

CITY OF VINCENT

ORDINANCE 2021-04-20-03

An Ordinance to Adopt Regulations for Small Cell Technology Facilities in the City of Vincent, Alabama

WHEREAS, the City of Vincent seeks to establish a reliable, personal wireless telecommunications services providers would be authorized to collocate, mount, or install small wireless facilities on existing poles, or install new poles on the right-of-way of the municipality.

SECTION 1 – DEFINITIONS

When used in this ordinance the following words shall have the following meanings:

- (1) **APPLICATION**. A request by a Wireless Service Provider, or a party acting on behalf of the wireless service provider, to collocate, mount, or install Small Wireless Facilities on or adjacent to an existing, new, or replacement Pole or Support Structure; or to install, modify, or replace a Pole or Support Structure associated with a Small Wireless Facility.
- (2) The City of Vincent or any instrumentality thereof. The term does not include state or city courts having jurisdiction in or over the City.
- (3) **POLE**. An electric distribution, lighting, traffic control, or signage pole in the public right-of-way that is or may be used in whole or in part by or for wireline communications, or for the collocation of small wireless facilities. The term pole shall not include electric transmission poles.
- (4) **RIGHT-OF-WAY** or **RIGHTS-OF-WAY**. Whether singular or plural, means the surface and space in, upon, above, along, across, over and below any public streets, avenues, highways, roads, courts, lanes, alleys, boulevards, ways, sidewalks and bicycle lanes, as the same now or may hereafter exist, that are within the City's corporate boundaries and under the jurisdiction of the City. This term shall not include county, state or federal Rights-of-Way or any property owned by any person or entity other than the City.
- (5) **SMALL WIRELESS FACILITY**. Equipment at a fixed location that enables wireless communications between user equipment and a telecommunications services provider's communications network. Such equipment includes but is not limited to equipment associated with wireless communications; antennas, coaxial, metallic, or fiber-optic cable located on, in, or under a pole or other structure, or otherwise adjacent to such structures, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term does not include any of the following: the pole or structure on, under, or within which the small wireless facilities are collocated, attached or installed, wireline backhaul facilities, or coaxial, metallic or fiber-optic cable that is between structures or that is otherwise not adjacent to a particular antenna or the pole or structure supporting the antenna.

- (6) **STEALTH TECHNOLOGY.** Means one or more methods of concealing or minimizing the visual impact of a Small Wireless Facility and Support Structure by incorporating features or design elements which either totally or partially conceal such Small Wireless Facilities and Support Structures. The use of these design elements is intended to produce the result of having said Small Wireless Facilities and Support Structures blend into the surrounding environment and/or disguise, shield, hide or create the appearance that the Small Wireless Facilities are architectural components of the Support Structures.
- (7) **SUPPORT STRUCTURE.** Whether singular or plural, means a freestanding structure designed or used to support, or capable of supporting, Small Wireless Facilities, including, but not limited to, electric distribution poles, street light poles, traffic signal structures, rooftops, attics, or other enclosed or open areas of a building or accessory structure, a sign, or a flagpole. These terms do not include any electric transmission poles or decorative or architecturally significant street light poles that are inappropriate for use as a Support Structure as determined by the City Administrator.
- (8) **TELECOMMUNICATIONS SERVICE.** Offering the service of transmitting between or among points specified by the user, information of the user's choosing, without change in the form or content of the information as sent and received, for a fee, directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.
- (9) **WIRELESS SERVICE.** Any telecommunications services commercially offered to the general public and provided over or via small wireless facilities whether at a fixed location or mobile.
- (10) **WIRELESS SERVICE PROVIDER.** A person or entity who provides or seeks to provide wireless services within the jurisdictional limits of the City.

SECTION 2 – PERMITTING

- (A) Wireless Service Providers must obtain a permit from the City before placing, installing, or constructing any Small Wireless Facilities on any Pole or Support Structure that is located in a Right-of-Way, or substantially modifying the position or characteristics of any such existing Small Wireless Facilities thereon.
- (B) The City Administrator will review and administratively process any Application for a permit to determine whether, in the exercise of the City's Administrator's reasonable discretion, it should be issued for the location and in the manner requested by the Wireless Service Provider. In this process, the burden is on the Wireless Service Provider to demonstrate that the placement of the proposed Small Wireless Facilities and Pole or Support Structure, if installation of a new Support Structure or Pole is part of the Application, is the minimal physical installation which will achieve the goal of enhancing the provision of Wireless Services when considering all pertinent factors discussed in the provision immediately below. The factors, requirements and guidelines that the City Administrator may consider and will apply when determining whether to issue a permit for placement of Small Wireless Facilities and Support Structures in the Right-of-Way include, but are not limited to, the following:
- 1) The demonstrated need for placing the Small Wireless Facilities, Pole, or Support Structure at the requested location in order to deliver or enhance Wireless Services;

- 2) The visual impact of placing the Pole, Support Structure or Small Wireless Facilities in the subject area or location;
- 3) The character of the area in which the Poles, Support Structures and Small Wireless Facilities are requested, including surrounding buildings, properties, and uses;
- 4) Whether the appearance and placement of the requested Poles, Support Structures and Small Wireless Facilities is aesthetically consistent with the immediate area;
- 5) Whether the Support Structures are consistent with the historic nature and characteristics of the requested location;
- 6) The Wireless Service Provider's network coverage objective and whether the Wireless Service Provider should use available or previously unconsidered alternative locations to place the Support Structures or Small Wireless Facilities;
- 7) Colocation. To the extent practical, all Small Wireless Facilities that are placed in the City shall be attached to a pre-existing Pole or Support Structure that is owned, controlled or leased by a utility, franchisee, the City or other entity. If the Wireless Service Provider demonstrates that no colocation opportunities exist in the area where a technologically demonstrable need for a Small Wireless Facility exists, the Wireless Service Provider may request to install a new Pole or Support Structure in that area for purposes of deploying the Small Wireless Facilities. Before any new Pole or Support Structure may be installed by a Wireless Service Provider:
 - a. The Wireless Service Provider must have provided the City written evidence that no practical colocation opportunity exists. This evidence shall include, but not be limited to, affidavits, correspondence or other written information that demonstrates that the Wireless Service Provider has taken all commercially reasonable actions to achieve colocation in the requested location or area, that the Wireless Service Provider has pursued but been denied access to all potential colocation sites in the subject area, and otherwise show that the Wireless Service Provider is unable to co-locate on an existing Pole or Support Structure.
 - b. The City Administrator must recommend the placement of a new Pole or Support Structure in the Right-of-Way; and
 - c. The City Council must approve the recommendation of the City Administrator to issue a permit that includes the placement of a new Support Structure or Pole in the Right-of-Way. The City Council will consider whether to approve any such new Support Structure or Pole in the Right-of-Way.
- 8) If a Small Wireless Facility is attached to a Pole or other Support Structure in the Right-Of-Way, no part of the Small Wireless Facility shall extend more than five (5) feet above the height of that Pole or Support Structure; provided that, in the event that the Wireless Service Provider demonstrates that National Electric Safety Code regulations or other factors create an undue hardship in

complying with this height requirement, the City Administrator may permit a Small Wireless Facility to extend up to ten (10) feet above the height of such Support Structure or Pole.

- 9) The Small Wireless Facility shall, if reasonably possible, be placed at least ten (10) feet above the ground;
- 10) The color of the Small Wireless Facility shall be compatible with that of the Pole or Support Structure;
- 11) The Small Wireless Facility shall not be illuminated;
- 12) Whether the proposed installation could cause harm to the public or pose any undue risk to public safety.
- 13) Whether the proposed installation may interfere with vehicular traffic, passage of pedestrians, or other use of the Right-of-Way by the public; and
- 14) If the proposed installation will disturb conditions on the Right-of-Way, whether the Wireless Service Provider can demonstrate its ability and financial resources to restore the subject area to its pre-existing condition following installation.

SECTION 3 – APPLICATION PROCESS

1. Each Application for a permit contemplated by this ordinance shall contain all of the following:
 - a. Administrator drawings depicting the type of Small Wireless Facilities, Support Structure or Pole and means and points at which such Small Wireless Facilities will be attached to the Support Structure or Pole.
 - b. Maps designating with specificity the location of the requested installation;
 - c. If the Small Wireless Facilities will be located on a Support Structure on the Right-Of-Way that is owned by any entity other than the City or the Wireless Service Provider, a copy of any license, lease, agreement, or other documentation evidencing that the owner of that Support Structure authorizes the Small Wireless Facilities to be attached thereto or agrees in principle to authorize that attachment, provided that, if a representation is made to the City that the attachment has been authorized in principle by the owner of the Pole or Support Structure but the Wireless Service Provider subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until that documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit may be revoked and any license to use that part of the Right-Of-Way be rescinded.
 - d. If the Wireless Service Provider requests permission to place Small Wireless Facilities on a new Pole or Support Structure, the substantiation therefor required by Section 2(B)(7) of this ordinance.

- e. An Application shall not be deemed complete until the Wireless Service Provider has submitted all documents, information, forms and fees specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Small Wireless Facilities, Support Structures, or Poles at the requested location(s). Within thirty (30) calendar days after an application for permit is submitted, the City shall notify the Wireless Service Provider in writing if any additional information is needed to complete the application or supplemental information is required to process the request. If the City does not notify the Wireless Service Provider in writing that the application is incomplete within thirty (30) days following its receipt, the application is deemed complete.
2. Unless otherwise agreed to between the City and the Wireless Service Provider, the City will have the following time periods to make its final decision to approve or disapprove an application for a permit contemplated by this ordinance and advise the Small Wireless Provider in writing of that determination.
 - a. Sixty (60) calendar days from the date of an application for a permit is filed with respect to a request to attach or install Small Wireless Facilities on an existing Support Structure or Pole; and
 - b. Ninety (90) calendar days from the date an application for a permit is filed with respect to a request to attach or install Small Wireless Facilities on a new Support Structure or Pole.

To the extent additional information is required to complete the application after it is filed, the applicable calendar day review period set forth in this subsection shall be tolled and not continue to run until the Wireless Service Provider has provided any missing or requested supplemental information; provided that tolling shall not occur if the City does not advise the Wireless Service Provider in writing of the incompleteness of a submitted Application within thirty (30) days after that submission.

3. Reconsideration/Appeal. Any Wireless Service Provider desiring reconsideration of an administrative action by the City to deny a request for a permit to attach or install a Small Wireless Facility in the Right-of-Way may seek review, modification, or reversal of that decision by the City Council by submitting a request for reconsideration with the City Clerk within twenty-one (21) calendar days following the City Administrator's decision. That request for reconsideration will be considered by the City Council at a regular Council meeting that will be conducted as soon as practical after the request for reconsideration is made. If no request for reconsideration is submitted, the decision of the City Administrator will be final. Additionally, the Wireless Service Provider, within thirty (30) days following a decision by the City Council to deny either a) a request for reconsideration or b) a decision by the City Council to not approve the placement of a new Support Structure or Pole in the Right-of-Way, may appeal either of those decisions to the Circuit Court in this county. If no appeal of those decisions is made, those will be deemed final.

SECTION 4 – ADDITIONAL REQUIREMENTS

Any Wireless Service Provider to whom a permit is issued and that places Small Wireless Facilities and associated Support Structures and Poles in the Right-Of-Way also shall comply with

the following requirements as long as those Small Wireless Facilities, Poles and Support Structures are on or under the Right-of-Way:

1. Prior to installing the Small Wireless Facilities, Poles or Support Structures, the Wireless Service Provider shall provide the City a certificate(s) of insurance evidencing that it has obtained and will maintain the following types of insurance in connection with its operations on or use of the Right-Of-Way:
 - a. General Liability Coverage insuring the risk of claims for damages to persons or property arising from or related to the installation, construction, maintenance, operation or any use of the Small Wireless Facility, Pole or Support Structure placed on or along the Right-of-Way by the Wireless Service Provider (or any of their contractors) with minimum limits of \$1,000,000 per occurrence; and
 - b. Workers Compensation Insurance as required by statute.

The General Liability coverage shall list the City as an additional insured, and may be provided through a combination of a primary and umbrella policies. All insurance policies shall be furnished by insurers who are reasonably acceptable to the City and authorized to transact business in the State of Alabama. On an annual basis following initial installation, the Wireless Service Provider also shall furnish the City a Certificate indicating that the above-noted coverage remains and will remain in effect. The City shall allow the Wireless Service Provider to provide a certificate of self-insurance in lieu of these provisions and must affirm adequate financial security on the part of the self-insured entity.

2. All Small Wireless Facilities and associated Support Structures shall be installed, erected, maintained and operated in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC, along with all applicable industry standards and codes including the National Electric Safety Code, and the National Electric Code as applicable, and any requirements of the Support Structure or Pole owner.
3. Following the installation of any Small Wireless Facilities and associated Poles or Support Structures, the Wireless Service Provider, upon reasonable request and for good cause, shall furnish the City Administrator a written certification from a licensed professional engineer in the State of Alabama stating that all installations have been inspected and are being maintained, operated and used in compliance with all applicable laws, codes and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Small Wireless Facilities and associated Poles and Support Structures have been damaged, are not functioning in compliance with applicable laws, codes and regulations, or otherwise pose a hazard to the public. If those Poles or Support Structures should fail at any time to comply with applicable laws and regulation, the Wireless Service Provider, at its expense, shall cause those Poles and Structures to be brought into compliance with said laws, codes and regulations within fifteen (15) days of the date of any written notice to them from the City Administrator of non-compliance, or cease all personal wireless service operations related to those Small Wireless Facilities until the Wireless Service Provider comes into full compliance with said laws, codes and regulations.

- a. The Small Wireless Facilities and associated Poles and Support Structures must at all times be maintained in good and safe condition. On no more frequent than a triennial basis, the City Administrator may request that the Wireless Service Provider, at its expense, furnish certification from a professional engineer who is licensed in the State of Alabama that the Small Wireless Facilities, Poles and Support Structures are in sound condition. Should that engineer deem any unsound, the Wireless Service Provider shall furnish to the City Engineer a plan to remedy any unsafe conditions or structural defect(s) within fifteen (15) calendar days and take that remedial action at the Wireless Service Provider's expense.
 - b. Every Wireless Service Provider that applies for a permit to place Small Wireless Facilities, Poles and Support Structures in the Right-Of-Way and installs and utilizes those Poles and Support Structures shall defend, indemnify and hold the City and its employees or officials, harmless from all demands, losses, expenses (including attorney's fees and court costs), claims for personal injury or property damage, judgments or liabilities of any type that may be asserted or claimed against the City (or its employees or officials) by any third person, firm or entity that arise out of or relate in any manner to the following: 1) the installation, construction, maintenance, use or operation of the permitted Small Wireless Facilities or any Pole or Support Structure on or about the Right-Of-Way; and 2) the failure of the Wireless Service Provider to perform any of their respective responsibilities, obligations, and permit requirements in this ordinance. Notwithstanding the foregoing, the Small Wireless Provider shall not be obligated to indemnify the City for claims resulting from the sole negligence or willful acts of the City (or its representatives).
4. Permit and License Fees. The Wireless Service Provider applying for a permit to place Small Wireless Facilities and associated Poles and Support Structures in the Right-of-Way shall pay the following types of fees:
 - a. An application and review fee to be paid when an application is submitted for (i) Permits for the placement of Small Wireless Facilities that are not poles, \$500 for up to five Small Wireless Facilities plus \$100 for each additional Small Wireless Facility included in the permit; and (ii) for Permits for the placement of new Poles, \$1,000.
 - b. Annual license fees shall not exceed those permitted by federal, state, or other applicable law and may be assessed as follows: (i) for new Wireless Service Provider Poles or ground mountings and any Small Wireless Facilities initially installed thereon by the Wireless Service Provider, on a per site, per year, per Permit basis; (ii) for attachments of Small Wireless Facilities to third-party poles, on a per site, per year, per Permit basis; and (iii) for Small Wireless Facilities Facilities installed on any city-owned structure, on a per site, per year, per permit basis.
5. Removal, Relocation or Modification of Small Wireless Facility in the Right-of-Way.

- a. Ninety (90) Day Notice to Remove, Relocate or Modify. Whenever the City reasonably determines that the relocation is needed as described below, then within ninety (90) days following written notice from the City, the Wireless Service Provider shall protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Small Wireless Facilities within the Rights-Of-Way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for (excluding beautification-only projects), as follow detailed below. To the extent permitted by federal, state, or other applicable law, such relocation shall be at the Wireless Service Provider's expense.:
 - i. the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - ii. if required for the construction, completion, repair, relocation, or maintenance of a City improvement or project in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - iii. because the Small Wireless Facilities or its related equipment is interfering with or adversely affecting proper operation of any City-owned light poles, traffic signals, or other equipment in the Public Way; and/or
 - iv. to protect or preserve the public health or safety.
 - v. In any such case, the City shall use its best efforts to afford the Wireless Service Provider a reasonably equivalent alternate location. Decorative streetlight poles may be required by the City in the future in the place of initially-installed standard-design streetlight poles. In such event, and to the extent permitted by federal, state or other applicable law, replacement of the Wireless Service Provider's Small Wireless Facilities on decorative streetlights that were initially installed standard-design streetlight poles shall be solely at the Wireless Service Provider's cost. Further, in such instances and at such time as replacement poles are installed, the City may reasonably require that the configuration and/or location of ground furniture (which references any equipment on the ground that is needed to supply power or backhaul services to the small cell Facility) and/or pole-mounted equipment or equipment cages be changed (such as changing from pole-mounted equipment cages to ground furniture), in the discretion of the City.
- b. Emergency Removal or Relocation of Small Wireless Facilities. The City retains the Right and privilege to cut or move any Small Wireless Facility or related structure located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Wireless Service Provider and provide the Wireless Service Provider an opportunity to move its own Small Wireless Facilities, if possible, prior to cutting electrical service or removing a Small Wireless Facility and shall

notify the Wireless Service Provider after cutting or removing a Small Wireless Facility.

SECTION 5 – PLACEMENT OF SMALL WIRELESS FACILITIES ON PRIVATE PROPERTY

- A. A Wireless Service Provider must obtain a permit from the City before placing, installing, or constructing any Small Wireless Facility on any Pole or Support Structure that is located on private property, or substantially modifying the position or characteristics of any such existing Small Wireless Facility thereon.

- B. The City Administrator will review and administratively process any request for a permit to determine whether, in the exercise of the City Administrator’s reasonable discretion, it should be issued for the location and in the manner requested. In this process, the burden is on the Wireless Service Provider to demonstrate that the placement of the proposed Small Wireless Facility and Support Structure or Pole on private property is the minimal physical installation which will achieve the technological goal of enhancing the provision of personal wireless services. Except as set forth in this section, this permitting process will not require the approval of any City Board or City official other than the City Administrator. The factors, guidelines and requirements that the City Administrator may consider and will apply when determining whether to issue a permit for placement of Small Wireless Facilities and Support Structure or Pole on private property include, but are not limited to, the following:
 - 1. The factors and requirements set forth elsewhere in this Ordinance Number 2021-04-20-02;

 - 2. Colocation. The guidelines elsewhere in this Ordinance Number 2021-04-20-02 to utilize existing Poles and Support Structures for the placement of Facilities and Accessory Equipment are also applicable when considering whether to permit the installation of those Small Wireless Facilities on new Support Structures or Poles on private property, provided that City Council approval is not required before a permit is issued to place a new Pole or other Support Structure on private property if that action is appropriate.

 - 3. The Wireless Service Provider shall use Stealth Technology when installing the Small Wireless Facilities on any building located on private property. Further, Stealth Technology should be used when placing Small Wireless Facilities on other types of Support Structures on private property unless the Wireless Service Provider can reasonably demonstrate that, given the nature of the requested application, the use of such Technology is (a) unnecessary; or (b) impractical.

 - 4. If Small Wireless Facilities are placed on an existing or new building or accessory to that building, the following dimensional regulations shall apply:
 - a. Façade-mounted Small Wireless Facilities shall not extend above the face of any wall or exterior surface of the building.

 - b. Roof-mounted Small Wireless Facilities may be permitted on buildings in accordance with the following table:

Height of Building	Maximum Height of Facility above Highest Point of Roof	Required Setback from Edge of Roof of Building
---------------------------	---	---

Up to 15 feet	8 feet, including antenna	1 foot for every foot of height of equipment
15-35 feet	10 feet, including antenna	1 foot for every foot of height of equipment
More than 35 feet	12 feet, including antenna	1 foot for every foot of height of equipment

- c. The antenna component of the Small Wireless Facilities shall be limited to a maximum height of three (3) feet and a maximum width of two (2) feet; provided that authorization to install antenna up to six (6) feet in height may be permitted if a showing of the technological need for such equipment is made and other requirements of this Section are met.
 - d. Accessory equipment must be located in an equipment cabinet, equipment room in an existing building or in an unmanned equipment building. If the equipment building is freestanding, it shall conform to the local Municipal Code with respect to building setbacks, that building shall not exceed 400 square feet, and its overall height shall be limited to 15 feet (if located on the ground) measured from the finished grade. Further, if an equipment building or cabinet is located in a residential zone, or the nearest adjoining property is in a residential zone, that building or cabinet shall be surrounded by landscaping to provide a screen of the same height as the building or cabinet.
5. Application Process. Except as provided in paragraphs a and b immediately below, the same application process that is set forth above will be utilized when processing any request for a permit to place Small Wireless Facilities supported by a Pole or Support Structures on private property, except that:
- a. City Council approval to install a new Support Structure or Pole on private property is not a condition for a permit to place Small Wireless Facilities thereon; and
 - b. If the Small Wireless Facilities are located on private property that is not owned or exclusively used by the Wireless Service Provider, the Wireless Service Provider shall present a license, lease, agreement or other documentation indicating that owner of said property authorizes the Wireless Service Provider the Rights to place the Small Wireless Facilities thereon and access thereto, or that such owner agrees in principle to grant the Wireless Service Provider those Rights; provided that, if a representation is made to the City that the owner of private property has agreed in principle to grant those Rights but the Wireless Service Provider subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until the documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit and license may be revoked.

6. Additional Requirements. Any Wireless Service Provider to whom a permit is issued and that places Small Wireless Facilities and associated Support Structures or Poles on private property also shall comply with the following requirements as long as those Facilities and Support Structures or Poles are located thereon:
 - a. All Small Wireless Facilities and Support Structures or Poles shall be installed, erected, and maintained in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC, the National Electric Safety Code, the National Electric Code, and any policies and procedures required of Support Structure owners.
 - b. At least triennially following the installation of the Small Wireless Facilities or associated Support Structures or Poles, upon reasonable request and for good cause, the Wireless Service Provider shall furnish the City Administrator a written certification from a professional engineer licensed in the State of Alabama indicating that those Support Structures or Poles have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals, along with the requirements of the National Electric Safety Code, and the National Electric Code as applicable. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Small Wireless Facilities and associated Support Structures or Poles have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Support Structures or Poles fail at any time to comply with said laws, regulations and codes, the Wireless Service Provider shall cause those Support Structures or Poles to be brought into compliance with said laws, regulations and codes, within fifteen (15) calendar days of the date of any written notice to either of them of such non-compliance, or cease all personal wireless communications operations related to those Support Structures or Poles until the Wireless Service Provider comes into full compliance with applicable laws and regulations.
 - c. The Small Wireless Facilities and associated Support Structures or Poles on private property must at all times be maintained in good and safe condition.
- C. Permit and License Fees. The Wireless Service Provider applying for a permit to place Small Wireless Facilities and associated Support Structures or Poles on private property shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance as amended:
 1. a permit application and review fee of \$200.00 to be paid when an application is submitted; and,
 2. a permit issuance fee of \$100.00 per each Support Structure on private property contemplated for attachment.

SECTION 6 – ABANDONMENT OF SMALL WIRELESS FACILITIES IN RIGHT-OF-WAY

If a Wireless Service Provider abandons any Small Wireless Facility or an associated Support Structure or Pole (collectively "Facilities" for purposes of this Section) that is located in the Right-Of-Way, the following rights and obligations shall exist. The City may require the

Wireless Service Provider, at their expense, to remove and reclaim the abandoned Facilities within sixty (60) days from the date of written notice of Abandonment given by the City to them and to reasonably restore the condition of the property at which the Facilities are located to that existing before they were installed. If the Wireless Service Provider fails to remove and reclaim its abandoned Facilities within such 60-day period and the Facilities are located on the Right-Of-Way, the City shall have the rights to:

1. remove them and charge its expense of any such removal operation to the account of the Wireless Service Provider,
2. purchase all abandoned Facilities at the subject location from the Wireless Service Provider in consideration for \$1.00,
3. at the City's discretion, either resell the abandoned Facilities to a third party or dispose and salvage them; provided that the proceeds of any resale of abandoned Facilities by the City to a third party shall be credited to the account of the Wireless Service Provider that used those Facilities before the abandonment, and
4. charge any expense incurred by the City to restore the Right-of-Way to the account of the Wireless Service Provider.

SECTION 7 – COLOCATION

Wireless Service Providers shall take all commercially reasonable measures to collocate Small Wireless Facilities on existing Poles and Support Structures. To promote the public interest that is served by co-locating Small Wireless Facilities on existing Support Structures and Poles and thereby mitigating the installation of additional Support Structures and Poles throughout the City, and to the extent permitted by 47 U.S.C. 224, no person or entity (including any Wireless Service Provider) that utilizes an existing Support Structure that is located on Right-of-Way or on private property in the City and has space available thereon may deny a Wireless Service Provider the Right to use or access an existing Support Structure or Pole for purposes of attaching Small Wireless Facilities permitted by this ordinance without sound operational, technological or other good reason. Nothing in this Section shall be construed to grant mandatory access rights to any Support Structure to any Wireless Service Provider where such access rights are not already granted by federal law. Nothing in this ordinance shall affect or be construed to affect any pole attachment agreement existing or hereinafter entered into between or amongst any Wireless Service Provider and any owner, lessor, or controller of a Support Structure or Pole.

SECTION 8 – NON-APPLICABILITY

1. The placement of an antenna(s), Small Wireless Facilities or equipment related to the following types of wireless services are exempt from regulation under this ordinance:

- A. Amateur radio service that is licensed by the FCC if the Facilities related thereto are not used or licensed for any commercial purpose; and
- B. Facilities used by any federal, state or local government or agency to provide safety or emergency services.

2. Nothing in this ordinance shall be construed to apply to the attachments, equipment, facilities, or business activities of an electric utility that is regulated by the Alabama Public Service Commission. This ordinance also does not apply to the attachments, equipment, facilities, or business activities of such electric utility's parents, affiliates, or subsidiaries when they are acting in support of the electric utility.

SECTION 9 – REPEALER

All Ordinances or parts of ordinances heretofore adopted by the City that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

SECTION 10 – SEVERABILITY

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 11 – EFFECTIVE DATE

This ordinance shall become effective immediately upon adoption and posting/publication as provided by Alabama law.

Approved and adopted this the 20th day of April, 2021.

James D Latimer, Mayor

Gary Anacker, Councilmember

Samecca McCrimon, Councilmember

Darryl Wood, Councilmember

Ralph Kimble, Councilmember

Corey Abrams, Councilmember

I, the undersigned Clerk of the City of Vincent, Alabama, do hereby certify that the above and foregoing is an ordinance lawfully passed and adopted by the City Council of the City of Vincent, at a meeting of such Council held on the 20th day of April, 2021, and that such ordinance is on file in the office of the City Clerk.

Attested by: _____

Helen Thweatt, Clerk