

ORDINANCE NO. 3265

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS
AMENDING SECTION 70-7 OF THE CODE OF THE CITY OF
MCPHERSON, KANSAS RELATING TO RIGHT OF WAY
PERMITS.**

WHEREAS, the City Code allows for the imposition of fees for boring in City-owned rights of way under certain circumstances; and

WHEREAS, the staff has determined that Code does not adequately cover all necessary circumstances and at times there are less expensive alternatives that serve the City needs; and

WHEREAS, the governing body desires to amend the Code to rectify the current system.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS:

Section 1. Amendment of Code Section. From and after the effective date of this Ordinance, existing Code Section 70-7 is hereby deleted in its entirety and in its place the following is inserted:

Sec. 70-7. Permit for Boring in Right of Way.

- (a) Any party that desires to underground bore any line or service that will cross or parallel, as defined below, a City sanitary or storm sewer line ("City Line"), in or through existing City Rights of Way shall first submit plans for approval to the Public Works Department at least five (5) business days before the desired start date. The Public Works Director or designee shall review the plans and indicate approval or denial within five (5) business days of receipt of the final plans. The time for review shall not begin until the Public Works Director has received plans in sufficient detail to make the necessary review. Any denial shall include the reason(s) for the denial. Upon payment of the permit fee, as set from time to time by resolution of the governing body, and an acceptable written indemnity provided to the City for any damage caused, a permit shall be issued for all approved work. The permit fee shall be assessed per crossing and per parallel

segment. A parallel segment is the line from manhole to manhole. Permits issued under this section shall be required when boring operations:

- (1) cross within three (3) vertical feet of a City Line during a horizontal bore; or
 - (2) cross within five (5) vertical feet of a City Line during a non-horizontal bore; or
 - (3) parallel a City Line within three (3) horizontal feet.
- (b) In order to determine if damage has occurred to a City Line, the permit holder shall have the City Line video inspected by the City, or by a contractor acceptable to the City. The permit holder shall be solely responsible for payment of the video contractor. The permit holder may elect to pothole or open dig the City Line (“Pothole”); however, the City Line must be exposed in the same hole, for inspection by City staff. In the event a City Line cannot be inspected by video, in the sole discretion of the City Public Works Director, potholing of the City Line will be required.
- (c) With a Pothole inspection or an approved contractor provided video inspection, a seventy percent (70%) refund of the permit fee will be to the permit holder if the result of the visual inspection reasonably assures the City Line has not been damaged. There will be no refund for City conducted video inspection because of the increased cost. Any damage shown by the Pothole inspection shall first be paid from the seventy percent (70%) of the permit fee with the remaining damage paid under the indemnification agreement required above.

Section 2. Repeal. All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

Section 3. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city’s website in compliance with K.S.A. 12-3007(b).

ADOPTED by the governing body this _____ day of _____,
2018.

CITY OF MCPHERSON, KANSAS

Thomas A. Brown, Mayor

[SEAL]

Attest:

Tamra K. Seely, City Clerk

Ordinance No. 3265, Summary

On February 19, 2018, the City of McPherson, Kansas adopted Ordinance No. 3265 amending Section 70-7 of the Code of the City of McPherson, Kansas relating to Right of Way permits. A complete copy of this Ordinance is available at www.mcpcity.com or at the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary.