



OPELIKA CITY COUNCIL
“ REGULAR MEETING AGENDA “
204 South 7th Street
July 2, 2019
TIME: 7:00 PM

1. CALL TO ORDER
2. ROLL CALL
 1. Patricia Jones, Tiffany Gibson-Pitts, Dozier Smith T, David Canon, Eddie Smith
3. INVOCATION
 1. Pastor Henry Smith.
4. PLEDGE OF ALLEGIANCE
 1. Boy Scouts Atticus O'Banner, William Deshazo, Steven Watson, James Middleton, Cole Middleton and Jared McKay - Troop 858.
5. READING OF MINUTES
 1. Minutes from the 6-18-19 city council meeting.
6. UNFINISHED BUSINESS
7. REMARKS BY THE MAYOR
8. CITIZEN COMMUNICATIONS (Limit comments to five minutes or less)
9. REPORT OF DISBURSEMENTS
10. COMMITTEE REPORTS
11. GENERAL BUSINESS
 1. Request by Main Street, temporary street closure on Sat. 9-07-19
 2. Public Hearing - Weed Abatement Assessment - 105 Vaughan Ave
 3. Public Hearing - Weed Abatement Assessment - 108 Plum Ave
 4. Public Hearing - Weed Abatement Assessment - 207 Raintree St.
 5. Public Hearing - Weed Abatement Assessment - 512 ML King Blvd
 6. Public Hearing - Weed Abatement Assessment - 610 ML King Blvd
 7. Public Hearing - Weed Abatement Assessment - 709 India Rd.
 8. Public Hearing - Weed Abatement Assessment - 1112 West St.
 9. Public Hearing - Weed Abatement Assessment - 3307 Arnold Ave
12. AWARDING OF BIDS
 1. LED Streetlights - IT
13. RESOLUTIONS

1. Expense reports from various departments.
 2. Designate City Personal Property Surplus and Authorize Disposal
 3. Purchase - (624) Toter 96 Gal EVR II Carts - Sourcewell Contr - OES
 4. Purchase - Mailing System - State Contract #T311 - VAR
 5. Purchase - Mosquito Control Insecticide - Sole Source - PW
 6. Change Order Request - Emergency Repair of Truck #764 - OPS
 7. Weed Abatement Assessment - 105 Vaughan Ave
 8. Weed Abatement Assessment - 108 Plum Ave
 9. Weed Abatement Assessment - 207 Raintree St.
 10. Weed Abatement Assessment - 512 ML King Blvd
 11. Weed Abatement Assessment - 610 ML King Blvd
 12. Weed Abatement Assessment - 709 India Rd.
 13. Weed Abatement Assessment - 1112 West St.
 14. Weed Abatement Assessment - 3307 Arnold Ave.
 15. Refund Request-River Bank & Trust, Occupational License Fees.
 16. Request by T-Mobile for a SUP at 2605 Tower Street.
 17. Agreement, professional services with City of Auburn - OFD.
 18. Special appropriation to P&R to support Dixie Boys Baseball Team.
 19. Send zoning request back to the Planning Commission, 32.45 acres Gateway Dr.
14. ORDINANCES
1. Amend Zoning Ord & Map: Rezone 2 Acres, 2400 Block Dunlop Drive - 2nd Reading
 2. Conveyance of the West Side of Dunlop Drive to John a Stewart - 2nd Reading.
 3. Amend City Code, Chapter 5.5 Article III, wireless telecommunications - 2nd Reading.
 4. Lease agreement with Envision Opelika Foundation Inc. - 1st Reading.
 5. Additional Approved Holiday July 5, 2019 - 1st Reading.
15. APPOINTMENTS
16. ADJOURN

"In compliance with the Americans with Disabilities Act, the City of Opelika will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the ADA Coordinator 72 hours prior to the meeting at (334)705-2083."



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

CM MINUTES (ID # 3533)

Meeting: 07/02/19 07:00 PM
Department: City Clerk
Category: CM Minutes
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 3533

Minutes from the 6-18-19 city council meeting.



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 -1st Reading
 Mr. Canon introduced this ordinance.
RESULT: FIRST READING INTRODUCED
3. Ordinance Conveyance of the West Side of Dunlop Drive to John a Stewart - 1st Reading.
 Ms. Pitts introduced this ordinance.
RESULT: FIRST READING INTRODUCED
4. Ordinance Amend City Code, Chapter 5.5 Article III, wireless telecommunications - 1st 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 ____ 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

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

Attachment: CM 7-02-19, minutes from 6-18-19 CM (3533 : Minutes from the 6-18-19 city council meeting.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3537)

Meeting: 07/02/19 07:00 PM
Department: City Clerk
Category: Request / Temp Street Closure
Prepared By: Robert Shuman
Initiator: Robert Shuman
Sponsors:

DOC ID: 3537

Request by Main Street, temporary street closure on Sat. 9-07-19

Shuman, Robert

From: Ken Ward <director@opelikamainstreet.org>
Sent: Tuesday, June 25, 2019 4:38 PM
To: Shuman, Robert
Cc: shirley lazenby; Motley, Joey; Hilyer, Michael J.
Subject: Re: Road Closure Request

Here is the revised information regarding the street closure:

We would like to request N 8th Street between 2nd Ave. and N Railroad Ave along with 1st Avenue from N 8th Street to N 7th Street be closed off for the Opelika Bicycle Advisory Committee's Johnny Ray Century Ride on September 7th. The area will serve as a staging zone for the roughly 200 plus participants before the start of the over 100 mile bike ride. We will need to close the road between 6:30AM-7:30AM after that the road is free to be reopened. Please let me know if I need to do anything else.

Ken Ward

Opelika Main Street
 Executive Director
 334-391-8146



Opelika Main Street

P.O. Box 2464 Opelika, AL 36803

Sign up for emails <http://www.opelikamainstreet.org>

Attachment: CM 7-02-19, request by Main Street, temporary street closure (3537 : Request by Main Street, temporary street closure on Sat. 9-07-



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3528)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 3528

Public Hearing - Weed Abatement Assessment - 105 Vaughan Ave

WEED ABATEMENT INVOICE

Date: 06/18/2019

**To: State of Alabama
PO Box 327210
Montgomery Al. 36132**

**Property Address:
105 Vaughn Ave
Opelika Al. 36801
Parcel # 10-04-18-1-001-077.000**

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>192.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>205.84</u>

Attachment: WEED INVOICE 105 Vaughan Ave (3528 : Public Hearing - Weed Abatement Assessment - 105 Vaughan Ave)

To: **State of Alabama**
PO Box 327210
Montgomery Al. 36132

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 105 Vaughan Ave Parcel# 10-04-18-1-001-077.000**

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NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 105 Vaughan Ave, Parcel No. 077.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$205.84.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Guy Gunter – City Attorney
 Lillie Finley – Revenue Manager



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3526)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 3526

Public Hearing - Weed Abatement Assessment - 108 Plum Ave

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Yolanda & Vici Pendleton
1775 Hurst St. Lot 78
Opelika AL. 36801**

**Property Address:
108 Plum Ave
Opelika AL. 36801
Parcel # 10-03-08-2-002-046.000**

On April 29, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>250.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>263.34</u>

Attachment: Weed Invoice 108 Plum Ave (3526 : Public Hearing - Weed Abatement Assessment - 108 Plum Ave)

To: **Yolanda & Vici Pendleton**
1775 Hurst St. Lot 78
Opelika Al. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 108 Plum Ave, Parcel 10-03-08-2-002-046.000**

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NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 108 Plum Ave, Parcel No. 046.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$263.34.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3524)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

DOC ID: 3524

Public Hearing - Weed Abatement Assessment - 207 Raintree St.

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Jeffrey Layne Preston
1201 Auburn St.
Opelika AL 36801**

**Property Address:
207 Raintree St
Opelika AL 36801
Parcel # 10-03-08-2-001-121.000**

On May 15, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>362.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>375.84</u>

Attachment: WEED INVOICE 207 Raintree St. (3524 : Public Hearing - Weed Abatement Assessment - 207 Raintree St.)

To: **Jeffrey Layne Preston**
1201 Auburn St.
Opelika Al. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 207 Raintree St., Parcel 10-03-08-2-001-121.000**

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NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 207 Raintree St., Parcel No. 121.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$375.84.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 3522)

DOC ID: 3522

Public Hearing - Weed Abatement Assessment - 512 ML King Blvd

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Julia Fanning
903 S 4th St
Opelika AL. 36801**

**Property Address:
512 M L King Blvd
Opelika AL. 36801
Parcel # 10-04-18-2-001-103.000**

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>162.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>175.84</u>

Attachment: Weed Invoice 512 ML King Blvd (3522 : Public Hearing - Weed Abatement Assessment - 512 ML King Blvd)

To: **Julia Fanning**
903 S 4th St
Opelika AL. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 512 M L KING Blvd, Parcel 10-04-18-2-001-103.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 512 M L King Blvd, Parcel No. 103.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$175.84.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3520)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 3520

Public Hearing - Weed Abatement Assessment - 610 ML King Blvd

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Julia Fanning
903 S 4th St
Opelika Al. 36801**

**Property Address:
610 M L King Blvd
Opelika Al. 36801
Parcel # 10-04-18-2-001-081.000**

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement: 161.37

Certified mail: _____

Misc. _____

Total 161.37

Attachment: Weed invoice 610 M L King Blvd (3520 : Public Hearing - Weed Abatement Assessment - 610 ML King Blvd)

To: **Julia Fanning**
903 S 4th St
Opelika AL. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 610 M L King Blvd, Parcel 10-04-18-2-001-081.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 610 M L King Blvd, Parcel No. 081.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$161.37.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney

Attachment: Notice of public hearing 610 M L KING Blvd (3520 : Public Hearing - Weed Abatement Assessment - 610 ML King Blvd)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3518)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:
DOC ID: 3518

Public Hearing - Weed Abatement Assessment - 709 India Rd.

WEED ABATEMENT INVOICE**Date: 06/18/2019****To: Ditech Financial LLC
7360 S Kyrene Rd.
Tempe Az. 85283****Property Address:
709 India Rd
Opelika Al. 36801
Parcel #10-03-06-2-000-042.011**

On May 3, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>437.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>450.84</u>

Attachment: Weed Invoice 709 India Rd. (3518 : Public Hearing - Weed Abatement Assessment - 709 India Rd.)

To: Ditech Financial LLC
 7360 S Kyrene Rd.
 Tempe Az. 85283

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 709 India Rd, Parcel 43-10-03-06-2-000-042.011**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 709 India Rd., Parcel No. 042.011 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$450.84.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manger
 Guy. F. Gunter, III – City Attorney

Attachment: Weeds, NPH-Resolution, 709 India Rd. (3518 : Public Hearing - Weed Abatement Assessment - 709 India Rd.)



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

GENERAL BUSINESS (ID # 3516)

DOC ID: 3516

Public Hearing - Weed Abatement Assessment - 1112 West St.

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Bryan Kindell
PO Box 2833
Auburn Al. 36830**

**Property Address:
1112 West St
Opelika Al. 36801
Parcel # 10-04-18-2-002-103.000**

On May 9, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>209.30</u>
Certified mail:	<u>13.34</u>
Misc.	<u></u>
Total	<u>222.64</u>

Attachment: WEED INVOICE 1112 West St. (3516 : Public Hearing - Weed Abatement Assessment - 1112 West St.)

To: **Bryan Kindell**
PO Box 2833
Auburn AL. 36830

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 1112 West St., Parcel 10-04-18-2-002-103.000**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 1112 West St, Parcel No. 103.000 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$222.64.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney



City Council
204 South 7Th Street
Opelika, AL

SCHEDULED

GENERAL BUSINESS (ID # 3514)

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Public Hearing
Prepared By: Jerry Bush
Initiator: Lillie Finley
Sponsors:

DOC ID: 3514

Public Hearing - Weed Abatement Assessment - 3307 Arnold Ave

WEED ABATEMENT INVOICE

Date: June 18, 2019

To: Arthur & Lisa Scroggins
3307 Arnold Ave
Opelika al. 36801

Property Address:
3307 Arnold Ave
Opelika Al. 36801
Parcel # 09-05-15-1-000-054.001

On May 6, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>330.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>343.34</u>

Attachment: Weed Invoice 3307 Arnold Ave (3514 : Public Hearing - Weed Abatement Assessment - 3307 Arnold Ave)

To: **Arthur & Lisa Scroggins**
3307 Arnold Ave
Opelika al. 36801

**NOTICE OF PUBLIC HEARING ON COST OF
 ABATEMENT OF WEED NUISANCE LOCATED AT
 3307 Arnold Ave, Parcel 09-05-15-1-000-054.001**

=====

NOTICE IS HEREBY GIVEN that the weed nuisance growing upon or in front of the property located at 3307 Arnold Ave, Parcel No. 054.001 in the City of Opelika has been abated by the removal of the noxious or dangerous weeds, and the Mayor has therefore submitted to the City Council an itemized report (attached) in writing showing the cost of removing said nuisance. The total cost of abating such nuisance in front of or upon the above described property is \$343.34.

Notice is also given that the City Council of the City of Opelika will meet to hear and to determine any objections or defenses that may be raised by any of the property owners liable to be assessed of the work of abating such nuisance at 7:00 p.m. in the Council Chambers of the Municipal Building, 204 South 7th Street, Opelika, Alabama, on the 2nd day of July, 2019.

You are further notified that the cost of abating such nuisance, if confirmed by the City Council, shall constitute a weed lien on said property and shall be turned over to the Revenue Commissioner of Lee County, Alabama to add the amount of such weed lien to the next regular bill of taxes levied against said property.

Dated this the 18th day of June, 2019.

 Jerry Bush
 Code Compliance Officer

Cc: Joey Motley – City Administrator
 Lillie Finley – Purchasing-Revenue Manager
 Guy. F. Gunter, III – City Attorney



City Council

204 South 7Th Street
Opelika, AL

SCHEDULED

BIDS 169-19

Meeting: 07/02/19 07:00 PM
Department: Purchasing and Revenue
Category: Bid
Prepared By: Angela Norrell
Initiator: Lillie Finley
Sponsors:
DOC ID: 3540

LED Streetlights - IT

RESOLUTION NO. _____

WHEREAS, the Purchasing Department solicited sealed bids for a contract to provide LED Streetlights for the Information Technology Department; and

WHEREAS, Gresco Utility Supply submitted the lowest bid meeting specifications; and

WHEREAS, funds are budgeted from Information Technology Capital Expenditures;

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

1. That the contract be awarded to Gresco Utility Supply on their low bid meeting specifications.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Gresco Utility Supply on an as needed basis.
3. The Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

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

FACT SHEET

SUBJECT: Sealed Bid – Bid #19021 – We are asking the Council to approve a contract for LED Streetlights

FACTS:

- Bid opening date – 6/18/19
- User Department – Information Technology
- The bid was mailed to 28 vendors
- 8 bids were received
- Bid tabulation sheet attached

RECOMMENDATION:

- **Recommend the contract be awarded to Gresco Utility Supply on their low bid meeting specifications on an as needed basis.**

BID# 19021 DATE: 6/18/19 DEPT: INFORMATION TECHNOLOGY						28 VENDORS INVITED
DESCRIPTION: LED STREETLIGHTS						8 BIDS RECEIVED
ITEM 1: CARETAKER CRTK2-C01H-D-U-T3-TH-4N7-10MSP-A-U0417, LIGHT TYPE 3 7 PIN 71W						
ITEM 2: PHILLIPS LED COBRAHEAD 80W RFM72W32LED3KG2R3MVOLT – UNVGY3						
VENDOR	ITEM 1:	ITEM 2:	ALT	DEL	MANUFACTURER	TERMS/DISC
A TO Z MUNI-DOT						
AL POWER CO-AUBURN						
AMARON						
ANIXTER INC						
BALDWIN LTG INC/BALDWIN POLE&PILING						
BROWN WOOD						
GRAYBAR ELECTRIC CO	\$ 163.18	\$ 267.86	--	2-4 wks	Cooper Ltg & Phillips	--
GRESKO UTILITY SUPPLY	\$ 101.00	--	--	4-6 wks	Cooper Lighting	--
H D SUPPLY POWER						
INTERSTATE ELECTRICAL						
KING LUMINAIRE						
LAGRANGE WINNELSON						
LED LIGHTING WHOLESALE INC	--	--	\$ 252.50	4 wks	Maxlite	--
MAYER ELECTRIC SUPPLY-BMHM						
MAYER ELECTRIC SUPPLY-COL						
NATIONWIDE UTILITY						
SPRING CITY ELECTRICAL						
STALLWORTH TIMBER CO						
STERNBERG LIGHTING INC						
STRESSCRETE INC						
STUART C IRBY CO	\$ 102.54	--	--	4-6 wks	Cooper Lighting	--
T R MILLER MILL CO INC						
THOMASSON LUMBER CO						
TRAFFIC PARTS INC						
TRI-STATE UTILITY						
UTILITY POWER INC						
WESCO DISTRIBUTION						
Mayer Electric Supply - Dothan	--	\$ 250.00	--	8 wks	Phillips/Signify	--
Sentry Sports A to Z LLC	--	\$ 242.00	--	6-8 wks	Phillips	--
SolarMax LED, Inc.	--	--	\$176.68-208.00	3-8 wks	SolarMax LED, Inc.	--
Technology One Online Corp.	--	--	\$ 248.00	2 wks	NEPTUN Light	1.5/10,1.25/15,1/20,0.5/30

Attachment: 7-2-19 - LED STREETLIGHTS 19021 - BID PKT (169-19 : LED Streetlights - IT)

RESOLUTION NO. 170-19

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
-----	-----	-----
Tara Bryan	Probation	73.42
Jonathan Hill	IT	106.26
Gary Fuller	Mayor	95.98

-) 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

EXPENSE REPORT

NAME TARA BRYAN DEPARTMENT PROBATION

PERIOD ENDING

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

DATE	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS Itemize Below			MISC EXPENSES Itemize Below	DAILY TOTAL
			AIR, RAIL, ETC	RENTAL CAR, LIMO, ETC.	LOCAL TAXI, TOLLS, & PUBLIC TRANSIT	AUTO EXPENSES Itemize Below	BREAKFAST	LUNCH	DINNER		
6-7-19	Montgomery, AL					126.6					\$ 23.42
											\$ -
											\$ -
											\$ -
											\$ -
											\$ -
											\$ -
											\$ -
											\$ -
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											\$ -
											\$ -
											\$ -
											\$ -
											\$ -
WEEKLY CATEGORY TOTALS \$		\$ -	\$ -	\$ -	\$ -	\$ 73.42	\$ -	\$ -	\$ -	\$ -	\$ 73.42

ITEMIZED BUSINESS MEALS				
DATE	NAME OF PERSON(S) DINING;	TIME	PLACE	AMOUNT

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING, REPAIRS, ETC	AMOUNT
6-7-19	.58 x 63.3 = 36.71	
	36.71 x 2 = 73.42	\$ 73.42
	Mileage from Probation	
	to 300 Dexter Ave, Mont. AL	

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

NUMBER OF DAYS AWAY FROM HOME

0

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0

NATURE OR PURPOSE OF TRAVEL

Magistrate Maintenance
Hours

METHOD OF REIMBURSEMENT

Snail Mail

MAIL TO:

Probation

SIGNATURE

APPROVED BY

NAME	Jonathan Hill	DEPARTMENT	IT	PERIOD ENDING	6/21/2019
-------------	---------------	-------------------	----	----------------------	-----------

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

Packet Pg. 40

EXPENSE REPORT

PERIOD ENDING

NAME

Name Gary Fuller

DEPARTMENT

Department Mayor's Office 11050

DAY	CITY AND STATE	LODGING	TRANSPORTATION				BUSINESS MEALS			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 Itemize Below	LUNCH Itemize Below	DINNER Itemize Below			
SUN												0.00
MON												0.00
TUE 6/18/19	Sydney, Australia							30.83				30.83
WED 6/19/19	Sydney, Australia							65.15				65.15
THU												0.00
FRI												0.00
SAT												0.00
WEEKLY CATEGORY TOTALS \$		0.00	0.00	0.00	0.00	0.00	0.00	95.98	0.00	0.00	0.00	95.98

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

11

NUMBER OF DAYS AWAY ON PERSONAL AFFAIRS

0

% OF TOTAL DAYS AWAY FOR PERSONAL AFFAIRS

0%

NATURE OR PURPOSE OF TRAVEL

Economic Trip - World FD Investment Forum

METHOD OF REIMBURSEMENT

☐ DEDUCT FROM
MY ADVANCE☒ MAIL: TO

Gary Fuller

Mayor's office

SIGNATURE

APPROVED BY

ITEMIZED AUTOMOBILE EXPENSES		
DATE	MILEAGE, GAS, PARKING REPAIRS, ETC	AMOUNT

ITEMIZED MISCELLANEOUS EXPENSES		
DATE	ITEMS	AMOUNT

RESOLUTION NO. 171-19

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 Freightliner Derrick Truck	87002205
2.	1	Ea.	2004 Freightliner Bucket Truck	87002372
3.	1	Ea.	1989 Ford F-150 VIN 1FTEF14N8KNA21314	N/A

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. 172-19

Purchase - (624) Toter 96 Gal EVR II Carts - Sourcewell Contr - OES**RESOLUTION NO. _____**

WHEREAS, Opelika Environmental Services desires to purchase six hundred twenty-four (624) Toter 96 Gallon EVR II Universal/Nestable Carts utilizing the Sourcewell Contract; and

WHEREAS, Wastequip is the Contract Vendor for the six hundred twenty-four (624) Toter 96 Gallon EVR II Universal/Nestable Carts; and

WHEREAS, budgeted funds will come from Small Tools and Minor Equipment;

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

1. That the purchase be awarded to Wastequip utilizing the Sourcewell Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Wastequip in the amount of \$32,068.01.
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



841 Meacham Rd, Statesville, NC, 28677

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10119540

Sell To:

Contact Name Bobby Young
 Bill To Name City of Opelika
 Bill To 700 Fox Trl
 Opelika, AL 36801
 USA
 Email byoung@opelika-al.gov
 Phone (334) 705-5482
 Mobile (334) 524-5108

Ship To Name City of Opelika
 Ship To 700 Fox Trl
 Opelika, AL 36801
 USA
 Customer Job NJPA Contract No. 060612-WQI
 Reference

Quote Information

Salesperson Pascual Ramos
 Salesperson Email pramos@wastequip.com
 Salesperson Phone (629) 702-0074

Created Date 6/12/2019
 Expiration Date 7/12/2019
 Quote Number WQ-10119540
 Please Reference Quote Number on all
 Purchase Orders

Model	Product Description	Selected Option	Description	Quantity	Sales Price	Total Price
79296	Model 79296 - Toter 96 Gallon EVR II Universal/Nestable Cart	---Body Color - (968) Greenstone ---Lid Color - (200) Black ---Body Hot Stamp on Both Sides (Existing) in White ---Wheels - 10in Sunburst ---Toter Serial Number Hot Stamped on Front of Cart Body in White ---2/3 Assembled with Lid (down), Stop Bar and Axle Factory Installed ---Warranty - 12 Yrs Cart Body, All other components 10 Yrs	Body: S5904	624.00	\$48.50	\$30,264.00

Payment Terms Net 30 Days
 Shipping Terms FOB Origin

Subtotal \$30,264.00
 Shipping \$1,804.01
 Tax \$0.00
 Grand Total \$32,068.01

Additional Information

Additional Terms Our Quote is a good faith estimate, based on our understanding of your needs. Subject to our acceptance, your Order is an offer to purchase our Products and services in accordance with the Wastequip Terms & Conditions of Sale ("WQ T&C") located at: <https://www.wastequip.com/terms-conditions-of-sale>, as of the date set forth in Section 1(b) of the WQ T&C,

Attachment: 7-2-19 - (624) TOTER 96 GAL EVR II CARTS - SOURCEWELL CONTR - CNCL PKT (172-19 : Purchase - (624) Toter 96 Gal EVR II



841 Meacham Rd, Statesville, NC, 28677

PHONE: 800-424-0422 FAX: 704-878-0734

WQ-10119540



Contract # 041127-WQ

which are made a part of this Quote. These WQ T&Cs may be updated from time to time and are available by hard copy upon request.

**Additional
Information**

Pricing is based on your anticipated Order prior to the expiration of this Quote, including product specifications, quantities and timing, accepted delivery within 45 days of Order acceptance by Toter. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.

**Special Contract
Information**

Sourcewell-Pricing & Product offerings are based on the Sourcewell Co-Operative Contract with Wastequip, LLC (#041217, eff. 7/7/17), and such Contract terms & conditions are incorporated herein by reference. Pricing & Product (& related) changes may occur at any time with proper documentation, & subject to Sourcewell approval; therefore, offerings may change without written prior notice. Wastequip Product Limited Warranties, Disclaimers, Limitation of Liability & Remedies, & Limited Warranty Provisions apply to all purchases thereunder.

Signatures

Accepted By: _____

Company Name: _____

Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders

Attachment: 7-2-19 - (624) Toter 96 Gal EVR II CARTS - SOURCEWELL CONTR - CNCL PKT (172-19 : Purchase - (624) Toter 96 Gal EVR II



Cooperative Purchasing ▾ Services & Programs ▾

1

Join



Wastequip

Waste & Recycling Equipment & Containers

#041217-WQI

Maturity Date: 07/07/2021

Products & Services

Contract Documents

Pricing

Contact Information

Products & Services

Sourcewell contract 041217-WQI gives access to the following types of goods and services:

- Galbreath® Cable Hoists
- Galbreath® Hook Hoists
- Galbreath® Trailers & Container Handlers
- Pioneer® & Mountain Tarp® tarping systems
- Wastequip® containers, dumpsters & roll-offs
- Wastequip® compactors & balers
- Toter® Pro & Toter® Residential carts

Additional information can be found on the vendor-provided, nongovernment website at:

www.wastequip.com

RESOLUTION NO. 173-19

Purchase - Mailing System - State Contract #T311 - VAR

RESOLUTION NO. _____

WHEREAS, the City of Opelika would like to renew the three-year contract for the Mailing System utilizing the State of Alabama contract #T311; and

WHEREAS, Pitney Bowes is the State Contract Vendor for the Mailing System; and

WHEREAS, this is a budgeted contract;

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

1. That Purchasing-Revenue Manager is hereby authorized to award a three-year contract to Pitney Bowes utilizing the State of Alabama Contract.
2. That the Purchasing-Revenue Manager is hereby authorized to issue a purchase order to Pitney Bowes in the amount of \$807.33 per month for three years.
3. That the Controller is authorized to adjust the budget as necessary for this contract.
4. That the Mayor is hereby authorized to sign all documents pertaining to this contract.

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



June 19, 2019

Lillie Finley
City of Opelika
204 S 7th St
Opelika, AL 36801

Dear Lillie,

Thank you for your recent interest in a new mailing system from Pitney Bowes. Please find the price for the lease of the system below. Based on the information presented to me, the equipment from **State Contract T311** that would be necessary to process the mail at your location is listed below.

SendPro P2000 Mailing System with PSD/Meter, 10 lb. Interfaced Weighing, SendPro Power Stacker, 100 Departmental Accounting Feature, SendPro Receiving Feature, Send pro Shipping Feature, 180/115 Speed Feature, Monochrome Print Module, F9PG PowerGuard Feature, 15" Color Touch Display and InView Accounting Feature with full support, maintenance, installation and training
State Contract T311; Vendor Contract # 4012995; Line 55; Commodity Code 985-59-092582

Total Contract Costs **\$807.33** per month billed quarterly in arrears at \$2,421.99

This lease includes all on-site support maintenance, 800 support and equipment payment. The lease would be for 12-month intervals with a renewal after each fiscal year for no more than 36 months. This quotation is pursuant with the State of Alabama Contract T311 for Mailing and Related Equipment. The items listed above are listed in Attachment A (Catalog) of this contract. Pitney Bowes acknowledges that in the event of conflict between the State's terms and the referenced Pitney Bowes terms, the State's terms will govern and prevail.

Please reference your business partner number 0012489309 in the vendor reference number section on your new FY PO. The Federal Tax ID Number for Pitney Bowes is 060495050; Vendor Number VC000004087; Address Line AD0002. Please email me at victor.paschal@pb.com or call me at (205) 246-4294 should you have any questions regarding this information.

Respectfully,

Victor J. Paschal
Major Account Manager – State of Alabama

Confidential and Proprietary

Visit our web site at www.pb.com/states/alabama

Pitney Bowes, Inc. 580 Waterford Lane Calera, AL 35040 (205) 246-4294 (203) 460-9022 (fax)



Pitney Bowes Lease Agreement State and Local Term Rental

Agreement Number

Your Business Information

Full Legal Name of Lessee / DBA Name of Lessee

Tax ID # (FEIN/TIN)

CITY OF OPELIKA

636001334

Sold-To: Address

204 S 7TH ST, OPELIKA, AL, 36801-4944, US

Sold-To: Contact Name

Sold-To: Contact Phone #

Sold-To: Account #

Lillie Finley

3347055121

0012489309

Bill-To: Address

PO BOX 390, OPELIKA, AL, 36803-0390, US

Bill-To: Contact Name

Bill-To: Contact Phone #

Bill-To: Account #

Bill-To: Email

Lillie Finley

(334) 705-5121

0012362999

lfinley@ci.opelika.al.us

Ship-To: Address

204 S 7TH ST, OPELIKA, AL, 36801-4944, US

Ship-To: Contact Name

Ship-To: Contact Phone #

Ship-To: Account #

Lillie Finley

3347055121

0012489309

PO #

Your Business Needs

Qty	Item	Business Solution Description
1	SENDPROPSERIES	SendPro P Series
1	1FWW	10 lb Interfaced Weighing (unit)
1	4W00	Connect+ /SendPro P Series Meter
1	APA2	100 Dept Analytics
1	APKE	SendPro P Receiving Feature
1	APKF	SendPro P Shipping Feature Access
1	APSF	Connect+ 180/115 LPM Speed
1	AZBB	SendPro P2000 Series
1	AZBE	SendPro P Series Mono Print Module
1	F9PG	F9PG-PowerGuard Service Package
1	M9SS	Mailstream Intellilink Services
1	MSD2	15" Color Touch Display
1	MSPS	SendPro P Series Power Stacker
1	MW96000	Weighing Platform

1	NV10	InView TMR Web Acct Bundle Single only
1	NV2A	INVIEW Custom Reports and Training
1	NV90	NV90 - InView Subscription
	NVBA	NVBA - Deployment Services - Level 1
1	NVMA	InView Dashboard - Single Meter
	NVWE	InView Dashboard Set up & Training
1	SJM2	SoftGuard for SendPro P2000
1	STDsla	Standard SLA-Equipment Service Agreement (for SendPro P Series)
1	T6CS	Receiving - Standard

Your Payment Plan

Initial Term: 36 months	Initial Payment Amount:	
Number of Months	Monthly Amount	Billed Quarterly at*
36	\$ 807.33	\$ 2,421.99

*Does not include any applicable sales, use, or property taxes which will be billed separately.

- ☐ Tax Exempt Certificate Attached
☐ Tax Exempt Certificate Not Required
☒ Purchase Power® transaction fees included
☐ Purchase Power® transaction fees extra

Your Signature Below

Non-Appropriations. You warrant that you have funds available to pay all payments until the end of your current fiscal period, and shall use your best efforts to obtain funds to pay all payments in each subsequent fiscal period through the end of your Lease Term. If your appropriation request to your legislative body, or funding authority ("Governing Body") for funds to pay the payments is denied, you may terminate this Lease on the last day of the fiscal period for which funds have been appropriated, upon (i) submission of documentation reasonably satisfactory to us evidencing the Governing Body's denial of an appropriation sufficient to continue this Lease for the next succeeding fiscal period, and (ii) satisfaction of all charges and obligations under this Lease incurred through the end of the fiscal period for which funds have been appropriated, including the return of the Equipment at your expense.

By signing below, you agree to be bound by all the terms and conditions of your State's/Entity's/Cooperative's contract, including the Pitney Bowes Terms, which are available at <http://www.pb.com/states> and are incorporated by reference (collectively, this "Agreement"). The terms and conditions of this Agreement will govern this transaction and be binding on you after we have completed our credit and documentation approvals process and have signed below. The lease requires you either provide proof of insurance or participate in the ValueMAX® equipment protection program (see Section L9 of the Pitney Bowes Terms) for an additional fee.

T311-4012995, in event of conflict, State terms govern and prevail
 State/Entity's Contract#

Lessee Signature

Print Name

Title

Date

Email Address

Pitney Bowes Signature

Print Name

Title

Date



State of Alabama
Department of Finance
Division of Purchasing
Master Agreement
Modification

13.4.a

CONTRACT INFORMATION

MASTER AGREEMENT NUMBER: MA 999 T3114012995

NOT TO EXCEED AMOUNT:

Begin Date: 07/14/2014

Procurement Folder: 11774

Expiration Date: 07/13/2019

Procurement Type: Master Agreement

Solicitation Number:

Replaces Award Document:

Award Date:

Replaced by Award Document:

Modification Date: 05/30/18

Version Number: 8

CONTACT INFORMATION

REQUESTOR:

Brittany Peterson

334-242-4667

Brittany.Peterson@purchasing.alabama.gov

ISSUER:

Brittany Peterson

334-242-4667

Brittany.Peterson@purchasing.alabama.gov

BUYER:

Brittany Peterson

334-242-4667

Brittany.Peterson@purchasing.alabama.gov

CONTRACT DESCRIPTION

Postal Meter Rental

Ship To:

Bill To:

Shipping Instructions: 30 DAYS ARO SNAP Location code is R1-
STATEWIDE

REASON FOR MODIFICATION

Extend for 5th year.

VENDOR INFORMATION

Name /Address:

VC000004087: PITNEY BOWES INCORPORATED

PO BOX 371887

PITTSBURGH PA 15250-7887

Contact:

Vic Paschal

205-246-4294

victor.paschal@pb.com

MAIL INSERTER, PURCHASE OPTION,
MEDIUM HIGH END
SPEED: MINIMUM OF 4,300 PER HOUR
MONTHLY VOLUME: UP TO 120,000 PIECES
FEEDERS: MINIMUM OF 4
STACKER: DROP

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
52	0	EA	\$0.000000	\$0.00			\$0.00	\$0.00

98559092579CNV - DO NOT USE: To be inactivated.
MAIL EQUIPMENT, PURCHASE OPTION AT END
MAIL EQUIPMENT, PURCHASE OPTION AT END
OF LEASE PURCHASE PERIOD FOR PITNEY
BOWES. (BUY OUT COST MAY NOT EXCEED
\$1.00)

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
55	0	LOT	\$0.000000	\$0.00			\$0.00	\$0.00

98559092582CNV - DO NOT USE: To be inactivated.
MAIL EQUIPMENT, OPTIONAL ACCESSORIES
MAIL EQUIPMENT, OPTIONAL ACCESSORIES
AND/ OR EQUIPMENT FOR PITNEY BOWES @
A MINIMUM OF 20% OFF MANUFACTURER'S
LIST PRICE.

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
58	0	EA	\$0.000000	\$0.00			\$0.00	\$0.00

98559092585CNV - DO NOT USE: To be inactivated.
MAILING MACHINE SUPPLIES, AS FOLLOWS:
MAILING MACHINE SUPPLIES, AS FOLLOWS:FOR PITNEY BOWES MACHINES @ A MINIMUM OF 20% OFF MANUFACTURER'S LIST PRICE

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
61	0	MO	\$0.000000	\$0.00			\$0.00	\$0.00

98559092588CNV - DO NOT USE: To be inactivated.
POSTAGE METER RENTAL: PITNEY BOWES
POSTAGE METER RENTAL: PITNEY BOWES NOT INCLUDED IN SPECIFIED BID PACKAGES.

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
64	0	LOT	\$0.000000	\$0.00			\$0.00	\$0.00

98559092591CNV - DO NOT USE: To be inactivated.
MAIL MACHINES, PITNEY BOWES
MAIL MACHINES, PITNEY BOWES
LABOR AS FOLLOWS:
NOT INCLUDED IN SPECIFIED BID PACKAGES.

Line	Quantity	UOM	Unit Price	Service Amount	Service From	Service To	Line Sub Total	Line Total
67	0	MO	\$0.000000	\$0.00			\$0.00	\$0.00

98559092594CNV - DO NOT USE: To be inactivated.
MAIL MACHINES, ANNUAL MAINTENANCE
MAIL MACHINES, ANNUAL MAINTENANCE
CONTRACT AS FOLLOWS FOR PITNEY BOWES

RESOLUTION NO. 174-19

Purchase - Mosquito Control Insecticide - Sole Source - PW**RESOLUTION NO. _____**

WHEREAS, the Public Works Groundskeeping Department desires to purchase Mosquito Control Insecticide; and

WHEREAS, this is a sole source purchase; and

WHEREAS, Clarke is the sole vendor for the Mosquito Control Insecticide; and

WHEREAS, funding for this purchase is coming from Capital Outlay;

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

1. That the purchase be awarded to Clarke.
2. That the Purchasing-Revenue Manager be authorized to issue a purchase order to Clarke not to exceed \$25,011.26 as a sole source purchase.
3. That 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



QUOTATION

Page: 1(1)

675 Sidwell Ct
St Charles, IL 60174
U.S.A.www.clarke.com
TOLL-FREE: 800-323-5727

PH: 630-894-2000

FAX: 630-443-3070

EMAIL: customercare@clarke.com

B City of Opelika (O00605)
I Mike Hilyer
L P.O. Box 390
L
T Opelika, AL 36803-0390
O 334-705-5401
334-705-5452

S City of Opelika
H Jason Sikes
I 700 Fox Trail
P Groundskeeping Dept.
T Opelika, AL 36801-4532
O 334-319-7362
334-705-5452

Address ID: 000002

Quotation #	Quote Date	Salesperson	Written by	Valid to
0002022097	05/22/19	Danny Meyers	Josie Belter	12/31/19

Delivery Method	Terms
United Parcel Post	Net 30 Days

Item #	Item Description	Qty Ordered	Unit Price	Extended Price
11091	BIOMIST 4+4 ULV 55GAL	10 drm	1,265.0000/ drm	12,650.00
11335	MOSQ. MASTER 412 55GAL	4 drm	2,806.0000/ drm	11,224.00

Freight Charge	1,137.26
Order total	25,011.26
Total	25,011.26

* For your convenience we also accept Visa and MasterCard

Clarke will charge applicable sales taxes unless a valid exemption certificate is Emailed to: accountsreceivable@clarke.com or faxed to: 630-672-7439

Helping make communities around the world more livable, safe and comfortable.



675 Sidwell Court
St. Charles, IL 60174
630.894.2000 P
630.443.3070 F
www.clarke.com

June 26, 2019

City of Opelika
Attn: Mr. Jason Sykes
PO Box 390
Opelika, AL 36803

Subject: Sole Source

Clarke has exclusive U.S. rights to chlorpyrifos-based products for public health mosquito control.

This is confirmation that Clarke is the sole source for such product which include all Mosquito Mist and Mosquito Master brand formulations.

It is a pleasure to be able to provide these control options to the public health sector.

Sincerely,

Gabriela Simone

Customer Care Specialists I

RESOLUTION NO. 175-19

Change Order Request - Emergency Repair of Truck #764 - OPS

RESOLUTION NO. _____

WHEREAS, the City Council approved Resolution #126-19 on May 21, 2019 to replace the engine in Truck #764 for Opelika Power Services; and

WHEREAS, a Change Order is being requested because of the additional repairs needed that exceed the original estimate purchase order amount of \$29,925.46; and

WHEREAS, Southland Transportation Group is the vendor performing the repairs; and

WHEREAS, the Change Order Request is \$3,579.45;

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

1. That the Change Order request be approved for the additional work.
2. That the Purchasing-Revenue Manager be authorized to increase PO #1903522 in the amount of \$3,579.45.

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



600 Fox Run Parkway
P. O. Box 2168
Opelika, Alabama 36803-2168
334.705.5591

To: The Honorable City Council of Opelika

Subject: Emergency Repairs for OPS Bucket Truck

Dear Council,

OPS would like to request additional authorization for the emergency repair of Bucket Truck #764. You have previously approved repairs to replace the engine at a cost of \$29,925.46. During the repair they discovered that the exhaust emission system had rusted out and needs to be replaced at an estimated cost of \$3,579.45. Bucket Truck #764 is a 2014 Model Material Handler Bucket Truck with 20k miles. The warranty is expired due to time. The Public Works Automotive Shop is facilitating the repairs.

Truck #764 is in use every day and is critical to OPS' day-to-day operations. Bucket trucks are the primary piece of equipment for conducting all types of power line construction, maintenance, and outage restoral operations. Any down time with a bucket truck directly inhibits OPS' operational ability and responsiveness to storm events. Outage response may be delayed, and outage restoral times increased due to the equipment shortage.

Due to the increased danger and safety concerns of our product, high-voltage electricity, any equipment shortage due to repair times may also affect the public safety. It's critical that OPS Crews can respond to multiple outage and trouble calls at once if necessary due to downed lines, car wrecks involving power lines, downed trees, etc. In all cases, timely responses are critical for safety and customer service.

Sincerely,

Derek S. Lee

Director

www.opelikapower.com

Attachment: 7-2-19 - CHANGE ORDER REQUEST - TRUCK #764 - CNCL PKT (175-19 : Change Order Request - Emergency Repair of Truck #764

RESOLUTION NO. 176-19

Weed Abatement Assessment - 105 Vaughan Ave

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
105 Vaughan Ave, Parcel No. 077.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 105 Vaughan Ave, parcel no. 077.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 105 Vaughan Avenue, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$205.84 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 105 Vaughan Ave., Parcel no. 077.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-1-001-077.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for

collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

C. E. “Eddie” Smith Jr.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. “Bob” Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE**Date: 06/18/2019****To: State of Alabama
PO Box 327210
Montgomery Al. 36132****Property Address:
105 Vaughn Ave
Opelika Al. 36801
Parcel # 10-04-18-1-001-077.000**

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>192.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>205.84</u>

Attachment: WEED INVOICE 105 Vaughn Ave (176-19 : Weed Abatement Assessment - 105 Vaughn Ave)

RESOLUTION NO. 177-19

Weed Abatement Assessment - 108 Plum Ave

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
108 Plum Ave, Parcel No. 046.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 108 Plum Ave, parcel no. 046.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 108 Plum Ave, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$263.34 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 108 Plum Ave, Parcel no. 046.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-2-002-046.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and

shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Yolanda & Vici Pendleton
1775 Hurst St. Lot 78
Opelika AL 36801**

**Property Address:
108 Plum Ave
Opelika AL 36801
Parcel # 10-03-08-2-002-046.000**

On April 29, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>250.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>263.34</u>

Attachment: Weed Invoice 108 Plum Ave (177-19 : Weed Abatement Assessment - 108 Plum Ave)

RESOLUTION NO. 178-19

Weed Abatement Assessment - 207 Raintree St.

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
207 Raintree St, Parcel No. 121.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 207 Raintree St., parcel no.121.000 has been removed as provided for and required by law: and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 207 Raintree St., a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$375.84 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 207 Raintree St., Parcel no. 121.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-08-2-001-121.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and

shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Jeffrey Layne Preston
1201 Auburn St.
Opelika Al. 36801**

**Property Address:
207 Raintree St
Opelika Al. 36801
Parcel # 10-03-08-2-001-121.000**

On May 15, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>362.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>375.84</u>

Attachment: WEED INVOICE 207 Raintree St. (178-19 : Weed Abatement Assessment - 207 Raintree St.)

RESOLUTION NO. 179-19

Weed Abatement Assessment - 512 ML King Blvd

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
512 M L King Blvd, Parcel No. 103.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 512 M L King Blvd, parcel no. 103.000 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 512 M L King Blvd, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$175.84 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 512 M L King Blvd, Parcel no. 103.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-2-001-103.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and

shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

To: Julia Fanning
903 S 4th St
Opelika AL. 36801

Property Address:
512 M L King Blvd
Opelika AL. 36801
Parcel # 10-04-18-2-001-103.000

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>162.5</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>175.84</u>

Attachment: Weed Invoice 512 ML King Blvd (179-19 : Weed Abatement Assessment - 512 ML King Blvd)

RESOLUTION NO. 180-19

Weed Abatement Assessment - 610 ML King Blvd

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
610 M L King Blvd, Parcel No. 081.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 610 M L King Blvd, parcel no. 081.000 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 610 M L King Blvd, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$161.37 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 610 M L King Blvd, Parcel no. 081.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-2-001-081.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for

collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

To: Julia Fanning
903 S 4th St
Opelika Al. 36801

Property Address:
610 M L King Blvd
Opelika Al. 36801
Parcel # 10-04-18-2-001-081.000

On May 1, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement: 161.37

Certified mail: _____

Misc. _____

Total 161.37

Attachment: Weed invoice 610 M L King Blvd (180-19 : Weed Abatement Assessment - 610 ML King Blvd)

RESOLUTION NO. 181-19

Weed Abatement Assessment - 709 India Rd.

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
709 India Rd., Parcel No. 042.011**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 709 India Rd., parcel no. 042.011 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 709 India Rd., a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the

floor for comments from the public and any persons interested in said assessment or the amount thereof;

and

WHEREAS, the City Council has considered all evidence and other matters in relation to the

proposed assessment and the members of the Council are of the opinion that the amount to be assessed

against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

follows:

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$450.84 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 709 India Rd., Parcel no. 042.011 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-03-06-2-000-042.011 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and

shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: 06/18/2019

**To: Ditech Financial LLC
7360 S Kyrene Rd.
Tempe Az. 85283**

**Property Address:
709 India Rd
Opelika Al. 36801
Parcel #10-03-06-2-000-042.011**

On May 3, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>437.50</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>450.84</u>

Attachment: Weed Invoice 709 India Rd. (181-19 : Weed Abatement Assessment - 709 India Rd.)

RESOLUTION NO. 182-19

Weed Abatement Assessment - 1112 West St.

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
1112 West St, Parcel No. 103.000**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 1112 West St., parcel no. 103.000 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 1112 West St, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$222.64 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 1112 West St., Parcel no. 103.000 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-10-04-18-2-000-103.000 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and

shall collect the amount as if it were a tax, using all methods available for collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council

City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC

City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

**To: Bryan Kindell
PO Box 2833
Auburn Al. 36830**

**Property Address:
1112 West St
Opelika Al. 36801
Parcel # 10-04-18-2-002-103.000**

On May 9, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>209.30</u>
Certified mail:	<u>13.34</u>
Misc.	<u></u>
Total	<u>222.64</u>

Attachment: WEED INVOICE 1112 West St. (182-19 : Weed Abatement Assessment - 1112 West St.)

RESOLUTION NO. 183-19

Weed Abatement Assessment - 3307 Arnold Ave.

RESOLUTION NO. _____

**RESOLUTION FIXING AMOUNT OF ASSESSMENT
FOR WEED LIEN AGAINST PROPERTY LOCATED AT
3307 Arnold Ave, Parcel No. 054.001**

=====

WHEREAS, the weed nuisance growing upon or in front of the property located at 3307 Arnold Ave, parcel no. 054.001 has been removed as provided for and required by law; and

WHEREAS, the enforcing official has prepared and submitted to the City Council an itemized statement of the actual expenses incurred by the City for the abatement of the weed nuisance located at 3307 Arnold Ave, a copy of said itemized statement being attached hereto as Exhibit "A"; and

WHEREAS, the 2nd day of July, 2019 at 7:00 p.m. in the City Council Chambers in the Municipal Building of Opelika, Alabama was the date, time and place heretofore established by the City

Council to hear and determine any objections or defenses which may be raised by any of the property

owners liable to be assessed for the work of abating said weed nuisance; and

WHEREAS, a copy of the itemized statement of expenses, together with the notice of the time when said statement shall be submitted to the City Council for confirmation, was sent to the property owner by certified mail at least five (5) days in advance of the time fixed by the City Council to consider the assessment of the cost against the property; and

WHEREAS, the Council met at the designated time and place for the purpose of receiving and

considering said statement of expenses and to pass upon all such objections to and protest against the proposed assessment for the work of abating said nuisance; and

WHEREAS, the President of the City Council presided over said public hearing and opened the floor for comments from the public and any persons interested in said assessment or the amount thereof; and

WHEREAS, the City Council has considered all evidence and other matters in relation to the proposed assessment and the members of the Council are of the opinion that the amount to be assessed against the property shall be in accordance with the amount shown on the statement of expenses heretofore delivered by the enforcing official to the City Council.

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

1. The itemized statement of expenses submitted by the enforcing official to the City Council is hereby affirmed.
2. The cost for abating such weed nuisance, in the amount of \$343.34 is hereby assessed against the parcel of land mentioned in said itemized statement, to wit: 3307 Arnold Ave, Parcel no. 054.001 Opelika, Alabama. The cost stated in this Resolution shall constitute a lien on the above referenced property.
3. The tax identification number for said parcel(s) of land is 43-09-05-15-1-000-054.001 according to the records of the Revenue Commissioner of Lee County Alabama.
4. The Purchasing-Revenue Manager shall cause a certified copy of this Resolution assessing the cost of abatement to be filed for recording in the Office of the Judge of Probate of Lee County, Alabama, and shall forward a copy to the Lee County Revenue Commissioner. Upon filing, the Lee County Revenue Commissioner shall add the amount of the lien to the ad valorem tax bill on the property and shall collect the amount as if it were a tax, using all methods available for

collecting ad valorem tax, and remit the amount to the City.

This Resolution and the weed lien assessed herein are adopted pursuant to Act No. 2012-366 of the 2012 Regular Session of the Legislature of Alabama and Article III of Chapter 18 of the Code of Ordinances of the City of Opelika, Alabama.

ADOPTED AND APPROVED this the 2nd day of July, 2019.

President of the City Council
City of Opelika, Alabama

Attest:

R. G. "Bob" Shuman, CMC
City Clerk - City Treasurer

WEED ABATEMENT INVOICE

Date: June 18, 2019

To: Arthur & Lisa Scroggins
3307 Arnold Ave
Opelika al. 36801

Property Address:
3307 Arnold Ave
Opelika Al. 36801
Parcel # 09-05-15-1-000-054.001

On May 6, 2019 in accordance with Opelika City Ordinance 110-12, a notice was sent informing the owner that of a weed violation at the above listed property address. After failing to correct the violation within the time specified in the notice, the City of Opelika abated the violation.

The following is a list of charges that City of Opelika incurred for the abatement:

Cost of Abatement:	<u>330.00</u>
Certified mail:	<u>13.34</u>
Misc.	<u> </u>
Total	<u>343.34</u>

Attachment: Weed Invoice 3307 Arnold Ave (183-19 : Weed Abatement Assessment - 3307 Arnold Ave)

RESOLUTION NO. 184-19

Refund Request-River Bank & Trust, Occupational License Fees.

Resolution No. _____

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

- 1) That Lillie Finley, Purchasing- Revenue Manager, has investigated and confirmed that said refund request is valid and recommends approval.
- 2) That the Purchasing-Revenue Manager is hereby authorized to prepare and process the appropriate documents so a refund check in the amount of \$14,772.15 can be printed payable to River Bank & Trust, P.O. Box 680249 Prattville, AL 36068 for the refund of occupational license fees withheld in error.
- 3) That the City Clerk is hereby authorized to sign, and mail said check to the address as detailed in number 2 above.
- 4) That a copy of the Purchasing-Revenue Manager's recommendation is hereto attached as Exhibit "A".

APPROVED and ADOPTED this the _____ day of July 2019.

C.E. "Eddie" Smith, Jr.

President of the City Council of the

City of Opelika, Alabama

ATTEST:

ROBERT G. SHUMAN
CITY CLERK/TREASURER

RESOLUTION NO. 185-19

Request by T-Mobile for a SUP at 2605 Tower Street.

RESOLUTION NO. _____

WHEREAS, T-Mobile has requested to modify their equipment at an existing wireless telecommunication facility located at 2605 Tower Street, Opelika, AL to provide improved wireless services essentially within the corporate limits and police jurisdiction of the City of Opelika, and;

WHEREAS, T-Mobile has complied with City's Ordinance No. 102-00 and has demonstrated the need for additional modification of this wireless facility to deliver consistently reliable services in the identified area, and;

WHEREAS, both the City and T-Mobile's customers in Opelika will benefit from improved service, and;

WHEREAS, the City's consultant, The Center for Municipal Solutions (CMS), recommends the granting of a Special Use Permit for the modification of T-Mobile's equipment at this facility located at 2605 Tower Street, which consist of a 158'' monopole tower;

THEREFORE, BE IT RESOLVED by the City Council of the City of Opelika, Alabama that T-Mobile is hereby granted a Special Use Permit to modify their equipment at the wireless telecommunications facility located at 2605 Tower Street. As recommended by CMS, the Special Use Permit is subject to compliance with the following conditions prior to the issuance of said permit and/or a Certificate of Completion:

1. To prevent warehousing of permits or authorizations and to assure the best service to the City's residents as expeditiously as possible, the facility must be built, activated and be providing service no later than one hundred eighty (180) days after the issuance of the Special Use Permit or other applicable authorization, subject to commonly accepted force majeure exceptions acceptable to the City. T-Mobile may petition the City of an extension of this for good cause shown, but the decision weather not to grant the extension shall exclusively be the prerogative of the City.

2. T-Mobile must provide contractor information to CMS and to the City prior to request for issuance of the Building Permit.
3. Once, T-Mobile has met all the conditions of the permit and any other requirements of the City and a building permit is issued, T-Mobile must notify the City's consultant for all inspections.
4. At the completion of construction, T-Mobile must notify the City's consultant and provide proof that all inspections have been satisfactorily completed and the project is ready for a final on-site inspection. Upon passing the final inspection, a recommendation to issue a Certificate of Occupancy shall be made.
5. The Certificate of Occupancy shall not be issued until all fees and costs associated with this Permit, including inspections, have been paid.

ADOPTED and APPROVED this _____ day of _____, 2019.

C.E. "Eddie" Smith, Jr.

President City Council

Opelika, Alabama

ATTEST:

R. G. Shuman, CMC

City Clerk-Treasurer

RESOLUTION NO. 186-19

Agreement, professional services with City of Auburn - OFD.

RESOLUTION NO. _____

**RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BY AND
AMONG THE CITY OF OPELIKA, ALABAMA, THE CITY OF AUBURN, ALABAMA
AND THE AUBURN GAME DAY LAW ENFORCEMENT CORPORATION
FOR GAME DAY SUPPORT SERVICES**

WHEREAS, the City of Opelika (the “City”) maintains and staffs the Opelika Fire Department for the purpose of fire protection, prevention, rescue, emergency medical services, hazardous material, technical rescue and support services; and

WHEREAS, The Auburn Game Day Law Enforcement Corporation (the “Corporation”) desires the assistance of the City’s Fire Department to provide support services to include, but not limited to fire suppression and emergency medical services at the Auburn University Regional Airport during major sporting events and/or special events; and

WHEREAS, the City shall render the above services under the direction and supervision of the City of Auburn Police Chief and/or his/her designee; and

WHEREAS, a proposed Professional Services Contract (the “Contract”) to be entered into by and among the City, the City of Auburn and the Corporation has been prepared and submitted to the City Council for approval, and the City Council has determined that it is now in the best interest of the City and its citizens to approve said Contract.

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

1. That the proposed inter-governmental Professional Services Contract to be entered into by and among the City of Opelika, the City of Auburn, and The Auburn Game Day Law Enforcement Corporation a copy of which is attached hereto and marked Exhibit "A", be and the same is hereby approved, authorized, ratified and confirmed in the form substantially submitted to the City Council with such changes thereto (by addition, deletion or substitution) as the Mayor shall approve which approval shall be conclusively evidenced by execution and delivery of said Contract.

2. That the Mayor is hereby authorized and directed to execute and deliver said Contract in the name and on behalf of the City.

3. 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 attached Contract.

4. 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

ATTEST:

CITY CLERK

**Auburn Game Day Law Enforcement Corporation
Professional Services Contract**

This Professional Services Contract (the "Agreement") made and entered into on this the ____ day of _____, 2019, by and between The Auburn Game Day Law Enforcement Corporation, an Alabama corporation (the "Company"), the City of Auburn, Alabama, a municipal corporation (the "City") and _____ (Assisting Agency).

The parties hereby state and agree as follows:

1. The City has entered into a Professional Services Contract with Auburn University (the "University") whereby the City agrees to provide Law Enforcement Officers; Fire; Communications and Judicial personnel with the City as well as assisting agencies to provide security and traffic direction for University athletic and other special events.
2. _____ (Assisting Agency), acting in support of City of Auburn (Auburn) Public Safety/Police Division shall provide law enforcement services.
4. The Assisting Agency, acting in support of the City's Public Safety Department/Police Division, shall provide support services to include, but not limited to crowd control, traffic direction, and security at Auburn University campus locations during major sporting events and/or special events.
5. The Assisting Agency shall render the above services under the direction and supervision of the City of Auburn Police Chief or his/her designee.
6. The Assisting Agency shall provide the above services during the time period from August 1, 2019 to July 31, 2020.
7. The Assisting Agency will be compensated by the City on behalf of the Company for the above services at the following rates: Assignment: Stadium- ; Traffic- ; Supervisor- . The Assisting Agency's liability for services provided under this Agreement shall be limited to the intentional and/or negligent acts or omissions of its employees.
8. The Assisting Agency will receive compensation for services provided within ten working days of the receipt of an approved invoice.
9. The Assisting Agency **will not** be compensated for travel expenses.
10. The Company shall secure and provide to Assisting Agency's employees Workers Compensation Insurance.
11. The Assisting Agency agrees to comply with all applicable Federal and State laws and regulations in the performance of this Contract. Assisting Agency represents that it is an Equal Opportunity Employer and does not discriminate on the grounds of disability, age, race, color, religion, sex, national origin, veteran status, genetic information or any other classification protected by Federal and/or Alabama state constitutional and/or statutory law.

This contract has been reviewed and accepted by the undersigned on this the ____ day of _____, 2019.

ASSISTING AGENCY

Signature

Name

Agency Name

Address

Tax I.D. Number

City, State, Zip Code

AUBURN GAME DAY LAW ENFORCEMENT CORPORATION

President

ADOPTED AND APPROVED by the City Council of the City of Auburn, Alabama, this ____ day of _____, 2019.

ATTEST:

Mayor

City Manager

RESOLUTION NO. 187-19

Special appropriation to P&R to support Dixie Boys Baseball Team.

RESOLUTION NO. _____

WHEREAS, Mayor Fuller and the City Council congratulate and fully support the Opelika Dixie Boys (13U Juniors) All-Stars baseball team in earning the right to play in the 2019 Alabama State Tournament; and

WHEREAS, the City of Opelika and its Park and Recreation department is proud to help sponsor and assist the Dixie Boys baseball team in covering the expense of attending the Alabama State Tournament; and

WHEREAS, all five Council members wishes to contribute \$300.00 from their respective discretionary funds.

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

1. That the City Council approves said request to provide a total of \$1500.00 to assist in covering the various expenses of the Dixie Boys baseball team attending the 2019 Alabama State Tournament.
2. That City Council members wish to provide \$300.00 each from their discretionary funds as detailed below with said funds to be used as explained in No. 1 above:

Patricia A. Jones	Ward 1	Reserve fund	\$300.00
Tiffany Gibson-Pitts	Ward 2	Current year acct.	\$300.00
Dozier Smith T	Ward 3	Reserve fund	\$300.00
Eddie Smith	Ward 4	Reserve fund	\$300.00
David Canon	Ward 5	Reserve fund	\$300.00

3. That the City Council hereby declares and determines that the expenditure of these
public funds will serve a public purpose for the City of Opelika.
4. The Mayor and the Controller is hereby authorized and directed to make a budget adjustment(s) to move a total of \$1500.00 from the specific fund or account as designated in No. 2 above to the appropriate account in the Park & Recreation

current year budget.

5. The Opelika Park & Recreations Director will insure that these funds are made available to the appropriate person(s) and spent as designated above by the Opelika City Council.

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. 188-19

Send zoning request back to the Planning Commission, 32.45 acres Gateway Dr.

RESOLUTION NO. _____

**RESOLUTION REFERRING APPLICATION TO REZONE 32.45 ACRES LOCATED
AT 2899 GATEWAY DRIVE TO A PLANNED UNIT DEVELOPMENT DISTRICT
BACK TO THE PLANNING COMMISSION FOR FURTHER STUDY**

WHEREAS, at its regular meeting on June 25, 2019, the Opelika Planning Commission considered an application (the “zoning application”) for a planned unit development entitled “CAPPS LANDING ENTERTAINMENT DISTRICT PUD” (the “Development”); and

WHEREAS, the proposed Development is contiguous to both Gateway Drive and I-85;
and

WHEREAS, after holding a public hearing, the Planning Commission sent a report to the City Council recommending approval of the rezoning application; and

WHEREAS, the subject property is currently zoned C-2, GC-P (Office/Retail, Gateway Corridor Primary District) allowing a limited mix of commercial uses; and

WHEREAS, the proposed rezoning will allow for a mix of commercial restaurants, fueling station and outdoor/indoor recreation and entertainment businesses; and

WHEREAS, truck fueling stations are not allowed in the C-2 District; and

WHEREAS, the applicant is proposing rezoning the current C-2 District to PUD to accommodate the use of a truck fueling station; and

WHEREAS, the truck fueling area will have fourteen (14) pumps for commercial trucks and eighteen (18) parking stalls for truck parking; and

WHEREAS, under the Zoning Ordinance, the proposed PUD must produce no significant adverse impacts to adjacent properties and must ensure compatibility and harmony with existing and planned uses on adjacent properties; and

WHEREAS, under the Zoning Ordinance, the location, design and size of the proposed Development must be such that traffic generated by the Development can be accommodated safely, without causing congestion on major streets; and

WHEREAS, the City Council is concerned that the proposed truck fueling station will cause traffic congestion on Gateway Drive and the access ramps to Interstate 85; and

WHEREAS, the applicant proposes the construction of an on-premise free-standing sign that will be oriented toward Interstate 85; and

WHEREAS, the height of the proposed free-standing sign is 130 feet and the area of the sign is 1,551 feet; and

WHEREAS, the proposed free-standing sign greatly exceeds the maximum area and maximum height requirements of the City's sign regulations; and

WHEREAS, Section 9.5(18)(d) of the Zoning Ordinance, governing large group developments (exceeding 29,999 square feet), provides that the maximum area of a free-standing sign shall not exceed 300 feet and the maximum height shall not exceed 30 feet; and

WHEREAS, the proposed free-standing sign exceeds Opelika's maximum area and height requirements by more than 400%; and

WHEREAS, the City Council is concerned that approval of the proposed free-standing sign will create an undesirable precedent for the City; and

WHEREAS, the City Council is concerned that the approval of the proposed free-standing sign may be viewed by some as both arbitrary and capricious; and

WHEREAS, the City Council, in its sole discretion, may refer the proposed zoning amendment back to the Planning Commission for further study.

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

1. That the City Council resubmits the proposed zoning amendment (to a PUD classification) back to the Planning Commission for further study.
2. That the Planning Commission is directed to investigate whether the proposed truck fueling station will cause traffic congestion on Gateway Drive and the access ramps to Interstate 85.
3. That the Planning Commission is directed to determine whether the proposed free-standing sign is in conformity with the City’s sign regulations.
4. That the Planning Commission is directed to prepare a written report supporting its recommendations which will be submitted to the City Council.

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

 PRESIDENT OF THE CITY COUNCIL
 OF THE CITY OF OPELIKA

ATTEST:

 CITY CLERK

ORDINANCE NO. 012-19-ORD

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. 013-19-ORD

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. 014-19-ORD

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



VIA EMAIL
June 27, 2019

Eddie Smith
Patsy Jones
Tiffany Gibson-Pitts
Dozier Smith T
David Canon

CITY ATTORNEY'S OFFICE
608 Avenue A • P.O. Box 390
Opelika, AL 36803-0390
(p) 334-705-2074 (f) 334-705-5155
www.opelika-al.gov

Re: Wireless Telecommunications Facilities Land Use and Siting Ordinance

All:

On July 2, 2019, the City Council will consider the adoption of the new wireless telecommunications facilities land use and siting ordinance. After conferring with Casey Lide and Matt Mosley, I am suggesting two amendments to the ordinance:

1. Amend the third line of Section 5.5- 315(d), by (i) inserting the word "or" between the words "neighborhood" and "within" and (ii) inserting the words "single family" between the words "a" and "residentially". Accordingly, the first four lines of subsection (d) will be amended to read as follows:

"(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..."

A border of 1000 feet from all residential districts is too broad and would probably be unenforceable.

2. Delete subsection (b) of Section 5.5-316 which reads as follows:

"(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."

In staff's opinion, a minimum mounting height for an attachment to a building is unnecessary and the remaining provisions of Section 5.5-316 adequately protect the public interest.



Attached is a final draft of the Ordinance. Also attached is a redline version of the Ordinance with suggested changes. If you have any questions, please don't hesitate to call me.

Yours very truly,



Guy F. Gunter, III

GFG,III:jjj

Cc: Gary Fuller
Barbara Arrington
Joel Motley
Matt Mosley
Lillie Finley
Bob Shuman
Casey Lide
Jim Baller



VIA EMAIL
June 27, 2019

Eddie Smith
Patsy Jones
Tiffany Gibson-Pitts
Dozier Smith T
David Canon
Gary Fuller
Joel Motley
Bob Shuman
Matt Mosley

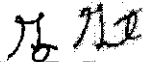
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Re: Wireless Telecommunications Facilities Land Use and Siting Ordinance

All:

Attached is a suggested protocol and procedure to adopt the Wireless Telecommunications Facilities Land Use and Siting Ordinance. If you have any questions, please don't hesitate to call me.

Yours very truly,


Guy F. Gunter, III

GFG,III:jjp

Cc: Barbara Arrington



**Protocol and Procedure to Adopt Wireless Telecommunications
Facilities Land Use and Siting Ordinance**

1. I, (Council Member), move to adopt the Ordinance on second reading.
2. Seconded by (Council Member).
3. I, (Council Member), move to amend the Ordinance (Wireless Telecommunications Facilities Land Use and Siting Ordinance) in the following respects:

- a. Amend subsection (d) of Section 5.5- 315 to read as follows:

“(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.”

- b. Delete subsection (b) of Section 5.5-316.

4. Seconded by (Council Member).
5. The question is put to the adoption of the motion and the roll is called by the Clerk.
6. The President declares the motion carried.
7. I, (Council Member), move to adopt the Ordinance as amended.
8. Seconded by (Council Member).
9. The question is put as to the final passage and adoption of the Ordinance as amended and the roll is called by the Clerk.
10. The President declares the motion carried and the ordinance adopted as amended.

ORDINANCE NO. 015-19-ORD

Lease agreement with Envision Opelika Foundation Inc. - 1st Reading.

ORDINANCE NO. _____

**ORDINANCE APPROVING THE LEASING OF THE
RAILROAD DEPOT LOCATED AT 1032 SOUTH RAILROAD AVENUE
TO ENVISION OPELIKA FOUNDATION, INC.**

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 property of the City of Opelika, Alabama is no longer needed for public or municipal purposes:

Brick building and land known as the Railroad Depot situated in Opelika, Lee County, Alabama, and described as follows:

Commence at the Northwest Corner of Section 18, Township 19 North, range 27 East in Lee County, Alabama, thence run South along the Section Line for a distance of 925.55 feet to a point, thence run East 1,557.23 feet to a point at the intersection of the railroad centerlines of the Central of Georgia Railway Company and C.S.X. Transportation, thence run North 72 degrees 16 minutes 59 seconds East 119.83 feet to a point, which is the corner of a warehouse building owned by Central Removal and Restoration, Inc., thence run South 42 degrees 32 minutes 45 seconds East 24.98 feet along the southwest wall of the warehouse building to the point of beginning. From the point of beginning, run South 42 degrees 32 minutes 45 seconds East along the southwest wall of the warehouse building 37 feet, more or less, thence run South 42 degrees 26 minutes 00 seconds East 54.13 feet, thence run North 47 degrees 34 minutes 00 seconds East 368.3 feet, thence run along an arc in a southerly direction having a radius of 1,181.29 feet, an arc length of 564.44 feet, and an arc chord with bearing south 02 degrees 23 minutes 24 seconds West and length 559.09 feet, thence run South 50 degrees 24 minutes 52 seconds West 63.16 feet, thence run North 39 degrees 35 minutes 08 seconds West 270.71 feet, thence run South 50 degrees 24 minutes 52 seconds West 27.01 feet, thence run North 39 degrees 43 minutes 18 seconds West 213.06 feet, thence run North 47 degrees 34 minutes 00 seconds East 57.27 feet, thence run North 47 degrees 34 minutes 99 seconds East 35 feet, more or less, to the southwest wall of the warehouse building and the point of

beginning. Said parcel of land described contains 2.15 acres, and is located in Lee County, Alabama.

The above-described property is located at 1032 South Railroad Avenue, Opelika, Alabama.

Section 2. The City of Opelika having received an offer from Envision Opelika Foundation, Inc., a non-profit corporation, to lease the above-described property, it is hereby declared to be in the best interest of the public and the City of Opelika, Alabama to lease said property to Envision Opelika Foundation, Inc., for a term not to exceed three (3) years.

Section 3. The proposed Lease Agreement to be entered into between the City of Opelika, as Lessor, and Opelika Envision Foundation, Inc., as Lessee, a copy of which is attached hereto as Exhibit "A", is hereby approved, authorized, ratified and confirmed.

Section 4. Pursuant to the authority granted by §11-47-21 of the *Code of Alabama*, 1975, the Mayor of the City of Opelika, Alabama, is hereby authorized and directed to execute said Lease Agreement in the name of and on behalf of the City of Opelika, and the City Clerk is hereby authorized and directed to attest said Lease Agreement.

Section 5. 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)

LEASE AGREEMENT

COUNTY OF LEE)

THIS LEASE AGREEMENT is made and entered into this the ____ day of July, 2019 at Opelika, Alabama, by and between the City of Opelika, Alabama, a Municipal Corporation, hereinafter called "**LESSOR**", and Envision Opelika Foundation, Inc., a non-profit corporation, hereinafter called "**LESSEE**".

ARTICLE 1**PROPERTY LEASED**

LESSOR hereby leases to **LESSEE**, and **LESSEE** leases from **LESSOR**, that certain property described below, hereinafter called "Leased Premises", situated in Lee County, Alabama and described as follows:

Brick building and land known as the Railroad Depot situated in Opelika, Lee County, Alabama, and described as follows:

Commence at the Northwest Corner of Section 18, Township 19 North, range 27 East in Lee County, Alabama, thence run South along the Section Line for a distance of 925.55 feet to a point, thence run East 1,557.23 feet to a point at the intersection of the railroad centerlines of the Central of Georgia Railway Company and C.S.X. Transportation, thence run North 72 degrees 16 minutes 59 seconds East 119.83 feet to a point, which is the corner of a warehouse building owned by Central Removal and Restoration, Inc., thence run South 42 degrees 32 minutes 45 seconds East 24.98 feet along the southwest wall of the warehouse building to the point of beginning. From the point of beginning, run South 42 degrees 32 minutes 45 seconds East along the southwest wall of the warehouse building 37 feet, more or less, thence run South 42 degrees 26 minutes 00 seconds East 54.13 feet, thence run North 47 degrees 34 minutes 00 seconds East 368.3 feet, thence run along an arc in a southerly direction having a radius of 1,181.29 feet, an arc length of 564.44 feet, and an arc chord with bearing south 02 degrees 23 minutes 24 seconds West and length 559.09 feet, thence run South 50 degrees 24 minutes 52 seconds West 63.16 feet, thence run North 39 degrees 35 minutes 08 seconds West 270.71 feet, thence run South 50 degrees 24 minutes 52 seconds West 27.01 feet, thence run North 39 degrees 43 minutes 18 seconds West 213.06 feet, thence run North 47 degrees 34 minutes 00 seconds East 57.27 feet, thence run North 47 degrees 34 minutes 99 seconds East 35 feet, more or less, to the southwest wall of the warehouse building and the point of beginning. Said parcel of land described contains 2.15 acres, and is located in Lee County, Alabama.

The above-described property is located at 1032 South Railroad Avenue, Opelika, Alabama.

ARTICLE II

LEASE TERM

This lease shall be for a term of three (3) years, beginning on the 3rd day of July, 2019 and expiring at 12:00 midnight on the 2nd day of July, 2022, unless sooner terminated as hereinafter provided. The parties agree that either party shall have the right to terminate the lease at anytime by giving the other party ninety (90) days previous notice in writing of its desire to terminate the same and **LESSEE'S** obligation to pay rent shall abate after such time.

ARTICLE III

RENT

LESSEE shall pay **LESSOR** the sum of \$1.00 as annual rent of the Leased Premises, which sum shall be payable in advance on or before August 1 of each year.

ARTICLE IV

USE OF PREMISES

LESSEE shall have the right to use the Leased Premises for the following purpose only:

(a) As classrooms, playground and administration offices for two (2) Pre-Kindergarten classes.

LESSEE acknowledges that it has examined the Leased Premises before taking possession and agrees to accept the Leased Premises in "as-is" condition without any warranty as to suitability for a particular use or purpose. **LESSOR** shall not be responsible or liable to **LESSEE** or any other person for any improvements/alterations to the Leased Premises.

ARTICLE V

UTILITIES

LESSEE during the term hereof shall pay all charges for electricity, sewage and water used in and on the Leased Premises and for the removal of rubbish and garbage therefrom immediately upon coming due and hold **LESSEE** harmless from any liability therefore.

ARTICLE VI

ALTERATIONS

LESSEE may, at its own expense, make repairs and alterations to the interior of the building, partitioning walls and making such other alterations or additions within the premises as may be necessary without the consent of **LESSOR**. Any alterations or fixtures attached to or affixed to the building shall become a part of the building and the property of the **LESSOR** and shall not be removed unless the **LESSOR** agrees in writing to permit the **LESSEE** to do so.

ARTICLE VII

INSURANCE

(a) Liability Insurance. **LESSEE** shall, at **LESSEE'S** expense, keep in full force during the full Term of this lease, a policy of combined single limit, bodily injury and property damage insurance insuring the **LESSOR** and **LESSEE** against any liability arising out of the ownership, use, occupancy or maintenance of the Leased Premises and all areas appurtenant thereto. Such insurance shall be a combined single limit policy in an amount not less than two million dollars (\$2,000,000.00). The policy shall contain contractual liability endorsements and shall insure performance by **LESSEE** of the indemnity provisions of Article XI and shall otherwise be reasonably satisfactory to **LESSOR**. If **LESSEE** shall fail to procure and maintain said insurance, **LESSOR** may, but shall not be required to, procure and maintain the same, but at the

expense of **LESSEE**. If in the reasonable opinion of **LESSOR**, the amount of liability insurance required hereunder is not adequate, **LESSEE** shall increase said insurance coverage as required by **LESSOR**. **LESSEE** shall name **LESSOR** as an additional insured party on all policies of insurance required hereunder. The insurance policy required hereunder shall be issued by a company satisfactory to **LESSOR**. Upon request, **LESSEE** shall deliver to **LESSOR** copies of policies of such insurance policies or certificates evidencing the existence and amounts of such insurance. No such policy obtained by **LESSEE** shall be cancellable or subject to reduction of coverage or other modification except after thirty (30) days prior written notice to **LESSOR**.

ARTICLE VIII

EQUIPMENT AND FIXTURES

All furniture, fixtures and equipment placed on the Leased Premises by **LESSEE** shall remain the property of **LESSEE**. **LESSEE** may, at the expiration of the term hereof, remove such furniture and equipment, if removal is done so as not to damage the Leased Premises; provided, however, that any such furniture and equipment not removed from the Leased Premises within thirty (30) days after the expiration or sooner of the term hereof shall be deemed to have been abandoned by the **LESSEE** and shall thereupon become the property of **LESSOR** without compensation to **LESSEE**.

ARTICLE IX

WASTE AND NUISANCE

LESSEE shall, throughout the term of this lease, maintain the Leased Premises and keep them free from waste and nuisance and shall deliver up the Leased Premises in clean and sanitary condition at the termination of this lease.

ARTICLE X**GOVERNMENT REGULATIONS**

LESSEE covenants that it will observe and comply with all rules, regulations and laws now in effect or which may be enacted during the continuance of this lease by any municipal, county, state or federal authorities having jurisdiction over said premises or the activities conducted therein by **LESSEE**, its tenants and assigns.

ARTICLE XI**INDEMNIFICATION**

LESSEE agrees to indemnify and hold **LESSOR** harmless against any and all claims, demands, damages, costs and expenses, including reasonable attorney's fees for defense thereof, arising from the conduct or management of **LESSEE'S** activities in the Leased Premises or from any breach on the part of **LESSEE** or its agents, contractors, employees, concessionaires, licensees or subtenants in and about the Leased Premises. In case of any action or proceeding brought against **LESSOR** by reason of such claim, **LESSEE**, upon notice from **LESSOR**, covenants to defend such action or proceeding by counsel acceptable to **LESSOR**.

ARTICLE XII**INSPECTION**

LESSEE shall permit **LESSOR** and its agents to enter into and upon the Leased Premises, at all reasonable times, for the purpose of inspecting the same.

ARTICLE XIII**MAINTENANCE**

Throughout the term of this lease, **LESSEE** agrees to maintain the Leased Premises in good and safe condition and shall keep the Leased Premises reasonably free from trash and other refuse matter.

ARTICLE XIV

TERMITE AND PEST CONTROL

LESSOR, at **LESSOR'S** expense, shall keep in force during the Term of this Lease Agreement a termite bond that shall be reasonably satisfactory to the **LESSEE**. The parties have agreed that, under no circumstances, will the City be obligated to pay any sum in excess of \$500.00 annually for the termite bond. If the cost of the termite bond shall exceed \$500.00, the **LESSEE** shall pay all costs in excess of \$500.00. The **LESSEE**, at **LESSEE'S** expense, shall pay all other costs related to pest and rodent control.

ARTICLE XV

RELATIONSHIP OF LESSOR AND LESSEE

The execution of this Lease Agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between **LESSOR** and **LESSEE** the relationship of principle or agent, or of partnership, or of joint venture, and the relationship between them shall only be that of **LESSOR** and **LESSEE**.

ARTICLE XVI

ASSIGNMENT AND SUBLEASE

LESSEE shall not assign, transfer or encumber this lease and shall not sublease the Leased Premises or any part thereof without the prior written consent of **LESSOR**, in each and every instance.

ARTICLE XVII

REMEDIES FOR DEFAULT

If **LESSEE** shall at anytime fail and neglect to perform and observe any of the covenants or conditions herein contained on its part to be performed and observed, then **LESSOR** shall have the right to terminate this lease by giving thirty (30) days notice of its intention to do so and, after the expiration of said ninety-day period, default not having been remedied by **LESSEE**, have the right to re-enter said premises or any part thereof without further notice or demand and to hold and peaceably enjoy the same as if these presence had not been made. In addition to all other remedies provided at law or in equity, **LESSOR** may re-let the premises or any part thereof for all or part of the remainder of said term to a party satisfactory to **LESSOR**. All rights and remedies of **LESSOR** under this lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies shall be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

ARTICLE XVIII

SUCCESSORS AND ASSIGNS

This lease shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE XIX

ENTIRE AGREEMENT

This lease contains the entire agreement of the parties and all representations, agreements and statements made previously by any party to the other, unless set forth herein, are null and void.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this the
____day of July, 2019.

CITY OF OPELIKA-- LESSOR

BY:_____

ITS MAYOR

ATTEST:

CITY CLERK

ENVISION OPELIKA FOUNDATION, INC.
A NON-PROFIT CORPORATION

BY:_____
Its _____

Attachment: Lease ENVISION Depot 062719 (015-19-ORD : Lease with Envision - 1st Reading)

STATE OF ALABAMA)
COUNTY OF LEE)

LEASE AGREEMENT

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LEASE TERM

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ARTICLE III

RENT

LESSEE shall pay **LESSOR** the sum of \$1.00 as annual rent of the Leased Premises, which sum shall be payable in advance on or before August 1 of each year.

ARTICLE IV

USE OF PREMISES

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(a) As classrooms, playground and administration offices for two (2) Pre-Kindergarten classes.

LESSEE acknowledges that it has examined the Leased Premises before taking possession and agrees to accept the Leased Premises in "as-is" condition without any warranty as to suitability for a particular use or purpose. **LESSOR** shall not be responsible or liable to **LESSEE** or any other person for any improvements/alterations to the Leased Premises.

ARTICLE V

UTILITIES

LESSEE during the term hereof shall pay all charges for electricity, sewage and water used in and on the Leased Premises and for the removal of rubbish and garbage therefrom immediately upon coming due and hold **LESSEE** harmless from any liability therefore.

ARTICLE VI

ALTERATIONS

LESSEE may, at its own expense, make repairs and alterations to the interior of the building, partitioning walls and making such other alterations or additions within the premises as may be necessary without the consent of **LESSOR**. Any alterations or fixtures attached to or affixed to the building shall become a part of the building and the property of the **LESSOR** and shall not be removed unless the **LESSOR** agrees in writing to permit the **LESSEE** to do so.

ARTICLE VII

INSURANCE

(a) **LESSOR** shall secure from a good and responsible company or companies doing insurance business in the State of Alabama and shall maintain during the entire term of this lease fire and extended coverage insurance in an amount not less than the value of the building and other improvements on the Leased Premises. **LESSEE** shall pay to **LESSOR**, within thirty (30) calendar days of any invoice by **LESSOR**, on a dollar-for-dollar basis, any insurance premiums incurred by **LESSOR** to insure the Leased Premises.

(b) **LESSEE** agrees to secure and keep in force from the commencement date of the lease and throughout the full term of the Lease, at the **LESSEE'S** expense, commercial general liability insurance on the Leased Premises, insuring **LESSOR** against liability for injury to

persons or damage to property occurring in or about the Leased Premises or arising out of the use or occupancy thereof. Said insurance shall specify a single occurrence policy limit of at least \$2,000,000 naming **LESSOR** as an additional insured.

ARTICLE VIII

EQUIPMENT AND FIXTURES

All furniture, fixtures and equipment placed on the Leased Premises by **LESSEE** shall remain the property of **LESSEE**. **LESSEE** may, at the expiration of the term hereof, remove such furniture and equipment, if removal is done so as not to damage the Leased Premises; provided, however, that any such furniture and equipment not removed from the Leased Premises within thirty (30) days after the expiration or sooner of the term hereof shall be deemed to have been abandoned by the **LESSEE** and shall thereupon become the property of **LESSOR** without compensation to **LESSEE**.

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WASTE AND NUISANCE

LESSEE shall, throughout the term of this lease, maintain the Leased Premises and keep them free from waste and nuisance and shall deliver up the Leased Premises in clean and sanitary condition at the termination of this lease.

ARTICLE X

GOVERNMENT REGULATIONS

LESSEE covenants that it will observe and comply with all rules, regulations and laws now in effect or which may be enacted during the continuance of this lease by any municipal,

county, state or federal authorities having jurisdiction over said premises or the activities conducted therein by **LESSEE**, its tenants and assigns.

ARTICLE XI

INDEMNIFICATION

LESSEE agrees to indemnify and hold **LESSOR** harmless against any and all claims, demands, damages, costs and expenses, including reasonable attorney's fees for defense thereof, arising from the conduct or management of **LESSEE'S** activities in the Leased Premises or from any breach on the part of **LESSEE** or its agents, contractors, employees, concessionaires, licensees or subtenants in and about the Leased Premises. In case of any action or proceeding brought against **LESSOR** by reason of such claim, **LESSEE**, upon notice from **LESSOR**, covenants to defend such action or proceeding by counsel acceptable to **LESSOR**.

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INSPECTION

LESSEE shall permit **LESSOR** and its agents to enter into and upon the Leased Premises, at all reasonable times, for the purpose of inspecting the same.

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MAINTENANCE

Throughout the term of this lease, **LESSEE** agrees to maintain the Leased Premises in good and safe condition and shall keep the Leased Premises reasonably free from trash and other refuse matter.

ARTICLE XIV

TERMITE AND PEST CONTROL

LESSOR, at **LESSOR'S** expense, shall keep in force during the Term of this Lease Agreement a termite bond that shall be reasonably satisfactory to the **LESSEE**. The parties have agreed that, under no circumstances, will the City be obligated to pay any sum in excess of \$500.00 annually for the termite bond. If the cost of the termite bond shall exceed \$500.00, the **LESSEE** shall pay all costs in excess of \$500.00. The **LESSEE**, at **LESSEE'S** expense, shall pay all other costs related to pest and rodent control.

ARTICLE XV

RELATIONSHIP OF LESSOR AND LESSEE

The execution of this Lease Agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between **LESSOR** and **LESSEE** the relationship of principle or agent, or of partnership, or of joint venture, and the relationship between them shall only be that of **LESSOR** and **LESSEE**.

ARTICLE XVI

ASSIGNMENT AND SUBLEASE

LESSEE shall not assign, transfer or encumber this lease and shall not sublease the Leased Premises or any part thereof without the prior written consent of **LESSOR**, in each and every instance.

ARTICLE XVII

REMEDIES FOR DEFAULT

If **LESSEE** shall at anytime fail and neglect to perform and observe any of the covenants or conditions herein contained on its part to be performed and observed, then **LESSOR** shall have the right to terminate this lease by giving thirty (30) days notice of its intention to do so

and, after the expiration of said ninety-day period, default not having been remedied by **LESSEE**, have the right to re-enter said premises or any part thereof without further notice or demand and to hold and peaceably enjoy the same as if these presence had not been made. In addition to all other remedies provided at law or in equity, **LESSOR** may re-let the premises or any part thereof for all or part of the remainder of said term to a party satisfactory to **LESSOR**. All rights and remedies of **LESSOR** under this lease shall be cumulative, and none shall exclude any other right or remedy at law. Such rights and remedies shall be exercised and enforced concurrently and whenever and as often as occasion therefor arises.

ARTICLE XVIII

SUCCESSORS AND ASSIGNS

This lease shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE XIX

ENTIRE AGREEMENT

This lease contains the entire agreement of the parties and all representations, agreements and statements made previously by any party to the other, unless set forth herein, are null and void.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this the ____ day of July, 2019.

CITY OF OPELIKA-- LESSOR

BY: _____

ITS MAYOR

ATTEST:

CITY CLERK

ENVISION OPELIKA FOUNDATION, INC.
A NON-PROFIT CORPORATION

BY: _____
Its _____

Attachment: CM 7-02-19, lease agreement with Envision Opelika Foundation (015-19-ORD : Lease with Envision - 1st Reading)

ORDINANCE NO. 016-19-ORD

Additional Approved Holiday July 5, 2019 - 1st Reading.

ORDINANCE NO. _____

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

Section 1. For calendar year 2019 only, July 5, 2019, will be observed as an additional approved paid holiday for all eligible employees in celebration of Independence Day.

Section 2. Except for the Independence Day holidays for calendar year 2019, all holidays shall be observed in accordance with section 10.3.3 of the Personnel Policies and Procedures Manual of the City of Opelika.

Section 3. All acts, notices, directions, approvals, orders, assurances, or communications of the Mayor and any persons designated and authorized by the Mayor in declaring July 5, 2019 as a paid holiday for eligible city employees are hereby authorized, ratified, and confirmed.

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, City Clerk

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

Robert G. Shuman, City Clerk

ACTION BY MAYOR

APPROVED this the ____ day of _____, 2019

Gary Fuller, Mayor
City of Opelika

ATTEST:

Robert G. Shuman, City Clerk