

ORDINANCE NO. 25-3467

AN ORDINANCE ESTABLISHING SECTION 1-504 OF THE ABILENE CITY CODE PERTAINING TO THE CITY ENGINEER AND PAYMENT OF CERTAIN ENGINEERING FEES AND COSTS BY APPLICANTS, DEVELOPERS, AND PROPERTY OWNERS, AND AMENDING EXISTING CITY CODE SECTIONS 1-1102, 6-301, 6-502, 6-507, 6-509, 7-511, 7-607, 7-1118, 7-1206, 7-1208, PERTAINING TO THE ROLE AND RESPONSIBILITIES OF THE CITY ENGINEER.

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

SECTION 1. Section 1-504 of the City Code of the City of Abilene, Kansas is hereby established to read as follows:

1-504. Engineering review and inspection fees.

- (a) Whenever any provision of this Code requires review, approval, inspection, certification, analysis, or other engineering services by the City Engineer in connection with a specific application, permit, plat, development project, public improvement, utility connection, or other action initiated by a developer, property owner, or applicant, the provisions of this section shall apply.
- (b) The applicant, developer, or property owner requesting or requiring such engineering services shall reimburse the City for the reasonable direct costs of engineering review, design evaluation, plan review, technical analysis, field inspection, testing oversight, and related professional engineering services performed by or under the direction of the City Engineer.
- (c) Charges for engineering review and inspection services shall include, but not be limited to:
 - (1) Hourly fees charged to the City by the contract engineer or engineering firm;
 - (2) Direct expenses associated with plan review, testing, and field inspections; and
 - (3) Costs for specialty engineering, geotechnical, environmental, hydrologic, or other technical analysis required to complete City review.
- (d) No permit, plat approval, right-of-way use agreement, utility service connection, or acceptance of public improvements shall be issued or become effective until all engineering review and inspection fees imposed under this section have been paid in full.

SECTION 2. Section 1-1102 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

1-1102. Definitions.

In the construction of this Code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Governing Body or the context clearly requires otherwise:

- (a) Bond. When a bond is required, an undertaking in writing shall be sufficient.
- (b) City means the City of Abilene, Kansas.

- (c) City Engineer means a licensed professional engineer employed by the City or retained by the City under contract to perform engineering review, design, inspection, analysis, or related services on the City's behalf. The term includes consulting engineering firms or individual licensed engineers acting under contract with the city to provide engineering services, and references in this code to duties of the City Engineer may be fulfilled by such contracted professional unless otherwise expressly stated.
- (d) Code means "The Code of the City of Abilene, Kansas."
- (e) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
- (f) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
- (g) Governing Body means the City Commission of the City of Abilene, Kansas.
- (h) County means the County of Dickinson in the State of Kansas.
- (i) In the city means all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.
- (j) Joint Authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.
- (k) Month means a calendar month, unless the context clearly indicates otherwise.
- (l) Number. Words used in the singular include the plural and words used in the plural include the singular.
- (m) Oath means an affirmation in all cases in which, an affirmation may be substituted for an oath, and the word "swear" is equivalent to the word "affirm."
- (n) Officers, Departments, etc. Officers, departments, boards, commissions and employees referred to in this Code shall mean officers, departments, boards, commissions and employees of the City of Abilene, unless the context clearly indicates otherwise.
- (o) Owner as applied to a building or land, means not only the owner of the whole, but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.
- (p) Person means a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.
- (q) Property means real, personal and mixed property.
- (r) Real property means lands, structures, permanent improvements, and all rights thereto and interest therein, legal and equitable.
- (s) Shall is mandatory and may is permissive.
- (t) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.
- (u) Signature or Subscription includes a mark when the person cannot write, when the name is written near such mark and is witnessed by a person who writes his or her own name as a witness.
- (v) State means the State of Kansas.

- (w) Street means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.
- (x) Tenant or occupant as applied to a building or land, means any person holding a leasehold interest, or who occupies the whole or a part of such building or land, whether alone or with others.
- (y) Tenses. Words used in the past or present tense include the future as well as the past and present.
- (z) Writing or Written means printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.
- (aa) Year means a calendar year, except where otherwise provided.

SECTION 3. Section 6-301 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-301. Sidewalk grade.

All sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the Governing Body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade, but before any such sidewalk shall be constructed, the persons proposing to do the same shall apply to the City Clerk for a right-of-way permit before commencing the work. If the grade has been established, the Public Works Director shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade.

SECTION 4. Section 6-502 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-502. Driveway permit.

It shall be unlawful for any person to cut or remove any curb along a street or alley, except after making application to and receiving a permit from the City Clerk, the fee for which shall be as prescribed in section 1-310. All driveway approaches shall be constructed in compliance with Section 6-503.

SECTION 5. Section 6-507 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-507. Costs.

Charges for private entrance culverts of various sizes and materials shall be substantially equal to and not less than the cost of materials exclusive of installation labor.

SECTION 6. Section 6-509 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

6-509. Grade.

No private entrance culvert shall be constructed or an existing private entrance culvert reconstructed by any person without first obtaining from the Public Works Director the grade at which said private entrance culvert shall be set and the minimum size of opening required.

SECTION 7. Section 7-511 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-511. Characteristics report.

Any industrial user requesting sewer service shall establish or cause to be established the quality, quantity and peak flow rate characteristics of said user's wastewater and shall present this information to the City Engineer in such a manner that the City Engineer shall determine if a surcharge shall be established for said user. The cost of establishing these characteristics, including any engineering review performed on behalf of the City, shall be paid for by the user.

SECTION 8. Section 7-607 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

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

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

(a) PERMIT AND AGREEMENT.

(1) Procedure.

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

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

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

SECTION 9. Section 7-1118 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-1118. Program implementation.

Businesses are required to submit plans to the Public Works Director within thirty (30) days after notification by the city that the water service or operation requires modification to

comply with KDHE requirements, and shall be allowed thirty (30) days after submittal of plans to bring the operations into compliance.

SECTION 10. Section 7-1206 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-1206. Appeal procedure.

- (a) Any person disagreeing with the calculations of the drainage unit assessment may appeal such determination to the City Manager. Any appeal must be in writing. The City Manager or his/her designee shall thereupon hold an informal hearing. The City Manager or designee, prior to such hearing, may request that the appealing party provide information concerning the basis of the appeal, including a land survey prepared by a registered surveyor of the area in question, if such information is deemed to be material by the City Manager or designee. Based upon information provided, the City Manager or designee shall make a determination of the drainage assessment for such property. The City Manager shall notify the parties in writing of the City Manager's decision.
- (b) A person shall have the right to appeal the decision of the City Manager to the Governing Body. Such appeal shall be made within twenty (20) days of the date of the City Manager's notification of the decision in the informal proceedings. Such appeals shall be in writing and shall be filed with the City Clerk.
- (c) A hearing on such appeal shall be held within thirty (30) days from the date the notice of appeal is received and the appealing party shall be given seven (7) days advance notice of the time and date of the appeal hearing. At such hearing, the appealing party shall present evidence concerning the drainage assessment for the property in question and the City Manager or his or her designee shall present evidence concerning their findings from the informal proceedings. The Governing Body shall render a decision in writing that sets forth such findings that support their decision within twenty (20) days of the hearing. The decision of the Governing Body shall be final and any further appeal of such decision shall be to the District Court of Dickinson County, Kansas, in accordance with the provisions of K.S.A. 60-2101(d).
- (e) The appellant shall reimburse the City for reasonable engineering review costs associated with the appeal.

SECTION 11. Section 7-1208 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

7-1208. Storm water utility fee collection.

- (a) Storm Water Utility fees shall be billed and collected monthly with the monthly water and sewer utility for those properties utilizing such City utilities and shall be billed and collected at intervals as set by the City Manager for those properties not utilizing such City utilities. The Storm Water Utility fee for those properties utilizing City utilities shall be part of a consolidated statement for utility customers which shall be paid in a single payment. In the event that a partial payment is received, the payment shall be applied proportionately between all accounts appearing on the consolidated billing. Unless otherwise provided for herein, all billings for drainage fees shall become due

and payable in accordance with sections of the Code of the City and with rules and regulations which pertain to City utilities that relate to collection of utility charges. Storm Water Utility fee billing for any given property shall initially be the responsibility of the person who is paying for water and/or sewer service for the property. If the property is not using water and/or sewer services, then drainage fees shall be the responsibility of the person in possession of the property. If no person is in possession of the property, the drainage fee shall be the responsibility of the property owner. The property owner is responsible for Storm Water Utility fees not paid by the occupant.

- (b) Storm Water Utility fees shall be subject to a penalty for late payment which is the same as that imposed for late payment of water and sewer utility charges. In addition to any other remedies or penalties provided by this Chapter or any other ordinance of the City, failure of any user of the Storm Water Management System to pay said charges promptly when due shall subject such user to discontinuance of city utility services and the City Manager of the City, or the City Manager's designee, is hereby empowered and directed to enforce this provision as to any and all delinquent users in accordance with provisions set forth in the City Code. Users shall be entitled to notice before city utility services are disconnected for failure to pay Storm Water Utility fees.

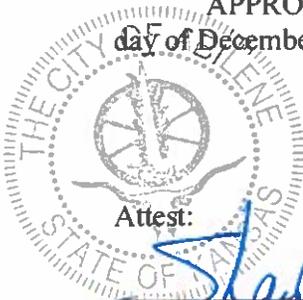
SECTION 12. Existing Sections 1-1102, 6-301, 6-502, 6-507, 6-509, 7-511, 7-607, 7-1118, 7-1206, 7-1208 of the City Code of the City of Abilene, Kansas are hereby repealed.

SECTION 13. This ordinance shall be in full force and effect following its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. 25-3467 Summary

On December 22, 2025, the City Commission passed Ordinance No. 25-3467. The ordinance establishes a new Section 1-504 of the Abilene City Code pertaining to the City Engineer and payment of certain engineering fees and costs by applicants, developers, and property owners, and amends existing City Code Sections 1-1102, 6-301, 6-502, 6-507, 6-509, 7-511, 7-607, 7-1118, 7-1206, 7-1208, pertaining to the role and responsibilities of the City Engineer. A complete copy of the ordinance is available online at www.abilenecityhall.com or in the office of the City Clerk, 419 N. Broadway Street in Abilene, Kansas, free of charge. This summary is certified by the City's legal counsel.

APPROVED AND PASSED by the Governing Body of the City of Abilene, Kansas, this 22nd day of December, 2025.

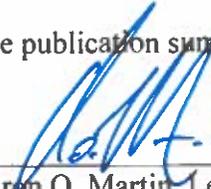


Attest:

Shayla L. Mohr, CMC, City Clerk

Brandon Rein, Mayor

The publication summary set forth above is certified this 22nd day of December, 2025.



Aaron O. Martin, Legal Counsel