



Notice of Study Session

For Abilene City Commission

4 p.m. Monday, May 4, 2020

Dwight D. Eisenhower Municipal Building
419 N. Broadway Avenue, Abilene, Kansas

DUE TO COVID-19 ALL MEETINGS WILL BE HELD VIRTUALLY AND STREAMED LIVE ON THE CITY OF ABILENE'S YOUTUBE PAGE AT https://www.youtube.com/channel/UCNURrU0ueP6_dRpHYu1wJEg

PURPOSE

The City Commission's study sessions are for the purpose of providing the commission the opportunity to study items in more detail.

OPEN FORUM

Due to Covid-19 social distancing requirements any items that you would like to bring to the city commission must be sent to the City Clerk by noon on May 4, 2020 and they will be presented at the meeting. Please send comments to penny@abilenecityhall.com.

STUDY ITEMS

1. Water Conservation Plan.
2. NE Drainage temporary easements.
3. City Code – Laying hens Ordinance.
4. Business Plan New Horizons Hemp Processing, LLC.





MUNICIPAL WATER CONSERVATION PLAN CITY OF ABILENE JANUARY 2020

Municipal Water Conservation Plan
For the City of Abilene

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INTRODUCTION

The primary objectives of the Water Conservation Plan for the City of Abilene are to develop long-term water conservation plans (Long-Term Water Use Efficiency Section) and short-term water emergency plans (Drought Response Section) to assure the City customers of an adequate water supply to meet their needs. The efficient use of water also has the beneficial effect of limiting or postponing water distribution system expansion and thus limiting or postponing the resultant increases in costs, in addition to conserving the limited water resources of the State of Kansas.

The City of Abilene has undertaken a number of steps to ensure a dependable water supply. The water supply for our City is obtained from wells drilled in 1945-2015 and take water from the Sand Springs Aquifer and the Smoky Hill River Alluvium. Treated water storage facilities consist of three 500,000-gallon tanks of which two are ground level tanks and one is elevated, plus one 250,000-gallon elevated tank. The City of Abilene believes that our Municipal Water Conservation Plan represents an additional major step in ensuring our customers of a dependable water supply in future years.

LONG-TERM WATER USE EFFICIENCY

Water Use Conservation Goals

The City of Abilene used 160 gallons per person per day (GPCD) in 2017. This GPCD figure included:

1. Water sold to residential/commercial customers.
2. Water distributed for free public services (parks, cemeteries, swimming pools etc.)
3. Water lost by leaks in the water distribution system.

However, the GPCD figure does not include municipally supplied water for industries that use over 200,000 gallons per year. According to the 2017 Kansas Municipal Water Use Publication, our City is in Region 7M. From this publication it was determined that our City GPCD water use was 160, which was 74 percent above the regional average of 92 GPCD among cities in Region 7M during 2017. The City desires to set a water use conservation goal for usage not to exceed 97 GPCD based on the regional average of the last five years (2013-2017). Our City anticipates not exceeding this goal by carrying out the specific actions that are outlined in our plan.

Water Conservation Practices

This subsection of the plan summarizes the current education, management and regulation efforts that relate to the long-term conservation of water in the City. Specific practices that will be undertaken to conserve water are listed and a target date to begin each practice is also shown.

Education

The City water bills show the total number of gallons of water used during the billing period and the amount of the bill. The City has provided information on water conservation to the local news media on a regular basis.

The City has chosen the following conservation practices and target dates for the Education Component of the Long-Term Water Use Efficiency Section of our Water Conservation Plan.

Education Conservation Practices to be Taken	Target Date
1. Water bills will show the amount of water used in gallons and the cost of the water.	Implemented in 2013 and ongoing

Management

1. Meters will be installed at all residential service connections and at all other service connections whose annual water use may exceed 300,000 gallons, including separate meters for municipally operation irrigation systems which irrigate more than one acre of turf. (implemented)
2. All meters for source water will be read at least on a monthly basis and meters at individual service connections will be read at least once every month. (Implemented).
3. The City of Abilene will implement a water management review, which may result in a specified change in water management practices or implementation of a leak detection and repair program or plan, whenever unaccounted for water exceed 20% of the total source water for a four month time period. (Implemented)
4. Water sales will be based on the amount of water used (Implemented)

Water meters are installed for all residential/commercial customers, as well as for all water distributed free of charge to city government buildings and grounds.

The City of Abilene reads each customer's water meter and mails a water bill to each customer every month. Customer water meters are generally read approximately the 15th of each

month; however, the meter reading system sometimes deviates from the scheduled time period.

Water leaks from the City public water distribution system are repaired when discovered and/or reported to City Personnel. Water pressure is not checked unless customers complain that their water pressure is too low.

The water rate structure for the City was passed on OCT 2019 effective Nov 2019. The minimum monthly water charge is \$16.12. Residential and Commercial water use is charged \$3.81 per 1,000 gallons Commercial customers are charged \$3.22 per 1000 gallons over 225,000 gallons, gallon during a declared water emergency for water used above 225,000. Customers outside the city limits pay double the rates stated earlier. The Rural Water District #2 wholesale rate is \$1.44 per 1,000 gallons. The sewer rate for all customers passed on Nov 2019, is \$13.00 minimum plus \$5.42 per 1,000 gallons of winter average use. The City periodically reviews water rates.

The City of Abilene realizes that much greater emphasis must be placed on obtaining accurate measurement of water use at our source and at customer meters. For that reason, the City of Abilene has chosen the following conservation practices and target dates for the Management component of the Long-Term Water Use Efficiency Section of our Water Conservation Plan.

Management Conservation Practices to be Taken	Target Date
1. All source water will have meters installed and the meters will be repaired or replaced within two weeks when malfunctions occur.	(Implemented)
2. Meters for source water will be tested for accuracy at least once every five years. Each meter will be repaired or replaced if its test measurements are not within industry standards (such as AWWA standards).	(Implemented)
3. Meters at each individual service connection will be replaced or tested for accuracy on a regular basis, per industry standards (such as AWWA standards), if they are one inch or less. Meters over one inch will be tested for accuracy at least once every five years. Each meter will be repaired or replaced if its test measurements are not within industry standards (such as AWWA standards).	(Implemented)
4. A water rate structure designed to curb excessive use of water will be evaluated.	(Implemented)
5. Recommend to City Manager a program to incorporate water conserving landscape principles into future landscape development projects, including renovation of existing landscapes.	(Implemented)
6. Encourage the recycling of wastewater for selected industrial or irrigation purposes.	(Implemented)
7. Meters will be installed at all residential service connections and at all other service connections whose annual water use may exceed 300,000 gallons, including	(Implemented)

separate meters for municipally owned irrigation systems which irrigate more than one acre.	
8. A water utility will implement a water management review, which will result in a specified change in water management practices or implementation of a leak detection and repair program or plan, whenever the amount of unsold water (amounts of water provided free for public service, water loss, etc.) exceeds 20 percent and water loss at the R.O. Water Treatment plant exceeds 25 percent of the total source water for a four month time period.	(Implemented)
9. water sales will be based on the amount of water used.	(Implemented)

Regulation

The City of Abilene does have water conservation regulations in effect at the present time. From May 1 to September 30 each year there is a prohibition of outside watering between the hours of noon and 7 p.m. (Ordinance No. 3197, 5/12)

Abilene does have a plumbing code. The enforcement of any regulations to require use of any water conservation plumbing measures is ongoing. Most new homes and/or remodeling projects do include the use of water conservation toilets, washing machines and faucets.

Regulation Actions to be Taken	Target Date
1. All new or renovated construction will install toilets that use 1.6 gallons per flush or less and low flow showerheads that use 2.5 gallons per minute or less.	(Implemented)
2. Adopt a landscape water conservation ordinance.	(Implement late 2020)

DROUGHT RESPONSE

The City of Abilene addresses its short-term water shortage problems through a series of stages based on conditions of supply and demand with accompanying triggers, goals and actions. Each stage is more stringent in water use than the previous stage since water supply conditions are more deteriorated. The City Manager is authorized by ordinance to implement the appropriate conservation measures.

Stage 1: Water Watch

Goals

The goals of this stage are to heighten awareness of the public on water conditions and to maintain the integrity of the water supply system.

Triggers

This stage is triggered by any one of the following conditions:

1. Water production capacity is less than 20% greater than projected daily demand
2. Water storage is reduced by any one water tower during summer usage only this does not apply to spring, fall, and winter.
3. Water tower storage falls below 60% of maximum.

Education Actions

1. The City will make occasional news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming season.
2. Weekly summaries of precipitation, temperature, water levels in wells will be made public at the beginning of each week.
3. Water-saving tips will be shared with water utility customers.

Management Actions

1. Leaks will be repaired as soon as practical upon notification.

Regulation Actions

The public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e. wash full loads, take short showers, don't let faucets run, etc. (City Code 7-1004)

Stage 2: Water Warning

Goals

The goals of this stage are to reduce daily consumption by 30 percent and to reduce overall weekly consumption by 30 percent.

Triggers

This stage is triggered by any one of the following conditions:

1. Whenever the Governing Body finds that drought conditions or some other condition causing a major water supply shortage are present and supplies are starting to decline, it shall be empowered to declare, by resolution, that a Water Warning exists and that it will recommend restrictions on non-essential uses during the period of the Water Warning.
2. Water production capacity is equal to projected daily demand
3. Two water towers are out of service regardless of season.
4. Water tower storage falls below 50% of maximum

Education Actions

1. The City will make weekly news releases to the local media describing present conditions and indicating the water supply outlook for the upcoming week.
2. Bi-monthly summaries of precipitation, temperature, water levels in wells will be made public.
3. Water conservation articles will be provided to the local newspaper.
4. Water-saving tips will be available to water utility customers, online or printed copies are available at City Hall.

Management Actions

1. Upon declaration of a Water warning, the City Manager, or other designated official, is also authorized to implement certain mandatory conservation measures, including, but not limited to, the following.
 - a. The price is doubled for new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered by the City prior to the effective date of the declaration of the water warning.
 - b. The City will suspend washing of the City Fleet, hydrant flushing, and Water Tower draining and flushing for inspection.

- c. Restrictions on the uses of water in one or more classes of water use, as defined in Section 7-1002(d) of the City Code, wholly or in part.
 - d. The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per customer restrictions;
 - e. Complete ban on the waste of water.
 - f. Any combination of the measures in Sections 7-1005 of the City Code as the Governing Body, or authorized City official, may deem appropriate and/or necessary.
- 2. The City water supplies will be monitored daily.
 - 3. Leaks will be repaired as soon as possible upon notification.
 - 4. Pumping at wells will be reduced to decrease drawdown and to maintain water levels over well screens.

Regulation Actions

- 1. Upon declaration of a Water warning, the City Manager, or other designated official, is also authorized to implement certain mandatory conservation measures, including, but not limited to the following.
 - a. The price is doubled for new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered by the City prior to the effective date of the declaration of the water warning.
 - b. The City will suspend washing of the City Fleet, hydrant flushing, and Water Tower draining and flushing for inspection.
 - c. Restrictions on the uses of water in one or more classes of water use, as defined in Section 7-1002(d) of the City Code, wholly or in part.
 - d. The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per customer restrictions;
 - e. Complete ban on the waste of water.
 - f. Any combination of the measures in Sections 7-1005 of the City Code as the Governing Body, or authorized City official, may deem appropriate and/or necessary.

The public will be asked to curtail some outdoor water use and to make efficient use of indoor water, i.e. wash full loads, take short showers, don't let faucets run, etc. (City Code 7-1004)

Stage 3: Water Emergency

Goals

The goals of this stage are to reduce peak daily consumption by 50 percent and to reduce overall weekly consumption by 50 percent.

Triggers:

This stage is triggered by any one of the following conditions:

1. Whenever the Governing Body finds that an emergency exists by reason of a shortage of water supply needed for essential uses, it shall be empowered to declare, by resolution, that a Water Emergency exists and that it will impose mandatory restrictions on water use during the period of the Water Emergency.
2. Production capacity is less than daily projected demand
3. Three or more water towers are out of services regardless of season
4. Water tower storage falls below 35% maximum
5. Blend ratio outside 10% of nominal set points
6. Water table falls to historic lows references 2012 water table level

Education Actions

1. The City will make news releases as needed to the local media describing present conditions and indicating the water supply outlook.
2. Weekly summaries of precipitation, temperature, water levels in wells will be made public.
3. The City will hold public meetings as needed to discuss the emergency, the status of the City water supply and further actions, which may need to be taken.
4. Water conservation articles will be provided to the local newspaper.
5. Water-saving tips will be available to water utility customers, online or printed copies are available at City Hall.

Management Actions

1. The City water supplies will be monitored daily.
2. Leaks will be repaired as soon as possible upon detection.

3. Pumping at wells will be reduced to decrease drawdown and to maintain water levels over well screens.
4. The City will consider changing the blend ratio of the water to minimize the strain on the two well fields.
5. The City will begin coordination for emergency supplies from other users, the state or the federal government.
6. City will contact DWR for permission to restrict private well use to comply with The City's drought response regulations as authorized under K.S.A. 82a-733i.

Regulation Actions

These regulation actions apply to City residents (including private domestic well users, if authority is delegated by the Chief Engineer under K.S.A. 82a-733i.

1. Upon declaration of a Water Emergency as provided in Section 7-1003(c) of the City Code, the City Manager, or other designated official, is also authorized to implement certain mandatory conservation measures, including, but not limited to, the following:
 - a. Suspension of new connections to the City's water distribution system, except connections of fire hydrants and those made pursuant to agreements entered into by the City prior to the effective date of the declaration of the emergency.
 - b. The City will suspend washing of the City Fleet, hydrant flushing, and Water Tower draining and flushing for inspection.
 - c. Restrictions on the uses of water in one or more classes of water use, as defined in Section 7-1002(d) of the City Code, wholly or in part.
 - d. The imposition of water rationing based on any reasonable formula including, but not limited to, the percentage of normal use and per capita or per customer restrictions;
 - e. Complete ban on the waste of water.
 - f. Any combination of the measures in Sections 7-1005 of the City Code as the Governing Body, or authorized City official, may deem appropriate and/or necessary.
2. Upon the declaration of a Water Emergency as provided in Section 7-1003(c) of the City Code, the Governing Body shall have the power to adopt emergency water rates by ordinance designed to conserve water supplies. Such emergency rates may provide for, but, are not limited to:

- a. Higher charges for increasing usage per unit of use (increasing block rates);
- b. Uniform charges for water use per unit of use (uniform unit rate); or
- c. Extra charges in excess of a specified level of water use (excess demand surcharge).

PLAN REVISION, MONITORING & EVALUATION

The City of Abilene will establish a monthly management practice of reviewing monthly totals for water production, residential/commercial sales, water provided free-of-charge, and “unaccounted for water”. Problems noted during the monthly review will be solved as soon as possible. The City of Abilene will review and evaluate the GPCD goals to assess further actions and will provide a status report to DWR.

RESOLUTION NUMBER _____

A RESOLUTION AMENDING THE WATER CONSERVATION PLAN OF THE CITY OF ABILENE, KANSAS.

WHEREAS, the City of Abilene is subject to environmental and operational situations whereby water conservation is necessary and prudent; and

WHEREAS, the City of Abilene desires to amend and restate its Water Conservation Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF ABILENE, KANSAS:

Section 1. Water Conservation Plan. The Water Conservation Plan of the City of Abilene, Kansas, is hereby amended and restated in the form attached hereto as **Exhibit A**.

Section 2. Implementation. The City Manager shall be authorized to implement the Water Conservation Plan, in cooperation with area partners, as provided in the plan and in applicable resolutions, ordinances, and laws.

Section 3. Repeal. All former versions of the Water Conservation Plan are hereby repealed in their entirety.

Section 4. Effective Date. This Resolution shall take effect and be in force after its approval by the Governing Body.

Adopted by the Board of Commissioners and signed by the Mayor this ____ day of _____, 2020.

Chris Ostermann, Mayor

(SEAL)

ATTEST:

Penny L. Soukup, CMC, City Clerk

PERMANENT DRAINAGE EASEMENT

This Permanent Drainage Easement is made this ____ day of _____, 2020, by and between HIGHLAND HOMES, LP, a Nevada limited partnership, by authority of its general partner, Highland Builders, LLC, a Kansas limited liability company (the “Grantor”) and the CITY OF ABILENE, KANSAS, a municipal corporation, (the “City”):

GRANT: The Grantor, for good and valuable consideration, hereby conveys to the City a permanent drainage easement (the “Easement”) in, on, over, under, and through the real estate legally described and depicted on the attached and incorporated Exhibit A (the “Real Estate”) for the purposes of laying, constructing, operating, inspecting, altering, repairing, replacing, substituting, relocating, adding to, removing, and maintaining a culvert, storm sewer, drainage ditch, drainage channel/water course, detention basin, or other drainage facility tributary connections, storm water runoff control facilities, and appurtenant work in any part of the Easement, including the right to clean, repair, replace, and care for the drainage facilities, together with the right of access in, on, over, under, and through the Easement.

TERM: The Easement shall be perpetual.

OWNERSHIP: Grantor covenants that Grantor owns the Real Estate and has the right, title, and capacity to grant the Easement.

MODIFICATIONS: The City shall have the right to change the drainage channel/water course and to install additional sewer and/or drainage lines and facilities, or to replace the line or facilities with a larger line or facilities in the Easement at some future date and under the same conditions as the original drainage line or facilities were installed.

MAINTENANCE: The City covenants to maintain the Real Estate and keep the Real Estate free and clear of all trees, shrubs, vegetation, and materials which may impair the function or structural integrity of any sewer and/or drainage facility or appurtenance constructed pursuant to this Easement.

IMPROVEMENTS: Grantor shall neither construct nor permit to be constructed any structure, landscaping, trees, or obstruction on, over, or interfering with the construction, maintenance, or operation of any sewer and/or drainage facility or appurtenance constructed pursuant to this Easement.

SURFACE GRADE: Grantor shall neither alter nor permit others to alter the surface grade of the Real Estate without the prior written approval of the City.

BINDING EFFECT: The Easement shall be binding upon and shall run with the Real Estate.

IN WITNESS WHEREOF, the Grantor has executed this Permanent Drainage Easement effective as of the day and year written above.

HIGHLAND HOMES, LP

By: Highland Builders, LLC,
General Partner

By: _____
Dan Hopkins, Co-Manager

By: _____
Albert D. Huddleston, Co-Manager

ACCEPTANCE OF PERMANENT DRAINAGE EASEMENT

CITY OF ABILENE, KANSAS

Chris Ostermann, Mayor

ATTEST:

Penny L. Soukup, CMC, City Clerk

ACKNOWLEDGEMENTS

STATE OF _____, COUNTY OF _____, ss:

This instrument was acknowledged before me on _____, 2020, by Dan Hopkins and Albert D. Huddleston, as Co-Managers of Highland Builders, LLC, a Kansas limited liability company, and general partner of Highland Homes, LP, a Nevada limited partnership.

My appointment expires:

Notary Public
Printed name: _____

STATE OF KANSAS, COUNTY OF DICKINSON, ss:

This instrument was acknowledged before me on _____, 2020, by Chris Ostermann as Mayor and Penny L. Soukup, CMC, as City Clerk of the City of Abilene, Kansas.

My appointment expires:

Notary Public

Printed name: _____

[A real estate sales validation questionnaire is not required pursuant to K.S.A. 79-1437e(a)(13)]

EXHIBIT A
DESCRIPTION AND DEPICTION OF REAL ESTATE

POINT OF COMMENCEMENT

NE CORNER, NW 1/4, SE 1/4
SECTION 9, T-13-S, R-2-E

HOLM REAL ESTATE
ABILENE, LLC

POINT OF BEGINNING

'LAND HOMES, LP

HIGHLAND HOMES, LP

PERMANENT DRAINAGE
EASEMENT

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER;

THENCE ON AN ASSUMED BEARING OF S00°33'33"E ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 332.28 FEET TO THE NORTHEAST CORNER OF SAID SOUTH HALF, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID EAST LINE S00°33'33"E A DISTANCE OF 332.28 FEET TO THE SOUTHEAST CORNER OF SAID SOUTH HALF;

THENCE S89°47'42"W ALONG THE SOUTH LINE OF SAID SOUTH HALF A DISTANCE OF 222.15 FEET;

THENCE N00°04'05"W A DISTANCE OF 126.75 FEET;

THENCE N89°55'55"E A DISTANCE OF 129.30 FEET;

THENCE N00°04'05"W A DISTANCE OF 205.62 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTH HALF;

THENCE N89°39'30"E ALONG SAID NORTH LINE A DISTANCE OF 90.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 167.38 SQUARE FEET, 1.073 ACRES MORE OR LESS, SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS NOW OF RECORD.



Scale: 1"=100'

OLSSON[®]
ASSOCIATES
May 4, 2020

302 S. 4th Street, Suite 110
Manhattan, Kansas 66502

TEL 785.539.6900
FAX 785.539.6901

www.olssonassociates.com

POINT OF COMMENCEMENT

NE CORNER, NW 1/4, SE 1/4
SECTION 9, T-13-S, R-2-E

HIGHLAND HOMES, LP

HIGHLAND HOMES, LP

POINT OF BEGINNING

N89°47'42"E 222.15'

N00°33'33"W
664.57'

D HOMES, LP

HIGHLAND HOMES, LP

N00°04'05"W 331.74'

S00°33'33"E 332.28'

S89°55'55"W 225.00'

CITY OF
ABILENE

PERMANENT DRAINAGE
EASEMENT

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER;
THENCE ON AN ASSUMED BEARING OF S00°33'33"E ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 664.57 FEET TO THE NORTHEAST CORNER OF SAID NORTH HALF, SAID POINT ALSO BEING THE POINT OF BEGINNING;
THENCE CONTINUING ALONG SAID EAST LINE S00°33'33"E A DISTANCE OF 332.28 FEET TO THE SOUTHEAST CORNER OF SAID NORTH HALF;
THENCE S89°55'55"W ALONG THE SOUTH LINE OF SAID NORTH HALF A DISTANCE OF 225.00 FEET;
THENCE N00°04'05"W A DISTANCE OF 331.74 FEET TO A POINT ON THE NORTH LINE OF SAID NORTH HALF;
THENCE N89°47'42"E ALONG NORTH LINE LINE A DISTANCE OF 222.15 FEET TO THE POINT OF BEGINNING.
CONTAINS 1.704 ACRES MORE OR LESS, SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS NOW OF RECORD.



Scale: 1"=100'

OLSSON
ASSOCIATES[®]

May 4, 2020

302 S. 4th Street, Suite 110
Manhattan, Kansas 66502

TEL 785.539.6900
FAX 785.539.6901

www.olssonassociates.com

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement is made this ____ day of _____, 2020, by and between HIGHLAND HOMES, LP, a Nevada limited partnership, by authority of its general partner, Highland Builders, LLC, a Kansas limited liability company (the “Grantor”) and the CITY OF ABILENE, KANSAS, a municipal corporation, (the “City”):

GRANT: The Grantor, for good and valuable consideration, hereby conveys to the City, a temporary construction easement (the “Easement”) in, on, over, under, and through the real estate legally described and depicted on the attached and incorporated Exhibit A (the “Real Estate”) for all rights of ingress and egress of the City, its employees, contractors, and agents, for the purposes of constructing, installing, improving, and inspecting a storm water detention basin, storm water runoff control facilities and related drainage facilities on a portion of Grantor’s adjacent real property, as authorized pursuant to a separate written Permanent Drainage Easement between Grantor and the City of even date herewith (the “Project”) in the manner called for in the project plans, including but not limited to transporting, stockpiling, and storing of construction materials, soil, equipment, and vehicles used in connection with the Project. In addition, Grantor shall be entitled to dispose of excavated soil from the Project on and over the Real Estate, subject to Grantee’s obligations to grade and restore the Real Estate as set forth below.

GRADING: After completion of construction of the Project, Grantee shall grade the Real Estate to drain into the Project in the manner called for in the project plans. NOTE: project plans to be provided to Grantor prior to commencement of construction.

RESTORATION: After completion of construction of the Project, the City shall restore the area of the Easement to substantially the same condition in which it existed prior to the City’s use, subject only to changes in the grading of the Real Estate as set forth above.

TERM: The Easement shall be for a term of eighteen (18) months commencing on the Effective Date of this Temporary Construction Easement.

OWNERSHIP: Grantor covenants that it owns the Real Estate and has the right, title, and capacity to grant the Easement.

MAINTENANCE: Grantor acknowledges that the Easement shall not affect the Grantor’s obligation to maintain the Real Estate.

SURFACE GRADE: During the term of this Temporary Construction Easement, Grantor shall neither alter nor permit others to alter the surface grade of the Real Estate without the prior written approval of the City.

BINDING EFFECT: The Easement shall be binding upon and shall run with the Real Estate.

IN WITNESS WHEREOF, the Grantor has executed this Temporary Construction Easement effective as of the day and year written above.

HIGHLAND HOMES, LP

By: **Highland Builders, LLC,**
General Partner

By: _____
Dan Hopkins, Co-Manager

By: _____
Albert D. Huddleston, Co-Manager

ACCEPTANCE OF TEMPORARY CONSTRUCTION EASEMENT

CITY OF ABILENE, KANSAS

Chris Ostermann, Mayor

ATTEST:

Penny L. Soukup, CMC, City Clerk

ACKNOWLEDGEMENTS

STATE OF _____, COUNTY OF _____, ss:

This instrument was acknowledged before me on _____, 2020, by Dan Hopkins and Albert D. Huddleston, as Co-Managers of Highland Builders, LLC, a Kansas limited liability company, and general partner of Highland Homes, LP, a Nevada limited partnership.

My appointment expires:

Notary Public
Printed name: _____

STATE OF KANSAS, COUNTY OF DICKINSON, ss:

This instrument was acknowledged before me on _____, 2020, by Chris Ostermann as Mayor and Penny L. Soukup, CMC, as City Clerk of the City of Abilene, Kansas.

My appointment expires:

Notary Public

Printed name: _____

[A real estate sales validation questionnaire is not required pursuant to K.S.A. 79-1437e(a)(13)]

EXHIBIT A
DESCRIPTION AND DEPICTION OF REAL ESTATE

POINT OF COMMENCEMENT

NE CORNER, NW 1/4, SE 1/4
SECTION 9, T-13-S, R-2-E

HIGHLAND HOMES, LP

POINT OF BEGINNING

HIGHLAND HOMES, LP

S89°47'42"W 375.00'

S89°47'42"W 222.15'

N00°33'33"W
664.57'

N00°04'05"W 330.84'

HIGHLAND HOMES, LP

S00°04'05"E 331.74'

HIGHLAND HOMES, LP

S89°55'55"W 375.00'

TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NORTH HALF OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER;
THENCE ON AN ASSUMED BEARING OF S00°33'33"E ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 664.57 FEET TO THE NORTHEAST CORNER OF SAID NORTH HALF;
THENCE S89°47'42"W ALONG THE NORTH LINE OF SAID NORTH HALF A DISTANCE OF 222.15 FEET TO THE POINT OF BEGINNING;
THENCE S00°04'05"E A DISTANCE OF 331.74 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTH HALF;
THENCE S89°55'55"W ALONG SAID SOUTH LINE A DISTANCE OF 375.00 FEET;
THENCE N00°04'05"W A DISTANCE OF 330.84 FEET TO A POINT ON THE NORTH LINE OF SAID NORTH HALF;
THENCE N89°47'42"E ALONG SAID NORTH LINE A DISTANCE OF 375.00 FEET TO THE POINT OF BEGINNING.
CONTAINS 124,234 SQUARE FEET, 2.852 ACRES MORE OR LESS.
SUBJECT TO EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.



Scale: 1"=100'

OLSSON
ASSOCIATES

302 S. 4th Street, Suite 110
Manhattan, Kansas 66502

TEL 785.539.6900
FAX 785.539.6901

www.olssonassociates.com

POINT OF COMMENCEMENT

NE CORNER, NW 1/4, SE 1/4
SECTION 9, T-13-S, R-2-E

POINT OF BEGINNING

S89°39'30"W
90.00'

S00°33'33"E
332.28'

N89°39'30"E 504.31'

S00°04'05"E 205.62'

N00°04'05"W 330.86'

S89°55'55"W 129.30'

S00°04'05"E
126.75'

S89°47'42"W 375.00'

TEMPORARY CONSTRUCTION EASEMENT

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE SOUTH HALF OF THE NORTH HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 13 SOUTH, RANGE 2 EAST OF THE SIXTH PRINCIPAL MERIDIAN, DICKINSON COUNTY, KANSAS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SOUTHEAST QUARTER;
THENCE ON AN ASSUMED BEARING OF S00°33'33"E ALONG THE EAST LINE OF SAID NORTHWEST QUARTER A DISTANCE OF 332.28 FEET TO THE NORTHEAST CORNER OF SAID SOUTH HALF;
THENCE S89°39'30"W ALONG SAID NORTH LINE A DISTANCE OF 90.00 FEET TO THE POINT OF BEGINNING;
THENCE S00°04'05"E A DISTANCE OF 205.62 FEET;
THENCE S89°55'55"W A DISTANCE OF 129.30 FEET;
THENCE S00°04'05"E A DISTANCE OF 126.75 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTH HALF;
THENCE S89°47'42"W ALONG SAID SOUTH LINE A DISTANCE OF 375.00 FEET;
THENCE N00°04'05"W A DISTANCE OF 330.86 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTH HALF;
THENCE N89°39'30"E ALONG SAID NORTH LINE A DISTANCE OF 504.31 FEET TO THE POINT OF BEGINNING.
CONTAINS 150,788 SQUARE FEET, 3.462 ACRES MORE OR LESS.
SUBJECT TO ANY EASEMENTS, RESTRICTIONS AND RESERVATIONS OF RECORD.



Scale: 1"=100'

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May 4, 2020



CITY OF ABILENE
Item for City Commission Agenda

Meeting Date:

4/23/2020

Originating Department

Prepared By:

Approved For Agenda By:
(Office Use Only)

Planning and Zoning

Clinton J. Franey – Director

AGENDA ITEM HEADING:

Raising Backyard Chickens within Abilene City Limits

BACKGROUND:

Currently it is prohibited to raise poultry in the City of Abilene. On October 12, 2018 the city Held a meeting to discuss a potential change to allow poultry. 355 people attended this forum.

- 57.3% expressed interest in raising chickens, 42.7% did not express interest
- 72.5% were in favor of allowing their neighbors to raise chickens, 24.4% were not in favor.
- Food sustainability, education, and environmental stability were the top three reasons people wanted to raise chickens.
- People have concerns over, odor, unsightly coops, the attraction of wildlife and varmints, and noise.
- Roosters will not be allowed
- Communities around Abilene allow backyard chickens and have not had many issues according to their nuisance officers.
- A draft ordinance has been prepared.

FISCAL NOTE:

The allowance of backyard chickens should not have a noticeable impact on the budget or staffing.

COMMISSION ACTION OPTIONS:

1. The commission can approve the ordinance.
2. Approve the ordinance with amendments.
3. Deny the ordinance.
4. Table the ordinance.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 4 OF THE CITY CODE OF THE CITY OF ABILENE, KANSAS BY AMENDING EXISTING SECTION 4-117 AND ADDING A NEW SECTION 4-124 TO PERMIT THE KEEPING OF CHICKENS WITHIN THE CITY OF ABILENE, KANSAS.

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

SECTION 1. Section 4-117 of the City Code of the City of Abilene, Kansas is hereby amended to read as follows:

4-117. Prohibited animals.

It shall be unlawful to keep, harbor, own or in any way possess:

- (a) Any domestic livestock or fowl, including but not limited to cattle, swine, horses, mules, sheep, goats, chickens, ducks, geese and turkeys, except that:
 - (1) registered purebred miniature Vietnamese pot-bellied pigs and other similar registered purebred miniature pigs may be maintained within the city limits, subject to the conditions stated in Section 4-123 below; and
 - (2) permitted chickens may be maintained within the city limits, subject to the conditions stated in Section 4-124 below.
- (b) Any warm-blooded, carnivorous, or omnivorous, wild or exotic animals (including, but not limited to nonhuman primates, raccoons, skunks, foxes and wild and exotic cats but excluding fowl, ferrets and small rodents or varieties used for laboratory purposes).
- (c) Any animal having poisonous bites.
- (d) Any pit bull dog.

SECTION 2. Article 1 of Chapter 4 of the City Code of the City of Abilene, Kansas is hereby amended by adding a new Section 4-124, to read as follows:

4-124. Exception; chickens.

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

- (a) Definitions.
 - (1) *Permittee* means a person to whom a permit has been issued by the city under this section.
 - (2) *Chicken* means an individual animal of the species *Gallus gallus domesticus*.
 - (3) *Hen* means the female chicken.
 - (4) *Rooster* means a male chicken.
- (b) Permit required. No person shall own, keep, or harbor a chicken within the city limits without a permit issued pursuant to this section.
- (c) Locations permitted. Only persons residing in residential zoning districts shall be eligible for a permit under this section.

- (d) Number allowed. A permittee shall not own, keep, or harbor more than six (6) hens, unless the permittee's dwelling is situated upon more than one (1) acre, in which case the permittee shall be allowed to own, keep, and harbor an additional three (3) hens for each full additional one (1) acre of property that is under the permittee's control and possession.
- (e) Roosters prohibited. It shall be unlawful to own, keep, or harbor a rooster within the city limits.
- (f) Setbacks. Coops and cages housing hens shall not be located within:
 - (1) twenty-five (25) feet from the door or window of any dwelling or occupied structure other than the permittee's dwelling;
 - (2) five (5) feet of a side or rear yard lot line;
 - (3) in a front yard; or
 - (4) ten (10) feet of the permittee's principal dwelling.
- (g) Enclosures. Hens shall be provided with a covered, predator-proof coop or cage that is well ventilated and designed to be easily accessed for cleaning. The coop or cage shall allow at least two (2) square feet of space per hen. Any coop or cage exceeding 100 square feet in size shall be considered an accessory structure as defined in the Zoning Regulations and must meet all standards outlined therein. Hens shall have access to an outdoor enclosure that is adequately fenced to contain the birds on the permittee's property and to prevent predators from accessing the birds.
- (h) Sanitation. The coop or cage, and the outdoor enclosure, must be kept in a sanitary condition and free from offensive odors. The coop or cage, and the outdoor enclosure, must be cleaned at least once each week to prevent the accumulation of waste.
- (i) Slaughtering. No person shall engage in the outdoor slaughtering of chickens. The remnants from slaughtering shall be properly disposed of, in accordance with applicable laws.
- (j) Permit applications.
 - (1) Each applicant seeking to obtain a permit under this section shall apply for a permit in writing on such form as the city clerk may prescribe, and shall pay a non-refundable fee to the city clerk in the amount of \$25.00.
 - (2) Each application for a permit shall be signed by the applicant, who shall be at least eighteen (18) years old, and who shall be in actual control or possession of the dwelling on the subject property. The application shall include or be accompanied by the following information:
 - i. The name, address, telephone number, and date of birth of the applicant.
 - ii. A description of the location and size of the subject property.
 - iii. The number of hens the applicant proposes to keep on the subject property.
 - iv. A description and precise dimensions of the coop(s) or cage(s) and outdoor enclosure(s) to be maintained on the subject property, along with a description or depiction of the precise location(s) of these enclosures in relation to the property lines and adjacent properties.
 - v. If the applicant proposes to keep hens in the yard of a multi-family dwelling, the applicant must include a signed statement from the owner(s) and all tenants of the multi-family dwelling, indicating their consent to the applicant's proposal for keeping hens on the premises.

- vi. Such other information as is required by this chapter or reasonably required by the city to determine the applicant's eligibility and qualifications for a permit in accordance with the criteria, standards, and qualifications set forth in this section.
- (k) Issuance or denial of permit.
 - (1) The city clerk shall process each valid and administratively complete application for a permit within ten (10) business days.
 - (2) No permit shall be approved for any person ineligible pursuant to the provisions of this section.
 - (3) No permit shall be approved for any person who has been convicted, or who resides with any person in the subject property who has been convicted, of a crime related to maltreatment, mistreatment, neglect, or cruelty to any animal.
- (l) Duration of initial permit; renewal.
 - (1) Any permit issued pursuant to this article shall be for a term of the remainder of the calendar year in which the permit is issued. A permit may be renewed by making timely payment of an annual renewal fee in the amount of \$25.00 to the city clerk on or before December 31 of each calendar year. If the annual renewal fee is not made during the time provided herein, the permit shall expire on December 31 and a new application shall be required.
 - (2) A permit issued under this section may be revoked or temporarily suspended by the city manager for any of the following reasons:
 - i. Violation of or failure to comply with any provision of this section, or any other provision in this code or applicable city ordinances; or
 - ii. Fraud, misrepresentation, or false statement contained in the application for the permit.
- (m) Appeal. Any person aggrieved by the city clerk's denial of an initial permit application, or a decision of the city manager to suspend or revoke a permit, shall have the right to appeal such decision to the city commission within ten (10) days after the notice of the action or decision has been mailed to the applicant or the permittee, as applicable. An appeal to the city commission shall be taken by filing with the city clerk a written statement setting forth the grounds for the appeal. An appeal shall be considered by the city commission at a regular meeting to be held within fifteen (15) days of receipt of the written appeal. The city commission may affirm, overrule, or modify the decision. Any person aggrieved by the city commission's decision on appeal may seek judicial review in a manner provided by law.
- (n) Inspection. As a condition of the permit, the permittee agrees to the entry and inspection of any premises, building, enclosure, or other premises where the hens are kept or allowed to inhabit. Such inspection shall be conducted at reasonable times, with or without notice, by such city representatives designated by the city manager as being responsible for administration of this section.
- (o) Transferability. A permit issued under this section shall not be assignable or transferable under any circumstances from one person to another person.
- (p) Penalty. A violation of this section shall constitute a class C violation. Any person who shall be convicted in municipal court of violating any provision of this section shall be punished by a fine of not more than \$500.00. Each day that a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation.

SECTION 3. Existing Section 4-117 is hereby repealed.

SECTION 4. This ordinance shall be in full force and effect from and after its adoption and publication once in the official city newspaper by the following summary:

Ordinance No. _____ Summary

On _____, 2020, the City Commission passed Ordinance No. _____. The ordinance amends Chapter 4 of the City Code of the City of Abilene, Kansas by amending existing Section 4-117 and adding a new Section 4-124 to permit the keeping of chickens within the City of Abilene, Kansas, subject to a permitting requirement and regulations as set forth in the ordinance. 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 ____ day of _____, 2020.

Chris Ostermann, Mayor

Attest:

Penny L. Soukup, CMC, City Clerk

The publication summary set forth above is certified this ____ day of _____, 2020.

Aaron O. Martin, City Attorney



Dickinson County
Economic Development Corporation
P.O. Box 462
203 NW 15th
Abilene, KS 67410
785-200-3518
785-200-3820 Fax

April 30, 2020

City Commissioners
City of Abilene, KS
P.O. Box 519
Abilene, KS 67410

Commissioners:

I have reviewed the request from New Horizon Hemp Processing, LLC and believe that it meets the requirements for the City of Abilene's Industrial Land Funding Policy based on the following minimum policy requirements:

1. Estimated capital investment of \$850,000.00
2. 5 new full-time employees.
3. Base wage for each of the 5 new employees of at least \$20.00 per hour.

New Horizon Hemp Processing, LLC is a fully integrated manufacturing company in an emerging industry. They have been able to build a vertical operation and supply chain located entirely in the State of Kansas and mostly within Dickinson County. They are just beginning to introduce products to the market which can be distributed nationally and potentially internationally, which will benefit the City of Abilene through increased employment and capital investment as well as increased sales and ad valorem tax revenue.

Based on New Horizon Hemp Processing, LLC, meeting the minimum requirements of the City of Abilene's Industrial Land Funding Policy and having provided all documents requested in the policy, I would recommend that the City Commission for the City of Abilene, Kansas consider approving the free land benefit request from the company.

Sincerely,

Chuck Scott, Executive Director