement the City of Abilene Youth Programs.
- N. Administrator: City of Abilene Administrator of Recreation Services or his or her designee.
- O. Youth Program(s) or Program: City of Abilene Youth Programs held at the City's Recreation Centers are currently operated by the City of Abilene. Other programs may be subsequently designated by the City of Abilene. These programs are not child-care facilities.

3. Objective of Youth Programs

- A. To provide Youth with the opportunity of recreational activities which may include sports, games, arts and crafts, education, dance, drama, special events, field trips, etc...
- B. To provide an encouraging atmosphere by emphasizing the positive development of physical skills, emotional development, and growth of self-confidence.
- C. To provide a safe environment by promoting good health and welfare for all participants.
- D. To teach Youth how to spend leisure time wisely in an effort to meet the emotional, physical, and social needs of Youth.

4. Inspections/Monitoring/Enforcement

- A. An annual facility inspection report will be initiated by the Recreation Coordinator of each Program to confirm adherence to the Standards of Care. This report will be submitted in March.
 - (1) Inspection reports will be sent to the Administrator for review and kept on record for at least two years.
 - (2) The Administrator will review the report and establish deadlines and criteria for compliance with the Standards of Care.
- B. The Administrator will make visual inspections of the facilities, based on the following schedule. A Parks and Recreation Professional that is not associated with the City of Abilene will assist on one of the following inspections.
 - (1) A pre-summer check in April of each year; and
 - (2) A fall check in October of each year.
- C. Complaints regarding enforcement of the Standards of Care will be directed to the Recreation Coordinator. The Recreation Coordinator will be responsible for taking the necessary steps to resolve the problems. Complaints regarding enforcement of the Standards of Care and their resolution will be recorded by the Recreation Coordinator and forwarded to the Administrator, the complaint and the resolution will be noted.
- D. The Administrator will provide an annual report to the Parks and Recreation Board on the overall status of the Youth Programs and their operation relative to compliance with the adopted Standards of Care.

5. Enrollment

- A. Before a child may be enrolled, a parent/guardian must sign registration forms that contain:
- (1) Name, address, and telephone number of the child;
 - (2) Name and address of parents/guardian and telephone numbers during program hours;
 - (3) The names and telephone numbers of people to whom the child may be released;
 - (4) A statement of the child's special needs; and
 - (5) A signed liability waiver which also includes permission for field trips and emergency medical authorization.
 - (6) Signed acknowledgement of program code of conduct.

6. Suspected Abuse

Program employees will report suspected child abuse in accordance with the Texas Family Code. In a situation where an Employee is involved in an incident with a child that could be considered child abuse, the incident shall immediately be reported to the Recreation Division Manager. The Recreation Division Manager will immediately notify the Police Department and any other agency, as may be appropriate.

Staffing – Responsibilities and Training

1. Recreation Center Coordinators

- A. Qualifications
1. Recreation Coordinators will be full-time, professional employees of the City of Abilene Recreation Division
 2. Recreation Coordinators must meet the minimum education/experience requirements for employment with the City of Abilene to plan and implement recreation activities.
 3. Recreation Coordinators must be able to pass a background investigation, including testing for illegal substances.
 4. Coordinators must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
 5. Recreation Coordinators must complete City of Abilene mandatory training.

B. Job Functions

1. Recreation Coordinators are responsible for administering the Youth Programs daily operations in compliance with the Adopted Standards of Care.
2. Recreation Coordinators are responsible for hiring, supervising, and evaluating Recreation Specialist/Leaders.
3. Recreation Coordinators are responsible for planning, implementing, and evaluating programs.
4. Recreation Coordinators maintain supplies, equipment and all necessary documentation for the operation of the Youth Programs.
5. Recreation Coordinators must communicate with Parent(s) as necessary.
6. Recreation Coordinators know and follow all City of Abilene, Division, and Program Manual standards, policies and procedures that apply to Youth Programs.
7. Recreation Coordinators ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

2. Recreation Specialist/Recreation Leader

A. Qualifications

1. Recreation Specialists/Leaders may be full-time, part-time, or temporary employees of the City of Abilene Recreation Division.
2. Recreation Specialists/Leaders should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Recreation Specialists/Leaders must relate to children with courtesy, respect, tolerance, and patience.
4. Recreation Specialists must have a current certification in First Aid and Cardiopulmonary Resuscitation (CPR)– Adult and Child. These certifications must be from a nationally recognized certifying organization, i.e., American Heart Association or American Red Cross.
5. Recreation Specialists/Leaders must pass a background investigation, including testing for illegal substances.
6. Recreation Specialist/Leaders will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Recreation Specialist/Leaders will be responsible for providing participants with an environment in which they can feel safe, enjoy wholesome recreation activities, and can participate in appropriate social opportunities with their peers.
2. Recreation Specialist/Leaders will directly lead activities using a method that will provide opportunities for involvement of all participants on an equal basis.
3. Recreation Specialist/Leaders must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
4. Recreation Specialist/Leaders will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
5. Recreation Specialist/Leader must be with participants at all times while they are participating in the Program.
6. Recreation Specialist/Leaders ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

3. Playground Supervisor and/or Playground Aide

A. Qualifications

1. Playground Supervisor/Aides will be temporary employees of the City of Abilene Recreation Division.
2. Playground Supervisor/Aides should be able to consistently exhibit competency, good judgment, and self-control when working with children.
3. Playground Supervisor/Aides must relate to children with courtesy, respect, tolerance, and patience.
4. Playground Supervisor/Aides must pass a background investigation, including testing for illegal substances.
5. Playground Supervisor/Aides will be responsible for understanding and following all City of Abilene, Departmental, Division, and Program standards, policies, and procedures that apply to the City of Abilene Youth Programs.

B. Job Functions

1. Playground Supervisor/Aides will assist in leading activities using a method that will provide opportunities for involvement of all participants on an equal basis.
2. Playground Supervisor/Aides must exhibit enthusiasm for the activity to impart a feeling of excitement in the participants.
3. Playground Supervisor/Aides will promote a non-competitive, positive, image-enhancing environment for each participant through the direction of fun, varied, and well-organized activities.
4. Playground Supervisor/Aides will be responsible for picking up the areas used by their group after each activity.
5. Playground Supervisor/Aides must be with participants at all times while they are participating in the Program.
6. Playground Supervisor/Aides ensure that participants are released only to a Parent(s) or an adult designated by the Parent(s).

4. Training/Orientation

- A. The Division is responsible for providing training and orientation to Program employees in working with children and for specific job responsibilities.
- B. Program employees must be competent with the Standards of Care for Youth Program operation as adopted.
- C. Program employees must be competent with the Program's policies, including discipline, guidance, and release of participants as outlined in the Summer Playground Manual.
- D. Program employees will be trained in appropriate procedures to handle emergencies.
- E. Program employees will be trained in areas including City, Departmental, Division and Program policies and procedures; provision of recreation activities; safety issues; and organization.
- F. Program employees will be electronically tested annually over program manuals and Standards of Care.

Operations

1. Staff-Participant Ratio

- A. The City of Abilene Youth Programs, the minimum employee to participant ratio will be 1 to 20 for participants from ages 6-13.
- B. Each participant should have a Program employee who is responsible for him or her and who is aware of details of the participant's habits, interests, and any special needs as identified by the participant's parent during the registration process.

2. Notification

- A. Parents must be notified immediately when Program employees are aware of the following:
 - (1) Participant is injured; or
 - (2) Participant has a sign or symptom requiring exclusion from the site (i.e. communicable disease, fever, and/or illness).
- B. All parents must be notified if there is an outbreak of any communicable disease. The disease will be reported to the Abilene Taylor County Public Health District.

3. Discipline

- A. Program employees will implement discipline and guidance in a consistent manner, based on the best interests of Program participants.
- B. There will be no cruel or harsh punishment or treatment. Examples include, but not limited to:
 - 1. Using physical punishment or any action administered to the body such as, but not limited to rough handling, or forcing child(ren) to assume an uncomfortable position.
 - 2. Restraining movement by tying, enclosing in a confined space, shaking, or using exercise as punishment.
 - 3. Being verbally abusive, including, but not limited to, threats, belittling remarks, humiliation, embarrassment, or frightening a child.
 - 4. Giving any child the authority to punish another child.
 - 5. Placing a child out of visual/hearing range, in the dark, or in an unventilated area.
 - 6. Punishing a child for a toileting accident.
 - 7. Taunting a child by mocking or any other form of jeering.
 - 8. Giving preferential attention to any child over another child.

- C. Program employees may use brief, supervised separation from the activity if necessary.
- D. As necessary, Program employees will initiate discipline reports to the parents of participants. Parents will be asked to sign participant discipline reports to indicate they have been advised about a specific problem or incident.
 - 1. A sufficient number and/or severe nature of discipline report(s), as detailed by the Disciplinary Policy in the Program and Operations Manuals, may result in a Participant being suspended from the Youth Program immediately. If a Participant is suspended from the program, an Authorized Person must pick up the Participant.
 - 2. Participants will be removed from the Program Site as soon as possible in instances of danger to other Participants or Program Staff. This includes, but is not limited to, continuous disruption of the Youth Program, inappropriate sexual behavior, bullying, hitting or biting other Participants or Program Staff and damage to any City property.
- E. A sufficient number and/or severe nature of discipline reports as detailed in the Program manual may result in a participant being suspended and/or expelled from the Program.
- F. In instances where there is a danger to other participants or staff, offending participants will be removed from the Program site as soon as possible.
- G. Any person(s) creating a nuisance, causing a disturbance, or creating an unsafe environment at any Program Site will be subject to ejection from the site and possible arrest and legal action.

4. Programming

- A. Program employees will provide activities for each group according to the participants' ages, interests, and abilities. The activities will be appropriate to participants' health, safety, and well-being. The activities also will be flexible and designed to promote the participants' emotional, social, and mental growth.
- B. Program employees will provide indoor and outdoor time periods to include:
 - (1) Alternating active and passive activities;
 - (2) Opportunity for individual and group activities; and
 - (3) Outdoor time each day that weather permits.
- C. Program employees will be attentive and considerate of the participants' safety on field trips and during any transportation provided by the Program. Participants must be counted before leaving the Program Site and before boarding the transportation to return to the Program Site.

- (1) During trips, Program employees supervising participants must have immediate access to emergency medical forms and emergency contact information for each participant.
- (2) Program employees will have transportation cards of the participants in the group and must check the roll frequently.
- (3) Program employees should have First-Aid supplies and a guide to First-Aid and emergency care available on field trips.
- (4) Notice of any field trips will be displayed at a prominent location at each Program site.

5. Communication

- A. Each Program site will have access to a telephone for use in contacting the Recreation Center or making emergency calls.
- B. The Recreation Coordinator will post the following telephone numbers adjacent to a telephone accessible to all Program employees at each site:
 - (1) Ambulance or emergency medical services.
 - (2) City of Abilene Police Department.
 - (3) City of Abilene Fire Department.
 - (4) Poison control.
 - (5) The telephone number for the site itself.

6. Transportation

- A. First-Aid supplies and a First-Aid emergency care guide will be available in all Program vehicles that transport children.
- B. All Program vehicles used for transporting participants must have available a portable fire extinguisher located in the passenger compartment of the vehicle which will be accessible to the adult occupants.

Facility Standards

1. Safety

- A. Program employees will inspect Program sites daily to detect sanitation and safety concerns that might affect the health and safety of the participants.
- B. Buildings, grounds, and equipment on the Program site will be inspected, cleaned, repaired, and maintained to protect the health of the participants.
- C. Program equipment and supplies should be safe for the participants' use.

- D. Program employees should have First-Aid supplies available at each site, during transportation and for the duration of any off-site activity.
- E. Program employees should have first-aid supplies readily available to staff in a designated location. Program employees should have an immediately accessible guide to First-Aid and emergency care.
- F. Program air conditioners, electric fans, and heaters should be mounted out of participants reach or have safeguards that keep participants from being injured.

2. Fire

- A. In case of fire, danger of fire, explosion, or other emergency, Program employee's first priority is to evacuate the participants to a designated safe area.
- B. The Program site will have an annual fire inspection by the City of Abilene Fire Department, and the resulting report will detail any safety concerns observed. The report will be forwarded to the Administrator who will review and establish deadlines and criteria for compliance.
- C. Each Program site must have at least one (1) fire extinguisher approved by the Fire Marshall readily available to all Program employees. The fire extinguisher is to be inspected monthly by the Recreation Center Coordinator. All of the City of Abilene Youth Program employees will be trained in the proper use of fire extinguishers.

3. Health

- A. Illness or Injury
 - (1) A participant who is considered to be a health or safety concern to other participants or staff will not be admitted to the Program.
 - (2) Illnesses and injuries will be handled in a manner to protect the health of all participants and employees. Emergency responders will be notified in the event of an injury that cannot be remedied through basic first aid. An accident report shall be completed and forwarded to the Recreation Supervisor.
 - (3) An ill Youth will not be allowed to attend or participate if the Youth is suspected of having a temperature and/or accompanied by behavior changes or other signs or symptoms until a medical evaluation indicating that the Youth can return to the Youth Program.
 - (4) Program employees will follow plans to provide emergency care for injured participants or for participants with symptoms of an acute illness as specified in the Program manual.

- (5) Program employees will follow the recommendation of the Texas Department of State Health Services concerning the admission or readmission of any participant after a communicable disease.

C. Toilet Facilities

- (1) The Program site will have inside toilets located and equipped so children can use them independently and Program employees can supervise as needed.
- (2) There must be at least one flush toilet for every thirty (30) children. Urinals may be counted in the ratio of toilets to children but must not exceed fifty percent (50%) of the total number of toilets.
- (3) An appropriate and adequate number of lavatories will be provided.

D. Sanitation

- (1) The Program site must have adequate light, ventilation, and heat.
- (2) The Program must have an adequate supply of water, meeting the standards of the Texas Department of State Health Services for drinking water, and ensure that it will be supplied to the participants in a safe and sanitary manner.
- (3) Program employees must see that garbage is removed from Program sites daily.
- (4). The Program site will have an annual health inspection by the City of Abilene Health Department, and the resulting report will detail any health concerns observed. The report will be kept on file at the center. Information from this report will be included in the Director's annual report to the City Council.

4. Participants

- A. All participants must wear tennis shoes daily, unless the Youth is in the swimming pool or participating in an activity that requires no shoes to be worn.
- B. Youth must respect the Employees, Program Site, and each other.

Standards of Care Review

**City of Wichita Falls
Parks & Recreation Department
600 11th Street
Wichita Falls, Texas
76301
940-761-7497**



November 8, 2022

Ann Hall
Division Manager
City of Abilene Parks & Recreation 633
Walnut St.
Abilene, TX 79601

On Tuesday, November 8, 2022, I came to visit your recreation centers: Daniels, Cobb, Chavez, and Rose. I am happy to report that all of the centers not only met the standard of care and operation expected of municipal recreation centers, they collectively exceeded them.

My overall impression of the centers is that they are well loved, well used, and well cared for. All of the staff was very professional, courteous and knowledgeable. I enjoyed seeing how the centers are used and how they help breathe life into the neighborhoods they serve.

Attached are my inspection sheets with some notes of items that should be considered.

Thank you for the opportunity to come see your centers. In doing so, I have gained some ideas we can consider trying at our centers.

Travis Pence
Parks and Recreation
Athletics Coordinator
City of Wichita Falls, Texas
940-761-7497
travis.pence@wichitafallstx.gov

Standards of Care Review

Recreation Center: G. V. Daniels

Date: 8 Nov 22 Inspector: Travis Pence

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit may posted		

Comments: Fire exits are blocked. Fire extinguishers locations need to better posted.
signs

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Standards of Care Review

Recreation Center: Rose Park Rec Center

Date: 8 Nov 22 Inspector: Travis Pence

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments:

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Standards of Care Review

Recreation Center: Cobb Park

Date: 8 Nov 22 Inspector: Travis Pence

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit map posted	✓	

Comments:

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:

Standards of Care Review

Recreation Center: Chavez

Date: 8 Nov 22 Inspector: Travis Pence

SAFETY	Yes	No
First Aid kit stocked with Band-Aids and other essential items	✓	
First Aid kit readily accessible in designated area	✓	
Center Coordinators: CPR/First Aid Certified	✓	

Comments:

FIRE	Yes	No
At least one fire extinguisher	✓	
Fire Extinguishers were current	✓	
Fire Extinguishers locations were labeled	✓	
Emergency Exit may posted	✓	

Comments:

COMMUNICATION	Yes	No
Emergency Contact Numbers Posted	✓	
EMS or Ambulance contact information posted	✓	
Police Department contact information posted	✓	
Fire Department contact information posted	✓	
Poison Control contact information posted	✓	
Recreation Center contact information posted	✓	

Comments:



2023 Standards of Care



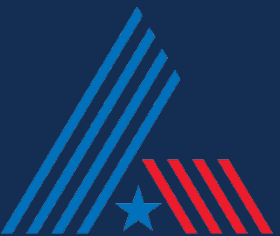
Standards of Care

- Summer Camp and After School Programs are open to ages 6 to 13.
- Parents are provided with a copy of the document and it is posted www.abilenetx.gov/camps.
- The Standards of Care are intended to be minimum standards by which the City of Abilene will operate the City's Youth Programs. The programs operated by the City are recreational in nature and are not licensed by the state of Texas as certified day care programs.



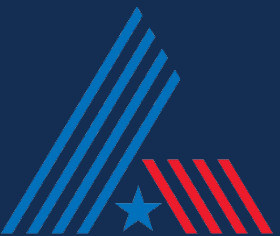
Basic Requirements

- Adequate and readily available first aid kits.
- Full time staff must be certified in CPR and First Aid.
- Non-expired fire extinguisher / properly labeled
- Emergency exit signs are posted
- Posting of emergency contact including fire, police, poison control, as well as contact information for Recreation Center.
- Registration collection of names, addresses, phone numbers, and signed waiver of liability. This is done electronically through the registration software.
- Defines job titles, qualifications, and responsibilities.
- Outlines the ratio (Abilene is 20 children per 1 staff).
- Lists facility standards that includes lighting, toilet facilities, and communicable diseases.



Standards of Care

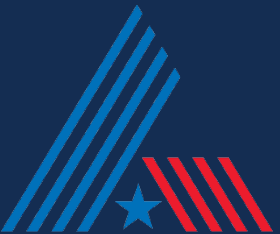
- Internal annual inspection
- Environmental Health and Fire Department conducts an annual inspection.
- We also have an outside Parks and Recreation professional perform a review. This was done on November 8th, by Travis Pence, Athletics Coordinator for the City of Wichita Falls Parks and Recreation.



Standards of Care

Steps in the adoption:

- Approval by Parks and Recreation Board – November 15, 2022
- First Reading by City Council – December 1, 2022
- Public Hearing and vote by City Council – December 15, 2022





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: **Honorable Mayor and City Council Members**

FROM: **Stanley Smith, City Attorney**

SUBJECT: **16. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Certifying the Charter Amendments Approved by Voters on November 8, 2022 and Incorporating the Amendments into a Single Form *(Stanley Smith)***

GENERAL INFORMATION

Chapter 9 of the Texas Local Government Code governs the adoption or amendment of a Home-Rule Charter as authorized by Article XI, Section 5 of the Texas Constitution. Pursuant to Section 9.003 of the Texas Local Government Code, the proposed city charter amendments for the City of Abilene, Texas, were submitted to the voters of Abilene in a special election on November 8, 2022. The voters of the City of Abilene voted to adopt five (5) of the six (6) proposed charter amendments; and

The City Council canvassed the returns of this election on Monday, November 21, 2022, wherein the City Council adopted the charter amendments and said amendments became effective immediately. The City Council of the City of Abilene desires to have a single, incorporated form of the Charter for its citizens and the public.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

n/a

STAFF RECOMMENDATION

Staff recommends approval of the Ordinance certifying the Charter Amendments and Incorporating the Amendments into a Single Form.

BOARD OR COMMISSION RECOMMENDATION

n/a

ATTACHMENTS:

1. Abilene Ordinance Adopting Charter Amendments revised 2022
2. 2022 Amended Charter REDLINE eff Nov 21 2022
3. 2022 Amended Charter clean eff Nov 21 2022 (1)
4. Presentation Charter Amendments

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS ADOPTING THE CHARTER AMENDMENTS AND INCORPORATING THE ADOPTED CHARTER AMENDMENTS INTO A SINGULAR FORM

WHEREAS, Chapter 9 of the Texas Local Government Code governs the adoption or amendment of a Home-Rule Charter as authorized by Article XI, Section 5 of the Texas Constitution; and

WHEREAS, pursuant to Section 9.003 of the Texas Local Government Code, on November 8, 2022, the proposed city charter amendments for the City of Abilene, Texas, were submitted to the voters of Abilene in a special election; and

WHEREAS, on November 8, 2022, the voters of the City of Abilene voted to adopt five (5) of the six (6) proposed charter amendments; and

WHEREAS, the City Council has reviewed and investigated all matters pertaining to this election, including the ordering, notices, election officers, holding, and returns thereof; and

WHEREAS, the City Council canvassed the returns of this election on Monday, November 21, 2022, wherein the City Council adopted the charter amendments and said amendments became effective immediately; and

WHEREAS, the City Council of the City of Abilene desires to have a single, incorporated form of the Charter for its citizens and the public.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS THAT:

PART 1: The City Council of the City of Abilene officially declared that the election was duly and properly ordered, that the proper legal notice of such election was duly given in the English language and the Spanish language, that the proper election officers were duly appointed prior to the election, that the election was duly and legally held, that all required preclearance submissions were made and that no objections were interposed; that all qualified voters of the City were permitted to vote at the election, that due returns of the results of the election have been made and delivered, and that the City Council has duly canvassed such returns, all in accordance with the laws of the State of Texas and of the United States of America and the order calling the election.

PART 2: A majority of the qualified voters of the City of Abilene, Texas, voting in the election voted FOR the adoption of the listed Charter Amendments attached hereto.

PART 3: The City Council of the City of Abilene, pursuant to Section 9.005(b) of the Texas Local Government Code, hereby enters an Order declaring that the charter amendments are adopted.

PART 4: The City Council of the City of Abilene hereby further adopts Exhibit A, incorporated herein to this ordinance, as the fully incorporated charter amendments into the City's home-rule charter.

PASSED ON FIRST READING THIS 1st DAY OF DECEMBER, 2022.

PASSED ON SECOND AND FINAL READING THIS 15th DAY OF DECEMBER, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

PART I CHARTER

PREAMBLE

We the people of the City of Abilene, dedicated to the principal of local self-government, under law, as interpreted by the light of reason, and administered to secure justice, do invoke the guidance of God in establishing a municipal government, capable of efficiently translating the wishes of the voters into effective administration as promptly and economically as possible, and ordain these provisions for the Charter of our City.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Sec. 1. Incorporation.

The inhabitants of the City of Abilene, Taylor County, Texas, within the corporate limits as heretofore or hereafter established are hereby constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of "City of Abilene," hereinafter referred to as the "city," with such powers, rights, duties, privileges and immunities as are herein provided.

Sec. 2. Form of government.

The municipal government provided by this Charter shall be known as "Council-Manager Government." Pursuant to the provisions of, and subject only to the limitations imposed by, the state constitutions, state laws and this Charter, all powers of the city shall be vested in an elective council hereinafter referred to as the "council," which shall enact legislation, adopt budgets, determine policies and appoint the city manager who shall execute the laws and administer the government of the city.

Sec. 3. General powers of the city.

The city shall be a home rule city. It shall have all powers granted to home rule cities by the constitution and laws of this state, as fully and completely as though they were specifically enumerated in this Charter, together with all the implied powers necessary to carry into execution such granted powers, and the powers are hereby adopted that are conferred upon cities by Article XI, Section 5, of the Constitution of the State of Texas (Home Rule Amendment). Among other powers, the city shall have the power to contract and to cooperate with the government of the State of Texas or any agency or any political subdivision thereof, or with the United States Government or any agency thereof, to accomplish any lawful purpose. The city may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it; may provide for the expenditure of public funds for a retirement system, group health, life and accident insurance coverage, and surety bonds for city employees and officers; may pass ordinances and enact such regulations as may be expedient for the maintenance of good government order and peace of the city and the welfare, health, morals, comfort and safety of its inhabitants consistent with the provisions of this Charter. The enumeration of particular powers by this Charter shall not be deemed to be exclusive and in addition to the powers enumerated or implied herein the city shall have all powers not prohibited by the constitution or laws of this state.

(Ord. No. 10-1997, pt. 3(a), 2-27-97)

Sec. 4. Annexation.

The council shall have the power to fix, by ordinance, the boundary limits of the city and to provide, by ordinance, for the annexation of additional territory lying adjacent to the city, with or without the consent of the inhabitants of the territory to be annexed. The council shall have the power to detach, by ordinance, any territory with or without the consent of the inhabitants of such area to be detached. Upon the introduction of such annexation or detachment ordinance to the council, it shall be published at least one time in the official newspaper of the city in the form in which it may be finally passed, and said ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof, and a public hearing held thereon. When any territory shall be so annexed, the same shall be a part of the city and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens, including the right to vote in municipal elections, and shall be bound by the acts, ordinances, resolutions and regulations of the city. When territory has been so detached, the same shall no longer be a part of the city. However, it is specifically provided that the council shall have the authority to annex property to the city by an ordinance passed under its emergency powers and without giving notice thereof when a petition is duly presented bearing the signatures of all of the owners of the property sought to be annexed.

Sec. 5. Street development and improvement.

The city shall have the power, in connection with its power to develop and improve or cause to be developed and improved any and all public streets, sidewalks, waterways, alleys and other public ways within the corporate limits of the city, to assess the cost of such development and improvement partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof. These assessments may be levied in any amount and under any procedures not prohibited by the constitution or statutes of the State of Texas, and may prescribe the time, terms and conditions of payment thereof, the rate of interest, and may include reasonable attorney's fees and costs of collection, if incurred, but no assessment may be made against land or owners of land in excess of the enhancement in value to the property occasioned by such development or improvement. If improvements be ordered constructed in any part of any area used or occupied by the tracks or facilities of any railway or public utility, then the city shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have the power, by ordinance, to provide for the enforcement of such assessment. As an alternative and cumulative method of developing, improving and paving any and all public streets, sidewalks, waterways, alleys, highways and other public ways within its corporate limits, the city shall have the power and authority to proceed in accordance with V.T.C.A., Transportation Code Ch. 313, Street Improvements and Assessments In Certain Municipalities.

(Ord. No. 10-1997, pt. 3(b), 2-27-97)

ARTICLE II. THE COUNCIL

Sec. 6. Number, selection and term.

The council shall consist of six council~~membersmen~~ and a mayor, all of whom shall be elected at large, as hereinafter provided. Each council~~memberman~~, unless sooner removed under the provisions of this Charter, shall serve for a term of three years, beginning with the first meeting of the council following his or her election, and ending with the first meeting of the council three (3) years later, or until his or her successor has been elected and duly qualified. Such terms for council~~membersmen~~ shall be on a three year staggered basis to the end that two (2)

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council~~membersmen~~ shall be elected each year. The mayor, unless sooner removed under the provisions of this charter, shall serve for a term of three (3) years, beginning with the first meeting of the council following his or her election and ending with the first meeting of the council three (3) years later, or until his or her successor has been elected and duly qualified.

Sec. 7. Qualifications.

At the time of his or her election to office, each council~~memberman~~ and the mayor shall be at least twenty-one years of age, shall be a citizen and qualified voter of the State of Texas and the city. At the time of his or her election to office each council~~memberman~~ and mayor shall have resided within the City of Abilene for at least twelve months. Three council~~membersmen~~ shall be residents of the area of the city north of the Texas and Pacific Railway Company main line, as located in the city on the effective date of this Charter, and the other three council~~membersmen~~ shall be residents of the area of the city south of such main line. The mayor may be a resident of any part of the city. Residence requirements shall be effective only as of the date of the election of each council~~memberman~~, but a member of the council or the mayor ceasing to reside in the city shall immediately forfeit his or her office. Neither the mayor nor any member of the council shall hold any other office or employment under the city government while he or she is a member of said council; nor shall he or she hold any other paid employment under the city government within two (2) years thereafter unless such employment be an elective office.

(As amended 4-3-76; Ord. No. 10-1997, pt. 3(c), 2-27-97)

Sec. 8. Salaries.

The mayor and each council~~memberman~~ shall receive a salary of one dollar (\$1.00) per year for each year he or she serves as mayor or council~~memberman~~. The council may establish by ordinance methods of reimbursement for all actual and necessary expenses incurred by the mayor and council~~membermen~~ in the performance of their duties.

Sec. 9. Vacancies.

All vacancies of the council must be filled by election, pursuant to Article XI, Section 11, of the Texas Constitution. Candidates elected to fill such unexpired terms shall have the same qualifications as those officers whose unexpired terms they fill. If required to be filled hereunder, each such vacancy shall be filled by an election called and held for such purpose, within 120 days from the inception of such vacancy.

(Ord. No. 42-2006, pt. 2(1), 8-28-06/referendum 11-7-06)

Sec. 10. Powers.

All powers and authority, including determination of all matters of policy, which are expressly or by implication conferred on or possessed by the city shall be vested in and exercised by the council; provided, however, that the council shall have no authority to exercise those powers which are expressly conferred upon other city officers by this Charter.

Sec. 11. Appointments by council.

Members of all boards created by the council shall be appointed by the mayor with the approval of the council.

Sec. 12. Investigative powers of the council.

The council shall have the power to inquire into or investigate the official conduct of any department, agency, office, officer or employee of the city and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records or other evidence.

Sec. 13. Interference in administrative matters.

Except for the purpose of inquiry or investigation the council and its members shall deal with the administrative departments and personnel solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately, except those administrative departments and personnel whose offices are filled by appointment by the mayor with approval of the council under the provisions of this Charter.

Sec. 14. Mayor and mayor pro tempore.

The mayor shall preside at all meetings of the council; shall be recognized as the head of the city government; and shall be entitled to vote on all matters considered by the council. At its first meeting following each regular election and qualification of council ~~members~~men, the council shall elect one of its members as mayor pro tempore, who shall act as mayor during the absence or disability of the mayor, and when so acting, shall have the same powers and duties as herein set forth for the office of mayor.

Sec. 15. City secretary.

The mayor, with the approval of the council, shall appoint the city secretary, who may be removed from office at any time by a majority vote of the council. The city secretary shall keep the minutes, agenda, ordinances, and other official records of the council and city; and shall have such other powers and duties as may be prescribed by this Charter or the council. The city secretary shall be the custodian of the official seal of the city. The city secretary shall appoint such assistants as may be authorized by the council.

Sec. 16. Meetings of the council.

The council shall meet in regular session at least twice each month, which regular meetings shall be at least one week apart, and at such other times as may be prescribed by resolution. Special meetings of the council shall be called by the city secretary upon the written request of the mayor or any three council ~~members~~men. All council meetings shall be held at the city hall, or at such places as will permit the attendance of the general public. The city secretary shall notify news media of the time and place of all special meetings, prior to such meetings.

Sec. 17. Rules of procedure; quorum.

The council shall by resolution determine its own rules and order of business, except that four or more members of the council shall be required to constitute a quorum.

Sec. 18. Procedure to enact legislation.

The council shall legislate by ordinance only and the enacting clause of every ordinance shall be "Be It Ordained by the City Council of the City of Abilene, Texas." The city attorney shall approve all ordinances prior to

their adoption by the council, as to the legality and form thereof, or shall present his written objections thereto to the council and file a copy thereof with the city secretary. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tempore, or any three members of the council and shall be filed with, and recorded by, the city secretary in an ordinance book reserved for that purpose. Except in the case of ordinances issuing bonds or as otherwise provided by state law or this Charter, there shall be a first and second reading of all ordinances in open meetings of the council on two separate days. A reading by descriptive caption only shall be sufficient. Upon consideration for passage of any ordinance, resolution or motion, the city secretary shall call the roll of the council and record the votes, which record of votes shall constitute a public record. Except as otherwise provided by state law or this Charter, passage of an ordinance, resolution or motion shall require the affirmative votes of at least four members of the council. The council shall call a public hearing before the final passage of any ordinance if required by state law or this Charter or by ordinance enacted thereunder, and may call a public hearing before the final passage of any ordinance if such hearing be deemed to be in the public interest; notice thereof shall be given by publication in the official newspaper of the city at least 24 hours prior to the time of such hearing. All ordinances, unless otherwise provided by law, this Charter, or by the terms of such ordinance, shall take effect immediately upon final passage thereof. The requirement for reading of ordinances upon two separate days may be waived by the council in cases where such ordinances relate to the immediate preservation of the public peace, health, safety or welfare, if adopted by the affirmative votes of at least five council members and contain a statement of the nature of the emergency.

Sec. 19. Publication of ordinances; effective date.

Except as otherwise provided by law or this Charter, the city secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of its provisions, and of every ordinance required by law or this Charter to be published, by causing said ordinance, or its caption and penalty, to be published at least one time within twenty (20) days after final passage thereof in the official newspaper of the city. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the city secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect ten (10) days after date of such publication, unless otherwise provided in such ordinance, provided that any penal ordinance passed as an emergency measure shall take effect immediately upon publication.

Sec. 20. Code of Ordinances.

The council shall have the power to cause all general ordinances of the city to be compiled, indexed and printed in code form, whenever the codification or recodification thereof is deemed desirable or required by law. When adopted by the council, the printed codes of general ordinances so designated shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a code. A printed copy of the city's Code of Ordinances, when authenticated by the city secretary, shall be admitted in evidence in courts without further proof and shall be prima facie evidence in all courts of the existence and regular enactment of all ordinances therein set forth.

Sec. 21. Emergency powers.

A state of emergency shall be deemed to exist when, as the consequence of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A state of emergency may be declared by the vote of the council, or by order of the mayor, or, in his or her absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property.

Sec. 22. Powers of mayor during emergency.

During a state of emergency the mayor, or, in his or her absence or disability, the mayor pro tempore, shall have all the powers which would be vested in the council under this Charter and may exercise those powers to the extent he or she considers to be reasonable or necessary for the protection of persons or property. In addition thereto he or she shall be specifically empowered:

- a. To give orders directly to any city officer or employee as well as through the city manager;
- b. To suspend temporarily or replace any city officer or employee, other than a council memberman, when deemed necessary;
- c. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state or federal governments, including the military services, and the duly constituted officers for the civil defense;
- d. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
- e. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
- f. To authorize expenditures totaling not more than ten (10) per centum of the city's current annual budget for general purposes without budget appropriation therefor;
- g. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical; and
- h. To summon citizens to serve as special police, with the powers and duties appropriate thereto.

Sec. 23. When emergency powers of mayor to terminate.

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. The state of emergency shall terminate when so ordered by the mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

ARTICLE III. ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

Sec. 24. Annual elections.

The regular election of council to places on the council occupied by council whose terms are expiring and the regular election of the mayor, if his or her term is expiring, shall be held on such date as prescribed by the election laws of the State of Texas. In such election each qualified voter shall vote for not more than one candidate for each council place to be filled, and for not more than one candidate for mayor. Said elections shall be ordered by the Council, and in case of its failure to order same, the mayor shall make such order. In case of the inability of the council and mayor to act, the elections may be called by the city secretary, and in case of his or her inability to act, by the county judge of Taylor County, Texas, and in case of his or her inability to act, by the governor of the State of Texas. The city secretary shall give notice of such election by causing said notice to be published at least thirty (30) days prior to the day of such election.

(As amended 4-3-76; Ord. No. 42-2006, pt. 2(2), 8-28-06/referendum 11-7-06)

Sec. 25. Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the council for the conduct of elections. The council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in the city elections and for all other expenses in holding said elections.

Sec. 26. Application for candidacy.

Any qualified person may make application to have his or her name placed on the official ballot for the post of council ~~memberman~~ or mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. There shall be six council ~~memberman~~ places; council ~~memberman~~ places Nos. 1, 3 and 5 shall be filled by qualified candidates residing at the time of the election north of the main line of the Texas and Pacific Railway Company tracks as located at the time of the effective date of this Charter; and place Nos. 2, 4, and 6 shall be filled by qualified persons residing at the time of the election south of said main line. Said applications shall be filed with the city secretary within time limits as provided by state law.

Sec. 27. Canvassing elections and declaring results.

Returns of every municipal election shall be delivered forthwith by the election judges to the city secretary. The council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election on such date as prescribed by the election laws of the State of Texas. The returns of every municipal election shall be recorded in the minutes of the council by election precinct totals. The qualified person receiving a majority of the votes cast for any office shall thereupon be declared elected by said council. The decision of the council, as to qualifications of candidates, shall be conclusive and final for all purposes.

(Ord. No. 42-2006, pt. 2(3), 8-28-06/referendum 11-7-06)

Sec. 28. Runoff elections.

If no candidate receives a majority of all the votes cast for an office, the council shall immediately upon declaring the official results of the election, order a run-off election for each office to which no one was elected. Such run-off election shall be held on such date as prescribed by the election laws of the State of Texas and in such run-off election the two (2) candidates who received, in the preceding election, the highest number of votes for each office to which no one was elected, shall be voted on again by the qualified voters, and the candidate who receives the majority of the votes cast for each such office in the run-off election shall be elected to such office.

(Ord. No. 42-2006, pt. 2(4), 8-28-06/referendum 11-7-06)

Sec. 29. Qualification and notification of city officers.

Any officer elected or appointed must qualify by taking and subscribing his oath of office within thirty (30) days, otherwise, the office shall be deemed vacant. It shall be the duty of the city secretary to notify all persons elected or appointed by the mayor with approval of the council of their election or appointment and all the elected or appointed officers may enter upon their duties after so qualifying.

Sec. 30. Special elections.

The council, by ordinance or resolution, may call such special elections as are authorized by the state law or this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable, according to the provisions governing annual elections.

Sec. 31. Initiative.

The voters of this city shall have the power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, or one repealing such an ordinance, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to at least ten (10) per centum of such voters computed as of the date of the last regular municipal election. Such ordinance may be passed by the council without change, or submitted to the voters at an election called for that purpose.

Sec. 32. Referendum.

The voters of this city shall have the power to approve or reject at the polls any ordinance passed by the council which would have been the proper subject of an initiative election under this Charter, except that ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding, shall not be subject to referendum. The petition for referendum shall require the same number and qualification of signers thereto as required by this Charter for an initiative petition, except that referendum petitions must be filed with the city secretary within sixty (60) days after the final passage of the ordinance which is the subject of the referendum, or the petition shall be barred by the lapse of time. When such petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or, if it has gone into effect, then further enforcement or action thereunder shall be suspended unless and until such ordinance is approved by the voters as herein provided.

Sec. 33. Recall.

The voters of this city shall have the power to recall any elected officer of this city and may exercise such power by filing with the city secretary a petition which shall be signed and verified by the same number of signers with the same qualifications and in the same manner required in this Charter for an initiative petition. If the petition is certified by the city secretary to be sufficient, the council shall order and hold, or cause to be held, an election forthwith to determine whether such officer shall be recalled.

Sec. 34. Results of recall election.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the council shall immediately declare his or her office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter. An officer thus removed shall not be eligible to hold office again in the city within a period of four years from the date of his or her recall.

Sec. 35. Limitation on recall.

No recall petition shall be filed against an officer within six months after he or she takes office, and no officer shall be subjected to more than one recall election during a term of office.

Sec. 36. Form of petitions.

All papers for any particular petition circulated for the purpose of an initiative, referendum, or recall shall be uniform in size and style. Initiative petitions shall contain the full text of the proposed ordinance and referendum papers shall contain sufficient description of the ordinance sought to be repealed to positively identify it. The signatures to initiative, referendum or recall petitions need not be appended to one paper, but all petition papers comprising a single petition shall be assembled and filed with the city secretary as one instrument with an affidavit attached made by the person so filing such petition that it bears a stated number of signatures, and that all the signatures appended thereto are, in his or her belief, the genuine signatures of the persons whose names they purport to be. Names and addresses of the signers of such petitions shall be printed adjacent to said signatures.

Sec. 37. Filing, examination and certification of petitions.

Petitions for initiative, referendum or recall shall be filed with the city secretary. Within twenty days after a petition is filed, the city secretary shall determine whether such petition is signed by a sufficient number of qualified voters and whether it has a proper affidavit attached of the person filing same. After completing examination of such petition, the city secretary shall certify the result thereof to the council at its next regular meeting. If such petition is insufficient, the city secretary shall set forth in his or her certificate the particulars in which it is defective, and shall at once notify the person who filed it of his or her findings.

Sec. 38. Amendments of petitions.

An initiative, referendum or recall petition may be amended at any time within ten days after the notice of insufficiency has been sent by the city secretary, by filing a supplementary petition signed and filed as provided in case of an original petition, and the same procedures shall then be followed by the city secretary and council as in the case of an original petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 39. Consideration of petition by council.

Whenever the council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on such ordinance not later than thirty days after the date on which it was submitted to the council by the city secretary. A referred ordinance shall be reconsidered by the council and its final vote upon such consideration shall be upon the question "Shall the ordinance specified in the referendum petition be repealed?"

Sec. 40. Submission to voters.

If the council shall fail to pass an ordinance proposed by initiative petition in the exact form proposed, or it fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters not less than thirty days nor more than ninety days from the date the council takes its final vote thereon.

Sec. 41. Results of election.

If a majority of the voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the voters voting thereon shall be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

ARTICLE IV. ADMINISTRATIVE ORGANIZATION

Sec. 42. City manager—Generally.

The city manager shall be the chief administrative officer of the city.

Sec. 43. Same—Appointment.

The city manager shall be appointed by the mayor with approval of the council for an indefinite term, and may be removed by the council by a vote of at least four of the council members. The action of the council in removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the council.

Sec. 44. Same—Qualifications.

The city manager shall be chosen by the council solely on the basis of his or her executive and administrative training, experience and ability. The city manager need not, when appointed, be a resident of the city; however, during his or her tenure of office, he or she shall reside within the city.

Sec. 45. Same—Compensation.

The city manager shall receive such compensation as may be fixed by the council.

Sec. 46. Same—Powers and duties generally.

The city manager shall be responsible to the council for the proper administration of all city affairs placed in his or her charge by or under this Charter. The powers herein conferred upon the city manager shall include, but shall not be limited to, the powers set forth in sections 47 through 52, inclusive.

Sec. 47. Same—Appointments.

Except as otherwise provided in this Charter, the city manager shall appoint and, when he or she deems it necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for, by or under this Charter, with the exception of those administrative department heads and officers whose appointment and removal is subject to the approval of the council as may be provided by the laws of the State of Texas or other provisions of this Charter. The city manager may authorize any such administrative officer whom he or she has appointed to exercise the powers herein granted with respect to subordinates in that officer's department, office or agency.

Sec. 48. Same—Direction and supervision of departments, etc.

The city manager shall direct and supervise the administration of all functions of the city and of its departments, offices and agencies, except for the functions specifically assigned to any such department, office or agency by this Charter.

Sec. 49. Same—Enforcement of laws; performance of contracts.

The city manager shall see that all laws, provisions of this Charter, and ordinances passed by the council, subject to enforcement by him or her or by officers subject to his or her direction and supervision under this Charter, are faithfully executed, and that all contracts, permits, privileges and franchises to which the city is a party are properly performed.

Sec. 50. Same—To prepare annual budget.

The city manager shall prepare and submit the annual budget and capital program to the council.

Sec. 51. Same—Reports to council.

The city manager shall make regular monthly reports to the council on the operations of every city department, office and agency subject to his or her direction and supervision under this Charter, keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he or she deems desirable.

Sec. 52. Same—Other duties.

The city manager shall perform such other duties as may be prescribed by this Charter, or required of him or her by the council not inconsistent with the provisions of this Charter.

Sec. 53. Administrative departments.

There shall be such administrative departments as are established by this Charter or as may be established by ordinance, all of which shall be under the control and direction of the city manager unless otherwise provided in this Charter. The council may abolish or combine one or more departments created by it and may assign or transfer duties of any department of the city from one such department to another by ordinance.

Sec. 54. Department heads.

At the head of each department which is under the control and direction of the city manager, there shall be a director, who shall be appointed and may be removed by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. With the consent of the council, the city manager may serve as the head of one or more such departments, or may appoint one person as the head of two or more of them.

Sec. 55. Parks and recreation board—Created.

There is hereby created a board consisting of seven (7) members to be known as the parks and recreation board. Within thirty (30) days after the effective date of this Charter, the initial members of such board shall be appointed by the mayor with the approval of the council. All of the members shall be qualified voters of the city and shall receive no compensation for their services upon this board. The board may elect such officers as it may choose and shall establish a schedule of meetings as it deems necessary.

Sec. 56. Same—Term of office of member; appointment.

The normal term of office of each member of the parks and recreation board shall be three (3) years. Two of the members of the first board shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. Annually thereafter the council shall give due and proper consideration to a list of prospective board members as submitted by the remaining board members; then, the appropriate number of members shall be appointed by the mayor with the approval of the council for a term of three years. Should a vacancy occur for any reason, the mayor, with the approval of the council, shall appoint, within thirty (30) days, a successor to serve the remainder of the unexpired term.

Sec. 57. Same—Powers and duties.

The parks and recreation board shall have jurisdiction and control over public lands and properties heretofore or hereafter designated for park and recreational uses, and may relinquish such jurisdiction and control over any such land only upon the affirmative vote of four of the seven members of said board. No such public lands and properties heretofore or hereafter designated for park and recreational uses shall be sold or otherwise disposed of by the city except after the affirmative vote of four of the seven members of said board.

Sec. 58. Same—To formulate policies.

The parks and recreation board shall be responsible for the formulation and recommendation of park and recreation policies to the city manager and the council, and shall be responsible for the implementation of such policies throughout the city.

Sec. 59. Same—"Parks" defined.

The term "parks" shall be defined as any public land or lands heretofore or hereafter designated such by the council and accepted as such by the parks and recreation board.

Sec. 60. Same—Purchase of parks.

No additional parks as heretofore defined shall be purchased by the City and placed under the jurisdiction of the parks and recreation board unless such acquisition and placement first shall be approved by the affirmative vote of four of the seven members of said board.

Sec. 61. Same—Recommendation of policies.

The parks and recreation board shall recommend to the director of parks and recreation, to the city manager and to the council such policies as it may deem necessary and desirable in the preparation of a comprehensive park and recreation improvement program. It shall recommend acquisition and/or disposal of park and recreation property and generally review the enactment of these programs.

Sec. 62. Same—Assistance and recommendation of budget.

The parks and recreation board shall advise and assist the director of parks and recreation in the preparation of an annual budget request to be submitted to the city manager and council.

Sec. 63. Parks and recreation department—Created; director.

There shall be a parks and recreation department, ~~the director of which shall be appointed by the city manager with the approval of the parks and recreation board. Said director shall be subject to removal by the city manager. The director of parks and recreation shall be appointed by the city manager. The director of parks and recreation shall serve as the regular technical advisor of the parks and recreation board, shall have the status of a director of a department and shall have such other duties and responsibilities as the city manager may establish.~~

Sec. 64. Same—Employees; restrictions on board members.

All employees of the parks and recreation department shall be appointed by the director of parks and recreation with the approval of the city manager. No individual member of the parks and recreation board shall issue instructions to any departmental employee, but shall implement the park and recreation program through the director of parks and recreation.

Sec. 65. Administrative procedures for park and recreation board.

The expenditure of departmental funds, the accounting therefor, all purchases, contracts, bidding procedures, personnel control, and other administrative matters of the parks and recreation board shall be those adhered to by other city departments in conformity with the provisions of this Charter and applicable state laws.

Sec. 66. Reports by department of parks and recreation.

The director of parks and recreation shall prepare, with the assistance of the board, an annual report of the programs and facilities of the department, and such reports as may be requested from time to time by the council and/or the city manager.

Sec. 67. Retention of certain powers by council.

All powers, jurisdiction, properties, responsibilities and duties not vested in the parks and recreation board in the foregoing sections 55 through 66 shall be vested in the council.

Sec. 68. Appropriation of funds for parks.

In adopting the annual budget for the operation of the city government, the council shall appropriate no less than two per centum (2%) of the general operating fund for use by the parks and recreation department. Revenues resulting from the operation of the parks and recreation department shall be credited to the parks and recreation fund or accounts, and shall be in addition to the amount appropriated as set forth in this paragraph. The council shall not be restricted to the minimum appropriation described above, but shall appropriate such funds as it may consider necessary and desirable to carry on an adequate park and recreation program within the city. The council shall give due consideration to the needs of the parks and recreation department when capital improvement projects are prepared and bond proposals are submitted to the voters.

ARTICLE V. LEGAL DEPARTMENT AND MUNICIPAL COURT

Sec. 69. Legal department—Established; head.

There shall be a legal department, the head of which shall be the city attorney.

Sec. 70. Same—Appointment of city attorney.

The city attorney shall be appointed by the mayor with the approval of the council and may be removed by the council.

Sec. 71. City attorney—Qualifications.

The city attorney shall be licensed to practice law in the State of Texas and shall have been engaged in the practice of law at least five years. He or she shall be a resident of the city during his or her service as city attorney.

Sec. 72. Same—Powers and duties.

The city attorney shall be the legal advisor of, and attorney for, all the offices and departments of the city and he or she shall represent the city in all litigations and legal proceedings. He or she shall examine and approve, or disapprove, as to form and legality, all documents, contracts and legal instruments in which the city may have an interest.

Sec. 73. Assistant city attorneys.

There shall be such Assistant City Attorneys as may be authorized by the Council and appointed by the City Attorney, with the approval of the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney. Services of an Assistant City Attorney may be terminated by the City Attorney or by the Council in case the office of the City Attorney is vacant.

(Ord. No. 10-1997, pt. 3(j)), 2-27-97, Ref. of 5-3-97)

Sec. 74. Private practice prohibited.

Neither the city attorney nor assistant city attorneys shall be engaged in the private practice of law while serving as city attorney or assistant city attorneys.

Sec. 75. Municipal court.

There shall be a court known as the municipal court of the city, which court shall be deemed always open for the trial of causes, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 76. Judge of the municipal court.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. He or she shall be a competent attorney who is licensed to practice law in the State of Texas and shall be a resident of the city during his or her tenure of office. He or she shall be appointed by the mayor with the approval of the council for a term of two years, but he or she shall be subject to removal by the council for cause, after notice and hearing.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 77. Assistant municipal court judge.

In the event the judge of the municipal court is temporarily unable to act for any reason, the mayor with the approval of the council, shall appoint a qualified attorney to act in his or her place.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 78. Additional courts.

The council shall have the power to create and establish additional municipal courts and the mayor with the approval of the council, may appoint one or more judges of each municipal court, each of whom shall be a magistrate.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 79. Clerk of the municipal court.

There shall be a clerk of the municipal court who shall be appointed by the city manager and who shall be responsible to the city manager. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such court and conducting the business thereof. There shall be such deputy clerks as the council may authorize. The clerk of the municipal court shall appoint such deputy clerks, with the approval of the city manager. Such deputy clerks shall have the authority to act for and on behalf of the clerk of the municipal court.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 80. Costs, process and procedure in the municipal court.

The council shall determine what costs, if any, shall be charged for proceedings in and for all processes issued by, said court.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 81. Style of writs.

The style of all writs issued out of the municipal court shall be in the name of the State of Texas.

(Ord. No. 10-1997, pt. 3(d), 2-27-97, Ref. of 5-3-97)

Sec. 82. Jurors.

All jurors shall be residents of said city and otherwise possess the same qualifications as jurors in the state courts.

ARTICLE VI. PLANNING AND ZONING

Sec. 83. Planning and zoning commission—Created; composition.

There shall be established a planning and zoning commission which shall consist of seven (7) citizens of the city who own real property within said city, and the ex officio members hereinafter specified. The city manager, the chairman of the board of adjustment, the director of public works and others as the council may provide by ordinance or resolution shall serve as ex officio members. Ex officio members shall not have the power to vote. The voting members of said commission shall be appointed by the mayor with the approval of the council for a term of three (3) years, except that of the seven (7) members first appointed, two (2) shall be appointed for a term of one (1) year; two (2) for a term of two (2) years; and three (3) for a term of three (3) years. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof. The commission shall elect a chairman from among its official members and shall meet not less than once each month. A vacancy in an unexpired term shall be filled by the mayor with the approval of the council for the remainder of the term. A majority of appointed members shall constitute a quorum, but decisions may only be made with the affirmative vote of four (4) or more members of the commission.

Sec. 84. Same—Powers and duties.

The planning and zoning commission shall:

- a. Make, amend, extend or add to a general plan for the physical development of the city which shall contain the commission's recommendations for growth, improvement and beautification of the city. A copy of the general plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan to the council with his **or her** recommendations thereon. The council may adopt this plan as a whole or in part, and may adopt any amendment thereto, after at least one public hearing on the proposed action. All amendments to the general plan recommended by the planning and zoning commission shall be submitted in the same manner to the council for approval, and all recommendations to the council from any city department affecting the general plan must be accompanied by a recommendation from the planning and zoning commission;
- b. Recommend to the council approval or disapproval of proposed changes in zoning districts;
- c. Approve or disapprove the platting or subdividing of land within the corporate limits of the city and within adjacent areas as permitted by law;
- ~~d. — Submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended capital improvements, if any, which, in the opinion of the commission, are necessary or desirable during the forthcoming five-year period;~~
- de.** Require information from the other departments of the city government in relation to its work;
- ef.** Recommend to the council approval or disapproval of plans for slum clearance, public housing and urban redevelopment and renewal projects;
- fg.** Perform such additional duties and exercise such additional powers as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

Sec. 85. Director of planning.

There shall be a director of planning who shall be appointed by the city manager. The director of planning shall serve as the regular technical advisor of the planning and zoning commission, shall have the status of a director of a department and shall have such other duties and responsibilities as the city manager may establish.

Sec. 86. Board of adjustment.

The mayor, with the approval of the council, shall appoint a board of adjustment.
(Ord. No. 10-1997, pt. 3(e), 2-27-97, Ref. of 5-3-97)

ARTICLE VII. FISCAL MATTERS

Sec. 87. Fiscal year.

The fiscal year shall begin on October 1 each year and end on the following September 30, but the fiscal year may be changed by the council by ordinance, provided that no change shall be effective until six (6) months after final passage of such ordinance.

Sec. 88. Budget.

The department heads of the city shall prepare annual departmental budget requests for the ensuing fiscal year as directed by the city manager and submit said requests to him or her for his or her review. It shall be the duty of the city manager to submit a balanced annual budget not later than thirty (30) days prior to the end of the current fiscal year to the council for its review, consideration and revision if desired. The council shall call a public hearing or hearings on the budget. The budget shall be finally adopted not later than the 25th day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council. The budget as adopted must set forth the appropriations for services, functions and activities of the various city departments and agencies, and shall meet all fund requirements provided by law and required by bond covenants.

Sec. 89. Appropriations.

During the fiscal year the council shall have the power to transfer funds allocated by the budget to one activity, function or department, to another activity, function or department, and to re-estimate revenues and expenditures, except that no transfer shall be made of revenues or earnings of any public utility supported principally by its own revenues.

Sec. 90. Emergency appropriations.

At any time in the fiscal year the council may make emergency appropriations to meet a pressing need for public expenditure in order to protect the public health, safety or welfare.

Sec. 91. Borrowing.

The council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

Sec. 92. General obligation bonds.

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the constitution and laws of

the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 93. Revenue bonds.

The city shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein, pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 94. Bonds incontestable.

All bonds of the city having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall, and after said exchange, be incontestable.

Sec. 95. Purchases.

All purchases made and contracts executed by the city shall be made in accordance with the requirements of the constitution and statutes of the State of Texas.

Sec. 96. Independent audit.

Within thirty (30) days after the beginning of the fiscal year, the council shall cause a continuing independent audit to be made, by a certified public accountant, of all accounts of the city for such fiscal year. The certified public accountant so selected shall have no direct personal interest in the financial affairs of the city, and shall report in writing to the council at such time as it may require. Upon completion of the audit, the results thereof shall be reported in writing to the council as soon as reasonably possible following the close of the fiscal year, which report shall be a public record.

Sec. 97. Financial statement.

The council shall, at the end of each month prepare or have prepared under its direction a certified statement as to financial receipts and disbursements for that particular month, and shall publish such statement not later than the 20th day of the following month and the method of publication shall be any one of the following two methods as the council shall deem best, to wit:

1. By publishing said statement one time in a newspaper of general circulation in Abilene, Texas, or
2. By having a sufficient number of copies of said statement available in the office of the city secretary to be given to those persons who desire to come to said office and secure a copy thereof.

ARTICLE VIII. RESERVED

Secs. 98—109. Reserved.

Editor's note(s)—At an election held on May 3, 1997, the voters approved a Charter amendment repealing former Article VIII, which pertained to revenue and taxation. Said article is now covered by state law. The amendment was put before the voters by Ordinance 10-1997, pt. 3(f), adopted Feb. 27, 1997.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

Sec. 110. Power to grant; term.

The council shall have, by ordinance, the power to grant, renew and extend all franchises, easements or rights of a public nature of all public utilities operating within the city and with consent of the franchise holder to amend the same, provided, however, that no franchise shall be granted for an indefinite term and no franchise shall be granted for a term of more than forty (40) years.

Sec. 111. Introduction of application for franchise.

Before any ordinance, granting to any individual, corporation or association of persons any franchise, easement or right of a public nature, shall be read or passed by said council, notice of intention to apply therefor shall be published in a newspaper of general circulation in said city at least ten (10) consecutive publication days, the first of which said publication shall appear not more than twenty (20) days next before the introduction of the same before the council. Said notice shall state the nature of the franchise or right for which application is made; the number of years to run; and the streets and alleys or other property covered by same, and shall be published at the expense of the applicant. Filing of a copy of same with the city secretary shall constitute introduction of same before said council.

Sec. 112. Reading of franchise ordinance; effective date.

Every ordinance granting, renewing, extending or amending a franchise or public right shall be read and passed at two regular meetings of the council, which shall be at least one week apart. A public hearing shall be called and held on such ordinance before final passage, and no such ordinance shall become effective until thirty (30) days after its second and final passage.

Sec. 113. Required vote for passage.

No ordinance granting any franchise, easement or public right shall be deemed passed without the affirmative votes of at least five members of said council.

Sec. 114. Powers of city pertaining to franchises.

Included among the powers of the city are the following:

- a. To regulate, locate or prohibit the erection of any and all poles, wires or other utility equipment, conveyance or structure, on the streets, alleys and public places of said city, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind quality and class as may be determined by said council whether same be telegraph, telephone, electric or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction;

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- b. To purchase, own, construct or lease, and to maintain and operate either within or without the limits of said city a system of waterworks, reservoirs, gas and electric plants, sewers and other public utilities for the use of the public and the city, and to furnish service therefrom and to make and collect such charges and fees therefor as may be fixed by said council, and to issue the bonds of said city in payment therefor; provided that the issuance of said bonds shall first be submitted to a vote of the qualified voters of said city, as provided herein for other bond elections; and
 - c. To regulate the carrying of electric currents and the controlling of such currents.

Sec. 115. Ownership, use and control of streets, etc.

No franchise or easement involving the right to use the same either along, over, across, under or upon the streets, alleys, highways, parks and public ways shall be valid unless granted in compliance with the terms hereof.

Sec. 116. Compensation for franchise.

No exclusive franchise or privilege shall ever be granted by said city, nor a franchise or privilege to commence at any time after seven (7) months subsequent to the passage of the ordinance granting the same, and all persons or corporations to whom a franchise may hereafter be granted shall pay to said city for such privileges such compensation therefor as may be fixed by said council, in the grant of such franchise or privilege. Said compensation as fixed by said council shall become due and payable at such time as said council shall fix in the grant of such franchise or privilege, and upon the failure on the part of any person, firm or corporation to pay said compensation when due, the franchise or privilege as enjoyed by him or her or them shall, after thirty (30) days from such date, become forfeited.

Sec. 117. Council to fix and regulate charges, fares or rates.

Said council shall determine, fix and regulate the charges, fares or rates of any person, firm or corporation that may now or hereafter enjoy a franchise or exercise any other public privilege from said city, and of any and all public utilities of whatsoever kind, and to prescribe the kind of service to be furnished to the public by such person, firm or corporation, and the manner in which it shall be rendered and from time to time alter or change such rules, regulations and compensation, after reasonable notice to, and a hearing of, the owners of such utilities, and after a public hearing thereon, provided that the rates, charges and fares so fixed shall at all times be reasonable, and permit a reasonable net return on the actual value of the physical properties and equipment of such utilities. In this connection, the council may require any utility or franchise holder to furnish such financial reports as the council may request, including reports of actual operating costs and the financial condition of its operation within the City of Abilene.

ARTICLE X. GENERAL PROVISIONS

Sec. 118. Interim government.

The present charter of the city shall continue in full force and effect until the regular city election held on the first Tuesday in April, 1963. At such election, the council ~~membersmen~~ for Place Three (north side) and Place Four (south side) shall be elected for a term of three years. The council ~~membersmen~~ for place five (north side) and place six (south side) shall be elected for a term of two years. The election for the mayor shall be as provided herein. The council ~~membersmen~~ for places one and two shall serve the remaining one year of their terms, said council ~~membersmen~~ being the commissioners now having served only one year of their terms in present commission places two and four.

Sec. 119. Continuity in government.

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the city which ceases to exist under this Charter, shall continue in force and the powers and duties therein prescribed shall be the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous Charter. When the term "city commission" appears in any such ordinance it shall be construed as "council" after the effective date of this Charter.

Sec. 120. Effect of charter on existing law.

All ordinances, resolutions, rules and regulations in force in the city on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed. All taxes, assessments, liens, encumbrances and demands, of or against the city, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of beginning of such proceedings or under the law after the adoption of this Charter.

Sec. 121. Official oath.

All officers of the city shall, before entering upon the duties of their respective offices, take and subscribe the oath of office prescribed in the constitution of the State of Texas. Oath of the office shall be administered by the mayor, mayor pro tempore, or any other person authorized by law to administer oaths.

(Ord. No. 10-1997, pt. 3(g), 2-27-97, Ref. of 5-3-97)

Sec. 122. Public meetings.

All meetings of the council and boards or commissions appointed by the council shall be held in accordance with the laws of the State of Texas, commonly referred to as the Texas Open Meetings Act. Minutes of all such open meetings shall be kept and such minutes shall constitute public records.

(Ord. No. 114-1980, 11-20-80; Ref. of 1-17-81; Ord. No. 42-2006, pt. 2(5), 8-28-06/referendum 11-7-06)

Sec. 123. Public records.

All public records of every office, department or agency of the city shall be open to inspection by any citizen at all reasonable times, provided that such police records, vital statistics records, or any other records which are closed to the public by law shall not be considered public records for the purpose of this section.

Sec. 124. Official newspaper.

The council shall have the power to designate by resolution a newspaper of general circulation in the city as the official newspaper, and shall cause to be published therein all ordinances, notices and other matters which are required to be officially published by this Charter, the ordinances of the city, or the constitution or laws of the State of Texas.

Sec. 125. Notice of injury or damage.

The city shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his or her behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the city secretary within six (6) months after the same has occurred, stating specifically in such notice when, where and how the exact injury occurred, the full extent of the injury, the amount of damages claimed or asserted, and a list of persons, if known, who witnessed the injury. The city shall never be liable for any claim for damage or injury to personal property unless the person whose personal property has been injured or damaged, or someone in his or her behalf, shall file a claim in writing with the city secretary within six (6) months after said damage or injury occurred, stating specifically when, where and how the injury was sustained. The person giving notice under this section shall subscribe his or her name to the notice under oath that the statements and facts contained in said notice are true and correct.

(Ord. No. 10-1997, pt. 3(h), 2-27-97; Ref. of 5-3-97)

Sec. 126. Execution, garnishment and assignment.

Property, real or personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution or cost bill. Funds belonging to the city, in the hands of any person, firm or corporation shall not be liable to garnishment, attachment or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any writ of garnishment on any account whatsoever. The city shall not be liable to the assignee of any wages of any officer, agent or employee of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city such assignment shall be absolutely void.

Sec. 127. Bond or security not required.

It shall not be necessary in any action, suit or proceeding in which the city is a party, for any bond, undertaking or security to be executed on behalf of said city, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be liable as if such obligation had been duly given and executed.

Sec. 128. Judicial notice of Charter.

This Charter shall be deemed a public act and shall have the force and effect of a general law; may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

Sec. 129. Remission of fines and penalties.

The council shall have the power to remit in whole or in part, on such conditions as it may deem proper, by a vote of at least five of the council members, any fine or penalty belonging to the city which may be imposed or incurred under any penal ordinance of the city.

Sec. 130. Offset on debts.

The city shall be entitled to counterclaim and off-set against any debt, claim, demand or account owed by the city to any person, firm or corporation in arrears to the city for any debt, claim, demand or account of any

nature whatsoever, including taxes, penalty and interest. No assignment or transfer of any such debt, claim, demand or account owed by the city shall effect the right of the city to off-set the sum owed to the city.

Sec. 131. Nepotism.

No person related within the third degree by affinity or consanguinity to the mayor, any member of the council or the city manager shall be appointed to any paid office, position, clerkship or other service of the city. This prohibition shall not apply, however, to any person who shall have been employed by the city at least ninety (90) days prior to and at the time of the election of the mayor or council memberman, or the appointment of the city manager.

Sec. 132. Unjust benefit.

No elected or appointed officer or employee of the city shall benefit unduly by reason of his or her holding public office.

Sec. 133. Ethics.

No officer or employee having a direct or indirect interest in any proposed or existing contract, purchase, work, sale or service to or by the city shall vote or render a decision, or use his or her position, authority or influence in a manner that would result in his or her financial betterment to any degree. Further, any elected officer shall publicly disclose any such interest upon assumption of office or prior to consideration of any such matters.

(Ord. No. 10-1997, pt. 3(i), 2-27-97, Ref. of 5-3-97)

Sec. 134. Malfeasance in office.

Failure to comply with any provisions of the foregoing sections 132 or 133 shall constitute malfeasance in office and any officer or employee failing to so comply shall immediately forfeit his or her office or position, and said office or position shall be deemed vacant.

Sec. 135. When contracts voidable.

Any violation of the foregoing sections 132 and 133 with the knowledge, express or implied, of persons or corporations contracting with the city shall render the contract voidable by the council.

Sec. 136. Political and religious discrimination.

No person in the service of the city or seeking admission thereto shall be employed, promoted, demoted, discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious beliefs, provided that such opinions, affiliations or beliefs do not advocate the overthrow of the government of the United States of America by force or violence.

Sec. 137. Political activity.

No appointed or hired employee on the payroll of the city shall make a contribution to the campaign fund of any person seeking election to a city office or to any political party supporting a candidate for election to a city office, nor shall he or she be solicited for this purpose; nor shall he or she take active part in any political campaign

relating to an election to a city office. Notwithstanding the above, police officers and fire fighters shall abide by the applicable civil service statutes governing political activities.

Sec. 138. Bribery.

No person seeking appointment to or promotion in the administrative service of the city shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his or her appointment or promotion or any examination conducted therefor.

Sec. 139. Ineligibility for office for certain acts.

Any person who either by himself or herself or with others wilfully violates any provision of the foregoing sections 137 or 138 shall be ineligible for appointment or election to a position in the city for a period of four years, and if he or she is an officer or employee of the city at the time of such violation he or she shall immediately forfeit the office or position he or she holds.

Sec. 140. Charter amendments.

The Charter may be amended in accordance with the provisions of the statutes of the State of Texas, as amended from time to time.

Sec. 141. Use of gender.

A word importing the masculine gender only shall extend and be applied to include females, firms, partnerships and corporations as well as males.

Sec. 142. Construction of Charter.

This Charter shall be liberally construed as a general grant of power subject only to the limitations of the constitution and statutes of the State of Texas.

Sec. 143. Severability.

If any section or part of a section of this Charter be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

Sec. 144. Rearrangement and renumbering.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof, certified by the city secretary, shall be forwarded to the secretary of state for filing.

CERTIFICATE

September 26, 1962

To the Honorable Mayor and Board of Commissioners,

City of Abilene, Texas.

Sirs:

In the election held on the 28th day of June, 1962 the voters of the City of Abilene voted affirmatively on the question "Shall a Commission be chosen to frame a new charter?"

Members of the charter commission elected at that time and who thereafter qualified by taking the oath of office are:

Bryan Bradbury, Robert J. Tiffany, George Minter, Jr., Garnett Gracy, Dr. John C. Stevens, Garvin Beauchamp, C. G. Whitten, John Crutchfield, Hudson Smart, Floyd Childs, Riley Maxwell, A. Crutcher Scott, James E. Russell, W. Lee Byrd, and J. Floyd Malcom.

After organizing, this charter commission elected the following officers:

Chairman	Bradbury
Vice-Chairman	Smart
Secretary	W. Lee Byrd

The commission has held 28 meetings and numerous subcommittee meetings. After the taking of evidence, receiving suggestions, performing considerable research and after full consideration of the many problems and the ends to be accomplished, the charter commission has prepared and given its final approval to a new charter, a copy of which is hereto attached for submission to the qualified voters of this City in an election to be held for that purpose.

Pursuant to the obligations imposed on this charter commission by law, it has determined and hereby certifies:

1. That the annexed charter is a true and correct copy of the charter prepared and approved by this charter commission.
2. That the City of Abilene, Texas is a city having more than 5,000 inhabitants.
3. That in the submission of this charter to the voters, it would be impracticable to segregate each subject for a separate vote thereon for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. Therefore, it is to be submitted so as to be voted upon as a whole.
4. That the election for this purpose is to be held in the City of Abilene on the 6th day of November, 1962.
5. That the charter commission completed its work on the 26th day of September, 1962.

Respectfully submitted,

Bryan Bradbury

Bryan Bradbury, Chairman

Charter Commission of the City of Abilene

ATTESTED:

W. Lee Byrd

W. Lee Byrd, Secretary

CHARTER COMPARATIVE TABLE

Included herein is a listing of legislation affecting the 1962 Charter.

Created: 2022-10-06 11:45:53 [EST]

(Supp. No. 2)

PART I - CHARTER
CHARTER COMPARATIVE TABLE

Ordinance Number	Adoption Date	Referendum Date	Part	Disposition
114-1980	11-20-80	1-17-81		122
10-1997	2-27-97	5- 3-97	3(a)	3
			3(b)	5
			3(c)	7
			3(d)	Title, 75-81
			3(e)	86
			3(f) Rpld	98-109
			3(g)	121
			3(h)	125
			3(i)	133
			3(j)	73
42-2006	8-28-06	11- 7-06	2(1)	9
			2(2)	24
			2(3)	27
			2(4)	28
			2(5)	122

PART I CHARTER

PREAMBLE

We the people of the City of Abilene, dedicated to the principal of local self-government, under law, as interpreted by the light of reason, and administered to secure justice, do invoke the guidance of God in establishing a municipal government, capable of efficiently translating the wishes of the voters into effective administration as promptly and economically as possible, and ordain these provisions for the Charter of our City.

ARTICLE I. INCORPORATION, FORM OF GOVERNMENT AND POWERS

Sec. 1. Incorporation.

The inhabitants of the City of Abilene, Taylor County, Texas, within the corporate limits as heretofore or hereafter established are hereby constituted and shall continue to be a municipal body politic and corporate in perpetuity under the name of "City of Abilene," hereinafter referred to as the "city," with such powers, rights, duties, privileges and immunities as are herein provided.

Sec. 2. Form of government.

The municipal government provided by this Charter shall be known as "Council-Manager Government." Pursuant to the provisions of, and subject only to the limitations imposed by, the state constitutions, state laws and this Charter, all powers of the city shall be vested in an elective council hereinafter referred to as the "council," which shall enact legislation, adopt budgets, determine policies and appoint the city manager who shall execute the laws and administer the government of the city.

Sec. 3. General powers of the city.

The city shall be a home rule city. It shall have all powers granted to home rule cities by the constitution and laws of this state, as fully and completely as though they were specifically enumerated in this Charter, together with all the implied powers necessary to carry into execution such granted powers, and the powers are hereby adopted that are conferred upon cities by Article XI, Section 5, of the Constitution of the State of Texas (Home Rule Amendment). Among other powers, the city shall have the power to contract and to cooperate with the government of the State of Texas or any agency or any political subdivision thereof, or with the United States Government or any agency thereof, to accomplish any lawful purpose. The city may acquire property within or without its corporate limits for any municipal purpose in fee simple or in any lesser interest or estate by purchase, gift, devise, lease or condemnation, and, subject to the provisions of this Charter, may sell, lease, mortgage, hold, manage, improve and control such property as may now or hereafter be owned by it; may provide for the expenditure of public funds for a retirement system, group health, life and accident insurance coverage, and surety bonds for city employees and officers; may pass ordinances and enact such regulations as may be expedient for the maintenance of good government order and peace of the city and the welfare, health, morals, comfort and safety of its inhabitants consistent with the provisions of this Charter. The enumeration of particular powers by this Charter shall not be deemed to be exclusive and in addition to the powers enumerated or implied herein the city shall have all powers not prohibited by the constitution or laws of this state.

Sec. 4. Annexation.

The council shall have the power to fix, by ordinance, the boundary limits of the city and to provide, by ordinance, for the annexation of additional territory lying adjacent to the city, with or without the consent of the inhabitants of the territory to be annexed. The council shall have the power to detach, by ordinance, any territory with or without the consent of the inhabitants of such area to be detached. Upon the introduction of such annexation or detachment ordinance to the council, it shall be published at least one time in the official newspaper of the city in the form in which it may be finally passed, and said ordinance shall not thereafter be finally acted upon until at least thirty (30) days have elapsed after the first publication thereof, and a public hearing held thereon. When any territory shall be so annexed, the same shall be a part of the city and the property situated therein shall bear its pro rata part of the taxes levied by the city, and the inhabitants thereof shall be entitled to all the rights and privileges of all the citizens, including the right to vote in municipal elections, and shall be bound by the acts, ordinances, resolutions and regulations of the city. When territory has been so detached, the same shall no longer be a part of the city. However, it is specifically provided that the council shall have the authority to annex property to the city by an ordinance passed under its emergency powers and without giving notice thereof when a petition is duly presented bearing the signatures of all of the owners of the property sought to be annexed.

Sec. 5. Street development and improvement.

The city shall have the power, in connection with its power to develop and improve or cause to be developed and improved any and all public streets, sidewalks, waterways, alleys and other public ways within the corporate limits of the city, to assess the cost of such development and improvement partly or entirely by assessments levied as a lien against the property abutting thereon and against the owners thereof. These assessments may be levied in any amount and under any procedures not prohibited by the constitution or statutes of the State of Texas, and may prescribe the time, terms and conditions of payment thereof, the rate of interest, and may include reasonable attorney's fees and costs of collection, if incurred, but no assessment may be made against land or owners of land in excess of the enhancement in value to the property occasioned by such development or improvement. If improvements be ordered constructed in any part of any area used or occupied by the tracks or facilities of any railway or public utility, then the city shall have the power to assess the whole cost of improvements in such area and the added costs of improvements in areas adjacent thereto made necessary by such use or occupancy against such railway or utility, and shall have the power, by ordinance, to provide for the enforcement of such assessment. As an alternative and cumulative method of developing, improving and paving any and all public streets, sidewalks, waterways, alleys, highways and other public ways within its corporate limits, the city shall have the power and authority to proceed in accordance with V.T.C.A., Transportation Code Ch. 313, Street Improvements and Assessments In Certain Municipalities.

ARTICLE II. THE COUNCIL

Sec. 6. Number, selection and term.

The council shall consist of six councilmembers and a mayor, all of whom shall be elected at large, as hereinafter provided. Each councilmember, unless sooner removed under the provisions of this Charter, shall serve for a term of three years, beginning with the first meeting of the council following his or her election, and ending with the first meeting of the council three (3) years later, or until his or her successor has been elected and duly qualified. Such terms for councilmembers shall be on a three year staggered basis to the end that two (2) councilmembers shall be elected each year. The mayor, unless sooner removed under the provisions of this charter, shall serve for a term of three (3) years, beginning with the first meeting of the council following his or her election and ending with the first meeting of the council three (3) years later, or until his or her successor has been elected and duly qualified.

Sec. 7. Qualifications.

At the time of his or her election to office, each councilmember and the mayor shall be at least twenty-one years of age, shall be a citizen and qualified voter of the State of Texas and the city. At the time of his or her election to office each councilmember and mayor shall have resided within the City of Abilene for at least twelve months. Three councilmembers shall be residents of the area of the city north of the Texas and Pacific Railway Company main line, as located in the city on the effective date of this Charter, and the other three councilmembers shall be residents of the area of the city south of such main line. The mayor may be a resident of any part of the city. Residence requirements shall be effective only as of the date of the election of each councilmember, but a member of the council or the mayor ceasing to reside in the city shall immediately forfeit his or her office. Neither the mayor nor any member of the council shall hold any other office or employment under the city government while he or she is a member of said council; nor shall he or she hold any other paid employment under the city government within two (2) years thereafter unless such employment be an elective office.

Sec. 8. Salaries.

The mayor and each councilmember shall receive a salary of one dollar (\$1.00) per year for each year he or she serves as mayor or councilmember. The council may establish by ordinance methods of reimbursement for all actual and necessary expenses incurred by the mayor and councilmember in the performance of their duties.

Sec. 9. Vacancies.

All vacancies of the council must be filled by election, pursuant to Article XI, Section 11, of the Texas Constitution. Candidates elected to fill such unexpired terms shall have the same qualifications as those officers whose unexpired terms they fill. If required to be filled hereunder, each such vacancy shall be filled by an election called and held for such purpose, within 120 days from the inception of such vacancy.

Sec. 10. Powers.

All powers and authority, including determination of all matters of policy, which are expressly or by implication conferred on or possessed by the city shall be vested in and exercised by the council; provided, however, that the council shall have no authority to exercise those powers which are expressly conferred upon other city officers by this Charter.

Sec. 11. Appointments by council.

Members of all boards created by the council shall be appointed by the mayor with the approval of the council.

Sec. 12. Investigative powers of the council.

The council shall have the power to inquire into or investigate the official conduct of any department, agency, office, officer or employee of the city and for that purpose shall have the power to administer oaths, subpoena witnesses, compel the production of books, papers, records or other evidence, and as it shall provide by ordinance, to punish and fix penalties for contempt for failure or refusal to obey any such subpoena or to produce any such books, papers, records or other evidence.

Sec. 13. Interference in administrative matters.

Except for the purpose of inquiry or investigation the council and its members shall deal with the administrative departments and personnel solely through the city manager, and neither the council nor any member thereof shall give orders to any subordinate of the city manager, either publicly or privately, except those administrative departments and personnel whose offices are filled by appointment by the mayor with approval of the council under the provisions of this Charter.

Sec. 14. Mayor and mayor pro tempore.

The mayor shall preside at all meetings of the council; shall be recognized as the head of the city government; and shall be entitled to vote on all matters considered by the council. At its first meeting following each regular election and qualification of councilmembers, the council shall elect one of its members as mayor pro tempore, who shall act as mayor during the absence or disability of the mayor, and when so acting, shall have the same powers and duties as herein set forth for the office of mayor.

Sec. 15. City secretary.

The mayor, with the approval of the council, shall appoint the city secretary, who may be removed from office at any time by a majority vote of the council. The city secretary shall keep the minutes, agenda, ordinances, and other official records of the council and city; and shall have such other powers and duties as may be prescribed by this Charter or the council. The city secretary shall be the custodian of the official seal of the city. The city secretary shall appoint such assistants as may be authorized by the council.

Sec. 16. Meetings of the council.

The council shall meet in regular session at least twice each month, which regular meetings shall be at least one week apart, and at such other times as may be prescribed by resolution. Special meetings of the council shall be called by the city secretary upon the written request of the mayor or any three councilmembers. All council meetings shall be held at the city hall, or at such places as will permit the attendance of the general public. The city secretary shall notify news media of the time and place of all special meetings, prior to such meetings.

Sec. 17. Rules of procedure; quorum.

The council shall by resolution determine its own rules and order of business, except that four or more members of the council shall be required to constitute a quorum.

Sec. 18. Procedure to enact legislation.

The council shall legislate by ordinance only and the enacting clause of every ordinance shall be "Be It Ordained by the City Council of the City of Abilene, Texas." The city attorney shall approve all ordinances prior to their adoption by the council, as to the legality and form thereof, or shall present his written objections thereto to the council and file a copy thereof with the city secretary. Every ordinance enacted by the council shall be signed by the mayor, mayor pro tempore, or any three members of the council and shall be filed with, and recorded by, the city secretary in an ordinance book reserved for that purpose. Except in the case of ordinances issuing bonds or as otherwise provided by state law or this Charter, there shall be a first and second reading of all ordinances in open meetings of the council on two separate days. A reading by descriptive caption only shall be sufficient. Upon consideration for passage of any ordinance, resolution or motion, the city secretary shall call the roll of the council and record the votes, which record of votes shall constitute a public record. Except as otherwise provided by state

law or this Charter, passage of an ordinance, resolution or motion shall require the affirmative votes of at least four members of the council. The council shall call a public hearing before the final passage of any ordinance if required by state law or this Charter or by ordinance enacted thereunder, and may call a public hearing before the final passage of any ordinance if such hearing be deemed to be in the public interest; notice thereof shall be given by publication in the official newspaper of the city at least 24 hours prior to the time of such hearing. All ordinances, unless otherwise provided by law, this Charter, or by the terms of such ordinance, shall take effect immediately upon final passage thereof. The requirement for reading of ordinances upon two separate days may be waived by the council in cases where such ordinances relate to the immediate preservation of the public peace, health, safety or welfare, if adopted by the affirmative votes of at least five council members and contain a statement of the nature of the emergency.

Sec. 19. Publication of ordinances; effective date.

Except as otherwise provided by law or this Charter, the city secretary shall give notice of the enactment of every ordinance imposing any penalty, fine or forfeiture for any violation of its provisions, and of every ordinance required by law or this Charter to be published, by causing said ordinance, or its caption and penalty, to be published at least one time within twenty (20) days after final passage thereof in the official newspaper of the city. The affidavit of such publication by the publisher of such newspaper taken before any officer authorized to administer oaths and filed with the city secretary shall be conclusive proof of the legal publication and promulgation of such ordinance in all courts. Such ordinance shall take effect ten (10) days after date of such publication, unless otherwise provided in such ordinance, provided that any penal ordinance passed as an emergency measure shall take effect immediately upon publication.

Sec. 20. Code of Ordinances.

The council shall have the power to cause all general ordinances of the city to be compiled, indexed and printed in code form, whenever the codification or recodification thereof is deemed desirable or required by law. When adopted by the council, the printed codes of general ordinances so designated shall be in full force and effect without the necessity of such codes or any part thereof being published in any newspaper. The caption, descriptive clause and other formal parts of the ordinances of the city may be omitted without affecting the validity of such ordinances when they are published as a code. A printed copy of the city's Code of Ordinances, when authenticated by the city secretary, shall be admitted in evidence in courts without further proof and shall be prima facie evidence in all courts of the existence and regular enactment of all ordinances therein set forth.

Sec. 21. Emergency powers.

A state of emergency shall be deemed to exist when, as the consequence of a major calamity, activities of a war-like nature, riots, or insurrection, the normal procedures of the municipal government are inadequate for the protection of persons or property. A state of emergency may be declared by the vote of the council, or by order of the mayor, or, in his or her absence or disability, the mayor pro tempore, if a meeting of the council cannot be called within the time available, whenever conditions threaten to render inadequate the normal procedures of the municipal government for protection of persons or property.

Sec. 22. Powers of mayor during emergency.

During a state of emergency the mayor, or, in his or her absence or disability, the mayor pro tempore, shall have all the powers which would be vested in the council under this Charter and may exercise those powers to the extent he or she considers to be reasonable or necessary for the protection of persons or property. In addition thereto he or she shall be specifically empowered:

- a. To give orders directly to any city officer or employee as well as through the city manager;

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- b. To suspend temporarily or replace any city officer or employee, other than a councilmember, when deemed necessary;
 - c. To place temporarily any city officers, employees, services, equipment or properties under the direction or control of any office or officers of the county, state or federal governments, including the military services, and the duly constituted officers for the civil defense;
 - d. To enter upon cooperative agreements with the proper authorities of county, state or federal governments, or other municipalities, for mutual assistance within the area of an existing or threatened emergency;
 - e. To order the evacuation of persons from all or any part of the city and to close any buildings or areas within the city;
 - f. To authorize expenditures totaling not more than ten (10) per centum of the city's current annual budget for general purposes without budget appropriation therefor;
 - g. To re-establish the seat of the city's government at another place, provided that such place, if outside the city's territorial limits, shall be at the place nearest thereto which is suitable and practical; and
 - h. To summon citizens to serve as special police, with the powers and duties appropriate thereto.

Sec. 23. When emergency powers of mayor to terminate.

The emergency powers herein provided shall be exercised only to the extent made necessary by the nature of the emergency and during the continuation of the state of emergency. The state of emergency shall terminate when so ordered by the mayor, or by the mayor pro tempore in the absence or disability of the mayor, or may be terminated by vote of a majority of the council.

ARTICLE III. ELECTIONS, INITIATIVE, REFERENDUM AND RECALL

Sec. 24. Annual elections.

The regular election of council to places on the council occupied by council whose terms are expiring and the regular election of the mayor, if his or her term is expiring, shall be held on such date as prescribed by the election laws of the State of Texas. In such election each qualified voter shall vote for not more than one candidate for each council place to be filled, and for not more than one candidate for mayor. Said elections shall be ordered by the Council, and in case of its failure to order same, the mayor shall make such order. In case of the inability of the council and mayor to act, the elections may be called by the city secretary, and in case of his or her inability to act, by the county judge of Taylor County, Texas, and in case of his or her inability to act, by the governor of the State of Texas. The city secretary shall give notice of such election by causing said notice to be published at least thirty (30) days prior to the day of such election.

Sec. 25. Regulation of elections.

All elections shall be held in accordance with the laws of the State of Texas regulating the holding of municipal elections and in accordance with this Charter and ordinances or resolutions adopted by the council for the conduct of elections. The council shall appoint the election judges and other election officials and shall provide for the compensation of all election officials in the city elections and for all other expenses in holding said elections.

Sec. 26. Application for candidacy.

Any qualified person may make application to have his or her name placed on the official ballot for the post of councilmember or mayor. The application shall be made in accordance with all applicable laws and shall state that the candidate agrees to serve if qualified and elected. There shall be six councilmember places; councilmember places Nos. 1, 3 and 5 shall be filled by qualified candidates residing at the time of the election north of the main line of the Texas and Pacific Railway Company tracks as located at the time of the effective date of this Charter; and place Nos. 2, 4, and 6 shall be filled by qualified persons residing at the time of the election south of said main line. Said applications shall be filed with the city secretary within time limits as provided by state law.

Sec. 27. Canvassing elections and declaring results.

Returns of every municipal election shall be delivered forthwith by the election judges to the city secretary. The council shall canvass the returns, investigate the qualifications of the candidates and declare the official results of the election on such date as prescribed by the election laws of the State of Texas. The returns of every municipal election shall be recorded in the minutes of the council by election precinct totals. The qualified person receiving a majority of the votes cast for any office shall thereupon be declared elected by said council. The decision of the council, as to qualifications of candidates, shall be conclusive and final for all purposes.

Sec. 28. Runoff elections.

If no candidate receives a majority of all the votes cast for an office, the council shall immediately upon declaring the official results of the election, order a run-off election for each office to which no one was elected. Such run-off election shall be held on such date as prescribed by the election laws of the State of Texas and in such run-off election the two (2) candidates who received, in the preceding election, the highest number of votes for each office to which no one was elected, shall be voted on again by the qualified voters, and the candidate who receives the majority of the votes cast for each such office in the run-off election shall be elected to such office.

Sec. 29. Qualification and notification of city officers.

Any officer elected or appointed must qualify by taking and subscribing his oath of office within thirty (30) days, otherwise, the office shall be deemed vacant. It shall be the duty of the city secretary to notify all persons elected or appointed by the mayor with approval of the council of their election or appointment and all the elected or appointed officers may enter upon their duties after so qualifying.

Sec. 30. Special elections.

The council, by ordinance or resolution, may call such special elections as are authorized by the state law or this Charter, fix the time and place of holding same, and provide all means for holding such special elections, provided that every special election shall be called and held as nearly as practicable, according to the provisions governing annual elections.

Sec. 31. Initiative.

The voters of this city shall have the power to propose any ordinance, except an ordinance appropriating money or authorizing the levy of taxes, or one repealing such an ordinance, and to adopt or reject the same at the polls, such power being known as the initiative. Any initiated ordinance may be submitted to the council by a petition signed by qualified voters of the city equal in number to at least ten (10) per centum of such voters computed as of the date of the last regular municipal election. Such ordinance may be passed by the council without change, or submitted to the voters at an election called for that purpose.

Sec. 32. Referendum.

The voters of this city shall have the power to approve or reject at the polls any ordinance passed by the council which would have been the proper subject of an initiative election under this Charter, except that ordinances authorizing the issuance of either tax or revenue bonds, whether original or refunding, shall not be subject to referendum. The petition for referendum shall require the same number and qualification of signers thereto as required by this Charter for an initiative petition, except that referendum petitions must be filed with the city secretary within sixty (60) days after the final passage of the ordinance which is the subject of the referendum, or the petition shall be barred by the lapse of time. When such petition has been certified as sufficient by the city secretary, the ordinance specified in the petition shall not go into effect, or, if it has gone into effect, then further enforcement or action thereunder shall be suspended unless and until such ordinance is approved by the voters as herein provided.

Sec. 33. Recall.

The voters of this city shall have the power to recall any elected officer of this city and may exercise such power by filing with the city secretary a petition which shall be signed and verified by the same number of signers with the same qualifications and in the same manner required in this Charter for an initiative petition. If the petition is certified by the city secretary to be sufficient, the council shall order and hold, or cause to be held, an election forthwith to determine whether such officer shall be recalled.

Sec. 34. Results of recall election.

If the majority of the legal votes cast at a recall election be for the recall of the officer named on the ballot, the council shall immediately declare his or her office vacant, and such vacancy shall be filled in accordance with the provisions of this Charter. An officer thus removed shall not be eligible to hold office again in the city within a period of four years from the date of his or her recall.

Sec. 35. Limitation on recall.

No recall petition shall be filed against an officer within six months after he or she takes office, and no officer shall be subjected to more than one recall election during a term of office.

Sec. 36. Form of petitions.

All papers for any particular petition circulated for the purpose of an initiative, referendum, or recall shall be uniform in size and style. Initiative petitions shall contain the full text of the proposed ordinance and referendum papers shall contain sufficient description of the ordinance sought to be repealed to positively identify it. The signatures to initiative, referendum or recall petitions need not be appended to one paper, but all petition papers comprising a single petition shall be assembled and filed with the city secretary as one instrument with an affidavit attached made by the person so filing such petition that it bears a stated number of signatures, and that all the signatures appended thereto are, in his or her belief, the genuine signatures of the persons whose names they purport to be. Names and addresses of the signers of such petitions shall be printed adjacent to said signatures.

Sec. 37. Filing, examination and certification of petitions.

Petitions for initiative, referendum or recall shall be filed with the city secretary. Within twenty days after a petition is filed, the city secretary shall determine whether such petition is signed by a sufficient number of qualified voters and whether it has a proper affidavit attached of the person filing same. After completing

examination of such petition, the city secretary shall certify the result thereof to the council at its next regular meeting. If such petition is insufficient, the city secretary shall set forth in his or her certificate the particulars in which it is defective, and shall at once notify the person who filed it of his or her findings.

Sec. 38. Amendments of petitions.

An initiative, referendum or recall petition may be amended at any time within ten days after the notice of insufficiency has been sent by the city secretary, by filing a supplementary petition signed and filed as provided in case of an original petition, and the same procedures shall then be followed by the city secretary and council as in the case of an original petition. The finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.

Sec. 39. Consideration of petition by council.

Whenever the council receives a certified initiative or referendum petition from the city secretary, it shall proceed at once to consider such petition. A proposed initiative ordinance shall be read and provision shall be made for a public hearing upon the proposed ordinance. The council shall take final action on such ordinance not later than thirty days after the date on which it was submitted to the council by the city secretary. A referred ordinance shall be reconsidered by the council and its final vote upon such consideration shall be upon the question "Shall the ordinance specified in the referendum petition be repealed?"

Sec. 40. Submission to voters.

If the council shall fail to pass an ordinance proposed by initiative petition in the exact form proposed, or it fails to repeal a referred ordinance, the proposed or referred ordinance shall be submitted to the voters not less than thirty days nor more than ninety days from the date the council takes its final vote thereon.

Sec. 41. Results of election.

If a majority of the voting on a proposed initiative ordinance shall vote in favor thereof, it shall thereupon be an ordinance of the city. A referred ordinance which is not approved by a majority of the voters voting thereon shall be deemed repealed. If conflicting ordinances are approved by the voters at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

ARTICLE IV. ADMINISTRATIVE ORGANIZATION

Sec. 42. City manager—Generally.

The city manager shall be the chief administrative officer of the city.

Sec. 43. Same—Appointment.

The city manager shall be appointed by the mayor with approval of the council for an indefinite term, and may be removed by the council by a vote of at least four of the council members. The action of the council in removing the city manager shall be final, it being the intention of this Charter to vest all authority and fix all responsibility for such removal in the council.

Sec. 44. Same—Qualifications.

The city manager shall be chosen by the council solely on the basis of his or her executive and administrative training, experience and ability. The city manager need not, when appointed, be a resident of the city; however, during his or her tenure of office, he or she shall reside within the city.

Sec. 45. Same—Compensation.

The city manager shall receive such compensation as may be fixed by the council.

Sec. 46. Same—Powers and duties generally.

The city manager shall be responsible to the council for the proper administration of all city affairs placed in his or her charge by or under this Charter. The powers herein conferred upon the city manager shall include, but shall not be limited to, the powers set forth in sections 47 through 52, inclusive.

Sec. 47. Same—Appointments.

Except as otherwise provided in this Charter, the city manager shall appoint and, when he or she deems it necessary for the good of the city, suspend or remove all city employees and appointive administrative officers provided for, by or under this Charter, with the exception of those administrative department heads and officers whose appointment and removal is subject to the approval of the council as may be provided by the laws of the State of Texas or other provisions of this Charter. The city manager may authorize any such administrative officer whom he or she has appointed to exercise the powers herein granted with respect to subordinates in that officer's department, office or agency.

Sec. 48. Same—Direction and supervision of departments, etc.

The city manager shall direct and supervise the administration of all functions of the city and of its departments, offices and agencies, except for the functions specifically assigned to any such department, office or agency by this Charter.

Sec. 49. Same—Enforcement of laws; performance of contracts.

The city manager shall see that all laws, provisions of this Charter, and ordinances passed by the council, subject to enforcement by him or her or by officers subject to his or her direction and supervision under this Charter, are faithfully executed, and that all contracts, permits, privileges and franchises to which the city is a party are properly performed.

Sec. 50. Same—To prepare annual budget.

The city manager shall prepare and submit the annual budget and capital program to the council.

Sec. 51. Same—Reports to council.

The city manager shall make regular monthly reports to the council on the operations of every city department, office and agency subject to his or her direction and supervision under this Charter, keep the council fully advised as to the financial condition and future needs of the city and make such recommendations to the council concerning the affairs of the city as he or she deems desirable.

Sec. 52. Same—Other duties.

The city manager shall perform such other duties as may be prescribed by this Charter, or required of him or her by the council not inconsistent with the provisions of this Charter.

Sec. 53. Administrative departments.

There shall be such administrative departments as are established by this Charter or as may be established by ordinance, all of which shall be under the control and direction of the city manager unless otherwise provided in this Charter. The council may abolish or combine one or more departments created by it and may assign or transfer duties of any department of the city from one such department to another by ordinance.

Sec. 54. Department heads.

At the head of each department which is under the control and direction of the city manager, there shall be a director, who shall be appointed and may be removed by the city manager. Such directors shall have supervision and control over their respective departments, and may serve as chiefs of divisions within their respective departments. With the consent of the council, the city manager may serve as the head of one or more such departments, or may appoint one person as the head of two or more of them.

Sec. 55. Parks and recreation board—Created.

There is hereby created a board consisting of seven (7) members to be known as the parks and recreation board. Within thirty (30) days after the effective date of this Charter, the initial members of such board shall be appointed by the mayor with the approval of the council. All of the members shall be qualified voters of the city and shall receive no compensation for their services upon this board. The board may elect such officers as it may choose and shall establish a schedule of meetings as it deems necessary.

Sec. 56. Same—Term of office of member; appointment.

The normal term of office of each member of the parks and recreation board shall be three (3) years. Two of the members of the first board shall be appointed for a term of one year, two members shall be appointed for a term of two years, and three members shall be appointed for a term of three years. Annually thereafter the council shall give due and proper consideration to a list of prospective board members as submitted by the remaining board members; then, the appropriate number of members shall be appointed by the mayor with the approval of the council for a term of three years. Should a vacancy occur for any reason, the mayor, with the approval of the council, shall appoint, within thirty (30) days, a successor to serve the remainder of the unexpired term.

Sec. 57. Same—Powers and duties.

The parks and recreation board shall have jurisdiction and control over public lands and properties heretofore or hereafter designated for park and recreational uses, and may relinquish such jurisdiction and control over any such land only upon the affirmative vote of four of the seven members of said board. No such public lands and properties heretofore or hereafter designated for park and recreational uses shall be sold or otherwise disposed of by the city except after the affirmative vote of four of the seven members of said board.

Sec. 58. Same—To formulate policies.

The parks and recreation board shall be responsible for the formulation and recommendation of park and recreation policies to the city manager and the council, and shall be responsible for the implementation of such policies throughout the city.

Sec. 59. Same—"Parks" defined.

The term "parks" shall be defined as any public land or lands heretofore or hereafter designated such by the council and accepted as such by the parks and recreation board.

Sec. 60. Same—Purchase of parks.

No additional parks as heretofore defined shall be purchased by the City and placed under the jurisdiction of the parks and recreation board unless such acquisition and placement first shall be approved by the affirmative vote of four of the seven members of said board.

Sec. 61. Same—Recommendation of policies.

The parks and recreation board shall recommend to the director of parks and recreation, to the city manager and to the council such policies as it may deem necessary and desirable in the preparation of a comprehensive park and recreation improvement program. It shall recommend acquisition and/or disposal of park and recreation property and generally review the enactment of these programs.

Sec. 62. Same—Assistance and recommendation of budget.

The parks and recreation board shall advise and assist the director of parks and recreation in the preparation of an annual budget request to be submitted to the city manager and council.

Sec. 63. Parks and recreation department—Created; director.

There shall be a parks and recreation department. The director of parks and recreation shall be appointed by the city manager. The director of parks and recreation shall serve as the regular technical advisor of the parks and recreation board, shall have the status of a director of a department and shall have such other duties and responsibilities as the city manager may establish.

Sec. 64. Same—Employees; restrictions on board members.

All employees of the parks and recreation department shall be appointed by the director of parks and recreation with the approval of the city manager. No individual member of the parks and recreation board shall issue instructions to any departmental employee, but shall implement the park and recreation program through the director of parks and recreation.

Sec. 65. Administrative procedures for park and recreation board.

The expenditure of departmental funds, the accounting therefor, all purchases, contracts, bidding procedures, personnel control, and other administrative matters of the parks and recreation board shall be those adhered to by other city departments in conformity with the provisions of this Charter and applicable state laws.

Sec. 66. Reports by department of parks and recreation.

The director of parks and recreation shall prepare, with the assistance of the board, an annual report of the programs and facilities of the department, and such reports as may be requested from time to time by the council and/or the city manager.

Sec. 67. Retention of certain powers by council.

All powers, jurisdiction, properties, responsibilities and duties not vested in the parks and recreation board in the foregoing sections 55 through 66 shall be vested in the council.

Sec. 68. Appropriation of funds for parks.

In adopting the annual budget for the operation of the city government, the council shall appropriate no less than two per centum (2%) of the general operating fund for use by the parks and recreation department. Revenues resulting from the operation of the parks and recreation department shall be credited to the parks and recreation fund or accounts, and shall be in addition to the amount appropriated as set forth in this paragraph. The council shall not be restricted to the minimum appropriation described above, but shall appropriate such funds as it may consider necessary and desirable to carry on an adequate park and recreation program within the city. The council shall give due consideration to the needs of the parks and recreation department when capital improvement projects are prepared and bond proposals are submitted to the voters.

ARTICLE V. LEGAL DEPARTMENT AND MUNICIPAL COURT

Sec. 69. Legal department—Established; head.

There shall be a legal department, the head of which shall be the city attorney.

Sec. 70. Same—Appointment of city attorney.

The city attorney shall be appointed by the mayor with the approval of the council and may be removed by the council.

Sec. 71. City attorney—Qualifications.

The city attorney shall be licensed to practice law in the State of Texas and shall have been engaged in the practice of law at least five years. He or she shall be a resident of the city during his or her service as city attorney.

Sec. 72. Same—Powers and duties.

The city attorney shall be the legal advisor of, and attorney for, all the offices and departments of the city and he or she shall represent the city in all litigations and legal proceedings. He or she shall examine and approve, or disapprove, as to form and legality, all documents, contracts and legal instruments in which the city may have an interest.

Sec. 73. Assistant city attorneys.

There shall be such Assistant City Attorneys as may be authorized by the Council and appointed by the City Attorney, with the approval of the Council. Such Assistant City Attorneys shall be authorized to act for and on behalf of the City Attorney. Services of an Assistant City Attorney may be terminated by the City Attorney or by the Council in case the office of the City Attorney is vacant.

Sec. 74. Private practice prohibited.

Neither the city attorney nor assistant city attorneys shall be engaged in the private practice of law while serving as city attorney or assistant city attorneys.

Sec. 75. Municipal court.

There shall be a court known as the municipal court of the city, which court shall be deemed always open for the trial of causes, with such jurisdiction, powers and duties as are given and prescribed by the laws of the State of Texas.

Sec. 76. Judge of the municipal court.

The municipal court shall be presided over by a magistrate who shall be known as the judge of the municipal court. He or she shall be a competent attorney who is licensed to practice law in the State of Texas and shall be a resident of the city during his or her tenure of office. He or she shall be appointed by the mayor with the approval of the council for a term of two years, but he or she shall be subject to removal by the council for cause, after notice and hearing.

Sec. 77. Assistant municipal court judge.

In the event the judge of the municipal court is temporarily unable to act for any reason, the mayor with the approval of the council, shall appoint a qualified attorney to act in his or her place.

Sec. 78. Additional courts.

The council shall have the power to create and establish additional municipal courts and the mayor with the approval of the council, may appoint one or more judges of each municipal court, each of whom shall be a magistrate.

Sec. 79. Clerk of the municipal court.

There shall be a clerk of the municipal court who shall be appointed by the city manager and who shall be responsible to the city manager. The clerk shall have the power to administer oaths and affidavits, make certificates, affix the seal of the court thereto, and otherwise perform any and all acts necessary in issuing process of such court and conducting the business thereof. There shall be such deputy clerks as the council may authorize. The clerk of the municipal court shall appoint such deputy clerks, with the approval of the city manager. Such deputy clerks shall have the authority to act for and on behalf of the clerk of the municipal court.

Sec. 80. Costs, process and procedure in the municipal court.

The council shall determine what costs, if any, shall be charged for proceedings in and for all processes issued by, said court.

Sec. 81. Style of writs.

The style of all writs issued out of the municipal court shall be in the name of the State of Texas.

Sec. 82. Jurors.

All jurors shall be residents of said city and otherwise possess the same qualifications as jurors in the state courts.

ARTICLE VI. PLANNING AND ZONING

Sec. 83. Planning and zoning commission—Created; composition.

There shall be established a planning and zoning commission which shall consist of seven (7) citizens of the city who own real property within said city, and the ex officio members hereinafter specified. The city manager, the chairman of the board of adjustment, the director of public works and others as the council may provide by ordinance or resolution shall serve as ex officio members. Ex officio members shall not have the power to vote. The voting members of said commission shall be appointed by the mayor with the approval of the council for a term of three (3) years, except that of the seven (7) members first appointed, two (2) shall be appointed for a term of one (1) year; two (2) for a term of two (2) years; and three (3) for a term of three (3) years. Such appointees shall serve without compensation and may not hold any elective office of the State of Texas or any other political subdivision thereof. The commission shall elect a chairman from among its official members and shall meet not less than once each month. A vacancy in an unexpired term shall be filled by the mayor with the approval of the council for the remainder of the term. A majority of appointed members shall constitute a quorum, but decisions may only be made with the affirmative vote of four (4) or more members of the commission.

Sec. 84. Same—Powers and duties.

The planning and zoning commission shall:

- a. Make, amend, extend or add to a general plan for the physical development of the city which shall contain the commission's recommendations for growth, improvement and beautification of the city. A copy of the general plan, or any part thereof, shall be forwarded to the city manager who shall thereupon submit such plan to the council with his or her recommendations thereon. The council may adopt this plan as a whole or in part, and may adopt any amendment thereto, after at least one public hearing on the proposed action. All amendments to the general plan recommended by the planning and zoning commission shall be submitted in the same manner to the council for approval, and all recommendations to the council from any city department affecting the general plan must be accompanied by a recommendation from the planning and zoning commission;
- b. Recommend to the council approval or disapproval of proposed changes in zoning districts;
- c. Approve or disapprove the platting or subdividing of land within the corporate limits of the city and within adjacent areas as permitted by law;
- d. Require information from the other departments of the city government in relation to its work;
- e. Recommend to the council approval or disapproval of plans for slum clearance, public housing and urban redevelopment and renewal projects;
- f. Perform such additional duties and exercise such additional powers as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

Sec. 85. Director of planning.

There shall be a director of planning who shall be appointed by the city manager. The director of planning shall serve as the regular technical advisor of the planning and zoning commission, shall have the status of a director of a department and shall have such other duties and responsibilities as the city manager may establish.

Sec. 86. Board of adjustment.

The mayor, with the approval of the council, shall appoint a board of adjustment.

ARTICLE VII. FISCAL MATTERS**Sec. 87. Fiscal year.**

The fiscal year shall begin on October 1 each year and end on the following September 30, but the fiscal year may be changed by the council by ordinance, provided that no change shall be effective until six (6) months after final passage of such ordinance.

Sec. 88. Budget.

The department heads of the city shall prepare annual departmental budget requests for the ensuing fiscal year as directed by the city manager and submit said requests to him or her for his or her review. It shall be the duty of the city manager to submit a balanced annual budget not later than thirty (30) days prior to the end of the current fiscal year to the council for its review, consideration and revision if desired. The council shall call a public hearing or hearings on the budget. The budget shall be finally adopted not later than the 25th day of the last month of the fiscal year. Should the council take no final action on or prior to such day, the budget as submitted by the city manager shall be deemed to have been finally adopted by the council. The budget as adopted must set forth the appropriations for services, functions and activities of the various city departments and agencies, and shall meet all fund requirements provided by law and required by bond covenants.

Sec. 89. Appropriations.

During the fiscal year the council shall have the power to transfer funds allocated by the budget to one activity, function or department, to another activity, function or department, and to re-estimate revenues and expenditures, except that no transfer shall be made of revenues or earnings of any public utility supported principally by its own revenues.

Sec. 90. Emergency appropriations.

At any time in the fiscal year the council may make emergency appropriations to meet a pressing need for public expenditure in order to protect the public health, safety or welfare.

Sec. 91. Borrowing.

The council shall have the power, except as prohibited by law, to borrow money by whatever method it may deem to be in the public interest.

Sec. 92. General obligation bonds.

The city shall have the power to borrow money on the credit of the city and to issue general obligation bonds for permanent public improvements or for any other public purpose not prohibited by the constitution and laws of the State of Texas, and to issue refunding bonds to refund outstanding bonds of the city previously issued. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 93. Revenue bonds.

The city shall have power to borrow money for the purpose of constructing, purchasing, improving, extending or repairing of public utilities, recreational facilities or any other self liquidating municipal function not prohibited by the constitution and laws of the State of Texas, and to issue revenue bonds to evidence the obligation created thereby. Such bonds shall be a charge upon and payable from the properties, or interest therein, pledged, or the income therefrom, or both. The holders of the revenue bonds shall never have the right to demand payment thereof out of monies raised or to be raised by taxation. All such bonds shall be issued in conformity with the laws of the State of Texas.

Sec. 94. Bonds incontestable.

All bonds of the city having been issued and sold and having been delivered to the purchaser thereof, shall thereafter be incontestable and all bonds issued to refund in exchange for outstanding bonds previously issued shall, and after said exchange, be incontestable.

Sec. 95. Purchases.

All purchases made and contracts executed by the city shall be made in accordance with the requirements of the constitution and statutes of the State of Texas.

Sec. 96. Independent audit.

Within thirty (30) days after the beginning of the fiscal year, the council shall cause a continuing independent audit to be made, by a certified public accountant, of all accounts of the city for such fiscal year. The certified public accountant so selected shall have no direct personal interest in the financial affairs of the city, and shall report in writing to the council at such time as it may require. Upon completion of the audit, the results thereof shall be reported in writing to the council as soon as reasonably possible following the close of the fiscal year, which report shall be a public record.

Sec. 97. Financial statement.

The council shall, at the end of each month prepare or have prepared under its direction a certified statement as to financial receipts and disbursements for that particular month, and shall publish such statement not later than the 20th day of the following month and the method of publication shall be any one of the following two methods as the council shall deem best, to wit:

1. By publishing said statement one time in a newspaper of general circulation in Abilene, Texas, or
2. By having a sufficient number of copies of said statement available in the office of the city secretary to be given to those persons who desire to come to said office and secure a copy thereof.

ARTICLE VIII. RESERVED

Secs. 98—109. Reserved.

Editor's note(s)—At an election held on May 3, 1997, the voters approved a Charter amendment repealing former Article VIII, which pertained to revenue and taxation. Said article is now covered by state law. The amendment was put before the voters by Ordinance 10-1997, pt. 3(f), adopted Feb. 27, 1997.

ARTICLE IX. FRANCHISES AND PUBLIC UTILITIES

Sec. 110. Power to grant; term.

The council shall have, by ordinance, the power to grant, renew and extend all franchises, easements or rights of a public nature of all public utilities operating within the city and with consent of the franchise holder to amend the same, provided, however, that no franchise shall be granted for an indefinite term and no franchise shall be granted for a term of more than forty (40) years.

Sec. 111. Introduction of application for franchise.

Before any ordinance, granting to any individual, corporation or association of persons any franchise, easement or right of a public nature, shall be read or passed by said council, notice of intention to apply therefor shall be published in a newspaper of general circulation in said city at least ten (10) consecutive publication days, the first of which said publication shall appear not more than twenty (20) days next before the introduction of the same before the council. Said notice shall state the nature of the franchise or right for which application is made; the number of years to run; and the streets and alleys or other property covered by same, and shall be published at the expense of the applicant. Filing of a copy of same with the city secretary shall constitute introduction of same before said council.

Sec. 112. Reading of franchise ordinance; effective date.

Every ordinance granting, renewing, extending or amending a franchise or public right shall be read and passed at two regular meetings of the council, which shall be at least one week apart. A public hearing shall be called and held on such ordinance before final passage, and no such ordinance shall become effective until thirty (30) days after its second and final passage.

Sec. 113. Required vote for passage.

No ordinance granting any franchise, easement or public right shall be deemed passed without the affirmative votes of at least five members of said council.

Sec. 114. Powers of city pertaining to franchises.

Included among the powers of the city are the following:

- a. To regulate, locate or prohibit the erection of any and all poles, wires or other utility equipment, conveyance or structure, on the streets, alleys and public places of said city, and to cause the same to be changed, removed, altered, increased, diminished, placed underground, or be supported by poles of such material, kind quality and class as may be determined by said council whether same be telegraph, telephone, electric or otherwise, and to enforce the provisions hereof by appropriate action in any court of competent jurisdiction;

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- b. To purchase, own, construct or lease, and to maintain and operate either within or without the limits of said city a system of waterworks, reservoirs, gas and electric plants, sewers and other public utilities for the use of the public and the city, and to furnish service therefrom and to make and collect such charges and fees therefor as may be fixed by said council, and to issue the bonds of said city in payment therefor; provided that the issuance of said bonds shall first be submitted to a vote of the qualified voters of said city, as provided herein for other bond elections; and
 - c. To regulate the carrying of electric currents and the controlling of such currents.

Sec. 115. Ownership, use and control of streets, etc.

No franchise or easement involving the right to use the same either along, over, across, under or upon the streets, alleys, highways, parks and public ways shall be valid unless granted in compliance with the terms hereof.

Sec. 116. Compensation for franchise.

No exclusive franchise or privilege shall ever be granted by said city, nor a franchise or privilege to commence at any time after seven (7) months subsequent to the passage of the ordinance granting the same, and all persons or corporations to whom a franchise may hereafter be granted shall pay to said city for such privileges such compensation therefor as may be fixed by said council, in the grant of such franchise or privilege. Said compensation as fixed by said council shall become due and payable at such time as said council shall fix in the grant of such franchise or privilege, and upon the failure on the part of any person, firm or corporation to pay said compensation when due, the franchise or privilege as enjoyed by him or her or them shall, after thirty (30) days from such date, become forfeited.

Sec. 117. Council to fix and regulate charges, fares or rates.

Said council shall determine, fix and regulate the charges, fares or rates of any person, firm or corporation that may now or hereafter enjoy a franchise or exercise any other public privilege from said city, and of any and all public utilities of whatsoever kind, and to prescribe the kind of service to be furnished to the public by such person, firm or corporation, and the manner in which it shall be rendered and from time to time alter or change such rules, regulations and compensation, after reasonable notice to, and a hearing of, the owners of such utilities, and after a public hearing thereon, provided that the rates, charges and fares so fixed shall at all times be reasonable, and permit a reasonable net return on the actual value of the physical properties and equipment of such utilities. In this connection, the council may require any utility or franchise holder to furnish such financial reports as the council may request, including reports of actual operating costs and the financial condition of its operation within the City of Abilene.

ARTICLE X. GENERAL PROVISIONS

Sec. 118. Interim government.

The present charter of the city shall continue in full force and effect until the regular city election held on the first Tuesday in April, 1963. At such election, the councilmembers for Place Three (north side) and Place Four (south side) shall be elected for a term of three years. The councilmembers for place five (north side) and place six (south side) shall be elected for a term of two years. The election for the mayor shall be as provided herein. The councilmembers for places one and two shall serve the remaining one year of their terms, said councilmembers being the commissioners now having served only one year of their terms in present commission places two and four.

Sec. 119. Continuity in government.

Any ordinance in effect at the time this Charter is adopted, and not otherwise in conflict with this Charter, which refers to some office or employment of the city which ceases to exist under this Charter, shall continue in force and the powers and duties therein prescribed shall be the powers and duties of the office or employment which, under this Charter, succeeds to the same general powers and duties of such office or employment under the previous Charter. When the term "city commission" appears in any such ordinance it shall be construed as "council" after the effective date of this Charter.

Sec. 120. Effect of charter on existing law.

All ordinances, resolutions, rules and regulations in force in the city on the effective date of this Charter, and not in conflict with this Charter, shall remain in force until altered, amended or repealed. All taxes, assessments, liens, encumbrances and demands, of or against the city, fixed or established before such date, or for the fixing or establishing of which proceedings have begun at such date, shall be valid when properly fixed or established either under the law in force at the time of beginning of such proceedings or under the law after the adoption of this Charter.

Sec. 121. Official oath.

All officers of the city shall, before entering upon the duties of their respective offices, take and subscribe the oath of office prescribed in the constitution of the State of Texas. Oath of the office shall be administered by the mayor, mayor pro tempore, or any other person authorized by law to administer oaths.

Sec. 122. Public meetings.

All meetings of the council and boards or commissions appointed by the council shall be held in accordance with the laws of the State of Texas, commonly referred to as the Texas Open Meetings Act. Minutes of all such open meetings shall be kept and such minutes shall constitute public records.

Sec. 123. Public records.

All public records of every office, department or agency of the city shall be open to inspection by any citizen at all reasonable times, provided that such police records, vital statistics records, or any other records which are closed to the public by law shall not be considered public records for the purpose of this section.

Sec. 124. Official newspaper.

The council shall have the power to designate by resolution a newspaper of general circulation in the city as the official newspaper, and shall cause to be published therein all ordinances, notices and other matters which are required to be officially published by this Charter, the ordinances of the city, or the constitution or laws of the State of Texas.

Sec. 125. Notice of injury or damage.

The city shall never be liable for any personal injury, whether resulting in death or not, unless the person injured or someone in his or her behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall file a notice in writing with the city secretary within six (6) months after the same has occurred, stating specifically in such notice when, where and how the exact injury occurred, the full extent of the injury, the amount of damages claimed or asserted, and a list of persons, if known, who witnessed the injury. The city shall never be liable for any claim for damage or injury to

personal property unless the person whose personal property has been injured or damaged, or someone in his or her behalf, shall file a claim in writing with the city secretary within six (6) months after said damage or injury occurred, stating specifically when, where and how the injury was sustained. The person giving notice under this section shall subscribe his or her name to the notice under oath that the statements and facts contained in said notice are true and correct.

Sec. 126. Execution, garnishment and assignment.

Property, real or personal, belonging to the city shall not be liable for sale or appropriation under any writ of execution or cost bill. Funds belonging to the city, in the hands of any person, firm or corporation shall not be liable to garnishment, attachment or sequestration; nor shall the city be liable to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the city nor any of its officers or agents shall be required to answer any writ of garnishment on any account whatsoever. The city shall not be liable to the assignee of any wages of any officer, agent or employee of said city, whether earned or unearned, upon any claim or account whatsoever, and as to the city such assignment shall be absolutely void.

Sec. 127. Bond or security not required.

It shall not be necessary in any action, suit or proceeding in which the city is a party, for any bond, undertaking or security to be executed on behalf of said city, but all such actions, suits, appeals or proceedings shall be conducted in the same manner as if such bond, undertaking or security had been given, and said city shall be liable as if such obligation had been duly given and executed.

Sec. 128. Judicial notice of Charter.

This Charter shall be deemed a public act and shall have the force and effect of a general law; may be read in evidence without pleading or proof, and judicial notice shall be taken thereof in all courts and places without further proof.

Sec. 129. Remission of fines and penalties.

The council shall have the power to remit in whole or in part, on such conditions as it may deem proper, by a vote of at least five of the council members, any fine or penalty belonging to the city which may be imposed or incurred under any penal ordinance of the city.

Sec. 130. Offset on debts.

The city shall be entitled to counterclaim and off-set against any debt, claim, demand or account owed by the city to any person, firm or corporation in arrears to the city for any debt, claim, demand or account of any nature whatsoever, including taxes, penalty and interest. No assignment or transfer of any such debt, claim, demand or account owed by the city shall effect the right of the city to off-set the sum owed to the city.

Sec. 131. Nepotism.

No person related within the third degree by affinity or consanguinity to the mayor, any member of the council or the city manager shall be appointed to any paid office, position, clerkship or other service of the city. This prohibition shall not apply, however, to any person who shall have been employed by the city at least ninety (90) days prior to and at the time of the election of the mayor or councilmember, or the appointment of the city manager.

Sec. 132. Unjust benefit.

No elected or appointed officer or employee of the city shall benefit unduly by reason of his or her holding public office.

Sec. 133. Ethics.

No officer or employee having a direct or indirect interest in any proposed or existing contract, purchase, work, sale or service to or by the city shall vote or render a decision, or use his or her position, authority or influence in a manner that would result in his or her financial betterment to any degree. Further, any elected officer shall publicly disclose any such interest upon assumption of office or prior to consideration of any such matters.

Sec. 134. Malfeasance in office.

Failure to comply with any provisions of the foregoing sections 132 or 133 shall constitute malfeasance in office and any officer or employee failing to so comply shall immediately forfeit his or her office or position, and said office or position shall be deemed vacant.

Sec. 135. When contracts voidable.

Any violation of the foregoing sections 132 and 133 with the knowledge, express or implied, of persons or corporations contracting with the city shall render the contract voidable by the council.

Sec. 136. Political and religious discrimination.

No person in the service of the city or seeking admission thereto shall be employed, promoted, demoted, discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious beliefs, provided that such opinions, affiliations or beliefs do not advocate the overthrow of the government of the United States of America by force or violence.

Sec. 137. Political activity.

No appointed or hired employee on the payroll of the city shall make a contribution to the campaign fund of any person seeking election to a city office or to any political party supporting a candidate for election to a city office, nor shall he or she be solicited for this purpose; nor shall he or she take active part in any political campaign relating to an election to a city office. Notwithstanding the above, police officers and fire fighters shall abide by the applicable civil service statutes governing political activities.

Sec. 138. Bribery.

No person seeking appointment to or promotion in the administrative service of the city shall either directly or indirectly give, render or pay any money, service or other valuable thing to any person for or on account of or in connection with his or her appointment or promotion or any examination conducted therefor.

Sec. 139. Ineligibility for office for certain acts.

Any person who either by himself or herself or with others wilfully violates any provision of the foregoing sections 137 or 138 shall be ineligible for appointment or election to a position in the city for a period of four

years, and if he or she is an officer or employee of the city at the time of such violation he or she shall immediately forfeit the office or position he or she holds.

Sec. 140. Charter amendments.

The Charter may be amended in accordance with the provisions of the statutes of the State of Texas, as amended from time to time.

Sec. 141. Use of gender.

A word importing the masculine gender only shall extend and be applied to include females, firms, partnerships and corporations as well as males.

Sec. 142. Construction of Charter.

This Charter shall be liberally construed as a general grant of power subject only to the limitations of the constitution and statutes of the State of Texas.

Sec. 143. Severability.

If any section or part of a section of this Charter be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not invalidate or impair the validity, force or effect of any other section or part of a section of this Charter.

Sec. 144. Rearrangement and renumbering.

The council shall have the power, by ordinance, to renumber and rearrange all articles, sections and paragraphs of this Charter or any amendments thereto, as it shall deem appropriate, and upon the passage of any such ordinance, a copy thereof, certified by the city secretary, shall be forwarded to the secretary of state for filing.

ORDINANCE CERTIFYING AMENDMENTS TO CITY CHARTER





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Cande Flores, Fire Chief

SUBJECT: **17. Ordinance (Final Reading): Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Amending Chapter 5, "Ambulance Services," Article I, "In General," Abilene Code of Ordinances. (Cande Flores)**

GENERAL INFORMATION

The City has a duty to protect the health, safety, and welfare of the citizens of the City of Abilene. To meet that duty, it is the policy of the City to promote efficient, safe, reliable, and quality ambulance service in the City of Abilene.

On October 8, 2015, the City of Abilene adopted an Ordinance regulating Emergency Medical Services within the city limits. The City desires to amend Chapter 5, "Ambulance Services," of the Code of Ordinance to allow for certain intra-agency transfers within the city limits.

This ambulance ordinance amendment provides for the regulations of ambulance services to be carried out in a manner that protects the public health and safety, promotes public convenience, and respects free enterprise.

SPECIAL CONSIDERATIONS

The City of Abilene currently has an exclusive franchise agreement with AMR/MetroCare to provide EMS and non-emergency ambulance services within the city limits. AMR/MetroCare has reviewed and approves the amendments to the Ambulance Services code of ordinances.

Additionally, Hendrick Medical Center has reviewed and approves the amendments to the Ambulance Services code of ordinances. Hendrick Medical Center intends to provide its own intra-facility transfer of patients if the amendment is approved.

FUNDING/FISCAL IMPACT

n/a

STAFF RECOMMENDATION

Staff recommends that the City adopt the amendments to the Ambulance Services code of ordinances to allow certain intra-agency patient transfers.

BOARD OR COMMISSION RECOMMENDATION

n/a

ATTACHMENTS:

1. 2022 Ambulance Amendment Ordinance
2. Amended Chapter_5___AMBULANCE_SERVICES clean
3. Amended Chapter_5___AMBULANCE_SERVICES redline
4. Presentation Ambulance Services amendment

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 5, "AMBULANCE SERVICES," ARTICLE I. "IN GENERAL," OF THE ABILENE CODE OF ORDINANCES AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City has a duty to protect the health, safety, and welfare of the citizens of the City of Abilene; and

WHEREAS, to meet that duty, it is the policy of the City to promote efficient, safe, reliable, and quality ambulance service in the City of Abilene; and

WHEREAS, on October 8, 2015, the City of Abilene adopted an Ordinance regulating Emergency Medical Services within the city limits; and

WHEREAS, the City desires to amend Chapter 5 of the Code of Ordinance to provide for certain intra-agency transfers within the city limits; and

WHEREAS, this ambulance ordinance amendment provides for the regulations of ambulance services to be carried out in a manner that protects the public health and safety, promotes public convenience, and respects free enterprise.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 5, "Ambulance Services," Article I "In General," is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: That if the provisions of any section, subsection, paragraph, subdivision or clause of this amended ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.

PART 3: That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code

PART 4: Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene, or as specifically provided for in this ordinance. That each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 1st day of December, 2022.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 11th day of December, 2022, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 15th day of December, 2022, to permit the public to be heard.

PASSED ON SECOND AND FINAL READING this 15th day of December, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

Chapter 5 AMBULANCE SERVICES

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

For the purpose of this chapter, the words and phrases listed below shall have the following meanings:

Emergency medical service (EMS). The provision of basic or advanced life support and transportation of patients to an emergency room of a hospital for emergency pre-hospital care.

Emergency pre-hospital care. Care provided to the sick or injured either on the scene or during emergency transport to an emergency room at a hospital or a facility providing emergency medical care.

EMS provider. The entity under contract with the City that provides EMS services to residents of the City.

First responder. Members of the Fire Department who are assigned responsibility for responding to calls received from the City's 911 dispatch center for emergency medical service in cooperation with the City's EMS provider.

Intra-Facility Transfer. Emergency and non-emergency patient transfers between a medical facility to another medical facility owned, and operated, managed or affiliated by the same agency.

Non-emergency ambulance transfer service. The operation of a service to transport patients for non-emergency, previously scheduled, medical treatment from a point originating and terminating within the City limits. The transport of a patient for unscheduled medical treatment or evaluation at an emergency room at a hospital or a facility providing emergency medical care is not a non-emergency ambulance transfer service, but rather is the provision of EMS.

Originates. For purposes of this chapter, a call for EMS services "originates" within the City limits if the person in need of EMS service (emergency pre-hospital care or emergency ambulance transfer service) is physically located at an address within the City limits.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-2. Use of emergency and transfer service.

All calls for EMS that originate within the City limits shall be directed to the City's 9-1-1 communication center and responded to solely by the City's first responders and the City's contracted EMS provider, except as provided herein.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-3. EMS and non-emergency ambulance transfer service.

It shall be unlawful for any person or service to furnish, operate, advertise or otherwise engage or profess to be engaged in the service or operation of EMS or non-emergency ambulance transfer service that originates at an address within the City unless said person or entity is:

-
- (1) Rendering assistance to patients in case of a major catastrophe or emergency with which the licensed ambulances of the City are unable to cope; or
 - (2) Transporting a patient who is picked up from a location beyond the limits of the City and transported to a location within the City; or
 - (3) Transporting a patient who is picked up from a location beyond the limits of the City and transported to a location beyond the limits of the City and only incidentally passing through the City; or
 - (4) Transporting a patient who is picked up from a location within the City limits and transported to a location beyond the limits of the City; or
 - (5) Operated by an agent or employee of the federal or state government if such service is done in performance of his official duties.
 - (6) Transporting a patient by intra-facility transfer between any of the following facilities: Hendrick Medical Center North, Hendrick Medical Center South, Texas Midwest Surgery Center, Hendrick Medical Plaza, Hendrick Surgery Center South, and Hendrick Center for Rehabilitation.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-4. Provision of EMS and first responder services.

The City provides EMS to residents of the City through a contract with an EMS provider. The City provides first responder services for its residents through services provided by its Fire Department under a first responder agreement with its EMS provider.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-5. Stand-by and special events coverage.

- (a) EMS or non-emergency ambulance transfer service shall not include any stand-by or special events coverage within the limits of the City, but only if said stand-by or special events coverage does not result in any patient transfer within the limits of the City. If any stand-by or special events coverage results in patient transfer within the limits of the City, it is considered EMS or non-emergency ambulance transfer service for purposes of this chapter and regulated herein.
- (b) Upon request by law enforcement and Fire Department officers, the EMS provider shall furnish ambulance stand-by coverage at emergency incidents involving a potential danger to the personnel of the requesting agency or the general public.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Secs. 5-6—5-20. Reserved.

Chapter 5 AMBULANCE SERVICES

ARTICLE I. IN GENERAL

Sec. 5-1. Definitions.

For the purpose of this chapter, the words and phrases listed below shall have the following meanings:

Emergency medical service (EMS). The provision of basic or advanced life support and transportation of patients to an emergency room of a hospital for emergency pre-hospital care.

Emergency pre-hospital care. Care provided to the sick or injured either on the scene or during emergency transport to an emergency room at a hospital or a facility providing emergency medical care.

EMS provider. The entity under contract with the City that provides EMS services to residents of the City.

First responder. Members of the Fire Department who are assigned responsibility for responding to calls received from the City's 911 dispatch center for emergency medical service in cooperation with the City's EMS provider.

Intra-Facility Transfer. Emergency and non-emergency patient transfers between a medical facility to another medical facility owned, and operated, managed or affiliated by the same agency.

Non-emergency ambulance transfer service. The operation of a service to transport patients for non-emergency, previously scheduled, medical treatment from a point originating and terminating within the City limits. The transport of a patient for unscheduled medical treatment or evaluation at an emergency room at a hospital or a facility providing emergency medical care is not a non-emergency ambulance transfer service, but rather is the provision of EMS.

Originates. For purposes of this chapter, a call for EMS services "originates" within the City limits if the person in need of EMS service (emergency pre-hospital care or emergency ambulance transfer service) is physically located at an address within the City limits.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-2. Use of emergency and transfer service.

All calls for EMS that originate within the City limits shall be directed to the City's 9-1-1 communication center and responded to solely by the City's first responders and the City's contracted EMS provider, except as provided herein.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-3. EMS and non-emergency ambulance transfer service.

It shall be unlawful for any person or service to furnish, operate, advertise or otherwise engage or profess to be engaged in the service or operation of EMS or non-emergency ambulance transfer service that originates at an address within the City unless said person or entity is:

-
- (1) Rendering assistance to patients in case of a major catastrophe or emergency with which the licensed ambulances of the City are unable to cope; or
 - (2) Transporting a patient who is picked up from a location beyond the limits of the City and transported to a location within the City; or
 - (3) Transporting a patient who is picked up from a location beyond the limits of the City and transported to a location beyond the limits of the City and only incidentally passing through the City; or
 - (4) Transporting a patient who is picked up from a location within the City limits and transported to a location beyond the limits of the City; or
 - (5) Operated by an agent or employee of the federal or state government if such service is done in performance of his official duties.
 - (6) Transporting a patient by intra-facility transfer between any of the following facilities: Hendrick Medical Center North, Hendrick Medical Center South, Texas Midwest Surgery Center, Hendrick Medical Plaza, Hendrick Surgery Center South, and Hendrick Center for Rehabilitation.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-4. Provision of EMS and first responder services.

The City provides EMS to residents of the City through a contract with an EMS provider. The City provides first responder services for its residents through services provided by its Fire Department under a first responder agreement with its EMS provider.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Sec. 5-5. Stand-by and special events coverage.

- (a) EMS or non-emergency ambulance transfer service shall not include any stand-by or special events coverage within the limits of the City, but only if said stand-by or special events coverage does not result in any patient transfer within the limits of the City. If any stand-by or special events coverage results in patient transfer within the limits of the City, it is considered EMS or non-emergency ambulance transfer service for purposes of this chapter and regulated herein.
- (b) Upon request by law enforcement and Fire Department officers, the EMS provider shall furnish ambulance stand-by coverage at emergency incidents involving a potential danger to the personnel of the requesting agency or the general public.

(Ord. No. 50-2015, pt. 1(Exh. A), 10-8-15)

Secs. 5-6—5-20. Reserved.

AMEND CHAPTER 5, “AMBULANCE SERVICES,” ARTICLE I, “IN GENERAL” OF THE ABILENE CODE OF ORDINANCES





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **18. Ordinance (Final Reading) Z-2022-24 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Leticia Leija, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5 Acres From Agricultural Open (AO) To Heavy Commercial (HC) (Tim Littlejohn)**

GENERAL INFORMATION

The request is to rezone approximately 5.0 acres from Agricultural Open (AO) to Heavy Commercial (HC). The applicant intends to use the property as retail sales/rental heavy equipment which is permitted by right in the HC district.

SPECIAL CONSIDERATIONS

The subject property is located in the southwest quarter of Survey 32 Blind Asylum Lands. The site is located in the 2600 block of East Stamford Street just west of Loop 322. It was annexed in 1964 and has never been developed.

A General Retail (GC) district is located south and east of the subject property. This property is surrounded by Agricultural Open zoning to the northwest and west.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **denial** of the proposed request for HC zoning. However, if the applicant amends this request to seek approval of GC zoning, staff would recommend **approval**. Such an amendment to reduce the intensity of the original request would not require new notice or a new public hearing.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of the Applicant's request for HC zoning by a vote of 6-0.

ATTACHMENTS:

1. Z-2022-24 Draft ordinance
2. Z-2022-24 Staff Report
3. 245 Nora Miller
4. Z-2022-24

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 17nd day of November, 2022

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 14th day of October 2022, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 1st day of December 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 15th day of December, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from an Agricultural Open (AO) district to a General Commercial (GC) District:

Location:

BEING 5.00 acres of land out of Section 322, Blind Asylum Lands, Taylor County, Texas and being more particularly described as follows:

BEGINNING at a set ½" rebar with cap on the West line of a 10.417 acre tract in Volume 1560, Page 394, Deed Records, Taylor County, Texas for the South corner of this tract, whence the Southwest corner of said Section 32 bears S44°03'34"W 590.74' and S89°59'05"W 2802.19';

THENCE N45°45'00"W 435.00' to a set ½" rebar with cap for the West corner of this tract;

THENCE N44°03'34"E 500.69' to a recovered ½" rebar on the Southwesterly right-of-way line of Interstate Highway 20 for the North corner of this tract;

THENCE S45°42'45"E 435.00' with the Southwesterly right-of-way of said highway to a point at the North corner of said 10.417 acre tract for the East corner of this tract, whence a recovered ½" rebar bears S32°42'E 1.60';

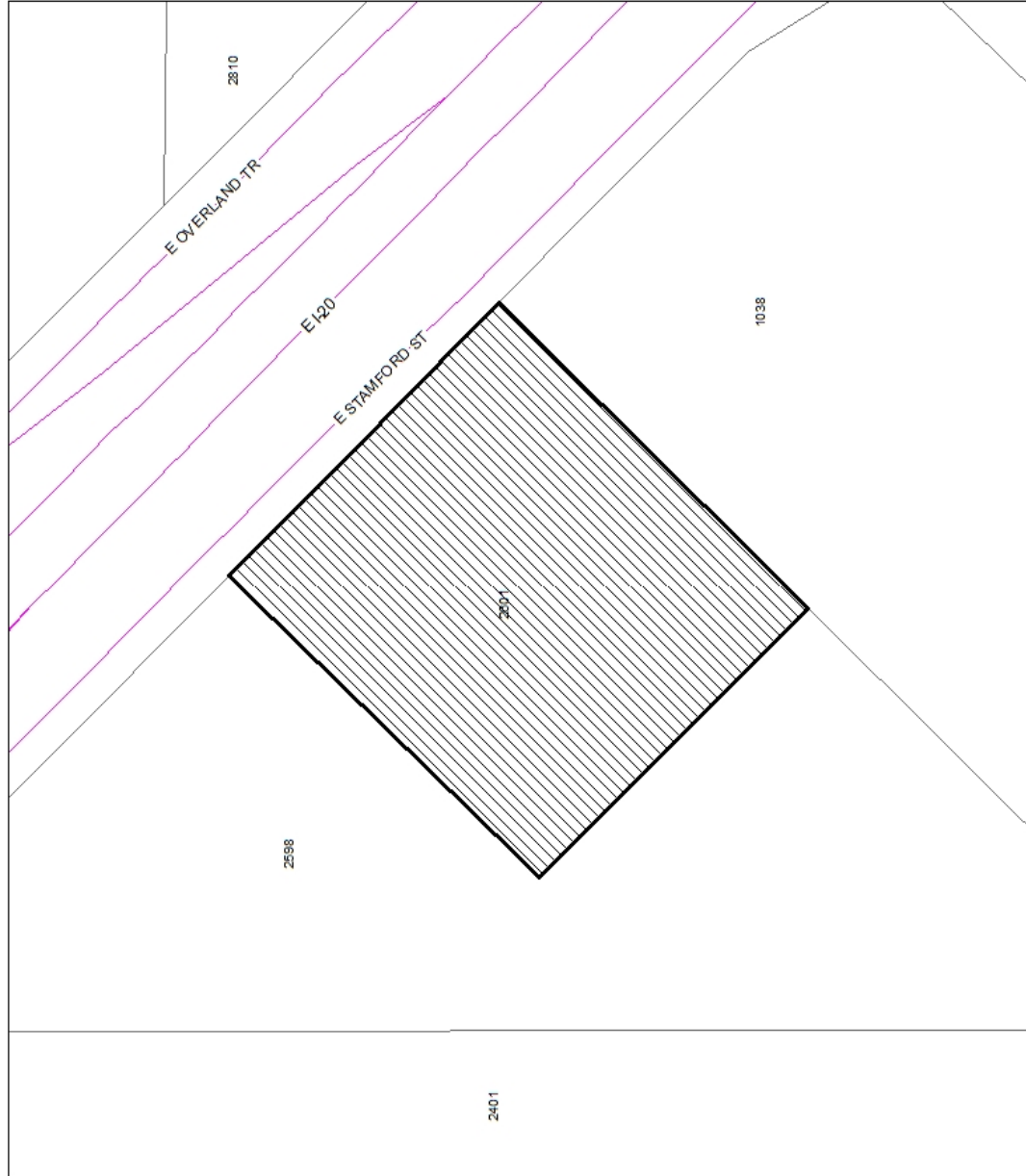
THENCE S44°03'34"W 500.41' with the West line of said 10.417 acre tract to the place of beginning and containing 5.00 acres of land.

Surveyed on the ground May 3, 2002

Location Map



Legend
Z-2022-24



END

ZONING CASE Z-2022-24

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 1, 2022

City Council 1st Reading: November 17, 2022

City Council 2nd Reading: December 1, 2022

Applicant

Owner: Leticia Leija

Request

Rezone approximately 5.0 acres from Agricultural Open (AO) to Heavy Commercial (HC). The applicant intends to use the property as retail sales/rental heavy equipment which is permitted by right in the HC district.

Location

The subject property is located in the southwest quarter of Survey 32 Blind Asylum Lands. The site is located in the 2600 block of East Stamford Street just west of Loop 322.

Background

This property was annexed in 1964 and has never been developed.

Zoning, Existing and Proposed Land Use

A General Retail (GC) district is located south and east of the subject property. This property is surrounded by Agricultural Open zoning to the northwest and west.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

- (1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.**

The Future Land Use Map (FLUM) recommends *open space uses* for this site due to the presence of a floodplain and floodway west of the subject site. The FLUM did not take into account that buildable land does exist at the subject location. For that reason, the FLUM recommendation is not appropriate for this site.

Since the subject site is located along I-20, generally accepted planning principals suggest that commercial zoning would be the logical and appropriate land use of this site. The GC zoning of the property to east follows that logic.

- (2) **Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

The proposed HC zoning is inconsistent with the current zoning pattern of GC zoning to the east and south.

- (3) **Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

This property does not have water service. Sanitary sewer service is available from East Stamford Street.

- (4) **Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

None.

Recommendations:

- P&Z Recommendation - **Approval** of HC zoning.
- City Manager Recommendation - **Approval** to downgrade the zoning request from HC to GC in order to protect surrounding development from heavy commercial traffic onto EN 10th St. General Commercial zoning will allow the use proposed by the applicant subject to a Conditional Use Permit (CUP). The CUP process would allow the City Council the ability to place specific conditions on the development of the site to ensure protection of the surrounding residential developments and an existing elementary school.

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices (via certified mail) to the applicant and to other owners of property within a 200-foot radius of the subject street right-of-way. These property owners and associated parcel identification numbers are identified below:

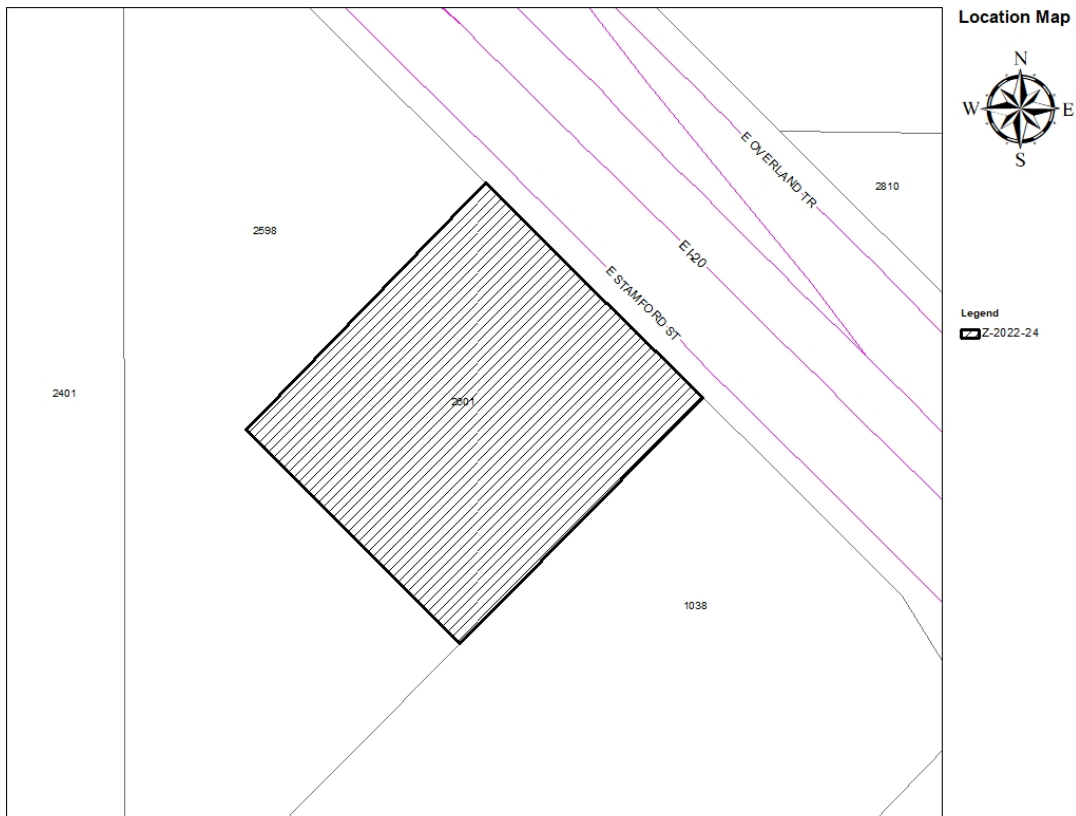
Owner

Owner	Property ID	Situs	Response
AWTRY MIKE & BUFFI	1017941	2401 E STAMFORD ST	F
AWTRY MIKE & BUFFI	105566	2598 EN 10TH ST	F
LEIJA LETICIA	33654	2601 E STAMFORD ST	
SS SRANI LLC	34253	1038 N LOOP 322	

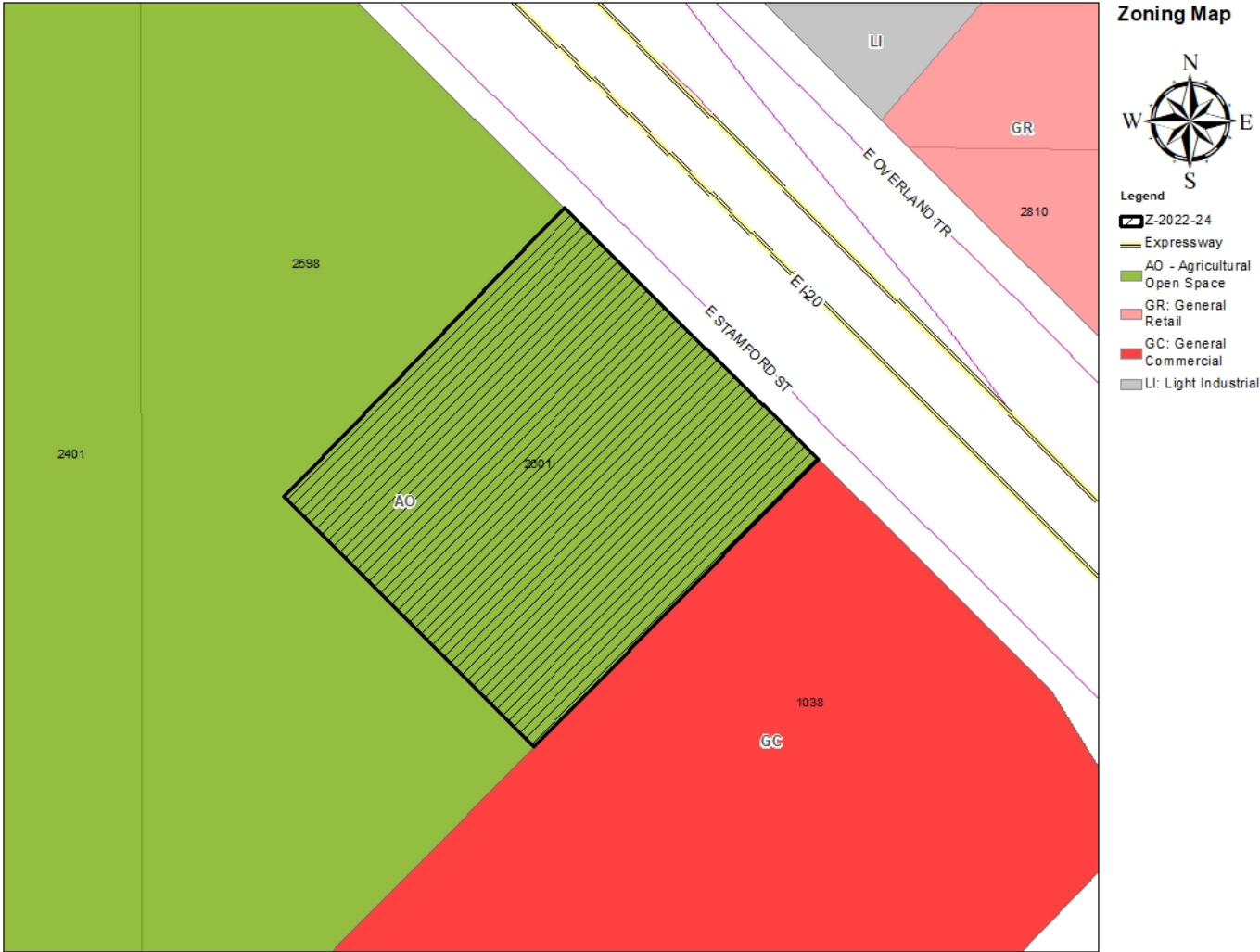
Property ID

Owner	Property ID	Situs	Response
LEIJA LETICIA	33654	2601 E STAMFORD ST	
SS SRANI LLC	34253	1038 N LOOP 322	
AWTRY MIKE & BUFFI	105566	2598 EN 10TH ST	F
AWTRY MIKE & BUFFI	1017941	2401 E STAMFORD ST	F

LOCATION MAP



ZONING MAP





Holland, Adam <adam.holland@abilenetx.gov>

[Planning] Zone change application #Z-2022-24 and #Z-2022-25

'Mike Awtry' via Planning Services <planning@abilenetx.gov>

Wed, Oct 26, 2022 at 12:58 PM

Reply-To: Mike Awtry <mike.awtry@yahoo.com>

To: planning@abilenetx.gov

Regarding Case #Z-2022-24 and #Z-2022-25.

Mike and Buffi Awtry
245 Nora Miller add
Abilene, Tx 79602-6419

We are "In Favor" ✓ of the zoning changes.

Thank you.

Sent from my iPhone

--

You received this message because you are subscribed to the Google Groups "Planning Services" group.

To unsubscribe from this group and stop receiving emails from it, send an email to planning+unsubscribe@abilenetx.gov.

To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/FE5F2058-F767-489C-8AE8-BFDD19B320E7%40yahoo.com>.



REZONE REQUEST

Case: Z-2022-24

Owner: Leticia Leija

Agent: Matthew Muzechenko

Request: Rezone from AO to HC

Location: 2601 E Stamford St

Notification: 2 in Favor, 0 Opposed

Planning & Zoning: November 1, 2022

City Council Hearing: November 17, 2022
December 1, 2022





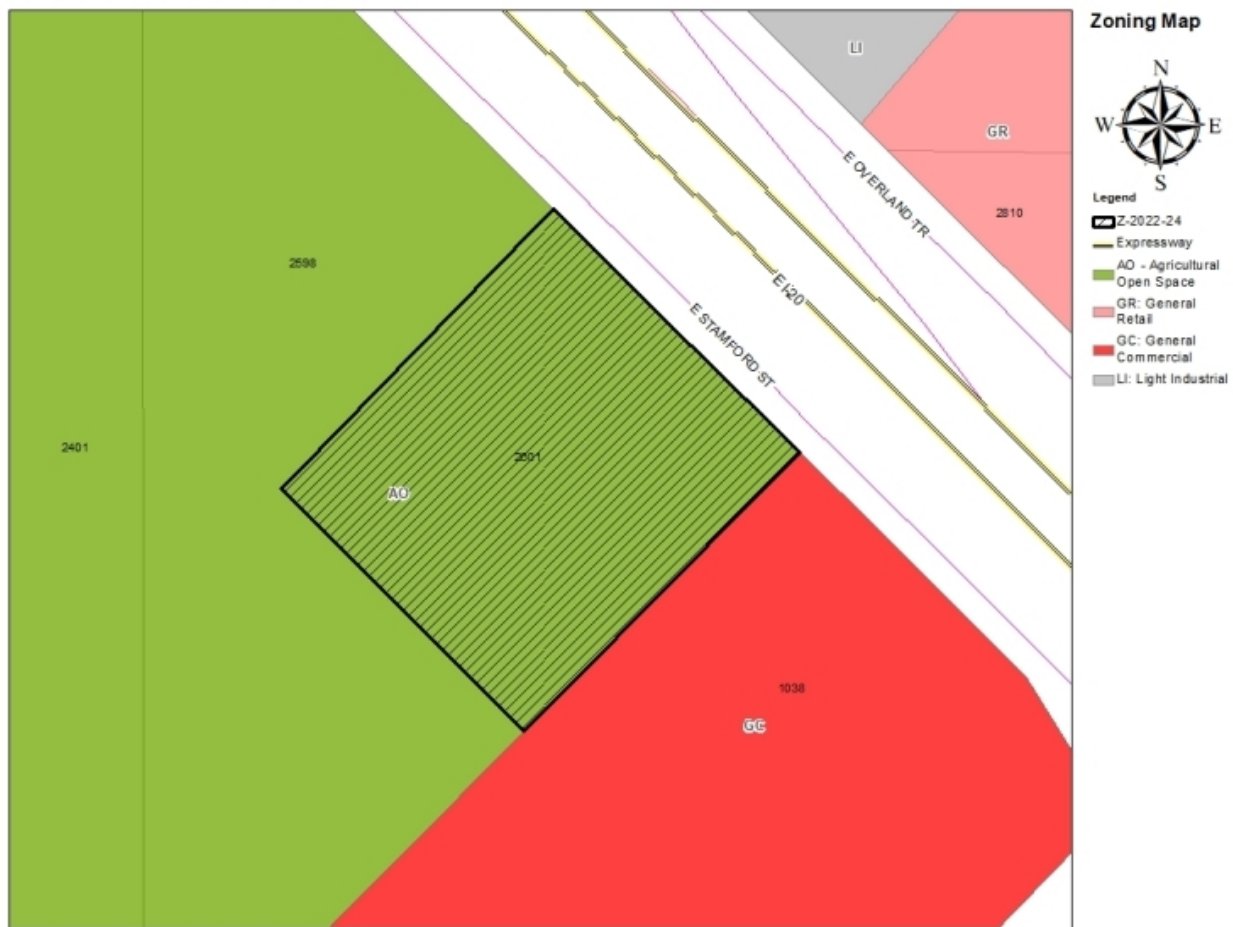
Z-2022-24 LOCATION MAP



CITY OF
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TEXAS



Z-2022-24 ZONING MAP



CITY OF
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Permitted Uses in AO Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P Animal Lot
- P/C Day Care Operation – Home-Based*
- P Dwelling – Accessory*
- TP Field Office or Construction Office (temporary)*
- P Freight Container*
- P Garage Sale
- P Home Occupation
- C Mobile Home (permanent security residence)
- C Mobile Home (temporary security residence)
- TP Subdivision Sales Office (temporary)
- P Swimming Pool, Private (accessory to residential use)
- P Tennis Court, Private (accessory to residential use)
- P/SE Wind Energy Conversion Systems*

CULTURAL AND RECREATIONAL USES:

- p Civic, Social, and Fraternal Organization
- P Fairgrounds/Rodeo
- C Motorized Racing
- C Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Zoo

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Community Home
- C Correction, Detention, or Penal Facilities
- P Fire/Police Station
- C Military and Armed Forces Reserve Center
- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden



CITY OF
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LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Permitted Uses in HC Zoning

RESIDENTIAL USES:

C	Hotel/Motel
<u>ACCESSORY AND INCIDENTAL USES:</u>	
P	Accessory Structure (Also see Division 4 of this article)
P	Antenna, Non-Commercial/Amateur
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Drive-Through Facility
TP	Field Office or Construction Office (temporary)
P	Freight Container
P	Fuel Sales
TP	Itinerant Business
P	Manufacturing (incidental)
C	Mobile Home (permanent security residence)
TP	Mobile Home (temporary security residence)
P	Mobile Home or Temporary Building (office for sales and service)
P	Recycling Collection Point
C	Travel Trailers (accessory to hospitals)
P/SE	Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

C	Adult Entertainment Enterprise
P	Civic, Social, and Fraternal Organization
P	Cultural Facilities
P	Drive-in Theater
C	Motorized Racing
P	Recreation – Outdoors (active)
P	Recreation – Outdoors (passive)
P	Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

P	Ambulance Service
C	Correction, Detention, or Penal Facilities
P	Fire/Police Station
P	Homeless/Emergency Shelter
P	Hospital
P	Medical/Dental Laboratory
P	Military and Armed Forces Reserve Center
P	Post Office
P	Rehabilitation Facility
C	Sanitary Landfill
P	Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

P	Arts School
C	Cemetery, Crematorium, and Mausoleum
P	Church or Place of Worship
P	Educational and Scientific Research
P	School: Public/Private
P	Trade/Business School

SERVICE

P/C	Automobile Wash
P	Contractor Services
P	Funeral Home/ Mortuary/Morgue
P	Kennel (With Outdoor Pens)
P	Kennel (Without Outdoor Pens)
P	Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
P	Laundry/Dry Cleaning Services & Facilities
P	Office (general, professional, financial)
P	Printing, Copying, Reproduction, Publishing
P	Recycling Collection and Processing Center
P	Repair and Maintenance Services - Automobile/Small Truck (major)
P	Repair and Maintenance Services - Automobile/Small Truck (minor)
P	Repair and Maintenance Services (indoor)
P	Repair and Maintenance Services (outdoors)
P	Repair and Maintenance Services (truck and other large vehicles)
P	Scales (public)
P	Storage - Self-Service Units
P	Tattoo Parlor
P	Taxidermist
P	Veterinary Service (all size animals)
P	Veterinary Service (small animals)
P	Wrecker/Towing

TRADE – RETAIL USES

P	Aircraft and Accessories
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Fuel Sales
P	Head Shop
P	Liquor Store (Off Premises Consumption) (Defined under Liquor Store)
P	Liquor Store (On Premises Consumption) (Defined under Liquor Store)
P	Restaurant, Brew Pub
P	Restaurant, Fast Food
P	Restaurant, Standard
P	Retail Sales/Rental (automobile/small truck)
P	Retail Sales/Rental (indoor)
P	Retail Sales/Rental (outdoors, non-vehicle)
P	Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

P	Liquor, Wholesale/Distribution
P	Wholesaling and Storage (indoor)
C	Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P	Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
C	Antenna Tower - Commercial
P	Automobile Parking Lot or Structure - Commercial
P	Broadcast Studio
P	Passenger Ground Transportation Terminal
P	Pressure Control Station
P	Public Utility Facility
C	Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

P	Petroleum or Gas Well
C	Manufacturing (light)
P	Urban Garden



CITY OF
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TEXAS

LEGEND

P	Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
C	Permitted as a Conditional Use Permit, Requiring Approval by City Council
TP	Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Permitted Uses in GC Zoning

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (Defined under Liquor Store)
- P Liquor Store (On Premises Consumption) (Defined under Liquor Store)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
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CITY OF
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TEXAS



Z-2022-24 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES



East Neighboring Property



Subject Property



South Neighboring Property

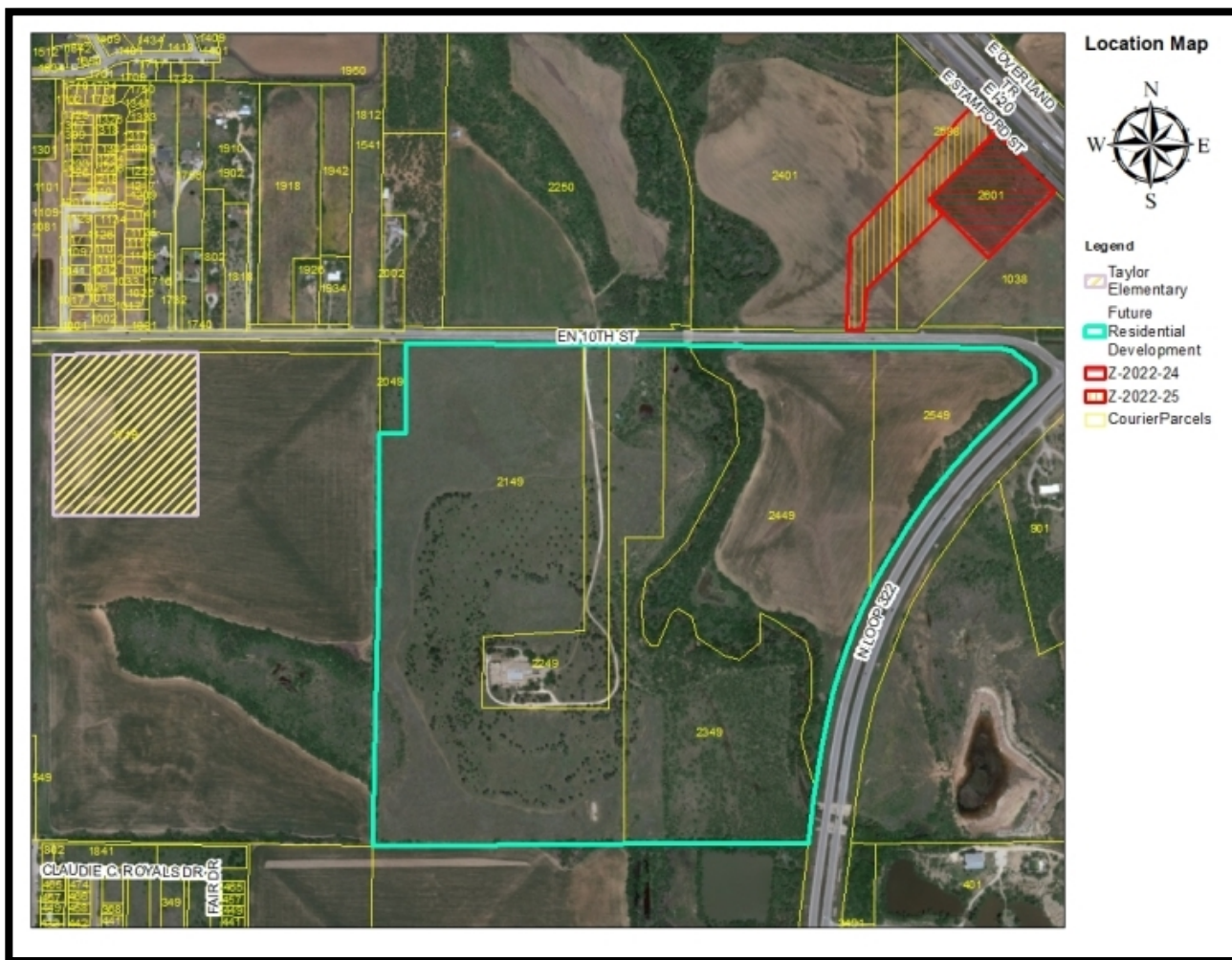


North Neighboring Property



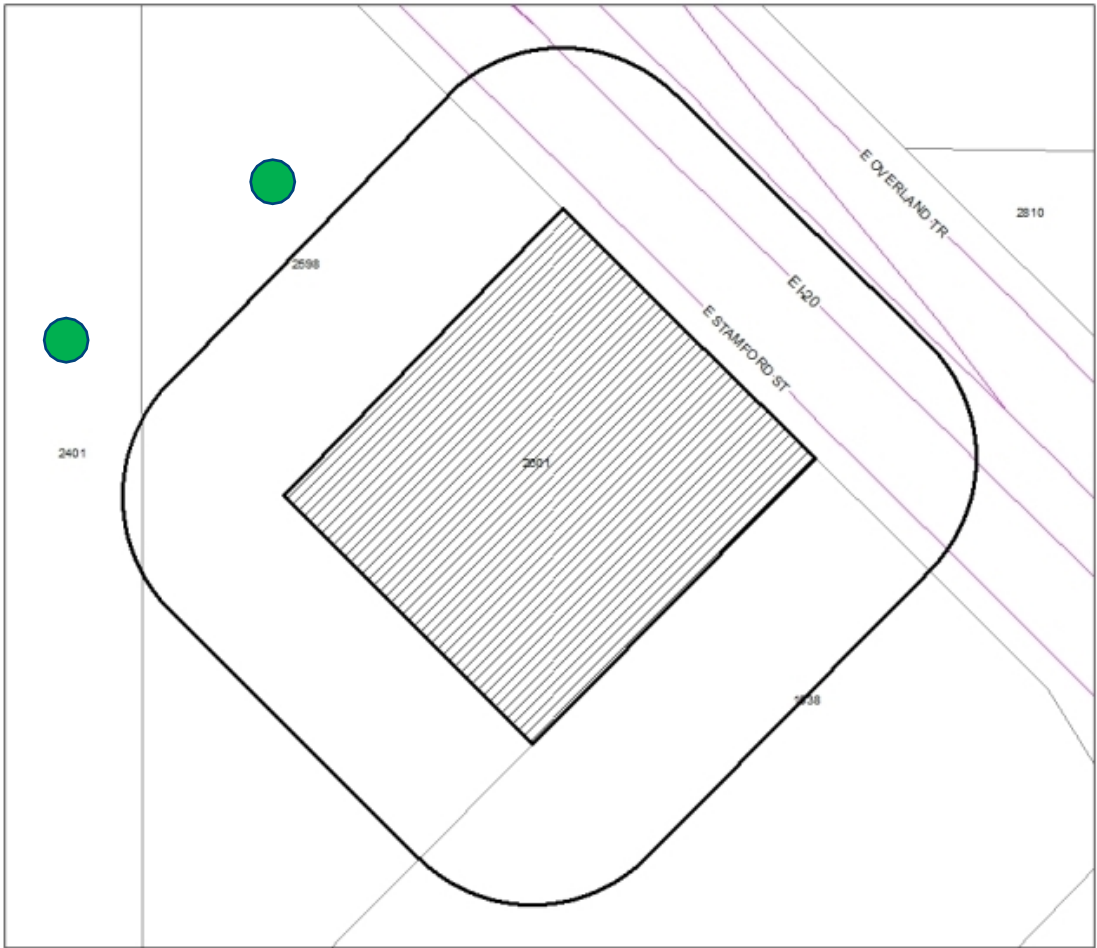


Z-2022-24 Surrounding Area Map





Z-2022-24 NOTIFICATION AREA MAP



Notification Map



Legend



2- In Favor-



0- Opposed-



0% Opposed



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TEXAS





FINDINGS

The proposed request for HC rezoning is inconsistent with:

- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

Downzoning the request from HC to GC would be consistent with the above listed criteria.





Recommendations

- P&Z Recommendation - **Approval** of HC zoning.
- City Manager Recommendation - **Approval** to downgrade the request from HC to GC in order to protect surrounding development from heavy commercial traffic onto EN 10th St. General Commercial zoning will allow the use proposed by the applicant subject to a Conditional Use Permit (CUP). The CUP process would allow the City Council the ability to place specific conditions on the development of the site to ensure protection of the surrounding residential developments and an existing elementary school.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Robert Hanna, City Manager

FROM: Tim Littlejohn, Director of Planning & Development Services

SUBJECT: **19. Ordinance (Final Reading) Z-2022-25 Receive a Report, Hold a Discussion and Public Hearing, and Take Action on A Request From Mike And Buffi Awtry, Represented By Matthew Muzechenko, To Change The Zoning Of Approximately 5.27 Acres From Agricultural Open (AO) To Heavy Commercial (HC) (Tim Littlejohn)**

GENERAL INFORMATION

The request is to rezone approximately 5.27 acres from Agricultural Open (AO) to Heavy Commercial (HC). The applicant intends to use the property for retail sales/rental heavy equipment, which is permitted by right in the HC district.

SPECIAL CONSIDERATIONS

The subject property is located in the southwest quarter of Survey 32 Blind Asylum Lands. The site is located in the 2400 block of East Stamford Street and also fronts on to East North 10th Street just west of Loop 322. The purpose of the dual frontage lot design is to allow vehicles to be able to drive onto the site from one entrance and to exit the site through the opposite entrance.

This property was annexed in 1964 and has never been developed.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends **denial** of the proposed request for HC zoning. However, if the applicant was to amend this request to seek approval of GC zoning, staff would recommend **approval**. Such an amendment to reduce the intensity of the original request would not require new notice or a new public hearing.

BOARD OR COMMISSION RECOMMENDATION

The Planning and Zoning Commission recommends approval of the Applicant's request for HC zoning by a vote of 5-1.

ATTACHMENTS:

1. Z-2022-25 Draft ordinance
2. Z-2022-25 Staff Report
3. 245 Nora Miller
4. Z-2022-25

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 2 (Zoning Regulations) of the Land Development Code of the City of Abilene, is hereby amended by changing the zoning district boundaries as set out in Exhibit A, attached hereto and made a part of this ordinance for all purposes.

PART 2: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PART 3: That the Planning Director be, and is hereby authorized and directed to change the official Zoning Map of the City of Abilene to correctly reflect the amendments thereto. PASSED ON FIRST READING the 17nd day of November, 2022

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the *Abilene Reporter-News*, a daily newspaper of general circulation in the City of Abilene, said publication being on the 14th day of October 2022, the same being more than fifteen (15) days prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 1st day of December 2022, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FINAL READING THIS 15th day of December, 2022.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT A

Change the zoning classification of the following described land, from an Agricultural Open (AO) district to a General Commercial (GC) District:

Location:

Being 5.67 acres of land out of a 67.40 acre tract of record in Instrument No. 2018-13458, Official Public Records, Taylor County, Texas, out of a 87.40 acre tract of record in Volume 1312, Page 217, Deed Records, Taylor County, Texas, out of Block 9 and Block 3, Jackson Subdivision of Section 32, Blind Asylum Lands, Taylor County, Texas, said 5.67 acres being more thoroughly described as follows:

Beginning at a point for the Northwest corner of a 5 acre tract of record in Instrument No. 2007-21207, Official Public Records, Taylor County, Texas, and the Northeast corner of this tract, from which a found ½" rebar bears N83°32'00"E 0.12';

Thence S43°53'42"W a distance of 500.69' to a point for an interior corner of this tract, from which a found ½" rebar bears N28°18'09"E 0.26';

Thence S45°56'38"E a distance of 108.23' to a set ½" rebar with a cap marked "Estes 5003" for an exterior corner of this tract;

Thence S43°53'42"W a distance of 750.76' to a set ½" rebar with a cap marked "Estes 5003" for an interior corner of this tract;

Thence S00°09'56"E a distance of 56.85' to a set ½" rebar with a cap marked "Estes 5003" to a set ½" rebar with a cap marked "Estes 5003", on the proposed North right of way line of East North 10th Street for the Southeast corner of this tract;

Thence S89°50'04"W a distance of 30.0' to a set ½" rebar with a cap marked "Estes 5003" for the Southwest corner of this tract;

Thence N00°09'56"W a distance of 397.18' to a set ½" rebar with a cap marked "Estes 5003" for an exterior corner of this tract;

Thence N43°53'42"E a distance of 1028.57' to a set ½" rebar with a cap marked "Estes 5003" for the Northwest corner of this tract;

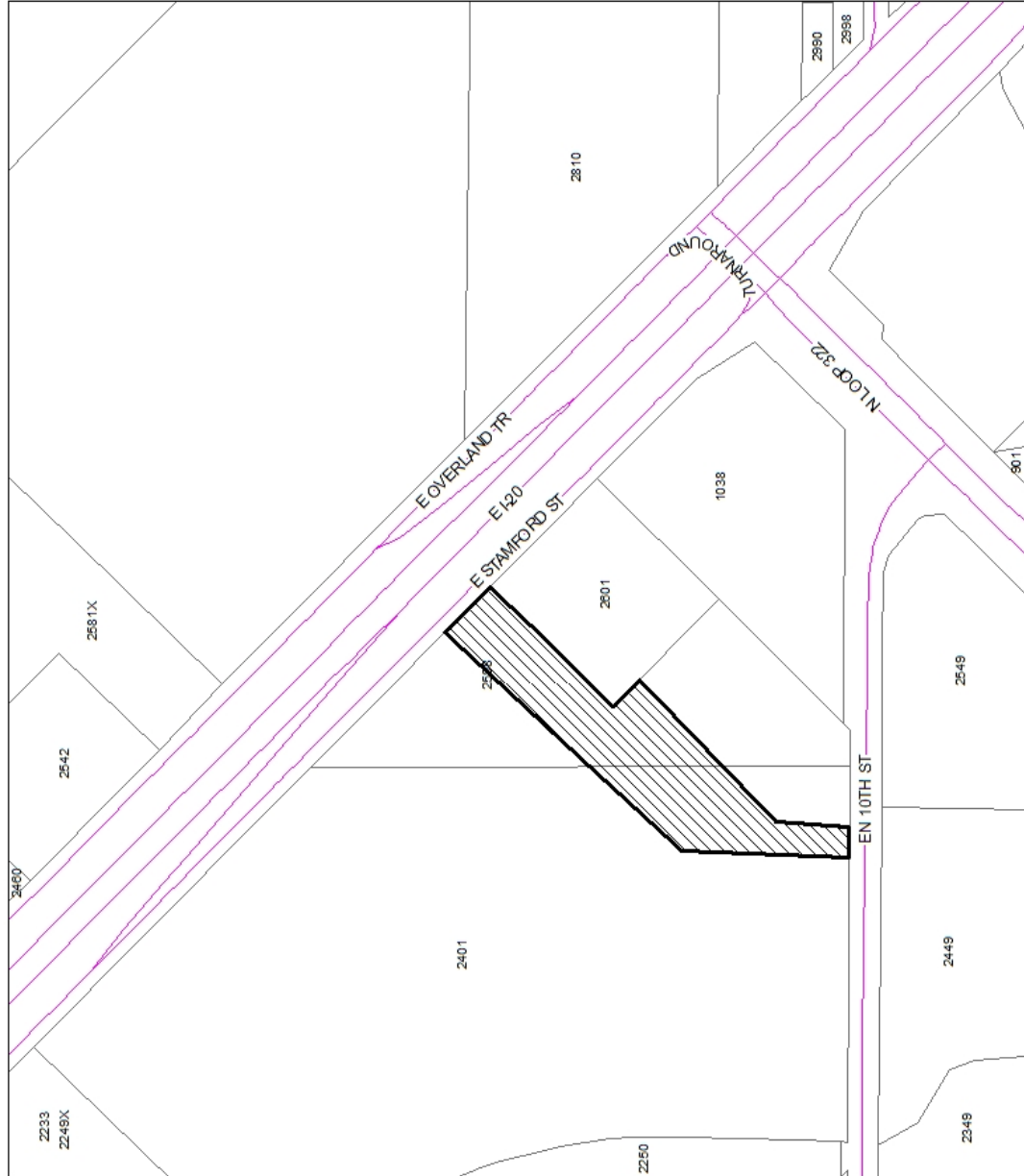
Thence S45°54'25"E a distance of 150.0' to the point of beginning, containing 5.67 acres of land, more or less.

Surveyed on the ground.

Location Map



Legend
 Z-2022-25



END

ZONING CASE Z-2022-24

STAFF REPORT

Scheduled Hearings

Planning & Zoning Commission: November 1, 2022

City Council 1st Reading: November 17, 2022

City Council 2nd Reading: December 1, 2022

Applicant

Owner: Mike & Buffi Awtri

Request

Rezoning of approximately 5.27 acres from Agricultural Open (AO) to Heavy Commercial (HC). The applicant intends to use the property for retail sales/rental heavy equipment, which is permitted by right in the HC district.

Location

The subject property is located in the southwest quarter of Survey 32 Blind Asylum Lands. The site is located in the 2400 block of East Stamford Street and also fronts on to East North 10th Street just west of Loop 322. The purpose of the dual frontage lot design is to allow vehicles to be able to drive onto the site from one entrance and to exit the site through the opposite entrance.

Background

This property was annexed in 1964 and has never been developed.

Zoning, Existing and Proposed Land Use

A General Retail (GC) district is located south and east of the subject property. This property is surrounded by Agricultural Open zoning on the north and west sides.

Criteria Assessment

Section 1.4.1.4 of Abilene's Land Development Code states that, in making a determination regarding a requested zoning change, the Planning and Zoning Commission and the City Council may consider the following factors:

(1) Whether the proposed zoning map amendment implements the policies of the adopted Comprehensive Plan, including the land use classification of the property on the Future Land Use and Development Plan Map, as amended.

The Future Land Use Map (FLUM) recommends *open space uses* for this site due to the presence of a floodplain and floodway west of the subject site. The FLUM did not take into account that buildable land does exist at this location. For that reason, the FLUM recommendation is not appropriate for this site.

Since the subject site is bordered by two major arterial streets, generally accepted planning principals suggest that commercial zoning would be logical and appropriate. The zoning of surrounding properties to the east and south follow that logic, with each being zoned General Commercial (GC).

- (2) **Whether the uses permitted by the proposed change in zoning classification and the standards applicable to such uses will be appropriate in the immediate area of the land to be reclassified.**

The proposed HC zoning is inconsistent with the current zoning pattern of GC zoning to the east and south.

- (3) **Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other public services and utilities to the area.**

This property has adequate utility service for commercial uses.

- (4) **Any other factors, which will substantially affect the public health, safety, morals, or general welfare.**

None.

Recommendations:

- P&Z Recommendation - **Approval** of HC zoning.
- City Manager Recommendation - **Approval** to downgrade the zoning request from HC to GC in order to protect surrounding development from heavy commercial traffic onto EN 10th St. General Commercial zoning will allow the use proposed by the applicant subject to a Conditional Use Permit (CUP). The CUP process would allow the City Council the ability to place specific conditions on the development of the site to ensure protection of the surrounding residential developments and an existing elementary school.

Notification

Pursuant to Section 1.2.2.2 of the Land Development Code, City staff mailed personal notices (via certified mail) to the applicant and to other owners of property within a 200-foot radius of the subject street right-of-way. These property owners and associated parcel identification numbers are identified below:

Owner

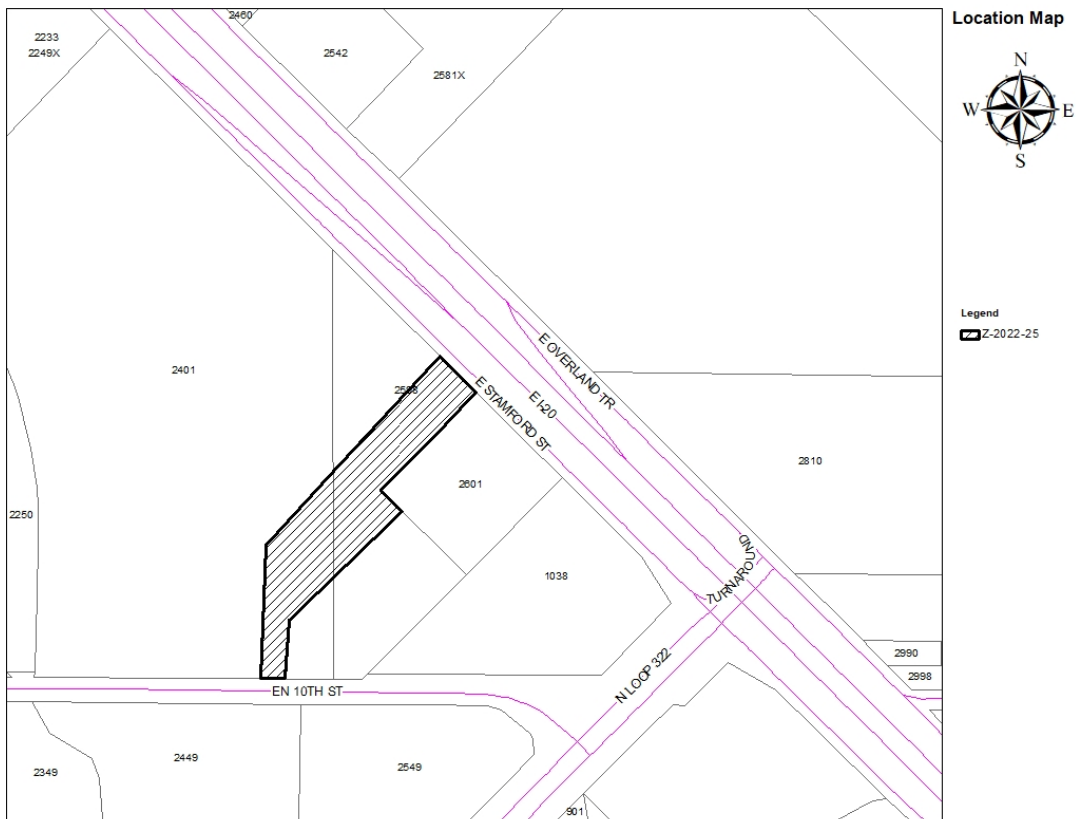
Owner	Property ID	Situs	Response
ABILENE CHRISTIAN UNIVERSITY	16273	2549 EN 10TH ST	
ABILENE CHRISTIAN UNIVERSITY	22574	2449 EN 10TH ST	
AWTRY MIKE & BUFFI	1017941	2401 E STAMFORD ST	F
AWTRY MIKE & BUFFI	105566	2598 EN 10TH ST	F
LEIJA LETICIA	33654	2601 E STAMFORD ST	

Owner	Property ID	Situs	Response
LEIJA LETICIA	33654	2601 E STAMFORD ST	
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LOCATION MAP



ZONING MAP





Holland, Adam <adam.holland@abilenetx.gov>

[Planning] Zone change application #Z-2022-24 and #Z-2022-25

'Mike Awtry' via Planning Services <planning@abilenetx.gov>
Reply-To: Mike Awtry <mike.awtry@yahoo.com>
To: planning@abilenetx.gov

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Mike and Buffi Awtry
245 Nora Miller add
Abilene, Tx 79602-6419

We are "In Favor" ✓ of the zoning changes.

Thank you.

Sent from my iPhone

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To view this discussion on the web visit <https://groups.google.com/a/abilenetx.gov/d/msgid/planning/FE5F2058-F767-489C-8AE8-BFDD19B320E7%40yahoo.com>.



REZONE REQUEST

Case: Z-2022-25

Owner: Mike and Buffi Awtry

Agent: Matthew Muzechenko

Request: Rezone from AO to HC

Location: 2401 E Stamford St

Notification: 2 in Favor, 0 Opposed

Planning & Zoning: November 1, 2022

City Council Hearing: November 17, 2022
December 1, 2022





Z-2022-25 LOCATION MAP



Location Map



Legend

- Z-2022-25
- CourierParcels



CITY OF
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TEXAS



Z-2022-25 ZONING MAP



Zoning Map



Legend

- Z-2022-25
- Arterial
- Expressway
- Collector
- Expressway
- AO - Agricultural
- Open Space
- GR: General
- Retail
- GC: General Commercial
- HC: Heavy Commercial
- LI: Light Industrial
- PD: Planned Development



CITY OF
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TEXAS





Permitted Uses in AO Zoning

RESIDENTIAL USES:

- C Bed & Breakfast
- P Dwelling– Industrialized Housing Unit
- P Dwelling – Single-Family Detached
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
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- C Sanitary Landfill

EDUCATIONAL AND RELIGIOUS USES:

- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P School: Public/Private

SERVICE

- C Kennel (with outdoor pens)
- P Kennel (without outdoor pens)
- P Veterinary Service (all size animals)

TRADE – RETAIL USES

- C Liquor Store (on premises consumption) (Defined under Liquor Store)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Airport, Heliport and Flying Field Terminals – Commercial
- C Antenna Tower – Commercial
- P Public Utility Facility
- C Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Farming, Ranching & Livestock, Hatchery
- C Mining
- C Petroleum or Gas Well
- P Urban Garden

LEGEND

- P Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
- C Permitted as a Conditional Use Permit, Requiring Approval by City Council
- TP Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment





Permitted Uses in HC Zoning

RESIDENTIAL USES:

C	Hotel/Motel
<u>ACCESSORY AND INCIDENTAL USES:</u>	
P	Accessory Structure (Also see Division 4 of this article)
P	Antenna, Non-Commercial/Amateur
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Drive-Through Facility
TP	Field Office or Construction Office (temporary)
P	Freight Container
P	Fuel Sales
TP	Itinerant Business
P	Manufacturing (incidental)
C	Mobile Home (permanent security residence)
TP	Mobile Home (temporary security residence)
P	Mobile Home or Temporary Building (office for sales and service)
P	Recycling Collection Point
C	Travel Trailers (accessory to hospitals)
P/SE	Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

C	Adult Entertainment Enterprise
P	Civic, Social, and Fraternal Organization
P	Cultural Facilities
P	Drive-in Theater
C	Motorized Racing
P	Recreation – Outdoors (active)
P	Recreation – Outdoors (passive)
P	Recreation and Commercial Entertainment - Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

P	Ambulance Service
C	Correction, Detention, or Penal Facilities
P	Fire/Police Station
P	Homeless/Emergency Shelter
P	Hospital
P	Medical/Dental Laboratory
P	Military and Armed Forces Reserve Center
P	Post Office
P	Rehabilitation Facility
C	Sanitary Landfill
P	Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

P	Arts School
C	Cemetery, Crematorium, and Mausoleum
P	Church or Place of Worship
P	Educational and Scientific Research
P	School: Public/Private
P	Trade/Business School

SERVICE

P/C	Automobile Wash
P	Contractor Services
P	Funeral Home/ Mortuary/Morgue
P	Kennel (With Outdoor Pens)
P	Kennel (Without Outdoor Pens)
P	Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
P	Laundry/Dry Cleaning Services & Facilities
P	Office (general, professional, financial)
P	Printing, Copying, Reproduction, Publishing
P	Recycling Collection and Processing Center
P	Repair and Maintenance Services - Automobile/Small Truck (major)
P	Repair and Maintenance Services - Automobile/Small Truck (minor)
P	Repair and Maintenance Services (indoor)
P	Repair and Maintenance Services (outdoors)
P	Repair and Maintenance Services (truck and other large vehicles)
P	Scales (public)
P	Storage - Self-Service Units
P	Tattoo Parlor
P	Taxidermist
P	Veterinary Service (all size animals)
P	Veterinary Service (small animals)
P	Wrecker/Towing

TRADE – RETAIL USES

P	Aircraft and Accessories
P	ATM's, Self-Serve Kiosks, and Similar Facilities
P	Fuel Sales
P	Head Shop
P	Liquor Store (Off Premises Consumption) (Defined under Liquor Store)
P	Liquor Store (On Premises Consumption) (Defined under Liquor Store)
P	Restaurant, Brew Pub
P	Restaurant, Fast Food
P	Restaurant, Standard
P	Retail Sales/Rental (automobile/small truck)
P	Retail Sales/Rental (indoor)
P	Retail Sales/Rental (outdoors, non-vehicle)
P	Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

P	Liquor, Wholesale/Distribution
P	Wholesaling and Storage (indoor)
C	Wholesaling and Storage (outdoors)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

P	Airport, Heliport and Flying Field Terminals - Commercial (passenger and freight)
C	Antenna Tower - Commercial
P	Automobile Parking Lot or Structure - Commercial
P	Broadcast Studio
P	Passenger Ground Transportation Terminal
P	Pressure Control Station
P	Public Utility Facility
C	Utility Generation, Production, Treatment

RESOURCE PRODUCTION AND EXTRACTION USES:

P	Petroleum or Gas Well
C	Manufacturing (light)
P	Urban Garden



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LEGEND

P	Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
C	Permitted as a Conditional Use Permit, Requiring Approval by City Council
TP	Permitted by Temporary Permit Only, Requiring Approval by Board of Adjustment



Permitted Uses in GC Zoning

RESIDENTIAL USES:

- P Hotel/Motel
- C Vacation Travel Trailer Park

ACCESSORY AND INCIDENTAL USES:

- P Accessory Structure (Also see Division 4 of this article)
- P Antenna, Non-Commercial/Amateur
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Drive-Thru Facility
- TP Field Office or Construction Office (temporary)
- C Freight Container
- P Fuel Sales
- TP Itinerant Business
- P Manufacturing (incidental)
- C Mobile Home (permanent security residence)
- TP Mobile Home (temporary security residence)
- C Mobile Home or Temporary Building (office for sales and service)
- P Recycling Collection Point
- C Travel Trailers (accessory to hospitals)
- P/SE Wind Energy Conversion Systems

CULTURAL AND RECREATIONAL USES:

- P Civic, Social, and Fraternal Organization
- P Cultural Facilities
- P Drive-in Theater
- P Recreation – Outdoors (active)
- P Recreation – Outdoors (passive)
- P Recreation and Commercial Entertainment – Indoor

GOVERNMENT, HEALTH, SAFETY AND WELFARE USES:

- P Ambulance Service
- P Fire/Police Station
- C Homeless/Emergency Shelter
- P Hospital
- P Medical/Dental Laboratory
- P Post Office
- C Rehabilitation Facility
- P Social Service Facility

EDUCATIONAL AND RELIGIOUS USES:

- P Arts School
- C Cemetery, Crematorium, and Mausoleum
- P Church or Place of Worship
- P Day-Care Operation - Center-Based
- P Educational and Scientific Research
- P School: Public/Private
- P Trade/Business School
- P University/College

SERVICE

- P/C Automobile Wash
- C Contractor Services
- P Funeral Home/ Mortuary/Morgue
- C Kennel (With Outdoor Pens)
- P Kennel (Without Outdoor Pens)
- P Laundry, Dry Cleaning, Dyeing, and Linen Service (no retail customers)
- P Laundry/Dry Cleaning Services & Facilities
- P Office (general, professional, financial)
- P Personal Services
- P Printing, Copying, Reproduction, Publishing
- C Recycling Collection and Processing Center
- P Repair and Maintenance Services - Automobile/Small Truck (major)
- P Repair and Maintenance Services - Automobile/Small Truck (minor)
- P Repair and Maintenance Services (indoor)
- C Repair and Maintenance Services (outdoors)
- P Storage - Self-Service Units
- P Tattoo Parlor
- P Taxidermist
- P Veterinary Service (small animals)

TRADE – RETAIL USES

- C Aircraft and Accessories
- P ATM's, Self-Serve Kiosks, and Similar Facilities
- P Fuel Sales
- P Liquor Store (Off Premises Consumption) (Defined under Liquor Store)
- P Liquor Store (On Premises Consumption) (Defined under Liquor Store)
- P Restaurant, Brew Pub
- P Restaurant, Fast Food
- P Restaurant, Standard
- P Retail Sales/Rental (automobile/small truck)
- P Retail Sales/Rental (indoor)
- P Retail Sales/Rental (outdoors, non-vehicle)
- C Retail Sales/Rental (trucks and other large vehicles and equipment)

TRADE – WHOLESALE USES

- C Wholesaling and Storage (indoor)

TRANSPORTATION, COMMUNICATION AND UTILITIES:

- C Antenna Tower - Commercial
- P Automobile Parking Lot or Structure - Commercial
- P Broadcast Studio
- P Passenger Ground Transportation Terminal
- P Pressure Control Station
- P Public Utility Facility

RESOURCE PRODUCTION AND EXTRACTION USES:

- P Petroleum or Gas Well
- P Urban Garden

LEGEND

P
C
TP

Permitted as a Right-of-Use (may be subject to compliance with conditions described within Division 3- Requirements Applicable to Specific Land Uses of the Land Development Code)
Permitted as a Conditional Use Permit, Requiring Approval by City Council
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Z-2022-25 VIEWS OF SUBJECT & NEIGHBORING PROPERTIES



East Neighboring Property



Subject Property



South Neighboring Property



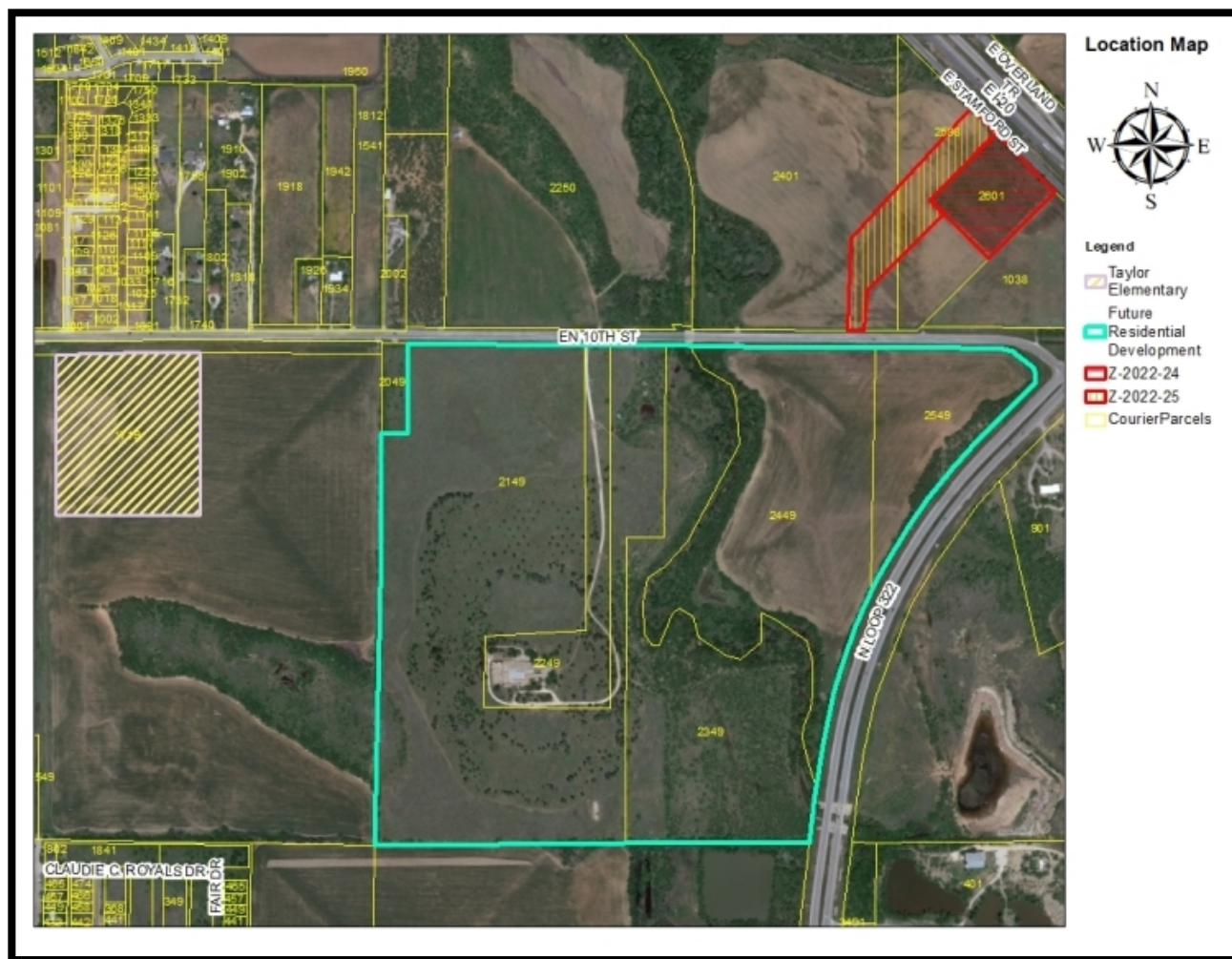
North Neighboring Property



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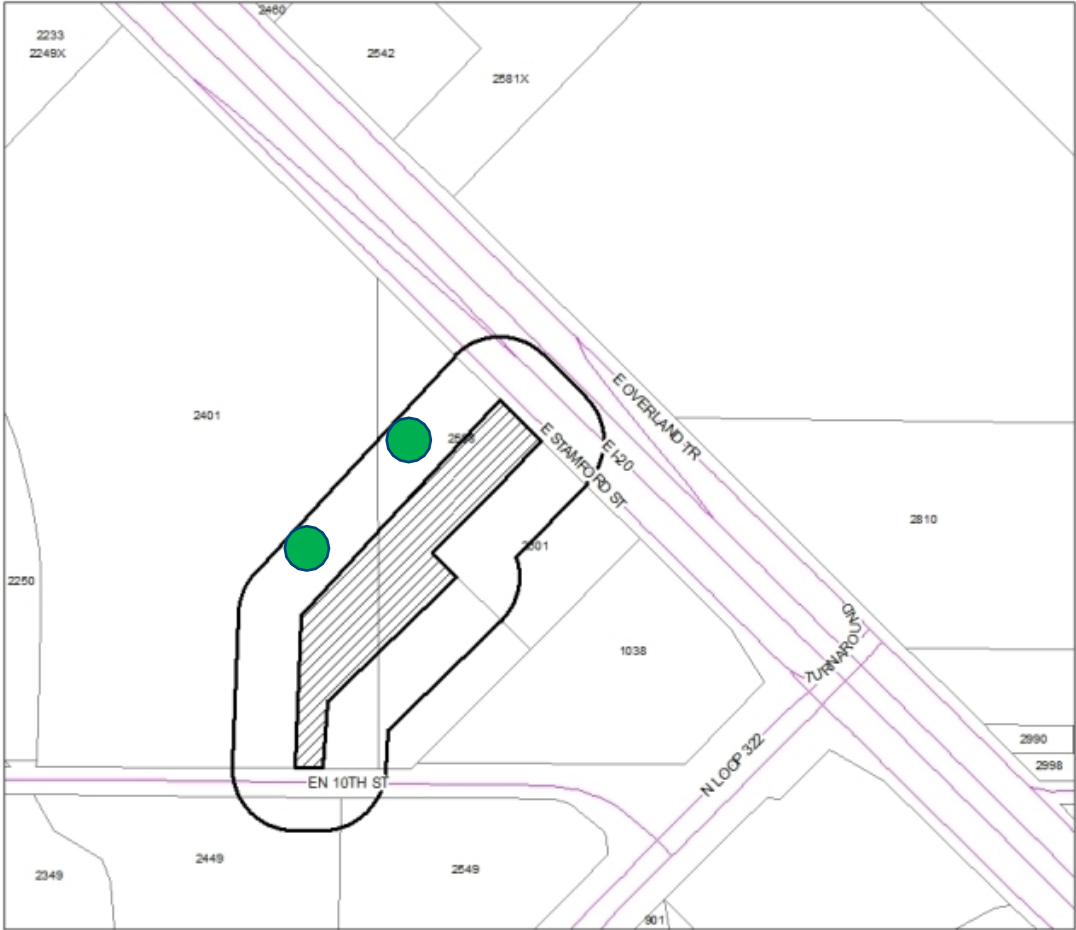
Z-2022-25 Surrounding Area Map



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Z-2022-25 NOTIFICATION AREA MAP



Notification Map



Legend



2- In Favor-	
0- Opposed-	
0% Opposed	



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FINDINGS AND RECOMMENDATIONS

The proposed request for HC rezoning is inconsistent with:

- The *Comprehensive Plan*;
- The surrounding uses and zoning;
- Generally accepted planning principals; and
- The Criteria for Approval in the LDC.

Downzoning the request from HC to GC would be consistent with the above criteria.





Recommendations

- P&Z Recommendation - **Approval** of HC zoning.
- City Manager Recommendation - **Approval** to downgrade the zoning request from HC to GC in order to protect surrounding development from heavy commercial traffic onto EN 10th St. General Commercial zoning will allow the use proposed by the applicant subject to a Conditional Use Permit (CUP). The CUP process would allow the City Council the ability to place specific conditions on the development of the site to ensure protection of the surrounding residential developments and an existing elementary school.





Questions?





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and City Council Members

FROM: Robert Hanna, City Manager

SUBJECT: 20. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action Establishing Rules and Regulations for the Abilene Public Library Strictly Prohibiting Obscene and Harmful Material and Performance, and Discussion of Progress of Implementing Prior Council Direction Regarding the Library's Collection Policy (*Robert Hanna*)

GENERAL INFORMATION

The purpose of this item is to provide the City Council an update on staff's implementation of previous Council direction concerning changes to Library practices and procedures in regards to empowering parents to make decisions for their children and to provide measures and controls to safeguard minors.

In addition, staff is asking the City Council to consider adopting a resolution further providing policy direction in regards to obscene material and performance and harmful materials for minors.

The attached presentation contains the complete staff report.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

Staff recommends approval of the Resolution establishing rules and regulations for the Abilene

Public Library strictly prohibiting obscene and harmful material and performance.

BOARD OR COMMISSION RECOMMENDATION

n/a

ATTACHMENTS:

1. Resolution Prohibiting Obscene Materials at Library (revised)
2. 4321 Definitions (1)
3. 4324 Sale Distribution or Display of Harmful Material to Minor (1)
4. Library Presentation

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
ESTABLISHING RULES AND REGULATIONS FOR THE ABILENE PUBLIC
LIBRARY STRICTLY PROHIBITING OBSCENE AND HARMFUL MATERIAL AND
PERFORMANCE.**

WHEREAS, it is the policy of the City of Abilene to protect minors from obscenity and harmful material; and

WHEREAS, Chapter 43, Subchapter B, Texas Penal Code, already provides for criminal penalties for the display of obscene material and harmful material; and

WHEREAS, Section 43.21, Texas Penal Code, defines “obscene” material and performance; and

WHEREAS, Section 43.24, Texas Penal Code, defines “harmful material;” and

WHEREAS, the City Council seeks to strictly prohibit the display, promotion or availability of any “obscene” material or performance and any “harmful material” at or within the Abilene Public Library.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF ABILENE, TEXAS:**

Part 1: That “obscene” material or performance, as that term is defined by Section 43.21, Texas Penal Code, are strictly prohibited from being displayed, promoted or made available at the Abilene Public Library.

Part 2: That “harmful material,” as that phrase is defined by Section 43.24, Texas Penal Code, is strictly prohibited from being displayed, promoted or made available to minors at the Abilene Public Library.

Part 3: That neither the City Manager, nor any employee of the City of Abilene, may allow or authorize the display, promotion or availability of any “obscene” material or performance, as that term is defined by Section 43.21, Texas Penal Code, at or within the Abilene Public Library.

Part 4. That neither the City Manager, nor any employee of the City of Abilene, may allow or authorize the display, promotion or availability of any “harmful material,” as that phrase is defined in Section 43.24, Texas Penal Code, to minors at or within the Abilene Public Library.

Part 5. That the City Manager is directed to remove any “obscene” material from the Abilene Public Library, as that term is defined by Section 43.21, Texas Penal Code.

Part 6. That the City Manager is directed to remove any “harmful material” from the Abilene Public Library, as that phrase is defined by Section 43.24, Texas Penal Code, that is displayed, promoted or made available to minors.

Part 7. That the City Manager is directed to cease any “obscene” performance at the Abilene Public Library, as that term is defined by Section 43.21, Texas Penal Code.

Part 8. That this Resolution takes effect immediately upon its adoption.

ADOPTED this _____ day of _____, 202____.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney



KeyCite Red Flag - Severe Negative Treatment

Unconstitutional or Preempted Held Unconstitutional by [Reliable Consultants, Inc. v. Earle](#), 5th Cir.(Tex.), Feb. 12, 2008

Vernon's Texas Statutes and Codes Annotated

Penal Code (Refs & Annos)

Title 9. Offenses Against Public Order and Decency (Refs & Annos)

Chapter 43. Public Indecency (Refs & Annos)

Subchapter B. Obscenity (Refs & Annos)

V.T.C.A., Penal Code § 43.21

§ 43.21. Definitions

Currentness

(a) In this subchapter:

(1) “Obscene” means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) “Material” means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) “Performance” means a play, motion picture, dance, or other exhibition performed before an audience.

(4) “Patently offensive” means so offensive on its face as to affront current community standards of decency.

(5) “Promote” means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) “Wholesale promote” means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) “Obscene device” means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Credits

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 372, ch. 163, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, § 1, eff. Sept. 1, 1979; [Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994](#).

Editors' Notes

VALIDITY

<For validity of this section, see [Reliable Consultants, Inc. v. Earle](#), 517 F.3d 738, C.A.5 (Tex.), 2008.>

Notes of Decisions (158)

O’CONNOR’S ANNOTATIONS

[Larue v. State](#), 637 S.W.2d 934, 935 (Tex.Crim.App.1982). “[T]he proper community scope for determination of the obscenity issue is not limited to one county. [I]t [is] error for the court to charge on a county-wide standard over the objection made by the defendant.”

[Varkonyi v. State](#), 276 S.W.3d 27, 36 (Tex.App.--El Paso 2008, pet. ref’d). “Section 43.21(a)’s definition of obscene comports with the test set forth in [Miller v. California](#), 413 U.S. 15 ... (1973).”

[State v. Stone](#), 137 S.W.3d 167, 181 (Tex.App.--Houston [1st Dist.] 2004, pet. ref’d). “[A]n accused’s knowledge of the content and character of obscene material may be shown by either direct or circumstantial evidence.”

[Porter v. State](#), 638 S.W.2d 249, 251 (Tex.App.--Fort Worth 1982), *overruled on other grounds*, [Davis v. State](#), 658 S.W.2d 572 (Tex.Crim.App.1983). “So long as the fact finder does not employ personal subjective reactions and uses as one factor what is tolerated by the average person in determining a contemporary community standard of decency the Texas [obscenity] statute is not overly broad.”

V. T. C. A., Penal Code § 43.21, TX PENAL § 43.21

Current through the end of the 2021 Regular and Called Sessions of the 87th Legislature.

End of Document

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Vernon's Texas Statutes and Codes Annotated

Penal Code (Refs & Annos)

Title 9. Offenses Against Public Order and Decency (Refs & Annos)

Chapter 43. Public Indecency (Refs & Annos)

Subchapter B. Obscenity (Refs & Annos)

V.T.C.A., Penal Code § 43.24

§ 43.24. Sale, Distribution, or Display of Harmful Material to Minor

Effective: September 1, 2011

[Currentness](#)

(a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

(c-1) It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

Credits

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2011, 82nd Leg., ch. 497 (H.B. 1344), § 1, eff. Sept. 1, 2011.

Notes of Decisions (10)

O'CONNOR'S CROSS REFERENCES

See also CCP art. 21.15.

O'CONNOR'S ANNOTATIONS

State v. Stone, 137 S.W.3d 167, 176 (Tex.App.--Houston [1st Dist.] 2004, pet. ref'd). “[I]nternet e-mails, pictures, or communications fall within the Penal Code’s definition of ‘material,’ as these communications are capable of being used or adapted to arouse interest through the medium of internet transmission. Thus, it is legally possible to violate ... §43.24 by displaying harmful materials in cyberspace. *At 183*: Due to a factual condition unknown to Stone, namely that [imaginary 13-year-old] was actually [a 50-year-old detective], the offense of distribution of harmful material to a minor could not be completed. However, Stone was not charged with an actual violation of §43.24(b)(1), but with an attempted violation of the statute, which made the offense factually impossible but not legally impossible. [I]t is immaterial that the crime of display of harmful material to a minor was factually impossible to complete.”

V. T. C. A., Penal Code § 43.24, TX PENAL § 43.24

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Discussion: Abilene Public Library Updates





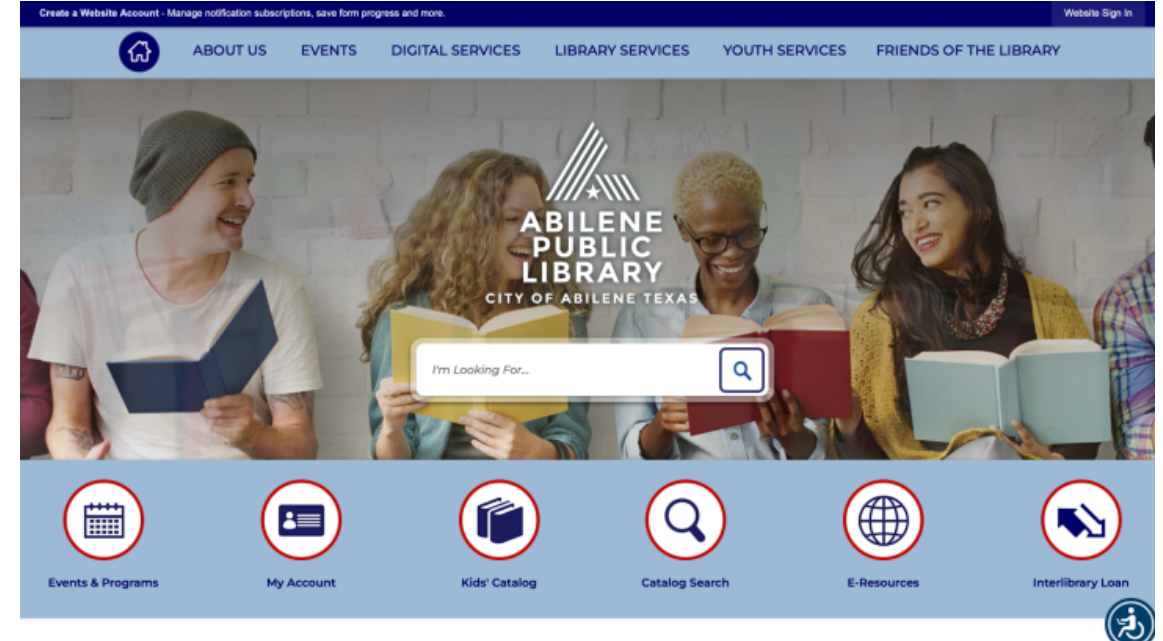
Library Updates

- Kids Catalog
- Order Review Process
- Restricted Access Juvenile Cards
- Requests for Reconsideration
- Resolution Strictly Prohibiting Obscene and Harmful Material
- Collection Development Policy





Kids Catalog



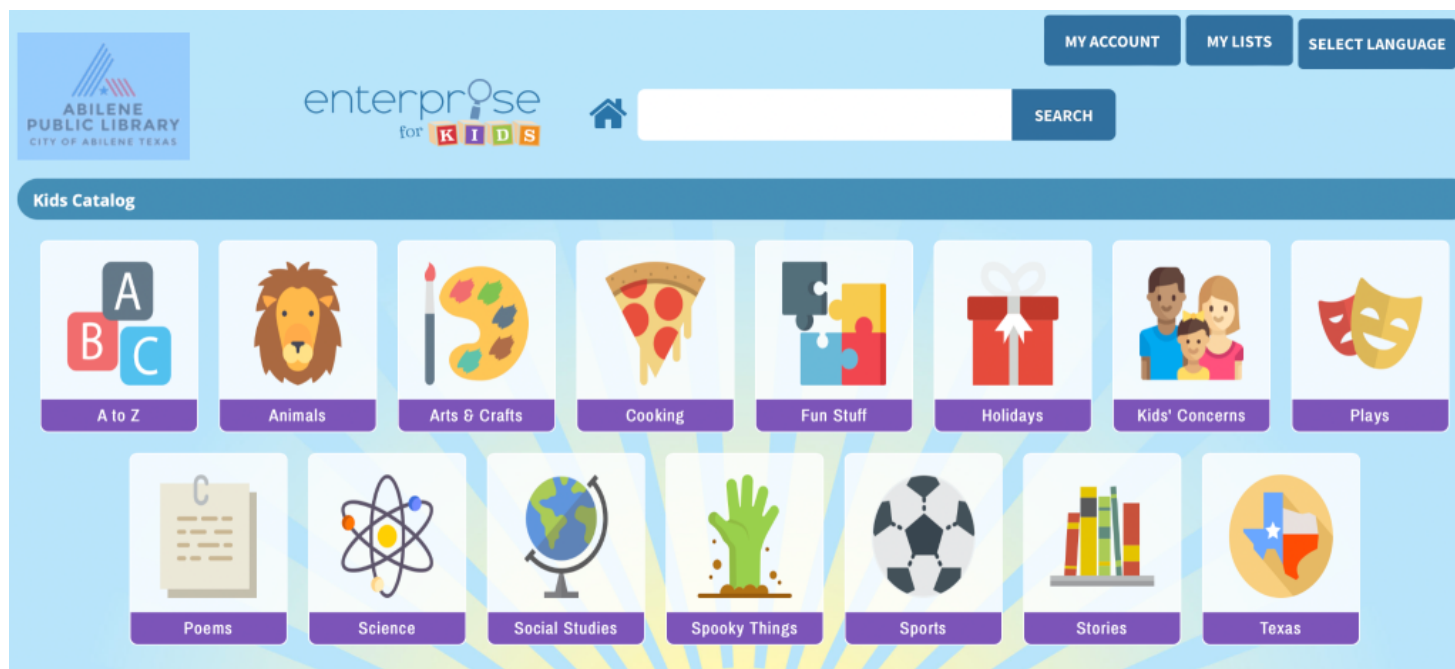
You can reach it in two ways:

- Click on the KIDS link from the Main catalog screen OR
- there is a direct link to the Kids Catalog from the library website.





Kids Catalog



- It only searches titles that are classified as JUVENILE and owned by any of the APL locations.
- No Hoopla or Overdrive titles will appear in this catalog.
- Each button runs a basic subject keyword search for that heading.
- Patrons will be able to access their account, place holds, etc.





Kids Catalog



enterprise
for **KIDS**



SEARCH

MY ACCOUNTMY LISTSSelect Language

Kids Catalog > Animals



Apes



Aquariums



Bears



Bees



Birds



Buffalo



Cats



Chickens



Cows



Deer



Dinosaurs



Dogs



Dolphins



Ducks



Eagles



Elephants



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Kids Catalog

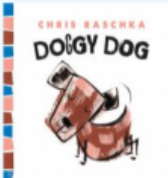


Kids Catalog > Animals > Dogs

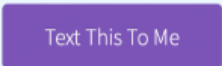
1813 Results Found

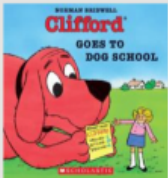
1 2 3 4 5 .. 

Sort By: 

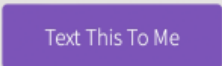


Doggy Dog / Chris Raschka.
Raschka, Christopher.
Publisher Abrams Appleseed,
2014
Available: 2





Clifford Goes To Dog School / Norman Bridwell.
Bridwell, Norman.
Publisher Scholastic,
2002
Available: 1



Limit Search Results

Library  
☐ APL Main (998)
☐ APL South (977)
☐ APL Mockingbird (927)
Author
Format
Material Type
Subject



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Order Review Process

Abilene Public Library Adult Resident cardholders will be able to comment on juvenile and young adult books on order by logging into the following site.



Library Card Number:

PIN:

Log In





Order Review Process

1. Select a cart to examine. Click on the cart link to bring up those 30 in the cart.

APL ITEMS ON ORDER, For REVIEW [Log Out](#) | [Select Language](#) | [Enable Accessibility Mode](#)

APL Juvenile On Order | All Fields | **SEARCH** | [Advanced Search](#)

Limit Search Results [Only Show Available](#)

- APL Order Code
- APL Order Cart
- Author
- Format
- Material Type
- Subject
- Language
- Publication Date

155 Results Found | 1 2 3 4 5 ... 13

Select an Action | Sort By:

- ☐  **The US National Guard in action / Marie-Therese Miller.** [Comment On This](#)
Miller, Marie-Therese, author.
Format  Books.
Publisher Lerner Publications,
Publication Date 2023
APL Order Code JNFS
APL Order Cart TESTJUV2022
Available: 1
- ☐  **We Are Heroes!** [Comment On This](#)
Webster, Christy/ Laguna, Fabio (ILT)/ Lesko, Marco (ILT)
Format  Books.
Publisher Random House Childrens Books





Order Review Process

2. Select the title that you wish to examine.

19.



Bravo, Bucket Head! / Helen Lester ; illustrated by Lynn Munsinger.

[Comment On This](#)

Lester, Helen, author.

Edition First edition.

Format Books

Publisher Atheneum Books for Young Readers.

Publication Date 2022

APL Order Code JEASYS JEASYN JEASYM

APL Order Cart JUV23-01

Available: 1





Order Review Process

8. Enter any comments in the "Please comment below about this material" field. Do not enter information in any other field. Click on the "submit" button to save your comment.

Abilene Public Library On-Order Comment

Use this form to comment about Abilene Public Library items that will soon be ordered for the library. These comments are reviewed by Library Administration and the Library Advisory Board and will be considered before items are purchased.

Note: Some information in this form was pulled from your library account and the library catalog. This information is for library use only. **Please do not edit any of these fields.** Any responses submitted without a valid patron name will be ignored.

 janet.bailey@abilenetx.gov (not shared) [Switch account](#) 

* Required

Your Name - **LIBRARY USE ONLY - DO NOT EDIT ***

BAILEY, JANET L

Please comment below about this material. *

Your answer

Title of Material - **LIBRARY USE ONLY - DO NOT EDIT ***

Your answer





Order Review Process

9. All comments will be received by the Library Administration and will be shared with the Library Advisory Board for their consideration. The Library Advisory Board will make recommendations on young adult and juvenile book orders at their next meeting.

10. The Library Advisory Board's recommendations will then go to the Director of Library Services. The Director of Library Services will make the final decision on what items are ordered.





Restricted Access Juvenile Cards

Available to residents and non-residents of Abilene

- \$10 charge for non-residents (current non-resident card fee approved by Council)

Parents or legal guardians may request these restricted access juvenile cards for their children. Sign up in person at any library location.

Restrictions:

- Only juvenile materials may be checked out (no young adult or adult materials)
- No holds from other Abilene Library Consortium libraries
- No interlibrary loan
- No access to digital materials (such as Hoopla or Overdrive)
- No Internet access at library computer lab locations





Requests for Reconsideration

- The Abilene Public Library received thirty (30) reconsideration requests between August 21, 2022, and October 1, 2022.
- These thirty (30) reconsideration requests were submitted by six (6) individuals. Four (4) reconsideration requests duplicated another petitioner's request.
- The review committee presented its recommendations on November 7, at the regular meeting of the Library Advisory Board.
- The Library Advisory Board did not take action on the committee recommendation at that meeting. The committee recommendations will be considered at the next board meeting.





Resolution

The Council is being asked to adopt a resolution that unequivocally directs staff to protect minors from obscenity and harmful materials in accordance with provisions of the Texas Penal Code.

The Resolution before the City Council this morning strictly prohibits the display, promotion or availability of obscene material or performance and any harmful material at or within the Abilene Public Library by:

1.) Making it the policy of the City of Abilene that the City Manager, nor any employee of the City, may allow or authorize the display, promotion or availability of any obscene material or performance at or within the Abilene Public Library, and





Resolution

- 2.) Making it the policy of the City of Abilene that the City Manager, nor any employee of the City, may allow or authorize the display, promotion or availability of any harmful material to minors at or within the Abilene Public Library, and
- 3.) Directing the City Manager to remove any obscene material from the Abilene Public Library
- 4.) Directing the City Manager to remove any harmful material that is displayed, promoted or made available to minors from the Abilene Public Library
- 5.) Directing the City Manager to cease any obscene performance at the Abilene Public Library.





Resolution

Section 43.21, Texas Penal Code defines obscene material and performance as:

(a) In this subchapter:

(1) “Obscene” means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or





Resolution

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.





Resolution

- (2) “Material” means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.
- (3) “Performance” means a play, motion picture, dance, or other exhibition performed before an audience.
- (4) “Patently offensive” means so offensive on its face as to affront current community standards of decency.





Resolution

(a) For purposes of this section:

- (1) “Minor” means an individual younger than 18 years.
- (2) “Harmful material” means material whose dominant theme taken as a whole:
 - (A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;
 - (B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - (C) is utterly without redeeming social value for minors.





Collection Development Policy

The City Manager has directed the Director of the Abilene Public Library to review the Collection Development Policy in light of this Resolution and to recommend changes to the policy document for consideration and adoption by the Library Board and the City Council. That work is currently ongoing, and should be completed early in the new year.





**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and City Council Members

FROM: Stanley Smith, City Attorney

SUBJECT: 21. The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

GENERAL INFORMATION

The City Council of the City of Abilene reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the noted Texas Government Code Sections:

A. 551.071 (Consultation with Attorney)

1. Robert Steven Reitz v. City of Abilene, Texas, et al., Case No. 1:16-cv-00181-BL; In the U.S. District Court, Northern District of Texas, Abilene Division, filed October 10, 2016
2. City of Abilene v. 3118 South 22nd Street, Abilene, Texas, et al.; Cause No. 11968-D, In the 350th Judicial District Court, Taylor County, Texas; filed October 11, 2019
3. John Doe v. Robert Hanna, Individually and as City Manager; Cause No. 28078-B; In the 104th Judicial District Court, Taylor County, Texas; filed July 7, 2020
4. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-004598, In the 53rd Judicial District Court, Travis County, Texas; filed September 1, 2020
5. Sharra Sampson v. City of Abilene; Cause No. 8144-B, In the 104th Judicial District Court, Taylor County, Texas; filed September 14, 2020
6. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-20-007028, In the 459th Judicial District Court, Travis County, Texas; filed November 18, 2020
7. Alton H. Smith, Jr. and Alicia Malorie Smith v. City of Abilene, Texas; Cause No. 51055-A, In the 42nd Judicial District Court, Taylor County, Texas; filed March 11, 2021
8. Steve Van Horne, et al. v. City of Abilene, et al.; Cause No. 12530-D, In the 350th Judicial District Court, Taylor County, Texas; filed September 7, 2021
9. The City of Abilene, Texas v. Ken Paxton, Attorney General of Texas; Cause No. D-1-GN-21-006299, In the 250th Judicial District Court, Travis County, Texas; filed October 20, 2021
10. Easement on Burger King property located at 3901 N. 1st Street.

B. 551.072 (Deliberations about Real Property)

1. Easement on Burger King property located at 3901 N. 1st Street.

C. 551.073 (Deliberations about Gifts and Donations)

D. 551.074 (Personnel Matters)

1. City Council may consider appointment, employment, compensation, reassignment, duties, discipline, or dismissal of public officers or employees, City Manager, City Attorney, Municipal Court Judge, City Secretary, and City Board and Commission Members
2. City of Abilene Boards and Commissions may be discussed, as needed for (re)appointment

E. 551.076 (Deliberations about Security Devices)

F.551.087 (Business Prospect/Economic Development)

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

None



**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor & Members of City Council

FROM: Misty Mayo, CEO Development Corporation of Abilene

SUBJECT: **22. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving DCOA Project Little Giant (*Misty Mayo*)

GENERAL INFORMATION

Approval of DCOA Project Little Giant

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

N/A

BOARD OR COMMISSION RECOMMENDATION

Approval of DCOA Project Little Giant

ATTACHMENTS:

1. City Resolution - Project Little Giant
2. 2022_12_15_DCOA_City_Council_Slides_General_Session_Project_Little_Giant

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE DEVELOPMENT CORPORATION OF ABILENE, INC.'S ("DCOA")
LOAN AND INCENTIVE FOR PROJECT LITTLE GIANT ("COMPANY").**

WHEREAS, on November 1, 2022, the DCOA approved Resolution No. DCOA-2023.01 (the "**DCOA Resolution**") authorizing the DCOA's President to enter into an agreement with the Company for (i) a loan from the DCOA to the Company in the amount of \$1,800,000 (the "**Loan**"); and (ii) an incentive for Project Little Giant in an amount not to exceed \$825,000 (the "**Incentive**") in exchange for the Company's annual employment of 500 full-time employees ("**FTEs**") at the end of a period of no less than 8 years; and,

WHEREAS, the DCOA requests that the City of Abilene approve the DCOA's Loan and Incentive with the Company as set forth in the DCOA Resolution.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ABILENE, TEXAS:**

PART 1. The City of Abilene hereby authorizes, in exchange for the Company's annual employment of 500 FTEs at the end of a period of no less than 8 years, the DCOA to provide the Company with (i) a loan in the amount of \$1,800,000; and (ii) an incentive for Project Little Giant in an amount not to exceed \$825,000, under the terms and as set forth in the DCOA Resolution.

PART 2. The DCOA's budget is hereby amended to include the expenditures described herein.

PART 3. This Resolution takes effect immediately upon its adoption.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

DEVELOPMENT CORPORATION OF ABILENE

December 15, 2022

City Council of Abilene

Project Little Giant





OUR VISION

The Vision of the Development Corporation of Abilene is to build the future Abilene.

OUR MISSION

The Mission of the Development Corporation of Abilene is to lead economic growth in Abilene by attracting and sustaining industries that support job creation, foster strong business, and ensure a prosperous community.

BUSINESS RETENTION AND EXPANSION

Influence business growth in the community.

Create a culture that engages existing targeted-industry businesses as the catalyst for sustaining and growing our economic base.

BUSINESS ATTRACTION

Promote Abilene as the premier location for business.

Strengthen Abilene's competitive advantage by activating strategies that attract consistent and sustainable investment for the community.

MARKETING AND BRAND MANAGEMENT

Market the community aggressively and proactively.

Develop a robust marketing strategy for DevelopAbilene encompassing communication systems and strategic research to support all initiatives of the DCOA under a highly recognizable brand.

WORKFORCE DEVELOPMENT

Implement innovative workforce initiatives to support Type A Companies.

Initiate new innovative approaches to broaden workforce capacity, creating a sustainable pipeline of available workforce and support systems for existing and future Type A Companies.

REAL ESTATE

Prioritize real estate assets that spur Abilene's future growth.

Lead industry development initiatives and strategic projects that most effectively impact long-term economic development success.

EFFECTIVE OPERATIONS

Ensure DCOA's effectiveness to continue long-term success and impact for Abilene in economic development.

Establish sustainable mission-critical operations that maximize the DCOA's effectiveness in implementing strategies aligned with the Mission.

PROJECT LITTLE GIANT

Industry – Manufacturing

Project Type – Business Retention & Expansion (BRE)

Project Summary

- Capital Investment = **\$12,000,000**
- Jobs = retention & creation for a total of 500

Real Estate Solution

- Expansion of current facility

DCOA Incentive

- Loan to be repaid to DCOA = \$1,800,000
- Grant = up to \$825,000



**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor and City Council Members

FROM: Misty Mayo, CEO Development Corporation of Abilene

SUBJECT: **23. Resolution:** Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Approving DCOA Project Fox Hill (Misty Mayo)

GENERAL INFORMATION

Approval of DCOA Project Fox Hill

SPECIAL CONSIDERATIONS

None.

FUNDING/FISCAL IMPACT

STAFF RECOMMENDATION

N/A

BOARD OR COMMISSION RECOMMENDATION

Approval of DCOA Project Fox Hill

ATTACHMENTS:

1. City Resolution - Project Fox Hill
2. 2022_12_15_DCOA_City_Council_Slides_General_Session_Project_Fox_Hill

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
APPROVING THE DEVELOPMENT CORPORATION OF ABILENE, INC.'S ("DCOA")
INCENTIVE FOR PROJECT FOX HILL ("COMPANY").**

WHEREAS, effective December 15, 2015 the DCOA entered into an Agreement for Financial Assistance and various other agreements (the "**2015 Agreements**") with the Company which included a lease from the DCOA to the Company of a facility (the "**Facility**") with an option to purchase the Facility beginning on December 15, 2023; and,

WHEREAS, the Company would like to complete its purchase of the Facility and the DCOA and the Company would like to consider both parties' obligations under the 2015 Agreements satisfied and any remaining obligations will be set forth in a new agreement between the DCOA and the Company; and,

WHEREAS, on December 14, 2022, the DCOA approved Resolution No. DCOA-2023.05 (the "**DCOA Resolution**") authorizing the DCOA's President to enter into an agreement with the Company for an incentive for Project Fox Hill in an amount not to exceed \$1,372,988 (the "**Incentive**") in exchange for the Company's capital investment of \$15,000,000; and,

WHEREAS, the DCOA requests that the City of Abilene approve the DCOA's Incentive with the Company as set forth in the DCOA Resolution.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
ABILENE, TEXAS:**

- PART 1.** The City of Abilene hereby authorizes the DCOA to complete the sale of the Facility and amend or terminate the 2015 Agreements, under the terms and as set forth in the DCOA Resolution.
- PART 2.** The City of Abilene hereby authorizes, in exchange for the Company's capital investment of \$15,000,000, the DCOA to provide the Company with an incentive in an amount not to exceed \$1,372,988, under the terms and as set forth in the DCOA Resolution.
- PART 3.** The DCOA's budget is hereby amended to include the expenditures described herein.
- PART 4.** This Resolution takes effect immediately upon its adoption.

ADOPTED this 15th day of December, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

DEVELOPMENT CORPORATION OF ABILENE

December 15, 2022

City Council of Abilene

Project Fox Hill





OUR VISION

The Vision of the Development Corporation of Abilene is to build the future Abilene.

OUR MISSION

The Mission of the Development Corporation of Abilene is to lead economic growth in Abilene by attracting and sustaining industries that support job creation, foster strong business, and ensure a prosperous community.

BUSINESS RETENTION AND EXPANSION

Influence business growth in the community.

Create a culture that engages existing targeted-industry businesses as the catalyst for sustaining and growing our economic base.

BUSINESS ATTRACTION

Promote Abilene as the premier location for business.

Strengthen Abilene's competitive advantage by activating strategies that attract consistent and sustainable investment for the community.

MARKETING AND BRAND MANAGEMENT

Market the community aggressively and proactively.

Develop a robust marketing strategy for DevelopAbilene encompassing communication systems and strategic research to support all initiatives of the DCOA under a highly recognizable brand.

WORKFORCE DEVELOPMENT

Implement innovative workforce initiatives to support Type A Companies.

Initiate new innovative approaches to broaden workforce capacity, creating a sustainable pipeline of available workforce and support systems for existing and future Type A Companies.

REAL ESTATE

Prioritize real estate assets that spur Abilene's future growth.

Lead industry development initiatives and strategic projects that most effectively impact long-term economic development success.

EFFECTIVE OPERATIONS

Ensure DCOA's effectiveness to continue long-term success and impact for Abilene in economic development.

Establish sustainable mission-critical operations that maximize the DCOA's effectiveness in implementing strategies aligned with the Mission.

Industry – Manufacturing

Project Type – Business Retention & Expansion (BRE)

Project Summary

- Capital Investment = \$_____
- Jobs = _____

Real Estate Solution

- Expansion of current facility

DCOA Incentive = \$_____



**City Council
Agenda Memo**

City Council Meeting Date: 12/15/2022

TO: Honorable Mayor Williams and Members of the City Council

FROM: Robert Hanna, City Manager

SUBJECT: 24. Resolution: Receive a Report, Hold a Discussion and Public Hearing, and Take Action on Authorizing the City Manager to Enter into a Chapter 380 Economic Development Agreement with Rainy Creek Abilene LP, a Texas Limited Partnership (Robert Hanna)

GENERAL INFORMATION

Rainy Creek Abilene LP has acquired ownership of 1601 E Stamford, and intends to develop a minimum of 180 multi-family residential units, and a minimum of 6,000 square feet of mixed-use retail and restaurant space. It is anticipated the total valuation of the proposed development will be approximately \$60-\$80 million.

In order to accommodate the development footprint necessary to construct their improvements, Rain Creek Abilene LP completed a flood survey and is amending the flood plain boundaries. While floodplain reclamation can be costly, and it is unusual in Abilene, this type of work is fairly common place in other parts of the state where reclaiming land out of the floodplain is recovered through the income derived from the project. The cost for the necessary survey and filing requirements to FEMA is estimated to cost \$75,000. In addition to the floodplain reclamation costs, Griffith Road remains substandard at this location.

The attached Chapter 380 Agreement will authorize the City Manager to reimburse the developer up to \$75,000 for the cost of the floodplain reclamation. In addition, it commits the City to constructing the remaining portion of Griffith Road, and it waives permit fees associated with the development incurred on or after the date of the agreement and for the term of the agreement. Given the current economic uncertainty in the financing markets, the agreement has a five-year term. Reimbursement for the floodplain reclamation cannot be made until after a certificate of occupancy is issued within the development's project area.

SPECIAL CONSIDERATIONS

FUNDING/FISCAL IMPACT

It is anticipated that the construction of the remaining Griffith Rd improvements attributable to the developer, and that the City would not normally pay for, is approximately \$242,000. The maximum reimbursement for the floodplain reclamation costs is \$75,000. In total, it is anticipated the total incentive (less building permit fees) is approximately \$317,000.

STAFF RECOMMENDATION

Staff recommends approval of the agreement as submitted.

BOARD OR COMMISSION RECOMMENDATION

ATTACHMENTS:

1. 2022 Resolution Approve Eco Dev Agmt Rainy Creek Abilene LP
2. AGR - Rainey Creek - Chapter 380 Agreement
3. Presentation 380 Agreement Rainy Creek Ab LP

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
AUTHORIZING THE CITY MANAGER TO EXECUTE AN ECONOMIC
DEVELOPMENT AGREEMENT WITH RAINY CREEK ABILENE, LP.**

WHEREAS, Rainy Creek Abilene, LP is the owner of A1412 SUR 33 B A L NE/4, TRACT W 65 AC, ACRES 8.104, SCOTTISH INNS ADDITION, BLOCK E PT OF 1, ACRES 5.072, and 19.096 ACRES OF 91.592 PORTION OF A1412 SUR 33 B A L NE/4, TRACT W 65 AC, ACRES 91.592 addressed to 1601 E Stamford (the "Project Area"); and

WHEREAS, Rainy Creek Abilene, LP will construct a mixed-use retail and multi-family apartment community development within the Project Area, with at least a 180 unit multi-family apartment complex, and at least six thousand (6,000 SQFT) square feet of mixed use retail or restaurant space ("the Project"); and

WHEREAS, the City intends to construct the remainder of Griffith Road from Marathon Rd to E Stamford St at its sole cost; and

WHEREAS, Rainy Creek Abilene, LP shall complete a flood study and letter of map revision for the purpose of reclaiming land within the Project Area, in a form acceptable to the City of Abilene; and

WHEREAS, upon receipt of the actual costs incurred by Rainy Creek Abilene, LP associated with a flood study and letter of map revision for purposes of reclaiming land within the Project Area from the flood land, the City shall reimburse Rainy Creek Abilene, LP up to the sum of Seventy-Five Thousand and No/100 Dollars (\$75,000) towards the actual costs associated with a flood study and letter of map revision for the purposes of reclaiming land within the Project Area from the flood plain; and

WHEREAS, the City shall waive all permit fees incurred from the date of the Agreement through completion of the development and construction of the Project; and

WHEREAS, the City has established a program, in accordance with Article III, Chapter 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code ("Chapter 380") pursuant to which the City has authority to enter into this Agreement, and has authority to use public funds for the public purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the City has determined that making an economic development payment to Rainy Creek Abilene, LP in accordance with the Agreement will further the objectives of the City, will benefit the City and the City's inhabitants, will increase the quality of life of the City, will foster and promote additional economic development and will protect and safeguard the public health, safety and welfare of its residents; and

WHEREAS, it is anticipated that the development of the Project will have a direct and positive economic benefit to the City; and

WHEREAS, the City hereby finds that this Agreement embodies an eligible “project” and clearly promotes economic development in the City and, as such, meets the requisites under Chapter 380 of the Texas Local Government Code and is in the best interests of the City.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

Part 1: The City Council authorizes the City Manager to execute an Economic Development Agreement with Rainy Creek Abilene, LP for the development of at least a 180 unit multi-family apartment complex, and at least 6,000 square feet of mixed use retail or restaurant space, in the Project Area.

Part 2: That is Resolution takes effect immediately upon its adoption.

ADOPTED THIS 15th DAY OF DECEMBER, 2022.

ATTEST:

Shawna Atkinson, City Secretary

Anthony Williams, Mayor

APPROVED:

Stanley Smith, City Attorney

APPROVE CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT WITH RAINY CREEK ABILENE, LP

