

*City of Abilene*  
*M. Brown*  
*W. Lewis*

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 52 OF THE CODE OF THE CITY OF ABILENE, TEXAS, 1957, AS AMENDED, BY PROVIDING THAT THE PRESENT SECTIONS OF SAID CHAPTER, SECTION 52-1 THROUGH SECTION 52-30, SHALL BE HEREAFTER REFERRED TO AS "ARTICLE I. GENERAL PROVISIONS."; THAT A NEW ARTICLE II, DESIGNATED "WATER AND SEWER EXTENSIONS" SHALL BE ADDED TO CHAPTER 52, WHICH SHALL PROVIDE FOR THE EXTENSION OF WATER AND/OR SEWER LINES GENERALLY, AND PROVIDING A WATER AND/OR SEWER PRO RATA CHARGE; SETTING RATES FOR SUCH CHARGES; ESTABLISHING PRO RATA ON PROPERTY PLATTED AND TO BE PLATTED; SETTING SIZE OF SERVICE LINES AND METER SIZE; DESCRIBING LOCATIONS FOR SERVICE CONNECTIONS; ESTABLISHING PRO RATA FUNDS AND DEPOSITS; CHARGES AND REFUNDS IN RELATION THERETO; AUTHORIZING PARTIAL PAYMENT FOR LINES BY CITY IN CERTAIN INSTANCES; PROVIDING FOR COSTS OF EXTENSIONS; REGULATING INSTALLATION BY DEVELOPERS; DECLARING FACILITIES TO BE PROPERTY OF THE CITY; PROVIDING FOR ENGINEERING COSTS AND PAYMENT THEREOF; ESTABLISHING RULES GOVERNING REFUNDS; AUTHORIZING EXTENSIONS THROUGH ENTIRE BLOCKS EVEN IN THE ABSENCE OF FULL PRO RATA PAYMENT WHERE MORE ECONOMICAL; ESTABLISHING UNIT PRICES TO BE USED IN CALCULATING COSTS OF EXTENSIONS; SETTING METHOD OF DETERMINING PROPER CHARGES WHERE FRONT FOOT BASIS IS INEQUITABLE; BOTH WATER AND SEWER SERVICE TO BE EXTENDED TOGETHER EXCEPT WHERE SATISFACTORY SYSTEM EXISTS; REGULATING EXTENSIONS INTO DENSELY POPULATED AREAS BY CITY AT OWN EXPENSE WITH PRO RATA TO BE PAID BY PROPERTY OWNERS UPON CONNECTION TO SUCH SERVICE; AUTHORIZING DEFERRED PAYMENTS OF PRO RATA; AUTHORIZING SEWER EXTENSIONS WITHOUT WATER SERVICE IN CERTAIN INSTANCES AND ESTABLISHING RULES GOVERNING SAME; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING A PENALTY.

WHEREAS, it is the opinion of the City Council of the City of Abilene, Texas, that the present method of extending water and sewer mains is inequitable in many instances, and a method should be provided to obtain such services on a reasonable basis and the providing of such a method is necessary and essential to the health, safety and general welfare of the citizens of Abilene; now, therefore,

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

Section 1: That Chapter 52 of The Code of The City of Abilene, Texas, 1957,

as amended, be, and the same is hereby further amended by designating Section 52-1 through Section 52-30 under the heading of "Article I. General Provisions. "

Section 2: That Chapter 52 of The Code of The City of Abilene, Texas, 1957, as amended, be, and the same is hereby further amended by adding a new Article to be designated "Article II. Water and Sewer Extensions", which shall hereafter read as follows:

"Article II. WATER AND SEWER EXTENSIONS

"Sec. 52-31. General. There shall be a service charge due on all property to which water and/or sewer lines are extended and construction completed and accepted by the City of Abilene after September 12, 1963. This charge shall be called the "Pro Rata" charge for water and/or sewer and shall be due and payable before service is provided. The Pro Rata charge shall represent a portion of the costs of providing water and/or sewer facilities to serve the property on which the Pro Rata is paid.

"Sec. 52-32. "Pro Rata" Charges for Water and/or Sewer Service. When a person desires water and/or sewer service to property that requires an extension of existing facilities to provide service adjacent to the property or when the service connection will be made to a line, construction of which is completed and accepted by the City of Abilene after September 12, 1963, the person desiring service shall pay a non-refundable charge hereafter called the Pro Rata. This charge shall be as follows:

- "a. \$1.50 per front foot of lot or tract of land to which sewer service is to be provided; and
- "b. \$2.25 per front foot of lot or tract of land to which water service is to be provided; and as more specifically provided herein.

"When an extension of water and/or sewer facilities is required to serve the property, the costs of which exceeds the Pro Rata charge as defined above, the person desiring service shall pay the total cost of the extension required for domestic and/or fire protection service as provided in Section 52-33 and 52-34 and shall be refunded as provided herein that portion of the costs that exceeds the Pro Rata charge.

"The above front-foot rates shall apply to property fronting on streets in areas platted into the usual rectangular lots or tracts of land, with a depth not to exceed one hundred fifty feet. Where lots or tracts have greater depth than one hundred fifty feet from the front street line, and are occupied, or are to be occupied exclusively as dwelling places, then the additional depth shall not be assessed. If the property is later

subdivided, requiring an extension of mains to serve the same, then the terms of this article shall govern.

"Where residential lots or tracts are irregular in size or shape, then pro rata charges shall be based upon equivalent rectangular lots or tracts using one front foot for each one hundred fifty square feet of area, or the average frontage of such lots or tracts, whichever is least.

"Where lots or tracts are intended to be used for business, commercial or industrial purposes, the pro rata charge shall be paid on the frontage on all streets which the property may abut. Should such property be resubdivided whereby water main extensions are required to serve the same, the terms of this article shall apply.

"Sec. 52-33. Pro Rata on Property Already Platted. A payment of the water and/or sewer Pro Rata charges on property already platted shall entitle the person desiring service to acquire a connection to the water and/or sewer lines in accordance with the Code of the City of Abilene when the lines to which the connection is to be made is in the alley or comparable easement adjacent to the property; or shall entitle him to the extension of water and/or sewer lines equal in length to the frontage on which he paid the pro rata plus 150 feet when the service line is not adjacent to his property; provided however that only one such 150 foot free extension may be provided any person in any calendar year. When the nearest service line is more than 150 feet distant to the property on which service is desired, the person desiring service shall pay the total cost of the extension required to provided service less the cost of the first 150 feet of extension, however, in no event shall the cost paid be less than the Pro Rata on the frontage served. That portion of the cost paid above the Pro Rata on the frontage shall be refunded as provided herein for approach mains.

"When two or more individuals desire water and/or sewer service and the nearest individual is more than 150 feet from existing lines, the city will extend the service lines a distance equivalent to that on which the Pro Rata is paid plus 150 feet for each individual Pro Rata payment when such distance is adequate to serve the individuals. In the determination of the distance necessary to serve the individuals, the distance across street intersections or property already served with other than temporary service shall not be considered.

"Sec. 52-34. Pro Rata and Extensions to Property Being Platted. When property is being platted in accordance with the subdivision regulations of the city, the owners or developers of the property being platted and to be served by water and/or sewer shall pay the Pro Rata charges as calculated on the basis of the frontage to be served or the total costs of the extensions necessary to completely serve the property, whichever is greater. The extensions required to completely serve the property shall conform to the utility plan of the city and shall include the requirements for domestic service and fire protection service to the area through which the lines extend.

"That portion of the cost paid by the owners or developers which is in excess of the Pro Rata front foot charges shall be refunded as provided herein.

"Sec. 52-35. Size of Service Lines and Meter Size. The Pro Rata is established to provide fire protection service from the street and domestic water and/or sewer service from the alley or comparable easements adjacent to the property. The size of the lines in the alleys or easements shall be adequate to provide for a maximum size water meter of one and one-half (1 1/2) inches per lot for each 75 feet of frontage. Payment of the Pro Rata shall permit the property owner to acquire a maximum water tap and meter of one and one-half (1 1/2) inches or the equivalent in two or more meters per lot of each 75 feet of frontage.

"When water service larger than one and one-half (1 1/2) inches is desired, the property owner desiring such service shall pay the additional cost of extending or reconstructing a line of adequate size to provide the service desired. Adequate size shall be considered as twice the diameter of the water tap requested. The additional cost for making such an extension shall be refunded only when property adjacent to the extension obtains services greater than one and one-half (1 1/2) inches after payment of their proportionate part of the cost of the original extension.

"Payment of the sewer Pro Rata charges herein provided shall entitle the property owner to a sewer connection of four (4) inches in size per lot on each 75 feet of frontage.

"Sec. 52-36. Location for Service Connection. Water and/or sewer service shall only be provided to property from dedicated alleys or comparable easements except in zoning districts, if any, where alleys or easements are not required.

"Water service for private fire protection systems requiring service lines greater than three-fourths (3/4) the size of the water line in the alley or easement may be provided from street mains with the person receiving such service to pay the total cost including paving repair of the tap and extension to the property line.

"Sec. 52-37. Pro Rata Funds - Deposits, Charges and Refunds. There shall be a Pro Rata Water Fund and a Pro Rata Sewer Fund maintained as a part of the city's account.

"All monies received for Water Pro Rata payments shall be deposited to the Water Pro Rata Fund and all monies received for Sewer Pro Rata payments shall be deposited to the Sewer Pro Rata Fund.

"Payment of the Pro Rata or total cost of the extensions as provided herein shall authorize the Water & Sewer Superintendent to cause the required construction to be done and all charges for work done to extend water service to property on which the water pro rata has been paid shall be charged to the Water Pro Rata Fund and all charges for work done to extend sewer service to property on which the Sewer Pro Rata has been paid shall be charged to the Sewer Pro Rata Fund.

"All refunds due under the provisions herein provided shall be made from the fund to which the original deposit was made.

"Sec. 52-38. Cost of Large Mains May Be Partially Paid by City. When the utility plan of the city requires the extension of a line of a size that is larger than that determined by the City Engineer as adequate to serve the property on which the Pro Rata is paid or to be paid, the city may pay the cost in excess of that required to serve the property on which the pro rata is paid when funds are available.

"Sec. 52-39. Costs of Extensions. The estimated costs of the water and/or sewer extensions required to serve the property on which the Pro Rata is to be paid shall be based on the plans for the extensions prepared by or approved by the City Engineer and the unit prices shall be those adopted herein. The city shall use the unit prices included herein in the determination of the value of the system installed by private contractor for the Developer or may at the city's discretion require the Developer to receive competitive bids in accordance with the city's form, plans and specifications. The value allowed the Developer toward payment of his Pro Rata charges or for refunds as provided herein shall be determined by the unit prices provided herein, or, at the city's option, by competitive bids.

"The costs of the extensions shall include engineering costs, materials, labor, paving repair, etc., necessary to complete the facility required to serve the property on which the Pro Rata is paid.

"Sec. 52-40. Installation by Developers. The property owner or developer of a tract of land being platted and served by water and/or sewer may hire a private contractor to install the complete water and/or sewer facilities including mains, approach mains, valves, manholes, hydrants, etc., except work required to be done by City such as engineering, paving repair, wet connections, etc., all in accordance with the plans made or approved by and under the supervision of the City Engineer. Payment for the work to be done by the city shall be made prior to the starting of any construction.

"The Developer may construct the water and/or sewer improvements before the property is platted, in which case no security shall be required by the City, but upon filing the plat of record in the County Clerk's Office and connection of the facilities to the existing city mains, the facilities shall become the property of the City of Abilene as part of the Pro Rata payments for the service.

"When the Developer chooses to construct the water and/or sewer facilities after the plat is filed of record in the County Clerk's Office, he shall provide the city with performance security as required herein.

"The Developer shall provide the city with a copy of the contract between him and his contractor for the construction of the improvements for his development and shall, at the city's option, receive sealed competitive bids for such work in order to determine the fair value of the system.

"Sec. 52-41. Facilities to be the Property of City. Upon completion of the water and/or sewer facilities by private contractor and acceptance by the City, or upon

completion by the City, the facilities so constructed shall become and remain the property of the City of Abilene and shall be maintained as a part of its water and/or sewer system.

"Sec. 52-42. Engineering for Extension and Fees. The engineering work necessary to prepare plans and inspect the construction required to provide water and/or sewer service shall be done by the City Engineering Department or may be done by a private professional registered engineer, and said work must be approved by the City Engineer.

"The cost of the extension required to serve the property shall include the actual cost of engineering for the total cost of construction, including inspection and shall be paid for by the property owner or developer.

"Plans for the extensions shall conform to the ultimate utility plan and shall include all necessary mains, lines and appurtenances required to provide domestic service and fire protection.

"The City shall provide the property owner or developer copies of the plans and cost estimates upon request and make a final breakdown of the actual quantities and costs of work done when the developer has employed a private contractor to do the construction. If the engineering for water and/or sewer extensions is performed by a private engineer, he shall furnish the City Engineer with such reproducible drawings as he shall request, and estimates of quantities and costs.

"The cost estimates as provided shall be subject to change to conform to the actual work required to satisfy conditions existing at the location except when the city does the work, in which case the estimated costs will be the actual cost to the Developer.

"No construction of water and/or sewer facilities will be started until the Developer has provided property survey corners for all lots to be served by the extensions.

"Sec. 52-43. Refunds. Contracts for refunds as provided herein shall be executed by the Developer and the City Manager. The term of the contract shall be 15 years and the city shall not be liable for refunds after the term of the contract. No interest shall be paid by the city for any money on which refunds are due.

"Refunds of money paid in excess of the Pro Rata shall be made within 30 days after April 1 or October 1 of each year of all refunds earned during the preceding six months. Refunds shall be earned when Pro Rata payments have been made for property on which the refund is based.

"When an owner or developer has a refund due as a result of payment of the Pro Rata on adjacent property which he also owns, this earned refund may be credited to the Pro Rata payment due on the adjacent property at the time the adjacent property is platted.

"When temporary lines or facilities are constructed as an expedient to develop a particular area (such as across easements within the subdivision on which no frontage can be connected, or when sewers are constructed which otherwise or not required in the ultimate plan of development for the sanitary sewer system), the developer shall bear the total cost without refund and above his Pro Rata.

"When an approach main or boundary main is in an alley and the total cost of the extension is greater than the Pro Rata charge paid on the applicant's property, then the cost above the Pro Rata charge shall become refundable, in such a manner that when 85 percent of the lots served by the extension have paid their Pro Rata, the original applicant will have received all of the original deposit in excess of his Pro Rata in consonance with contract provisions.

"When there is a refund to be paid on an approach main and/or boundary mains located in a street, this refund shall be made in such a manner that all of the refundable money will be returned when there has been a Pro Rata payment on property outside the area originally served, one unit for each fifty feet of approach main and/or boundary.

"Sec. 52-44. Extensions Beyond Pro Rata Areas. The City may extend water and/or sewer through an entire block upon payment of the Pro Rata charge on one or more lots when the City Engineer determines that it is more economical than to make the extension in several short sections as Pro Rata payments are made.

"Sec. 52-45. Unit Prices used in Calculating Costs of Extensions. The following prices shall be used as unit prices in calculating the costs of extensions of water or sewer mains and appurtenances under the terms of this article:

"Water mains and appurtenances installed:

For 2 1/4"	Cast-iron class 150 water pipe per lin. ft.	\$	1.10
For 3"	Asbestos cement class 150 water pipe per lin. ft.		1.19
For 3"	Cast-iron class 150 water pipe per lin. ft.		1.41
For 4"	Asbestos cement class 150 water pipe per lin. ft.		1.44
For 4"	Cast-iron class 150 water pipe per lin. ft.		1.71
For 6"	Asbestos cement class 150 water pipe per lin. ft.		2.19
For 6"	Cast-iron class 150 water pipe per lin. ft.		2.38
For 8"	Asbestos cement class 150 water pipe per lin. ft.		2.85
For 8"	Cast-iron class 150 water pipe per lin. ft.		3.20
For 10"	Asbestos cement class 150 water pipe per lin. ft.		3.66
For 10"	Cast-iron class 150 water pipe per lin. ft.		4.11
For 12"	Asbestos cement class 150 water pipe per lin. ft.		4.78
For 12"	Cast-iron class 150 water pipe per lin. ft.		5.00
For 2"	Gate valves and valve box		35.00
For 3"	Gate valves and valve box		45.00
For 4"	Gate valves and valve box		57.00
For 6"	Gate valves and valve box		73.50

For 8"	Gate valves and valve box	\$	96.00
For 10"	Gate valves and valve box		165.00
For 12"	Gate valves and valve box		190.00
For	Fire Hydrant		195.00
For	Fittings per pound		.21

Tapping Sleeve and Valve for C. I.

6 x 3		77.56
6 x 4		87.09
6 x 6		108.18
8 x 3		79.88
8 x 4		96.57
8 x 6		117.16
8 x 8		154.69
10 x 3		102.27
10 x 4		118.96
10 x 6		138.51
10 x 8		174.94
12 x 3		103.53
12 x 4		122.85
12 x 6		140.64
12 x 8		178.30
12 x 10		238.63

Tapping Sleeve and Valve for A. C.

6 x 3		79.42
6 x 4		89.33
6 x 6		110.29
8 x 3		99.86
8 x 4		110.42
8 x 6		128.10
8 x 8		164.46
10 x 3		102.73
10 x 4		120.55
10 x 6		139.84
10 x 8		178.00
12 x 3		118.53
12 x 4		125.75
12 x 6		154.64
12 x 8		205.09
12 x 10		252.92
Wet tie-in		150.00
Move Machinery 1"		75.00
Paving repair - 2course asphalt per lin. ft.		2.00
1 1/2" course asphalt per lin. ft.		<del>5.00</del>
Concrete per lin. ft.		3.00
		5.00



"The unit prices above are inclusive of all items not specifically listed herein which may be necessary to complete the project, except engineering. The installation of a tapping valve, or tying to an existing cross or tee fifty feet (50') from the nearest valve shall be considered a wet tie-in. All wet tie-ins shall be made by city forces and shall include flushing and sterilizing all water lines.

Sanitary sewer mains and appurtenances, installed:

For 6" glazed vitrified clay sanitary sewer pipe:

0' - 4'	per lin. ft.	\$	0.95
4' - 6'	per lin. ft.		1.00
6' - 8'	per lin. ft.		1.05
8' - 10'	per lin. ft.		1.15
10' - 12'	per lin. ft.		1.30

For 8" glazed vitrified clay sanitary sewer pipe:

0' - 4'	per lin. ft.		1.30
4' - 6'	per lin. ft.		1.35
6' - 8'	per lin. ft.		1.40
8' - 10'	per lin. ft.		1.50
10' - 12'	per lin. ft.		1.65
12' - 14'	per lin. ft.		1.94

For 10" glazed vitrified clay sanitary sewer pipe:

0' - 4'	per lin. ft.		1.63
4' - 6'	per lin. ft.		1.68
6' - 8'	per lin. ft.		1.73
8' - 10'	per lin. ft.		1.83
10' - 12'	per lin. ft.		1.98
12' - 14'	per lin. ft.		2.28
14' - 16'	per lin. ft.		2.68
16' - 18'	per lin. ft.		3.18

For 12" glazed vitrified clay sanitary sewer pipe:

0' - 4'	per lin. ft.		1.95
4' - 6'	per lin. ft.		2.00
6' - 8'	per lin. ft.		2.05
8' - 10'	per lin. ft.		2.15
10' - 12'	per lin. ft.		2.30
12' - 14'	per lin. ft.		2.60
14' - 16'	per lin. ft.		3.00
16' - 18'	per lin. ft.		3.50

For manhole standard	@	90.00
For manhole drop	@	105.00
For E. V. F. Std.	@	18.00
For extra vertical ft. drop	@	21.00
Move machinery	@	75.00
Tie to Std. M. H.	@	15.00
Tie to drop M.H. 0'-6" (6" & 8")	@	30.00
Tie to drop M.H. 0'-6" (10" & 12")	@	32.00
E. V. F. drop tie-in over 6'	@	5.00
For 6 x 4 Wyes complete with plug	@	1.50
For 8 x 4 Wyes complete with plug	@	3.00
For 10 x 4 Wyes complete with plug	@	4.25
For 12 x 4 Wyes complete with plug	@	5.25
For 6" clean out	@	41.00
For 4" V. C. T. riser pipe	@	.60
For 6" V. C. T. plug	@	.35
For 8" V. C. T. plug	@	.50
For 10" V. C. T. plug	@	.75
For 12" V. C. T. plug	@	1.00
Paving repair		
1" & course asphalt	per lin. ft.	2.00
1 1/2" & course asphalt	per lin. ft.	<del>3.00</del> 3.00
Concrete	per lin. ft.	5.00

"The unit prices above are inclusive of all items not specifically listed herein which may be necessary to produce a complete job except engineering charge.

"Sec. 52-46. Where Front-Foot Rule Inequitable; No Vested Rights to Be Acquired. Under Article. The intent and purpose of this article is to provide an equitable charge for water and sanitary sewer connections as a proportionate distribution of the cost of water and sanitary sewer main extensions to serve property in the city on a front-foot basis. In case property or a tract of land is so situated or shaped that the front-foot rule creates an inequitable basis as between it and other tracts of land in the city, then, in that event, the city engineer shall determine the proper charges in accordance with the intent and purpose of this article. No person shall acquire any vested rights under the terms and provisions of this article.

"Sec. 52-47. Adequate Private Water Supply and Satisfactory Sewage Disposal System Required; Connections with Water Mains to be Made by City Water Works Department. With the exception of cases where the applicant has an adequate private water supply or a satisfactory sewage disposal system, the city shall not extend water or sewer service unless both services are provided, except in cases where either city sanitary sewer mains or water mains are not accessible. All connections with existing city water mains shall be made by the city waterworks department at the direction of the Water & Sewer Superintendent.

"Sec. 52-48. Extensions Into Densely Populated Areas by City at Own Expense - Payment of Pro Rata Charges by Property Owners. Where the City Council finds that in densely populated areas and in specific locations, due to the absence of water and sewer service, the public welfare would be best served by making water or sewer main extensions at its own cost, and after due investigation and consideration, in order to avoid and eliminate extremely unhealthful conditions which are contributing factors to epidemics, and where money is available for such purposes, it is the express policy of the City Council when expressed by its resolution, to extend water and sanitary sewer mains into these densely populated areas without a deposit being required from the property owner; provided, however that when lines are extended following such resolution the property owner shall be required to pay the pro rata charges established by this article when such property is connected to the water or sewer main.

"Sec. 52-49. Same - Provision For Deferred Payments. When the owner of a lot, or other undivided parcel of land, the area of which does not exceed one acre, and such owner has not secured an extension under this provision within the next preceding twelve-month period, has duly requested in writing and on forms provided by the city engineer, to make water and/or sewer extensions abutting the tract of land described in the application, and said parcel of land is connected with city water service or is to be connected with such service upon the completion of the requested extension; the city engineer is authorized to determine the applicable pro rata payment to be made for such extension, and to provide the extension:

- (1) When the owner applicant of said parcel of land has paid to the city a minimum initial payment of fifteen per cent of the total pro rata charge; and
- (2) When the owner of said parcel of land shall have executed a contract with the city creating a valid lien against the parcel of land described in the application, to secure payment of the deferred part of the pro rata charge within thirty-six months, with minimum monthly payments of ten dollars each, the annual unpaid balance to bear six per cent interest, and further providing for accelerated maturity with customary provisions applicable to default in payments; and further providing that the water department is authorized to discontinue water service to the described parcel of land and any premises thereon located, if for any reason, the water service bill and/or any deferred pro rata charge payment is not paid when due; said contract to contain such other provisions as the city manager may deem expedient and in the public interest. The city manager is further authorized to prescribe and approve the form of application herein provided for, and the form of contract required and such other instruments and requirements as may be deemed necessary or expedient in making the provisions of this section adequately effective.

"Sec. 52-50. Sewer Extension Where Property Owner Does Not have or Propose to have City Water Service; Payment of Pro Rata Sewer Charge as a Deferred Pro Rata Sewer Rental Charge. It is hereby further provided that if a property owner does not have city water service or does not propose to have city water service, but said property owner desires said city sewer service, then in that event if such property owner is otherwise entitled to a sewer extension under this Code, then such property owner may secure sewer service (without city water service) upon the election of said property owner to pay the pro rata sewer charge properly chargeable to said property as a deferred pro rata sewer rental charge with the acceptance and approval of such election by the City Council upon the following terms and conditions:

"(1) Such property owner applicant, for sewer extension shall agree as follows:

"(a) Applicant shall pay 15% of the sewer pro rata charge with the execution of this agreement and shall pay the balance as a deferred pro rata sewer rental charge in equal payments of not less than \$10.00 per month spread over a period of not to exceed 36 months, each payment being due and payable on the first day of each succeeding month hereafter until the balance and interest, if any, is fully paid, the annual unpaid balance to bear interest at the rate of 6 per cent per annum until fully paid. Upon failure of applicant to make any such payment as and when same shall become due, it shall, at the option of the City without notice, mature the indebtedness created hereby; and it shall become at once due and payable as to the balance due to the city, plus a reasonable attorney's fee if collection is enforced by or placed in the hands of an attorney for collection or enforcement. In the event of such default in payment by applicant, the city and/or its agents, servants, or employees are hereby authorized, without notice to applicant (and applicant expressly waives notice), to disconnect the sewer extension serving applicant's parcel of land and thereafter city shall be under no duty to furnish sewer service to applicant's parcel of land until applicant has paid all moneys due to the city as well as the cost of disconnection and reconnection to the city sewer system as estimated and/or determined by the City Engineer. Applicant agrees to at all times defend, indemnify and otherwise hold the City of Abilene, its agents, servants and employees harmless of and from any and all claims, demands, actions, causes of action, suits at law and in equity and costs of whatsoever kind or nature which may grow out of or relate to or in any manner be connected with the making and carrying out of this agreement including but not limited to the construction, reconstruction, maintenance, disconnection, connection, and/or reconnection of sewer extension to applicant's parcel of land. Payments made pursuant to this agreement shall be made in addition to any uniform sewer charge which may be imposed or assessed by the City against property owners in the city.

"(b) Applicant hereby gives and grants to the city an express contract lien upon said parcel of land and premises and improvements herein provided for to secure payment of the indebtedness herein created and applicant agrees to the fixing of a mechanics and materialmen's lien upon said parcel of land and premises to secure said indebtedness until said indebtedness is fully paid

off and discharged. Applicant hereby waives in favor of said indebtedness all homestead exemption, if any, in any manner pertaining to said parcel of land. Applicant hereby authorizes the recording of this instrument in the office of the County Clerk of Taylor County, Texas.

"(c) This agreement is made subject to all applicable provisions of The Code of The City of Abilene, Texas, 1957, as amended, ordinances, resolutions and regulations, with respect to sewer service, extension, connection, disconnection, reconnection, construction, reconstruction and maintenance and any other matters related thereto.

"(d) Applicant warrants and represents that no extensions for sewer have been secured for the deferred pro rata rental charge from the City of Abilene within the next preceding twelve-month period to the date of this agreement. This agreement and all obligations hereunder shall be binding upon applicant and the successors, heirs and assigns and occupants of applicant.

"(e) If there are any other encumbrances except taxes against said parcel of land, the applicant shall, if possible, if requested to do so by the city, secure from the holder of said encumbrance a subordination of said encumbrance to the lien created by this agreement.

"(2) The City Manager is hereby authorized to execute all contracts and other instruments necessary or convenient to the carrying out of the purposes of this section."

Section 3: That any ordinance, resolution, policy or any provision or section of "The Code of The City of Abilene, Texas, 1957," as amended, in conflict with the provisions of this ordinance be, and the same are hereby repealed.

Section 4: That if any provision of this ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provision or application of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the ordinance are declared to be severable.

Section 5: 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 Two Hundred Dollars (\$200.00). Each

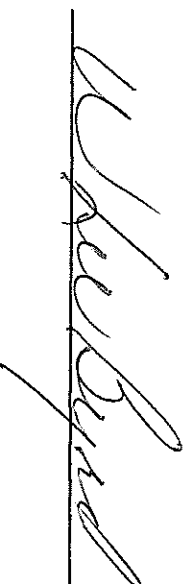
such violation which shall continue or be permitted to continue shall be deemed a separate offense.

PASSED ON FIRST READING this 22nd day of August, A. D. 1963.

PASSED ON SECOND AND FINAL READING this 12<sup>th</sup> day of September,

A. D. 1963.

ATTEST:



MAYOR

  
CITY SECRETARY

APPROVED:

JOHN W. DAVIDSON, City Attorney

