



OPELIKA CITY COUNCIL
“ REGULAR MEETING MINUTES “
204 South 7th Street
June 18, 2019
TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order at 7:06pm and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman called the roll and all council members were present.

1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

Minister Garner provided the invocation.

1. Minister Clayton Garner from the New Birth Ministries.

4. Pledge of Allegiance

Daniel lead the Pledge of Allegiance.

1. Daniel Wright with Boy Scout Troop no. 218.

5. Reading of Minutes

1. Minutes from the 6-04-19 City Council meeting.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Dozier Smith T, Council Member
SECONDER:	David Canon, Council Member
AYES:	Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller was absent due to an economic development trip.

1. City financial summary report for May 2019.

Joey Motley, City Administrator, passed out copies of the City financial summary for May 2019 to the Council members.

2. May 2019 Monthly Building Inspection Reports

Mr. Motley provided a summary of the May 2019 building permit report.

3. Presentation of an Employee Performance Award - Bob Parsons OFD.

Mr. Motley and Fire Chief Byron Prather presented a performance award.

8. Citizen Communications

(Limit comments to five minutes or less)

9. Report of Disbursements

10. Committee Reports

11. General Business

1. Request from Sunoco Food Mart for a Beer and Wine Off Premise License.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Chamber request for the 2019 Christmas parade.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Public Hearing, Amend Zoning Ord & Map: Rezone 2 Acres, 2400 Block Dunlop Drive. Mr. Shuman announced the public hearing for said amendment to the zoning ordinance and map. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said rezoning. No one came forward to speak. President Smith closed the public hearing.

12. Awarding of Bids

1. Bids 160-19 Reject all bids for removal of Dead, Dying, or Dangerous Trees and Stumps with Tree Pruning-ENG

Mr. Smith T made the motion to remove the original resolution to award the bid for tree removal from the agenda and was seconded by Ms. Pitts. The following vote was recorded:

Aye Jones, Pitts, Smith T, Canon, Smith.

Nay None.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

13. Resolutions

1. Resolution 161-19 Expense reports from various departments.

RESULT: **APPROVED [4 TO 0]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon
ABSTAIN: Eddie Smith

2. Resolution 162-19 Designate City Personal Property Surplus and Authorize Disposal

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Resolution 163-19 Purchase-Cameras for Cov Rec Ctr-Natl IPA Contr-P&R

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Resolution 164-19 Purchase-Disk Storage for City Cameras-Natl IPA Contr-IT

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Resolution 165-19 Hanwha Tax Abatement

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Resolution 166-19 West Fraser Tax Abatement

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

7. Resolution 167-19 Budget adjustment for advertising expense - City Clerk.

RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

8. Resolution 168-19 Grant Application, Pepperell Watershed Phase II.

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

14. Ordinances

1. Ordinance 011-19-ORD Change the November 19, 2019 city council meeting date - 2nd Reading.

RESULT: SECOND READING AND APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Ordinance Amend Zoning Ord & Map: Rezone 2 Acres, 2400 Block Dunlop Drive - 2nd Reading

Mr. Canon introduced this ordinance.

RESULT: FIRST READING INTRODUCED

3. Ordinance Conveyance of the West Side of Dunlop Drive to John a Stewart - 2nd Reading.

Ms. Pitts introduced this ordinance.

RESULT: FIRST READING INTRODUCED

4. Ordinance Amend City Code, Chapter 5.5 Article III, wireless telecommunications - 2nd Reading.

Mr. Smith T introduced this ordinance.

RESULT: FIRST READING INTRODUCED

15. Appointments

16. Adjourn

The City Council meeting minutes of June 18, 2019 are hereby adopted and approved this the 2nd day of July, 2019.

/s/ Eddie Smith

President of City Council

City of Opelika, Alabama

ATTEST:

/s/ R. G. Shuman

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Motion to adjourn

This council meeting adjourned at 7:28 pm.

RESULT: APPROVED [UNANIMOUS]

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

CM MINUTES (ID # 3513)

Meeting: 06/18/19 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:
DOC ID: 3513

Minutes from the 6-04-19 City Council meeting.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith



OPELIKA CITY COUNCIL “REGULAR MEETING MINUTES”

204 South 7th Street

June 4, 2019

TIME: 7:00 PM

1. Call to Order

President Smith called the council meeting to order at 7:00pm and asked Mr. Shuman to call the roll.

2. Roll Call

Mr. Shuman called the roll and all council members were present.

1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith

3. Invocation

Pastor Derek Thomas from the Global Impact Church gave the invocation.

4. Pledge of Allegiance

Mr. Woody Odom, leader of Troop 858 and Boy Scout Chip Odom lead the Pledge of Allegiance.

5. Reading of Minutes

1. Minutes from the 5-21-19 city council meeting.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: David Canon, Council Member

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Unfinished Business

7. Remarks By the Mayor

Mayor Fuller advised the Pepperell Branch Stream Water Shed group will meet downtown next Thursday June 13th.

Mayor Fuller congratulated Patrick McMenamin for being selected as a summer intern for Congress Rogers in Washington DC.

1. April 2019 City financial summary.

Mayor Fuller passed out copies of the April 2019 City financial summary to each of the council members.

8. Citizen Communications

(Limit comments to five minutes or less)

District 38 Representative Debbie Wood provided an overview of the last Alabama legislative session in Montgomery, explaining what was approved and what failed. Representative Wood also passed out a hard copy of the overview to Mayor Fuller and each Council member.

9. Report of Disbursements

10. Committee Reports

11. General Business

Generated 6/7/2019 4:01 PM

Attachment: CM 6-18-19, minutes from 6-04-19 CM. (3513 : Minutes from the 6-04-19 City Council meeting.)

1. Request by James Bros. Bikes, Retail Beer On and Off Premise license.

RESULT: APPROVED [UNANIMOUS]

MOVER: Tiffany Gibson-Pitts, Council Member

SECONDER: Dozier Smith T, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Public Hearing - Weed Abatement Assessment - 100 North 17Th Place

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$255.55. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. Shannon Wiggins stated she purchased this property through foreclosure. She stated the weed abatement occurred during the 10 period that she was not allowed on the property. She asked that the City to waive the assessment fee. Guy Gunter advised the City Council that title to said property thru foreclosure does not pass for three years. Mr. Gunter stated the weed abatement was legal per State Law.

3. Public Hearing - Weed Abatement Assessment - 204 S. 1St St

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$101.10. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

4. Public Hearing - Weed Abatement Assessment - 308 Brannon Ave

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$234.85. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

5. Public Hearing - Weed Abatement Assessment - 407 Hunter Street

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$243.60. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

6. Public Hearing - Weed Abatement Assessment - 504 S 4Th St.

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$513.34. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

7. Public Hearing - Weed Abatement Assessment - 509 1St Avenue

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$263.60. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

8. Public Hearing - Weed Abatement Assessment - 901 Lake Condly Rd.

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$408.34. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

9. Public Hearing - Weed Abatement Assessment - 1109 Magnolia St.

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$210.37. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

10. Public Hearing - Weed Abatement Assessment - 1640 Parker Way

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$1,035.75. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

11. Public Hearing - Weed Abatement Assessment - 1733 1St Ave

Mr. Shuman stated the public hearing was for the weed abatement assessment at said address in the amount of \$190.50. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said assessment. No one came forward to speak.

12. Awarding of Bids

1. Bids 136-19 Temporary Personnel Services - VAR

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Bids 137-19 Custodial Services - Sportsplex - P&R

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

13. Resolutions

1. Resolution 138-19 Expense reports from various departments.

RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Resolution 139-19 Designate City Personal Property Surplus and Authorize Disposal

RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Resolution 140-19 Weed Abatement Assessment - 100 North 17Th Place

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Resolution 141-19 Weed Abatement Assessment - 204 S. 1St Place

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Resolution 142-19 Weed Abatement Assessment - 308 Brannon Ave

RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Resolution 143-19 Weed Abatement Assessment - 407 Hunter Street

RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

7. Resolution 144-19 Weed Abatement Assessment - 504 S 4Th St.

- RESULT:** APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
8. Resolution 145-19 Weed Abatement Assessment - 509 1st Avenue
RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
9. Resolution 146-19 Weed Abatement Assessment - 901 Lake Condry Rd.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
10. Resolution 147-19 Weed Abatement Assessment - 1109 Magnolia St
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
11. Resolution 148-19 Weed Abatement Assessment - 1640 Parker Way
RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
12. Resolution 149-19 Weed Abatement Assessment - 1733 1st Ave
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
13. Resolution 150-19 Request by Verizon Wireless for a special use permit extension at 269 Lee Road 711.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
14. Resolution 151-19 Agreement for architect services for Library project.
RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
15. Resolution 152-19 Professional Services Contract with Seely & Long Assoc. Inc.

- RESULT:** APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
16. Resolution 153-19 Mutual Aid Assistance Memorandum with Fort Benning.
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
17. Resolution 154-19 Contract with Casey Chambley, D/B/A Chambley's Display Fireworks.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: Tiffany Gibson-Pitts, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
18. Resolution 155-19 Special Appropriation to the EAMC Foundation.
RESULT: APPROVED [4 TO 0]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Patricia Jones, Tiffany Gibson-Pitts, David Canon, Eddie Smith
ABSTAIN: Dozier Smith T
19. Resolution 156-19 Special appropriation to P&R for Bandy Day on June 29th.
RESULT: APPROVED [UNANIMOUS]
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
20. Resolution 157-19 Access and use agreement with Point Broadband - IT Dept.
RESULT: APPROVED [UNANIMOUS]
MOVER: David Canon, Council Member
SECONDER: Dozier Smith T, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
21. Resolution 158-19 Agreement for engineering services with CDG for Pepperell Pkwy MPO - Eng.
RESULT: APPROVED [UNANIMOUS]
MOVER: Dozier Smith T, Council Member
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
22. Resolution 159-19 Special appropriation to Zimmer Biomet LPGA Championship.
RESULT: APPROVED [UNANIMOUS]
MOVER: Patricia Jones, President Pro-Tem
SECONDER: David Canon, Council Member
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith
14. Ordinances
 1. Ordinance Change the November 19, 2019 city council meeting date - 1st Reading.
 Mr. Canon introduced this ordinance for a first reading.

RESULT: FIRST READING INTRODUCED

15. Appointments

1. Appoint Jay Stern to Celebrate Ala. Cooperative District. Term expires 8-27-20.

RESULT: APPROVED [UNANIMOUS]**MOVER:** David Canon, Council Member**SECONDER:** Tiffany Gibson-Pitts, Council Member**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

2. Reappoint Jarad Scher to the Celebrate Ala. Improvement District. Term expires 8-05-25.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Patricia Jones, Dozier Smith T**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

3. Reappoint Cecil Morgan to the Celebrate Ala. Improvement District. Term expires 8-05-25.

RESULT: APPROVED [UNANIMOUS]**MOVER:** David Canon, Council Member**SECONDER:** Dozier Smith T, Council Member**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

4. Appoint Bill Parker Jr. to the Indian Pines Rec. Authority. Term expires 6-07-23.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Patricia Jones, President Pro-Tem**SECONDER:** David Canon, Council Member**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

5. Appoint Aesha Gentry to the LRCOG / MPO-Citizen Advisory Committee. Term expires 11-05-20.

RESULT: APPROVED [UNANIMOUS]**MOVER:** Dozier Smith T, Council Member**SECONDER:** Tiffany Gibson-Pitts, Council Member**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

6. Appoint Michael Carter to the Property Maint. Board of Appeals. Term expires 3-16-22.

RESULT: APPROVED [UNANIMOUS]**MOVER:** David Canon, Council Member**SECONDER:** Dozier Smith T, Council Member**AYES:** Jones, Gibson-Pitts, Smith T, Canon, Smith

16. Adjourn

The City Council meeting minutes of June 4, 2019 are hereby adopted and approved this the _____ day of _____, 2019.

/s/

President of City Council

City of Opelika, Alabama

ATTEST:

/s/

R. G. "Bob" Shuman, CMC

City Clerk - Treasurer

1. Motion to adjourn.

Ms. Pitts thanked Mayor Fuller, Joey Motley and Mike Hilyer for riding thru Ward 2 and to see the weed and trash problems and for their support.

The council meeting adjourned at 7:39 pm.

RESULT: **APPROVED [UNANIMOUS]**

MOVER: Patricia Jones, President Pro-Tem

SECONDER: Tiffany Gibson-Pitts, Council Member

AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

Attachment: CM 6-18-19, minutes from 6-04-19 CM. (3513 : Minutes from the 6-04-19 City Council meeting.)

**City Council**

204 South 7Th Street
Opelika, AL

SCHEDULED**MAYOR'S REMARKS (ID # 3531)**

Meeting: 06/18/19 07:00 PM

Department: City Clerk

Category: City Financial Statements

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3531

City financial summary report for May 2019.

COMMENTS - Current Meeting:

Joey Motley, City Administrator, passed out copies of the City financial summary for May 2019 to the Council members.

City of Opelika
 Combined Balance Sheet - All Funds and Account Groups
 May 31, 2019
**Thousands of dollars*

Governmental Funds										
					Garden Hills					
	General Fund	Special Revenue Funds	Debt Service Funds	Capital Project Funds	Cemetery Permanent Fund	Internal Service Funds	Enterprise Funds	General Capital Assets	General Long Term Debt	Total
ASSETS										
Cash	\$ 40,352	\$ 11,743	\$ 37	\$ 1,452	\$ -	\$ 3,167	\$ 36,041	\$ -	\$ -	\$ 92,792
Certificates of deposit	21,987	5,000	-	-	-	-	8,508	-	-	35,495
Receivables:										
Accounts and unbilled service	-	-	-	283	-	-	3,298	-	-	3,581
Taxes	6,817	7,322	-	-	-	-	-	-	-	14,139
Licenses and fees	2,824	-	-	-	-	-	-	-	-	2,824
Assessments	130	-	-	-	-	-	-	-	-	130
Interest	(77)	-	-	-	3	-	35	-	-	(39)
Other	210	1,080	-	-	-	-	-	-	-	1,290
Due from other funds	476	-	-	-	7	82	9,096	-	-	9,661
Due from other governments	22	529	-	174	-	-	986	-	-	1,711
Inventories of supplies, at cost	108	-	-	-	-	-	1,391	-	-	1,499
Prepaid expenses	266	-	-	-	-	-	-	-	-	266
Investments	-	16	-	-	1,157	-	-	-	-	1,173
Investments with fiscal agent	-	-	1,050	-	-	-	2,094	-	-	3,144
Capital assets:										
Land	-	-	-	-	-	-	2,462	10,303	-	12,765
Buildings	-	-	-	-	-	-	13,631	46,155	-	59,786
Equipment	-	-	-	-	-	-	10,730	20,851	-	31,581
Utility systems	-	-	-	-	-	-	114,506	-	-	114,506
Infrastructure	-	-	-	-	-	-	-	114,785	-	114,785
Construction in progress	-	-	-	-	-	-	138	11,271	-	11,409
Total capital assets	-	-	-	-	-	-	141,467	203,365	-	344,832
Less: accumulated depreciation	-	-	-	-	-	-	(67,863)	(60,689)	-	(128,552)
Capital assets, net	-	-	-	-	-	-	73,604	142,676	-	216,280
Deposits	-	69	-	-	-	19	2	-	-	90
Amount to be provided for general long term debt	-	-	-	-	-	-	-	-	86,096	86,096
Total assets	73,115	25,759	1,087	1,909	1,167	3,268	135,055	142,676	86,096	470,132
DEFERRED OUTFLOWS OF RESOURCES										
Employer retirement contributions	-	-	-	-	-	-	1,442	-	-	1,442
Difference on projected OPEB earnings	-	-	-	-	-	-	10	-	-	10
Bond refunding costs	-	-	-	-	-	-	2,609	-	-	2,609
Total deferred outflows of resources	-	-	-	-	-	-	4,061	-	-	4,061

City of Opelika
Combined Balance Sheet - All Funds and Account Groups
May 31, 2019
*Thousands of dollars

	Governmental Funds									
	General Fund	Special Revenue Funds	Debt Service Funds	Capital Project Funds	Cemetery Permanent Fund	Internal Service Funds	Enterprise Funds	General Capital Assets	General Long Term Debt	Total
LIABILITIES										
Accounts payable	1,023	-	-	-	-	-	8,331	-	-	9,354
Interest payable	-	-	-	-	-	-	381	-	-	381
Accrued payroll and benefits, due within one year	809	(8)	-	-	-	-	405	-	-	1,206
Due to other funds	54	164	-	392	1	-	9,049	-	-	9,660
Due to other governments	1	127	-	-	-	-	-	-	-	128
Claims and judgments, due within one year	-	-	-	-	-	332	-	-	-	332
Bonds payable due within one year	-	-	-	-	-	-	1,975	-	-	1,975
Claims and judgments, due in more than one year	-	-	-	-	-	117	-	-	-	117
Bonds payable, due in more than one year	-	-	-	-	-	-	31,885	-	86,096	117,981
Net pension liability	-	-	-	-	-	-	8,891	-	-	8,891
Accrued payroll and benefits, due in more than one year	-	-	-	-	-	-	1,039	-	-	1,039
Customer deposits held	-	-	-	-	-	-	3,172	-	-	3,172
Total liabilities	1,887	283	-	392	1	449	65,128	-	86,096	154,236
DEFERRED INFLOWS OF RESOURCES										
Net difference in earnings on retirement plan	-	-	-	-	-	-	295	-	-	295
Net change in OPEB assumptions	-	-	-	-	-	-	39	-	-	39
Unearned revenues	3,860	8,750	-	174	-	99	23	-	-	12,906
Total deferred inflows of resources	3,860	8,750	-	174	-	99	357	-	-	13,240
FUND BALANCES										
Nonspendable	374	69	-	-	978	-	-	-	-	1,421
Restricted	200	3,214	1,087	1,161	-	291	2,094	-	-	8,047
Committed	22	-	-	-	-	-	-	-	-	22
Assigned	15,857	8,566	-	-	-	-	-	-	-	24,423
Unassigned	33,992	5,181	-	-	188	-	-	-	-	39,361
Invested in capital assets, net of related debt	-	-	-	-	-	-	42,353	142,676	-	185,029
Unrestricted	-	-	-	-	-	2,403	28,041	-	-	30,444
Encumbrances	16,923	(304)	-	182	-	26	1,143	-	-	17,970
Total fund balances	\$ 67,368	\$ 16,726	\$ 1,087	\$ 1,343	\$ 1,166	\$ 2,720	\$ 73,631	\$ 142,676	\$ -	\$ 306,717

City of Opelika

Combined Statement of Revenues, Expenditures, and Changes in Fund Balance - All Governmental Funds and Account Groups
FYTD May 31, 2019

*Thousands of dollars

	Governmental Funds					Total
	General Fund	Special Revenue Funds	Debt Service Funds	Capital Project Funds	Garden Hills Cemetery Permanent Fund	
REVENUES:						
Taxes	\$ 26,651	\$ 7,610	\$ -	\$ -	\$ -	\$ 34,261
Special assessments	-	-	-	-	-	-
Licenses and permits	13,645	254	-	-	-	13,899
Intergovernmental	386	1,510	-	97	-	1,993
Charges for services	1,400	-	-	-	-	1,400
Fines and forfeits	297	-	-	-	-	297
Grants	4	-	-	-	-	4
Contributions	72	28	-	-	-	100
Investment income	409	184	-	12	18	623
Miscellaneous	244	-	-	-	-	244
Total revenues	43,108	9,586	-	109	18	52,821
EXPENDITURES:						
General government	4,607	162	-	-	4	4,773
Public safety	11,149	135	-	-	-	11,284
Public works	3,489	2	-	-	-	3,491
Health	238	-	-	-	-	238
Education	2,267	6,500	-	-	-	8,767
Welfare	80	-	-	-	-	80
Culture and recreation	3,948	-	-	-	-	3,948
Economic development	1,439	238	-	-	-	1,677
Capital outlay	9,983	9	-	(34)	-	9,958
Debt service:						
Principal retirement	481	-	3,030	-	-	3,511
Interest and fees	29	-	1,627	-	-	1,656
Total expenditures	37,710	7,046	4,657	(34)	4	49,383
Excess of revenues over/(under) expenditures	5,398	2,540	(4,657)	143	14	3,438
Other financing sources/(uses):						
Proceeds from debt issuance	-	-	-	-	-	-
Proceeds used to refund bonds	-	-	-	-	-	-
Sale of capital assets	29	-	-	-	-	29
Transfers from other funds	2,015	2,659	5,707	-	23	10,404
Transfers to other funds	(6,726)	(1,664)	-	-	(15)	(8,405)
Total other financing sources/(uses)	(4,682)	995	5,707	-	8	2,028
Net change in fund balances	716	3,535	1,050	143	22	5,466
Fund balances, beginning of the year	66,652	13,191	37	1,200	1,144	82,224
Fund balances, end of period	\$ 67,368	\$ 16,726	\$ 1,087	\$ 1,343	\$ 1,166	\$ 87,690

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika
 Combined Balance Sheet
 Proprietary and Fiduciary Funds
 May 31, 2019
**Thousands of dollars*

	Electric FYTD	Telecom FYTD	Sewer FYTD	Solid Waste FYTD	Workmen's Comp. FYTD	Health Insurance FYTD	Total
ASSETS							
Current assets:							
Cash	\$ 22,709	\$ 1,530	\$ 10,187	\$ 1,615	\$ 3,009	\$ 158	\$ 39,208
Certificates of deposit	8,508	-	-	-	-	-	8,508
Receivables and prepaid expenses	4,065	(1,312)	321	259	-	-	3,333
Due from other funds and governments	9,049	-	1,033	-	-	82	10,164
Inventory	1,391	-	-	-	-	-	1,391
Total current assets	45,722	218	11,541	1,874	3,009	240	62,604
Restricted assets:							
Cash and investments with fiscal agent	852	1,240	1	-	-	-	2,093
Total restricted assets	852	1,240	1	-	-	-	2,093
Net capital assets	42,282	-	29,172	2,150	-	-	73,604
Other assets:							
Deposits	-	-	2	-	19	-	21
Total other assets	-	-	2	-	19	-	21
Total assets	88,856	1,458	40,716	4,024	3,028	240	138,322
DEFERRED OUTFLOWS OF RESOURCES							
Retirement contributions	864	241	-	337	-	-	1,442
Difference on projected OPEB earnings	6	2	-	2	-	-	10
Bond refunding costs	2,512	-	97	-	-	-	2,609
Total deferred outflows of resources	3,382	243	97	339	-	-	4,061
Total assets and deferred outflows of resources	\$ 92,238	\$ 1,701	\$ 40,813	\$ 4,363	\$ 3,028	\$ 240	\$ 142,383
LIABILITIES							
Current liabilities:							
Accounts and other payables	\$ 8,875	\$ 64	\$ 100	\$ 77	\$ 52	\$ 280	\$ 9,448
Due to electric fund	-	9,049	-	-	-	-	9,049
Due to other funds	-	-	-	-	-	-	-
Bonds payable within one year	1,325	-	650	-	-	-	1,975
Unearned revenue	23	-	-	-	-	99	122
Total current liabilities	10,223	9,113	750	77	52	379	20,594
Noncurrent liabilities:							
Claims and employee benefits due in more than one year	632	164	-	242	117	-	1,155
Bonds payable, in more than one year, net	27,090	-	4,795	-	-	-	31,885
Net pension liability	5,529	1,460	-	1,902	-	-	8,891
Customer deposits held	3,007	1	-	164	-	-	3,172
Total noncurrent liabilities	36,258	1,625	4,795	2,308	117	-	45,103
Total liabilities	46,481	10,738	5,545	2,385	169	379	65,697
DEFERRED INFLOWS OF RESOURCES							
Difference on earnings on OPEB investments	23	8	-	9	-	-	40
Difference on earnings on plan investments	158	73	-	64	-	-	295
Total deferred inflows of resources	181	81	-	73	-	-	335
NET POSITION							
Invested in capital assets, net of related debt	16,379	-	23,824	2,150	-	-	42,353
Restricted	852	1,240	1	-	209	82	2,384
Unrestricted	26,680	(8,593)	10,299	(345)	2,650	(247)	30,444
Encumbrances	1,665	(1,765)	1,144	100	-	26	1,170
Total net position	45,576	(9,118)	35,268	1,905	2,859	(139)	76,351
Total liabilities, deferred inflows, and net position	\$ 92,238	\$ 1,701	\$ 40,813	\$ 4,363	\$ 3,028	\$ 240	\$ 142,383

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika

Combined Summary Statement of Revenues, Expenses, and Changes in Net Position

Proprietary and Fiduciary Funds

FYTD May 31, 2019

*Thousands of dollars

	Electric 2019 FYTD	Telecom 2019 FYTD	Sewer 2019 FYTD	Solid Waste 2019 FYTD	Workmen's Comp. 2019 FYTD	Health Insurance 2019 FYTD	Total
Operating Revenues							
Charges for services	\$ 24,986	\$ 603	\$ 3,138	\$ 2,254	\$ 298	\$ 2,685	\$ 33,964
Operating Expenses							
Purchases	15,994	246	-	269	-	-	16,509
Depreciation	1,920	137	705	216	-	-	2,978
Personnel services	2,268	146	2	926	-	-	3,342
Other	1,439	193	1,305	491	145	2,773	6,346
Total operating expenses	21,621	722	2,012	1,902	145	2,773	29,175
Operating income/(loss)	3,365	(119)	1,126	352	153	(88)	4,789
Nonoperating Revenues/(Expenses)							
Gain/(Loss) on sale of capital assets	28	5,449	-	(16)	-	-	5,461
Fiber optic line leases	17	-	-	-	-	-	17
Investment income	212	24	81	13	31	1	362
Grant income	-	-	37	-	-	-	37
Pole rental	-	-	-	-	-	-	-
Miscellaneous revenues	574	9	-	9	-	-	592
Interest expense and charges	(1,041)	(69)	(186)	-	-	-	(1,296)
Total nonoperating revenues/(expenses)	(210)	5,413	(68)	6	31	1	5,173
Other Revenues and Transfers In/(Out):							
Capital contributions	437	-	4,075	-	-	-	4,512
Transfers from other funds	-	-	-	166	-	-	166
Transfers to other funds	(2,000)	-	-	(166)	-	-	(2,166)
Total other revenues/(expenses)	(1,563)	-	4,075	-	-	-	2,512
Net Income/(loss)	1,592	5,294	5,133	358	184	(87)	12,474
Net position, beginning of year	43,984	(14,412)	30,135	1,547	2,675	(52)	63,877
Net position before encumbrances	45,576	(9,118)	35,268	1,905	2,859	(139)	76,351
Encumbrances	1,665	(1,765)	1,144	100	-	-	1,144
Net position, end of period	\$ 43,911	\$ (7,353)	\$ 34,124	\$ 1,805	\$ 2,859	\$ (139)	\$ 75,207
Additional Information:							
Cash position at May 31, 2019	\$ 22,709	\$ 1,530	\$ 10,187	\$ 1,615	\$ 3,009	\$ 158	\$ 39,208
Cash position at May 31, 2018	16,854	1,036	8,725	1,275	3,017	(1,151)	29,756
Change in cash	\$ 5,855	\$ 494	\$ 1,462	\$ 340	\$ (8)	\$ 1,309	\$ 9,452

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika
 General Fund Revenue and Expenditure Summary
 Comparison of Actual and Budget to Prior Year
 FYTD May 2019
 *Thousands of dollars

	YTD Actual			Budget to Actual		
	2018	2019	Variance	2019 Budget	2019 Actual	Variance
Revenues:						
Taxes	\$ 25,442	\$ 26,651	\$ 1,209	\$ 24,618	\$ 26,651	\$ 2,033
Licenses and permits	12,951	13,645	694	11,430	13,645	2,215
Intergovernmental	277	386	109	457	386	(71)
Charges for services	1,246	1,400	154	1,268	1,400	132
Fines and forfeits	484	297	(187)	268	297	29
Grants	5	4	(1)	-	4	4
Contributions	104	72	(32)	174	72	(102)
Investment income	190	409	219	302	409	107
Miscellaneous	347	244	(103)	333	244	(89)
Total revenues	41,046	43,108	2,062	38,850	43,108	4,258
Expenditures:						
General government	3,758	4,607	849	5,487	4,607	880
Public safety	9,142	11,149	2,007	11,873	11,149	724
Public works	2,721	3,489	768	3,878	3,489	389
Culture and recreation	3,783	3,948	165	4,830	3,948	882
Economic development	1,049	1,439	390	1,812	1,439	373
Health	200	238	38	275	238	37
Education	2,001	2,267	266	2,269	2,267	2
Welfare	75	80	5	90	80	10
Capital outlay	4,217	9,983	5,766	27,536	9,983	17,553
Debt service	506	510	4	480	510	(30)
Total expenditures	27,452	37,710	10,258	58,530	37,710	20,820
Other financing sources/(uses)						
Sale of capital assets	48	29	(19)	34	29	5
Transfers in	2,007	2,015	8	4,365	2,015	2,350
Transfer out	(6,558)	(6,726)	(168)	(7,480)	(6,726)	(754)
Total other financing sources/(uses)	(4,503)	(4,682)	(179)	(3,081)	(4,682)	1,601
Net change in fund balance	9,091	716	(8,375)	(22,761)	716	23,477
Fund balance, beginning of year	59,375	66,652	7,277	59,375	66,652	(7,277)
Fund balance, year to date	<u>\$ 68,466</u>	<u>\$ 67,368</u>	<u>\$ (1,098)</u>	<u>\$ 36,614</u>	<u>\$ 67,368</u>	<u>\$ 30,754</u>
Less:						
Nonspendable	98	108	10	-	42	(42)
Restricted	72	200	128	-	200	(200)
Committed	19	25	6	-	25	(25)
Assigned	27,465	15,857	(11,608)	-	15,857	(15,857)
Encumbrances	6,794	16,923	10,129	-	16,923	(16,923)
	34,448	33,113	(1,335)	-	33,047	(33,047)
Unassigned fund balance	34,018	34,255	237	36,614	34,321	63,801
20% budgeted revenues	7,770	7,770		7,770	7,770	
Available unassigned fund balance	<u>\$ 26,248</u>	<u>\$ 26,485</u>		<u>\$ 28,844</u>	<u>\$ 26,551</u>	

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika
General Fund Revenues
Comparison of Actual and Budget to Prior Year
FYTD May 2019
**Thousands of dollars*

	YTD Actual			Budget to Actual		
	2018	2019	Variance	2019 Budget	2019 Actual	Variance
Taxes:						
Sales	\$ 21,031	\$ 21,636	\$ 605	\$ 21,239	\$ 21,636	\$ 397
Property:						
Property	3,421	3,924	503	2,392	3,924	1,532
Payments in lieu of taxes	6	6	-	4	6	2
Total property taxes	3,427	3,929	502	2,396	3,930	1,534
Other						
Gasoline	535	547	12	546	547	1
Cigarette	51	50	(1)	51	50	(1)
Wine and liquor	18	19	1	17	19	2
Rental	381	471	90	369	471	102
Total other taxes	985	1,086	101	983	1,087	104
Total taxes	25,443	26,651	1,208	24,618	26,651	2,033
Licenses and permits:						
Occupational license	8,335	9,081	746	7,772	9,081	1,309
Business:						
General	2,784	2,919	135	1,943	2,919	976
Lodging	566	617	51	503	617	114
Franchise fee	417	373	(44)	356	373	17
Miscellaneous	223	194	(29)	235	194	(41)
Total business	3,990	4,103	113	3,037	4,103	1,066
Telecommunications permits and fees	17	11	(6)	11	11	-
Permits and inspections	602	443	(159)	603	443	(160)
Other	8	7	(1)	8	7	(1)
Total licenses and permits	12,952	13,645	693	11,431	13,645	2,214
Intergovernmental:						
Shared county motor vehicle	100	94	(6)	80	94	14
Shared state:						
Bank excise tax	-	-	-	133	-	(133)
Business privilege tax	-	-	-	49	-	(49)
Liquor tax profits	105	94	(11)	106	94	(12)
State asset forfeiture	12	-	(12)	25	-	(25)
Total shared state	117	94	(23)	313	94	(219)
Shared federal asset forfeiture	-	136	136	16	136	120
Other	60	62	2	47	62	15
Total intergovernmental	277	386	107	456	386	(70)
Charges for services:						
General government - other	13	15	2	13	15	2
Public Safety:						
Fire training	5	3	(2)	6	3	(3)
City schools	-	150	150	8	150	142
Auburn University	27	2	(25)	-	2	2
EAMC	91	86	(5)	101	86	(15)
Other	6	6	-	9	6	(3)
Health - Graves and monuments	101	116	15	99	116	17
Public Works - Paving and plan review fees	66	48	(18)	72	48	(24)
Culture and Rec - Entry and concession fees	935	974	39	959	974	15
Total charges for services	1,244	1,400	156	1,267	1,400	133
Fines and forfeits:						
Municipal Court	259	264	5	240	264	24
Red light violations	193	-	(193)	-	-	-
Other	32	33	1	28	33	5
Total fines and forfeits	484	297	(187)	268	297	29
Grant income	5	4	(1)	-	4	4
Contributions: Mobile Clinic	62	26	(36)	88	26	(62)
Contributions: Other	42	46	4	174	46	(128)
Investment income	190	409	219	302	409	107
Miscellaneous	347	244	(103)	333	244	(89)
Total revenues	41,046	43,108	2,060	38,937	43,108	4,171
Other financing sources						
Proceeds of general obligation debt	-	-	-	-	-	-
Operating transfers from Electric fund	1,998	2,000	2	2,010	2,000	(10)
Other transfers	9	15	6	2,355	15	(2,340)
Sale of capital assets	48	29	(19)	34	29	(5)
Total other financing sources	2,055	2,044	(11)	4,399	2,044	(2,355)
Total revenue and other financing sources	\$ 43,101	\$ 45,152	\$ 2,051	\$ 43,336	\$ 45,152	\$ 1,816

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika
General Fund Expenditures
Comparison of Actual and Budget to Prior Year
FYTD May 2019
*Thousands of dollars

	YTD Actual			Budget to Actual		
	2018	2019	Variance	2019 Budget	2019 Actual	Variance
General government:						
Legislative	\$ 210	\$ 233	\$ 23	\$ 290	\$ 233	\$ 57
Executive	166	162	(4)	409	162	247
Legal	218	341	123	290	341	(51)
Administration	442	293	(149)	512	293	219
Accounting	270	360	90	351	360	(9)
Human resources	240	200	(40)	255	200	55
Information technology	903	1,587	684	1,702	1,587	115
Revenue	229	279	50	281	279	2
Municipal court	287	252	(35)	253	252	1
Purchasing	128	182	54	180	182	(2)
Community development	81	112	31	177	112	65
Planning	208	283	75	329	283	46
Other - nondepartmental	377	323	(54)	459	323	136
Total general government	3,759	4,607	848	5,488	4,607	881
Public safety:						
Police	5,403	6,801	1,398	7,305	6,801	504
Probation	75	97	22	104	97	7
Fire	3,482	4,070	588	4,221	4,070	151
Other - nondepartmental	182	181	(1)	242	181	61
Total public safety	9,142	11,149	2,007	11,872	11,149	723
Public works:						
Streets	808	888	80	924	888	36
Engineering	307	447	140	444	447	(3)
Administration	307	333	26	358	333	25
Cemetery	136	147	11	147	147	-
Auto shop	236	349	113	424	349	75
Building maintenance	276	358	82	485	358	127
Inspection	267	341	74	460	341	119
Grounds maintenance	384	626	242	635	626	9
Total public works	2,721	3,489	768	3,877	3,489	388
Culture and recreation:						
Parks and recreation	3,195	3,235	40	3,999	3,235	764
Library	505	629	124	764	629	135
Other - nondepartmental	83	84	1	67	84	(17)
Total culture and recreation	3,783	3,948	165	4,830	3,948	882
Economic development:						
Development	184	243	59	377	243	134
Other - nondepartmental	865	1,196	331	1,435	1,196	239
Total economic development	1,049	1,439	390	1,812	1,439	373
Health:						
Animal control	41	52	11	54	52	2
Mobile Clinic	-	-	-	-	-	-
Other	158	186	28	221	186	35
Total health	199	238	39	275	238	37
Education	2,001	2,267	266	2,269	2,267	2
Welfare	75	80	5	90	80	10
Capital outlay	4,217	9,983	5,766	27,536	9,983	17,553
Debt service						
Principal retirement	457	481	24	456	481	(25)
Interest and charges	49	29	(20)	24	29	(5)
Total debt service	506	510	4	480	510	(30)
Total expenditures	27,452	37,710	10,258	58,529	37,710	20,819
Other financing uses						
Transfers out:						
Transfers to PR/Jail construction fund	2,121	2,199	78	2,010	2,199	(189)
Transfers to other funds	4,437	4,527	90	5,470	4,527	943
Total transfers out	6,558	6,726	168	7,480	6,726	754
Total expenditures and other financing uses	\$ 34,010	\$ 44,436	\$ 10,426	\$ 66,009	\$ 44,436	\$ 21,573

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)

City of Opelika
 Capital Outlay
 Comparison of Actual and Budget to Prior Year
 FYTD May 2019
 *Thousands of dollars

	FYTD Actual			Budget to Actual		
	2018	2019	Variance	Budget	Actual	Variance
GENERAL FUND						
General Government:						
Legislative	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Executive	54	-	(54)	-	-	-
Legal	-	-	-	-	-	-
Administration	-	-	-	-	-	-
Accounting	20	-	(20)	1,052	-	1,052
Human Resources	-	-	-	-	-	-
Information Technology	645	511	(134)	466	511	(45)
Revenue	-	-	-	-	-	-
Municipal Court	-	-	-	-	-	-
Purchasing	-	-	-	-	-	-
Community Development	-	-	-	-	-	-
Planning	-	-	-	-	-	-
Health	-	101	101	202	101	101
Other	27	-	(27)	-	-	-
Total general government	746	612	(208)	1,518	612	1,007
Public Safety:						
Police	614	7,520	6,906	11,131	7,519	3,612
Probation	-	-	-	-	-	-
Fire	1,254	17	(1,237)	184	17	167
Total public safety	1,868	7,537	5,669	11,315	7,536	3,779
Public Works:						
Streets	1,154	944	(210)	1,763	944	819
Engineering	171	308	137	889	308	581
Administration	229	133	(96)	247	133	114
Cemetery	-	-	-	-	-	-
Auto Shop	-	-	-	-	-	-
Building Maintenance	-	-	-	-	-	-
Inspection	-	-	-	-	-	-
Grounds Maintenance	-	-	-	-	-	-
Total public works	1,554	1,385	(169)	2,899	1,385	1,514
Culture and Recreation:						
Parks and Recreation	49	385	336	495	385	110
Library	-	14	14	10	14	(4)
Total culture and recreation	49	399	350	505	399	106
Total General Fund capital outlay expenditures	\$ 4,217	\$ 9,984	\$ 5,767	\$ 16,237	\$ 9,983	\$ 6,254
PROPRIETARY FUNDS						
Electric	1,272	1,139	(133)	5,214	1,139	4,075
Telecommunications	384	38	(346)	1,924	38	1,886
Sewer	-	4,167	4,167	1,165	4,167	(3,002)
Solid Waste	634	421	(213)	402	421	(19)
Total Proprietary funds	2,290	5,765	3,475	8,705	5,765	2,940
OTHER GOVERNMENTAL FUNDS						
Municipal Complexes fund - Municipal Court	-	-	-	55	-	55
4 & 5 Cent Gas Tax fund - Street Resurfacing	-	-	-	42	-	42
2011 Road Construction - Streets - Fred. Rd.	1,485	(112)	(1,597)	396	(112)	508
2011 Road Construction - Street paving	100	-	(100)	-	-	-
2011 Road Construction - Other	679	71	(608)	604	71	533
Capital Improvement funds - Other	13	9	(4)	71	9	62
Industrial Road Grant funds - Other	8	7	(1)	21	7	14
Industrial Road Grant funds - Engineering	416	-	(416)	17	-	17
Total Other Governmental funds	2,701	(25)	(2,726)	1,206	(25)	1,231
Total City of Opelika Capital Outlay	\$ 9,208	\$ 15,724	\$ 6,516	\$ 26,148	\$ 15,723	\$ 10,425

Attachment: CM 6-18-19, City financial summary for May 2019 (3531 : City financial summary report for May 2019.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 06/18/19 07:00 PM
Department: Building Inspection
Category: Building Permit Report.
Prepared By: Tina Mnor
Initiator: Jeff Kappelman
Sponsors:

MAYOR'S REMARKS (ID # 3501)

DOC ID: 3501

May 2019 Monthly Building Inspection Reports

COMMENTS - Current Meeting:

Mr. Motley provided a summary of the May 2019 building permit report.

City of Opelika Building Inspections Department
May 2019 Monthly Building Detail Report

Issue Date	Main Address	Work Class	Company	Valuation
5/1/2019	2009 PEPPERELL PKWY	Alteration	BFAM BUILDERS LLC	\$ 180,000.00
5/2/2019	3302 EDDINGTON CT	New Single Family Detached	GRAYHAWK HOMES INC	\$ 322,826.00
5/3/2019	1712 1ST AVE	Alteration	DAVID VERCHER	\$ 3,000.00
5/3/2019	3448 LAKESHORE DR DR	New Single Family Detached	TOLAND CONSTRUCTION LLC	\$ 299,636.00
5/3/2019	1101 SPRING DR FTN	Alteration	J&L CONTRACTORS INC	\$ 7,500.00
5/3/2019	2701 FREDERICK RD 203	Signs	BEASLEY SIGNS	\$ 3,900.00
5/3/2019	2472 PEPPERELL PKWY	Signs	BEASLEY SIGNS	\$ 4,400.00
5/6/2019	2900 WAVERLY PKWY	Churches And Other Religious Buildings	MCCURLEY & ASSOCIATES LLC	\$ 290,000.00
5/6/2019	703 HILLFLO AVE	Roofs	WAYNES ROOFING	\$ 6,000.00
5/6/2019	2900 WAVERLY PKWY	Alteration	MCCURLEY & ASSOCIATES LLC	\$ 290,000.00
5/6/2019	13 N 8TH ST	Alteration	STONE MARTIN BUILDERS	\$ 350,000.00
5/7/2019	1014 AUBURN ST	Accessory Buildings	MCGUIRES BUILDINGS	\$ 3,160.00
5/7/2019	1908 ROCKY BROOK RD	New Single Family Detached	STONE MARTIN BUILDERS	\$ 293,569.00
5/7/2019	1243 FREDERICK RD	Alteration	WHATLEY CONSTRUCTION LLC	\$ 35,000.00
5/8/2019	3706 PEPPERELL PKWY	Signs	Effective Signs LLC	\$ 3,500.00
5/10/2019	1805 BRUCE AVE	Roofs	B&L ROOFING	\$ 4,900.00
5/10/2019	1961 1ST AVE	Roofs	SUPERIOR ROOFING CO	\$ 12,055.00
5/10/2019	2920 WYNDHAM INDUSTRIAL DR	New	Travis Aston	\$ 250,000.00
5/13/2019	2210 HIGHPOINT DR	Swimming Pool	COX SWIMMING POOLS INC	\$ 49,000.00
5/13/2019	1100 PRESTON ST D	Alteration	BAILEY LEWIS CONSTRUCTION	\$ 20,000.00
5/13/2019	2906 ANDERSON LAKES CT	Roofs	RANSEY & SONS	\$ 5,000.00
5/13/2019	2694 SPRING LAKES XING	New Single Family Detached	CLAYTON PROPERTIES GROUP INC	\$ 188,457.00
5/13/2019	2057 TIGER TOWN PKWY	Signs	ADVANCED POWER TECHNOLOGIES LLC	\$ 2,705.00
5/13/2019	2714 SPRING LAKES XING	New Single Family Detached	CLAYTON PROPERTIES GROUP INC	\$ 188,416.00
5/14/2019	756 TOWNE LAKE PKWY	Decks	Patti Fuls	\$ 4,000.00
5/15/2019	655 TOWNE LAKE PKWY	New Single Family Detached	STONE MARTIN BUILDERS	\$ 257,264.10
5/15/2019	226 VERO CT	Alteration	GOLD HILL CONSTRUCTION	\$ 5,850.00
5/17/2019	3796 PEPPERELL PKWY B	New	INFINITY GROUP LLC, THE	\$ 159,392.00

5/17/2019	3796 PEPPERELL PKWY A	New	INFINITY GROUP LLC, THE	\$	159,392.00
5/17/2019	2210 HIGHPOINT DR	Alteration	LARRY R BAILEY CONSTRUCTION	\$	60,000.00
5/17/2019	2809 GRAND NATIONAL PKWY	Accessory Buildings	LARRY R BAILEY CONSTRUCTION	\$	25,182.00
5/17/2019	2012 BEVERLY DR	New Single Family Detached	LARRY R BAILEY CONSTRUCTION	\$	425,000.00
5/21/2019	1100 CHANDLER AVE	Alteration	Ben Bruce	\$	5,000.00
5/21/2019	3170 EAGLE TRL	New Single Family Detached	CONNER BROTHERS CONSTRUCTION	\$	198,177.00
5/21/2019	1504 PRESTON ST	Addition	E&E PROPERTIES	\$	3,000.00
5/21/2019	2613 HALL CIR	Accessory Buildings	Michael Frazier	\$	1,000.00
5/22/2019	2000 PEPPERELL PKWY	Alteration	BAILEY HARRIS CONST CO	\$	457,188.00
5/22/2019	1004 1ST AVE	Alteration	GTR CONTRACTORS LLC	\$	80,000.00
5/23/2019	1207 CEDAR CREEK DR	New Single Family Detached	Grayhawk Homes	\$	272,000.00
5/23/2019	2808 SOCIETY HILL RD	Alteration	Jerry Jackson	\$	7,000.00
5/28/2019	206 STOWE AVE	Single Family Demolition	PEPPERELL DEVELOPMENT LLC	\$	1,000.00
5/28/2019	3206 NORTHGATE DR	Accessory Buildings	SCF BUILDING A&O LLC	\$	3,000.00
5/28/2019	2104 WESTPOINT PKWY	Alteration	THE ASBURY GROUP LLC	\$	20,000.00
5/29/2019	3055 SOCIETY HILL RD 6	New	Steve Kennon	\$	90,000.00
5/29/2019	3501 PEPPERELL PKWY	Signs	ELECTRIC CITY SIGNS & NEON INC	\$	20,000.00
				\$	5,065,469.10

Jeff Kappelman, Chief Building Official



BUILDING INSPECTIONS

700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Monthly Permits For May, 2019

Work & Repair On Buildings:

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	1
Building Repairs	6	9
Plumbing Upgrades	0	1
Electrical Upgrades	3	11
Mechanical Upgrades	3	6
Reroofs And Roof Repairs	1	3
Mobile Home Services	0	0
Building Additions/Accessory Structures	0	4

Monthly Totals For May 2010-2019

2010	\$3,217,825.00
2011	\$2,759,798.00
2012	\$16,046,121.00
2013	\$4,745,960.00
2014	\$13,413,519.00
2015	\$5,351,562.00
2016	\$5,538,628.00
2017	\$29,752,101.00
2018	\$9,824,483.97
2019	\$ 5,065,469.10

Total Permits Issued:

4	New Buildings: Commercial	\$658,784.00
8	Commercial Renovations And Repairs	\$1,606,743.00
5	Signs	\$34,505.00
9	New Single Family Homes	\$2,445,345.10
18	Residential Repairs And Renovations	\$320,092.00
	New Apartment Units	
	New Duplex Residences	
	Total Building Permits Issued	

44

Total Permits Issued For May, 2019

\$5,065,469.10

TAKEN FROM THE RECORDS OF THE
BUILDING INSPECTOR


Jeff Kappelman
Chief Building Inspector





BUILDING INSPECTIONS

700 Fox Trail
Opelika, AL 36801
(p) 334-705-5420
(f) 334-705-5159
www.opelika-al.gov

Fiscal Year To Date Report - 2019

Building Repairs	Commercial	Residential
Buildings Condemned	0	0
Buildings Demolished	0	0
Building Repairs	7	22
Plumbing Upgrades	1	11
Electrical Upgrades	6	13
Mechanical Upgrades	6	13
Reroofs And Roof Repairs	0	7
Mobile Home Services	0	0
Building Additions/Accessory Structures	1	7

Yearly Totals For Oct. 1st - Sept. 30th	
2010	\$96,662,342.00
2011	\$45,352,237.00
2012	\$178,221,004.00
2013	\$61,881,917.00
2014	\$79,409,560.00
2015	\$192,080,600.00
2016	\$127,079,852.00
2017	\$166,673,506.00
2018	\$111,654,002.74

Total Permits Issued:

19	New Buildings: Commercial	\$6,959,349.60
36	Commercial Renovations And Repairs	\$5,524,635.33
29	Signs	\$329,248.25
163	New Single Family Homes	\$40,573,699.10
129	Residential Repairs And Renovations	\$3,073,286.30
0	New Apartment Units	\$0.00
13	New Duplex Residences	\$1,824,848.00
0	Total Building Permits Issued	\$0.00

345

Permit Total Issued for FY 2019

\$58,285,063.58


JEFF KAPPELMAN
Chief Building Inspector





City Council
204 South 7Th Street
Opelika, AL

ADOPTED

Meeting: 06/18/19 07:00 PM
Department: Purchasing and Revenue
Category: Business & Alcohol License
Prepared By: Martha Wright

Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 3504)

DOC ID: 3504

Request from Sunoco Food Mart for a Beer and Wine Off Premise License.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	David Canon, Council Member
SECONDER:	Dozier Smith T, Council Member
AYES:	Jones, Gibson-Pitts, Smith T, Canon, Smith

**City Council**

204 South 7Th Street
Opelika, AL

ADOPTED**GENERAL BUSINESS (ID # 3497)**

Meeting: 06/18/19 07:00 PM

Department: City Clerk

Category: Request / Temp Street Closure

Prepared By: Robert Shuman

Initiator: Robert Shuman

Sponsors:

DOC ID: 3497

Chamber request for the 2019 Christmas parade.

RESULT: **APPROVED [UNANIMOUS]**
MOVER: Tiffany Gibson-Pitts, Council Member
SECONDER: Patricia Jones, President Pro-Tem
AYES: Jones, Gibson-Pitts, Smith T, Canon, Smith

May 3, 2019

Honorable Gary Fuller, Mayor
City of Opelika
Post Office Box 390
Opelika, AL 36803-0390

Re: 2019 Christmas Parade ✓

Dear Mayor Fuller:

The Opelika Christmas Parade Committee respectfully requests permission from the City of Opelika to host the annual Christmas Parade along its downtown streets. This year's parade is scheduled for Saturday, December 7, at 10:00a.m. The parade will last approximately 45 minutes. The parade will begin at the intersection of South 9th Street and Avenue C. The parade route remains the same as in previous years. A map of the parade route is attached for your reference.

In order to ensure a safe and enjoyable event for our citizens, the committee also requests a weather date of December 8th at 3:00p.m. We want to thank the city and always outstanding assistance from the Police and Public Works Department. By virtue of this letter, Chief John McEachern and Mike Hilyer will be informed of our schedule and needs.

Thank you in advance for your support of this popular event. If you have any questions, please do not hesitate to contact me at 334.745.4861.

Sincerely,

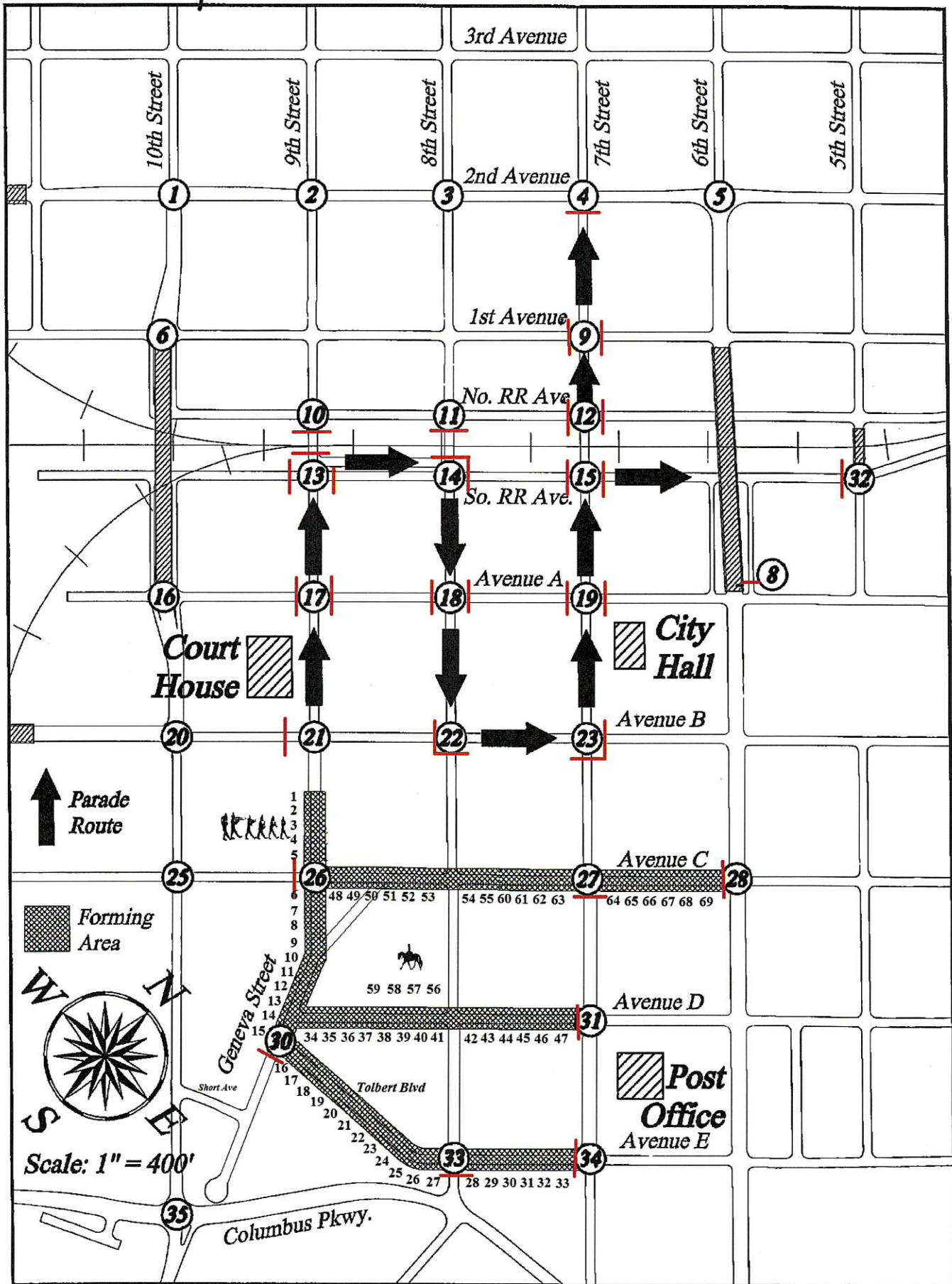
Pam Powers - Smith
President

Cc: Joey Motley, City Administrator
Robert Shuman, City Clerk/Treasurer
Chief John McEachern
Mike Hilyer Public Works/ESG
Vivian Anthony, Chamber

Rec 5/9/19
[Signature]

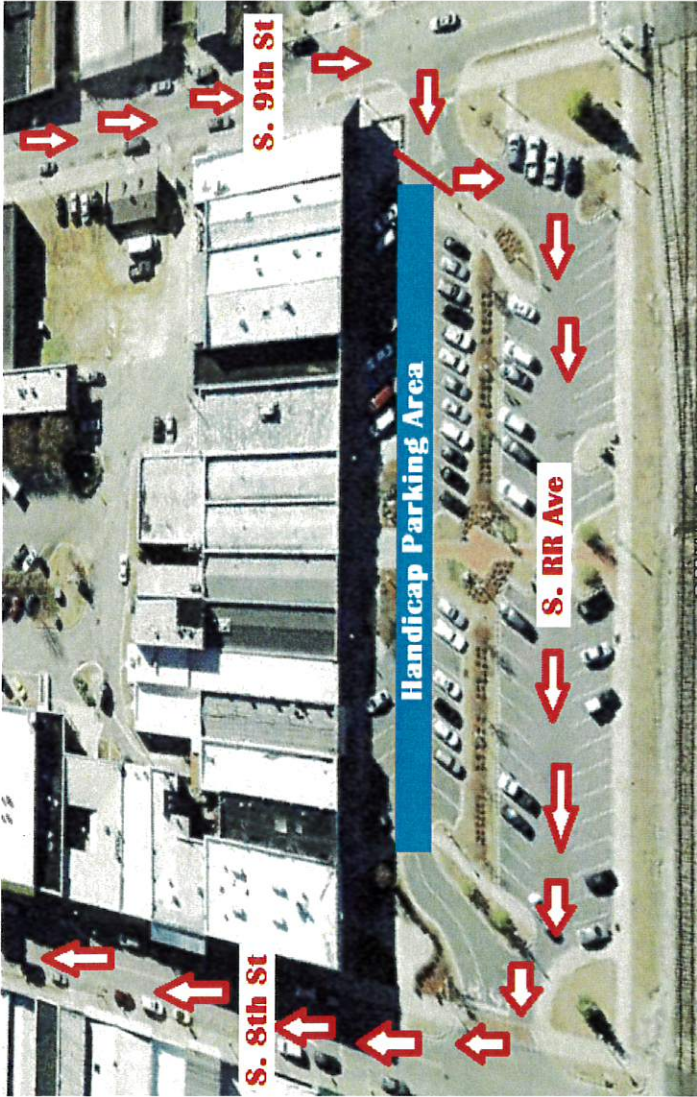
Attachment: CM 6-18-19, request for 2019 Christmas parade (3497 : Chamber request for the 2019 Christmas parade.)

Opelika PD Barricade Locations

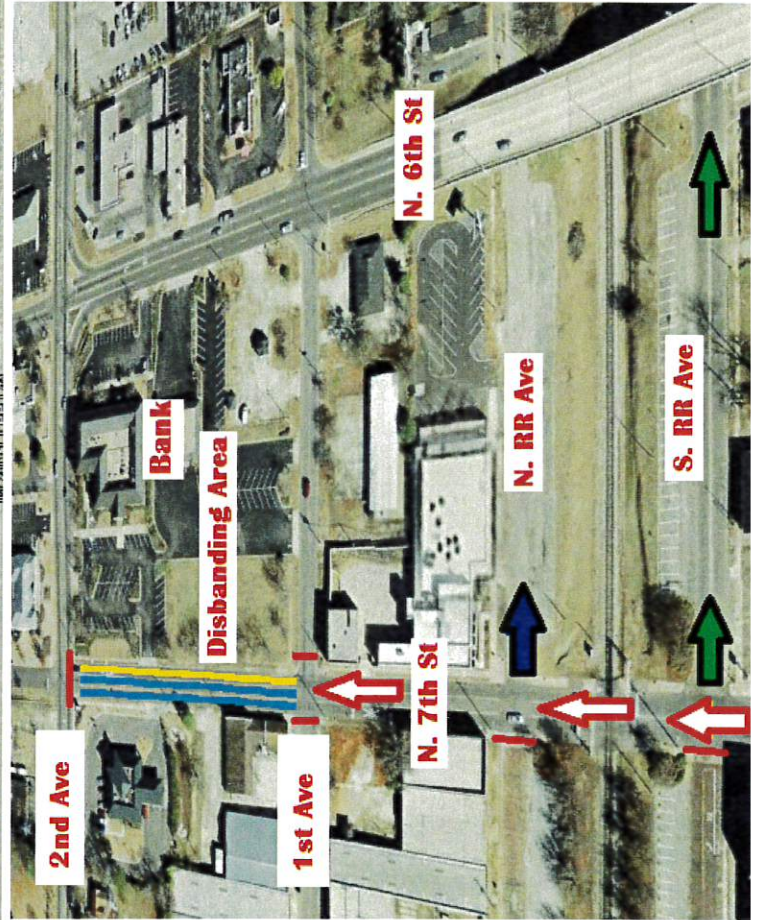


Attachment: CM 6-18-19, request for 2019 Christmas parade (3497 : Chamber request for the 2019 Christmas parade.)

Handicap Parking



Disbanding Area



KEY

	Professional Floats
	Handcrafted Floats With Riders
	Entries Without Riders
	Marchers/Pedestrians/ Horses



City Council

204 South 7th Street
Opelika, AL

SCHEDULED

Meeting: 06/18/19 07:00 PM

Department: Planning

Category: Public Hearing

Prepared By: Marty Ogren

Initiator: Charles Mosley

Sponsors:

GENERAL BUSINESS (ID # 3412)

DOC ID: 3412

Public Hearing, Amend Zoning Ord & Map: Rezone 2 Acres, 2400 Block Dunlop Drive.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Opelika will hold a Public Hearing on Tuesday, June 18, 2019, at 7:00 p.m. in the City Council Chambers of the Municipal Building, 204 S. 7th Street, Opelika, Lee County, Alabama.

PURPOSE

The purpose of said Public Hearing will be to consider the adoption of an ordinance to amend Ordinance Number 124-91 (entitled “Zoning Ordinance of the City of Opelika”) adopted on September 17, 1991. At said Public Hearing all who desire to be heard shall have the opportunity to speak for or in opposition to the adoption of the following ordinance:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE AND ZONING MAP OF THE CITY OF OPELIKA

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. That Ordinance 124-91 entitled “Zoning Ordinance City of Opelika, Alabama”, adopted on September 17, 1991, and the Zoning Map of the City of Opelika provided for and referred to therein, as previously amended and/or modified, be and the same is hereby amended by rezoning or redistricting the parcel of land hereinafter in this section described, so as to change such parcel from one class of district to another class of district as follows, to-wit:

From a R-5 District (High-Density Residential District) to a C-2 District (Office/Retail District), the parcel of land hereinafter described:

Lot 7C of TIMMS SUBDIVISION, FIRST REVISION, according to and as shown by map or plat of said subdivision of record in Town Plat Book 23, at Page 81 in the Office of the Judge of Probate of Lee County, Alabama.

The above-described property contains 2.017 acres, more or less, and is located on the west side of Dunlop Drive.

Section 2. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

WITNESS my hand this the ____ day of May, 2019.

CITY CLERK OF THE CITY OF OPELIKA, ALABAMA

TO: PUBLISHER

Opelika, Alabama 36801

Please publish the foregoing Notice one (1) time in the May __, 2019 issue of your paper.

CITY CLERK

The applicant is requesting rezoning 2 acres from a R-5 (high density residential) to a C-2 (office/retail) zoning district. The property is owned by the City of Opelika. Years ago, a fire station was planned for construction on the property. Recently, the City was contacted about selling the property for a medical office. The rezoning property is located between the new medical park (Village Professional Park) on Dunlop Drive and the current hospital-EAMC. Village Professional Park developed as a PUD (planned unit development). The proposed C-2 zone allows medical offices and is similar to the existing PUD development on Dunlop Drive. The Planning Commission report and maps are attached. At the April 23rd meeting, the Planning Commission voted 5 to 0 (and one abstain) to send a positive recommendation to CC to rezone the property. At the May 7th CC WS, the City Council reviewed the rezoning request and approved advertising for a CC PH.

COMMENTS - Current Meeting:

Mr. Shuman announced the public hearing for said amendment to the zoning ordinance and map. President Smith opened the public hearing asking if there was anyone present that would like to speak for or against said rezoning. No one came forward to speak. President Smith closed the public hearing.

City of Opelika Planning Commission Report

Action Requested: Rezoning - 2 acres at 2400 block of Dunlop Drive from R-5 to C-2

Rezoning:

The applicant is requesting rezoning 2 acres from an R-5 (High Density Residential) zoning district to a C-2 (office/retail) zoning district. The 2-acre parcel is north of the railroad and south of Village Professional Park. The property is owned by the City of Opelika and at one time was proposed to be used as a fire station. The City was propositioned to sell the property to be used as a medical office. This property and the property immediately to the south are the only residential properties shown on this side of the street. These properties are located on a commercially dominated street and very close to an active rail line. The likelihood of these properties developing as successful residential is small. The location of this property between the medical park with the new medical facilities and the current hospital would suggest that additional space for medical offices would be very appropriate and create a more homogeneous development pattern. Light commercial land uses would be similar to the existing development on Dunlop Drive.

While there are no immediate properties zoned C-2 on adjacent properties, it is in very close proximity. Additionally, the property immediately south of the railroad tracks is zoned C-3. The Village Professional Park is developed as a Planned Unit Development (PUD). However, if this property uses were applied to any other zone, it would be most consistent with the C-2 zone. The C-2 zoning is appropriate for the traffic and surrounding uses in this general area. This zone would still allow offices and governmental uses. The zone would also allow more a medical office to be located here.

Staff Recommendation:

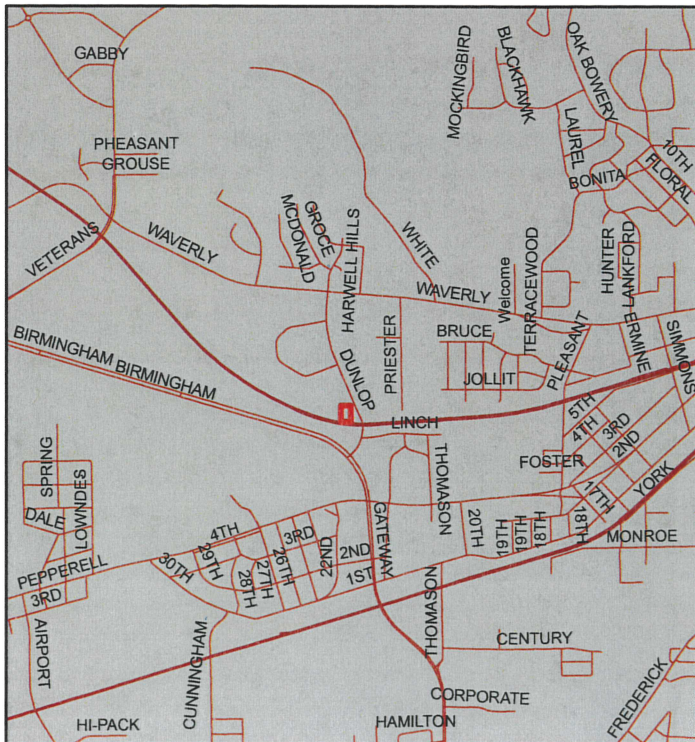
Planning Staff believes that the rezoning request for the 2 acres from R-5 to C-2 is appropriate. The property could be better developed with the new zoning. C-2 zoning provides additional uses that align better with all the surrounding uses.

Staff recommends Planning Commission send a positive recommendation to the City Council to rezone the property from R-5 to C-2.

At the April 23rd meeting, the Planning Commission voted 5 to 0 (and one abstain) to send a positive recommendation to the City Council to rezone 2 acres from R-5 to a C-2 zoning district.

CITY OF OPELIKA PROPERTY REZONING 2400 BLOCK DUNLOP DRIVE FROM R-5 TO C-2

11.3.a



A physician desires to purchase a 2 acre lot owned by the City; the property is adjacent to a Pediatric Clinic and near Village Professional Drive. Year ago a fire station was planned for the property.



Subject Property

The City of Opelika does not guarantee this map to be free from errors or inaccuracies. The City of Opelika, Alabama disclaims any responsibility or liability for interpretations from this map or decisions based thereon. The information contained on this map is a general representation only and is not to be used without



City Council
204 South 7Th Street
Opelika, AL

ADOPTED

BIDS 160-19

Meeting: 06/18/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3511

Reject all bids for removal of Dead, Dying, or Dangerous Trees and Stumps with Tree Pruning-ENG

RESOLUTION NO. _____

RESOLUTION REJECTING ALL BIDS RECEIVED FOR A CONTRACT FOR REMOVAL OF DEAD, DYING OR DANGEROUS TREES AND STUMPS WITH TREE PRUNING (BID NO. 19020)

WHEREAS, the City of Opelika, Alabama (the “City”) has heretofore advertised bids for the removal of dead, dying or dangerous trees and stumps with tree pruning (Bid No. 19020) in accordance with the specifications on file in the office of the Purchasing-Revenue Manager; and

WHEREAS, on June 11, 2019 bids were duly opened and read aloud; and

WHEREAS, bids were received from the following contractors: Tiger Tree Experts, Inc., d/b/a Hall Tree Service; AAA General Contractors; New Urban Forestry; Timber and Land; and W.A. Kendall Co.; and

WHEREAS, an entity engaged in the business of general contracting must be properly licensed as a general contractor under the provisions of *Code of Alabama*, 1975, §§34-8-1 thru 34-8-10; and

WHEREAS, the Licensing Board for General Contractors takes the position that a tree removal contractor is required to have a general contractor’s license where the cost of the undertaking exceeds \$50,000; and

WHEREAS, §34-8-8, *Code of Alabama*, 1975, requires municipalities preparing plans and specifications to inform prospective bidders for which a general contractor’s license is required that they must show evidence of their license before the bid is considered; and

WHEREAS, the Instructions issued to bidders did not expressly state that the bidders must be licensed by the Licensing Board of General Contractors; and

WHEREAS, due to said irregularity, the City Council finds and determines that it should reject all of the bids as aforesaid and rebid for a contract for removal of dead, dying or dangerous trees with tree pruning.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, as follows:

1. That all bids received for Bid No. 19020 are hereby rejected.
2. That the Revenue-Purchasing Manager is hereby directed to revise the specifications and rebid the contract for removal of dead, dying or dangerous trees and stumps with tree pruning.
3. That the provisions of this Resolution shall take effect immediately upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

COMMENTS - Current Meeting:

Mr. Smith T made the motion to remove the original resolution to award the bid for tree removal from the agenda and was seconded by Ms. Pitts. The following vote was recorded:

Aye Jones, Pitts, Smith T, Canon, Smith.

Nay None.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Patricia Jones, President Pro-Tem
SECONDER:	Dozier Smith T, Council Member
AYES:	Jones, Gibson-Pitts, Smith T, Canon, Smith

RESOLUTION NO. 161-19

Expense reports from various departments.

RESOLUTION NO. _____

BE IT RESOLVED, by the City Council of the City of Opelika, Alabama, as follows:

-) That the following employee(s) were required by the City of Opelika to travel on City business and/or attend a training session, meeting or conference.

Employee	Department	\$ Amount
-----	-----	-----
Cindy Boyd	Accounting	106.26
Eddie Smith	City Council	296.96

-) That attached is an expense report(s) prepared, dated and signed by the City employee or official covering the various expenses incurred on said trip and reviewed/approved by the City's accounting department and City official.
- 3) That the Opelika City Council hereby approves the attached expense reports for reimbursement to said City employee or official.
- 4) That the Mayor and/or appropriate City official is hereby directed and authorized to take the necessary steps so a check(s) can be prepared covering the attached expense report(s).
- 5) That the City Treasurer is authorized to sign said check(s) so it can be delivered to the appropriate City employee or official.

ADOPTED and APPROVED this the ____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.
President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC
City Clerk - City Treasurer

5/23/2019

5/23/2019

ITEMIZE ALL REIMBURSABLE EXPENSES IN APPROPRIATE BLANKS - ITEMIZE ANY NON-REIMBURSABLE EXPENSES ON REVERSE OF LAST COPY.

WEEKLY CATEGORY TOTALS \$	\$ -	\$ -	\$ -	\$ -	\$ 106.26	\$ -	\$ -	\$ -	\$ -	\$ 106.26
----------------------------------	------	------	------	------	-----------	------	------	------	------	-----------

[illegible]

SIGNATURE *Anthony M. [illegible]*
APPROVED BY *[illegible]*

APPROVED BY

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

EXPENSE REPORT

NAME

Eddie Smith

DEPARTMENT

Department City Council

PERIOD ENDING

6/9/19

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			ENTERTAIN- MENT Itemize Below	MISC. EXPENSES Itemize Below	DAILY TOTAL
			AIR RAIL, ETC	RENTAL CAR LIMO ETC.	LOCAL TAXI, TOLLS & PUB- LIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER			
SUN	From Orange Beach					148.48						148.48
MON												0.00
TUE	To: Orange Beach					148.48						148.48
WED	Conference											0.00
THU												0.00
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	296.96	0.00	0.00	0.00	0.00	0.00	296.96

WEEKLY TOTAL EXPENSES

DATE	NAME OF PERSON(S) ENTERTAINED; COMPANY, TITLE	TIME & PLACE	NATURE & PURPOSE OF ENTERTAINMENT	AMOUNT	% OR \$ ALLOCATED TO BUSINESS

NUMBER OF DAYS AWAY FROM HOME

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

NATURE OR PURPOSE OF TRAVEL

ACCMA Conference

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL: TO

ITEMIZED AUTOMOBILE EXPENSES

DATE	MILEAGE, GAS, PARKING REPAIRS, ETC.	AMOUNT
6/4/19	Orange Beach, AL	296.96
6/9/19	Opelika, AL	
	256 x 2 = 512	

ITEMIZED MISCELLANEOUS EXPENSES

DATE	ITEMS	AMOUNT

Employee

Department

SIGNATURE

APPROVED BY

RESOLUTION NO. 162-19

Designate City Personal Property Surplus and Authorize Disposal**RESOLUTION NO. _____**

WHEREAS, the City of Opelika, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the Municipal Governing body to dispose of unneeded personal property;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

SECTION 1. That the following personal property owned by the City of Opelika, Alabama, is no longer needed for public or municipal purposes:

No.	Qty.	Unit	Item Description	Fixed Asset #
1.	1	Ea.	2002 Coachman Travel Trailer	87002210

SECTION 2. That the Mayor is hereby authorized and directed to dispose of the personal property owned by the City of Opelika, Alabama, described in Section 1 above. If any such property has marketable value, the Mayor shall receive bids or quotations for such property and shall sell the same to the highest bidder. If the property has no marketable value, the Mayor may dispose of such property in the most economical and feasible manner available to him.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 163-19

Purchase-Cameras for Cov Rec Ctr-Natl IPA Contr-P&R**RESOLUTION NO. _____**

WHEREAS, the Information Technology Department desires to purchase Cameras for the Covington Recreation Center for the Parks and Recreation Department utilizing National IPA Contract #2018011-01; and

WHEREAS, CDW Government, Inc. is the National IPA Contract Vendor for the Cameras; and

WHEREAS, funds are budgeted from Capital Expenditures;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the purchase be awarded to CDW Government, Inc. utilizing the National IPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of \$18,574.81.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

QUOTE CONFIRMATION



DEAR STEPHEN DAWE,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.



ACCOUNT MANAGER NOTES: Thank you!

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KQZD838	6/3/2019	KQZD838	0936449	\$18,574.81

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Cisco Meraki MR52 - wireless access point Mfg. Part#: MR52-HW UNSPSC: 43223108 Contract: National IPA Technology Solutions (2018011-01)	1	4136977	\$886.07	\$886.07
Cisco Meraki Enterprise Cloud Controller - subscription license (3 years) - Mfg. Part#: LIC-ENT-3YR UNSPSC: 43232901 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	1	3342939	\$178.50	\$178.50
Cisco Meraki MR84 Cloud Managed - wireless access point Mfg. Part#: MR84-HW UNSPSC: 43223108 Contract: National IPA Technology Solutions (2018011-01)	2	4298871	\$1,520.47	\$3,040.94
Cisco Meraki Enterprise Cloud Controller - subscription license (3 years) - Mfg. Part#: LIC-ENT-3YR UNSPSC: 43232901 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	2	3342939	\$178.50	\$357.00
Cisco Meraki Varifocal MV72 Outdoor HD Dome Camera With 256GB Storage - net Mfg. Part#: MV72-HW UNSPSC: 46171610 Contract: National IPA Technology Solutions (2018011-01)	4	5357671	\$1,108.53	\$4,434.12
Cisco Meraki Enterprise - subscription license (3 years) + 3 Years Enterpri Mfg. Part#: LIC-MV-3YR UNSPSC: 43233204 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)	4	4314174	\$357.00	\$1,428.00
Meraki Dual-Band Patch Antenna (8/6.5 dBi Gain) - antenna Mfg. Part#: MA-ANT-25	4	3651379	\$221.51	\$886.04

QUOTE DETAILS (CONT.)				
UNSPSC: 43221706 Contract: National IPA Technology Solutions (2018011-01)				
Cisco Meraki camera L shape bracket	1	4314387	\$137.62	\$137.62
Mfg. Part#: MA-MNT-MV-3 UNSPSC: 45121518 Contract: National IPA Technology Solutions (2018011-01)				
Cisco Meraki MV21 - network surveillance camera	6	4304178	\$847.42	\$5,084.52
Mfg. Part#: MV21-HW UNSPSC: 46171610 Contract: National IPA Technology Solutions (2018011-01)				
Cisco Meraki Enterprise - subscription license (3 years) + 3 Years Enterpri	6	4314174	\$357.00	\$2,142.00
Mfg. Part#: LIC-MV-3YR UNSPSC: 43233204 Electronic distribution - NO MEDIA Contract: National IPA Technology Solutions (2018011-01)				

PURCHASER BILLING INFO		SUBTOTAL	\$18,574.81
Billing Address: CITY OF OPELIKA ACCOUNTS PAYABLE PO BOX 390 OPELIKA, AL 36803-0390 Phone: (334) 705-5120 Payment Terms: Net 30 Days-Govt State/Local		SHIPPING	\$0.00
		SALES TAX	\$0.00
		GRAND TOTAL	\$18,574.81
DELIVER TO		Please remit payments to:	
Shipping Address: CITY OF OPELIKA STEPHEN DAWE 204 S 7TH ST OPELIKA, AL 36801 Shipping Method: DROP SHIP-GROUND		CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515	

Need Assistance? CDW•G SALES CONTACT INFORMATION



Griffin Curcio

(877) 635-6656

grifcur@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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A WINNING PARTNERSHIP IN STRATEGIC SOURCING

We are pleased to announce that CDW·G has been awarded a special contract with National IPA, for the sale of Information Technology Solutions and Services, under Agreement 2018011-01. Contract 2018011-01 is now available for National IPA Participants to utilize for all of your technology needs.

STRONG PARTNERSHIP, STRONG SOLUTIONS

CDW·G and National IPA have worked collaboratively to help you successfully convert to the new program. If you have any questions about the transition or process, please contact your CDW·G account manager for additional assistance.

We look forward to serving you under our new agreement with National IPA.

HERE ARE THE BENEFITS OF THE CONTRACT:

- + Term: 3/1/2018 to 2/28/2023 with two, one-year renewals.
- + Competitive pricing across CDW·G's entire portfolio of products and solutions.
- + Access to a multitude of services and custom configurations, including equipment staging.
- + Pricing on products made by the following partners:



RESOLUTION NO. 164-19

Purchase-Disk Storage for City Cameras-Natl IPA Contr-IT**RESOLUTION NO. _____**

WHEREAS, the Information Technology Department desires to purchase Dell/EMC Isilon Disk Storage for the City Camera Systems utilizing National IPA Contract #2018011-01; and

WHEREAS, CDW Government, Inc. is the National IPA Contract Vendor for the Dell/EMC Isilon Disk Storage; and

WHEREAS, funds are budgeted from the Information Technology Equipment Repairs and Maintenance Fund;

NOW, THEREFORE, BE IT RESOLVED by the City of Opelika, Alabama as follows:

1. That the purchase be awarded to CDW Government, Inc. utilizing the National IPA Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to CDW Government, Inc. in the total amount of \$32,928.08.
3. The Controller is authorized to adjust the budget as necessary for this purchase.
4. That the Mayor is hereby authorized to sign all documents pertaining to this purchase.

APPROVED AND ADOPTED this the _____ day of _____, 2019.

C.E. “Eddie” Smith, Jr.

President of the City Council
City of Opelika, Alabama

ATTEST:

Robert G. Shuman, CMC

City Clerk - Treasurer

QUOTE CONFIRMATION



DEAR STEPHEN DAWE,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.



ACCOUNT MANAGER NOTES: Have a great day!

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KQLG523	5/21/2019	JUNE 28 2019 -JUNE 27 2020	936449	\$32,928.08

QUOTE DETAILS				
ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
EMC-NL410-108T/48G/2X10GE 2X1GE Mfg. Part#: NL410-SAT-012 Contract: National IPA Technology Solutions (2018011-01)	1	3838868	\$10,674.86	\$10,674.86
EMC-NL410-108T/48G/2X10GE 2X1GE Mfg. Part#: NL410-SAT-012 Contract: National IPA Technology Solutions (2018011-01)	1	3838868	\$10,674.86	\$10,674.86
EMC-NL410-108T/48G/2X10GE 2X1GE Mfg. Part#: NL410-SAT-012 Contract: National IPA Technology Solutions (2018011-01)	1	3838868	\$10,674.86	\$10,674.86
ISILON MELLANOX 8PT QDR SWITCH Mfg. Part#: 851-0167 Contract: National IPA Technology Solutions (2018011-01)	1	2541087	\$451.75	\$451.75
ISILON MELLANOX 8PT QDR SWITCH Mfg. Part#: 851-0167 Contract: National IPA Technology Solutions (2018011-01)	1	2541087	\$451.75	\$451.75
Isilon InsightIQ - license - 1 node Mfg. Part#: 200-0404-CF UNSPSC: 43232804 Electronic distribution - NO MEDIA Contract: MARKET	3	3960879	\$0.00	\$0.00

PURCHASER BILLING INFO		SUBTOTAL	\$32,928.08
Billing Address: CITY OF OPELIKA ACCOUNTS PAYABLE PO BOX 390 OPELIKA, AL 36803-0390 Phone: (334) 705-5120 Payment Terms: Net 30 Days-Govt State/Local		SHIPPING	\$0.00
		SALES TAX	\$0.00
		GRAND TOTAL	\$32,928.08
		Please remit payments to:	
DELIVER TO			

Shipping Address:

CITY OF OPELIKA
STEPHEN DAWE
204 S 7TH ST
OPELIKA, AL 36801

Shipping Method: DROP SHIP-GROUND

CDW Government
75 Remittance Drive
Suite 1515
Chicago, IL 60675-1515

Need Assistance? CDW•G SALES CONTACT INFORMATION



Griffin Curcio

(877) 635-6656

grifcur@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at
<http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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A WINNING PARTNERSHIP IN STRATEGIC SOURCING

We are pleased to announce that CDW-G has been awarded a special contract with National IPA, for the sale of Information Technology Solutions and Services, under Agreement **2018011-01**. Contract 2018011-01 is now available for National IPA Participants to utilize for all of your technology needs.

STRONG PARTNERSHIP, STRONG SOLUTIONS

CDW-G and National IPA have worked collaboratively to help you successfully convert to the new program. If you have any questions about the transition or process, please contact your CDW-G account manager for additional assistance.

We look forward to serving you under our new agreement with National IPA.

HERE ARE THE BENEFITS OF THE CONTRACT:

- + Term: 3/1/2018 to 2/28/2023 with two, one-year renewals.
- + Competitive pricing across CDW-G's entire portfolio of products and solutions.
- + Access to a multitude of services and custom configurations, including equipment staging.
- + Pricing on products made by the following partners:



RESOLUTION NO. 165-19

Hanwha Tax Abatement

RESOLUTION NO. _____

**RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR HANWHA ADVANCED MATERIALS AMERICA, LLC**

WHEREAS, Hanwha Advanced Materials America, LLC (the “Company”) operates an industrial facility (“the Facility”) in the Northeast Industrial Park within the corporate limits of the City of Opelika (the “City”); and

WHEREAS, the Company has announced plans for a major addition (the “Project”) to its existing Facility located at 4400 Northpark Drive, Opelika, Alabama; and

WHEREAS, the Project, involving a building expansion, the purchase and acquisition of new manufacturing machinery and equipment and the acquisition of other personal property, will involve a capital investment of approximately thirty two million dollars (\$32,000,000.00); and

WHEREAS, the Project is estimated to be placed in service by December 1, 2022; and

WHEREAS, the Project will be operated by the Company as an “industrial or research enterprise” as defined under Alabama Code §40-9B-3(a)(10); and

WHEREAS, the Project is expected to result in the creation of approximately one hundred twenty-eight (128) new jobs; and

WHEREAS, the Company's NAICS Code 336399 meets the qualifications of an industrial or research enterprise in accordance with §40-9B-3(6), *Code of Alabama*, as amended; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1, et seq, *Code of Alabama*, 1975) (the "Act"), the Company has requested from the City the abatement of (a) all state and local non-education ad valorem taxes (property taxes); and (b) all construction related transaction taxes (sales and use taxes), except those construction related transaction taxes levied for educational purposes or for capital improvements for education; and

WHEREAS, the Company has requested that the abatement of state and local noneducational property taxes be extended for a period of ten (10) years in accordance with the Act; and

WHEREAS, pursuant to Article IV of Chapter 51 of Title 11, *Code of Alabama*, the Company has requested from the City a complete exemption of non-educational City ad valorem taxes for the new machinery, equipment and other new personal property to be acquired and installed in the Facility (the "Project"); and

WHEREAS, the City has considered the request of the Company and the completed application (copy attached) filed by the Company with the City in connection with its request; and

WHEREAS, the City has found the information contained in the Company's application to be sufficient to permit the City to make a reasonable cost/benefit analysis of the proposed Project and to determine the economic benefits to the community; and

WHEREAS, the Project will involve a capital investment of approximately thirty-two million dollars (\$32,000,000.00); and

WHEREAS, the City Council has been furnished a copy of a Tax Abatement Agreement between the City and the Company and the City Council has determined that the general terms of such Agreement are acceptable to the City in principle; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama and has power to enter into and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the City represents and warrants to the Company that it has the power under the Constitution and the laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of the Tax Abatement Agreement; and

WHEREAS, the City wishes to secure the numerous and significant benefits to the City, its business community and residents that will likely result from the expanded use of the Facility due to the installation of said new machinery, equipment and other new personal property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama as follows:

1. Approval is hereby given to application of the Company and abatement is hereby authorized of (1) all state and local non-educational property taxes for a period of ten (10) years; and (2) all construction related transactions (sales and use) taxes, as the same may apply to the fullest extent permitted by the Act, except those construction related transaction taxes levied for educational purposes or for capital improvements for education. The period of abatement for the

noneducational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)12 of the Act.

2. In addition, pursuant to Title 11, Article 4 of Chapter 51, *Code of Alabama*, the City agrees to grant to the Company a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years.

3. The abatements and exemptions granted herein do not include any ad valorem taxes earmarked for city and county schools and school district purposes. The tax abatements and exemptions for ad valorem taxes under paragraphs 1 and 2 shall not exceed the maximum abatement allowed by state law.

4. The Mayor and the City Clerk are hereby authorized and directed to execute the Tax Abatement Agreement with the Company and such other ancillary documents and agreements as may be necessary to provide the abatements and exemptions granted in paragraphs 1 and 2 above.

5. A certified copy of this resolution, with Application and Abatement Agreement, shall be forwarded to the Company to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

6. The officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or caused to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances, or other instruments or other

communications under the seal of the City, or otherwise, as they or any of them deem necessary or advisable or appropriate in order to carry into effect the intent of the provisions of this resolution.

7. This resolution shall take effect upon passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

CLERK'S CERTIFICATE

I hereby certify that the above and foregoing was duly adopted by the City Council of the City of Opelika at a meeting held on the _____ day of _____, 2019.

CITY CLERK

RESOLUTION NO. 166-19

West Fraser Tax Abatement

RESOLUTION NO. _____

RESOLUTION APPROVING CERTAIN TAX ABATEMENTS AND
EXEMPTIONS FOR WEST FRASER, INC.

WHEREAS, West Fraser, Inc. (the “Company”) operates an industrial facility (“the Facility”) in the W.C. Davis Industrial Park within the corporate limits of the City of Opelika (the “City”); and

WHEREAS, the Company has announced plans for a major addition (the “Project”) to its existing Facility located at 2100 Industrial Boulevard, Opelika, Alabama; and

WHEREAS, the Project, involving the construction of new buildings and/or new additions to existing buildings, the purchase and acquisition of new manufacturing machinery and equipment, and the purchase and acquisition of other new personal property, will involve a capital investment of approximately forty-three million, one hundred fifty four thousand, five hundred forty-nine dollars (\$43,154,549.00); and

WHEREAS, the Project is estimated to be placed in service by July 16, 2020; and

WHEREAS, the Project will be operated by the Company as an “industrial or research enterprise” as defined under Alabama Code §40-9B-3(a)(10); and

WHEREAS, the Company's NAICS Code 321113 meets the qualifications of an industrial or research enterprise in accordance with §40-9B-3(6), *Code of Alabama*, as amended; and

WHEREAS, pursuant to the Tax Incentive Reform Act of 1992 (Section 40-9B-1, et seq, *Code of Alabama*, 1975) (the "Act"), the Company has requested from the City the abatement of (a) all state and local non-education ad valorem taxes (property taxes); and (b) all construction related transaction taxes (sales and use taxes), except those construction-related transaction taxes levied for educational purposes or for capital improvements for education; and

WHEREAS, the Company has requested that the abatement of state and local non-educational property taxes be extended for a period of ten (10) years in accordance with the Act; and

WHEREAS, pursuant to Article IV of Chapter 51 of Title 11, *Code of Alabama*, the Company has requested from the City a complete exemption of non-educational City ad valorem taxes for the new machinery to be acquired and installed in the Facility (the "Project"); and

WHEREAS, the City has considered the request of the Company and the completed application (copy attached) filed by the Company in connection with its request; and

WHEREAS, the City has found the information contained in the Company's application to be sufficient to permit the City to make a reasonable cost/benefit analysis of the proposed Project and to determine the economic benefits to the community; and

WHEREAS, the Project will involve a capital investment of approximately forty-three million, one hundred fifty-four thousand, five hundred forty-nine dollars (\$43,154,549.00); and

WHEREAS, the City Council has been furnished a copy of a Tax Abatement Agreement between the City and the Company and the City Council has determined that the general terms of such Agreement are acceptable to the City in principle; and

WHEREAS, the Company is duly qualified to do business in the State of Alabama and has power to enter into and to perform and observe the agreements and covenants on its part contained in the Tax Abatement Agreement; and

WHEREAS, the City represents and warrants to the Company that it has the power under the Constitution and the laws of the State of Alabama (including particularly the provisions of the Act) to carry out the provisions of the Tax Abatement Agreement; and

WHEREAS, the City wishes to secure the numerous and significant benefits to the City, its business community and residents that will likely result from the expanded use of the Facility due to the installation of said new machinery, equipment and other new personal property.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama as follows:

1. Approval is hereby given to application of the Company and abatement is hereby authorized of (1) all state and local non-educational property taxes for a period of ten (10) years; and (2) all construction related transactions (sales and use) taxes, except those construction related transaction taxes levied for educational purposes or for capital improvements for education. The period of abatement for the non-educational property taxes shall extend for a period of ten (10) years measured as provided in Section 40-9B-3(a)12 of the Act.

2. In addition, pursuant to Title 11, Article 4 of Chapter 51, *Code of Alabama*, the City agrees to grant to the Company a complete exemption for non-educational City ad valorem taxes for a period of fifteen (15) years.

3. The abatements and exemptions granted herein do not include any ad valorem taxes earmarked for city and county schools and school district purposes. The tax abatements and exemptions for ad valorem taxes under paragraphs 1 and 2 shall not exceed the maximum abatement allowed by state law.

4. The Mayor and the City Clerk are hereby authorized and directed to execute the Tax Abatement Agreement with the Company and such other ancillary documents and agreements as may be necessary to provide the abatements and exemptions granted in paragraphs 1 and 2 above.

5. A certified copy of this resolution, with Application and Abatement Agreement, shall be forwarded to the Company to deliver to the appropriate taxing authorities and to the Alabama Department of Revenue in accordance with the Act.

6. The officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or caused to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances, or other instruments or other communications under the seal of the City, or otherwise, as they or any of them deem necessary

or advisable or appropriate in order to carry into effect the intent of the provisions of this resolution.

7. This resolution shall take effect upon passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

CLERK'S CERTIFICATE

I hereby certify that the above and foregoing was duly adopted by the City Council of the City of Opelika at a meeting held on the _____ day of _____, 2019.

CITY CLERK

RESOLUTION NO. 167-19

Budget adjustment for advertising expense - City Clerk.

RESOLUTION NO. _____

WHEREAS, the Office of City Clerk is required to pay for various advertising expenses that are legally required of the City of Opelika, and

WHEREAS, the advertising account within the City Clerk's budget, does not have enough funds to cover the projected advertising expenses for the remainder of the 2018 - 2019 fiscal year,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City Opelika, Alabama, a municipal corporation, as follows:

-) That the Mayor and City Controller is hereby authorized to make the appropriate budget adjustment for the City Clerk's Office, in the amount of \$15,000.00, to increase the advertising account, with said funds coming from the Unassigned Fund balance.

APPROVED and ADOPTED this the _____ day of _____, 2019.

C. E. "Eddie" Smith, Jr.

President of the City Council

City of Opelika, Alabama

Attest:

Robert G. Shuman, CMC

City Clerk - Treasurer

RESOLUTION NO. 168-19

Grant Application, Pepperell Watershed Phase II.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE SUBMITTAL OF A
SECTION 319(h) GRANT APPLICATION TO THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT (“ADEM”)**

WHEREAS, the 1987 amendments to the Clean Water Act (CWA) established the 319 Nonpoint Source Management Program; and

WHEREAS, under Section 319 local governments may receive grant funds that support a wide variety of activities including technical assistance, financial assistance, education, training and technology; and

WHEREAS, the City of Opelika, Alabama (the “City”) desires to partner with Auburn University to apply to the Alabama Department of Environmental Management (ADEM) for a Section 319(h) grant in the approximate amount of approximate range of \$400,000-440,618.00.

WHEREAS, said grant funds will be used to implement best management practices, provide outreach and education, support and plan City initiatives, enhance community stewardship and improve water quality in the Pepperell Branch; and

WHEREAS, said grant funds will also be used to employ a part-time coordinator/educator to manage the grant and to provide project coordination; and

WHEREAS, the City believes itself to be qualified and is willing and able to carry out all activities described in the ADEM grant application; and

WHEREAS, the City will agree, upon award and acceptance of the grant, to the terms of the grant; and

WHEREAS, the City recognizes the forty percent (40%) match requirement for the Section 319(h) grant and will secure matching funds; and

WHEREAS, the 40% match may include a combination of staff, services, materials and supplies; and

WHEREAS, most of the local match will be accounted for through “in-kind” services including services from Auburn University, City staff time, and volunteer time from organizations such as KOB, the Creekline, 4-H and local master gardeners, and others; and

WHEREAS, the balance of the local match will probably not exceed \$50,000.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama, as follows:

1. That the Mayor is hereby authorized to execute and submit to ADEM an application, in conjunction with Auburn University, for Section 319(h) funds on behalf of the City of Opelika, Alabama, in the approximate range of \$400,000-440,618.00.
2. Upon approval of said application, the Mayor is hereby authorized and directed to enter into and execute a Grant Agreement with ADEM for such Section 319(h) financial assistance and to further carry out and comply with the terms of the Grant Agreement.
3. That the City hereby agrees to accept the grant funds and to comply with the terms of the grant as well as all applicable laws, environmental requirements and regulations as stated in the Grant Agreement.

4. That the portion of the local match not covered by in-kind services shall be paid from the Unassigned Fund Balance.

5. That the officers of the City and any person or persons designated and authorized by any officers of the City to act in the name and on behalf of the City, or any one or more of them, are authorized to do or cause to be done or performed in the name and on behalf of the City such other acts and to execute and deliver or cause to be executed and delivered in the name and on behalf of the City such other notices, certificates, assurances or other instruments or other communications under the seal of the City or otherwise, as they or any of them deem necessary or advisable or appropriate in order to carry into effect the intent of the provisions of this Resolution and the Grant Agreement.

6. That the Mayor and Controller are hereby authorized and directed to make all appropriate accounting and budget entries necessary to carry into effect the provisions of the attached Agreement.

7. That this Resolution shall take effect upon its passage and adoption by the City Council.

ADOPTED AND APPROVED this the _____ day of _____, 2019

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

ORDINANCE NO. 011-19-ORD

Change the November 19, 2019 city council meeting date - 2nd Reading.

ORDINANCE NO. _____

WHEREAS, under the authority of Section 2-161 of the Code of Ordinances of the City of Opelika, regular meetings of the City Council are held on the first and third Tuesday of each month; and

WHEREAS, the meetings of the City Council for the month of November 2019 is scheduled to be held on November 5, 2019 and November 19, 2019; and

WHEREAS, on the 19th of November, the City Council will be leaving for the National League of Cities conference, therefore the City Council desires to re-schedule the second regular meeting in November 2019 from November 19, 2019 to November 18, 2019.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Opelika, Alabama, as follows:

Section 1. The meeting of November 19, 2019 of the City Council is hereby canceled.

Section 2. The second regular meeting of the City Council for the month of November 2019 shall be held on November 18, 2019 beginning at 7:00 p.m. in the City Council chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama.

Section 3. Except as modified herein, the provisions of Section 2-161 of the Code of Ordinances of the City of Opelika shall continue in full force and effect with regular meetings of the City Council to be held on the first and third Tuesday of each month.

Section 4. That the City Clerk is hereby directed to notify the news media and all other interested parties of the change of date for the second regular meetings of the City Council in November 2019.

ADOPTED AND APPROVED this the _____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF
THE CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED to the Mayor on this the _____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED by the Mayor on this the _____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 3413)

Amend Zoning Ord & Map: Rezone 2 Acres, 2400 Block Dunlop Drive - 2nd Reading

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING
ORDINANCE AND ZONING MAP OF THE CITY OF OPELIKA

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

Section 1. That Ordinance 124-91 entitled “Zoning Ordinance City of Opelika, Alabama”, adopted on September 17, 1991, and the Zoning Map of the City of Opelika provided for and referred to therein, as previously amended and/or modified, be and the same is hereby amended by rezoning or redistricting the parcel of land hereinafter in this section described, so as to change such parcel from one class of district to another class of district as follows, to-wit:

From a R-5 District (High-Density Residential District) to a C-2 District (Office/Retail District), the parcel of land hereinafter described:

Lot 7C of TIMMS SUBDIVISION, FIRST REVISION, according to and as shown by map or plat of said subdivision of record in Town Plat Book 23, at Page 81 in the Office of the Judge of Probate of Lee County, Alabama.

The above-described property contains 2.017 acres, more or less, and is located on the west side of Dunlop Drive.

Section 2. Any ordinance or part thereof in conflict with provisions of this Ordinance be and the same are hereby repealed.

Section 3. This Ordinance shall be published in a newspaper of general circulation in the City of Opelika, Lee County, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR on this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. (ID # 3508)

Conveyance of the West Side of Dunlop Drive to John a Stewart - 2nd Reading.

ORDINANCE NO. _____

**ORDINANCE AUTHORIZING THE CONVEYANCE
OF THE WEST SIDE OF DUNLOP DRIVE TO JOHN A STEWART**

BE IT ORDAINED by the City Council of the City of Opelika, Alabama as follows:

Section 1. It is hereby established and declared that the following described real property of the City of Opelika, Alabama, is no longer needed for public or municipal purposes, to-wit:

Lot 7C of TIMMS SUBDIVISION, FIRST REVISION, according to and as shown by map or plat of said subdivision of record in Town Plat Book 23, at Page 81 in the Office of the Judge of Probate of Lee County, Alabama.

Being further described as Parcel No. 43-09-01-11-4-000-045.000 according to records maintained in the Lee County Revenue Commissioner's Office.

Section 2. That the City of Opelika, Alabama, having received an offer from John A. Stewart to purchase the real estate described in Section 1 above, it is hereby declared that it is in the best interest of the public and the City to sell said premises to John A. Stewart for and in consideration of the sum of \$190,000.

Section 3. That the Mayor and the City Clerk be and they are hereby authorized and directed to execute and attest, respectively, for and on behalf of the City of Opelika, Alabama, a warranty deed, a copy of which is on file in the office of the City Clerk, whereby the City of Opelika does convey the premises described in Section 1 above to John A. Stewart for and in consideration of the sum of \$190,000.

Section 4. That the Mayor, City Clerk and other appropriate officers and employees of the City are hereby authorized to take such further actions and execute and deliver such other agreements, contracts, documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 5. That this ordinance shall become effective immediately upon its adoption and publication as required by law.

Section 6. The City Clerk of the City of Opelika is hereby authorized and directed to cause this ordinance to be published one (1) time in a newspaper published in and of general circulation in the City of Opelika, Alabama.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

STATE OF ALABAMA)
 :
 COUNTY OF LEE) **REAL ESTATE SALES AGREEMENT**

THIS AGREEMENT made and entered into this the ____ day of _____, 2019 by and between **THE CITY OF OPELIKA, ALABAMA**, a municipal corporation, having address at 204 South 7th Street, Opelika, Alabama (hereinafter referred to as "SELLER") and **JOHN A. STEWART**, having address at 122 North 20th Street, #25, Opelika, Alabama (hereinafter referred to as "PURCHASER").

WITNESSETH:

In consideration of the mutual covenants contained herein, **SELLER** and **PURCHASER** agree as follows:

1. **PURCHASE OF PROPERTY.** **SELLER** hereby agrees to sell and convey unto **PURCHASER**, and **PURCHASER** hereby agrees to purchase from **SELLER**, subject to the conditions hereinafter set forth, the following described real property located on the west side of Dunlop Drive in the City of Opelika, Alabama (hereinafter called "PROPERTY"), described as follows:

Lot 7C of Timms Subdivision, 1st Revision, according to and as shown by map or plat of said subdivision recorded in Plat Book 23, at Page 81 in the Office of the Judge of Probate of Lee County, Alabama, 36801.

Being further described as Parcel No. 43-09-01-11-4-000-045.000 according to the records maintained in the Lee County Revenue Commissioner's Office.

2. **PURCHASE PRICE.** The purchase price for the PROPERTY shall be \$190,000.00, payable in full at the time of closing.

3. **CLOSING:** Subject to the terms and provisions of this Contract, the "Closing" will

be held at 204 South 7th Street, Opelika, Alabama, or at such other place as is mutually agreeable to the SELLER and the PURCHASER on a date to be designated by the PURCHASER within sixty (60) days after the date hereof. At Closing and upon the payment of the entire purchase price as recited in this Contract, the SELLER shall execute and deliver to PURCHASER a good and sufficient warranty deed conveying to the PURCHASER good and marketable title to the PROPERTY, subject to all easements, restrictions, reservations, covenants, conditions and rights-of-way as shown on the public records in the Office of the Judge of Probate of Lee County, Alabama, or which may be evidenced by possession, use or survey. In the event title to the PROPERTY is found to be defective and is not good and merchantable, then upon notification thereof by Purchaser to Seller, Seller shall have a reasonable time to correct the defects; but if such defects are not corrected within a reasonable period of time, then all rights and obligations arising hereunder shall terminate.

At closing, Purchaser shall deliver to Seller a check in the amount of the purchase price. The cost of preparing, executing and acknowledging any deeds or other instruments required to convey good and merchantable title to Purchaser in the manner described in this Contract shall be paid by the Seller. All other costs and expenses of closing shall borne by the Purchaser.

4. **POSSESSION:** Seller shall deliver to Purchaser possession of the property at closing.

5. **SALE OF PROPERTY "AS-IS":** Purchaser has heretofore inspected the Property and is acquainted with the condition of the Property. Purchaser agrees to take the Property "AS-IS", in its present condition, subject to reasonable use, wear and tear. Until closing, Seller agrees to maintain the Property in its present condition, reasonable war and tear excepted. The

provisions of this Section shall survive closing and shall survive the expiration or earlier termination of this Agreement.

6. **DISCLAIMER.** Purchaser acknowledges and agrees that Seller does not make, and specifically negates and disclaims any representations, warranties (other than the warranty of title as set out in the deed), promises, covenants or guarantees of any kind or character whatsoever, whether expressed or implied, oral or written, past, present or future, of, as to, concerning or with respect to the nature, quality or condition of the Property, including, without limitation, the soil, geography capacity for development, access or environmental conditions that may exist or have previously existed on the Property. Purchaser acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS-IS" condition and basis with all faults. All provisions of this Section shall survive closing or the expiration or earlier termination of this Agreement without closing as applicable.

7. **ZONING CONTINGENCY.** Purchaser's obligations under this Agreement are contingent on the Property being rezoned from a R-5 (High-Density Residential) District to a C-2 (Office/Retail) District. Seller shall have sixty (60) days from execution of this Agreement to obtain such zoning approval.

8. **DEFAULT.** In the event of a default by Seller or Purchaser, the non-defaulting party may state its or his intention to comply with the contract and seek specific performance of this contract or bring suit for damages.

9. **LEGAL FEES:** Each party agrees to pay its own legal fees for closing this transaction.

10. **SURVIVAL OF TERMS:** The Seller's and the Purchaser's covenants and

representations shall survive the closing and shall not be merged in the deed delivered by Seller.

11. **BINDING EFFECT:** This Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, legal representatives, successors and assigns.

12. **ENTIRE AGREEMENT:** This Contract embodies the entire agreement between the parties hereto and there are no oral or parole agreements existing between the Seller and the Purchaser relating to the subject matter which is not expressly set forth herein and covered hereby.

13. **TIME OF ESSENCE:** Time is of the essence of this Contract.

14. **GENDER.** Words of any gender used in this Contract shall be held and construed to include any other gender and words in the singular shall include the plural and vice versa, unless the context requires otherwise.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have hereunto set their hands and seals on the day and date first above written.

THE CITY OF OPELIKA, ALABAMA
A MUNICIPAL CORPORATION
SELLER

By: _____
GARY FULLER,
ITS MAYOR


JOHN A. STEWART-PURCHASER

ORDINANCE NO. (ID # 3510)

Amend City Code, Chapter 5.5 Article III, wireless telecommunications - 2nd Reading.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5.5 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA BY REPEALING ARTICLE III ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES SITING” AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE III THEREOF ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES LAND USE AND SITING” TO REGULATE PERMITTING, SITING AND PLACEMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES AND ACCESSORY EQUIPMENT AND THE PLACEMENT AND USE OF ASSOCIATED SUPPORT STRUCTURES WITHIN THE CITY OF OPELIKA OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING PENALTIES AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

WHEREAS, the City Council finds and determines that wireless telecommunications facilities may pose significant concerns to the health, safety, welfare, character and environment of the City of Opelika (the “City”) and its inhabitants, and that the Telecommunications Act of 1996 and related authorities confirm the City’s authority concerning the placement, construction (including height) and modification of such facilities; and

WHEREAS, the City Council enacted Article III of Chapter 5.5 of the Opelika Municipal Code in 2000, which regulates wireless telecommunications facilities; and

WHEREAS, the City wishes to update Article III of Chapter 5.5 of the Opelika Municipal Code based on current telecommunications trends and recent changes in applicable laws and regulations, in order to protect and promote public health, safety and welfare; and

WHEREAS, the City desires to establish a comprehensive set of siting and permitting requirements addressing the placement of wireless telecommunications facilities and accessory equipment within the City outside of the public rights-of-way; and

WHEREAS, the City desires to establish a fair and efficient process for review and approval of applications; assure an integrated, comprehensive review of environmental impacts and protect the rights of the City and its residents, to the extent allowed under law.

Section 1. Replacement of Article III of Chapter 5.5 of the Code of Ordinances, adopting Sections 5.5-301 through 5.5-337. That current Article III of Chapter 5.5 of the *Code of Ordinances* of the City of Opelika entitled “Wireless Telecommunications Facilities Siting” is hereby repealed in its entirety and replaced with new Article III entitled “Wireless Telecommunications Facilities Land Use and Siting”, consisting of Sections 5.5-301 through 5.5-337, which Article shall read as follows:

Article III -- Wireless Telecommunications Facilities Land Use and Siting.

Sec. 5.5-301. - Purpose and legislative intent.

(a) The purpose of this Article is to establish a comprehensive set of siting and permitting requirements addressing the placement of wireless telecommunications facilities and accessory equipment and the placement and use of associated support structures within the City outside of the public rights-of-way. The placement of wireless facilities within the public rights-of-way shall be governed by Article IV of this Chapter 5.5.

(b) These regulations are intended to provide for the managed development of wireless telecommunications facilities, in a manner that recognizes the community benefits of wireless telecommunications technology and that reasonably accommodates the needs of citizens and wireless providers in accordance with federal and state rules and regulations. At the same time, these regulations are intended to protect the community from potential adverse impacts of such facilities, including but not limited to noise, traffic, aesthetic, safety, and other impacts over which the City has purview, and to preserve the visual character of the established community through appropriate design, siting, screening, maintenance, and location standards.

(c) This Article does not address civil relationships between private landowners and owners or operators of wireless telecommunications facilities and does not affect the need to obtain all necessary property rights from private landowners for the placement of wireless telecommunications facilities.

(d) This Article does not regulate the siting of wireless telecommunications facilities within state rights-of-way except to the extent that the City has the authority to regulate the placement and location of wireless telecommunications facilities within a state right-of-way.

Sec. 5.5-302. - Title.

This Article may be known and cited as the "Wireless Telecommunications Facilities Land Use and Siting Ordinance for the City of Opelika."

Sec. 5.5-303. - Definitions.

For purposes of this Article, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely discretionary.

“Accessory equipment” means any equipment, other than an antenna, used in conjunction with a wireless telecommunications facility. It includes but is not limited to cabinets, optical converters, power amplifiers, radios, multiplexers, radio units, fiber optic and coaxial cables located on a support structure, wires, meters, pedestals, power switches, junction boxes, batteries, power supplies and related equipment located upon or in the immediate vicinity of the support structure.

“Accessory facility” or *“accessory structure”* means any facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment, storage sheds or cabinets.

“Antenna” means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

“Applicant” means any person submitting an application to the City for a special use permit for wireless telecommunications facilities.

“Application” means all necessary and required documentation that an applicant submits in order to receive a special use permit for placement of wireless telecommunications facilities under this Article.

“Base Station” means a structure or equipment at a fixed location that supports or houses wireless telecommunications facilities used to provide wireless service between user equipment and a communications network.

“City” means the City of Opelika, Alabama, and its police jurisdiction.

“Collocate” means to install, mount, maintain, modify, operate or replace wireless facilities on or adjacent to an existing or replacement support structure.

“Completed application” means an application that contains all information and/or data requested in the application form and this Article, which is necessary to enable the Council to evaluate the merits of the application and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the City in the context of the permitted land use for the particular location requested.

“Concealment” means a physical design or treatment that minimizes adverse visual impacts upon the view from land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility.

“*Council*” means the City Council of the City of Opelika, Alabama.

“*EPA*” means the state and/or Federal Environmental Protection Agency.

“*Equipment Cabinet*” means an enclosure that increases the cumulative volume of the existing wireless equipment, exclusive of antennas, that contains the proposed improvements, personal property, or facilities for permitted uses including: radio receivers, transmitters, related facilities, related cables and utility lines, location-based power source (including a battery), the electrical meter and any other equipment necessary for the operation of the base station.

“*FAA*” means the Federal Aviation Administration.

“*FCC*” means the Federal Communications Commission.

“*Free standing tower*” means a tower that is not supported by guy wires and ground anchors or other means of attached or external support.

“*Height*” means, when referring to a tower or wireless support structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including any antenna or lightning protection device.

“*Historic district*” means the historic downtown commercial area as designated in Ordinance No. 151-01.

“*Lattice tower*” means a self-supporting communications tower with three (3) or more sides of open-framed supports.

“*Modification*” or “*Modify*” means the addition, removal or change of any of the physical and/or visually discernable components or aspects of a wireless telecommunications facility, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, the color or materials of any visually discernable components, vehicular access, parking, and/or an upgrade or change-out of equipment for better or more modern equipment.

“*Monopole tower*” means a cylindrical self-supporting tower constructed as a single spire.

“*NIER*” means non-ionizing electromagnetic radiation.

“*Person*” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

“*Repair and Maintenance*” means repair, maintenance or upgrade of a wireless telecommunications facility that does not i) increase the height of the structure, ii)

alter the physical profile, iii) change the loading, iv) change the RF emissions levels, v) increase the footprint of the facility, or vi) otherwise exceed the conditions of the permit.

“*Special use permit*” means the official document or permit issued by the City by which an applicant is authorized to construct and use wireless telecommunications facilities consistent with this Article.

“*State*” means the State of Alabama.

“*Substantial Modification*” or “*Substantial Change*” means:

(1) For towers:

- a) The proposed collocation or modification increases the overall height more than ten percent (10%) or the height of one additional antenna array not to exceed twenty (20) feet (whichever is greater); or
- b) The proposed collocation or modification increases the width more than twenty (20) feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
- c) The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four (4) new cabinets; or
- d) The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

(2) For base stations:

- a) The proposed collocation or modification increases that overall height more than ten percent (10%) or ten (10) feet (whichever is greater); or
- b) The proposed collocation or modification increases the width more than six (6) feet from the edge of the base station; or
- c) The proposed collocation or modification involves the installation of any new equipment cabinets when there are no existing equipment cabinets; or
- d) The proposed collocation or modification involves the installation of any new equipment cabinets that are ten percent (10%) larger in height or volume than any existing cabinets; or

- e) The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- (3) In addition, for all towers and base stations:
- a) The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the City; or
 - b) The proposed collocation or modification violates a prior condition of approval as regards to height, width, number and size of equipment cabinets or any excavation that is inconsistent with the thresholds for a substantial change described in this section.
- (4) As to all measurements set forth herein, the following principles shall govern:
- a) Any threshold or limits of height increase is cumulative or collective.
 - b) For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design.
 - c) For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date of passage of the Middle-Class Tax Relief and Job Creation Act of 2012 Section 6409(a).

“Support Structure” means a tower, base station, or other structure or building of any type whatsoever, including a utility pole, that is used, or is to be used, to support a wireless telecommunications facility.

“Survey” means a survey containing the seal and certification of a properly licensed professional engineer or professional land surveyor.

“Temporary” means in relation to all aspects and components of this Article, something intended to, or that does, exist for fewer than ninety (90) days.

“Tower” means any structure designed primarily to support an antenna for the provision of wireless service, or that is designed primarily to support equipment for transmission of broadcast television service but that also will support an antenna for the provision of wireless service.

“Wireless Infrastructure Provider” means any person that builds or installs wireless telecommunications facilities or support structures primarily intended to

support wireless telecommunications facilities, but that is not a provider of wireless service at that site.

“Wireless Service” means any voice, video or data communications services, whether at a fixed location or mobile, provided through the use of wireless telecommunications facilities located within the City.

“Wireless Provider” means a wireless infrastructure provider or wireless service provider that has received and maintains a permit under this Article.

“Wireless Telecommunications Facility” means without limit, and as the context may require, equipment at a fixed location that enables wireless services between user equipment and a communications network, including but not limited to antennas; accessory equipment; free standing towers, guyed towers, monopoles, and similar structures; accessory structures; support structures for which antenna support is a secondary use, such as a building, church steeple, silo, water tower, sign or other similar structure; and other such facilities. The term wireless telecommunications facility does not include a wireless facility located, or to be located, within the City’s public rights-of-way that is subject to Article IV of this Chapter.

Sec. 5.5-304 – Special use permit required.

No person may undertake any of the following activities without first submitting an application for, and receiving, a special use permit under this Article:

- (a) The construction of any new wireless telecommunications facility within the City, including a new tower;
- (b) A substantial modification of a wireless telecommunication facility or support structure; or
- (c) Any modification of a wireless facility or support structure that is deemed by the City not to be repair and maintenance, as defined in Section 5.5-303. A modification that is not a d modification shall require a special use permit, an application for which shall be granted by the City.

Sec. 5.5-305. - Exclusions.

The following shall be exempt from the requirements of this Article:

- (a) Any facilities or locations expressly exempt from the City’s siting, building, zoning or permitting authority.
- (b) Wireless telecommunications facilities to be located within the public rights-of-way.

- (c) Facilities, except towers, used exclusively for non-commercial radio and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.

Sec. 5.5-306. - Special use permit application and other requirements.

(a) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Council is the officially designated agency or body of the community to whom applications for a special use permit for wireless telecommunications facilities shall be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The Council may at its discretion delegate or designate other official departments or agents of the City to accept, review, analyze, evaluate and make recommendations to the Council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

(b) An applicant shall initiate a pre-application meeting, which may be held either on site or telephonically as the City deems appropriate. The purpose of the pre-application meeting will be to preliminarily address issues relating to the application, and to expedite the review and permitting process. A pre-application meeting may include a site visit if required by the City. Expected requests for waiver, if any, should be raised at the pre-application meeting. Any reasonable costs of a City consultant to prepare for and attend the pre-application meeting will be borne by the applicant.

(c) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the application and with knowledge of the contents and representations made therein, attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Council, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

(d) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Council.

(e) The applicant shall include a statement in writing that:

- (1) The applicant's proposed wireless telecommunications facilities will be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted

relief by the Council in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and federal ordinances, rules, and regulations; and

- (2) The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state of Alabama.

(f) All applications for the placement of new wireless telecommunications facilities or substantial modification of existing wireless telecommunications facilities shall be accompanied by a report containing the information set forth below. The report shall be signed by a licensed professional engineer registered in the state. Where this section calls for certification, such certification shall be by a qualified Alabama state licensed professional engineer. The application shall include, in addition to any other information required under this Article or reasonably required by the City, the following information:

- (1) Name, address and phone number of the person preparing the report;
- (2) Name, address, and phone number of the property owner, operator, and applicant, to include the legal form of the applicant;
- (3) Postal address and tax map parcel number of the property;
- (4) Zoning district or designation in which the property is situated;
- (5) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines reflected on a survey;
- (6) Location of nearest residential structure or residential zoning district;
- (7) Location of nearest habitable structure;
- (8) Location, size and height of all structures on the property which is the subject of the application;
- (9) Location, size and height of all proposed and existing antennae and all appurtenant structures;
- (10) Type, locations and dimensions of all proposed and existing landscaping, and fencing;
- (11) The number, type and design of the antenna(s) proposed and the basis for the calculations of a tower's capacity to accommodate multiple users;

- (12) The make, model and manufacturer of any proposed tower and antenna(s);
- (13) A description of the proposed tower or rooftop and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (14) The frequency, modulation and class of service of radio or other transmitting equipment;
- (15) Transmission and maximum effective radiated power of the antenna(s);
- (16) Direction of maximum lobes and associated radiation of the antenna(s);
- (17) Applicant's proposed maintenance and inspection procedures and related system of records;
- (18) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC; If antennas will be located on a rooftop, please attach an RF routine environmental report with a description of any steps that have been or will be taken to prevent the aggregate RF from exceeding exposure limits. Include information regarding signage, training for workers accessing antenna areas, and precautions against hazards;
- (19) Certification that the proposed antenna(s) will not cause interference with existing devices, which certification shall be reviewed by a licensed engineer;
- (20) A copy of the FCC license applicable to the use of the proposed wireless telecommunications facilities;
- (21) Certification that a topographic and geomorphologic study and analysis has been conducted, and that, taking into account the subsurface and substrata, and the proposed drainage plan, the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site;
- (22) Propagation studies of the proposed site and all adjoining proposed, in-service or existing sites;
- (23) A written disclosure of any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new tower that it constructs;

- (24) A certification and statement that appropriate space has been reserved on the tower for public safety usage at no cost to the public safety entity. The City will provide the specific requirements for such public safety usage, if any, during or promptly after the pre-application meeting;
- (25) In the case of a proposed new tower, a written report demonstrating applicant's efforts to collocate upon existing support structures. Copies of any written requests and responses shall be provided;
- (26) Written certification that the facility, foundation and attachments are designed and will be constructed to meet all local, county, state and federal structural requirements for loads, including wind and ice loads, as required by the currently adopted building code;
- (27) If the justification of a proposed new site relates to lack of capacity, submit evidence of capacity exhaustion of the current serving site(s). Such evidence shall demonstrate that the capacity at the serving site will be so diminished within 18 months of the application that it will have a substantial negative impact on service provided to users within the area if new capacity is not added. Examples of this may be time of day download speeds, utilization over time, or cumulative KPI reports from the serving site.
- (28) If requested by the City, the applicant shall furnish a visual impact assessment which shall include:
 - a) A "zone of visibility map" which shall be provided in order to determine locations where the tower may be seen.
 - b) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the City, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The City, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a pre-application meeting.
 - c) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.
- (g) Any and all representations made on the record by the applicant to the Council during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Council.

(h) The applicant shall submit to the Council a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Council. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and their successors in interest to:

- (1) Respond within sixty (60) days to a request for information from a potential shared-use applicant;
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(i) If required by the City, in order to better inform the public in the case of a new telecommunications tower, the applicant shall prior to a public hearing on the application, hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised, by the applicant, at seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in City and agreed to by the Council. The applicant shall inform the Council, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least eight (8) consecutive hours sometime between 7:00 am and 4:00 p.m. of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a week day.

Sec. 5.5-307. - Application fee.

- (a) An application for special use permit for a new tower, or substantial modification of a tower or support structure, shall be accompanied by payment of a nonrefundable application fee of five thousand dollars (\$5,000.00) to the City.
- (b) An application for special use permit for collocation on an existing tower or support structure, where no increase in height of the tower or structure, nor

substantial modification, is proposed, shall be accompanied by payment of a nonrefundable application fee of two thousand dollars (\$2,500.00).

(c) No application fee is required to recertify a special use permit, unless there has been a modification of the wireless telecommunications facilities since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of a substantial modification, the fees provided in subsection (a) shall apply, and in the case of a non-substantial modification, the fees in provided in subsection (b) shall apply.

(d) Application fees set forth in this section shall include the cost of any required building permit.

Sec. 5.5-308. - Retention of expert assistance and reimbursement by applicant.

(a) The Council may hire a consultant to assist the Council in reviewing and evaluating the application and any requests for recertification.

(b) If required by the City, an applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant evaluation in connection with the review of any application. The initial deposit shall be seven thousand five hundred dollars (\$7,500.00). These funds shall accompany the filing of an application, and the City will maintain a separate escrow account for all such funds. A City consultant under this section shall bill or invoice the City no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance of less than two thousand five hundred dollars (\$2,500.00) the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least two thousand five hundred dollars (\$2,500.00). Such additional escrow funds must be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant.

Sec. 5.5-309. - Public hearing required.

(a) Prior to the approval of any application for a special use permit under this Article, a public hearing shall be held by the Council, notice of which shall be published in a newspaper of general circulation within the City no less than ten (10) calendar days prior to the scheduled date of the public hearing. The applicant, at least three (3) weeks prior to the date of said public hearing, shall provide to the City names and address of all landowners whose property is located within fifteen hundred (1,500) feet of any property line of the lot on which the new wireless telecommunications facilities are proposed to be located, and shall certify that the applicant has provided notice to said landowners of the public hearing.

(b) The Council shall schedule the public hearing referred to in subsection (a) of this section once it finds the application is complete. The Council, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

(c) The above provisions notwithstanding, if the application is for a special use permit to collocate on an existing tower, involving no substantial modification, no public hearing will be required prior to disposition of the application.

Sec. 5.5-310. - Action on an application for a special use permit for wireless telecommunications facilities.

(a) The Council will undertake a review of an application pursuant to this Article in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(b) Under normal circumstances, the Council will make its final decision to approve or deny an application made under this Article within the following timeframes, subject to such deadlines being reset or tolled in the event of an incomplete or deficient application:

- (i) Review of an application to collocate a wireless telecommunications facility using an existing support structure: 90 days.
- (ii) Review of an application to deploy a wireless telecommunications facility using a new support structure, or placement of a new tower: 150 days.

(c) The Council may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.

(d) Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the wireless telecommunications facilities covered by the special use permit.

(e) After the public hearing and after formally considering the application, the Council may approve and issue, or deny, a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.

(f) The City reserves the right to deny an application if any of the following conditions exist:

- (i) The applicant has not demonstrated that the application conforms to the provisions of this Article and the Opelika Municipal Code, including design guidelines established pursuant to this Article.
- (ii) The design or location does not comply with applicable state and federal laws and regulations.
- (iii) The applicant is in default of its obligation to pay to the City fees imposed by this Chapter.
- (iv) The design does not meet standards related to technical, structural, safety or construction best practices.
- (v) The applicant is not authorized to conduct business in the State of Alabama.
- (vi) The applicant has failed within the prior three (3) years to comply or is presently not in compliance with requirements of this Chapter with regard to another wireless communications facility that is not the subject of the applicant in question.

(g) If the Council approves the special use permit for wireless telecommunications facilities, the applicant shall be notified of such approval in writing within ten (10) calendar days of the Council's action, and the special use permit shall be issued within thirty (30) days after such approval.

(h) If the Council denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten (10) calendar days of the Council's action.

Sec. 5.5-311. Aesthetic requirements

(a) All wireless telecommunications facility applications shall demonstrate that the facility will be placed in a manner that minimizes any adverse visual effect on the environment and its character, and from the residences in the area of the wireless telecommunications facilities sites. This shall include but is not limited to a landscaping plan. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed wireless telecommunications facilities base and all related facilities and accessory structures. The Council may require the support structure to be less visually obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.

(b) Both the wireless telecommunications facility and any and all accessory facilities shall use building materials, colors and textures designed to blend with

the structure to which it may be affixed and/or to harmonize with the natural surroundings.

(c) Towers shall be of a galvanized finish or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Council and shall be maintained in accordance with the requirements of this Article and prudent industry standards.

(d) Associated equipment must be located in an unmanned building, equipment cabinet, or equipment room in an existing building.

(e) An equipment building must satisfy the following standards:

- (i) It is a maximum of 560 square feet in area; however, a single equipment building in excess of 560 square feet, located at ground level, may be used if (a) the overall maximum square footage is 1,500 square feet and the maximum height is 12 feet, and (b) the building is used for more than one telecommunications provider operating from the same monopole or tower.
- (ii) It is a maximum of 14 feet in height, including the support structure for the equipment building.
- (iii) If the equipment building is greater than 4 feet in height and is in a residential zone, or the nearest abutting property is in a residential zone, the building must be faced with brick or other material compatible with the surrounding neighborhood on all sides.

(f) If an equipment cabinet and any supporting platform are greater than 4 feet in height, and service an antenna on existing structure that is not a utility pole, streetlight pole, or approved parking lot light pole, and if the existing structure is in a residential zone, or the nearest abutting property to the existing structure is in a residential zone, then the equipment must be surrounded by landscaping of at least 3 feet in height.

Sec. 5.5-312-- Undergrounding of utilities

All utilities serving wireless telecommunications facilities sites shall be installed underground and in compliance with all ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Council may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Council, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

Sec. 5.5-313 -- Access to site.

At a tower site, an access road and parking may be required to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Any road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

Sec. 5.5-314 -- Compliance with applicable standards; other necessary authorizations.

(a) A holder of a special use permit granted under this Article shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current technical, safety and safety-related codes adopted by the City, county, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, recommended practices of the National Association of Tower Erectors, applicable construction, building, electrical, fire, safety, health, and land use codes, and workmanlike industry practices. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(b) A holder of a special use permit granted under this Article shall obtain, at its own expense, all permits, licenses, or other authorizations required by applicable rule, regulation or ordinance, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

Sec. 5.5-315. - Location of wireless telecommunications facilities.

(a) Applicants for wireless telecommunications facilities shall place said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority:

- (1) Collocation upon existing macro-cell towers or other tall support structures;
- (2) Collocation upon other existing towers or support structures;
- (3) On a site with existing wireless telecommunication facilities or structures;
- (4) On City-owned properties;
- (5) On other property within the jurisdiction of the City;
- (6) On properties in designated historic districts, restricted overlay districts, or areas zoned for residential use.

(b) If the proposed property site is not the highest priority listed above, a detailed explanation must be provided as to why a site of a higher priority was not selected, demonstrating the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(c) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Council may disapprove a proposed location or application if the proposed location conflicts with the historic nature of a neighborhood or historical district or conflicts with a specific zoning or land use designation.

(d) **No Construction on Private Property in Residential District.** No new tower may be built upon private property in a single family residentially zoned district or neighborhood, within one-thousand feet (1,000') of the border of a residentially zoned district or neighborhood, or within a historic district, unless the applicant provides evidence to the satisfaction of the City demonstrating i) that a new tower as proposed is necessary because no reasonable alternative or combination of alternatives exists; ii) that the intended area cannot be served from outside of the district or sensitive area without a new tower; iii) that no existing or previously approved facility can reasonably be used for antenna placement; and iv) that not to permit a new tower or other support structure would effectively prohibit service. This subsection shall not prohibit the installation of wireless antennas and accessory equipment upon and within existing buildings, such as church steeples, provided such installation is concealed or camouflaged to the satisfaction of the Council. This subsection shall not prohibit placement of wireless facilities within the public rights-of-way in such areas, subject to the requirements of Article IV of this Chapter.

(e) Notwithstanding the above, the Council may approve any proposed site, provided that the Council finds that the proposed site is consistent with the purposes of this Article and the City's obligation to protect the health, safety and welfare of the City and its inhabitants.

(f) The applicant shall in writing identify and disclose the number and locations of any additional sites that the applicant has been, is, or will be considering, reviewing or planning for placement of wireless telecommunications facilities within the City, and all municipalities adjoining the City, for a two-year period following the date of the application.

Sec. 5.5-316 Attachments to buildings

To preserve and protect the nature and character of the area, for any attachment to a building or other structure with an architectural face, antennas shall be mounted

on the face without increasing the height of the building or other structure, unless it can be demonstrated that such placement will prohibit or have the effect of prohibiting the provision of service. If antennas are required to be mounted above the roof-line of any building, the applicant must include a plan to camouflage the antennas. Notwithstanding the foregoing, and subject to all other requirements of this Article:

(a) An antenna and a related unmanned equipment building or cabinet may be installed on a rooftop, if a building is a minimum height of:

- (i) 50 feet in any residential zone, and must be mounted in an antenna enclosure the same color or design as the building; or
- (ii) 20 feet in any commercial or industrial zone and must be mounted in an antenna enclosure the same color or design as the building.

(b) An antenna may be mounted on the facade of a building at a minimum height of 50 feet in a residential zone; or 30 feet in any commercial or industrial zone.

Sec. 5.5-317. - Shared use of wireless telecommunications facilities and structures.

Any proposed new tower shall be structurally designed to accommodate at least two (2) additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provision of future shared usage of the tower is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden.

Sec. 5.5-318. - Height of telecommunications tower(s).

(a) Unless waived by the Council upon good cause shown, the maximum height of any tower shall be one hundred (100) feet.

(b) The maximum height of any tower and attached antennas constructed after the effective date of this Article shall not exceed that which shall enable operation without artificial lighting of any kind, in accordance with municipal, county, state, and/or any federal statute, code, rule or regulation.

Sec. 5.5-319. - Lighting of wireless telecommunications facilities.

(a) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by this Article or other regulatory authority.

(b) If lighting is required, applicant shall provide a detailed plan for lighting as unobtrusive and as is permissible under state and federal regulations. The City may require applicant to provide an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen hundred (1,500) feet of all property lines of the parcel on which the wireless telecommunications facility is located.

Sec. 5.5-320. – Reserved.

Sec. 5.5-321. - Security of wireless telecommunications facilities.

Unless waived by Council, all wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specific requirements are as follows:

- (1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
- (2) Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

Sec. 5.5-322. - Signage.

Unless waived by Council, wireless telecommunications facilities shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. The sign shall not be lighted unless the Council shall have allowed such lighting or unless such lighting is required by applicable provisions of ordinance. The sign shall be approved by the Council before installation. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless otherwise required by law.

Sec. 5.5-323. - Lot size and setbacks.

Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying

zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. The provisions of this section notwithstanding, the leasing of property for the location of a wireless telecommunications facility does not require subdivision approval by the City Planning Commission.

Sec. 5.5-324. - Recertification of a special use permit for wireless telecommunications facilities.

(a) At any time between twelve (12) months and six (6) months prior to the five-year anniversary date after the effective date of the special use permit and all subsequent fifth anniversaries of the effective date of the original special use permit, the permit holder shall submit a signed written request to the Council for recertification. In the written request for recertification, the permit holder shall note the following:

- (1) The name of the permit holder.
- (2) If applicable, the number or title of the special use permit.
- (3) The date of the original granting of the special use permit.
- (4) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified since the issuance of the special use permit and if so, in what manner.
- (5) If the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified, then whether the Council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with.
- (6) Any requests for waivers or relief of any kind whatsoever from the requirements of this Article.
- (7) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, ordinances, rules and regulations.
- (8) Recertification that the support structure and attachments both are designed and constructed and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified Alabama state licensed professional engineer acceptable to the City, the cost of which shall be borne by the applicant.
- (9) A list of collocating entities.

(b) If, after such review, the Council finds that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, local laws, codes, rules and regulations, then the Council shall recertify the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, laws, local ordinances, codes, rules and regulations. If, after such review, the Council determines that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, local laws, codes, rules and regulations, the Council may refuse to recertify the special use permit, and in such event, the wireless telecommunications facilities that are the subject of the permit shall not be used after the date that the applicant receives written notice of such decision by the Council. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

(c) If the applicant has submitted all of the information requested by the Council and required by this Article, and if the Council does not complete its review, as noted in subsection (b) of this section, prior to the five-year anniversary date of the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six (6) months in order for the Council to complete its review.

(d) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the timeframe noted in subsection (a) of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Council that extenuating circumstances prevented a timely recertification request. If the Council agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

Sec. 5.5-325 -- Assignment and transfer.

(a) A special use permit granted under this Article shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.

(b) Any purported transfer, assignment or other conveyance of a special use permit shall be invalid unless and until the new permit holder provides to the City a written commitment of the new permit holder that it will abide by all applicable laws, rules and regulations, including but not limited to this Article.

Sec. 5.5-326. - Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City, in an amount of at least seventy-five thousand dollars (\$75,000.00) and with such sureties as are deemed sufficient by the Council to assure the faithful performance of the terms and conditions of this Article and conditions of any special use permit issued pursuant to this Article. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facilities, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be an event of noncompliance with this Article.

Sec. 5.5-327. - Authority to inspect.

(a) To verify that the permit holder, and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, places and constructs such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, ordinances, laws and regulations, and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on a permitted site.

(b) The City shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas, and appurtenant or associated facilities, or refusal to otherwise cooperate with the City with respect to an inspection, or if violations of this Article are found to exist, in which case the holder, lessee or licensee shall reimburse the City for the cost of the inspection.

(c) Payment of such costs shall be made to the City within thirty (30) days from the date of the invoice or other demand for reimbursement. If the finding(s) of violation is/are appealed in accordance with the procedures set forth in this Article, said reimbursement payment must still be paid to the City and the reimbursement shall be placed in an escrow account established by the City specifically for this purpose, pending the final decision on appeal.

Sec. 5.5-328. - Annual NIER certification.

The holder of the special use permit shall annually certify in writing to the City that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the City.

Sec. 5.5-329. - Liability insurance.

(a) A permit holder under this Article shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

- (1) *Commercial general liability covering personal injuries, death and property damage:* \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- (2) *Automobile coverage:* \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- (3) *Workers compensation and disability:* Statutory amounts.

(b) The commercial general liability insurance policy shall specifically include the City and its officers, employees, committee members, attorneys, agents and consultants as additional named insureds.

(c) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

(d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days' prior written notice in advance of the cancellation of the insurance.

(e) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.

(f) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the grant of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

Sec. 5.5-330. - Indemnification.

(a) An application for a special use permit under this Article shall include a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect,

save, hold harmless, and exempt the City, and its officers, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said wireless telecommunications facilities. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

(b) Notwithstanding the requirements noted in subsection (a) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a special use permit for wireless telecommunications facilities.

Sec. 5.5-331 -- Noncompliance, cure and revocation.

(a) Event of Noncompliance. If a wireless provider fails to comply with any material term or condition of this Article or any special permit issued under it, including nonconformity with application materials as approved by the City, the wireless provider shall be in noncompliance with this Article.

(b) Process. If a wireless provider is found to be in noncompliance, the City shall give the wireless provider forty-five (45) days written notice to cure the violation(s), or diligently commence the cure for matters that cannot reasonably be cured within forty-five (45) days. If the provider does not cure the violation(s), the City Council shall set a time for hearing the matter for revoking the special use permit and notice of such hearing shall be given to the provider at least ten (10) days before the day set for said hearing. At the hearing, the city Council shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation as the case may be. The City Council shall render a decision within ten (10) days from the date of such hearing.

(c) In the event of an uncured material failure to comply with this Article, the City, at its option, shall be entitled to pursue any and all remedies that it may have in law or at equity, including terminating noncompliant permits, and drawing down the noncompliant wireless provider's performance and payment bond to cover any fees, costs, damages, expenses, or penalties that a wireless provider has not paid.

(d) Removal of Facilities. Upon termination for non-compliance, the City may require a wireless provider shall remove its wireless telecommunications facilities within six (6) months of receiving notice. If not so removed within that time period, the City shall have the right, but not the obligation, to treat the wireless provider's facilities as abandoned. A wireless provider shall be required to pay the City's

actual and documented costs of taking title, storing, selling, or otherwise disposing of a wireless telecommunications facility within ninety (90) calendar days after it has received an invoice from the City.

Sec. 5.5-332. - Remedies.

(a) Any person who shall erect, construct, reconstruct, alter, repair, convert, attach or maintain any wireless communication facility in violation of the provisions of this Article, or who, being the owner or agent of the owner of any lot, tract or parcel of land, shall suffer another to erect, construct, reconstruct, alter, repair, convert, attach or maintain any such facility, commits an offense. A person commits a separate offense for each day during which a violation is committed. An offense under this Article is punished as provided in subsection (b) below.

(b) A violation of this Article is hereby declared to be an offense punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350.00) or imprisonment for not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than Three Hundred Fifty (\$350.00) dollars nor more than Five Hundred Dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than five hundred dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional offense.

(c) If any wireless communications facility is erected, constructed, reconstructed, altered, repaired, converted, attached or maintained in violation of this Article or any regulation made pursuant hereto, the Mayor, in addition to other remedies, may institute in the name of the City any appropriate action or proceeding, including suit for injunctive relief, to prevent or abate any violations of this Article, to prevent any such unlawful erection, construction, reconstruction, alteration, repair, conversion, attachment, maintenance or use of such facility, to prevent the use of such facility, and/or to prevent any illegal act, conduct, business or use in or about such facility.

(d) Notwithstanding anything in this Article, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this Article or any section of this Article. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City

may also seek injunctive relief to prevent the continued violation of this Article, without limiting other remedies available to the City.

Sec. 5.5-333. - Removal of wireless telecommunications facilities.

(a) Under the following circumstances, the Council may determine that the health, safety, and welfare of the City warrant and require the removal of wireless telecommunications facilities:

- (1) Wireless telecommunications facilities have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred eighty (180) days in any three hundred sixty-five (365) day period, except for periods caused by force majeure or acts of god, in which case, repair or removal shall commence within ninety (90) days.
- (2) Wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard.
- (3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

(b) If the Council makes such a determination described in subsection (a) of this section, then the Council shall notify the permit holder or owner of the wireless telecommunications facilities (if reasonably identifiable) within forty-eight (48) hours that said wireless telecommunications facilities are to be removed.

(c) The holder of the special use permit, or its successors or assigns, or the owner of the facilities, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Council. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Council.

(d) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within ninety (90) days after the permit holder or owner has received notice, then the Council may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(e) If the City removes or causes to be removed wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

(f) Notwithstanding anything in this section to the contrary, the Council may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Council, and an agreement to such plan shall be executed by the holder of the special use permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

Sec. 5.5-334. – Waiver and relief.

Any applicant desiring relief or exemption from any aspect or requirement of this Article may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Council. The burden of proving the need for the requested relief or exemption is solely on the applicant. The applicant shall bear all costs of the City in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the Council. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates that, if granted, the relief or exemption will have no significant detrimental effect on the health, safety and welfare of the City, its residents, and other service providers.

Sec. 5.5-335-- Effect of future changes in governing law

Nothing in this Article shall be construed as surrender by the City of its right and power to adopt future ordinances, rules, and regulations in the exercise of its police power applying to wireless telecommunications facilities to the maximum extent allowed by applicable law. Issuance of any special use permit pursuant to this Article shall not grant the permittee any vested rights in the event of a change in governing law, including any vested right for permittee to remain regulated under the laws, ordinances, rules, and regulations in effect at the time of issuance of a permit. In the event of any future change in governing law (including, but not limited to, invalidation or modification of the final rules of the Federal Communications Commission in effect at the time of initial adoption of this

Article), the City at all times reserves the right to regulate wireless telecommunications facilities under new governing law as changed and to apply new City regulations allowed by the changed law to all pre-existing wireless telecommunications facilities.

Sec. 5.5-336. - Conflict with other laws or ordinances.

Where this Article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or Federal government, this Article shall apply.

Sec. 5.5-337. - Severability.

- (a) If any word, phrase, sentence, part, section, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.
- (b) Any special use permit issued pursuant to this Article shall be comprehensive and not severable. If part of a special use permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

Section 2. **Repeal of conflicting ordinances.** Any ordinance or parts thereof in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. **Effective date.** This Ordinance (and Article III hereby adopted) shall take effect and be enforced immediately upon its adoption and publication as required by law.

Section 4. **Publication.** The City Clerk of the City of Opelika is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in a newspaper of general circulation in the City of Opelika, Alabama.

Section 5. **Codification.** Codification of Article III adopted herein in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5.5 OF THE CODE OF ORDINANCES OF THE CITY OF OPELIKA, ALABAMA BY REPEALING ARTICLE III ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES SITING” AND SUBSTITUTING IN LIEU THEREOF A NEW ARTICLE III THEREOF ENTITLED “WIRELESS TELECOMMUNICATIONS FACILITIES LAND USE AND SITING” TO REGULATE PERMITTING, SITING AND PLACEMENT OF WIRELESS TELECOMMUNICATIONS FACILITIES AND ACCESSORY EQUIPMENT AND THE PLACEMENT AND USE OF ASSOCIATED SUPPORT STRUCTURES WITHIN THE CITY OF OPELIKA OUTSIDE THE PUBLIC RIGHTS-OF-WAY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING PENALTIES AND PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED by the City Council (the “City Council”) of the City of Opelika, Alabama (the “City”) as follows:

WHEREAS, the City Council finds and determines that wireless telecommunications facilities may pose significant concerns to the health, safety, welfare, character and environment of the City of Opelika (the “City”) and its inhabitants, and that the Telecommunications Act of 1996 and related authorities confirm the City’s authority concerning the placement, construction (including height) and modification of such facilities; and

WHEREAS, the City Council enacted Article III of Chapter 5.5 of the Opelika Municipal Code in 2000, which regulates wireless telecommunications facilities; and

WHEREAS, the City wishes to update Article III of Chapter 5.5 of the Opelika Municipal Code based on current telecommunications trends and recent changes in applicable laws and regulations, in order to protect and promote public health, safety and welfare; and

WHEREAS, the City desires to establish a comprehensive set of siting and permitting requirements addressing the placement of wireless telecommunications facilities and accessory equipment within the City outside of the public rights-of-way; and

WHEREAS, the City desires to establish a fair and efficient process for review and approval of applications; assure an integrated, comprehensive review of environmental impacts and protect the rights of the City and its residents, to the extent allowed under law.

Section 1. Replacement of Article III of Chapter 5.5 of the Code of Ordinances, adopting Sections 5.5-301 through 5.5-337. That current Article III of Chapter 5.5 of the *Code of Ordinances* of the City of Opelika entitled “Wireless Telecommunications Facilities Siting” is hereby repealed in its entirety and replaced with new Article III entitled “Wireless Telecommunications Facilities Land Use and Siting”, consisting of Sections 5.5-301 through 5.5-337, which Article shall read as follows:

Article III -- Wireless Telecommunications Facilities Land Use and Siting.

Sec. 5.5-301. - Purpose and legislative intent.

(a) The purpose of this Article is to establish a comprehensive set of siting and permitting requirements addressing the placement of wireless telecommunications facilities and accessory equipment and the placement and use of associated support structures within the City outside of the public rights-of-way. The placement of wireless facilities within the public rights-of-way shall be governed by Article IV of this Chapter 5.5.

(b) These regulations are intended to provide for the managed development of wireless telecommunications facilities, in a manner that recognizes the community benefits of wireless telecommunications technology and that reasonably accommodates the needs of citizens and wireless providers in accordance with federal and state rules and regulations. At the same time, these regulations are intended to protect the community from potential adverse impacts of such facilities,

including but not limited to noise, traffic, aesthetic, safety, and other impacts over which the City has purview, and to preserve the visual character of the established community through appropriate design, siting, screening, maintenance, and location standards.

(c) This Article does not address civil relationships between private landowners and owners or operators of wireless telecommunications facilities and does not affect the need to obtain all necessary property rights from private landowners for the placement of wireless telecommunications facilities.

(d) This Article does not regulate the siting of wireless telecommunications facilities within state rights-of-way except to the extent that the City has the authority to regulate the placement and location of wireless telecommunications facilities within a state right-of-way.

Sec. 5.5-302. - Title.

This Article may be known and cited as the "Wireless Telecommunications Facilities Land Use and Siting Ordinance for the City of Opelika."

Sec. 5.5-303. - Definitions.

For purposes of this Article, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely discretionary.

"Accessory equipment" means any equipment, other than an antenna, used in conjunction with a wireless telecommunications facility. It includes but is not limited to cabinets, optical converters, power amplifiers, radios, multiplexers, radio units, fiber optic and coaxial cables located on a support structure, wires, meters, pedestals, power switches, junction boxes, batteries, power supplies and related equipment located upon or in the immediate vicinity of the support structure.

"Accessory facility" or *"accessory structure"* means any facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment, storage sheds or cabinets.

"Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

"Applicant" means any person submitting an application to the City for a special use permit for wireless telecommunications facilities.

"Application" means all necessary and required documentation that an applicant submits in order to receive a special use permit for placement of wireless telecommunications facilities under this Article.

"Base Station" means a structure or equipment at a fixed location that supports or houses wireless telecommunications facilities used to provide wireless service between user equipment and a communications network.

"City" means the City of Opelika, Alabama, and its police jurisdiction.

“*Collocate*” means to install, mount, maintain, modify, operate or replace wireless facilities on or adjacent to an existing or replacement support structure.

“*Completed application*” means an application that contains all information and/or data requested in the application form and this Article, which is necessary to enable the Council to evaluate the merits of the application and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the City in the context of the permitted land use for the particular location requested.

“*Concealment*” means a physical design or treatment that minimizes adverse visual impacts upon the view from land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility.

“*Council*” means the City Council of the City of Opelika, Alabama.

“*EPA*” means the state and/or Federal Environmental Protection Agency.

“*Equipment Cabinet*” means an enclosure that increases the cumulative volume of the existing wireless equipment, exclusive of antennas, that contains the proposed improvements, personal property, or facilities for permitted uses including: radio receivers, transmitters, related facilities, related cables and utility lines, location-based power source (including a battery), the electrical meter and any other equipment necessary for the operation of the base station.

“*FAA*” means the Federal Aviation Administration.

“*FCC*” means the Federal Communications Commission.

“*Free standing tower*” means a tower that is not supported by guy wires and ground anchors or other means of attached or external support.

“*Height*” means, when referring to a tower or wireless support structure, the distance measured from the pre-existing grade level to the highest point on the tower or structure, including any antenna or lightning protection device.

“*Historic district*” means the historic downtown commercial area as designated in Ordinance No. 151-01.

“*Lattice tower*” means a self-supporting communications tower with three (3) or more sides of open-framed supports.

“*Modification*” or “*Modify*” means the addition, removal or change of any of the physical and/or visually discernable components or aspects of a wireless telecommunications facility, including but not limited to antennas, cabling, equipment shelters, landscaping, fencing, utility feeds, the color or materials of any visually discernable components, vehicular access, parking, and/or an upgrade or change-out of equipment for better or more modern equipment.

“*Monopole tower*” means a cylindrical self-supporting tower constructed as a single spire.

“*NIER*” means non-ionizing electromagnetic radiation.

“*Person*” means any individual, corporation, estate, trust, partnership, joint stock company, association of two (2) or more persons having a joint common interest, or any other entity.

“*Repair and Maintenance*” means repair, maintenance or upgrade of a wireless telecommunications facility that does not i) increase the height of the structure, ii) alter the physical profile, iii) change the loading, iv) change the RF emissions

levels, v) increase the footprint of the facility, or vi) otherwise exceed the conditions of the permit.

“*Special use permit*” means the official document or permit issued by the City by which an applicant is authorized to construct and use wireless telecommunications facilities consistent with this Article.

“*State*” means the State of Alabama.

“*Substantial Modification*” or “*Substantial Change*” means:

(1) For towers:

- a) The proposed collocation or modification increases the overall height more than ten percent (10%) or the height of one additional antenna array not to exceed twenty (20) feet (whichever is greater); or
- b) The proposed collocation or modification increases the width more than twenty (20) feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
- c) The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four (4) new cabinets; or
- d) The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.

(2) For base stations:

- a) The proposed collocation or modification increases that overall height more than ten percent (10%) or ten (10) feet (whichever is greater); or
- b) The proposed collocation or modification increases the width more than six (6) feet from the edge of the base station; or
- c) The proposed collocation or modification involves the installation of any new equipment cabinets when there are no existing equipment cabinets; or
- d) The proposed collocation or modification involves the installation of any new equipment cabinets that are ten percent (10%) larger in height or volume than any existing cabinets; or
- e) The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.

(3) In addition, for all towers and base stations:

- a) The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the City; or
- b) The proposed collocation or modification violates a prior condition of approval as regards to height, width, number and size of equipment cabinets or any excavation that is inconsistent with the thresholds for a substantial change described in this section.

(4) As to all measurements set forth herein, the following principles shall govern:

- a) Any threshold or limits of height increase is cumulative or collective.

- b) For sites with horizontally separated deployments, the cumulative limit is measured from the originally permitted support structure without regard to any increases in size due to wireless equipment not included in the original design.
- c) For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012, the date of passage of the Middle-Class Tax Relief and Job Creation Act of 2012 Section 6409(a).

“Support Structure” means a tower, base station, or other structure or building of any type whatsoever, including a utility pole, that is used, or is to be used, to support a wireless telecommunications facility.

“Survey” means a survey containing the seal and certification of a properly licensed professional engineer or professional land surveyor.

“Temporary” means in relation to all aspects and components of this Article, something intended to, or that does, exist for fewer than ninety (90) days.

“Tower” means any structure designed primarily to support an antenna for the provision of wireless service, or that is designed primarily to support equipment for transmission of broadcast television service but that also will support an antenna for the provision of wireless service.

“Wireless Infrastructure Provider” means any person that builds or installs wireless telecommunications facilities or support structures primarily intended to support wireless telecommunications facilities, but that is not a provider of wireless service at that site.

“Wireless Service” means any voice, video or data communications services, whether at a fixed location or mobile, provided through the use of wireless telecommunications facilities located within the City.

“Wireless Provider” means a wireless infrastructure provider or wireless service provider that has received and maintains a permit under this Article.

“Wireless Telecommunications Facility” means without limit, and as the context may require, equipment at a fixed location that enables wireless services between user equipment and a communications network, including but not limited to antennas; accessory equipment; free standing towers, guyed towers, monopoles, and similar structures; accessory structures; support structures for which antenna support is a secondary use, such as a building, church steeple, silo, water tower, sign or other similar structure; and other such facilities. The term wireless telecommunications facility does not include a wireless facility located, or to be located, within the City’s public rights-of-way that is subject to Article IV of this Chapter.

Sec. 5.5-304 – Special use permit required.

No person may undertake any of the following activities without first submitting an application for, and receiving, a special use permit under this Article:

- (a) The construction of any new wireless telecommunications facility within the City, including a new tower;
- (b) A substantial modification of a wireless telecommunication facility or support structure; or
- (c) Any modification of a wireless facility or support structure that is deemed by the City not to be repair and maintenance, as defined in Section 5.5-303. A modification that is not a d modification shall require a special use permit, an application for which shall be granted by the City.

Sec. 5.5-305. - Exclusions.

The following shall be exempt from the requirements of this Article:

- (a) Any facilities or locations expressly exempt from the City's siting, building, zoning or permitting authority.
- (b) Wireless telecommunications facilities to be located within the public rights-of-way.
- (c) Facilities, except towers, used exclusively for non-commercial radio and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.

Sec. 5.5-306. - Special use permit application and other requirements.

(a) All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Council is the officially designated agency or body of the community to whom applications for a special use permit for wireless telecommunications facilities shall be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The Council may at its discretion delegate or designate other official departments or agents of the City to accept, review, analyze, evaluate and make recommendations to the Council with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

(b) An applicant shall initiate a pre-application meeting, which may be held either on site or telephonically as the City deems appropriate. The purpose of the pre-application meeting will be to preliminarily address issues relating to the application, and to expedite the review and permitting process. A pre-application meeting may include a site visit if required by the City. Expected requests for waiver, if any, should be raised at the pre-application meeting. Any reasonable costs of a City consultant to prepare for and attend the pre-application meeting will be borne by the applicant.

(c) An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the application and with knowledge of the contents and representations made therein, attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Council, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

(d) Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Council.

(e) The applicant shall include a statement in writing that:

- (1) The applicant's proposed wireless telecommunications facilities will be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Council in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and federal ordinances, rules, and regulations; and

- (2) The construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state of Alabama.

(f) All applications for the placement of new wireless telecommunications facilities or substantial modification of existing wireless telecommunications facilities shall be accompanied by a report containing the information set forth below. The report shall be signed by a licensed professional engineer registered in the state. Where this section calls for certification, such certification shall be by a qualified Alabama state licensed professional engineer. The application shall include, in addition to any other information required under this Article or reasonably required by the City, the following information:

- (1) Name, address and phone number of the person preparing the report;
- (2) Name, address, and phone number of the property owner, operator, and applicant, to include the legal form of the applicant;
- (3) Postal address and tax map parcel number of the property;
- (4) Zoning district or designation in which the property is situated;
- (5) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines reflected on a survey;
- (6) Location of nearest residential structure or residential zoning district;
- (7) Location of nearest habitable structure;
- (8) Location, size and height of all structures on the property which is the subject of the application;
- (9) Location, size and height of all proposed and existing antennae and all appurtenant structures;
- (10) Type, locations and dimensions of all proposed and existing landscaping, and fencing;
- (11) The number, type and design of the antenna(s) proposed and the basis for the calculations of a tower's capacity to accommodate multiple users;
- (12) The make, model and manufacturer of any proposed tower and antenna(s);
- (13) A description of the proposed tower or rooftop and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;
- (14) The frequency, modulation and class of service of radio or other transmitting equipment;
- (15) Transmission and maximum effective radiated power of the antenna(s);
- (16) Direction of maximum lobes and associated radiation of the antenna(s);
- (17) Applicant's proposed maintenance and inspection procedures and related system of records;
- (18) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC; If antennas will be located on a rooftop, please attach an RF routine environmental report with a

description of any steps that have been or will be taken to prevent the aggregate RF from exceeding exposure limits. Include information regarding signage, training for workers accessing antenna areas, and precautions against hazards;

- (19) Certification that the proposed antenna(s) will not cause interference with existing devices, which certification shall be reviewed by a licensed engineer;
- (20) A copy of the FCC license applicable to the use of the proposed wireless telecommunications facilities;
- (21) Certification that a topographic and geomorphologic study and analysis has been conducted, and that, taking into account the subsurface and substrata, and the proposed drainage plan, the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site;
- (22) Propagation studies of the proposed site and all adjoining proposed, in-service or existing sites;
- (23) A written disclosure of any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new tower that it constructs;
- (24) A certification and statement that appropriate space has been reserved on the tower for public safety usage at no cost to the public safety entity. The City will provide the specific requirements for such public safety usage, if any, during or promptly after the pre-application meeting;
- (25) In the case of a proposed new tower, a written report demonstrating applicant's efforts to collocate upon existing support structures. Copies of any written requests and responses shall be provided;
- (26) Written certification that the facility, foundation and attachments are designed and will be constructed to meet all local, county, state and federal structural requirements for loads, including wind and ice loads, as required by the currently adopted building code;
- (27) If the justification of a proposed new site relates to lack of capacity, submit evidence of capacity exhaustion of the current serving site(s). Such evidence shall demonstrate that the capacity at the serving site will be so diminished within 18 months of the application that it will have a substantial negative impact on service provided to users within the area if new capacity is not added. Examples of this may be time of day download speeds, utilization over time, or cumulative KPI reports from the serving site.
- (28) If requested by the City, the applicant shall furnish a visual impact assessment which shall include:
 - a) A "zone of visibility map" which shall be provided in order to determine locations where the tower may be seen.
 - b) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the City, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The City, acting in consultation with its

- consultants or experts, will provide guidance concerning the appropriate key sites at a pre-application meeting.
- c) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

(g) Any and all representations made on the record by the applicant to the Council during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Council.

(h) The applicant shall submit to the Council a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Council. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and their successors in interest to:

- (1) Respond within sixty (60) days to a request for information from a potential shared-use applicant;
- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
- (3) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

(i) If required by the City, in order to better inform the public in the case of a new telecommunications tower, the applicant shall prior to a public hearing on the application, hold a "balloon test" as follows: Applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three (3) foot diameter brightly colored balloon at the maximum height of the proposed new tower. The dates, (including a second date, in case of poor visibility on the initial date) times and location of this balloon test shall be advertised, by the applicant, at seven (7) and fourteen (14) days in advance of the first test date in a newspaper with a general circulation in City and agreed to by the Council. The applicant shall inform the Council, in writing, of the dates and times of the test, at least fourteen (14) days in advance. The balloon shall be flown for at least eight (8) consecutive hours sometime between 7:00 am and 4:00 p.m. of the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a week day.

Sec. 5.5-307. - Application fee.

- (a) An application for special use permit for a new tower, or substantial modification of a tower or support structure, shall be accompanied by payment of a nonrefundable application fee of five thousand dollars (\$5,000.00) to the City.
- (b) An application for special use permit for collocation on an existing tower or support structure, where no increase in height of the tower or structure, nor substantial modification, is proposed, shall be accompanied by payment of a nonrefundable application fee of two thousand dollars (\$2,500.00).
- (c) No application fee is required to recertify a special use permit, unless there has been a modification of the wireless telecommunications facilities since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of a substantial

modification, the fees provided in subsection (a) shall apply, and in the case of a non-substantial modification, the fees in provided in subsection (b) shall apply.

(d) Application fees set forth in this section shall include the cost of any required building permit.

Sec. 5.5-308. - Retention of expert assistance and reimbursement by applicant.

(a) The Council may hire a consultant to assist the Council in reviewing and evaluating the application and any requests for recertification.

(b) If required by the City, an applicant shall deposit with the City funds sufficient to reimburse the City for all reasonable costs of consultant evaluation in connection with the review of any application. The initial deposit shall be seven thousand five hundred dollars (\$7,500.00). These funds shall accompany the filing of an application, and the City will maintain a separate escrow account for all such funds. A City consultant under this section shall bill or invoice the City no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance of less than two thousand five hundred dollars (\$2,500.00) the applicant shall immediately, upon notification by the City, replenish said escrow account so that it has a balance of at least two thousand five hundred dollars (\$2,500.00). Such additional escrow funds must be deposited with the City before any further action or consideration is taken on the application. In the event that the amount held in escrow by the City is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant.

Sec. 5.5-309. - Public hearing required.

(a) Prior to the approval of any application for a special use permit under this Article, a public hearing shall be held by the Council, notice of which shall be published in a newspaper of general circulation within the City no less than ten (10) calendar days prior to the scheduled date of the public hearing. The applicant, at least three (3) weeks prior to the date of said public hearing, shall provide to the City names and address of all landowners whose property is located within fifteen hundred (1,500) feet of any property line of the lot on which the new wireless telecommunications facilities are proposed to be located, and shall certify that the applicant has provided notice to said landowners of the public hearing.

(b) The Council shall schedule the public hearing referred to in subsection (a) of this section once it finds the application is complete. The Council, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

(c) The above provisions notwithstanding, if the application is for a special use permit to collocate on an existing tower, involving no substantial modification, no public hearing will be required prior to disposition of the application.

Sec. 5.5-310. - Action on an application for a special use permit for wireless telecommunications facilities.

(a) The Council will undertake a review of an application pursuant to this Article in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

(b) Under normal circumstances, the Council will make its final decision to approve or deny an application made under this Article within the following

timeframes, subject to such deadlines being reset or tolled in the event of an incomplete or deficient application:

- (i) Review of an application to collocate a wireless telecommunications facility using an existing support structure: 90 days.
 - (ii) Review of an application to deploy a wireless telecommunications facility using a new support structure, or placement of a new tower: 150 days.
- (c) The Council may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
- (d) Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the City, such as site plan or zoning approvals, shall be required by the City for the wireless telecommunications facilities covered by the special use permit.
- (e) After the public hearing and after formally considering the application, the Council may approve and issue, or deny, a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
- (f) The City reserves the right to deny an application if any of the following conditions exist:
- (i) The applicant has not demonstrated that the application conforms to the provisions of this Article and the Opelika Municipal Code, including design guidelines established pursuant to this Article.
 - (ii) The design or location does not comply with applicable state and federal laws and regulations.
 - (iii) The applicant is in default of its obligation to pay to the City fees imposed by this Chapter.
 - (iv) The design does not meet standards related to technical, structural, safety or construction best practices.
 - (v) The applicant is not authorized to conduct business in the State of Alabama.
 - (vi) The applicant has failed within the prior three (3) years to comply or is presently not in compliance with requirements of this Chapter with regard to another wireless communications facility that is not the subject of the applicant in question.
- (g) If the Council approves the special use permit for wireless telecommunications facilities, the applicant shall be notified of such approval in writing within ten (10) calendar days of the Council's action, and the special use permit shall be issued within thirty (30) days after such approval.
- (h) If the Council denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten (10) calendar days of the Council's action.

Sec. 5.5-311. Aesthetic requirements

- (a) All wireless telecommunications facility applications shall demonstrate that the facility will be placed in a manner that minimizes any adverse visual effect on the environment and its character, and from the residences in the area of the wireless telecommunications facilities sites. This shall include but is not limited to a landscaping plan. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view its proposed wireless telecommunications facilities base and all related facilities and accessory structures. The Council may require the support structure to be less visually

obtrusive by use of screening, coloring, stealth design, or other visual mitigation options, after considering the height of the structure, topography, existing vegetation and environmental features, and nearby residential properties.

(b) Both the wireless telecommunications facility and any and all accessory facilities shall use building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings.

(c) Towers shall be of a galvanized finish or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Council and shall be maintained in accordance with the requirements of this Article and prudent industry standards.

(d) Associated equipment must be located in an unmanned building, equipment cabinet, or equipment room in an existing building.

(e) An equipment building must satisfy the following standards:

- (i) It is a maximum of 560 square feet in area; however, a single equipment building in excess of 560 square feet, located at ground level, may be used if (a) the overall maximum square footage is 1,500 square feet and the maximum height is 12 feet, and (b) the building is used for more than one telecommunications provider operating from the same monopole or tower.
- (ii) It is a maximum of 14 feet in height, including the support structure for the equipment building.
- (iii) If the equipment building is greater than 4 feet in height and is in a residential zone, or the nearest abutting property is in a residential zone, the building must be faced with brick or other material compatible with the surrounding neighborhood on all sides.

(f) If an equipment cabinet and any supporting platform are greater than 4 feet in height, and service an antenna on existing structure that is not a utility pole, streetlight pole, or approved parking lot light pole, and if the existing structure is in a residential zone, or the nearest abutting property to the existing structure is in a residential zone, then the equipment must be surrounded by landscaping of at least 3 feet in height.

Sec. 5.5-312-- Undergrounding of utilities

All utilities serving wireless telecommunications facilities sites shall be installed underground and in compliance with all ordinances, rules and regulations of the City, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Council may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Council, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.

Sec. 5.5-313 -- Access to site.

At a tower site, an access road and parking may be required to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Any road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

Sec. 5.5-314 -- Compliance with applicable standards; other necessary authorizations.

(a) A holder of a special use permit granted under this Article shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current technical, safety and safety-related codes adopted by the City, county, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, recommended practices of the National Association of Tower Erectors, applicable construction, building, electrical, fire, safety, health, and land use codes, and workmanlike industry practices. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(b) A holder of a special use permit granted under this Article shall obtain, at its own expense, all permits, licenses, or other authorizations required by applicable rule, regulation or ordinance, and must maintain the same, in full force and effect, for as long as required by the City or other governmental entity or agency having jurisdiction over the applicant.

Sec. 5.5-315. - Location of wireless telecommunications facilities.

(a) Applicants for wireless telecommunications facilities shall place said wireless telecommunications facilities in accordance with the following priorities, one (1) being the highest priority and six (6) being the lowest priority:

- (1) Collocation upon existing macro-cell towers or other tall support structures;
- (2) Collocation upon other existing towers or support structures;
- (3) On a site with existing wireless telecommunication facilities or structures;
- (4) On City-owned properties;
- (5) On other property within the jurisdiction of the City;
- (6) On properties in designated historic districts, restricted overlay districts, or areas zoned for residential use.

(b) If the proposed property site is not the highest priority listed above, a detailed explanation must be provided as to why a site of a higher priority was not selected, demonstrating the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(c) Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Council may disapprove a proposed location or application if the proposed location conflicts with the historic nature of a neighborhood or historical district or conflicts with a specific zoning or land use designation.

(d) No Construction on Private Property in Residential District. No new tower may be built upon private property in a single family residentially zoned district or neighborhood, or within one-thousand feet (1,000') of the border of a single family residentially zoned district or neighborhood, or within a historic district, unless the applicant provides evidence to the satisfaction of the City demonstrating i) that a new tower as proposed is necessary because no reasonable alternative or combination of alternatives exists; ii) that the intended area cannot be served from outside of the district or sensitive area without a new tower; iii) that no existing or previously approved facility can reasonably be used for antenna placement; and iv) that not to permit a new tower or other support structure would effectively prohibit service. This subsection shall not prohibit the installation of wireless antennas and accessory equipment upon and within existing buildings, such as church steeples,

provided such installation is concealed or camouflaged to the satisfaction of the Council. This subsection shall not prohibit placement of wireless facilities within the public rights-of-way in such areas, subject to the requirements of Article IV of this Chapter.

(e) Notwithstanding the above, the Council may approve any proposed site, provided that the Council finds that the proposed site is consistent with the purposes of this Article and the City's obligation to protect the health, safety and welfare of the City and its inhabitants.

(f) The applicant shall in writing identify and disclose the number and locations of any additional sites that the applicant has been, is, or will be considering, reviewing or planning for placement of wireless telecommunications facilities within the City, and all municipalities adjoining the City, for a two-year period following the date of the application.

Sec. 5.5-316 Attachments to buildings

To preserve and protect the nature and character of the area, for any attachment to a building or other structure with an architectural face, antennas shall be mounted on the face without increasing the height of the building or other structure, unless it can be demonstrated that such placement will prohibit or have the effect of prohibiting the provision of service. If antennas are required to be mounted above the roof-line of any building, the applicant must include a plan to camouflage the antennas. Notwithstanding the foregoing, and subject to all other requirements of this Article:

An antenna and a related unmanned equipment building or cabinet may be installed on a rooftop, if a building is a minimum height of:

- (i) 50 feet in any residential zone, and must be mounted in an antenna enclosure the same color or design as the building; or
- (ii) 20 feet in any commercial or industrial zone and must be mounted in an antenna enclosure the same color or design as the building.

Sec. 5.5-317. - Shared use of wireless telecommunications facilities and structures.

Any proposed new tower shall be structurally designed to accommodate at least two (2) additional antenna arrays equal to those of the applicant and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provision of future shared usage of the tower is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden.

Sec. 5.5-318. - Height of telecommunications tower(s).

(a) Unless waived by the Council upon good cause shown, the maximum height of any tower shall be one hundred (100) feet.

(b) The maximum height of any tower and attached antennas constructed after the effective date of this Article shall not exceed that which shall enable operation without artificial lighting of any kind, in accordance with municipal, county, state, and/or any federal statute, code, rule or regulation.

Sec. 5.5-319. - Lighting of wireless telecommunications facilities.

(a) Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by this Article or other regulatory authority.

(b) If lighting is required, applicant shall provide a detailed plan for lighting as unobtrusive and as is permissible under state and federal regulations. The City may require applicant to provide an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within fifteen hundred (1,500) feet of all property lines of the parcel on which the wireless telecommunications facility is located.

Sec. 5.5-320. – Reserved.

Sec. 5.5-321. - Security of wireless telecommunications facilities.

Unless waived by Council, all wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specific requirements are as follows:

- (1) All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and
- (2) Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

Sec. 5.5-322. - Signage.

Unless waived by Council, wireless telecommunications facilities shall contain a sign no larger than four (4) square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. The sign shall not be lighted unless the Council shall have allowed such lighting or unless such lighting is required by applicable provisions of ordinance. The sign shall be approved by the Council before installation. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna supporting structures or antenna towers, unless otherwise required by law.

Sec. 5.5-323. - Lot size and setbacks.

Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated. The provisions of this section notwithstanding, the leasing of property for the location of a wireless telecommunications facility does not require subdivision approval by the City Planning Commission.

Sec. 5.5-324. - Recertification of a special use permit for wireless telecommunications facilities.

(a) At any time between twelve (12) months and six (6) months prior to the five-year anniversary date after the effective date of the special use permit and all subsequent fifth anniversaries of the effective date of the original special use permit, the permit holder shall submit a signed written request to the Council for recertification. In the written request for recertification, the permit holder shall note the following:

- (1) The name of the permit holder.

- (2) If applicable, the number or title of the special use permit.
- (3) The date of the original granting of the special use permit.
- (4) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified since the issuance of the special use permit and if so, in what manner.
- (5) If the wireless telecommunications facilities have been moved, relocated, rebuilt, or otherwise modified, then whether the Council approved such action, and under what terms and conditions, and whether those terms and conditions were complied with.
- (6) Any requests for waivers or relief of any kind whatsoever from the requirements of this Article.
- (7) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, ordinances, rules and regulations.
- (8) Recertification that the support structure and attachments both are designed and constructed and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified Alabama state licensed professional engineer acceptable to the City, the cost of which shall be borne by the applicant.
- (9) A list of collocating entities.

(b) If, after such review, the Council finds that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, local laws, codes, rules and regulations, then the Council shall recertify the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, laws, local ordinances, codes, rules and regulations. If, after such review, the Council determines that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, local laws, codes, rules and regulations, the Council may refuse to recertify the special use permit, and in such event, the wireless telecommunications facilities that are the subject of the permit shall not be used after the date that the applicant receives written notice of such decision by the Council. Any such decision shall be in writing and supported by substantial evidence contained in a written record.

(c) If the applicant has submitted all of the information requested by the Council and required by this Article, and if the Council does not complete its review, as noted in subsection (b) of this section, prior to the five-year anniversary date of the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six (6) months in order for the Council to complete its review.

(d) If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the timeframe noted in subsection (a) of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Council that extenuating circumstances prevented a timely recertification request. If the Council agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

Sec. 5.5-325 -- Assignment and transfer.

(a) A special use permit granted under this Article shall not be assigned, transferred or conveyed without the express prior written notification to the City, such notice to be not fewer than thirty (30) business days prior to the intended assignment, transfer or conveyance.

(b) Any purported transfer, assignment or other conveyance of a special use permit shall be invalid unless and until the new permit holder provides to the City a written commitment of the new permit holder that it will abide by all applicable laws, rules and regulations, including but not limited to this Article.

Sec. 5.5-326. - Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall, at its cost and expense, be jointly required to execute and file with the City a bond, or other form of security acceptable to the City, in an amount of at least seventy-five thousand dollars (\$75,000.00) and with such sureties as are deemed sufficient by the Council to assure the faithful performance of the terms and conditions of this Article and conditions of any special use permit issued pursuant to this Article. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facilities, and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be an event of noncompliance with this Article.

Sec. 5.5-327. - Authority to inspect.

(a) To verify that the permit holder, and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, places and constructs such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, ordinances, laws and regulations, and other applicable requirements, the City may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on a permitted site.

(b) The City shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas, and appurtenant or associated facilities, or refusal to otherwise cooperate with the City with respect to an inspection, or if violations of this Article are found to exist, in which case the holder, lessee or licensee shall reimburse the City for the cost of the inspection.

(c) Payment of such costs shall be made to the City within thirty (30) days from the date of the invoice or other demand for reimbursement. If the finding(s) of violation is/are appealed in accordance with the procedures set forth in this Article, said reimbursement payment must still be paid to the City and the reimbursement shall be placed in an escrow account established by the City specifically for this purpose, pending the final decision on appeal.

Sec. 5.5-328. - Annual NIER certification.

The holder of the special use permit shall annually certify in writing to the City that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the City.

Sec. 5.5-329. - Liability insurance.

(a) A permit holder under this Article shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

- (1) *Commercial general liability covering personal injuries, death and property damage:* \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- (2) *Automobile coverage:* \$1,000,000.00 per occurrence/\$2,000,000.00 aggregate.
- (3) *Workers compensation and disability:* Statutory amounts.

(b) The commercial general liability insurance policy shall specifically include the City and its officers, employees, committee members, attorneys, agents and consultants as additional named insureds.

(c) The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

(d) The insurance policies shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days' prior written notice in advance of the cancellation of the insurance.

(e) Renewal or replacement policies or certificates shall be delivered to the City at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.

(f) Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than fifteen (15) days after the grant of the special use permit, the holder of the special use permit shall deliver to the City a copy of each of the policies or certificates representing the insurance in the required amounts.

Sec. 5.5-330. - Indemnification.

(a) An application for a special use permit under this Article shall include a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the City, and its officers, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said wireless telecommunications facilities. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the City.

(b) Notwithstanding the requirements noted in subsection (a) of this section, an indemnification provision will not be required in those instances where the City itself applies for and secures a special use permit for wireless telecommunications facilities.

Sec. 5.5-331 -- Noncompliance, cure and revocation.

(a) **Event of Noncompliance.** If a wireless provider fails to comply with any material term or condition of this Article or any special permit issued under it,

including nonconformity with application materials as approved by the City, the wireless provider shall be in noncompliance with this Article.

(b) Process. If a wireless provider is found to be in noncompliance, the City shall give the wireless provider forty-five (45) days written notice to cure the violation(s), or diligently commence the cure for matters that cannot reasonably be cured within forty-five (45) days. If the provider does not cure the violation(s), the City Council shall set a time for hearing the matter for revoking the special use permit and notice of such hearing shall be given to the provider at least ten (10) days before the day set for said hearing. At the hearing, the city Council shall hear all evidence offered by any party and all evidence that may be presented bearing upon the question of revocation as the case may be. The City Council shall render a decision within ten (10) days from the date of such hearing.

(c) In the event of an uncured material failure to comply with this Article, the City, at its option, shall be entitled to pursue any and all remedies that it may have in law or at equity, including terminating noncompliant permits, and drawing down the noncompliant wireless provider's performance and payment bond to cover any fees, costs, damages, expenses, or penalties that a wireless provider has not paid.

(d) Removal of Facilities. Upon termination for non-compliance, the City may require a wireless provider shall remove its wireless telecommunications facilities within six (6) months of receiving notice. If not so removed within that time period, the City shall have the right, but not the obligation, to treat the wireless provider's facilities as abandoned. A wireless provider shall be required to pay the City's actual and documented costs of taking title, storing, selling, or otherwise disposing of a wireless telecommunications facility within ninety (90) calendar days after it has received an invoice from the City.

Sec. 5.5-332. - Remedies.

(a) Any person who shall erect, construct, reconstruct, alter, repair, convert, attach or maintain any wireless communication facility in violation of the provisions of this Article, or who, being the owner or agent of the owner of any lot, tract or parcel of land, shall suffer another to erect, construct, reconstruct, alter, repair, convert, attach or maintain any such facility, commits an offense. A person commits a separate offense for each day during which a violation is committed. An offense under this Article is punished as provided in subsection (b) below.

(b) A violation of this Article is hereby declared to be an offense punishable by a fine not exceeding Three Hundred Fifty Dollars (\$350.00) or imprisonment for not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than Three Hundred Fifty (\$350.00) dollars nor more than Five Hundred Dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than five hundred dollars (\$500.00) or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional offense.

(c) If any wireless communications facility is erected, constructed, reconstructed, altered, repaired, converted, attached or maintained in violation of this Article or any regulation made pursuant hereto, the Mayor, in addition to other remedies, may institute in the name of the City any appropriate action or proceeding, including suit for injunctive relief, to prevent or abate any violations of this Article, to prevent any such unlawful erection, construction, reconstruction, alteration, repair, conversion, attachment, maintenance or use of such facility, to

prevent the use of such facility, and/or to prevent any illegal act, conduct, business or use in or about such facility.

(d) Notwithstanding anything in this Article, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties to evade or avoid compliance with this Article or any section of this Article. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The City may also seek injunctive relief to prevent the continued violation of this Article, without limiting other remedies available to the City.

Sec. 5.5-333. - Removal of wireless telecommunications facilities.

(a) Under the following circumstances, the Council may determine that the health, safety, and welfare of the City warrant and require the removal of wireless telecommunications facilities:

- (1) Wireless telecommunications facilities have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding ninety (90) consecutive days or a total of one hundred eighty (180) days in any three hundred sixty-five (365) day period, except for periods caused by force majeure or acts of god, in which case, repair or removal shall commence within ninety (90) days.
- (2) Wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard.
- (3) Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

(b) If the Council makes such a determination described in subsection (a) of this section, then the Council shall notify the permit holder or owner of the wireless telecommunications facilities (if reasonably identifiable) within forty-eight (48) hours that said wireless telecommunications facilities are to be removed.

(c) The holder of the special use permit, or its successors or assigns, or the owner of the facilities, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within ninety (90) days of receipt of written notice from the Council. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Council.

(d) If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within ninety (90) days after the permit holder or owner has received notice, then the Council may order officials or representatives of the City to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

(e) If the City removes or causes to be removed wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten (10) days, then the City may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

(f) Notwithstanding anything in this section to the contrary, the Council may approve a temporary use permit/agreement for the wireless telecommunications

facilities, for no more than ninety (90) days, during which time a suitable plan for removal, conversion, or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Council, and an agreement to such plan shall be executed by the holder of the special use permit and the City. If such a plan is not developed, approved and executed within the ninety-day time period, then the City may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

Sec. 5.5-334. – Waiver and relief.

Any applicant desiring relief or exemption from any aspect or requirement of this Article may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Council. The burden of proving the need for the requested relief or exemption is solely on the applicant. The applicant shall bear all costs of the City in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the Council. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates that, if granted, the relief or exemption will have no significant detrimental effect on the health, safety and welfare of the City, its residents, and other service providers.

Sec. 5.5-335-- Effect of future changes in governing law

Nothing in this Article shall be construed as surrender by the City of its right and power to adopt future ordinances, rules, and regulations in the exercise of its police power applying to wireless telecommunications facilities to the maximum extent allowed by applicable law. Issuance of any special use permit pursuant to this Article shall not grant the permittee any vested rights in the event of a change in governing law, including any vested right for permittee to remain regulated under the laws, ordinances, rules, and regulations in effect at the time of issuance of a permit. In the event of any future change in governing law (including, but not limited to, invalidation or modification of the final rules of the Federal Communications Commission in effect at the time of initial adoption of this Article), the City at all times reserves the right to regulate wireless telecommunications facilities under new governing law as changed and to apply new City regulations allowed by the changed law to all pre-existing wireless telecommunications facilities.

Sec. 5.5-336. - Conflict with other laws or ordinances.

Where this Article differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the City, State or Federal government, this Article shall apply.

Sec. 5.5-337. - Severability.

- (a) If any word, phrase, sentence, part, section, subsection, or other portion of this Article or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Article, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

(b) Any special use permit issued pursuant to this Article shall be comprehensive and not severable. If part of a special use permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the City.

Section 2. **Repeal of conflicting ordinances.** Any ordinance or parts thereof in conflict with this Ordinance are repealed to the extent of the conflict only.

Section 3. **Effective date.** This Ordinance (and Article III hereby adopted) shall take effect and be enforced immediately upon its adoption and publication as required by law.

Section 4. **Publication.** The City Clerk of the City of Opelika is hereby authorized and directed to cause a copy of this Ordinance to be published one (1) time in a newspaper of general circulation in the City of Opelika, Alabama.

Section 5. **Codification.** Codification of Article III adopted herein in the *Code of Ordinances* of the City of Opelika is hereby authorized and directed.

ADOPTED AND APPROVED this the ____ day of _____, 2019.

PRESIDENT OF THE CITY COUNCIL OF THE
CITY OF OPELIKA, ALABAMA

ATTEST:

CITY CLERK

TRANSMITTED TO MAYOR this the ____ day of _____, 2019.

CITY CLERK

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019.

MAYOR

ATTEST:

CITY CLERK