

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 47 OF THE CODE OF THE CITY OF ABILENE, TEXAS, 1957, AS AMENDED, BY ADDING THERETO A NEW SECTION TO BE DESIGNATED "SEC. 47-35. STREET, ALLEY, SIDEWALK AND OTHER PUBLIC WAY USE LICENSE", PROVIDING TERMS AND CONDITIONS FOR APPLICATION FOR SUCH LICENSE; PROVIDING FOR APPROVAL OF SUCH APPLICATION BY THE CITY COUNCIL; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PORTIONS THEREOF IN CONFLICT THEREWITH; PROVIDING A PENALTY; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Abilene is from time to time requested to permit certain uses upon the streets, alleys, sidewalks and other public ways of the City of Abilene which are in the nature of a privilege to do what otherwise would be unlawful upon the said streets, alleys, sidewalks and other public ways, as distinguished from a franchise granted to a public utility which grants a property right to use the streets, alleys, sidewalks and public ways to render a public service which the public has a right to demand and the City, at present, does not have an ordinance authorizing the issuance of such license or permit, and the City Council is of the opinion that such ordinance should be enacted in the interests of the public welfare; now, therefore,

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

Section 1: That Chapter 47 of The Code of The City of Abilene, Texas, 1957, as amended, be, and the same is hereby further amended by adding a new section to be designated Section 47-35. Street, Alley, Side walk and other Public Way Use License, which shall hereinafter read as follows:

"Sec. 47-35. Street, Alley, Sidewalk or Public Way License.

"1. No person, firm, association of persons or corporation shall place any encroachment within any public street, alley, sidewalk or other public way or appropriate any portion thereof to a private use without first obtaining a street, alley, sidewalk or public way license from the City of Abilene. It is the purpose of this section to provide a method to license or permit the privilege of making such use of public streets, alleys, sidewalks, or other public ways which would otherwise be unlawful and nothing herein shall be deemed to conflict with Article IX of the Charter of the City of Abilene requiring franchises in order to use the public streets, alleys, sidewalks or other public ways by public utilities in order to furnish a public service which the public has a right to demand.

"2. All applications for a license to make a specific use of the public streets, alleys, sidewalks or other public ways shall be made to the Director of Public Works of the City of Abilene. Such application shall be made on a form provided by the Director of Public Works for that purpose. The applicant shall be required to state the complete purpose for making the application and all facts the Director of Public Works deems pertinent to the granting of such a license. All

information furnished by the applicant must be correctly stated; otherwise, any license issued thereunder may be declared void by the City Council.

"3. That all streets, alleys, sidewalks or public way use license agreements shall state the specific nature of the use granted; the term thereof; shall provide that the City of Abilene will be held harmless and indemnified against bodily injury or property damage claims or suits arising out of or connected with the issuance of said license; shall provide for revocation of said license upon thirty (30) days' notice, or sooner in case of violation of the agreement, and shall contain such other terms as may be appropriate.

"4. That all street, alley, sidewalk or public way license agreements prepared by the Director of Public Works shall be submitted to the City Council for approval.

"5. That this section shall not apply where other provisions of The Code of The City of Abilene, Texas, 1957, as amended, govern the use of streets, alleys, sidewalks and other public ways by specific occupations."

Section 2: 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 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 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 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.

Section 5: That the City Council hereby finds that an emergency exists requiring suspension of the rule provided in Section 18 of the City Charter requiring ordinances to be read on two separate days, in that the immediate passage of said ordinance is necessary for the preservation of the public peace, safety and welfare, and said rule is hereby suspended and this ordinance shall take effect and be in

force and effect from and after its passage.

PASSED this 12th day of September, A. D. 1963.

ATTEST:


MAYOR


CITY SECRETARY

APPROVED:
JOHN W. DAVIDSON, City Attorney

