

**AN ORDINANCE ADOPTING REASONABLE AND NECESSARY REGULATIONS
REGARDING SMALL CELL TECHNOLOGY FACILITIES IN THE
CITY OF FLORENCE, MISSISSIPPI**

WHEREAS, the City of Florence, Mississippi (“City”) seeks to facilitate the availability of reliable personal wireless communications services for citizens and the public by permitting the placement of Small Cell Technology Facilities and associated structures along the Right of Way and on private properties in the City; and

WHEREAS, the installation, expansion, and maintenance of Small Cell Technology Facilities and associated structures on or along the Right of Way and on private properties might have significant impact upon: (1) the aesthetic values and character of the City; (2) safe use and passage on or along the Rights of Way by the public; and (3) properties and property values in the City in the areas where such structures are placed; and

WHEREAS, the Federal Telecommunications Act of 1996 (“Act”) and regulations promulgated with respect to the Act by the Federal Communications Commission (“FCC”) authorize local governments to enact reasonable regulations for the permission, placement, expansion, height, and maintenance of Small Cell Technology Facilities and structures associated with Small Cell Technology Facilities; and

WHEREAS, as provided in this Ordinance, and as permitted by Federal and State Law, the City seeks to mandate, where feasible, the co-location of Small Cell

Technology Facilities on existing poles and other Structures as opposed to installation of new Structures; and

WHEREAS, the above-noted co-location and other provisions of this Ordinance are intended to be consistent with the Act and regulations promulgated under the Act; and

WHEREAS, the adoption of the regulations, procedures, and requirements in this Ordinance will permit Applicants and Providers to enhance the provision of personal wireless service and protect the public welfare, health, safety, and interests of citizens and the public.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Board of Aldermen of the City of Florence, Mississippi, the following:

SECTION 1. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

- A. "Abandonment" or "Abandon(s)" means that, following the placement of DAS and/or Small Cell Technology Facilities (and associated Accessory Equipment or Support Structures in the City pursuant to a permit issued to a Provider or an Applicant, any of the following has occurred:
1. for any reason the Facilities cease to be used to transmit signals, data, or messages or otherwise be used for their intended purposes for a period of ninety (90) days;
 2. the City revokes the permit for placement and use of those Facilities

due to nonpayment of applicable fees, the failure of the Provider or Applicant to comply with conditions in the permit or in this Ordinance, or other valid reason; or

3. the Provider or Applicant fails to perform any of its responsibilities, obligations, and/or requirements imposed by this Ordinance or permit that relate to the installation, construction, maintenance, use, or operation of the Facilities, Accessory Equipment, or Support Structures, and that breach remains uncured for a period of sixty (60) days after the City provides written notice of the breach to the Provider or Applicant.

- B. "Accessory Equipment" means any equipment other than an antenna that is used in conjunction with DAS and/or Small Cell Technology arrangements. This equipment may be attached to or detached from a DAS and/or Small Cell Technology Wireless Support Structure, and includes, but is not limited to, cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, microcells, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment on, or in the immediate vicinity of a Support Structure. The term does not include the structure or improvements on, under, or within which the equipment is co-located, wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial or fiber optic cable that is otherwise not immediate adjacent to or directly associated with,

an antenna.

- C. "Antenna" means communications equipment that transmits and receives electromagnetic radio signals, is attached to a DAS and/or Small Cell Technology Wireless Support Structure and is used to communicate wireless service.
- D. "Applicant", whether singular or plural, means a Personal Wireless Service Provider, Wireless Infrastructure Provider, or an entity (including one that is not a Provider) that is authorized by a Personal Wireless Service Provider to apply for or receive a permit to install, construct, manage, modify or maintain a DAS and/or Small Cell Technology Facility and related Accessory Equipment or Support Structure in the City, or an entity licensed by the FCC, or an entity certificated by the Mississippi Public Service Commission to provide telecommunication service.
- E. "Application" means a formal request submitted to the City for a permit to install, construct, modify or maintain a DAS and/or Small Cell Technology Facility and related Accessory Equipment or Support Structure.
- F. "City" means the City of Florence, Mississippi.
- G. "City Engineer" shall mean the person or entity appointed by the Mayor and Board of Aldermen of the City of Florence, Mississippi to serve as the City Engineer of the City, or the designee, agent, and/or representative of the City Engineer.

- H. "Co-location" means the placement or installation of a new DAS and/or Small Cell Wireless Technology Facility or related Accessory Equipment on an existing pole or other Support Structure that is owned, controlled or leased by a utility, the City, or other person or entity.
- I. "DAS" or "Distributed Antenna System" is a network of spatially separated Antenna sites connected to a common source that provides wireless service within a geographic area or structure.
- J. "Small Cell Wireless Technology Facility" or "Facility", whether singular or plural, means an antenna, equipment, DAS, and related improvements used, or designed to be used, to provide wireless transmission of voice, data, video streams, images, or other information including, but not limited to, cellular phone service, personal communication service, paging, and Wi-Fi antenna service, which are designed to be mounted upon utility poles or rooftops, and which provide a few hundred feet of coverage. "Small Cell Wireless Technology Facility" or "Facility", whether singular or plural, shall not mean traditional macrocell towers, which have a coverage area of several miles.
- K. "Personal Wireless Service Provider" or "Provider" means an entity that provides personal wireless communication services to the public or citizens of the City on a commercial basis and is authorized by the FCC to provide those services.

- L. "Private Property" means real property located in the City that does not lie within the Right of Way.
- M. "Right 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, including all public utility easements, 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.
- N. "Support Structure" or "DAS and/or Small Cell Technology Wireless Support Structure," whether singular or plural, means a freestanding structure designed or used to support, or capable of supporting, DAS and/or Small Cell Technology Facilities, including, but not limited to, utility 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 flag pole. These terms do not include any decorative and/or architecturally significant street light poles of the City, as those decorative lights are inappropriate for use as a Support Structure.
- O. "Stealth Technology" means a method(s) of concealing or minimizing the visual impact of a DAS and/or Small Cell Technology Facility (and associated Accessory Equipment) and Support Structure by incorporating features or

design elements which either totally or partially conceal such Facilities or equipment. The use of these design elements is intended to produce the result of having said Facilities and associated structures blend into the surrounding environment and/or disguise, shield, hide or create the appearance that the Facilities are an architectural component of the support structure.

- P. "Wireless Infrastructure Provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities or wireless support structures, but that is not a wireless services provider.
- Q. "Zoning Administrator" shall mean the person appointed by the Mayor and Board of Aldermen of the City of Florence, Mississippi to serve as the Zoning Administrator of the City, or the designee of the Zoning Administrator.

SECTION 2. Permit Required to Place Small Cell Technology Facilities.

- A. A Provider or Applicant must obtain an infrastructure permit from the City before placing, installing, constructing, or operating any DAS and/or Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on the Right of Way or Private Property, including substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The Zoning Administrator will review and administratively process any request for a permit to determine whether, in the exercise of the Zoning

Administrator's reasonable discretion, it should be issued for the location and in the manner requested by the Applicant. In this process, the burden is on the Applicant to demonstrate that the placement of the proposed DAS and/or Small Cell Technology Facility and associated Accessory Equipment or Support Structure is the minimal physical installation that will achieve the goal of enhancing the provision of personal wireless services when considering all pertinent factors discussed in the provision immediately below. Except as set forth in this section, or if an appeal is taken, this permitting process will be administrative and not require the approval of the Mayor and Board of Aldermen of the City. The Zoning Administrator may consult with any City official or employee regarding an Application. Nothing herein shall bar the Zoning Administrator or the Mayor and Board of Aldermen of the City from discussing an Application. The factors, requirements and guidelines that the Zoning Administrator may consider and will apply when determining whether to issue a permit for placement of DAS and/or Small Cell Technology Facilities and associated structures include, but are not limited to, the following:

1. Whether conditional use permit has been approved by the Mayor and Board of Aldermen of the City if a new Support Structure is necessary. In addition to the standard review criteria, the following criteria shall also be considered by the Mayor and Board of Aldermen:
 - a. Spacing between support structures;

- b. Co-location availability;
 - c. Appearance of the proposed Support Structure and Facilities as a whole; and
 - d. Impact to the surrounding environment.
2. The visual impact of placing the Support Structures or Facilities in the subject area.
 3. The ability and specifications of the structures upon which the Facilities and Accessory Equipment are placed to safely support those Facilities and Accessory Equipment.
 4. The character of the area in which the structures are requested, including surrounding buildings, properties, and uses.
 5. Whether the appearance and placement of the proposed Facilities and Accessory Equipment are aesthetically consistent with the immediate area and/or needs landscaping or other screening features.
 6. Whether the proposed Facilities and Accessory Equipment are consistent with the historic nature and/or unique characteristics of the requested location.
 7. Whether the height limitations established in the Zoning Ordinance of the City would be violated.
 8. Co-location. To the extent reasonable, all Facilities and associated Accessory Equipment shall be attached to a pre-existing Support Structure that is owned, controlled, or leased by a utility, franchisee,

the City, or other entity or person. If the Applicant demonstrates that no co-location opportunities exist in the area where a technologically documented need for a Facility exists, the Applicant may request that a new pole or other Support Structure be installed in that area for purposes of constructing the Facilities. Before any new Support Structure is permitted, each of the following must occur:

- a. The Applicant must have provided the City written evidence that no reasonable Co-location opportunity exists. This documentation shall include, but not be limited to, affidavits, correspondence, or other written information that demonstrates that the Applicant has taken all commercially reasonable actions to achieve Co-location in the requested location or area, that the Applicant has pursued but been denied access to all potential Co-location sites in the subject area (and the reasons for any such denial(s)), and otherwise show that the Applicant is unable to Co-locate on an existing Support Structure, including for technical and other valid reasons; and
- b. The Zoning Administrator must recommend the placement of a new Support Structure in the Right of Way after thorough review by City Engineer; and
- c. Newly constructed Support Structures shall be built in such a manner as to readily accommodate future Co-location by no less

than one (1) similar (though potentially competing) entity with equipment of equal or greater size. The owner of such structure shall not unreasonably deny the request of another Provider to Co-locate. The Co-location requirement may be waived by the Mayor and Board of Aldermen of the City for good cause shown;

9. If a Facility is attached to a utility pole or other Support Structure, no Antenna or other part of the Facility shall extend more than ten (10) feet above the height of such Support Structure or beyond the maximum height established by the Zoning Ordinance of the City; if the Facility includes an Antenna array, the array shall be flush mounted within six (6) inches of the Support Structure, or be contained in a canister that is a continuation of the diameter of the Support Structure, and the array colored to match the support structure.
10. The location of any new structure shall be subject to review by the Zoning Administrator for its visual impact and to avoid an appearance of “clutter” among other Right of Way uses in the vicinity.
11. The Accessory Equipment shall, if reasonably possible, be buried, placed within the pole, in a cabinet under the pole, or at least twelve (12) feet above the ground and limited to twenty-eight (28) cubic feet cumulatively.
12. The color of Antenna(s) and Accessory Equipment shall be compatible with that of the Support Structure or in a manner that otherwise

attempts to conceal the equipment against the background of the developed or natural environment.

13. The Facility (including the Accessory Equipment) shall not be illuminated unless required by applicable laws and regulations.
14. Display of logos, branding, or the like on the Facilities in any way that may reasonably be construed as advertising shall be prohibited.
15. Whether Applicant has provided certification that the proposed installation will not cause harm to the public or pose any undue risk to public safety validated through a means of industry certified reports for EME exposure limits or disruption of visual site triangles related to traffic.
16. Whether the proposed installation may interfere with vehicular traffic, passage of pedestrians, or other use of the Right of Way by the public.
17. If the proposed installation will disturb conditions on the Right of Way, whether the Applicant can demonstrate its ability and financial resources to restore the subject area to its pre-existing condition following installation.
18. Structures and Facilities, either in their installation or continued operation shall in no way interfere with the telecommunications capabilities of emergency responders or any public safety personnel.
19. That the applicant covenants and agrees to indemnify, defend, save, and hold harmless the City, and its agents, officials, officers, and

employees from and against any and all claims, injuries, losses, liabilities, damages, charges, costs, and expenses (including reasonable attorneys' fees and costs), whether suffered by the Applicant or any other person (including the City, its agents, or employees), which may occur on the property of the City or elsewhere; on account of or by reason of any matters which arise during, or from, the issuance of the permit described herein or which may materially affect the issuance of the permit described herein.

SECTION 3. Application Process.

The application process shall be as set forth herein. Applications for locations on public and private property, including, but not limited to, additions to existing structures on private property, are required to be reviewed by the Zoning Administrator, subject additionally to the City's Zoning Ordinance (for new Support Structures), Building Code and construction permitting processes. The Zoning Administrator may also rely on a review by other officials and employees of the City as deemed necessary.

- A. At a minimum, each Application shall contain the following:
1. Drawings stamped by an engineer licensed in the State of Mississippi depicting the type of Facilities, Support Structure, and means and points at which such Facilities and associated Accessory Equipment will be attached to a Support Structure.
 2. Map(s) designating with specificity the location(s) of the requested

Facilities and all other existing or proposed locations within 1,000 feet.

3. The geographic coordinates of all Antenna and other proposed Facilities within 1,000 feet.
4. If the Facilities will be located on a Support Structure that is owned by any entity other than the City or the Applicant, a copy of any license, lease, agreement, letter or other documentation evidencing that the owner of that Support Structure authorizes the 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 Support Structure but the Applicant 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 authority to use that part of the Right of Way be rescinded.
5. If the Applicant requests permission to place Facilities on a new Support Structure, other requirements contained in this Ordinance shall be met.
6. Photo-simulated post-construction renderings depicting the proposed Facilities and equipment, including any/all equipment cabinets, ancillary structures, coloration, and landscaping.

B. An Application shall not be deemed complete until the Applicant has submitted all documents, information and forms specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Facilities or Support Structures at the requested location(s). Within thirty (30) calendar days after an application for permit is submitted, the Zoning Administrator shall notify the Applicant in writing if any additional information is needed to complete that Application or supplemental information is required to process the Application. Once the Application is deemed complete, the Zoning Administrator shall make the final decision to approve or deny a complete Application within sixty (60) days unless the Zoning Administrator provides a letter to the Applicant requesting a specified amount of additional time and explaining the reasons for delay.

C. Additional Requirements. Any Provider or Applicant to whom a permit is issued and places Facilities and associated Support Structures on the Right of Way, shall comply with the following requirements so long as those Facilities and Support Structures are on or under the Right of Way:

1. Prior to installing the Facilities or Support Structures, the Applicant shall provide the City a certificate(s) of insurance, or of self-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. Commercial 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 Facility or Support Structure placed on or along the Right of Way by the Applicant (or any of their contractors) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate; and

- b. Workers Compensation Insurance as required by the laws of the State of Mississippi. The required General Liability coverage shall include the City as an additional insured and may be provided through a combination of a primary and umbrella excess policies. All required insurance policies shall be furnished by insurers who are eligible to transact business in the State of Mississippi and are rated at least A-VII by AM Best. Following initial installation, if any changes in coverage occur, the Applicant shall furnish the City a new Certificate indicating that the above-noted coverage remains and will remain in effect. In lieu of the insurance requirements above, an Applicant may provide a certificate of self-insurance sufficient to satisfy the above amounts.

2. Permits for the construction of new facilities or the placement of collocated equipment shall be good for six (6) months following issuance of the permit. If construction or installation are not

completed in that amount of time, the permit will terminate, and the applicant must remove any partially installed equipment. The City may take applications for the same or nearby locations and hold them in standby until it is known whether full installation/construction on an active permit is completed. If/when construction or installation is underway but delayed due to unforeseen circumstances, the City may consider a request for a six (6) month extension to a permit. Permit fees shall be non-refundable.

3. All 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.
4. Following the installation of any Facilities and associated Support Structures, the Provider or Applicant, upon reasonable request and for good cause, shall furnish the City Clerk a written certification from a licensed professional engineer in the State of Mississippi stating that those structures 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. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been

damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public and/or surrounding property. If those Support Structures should fail at any time to comply with applicable laws and regulations, the Provider or Applicant, at either of their expense, shall cause those structures to be brought into compliance with said laws and regulations within thirty (30) days of the date of any written notice to them from the Zoning Administrator of non-compliance, or cease all personal wireless service operations related to those structures until the Applicant or Provider comes into full compliance with said laws and regulations.

5. The Facilities and associated Support Structures must be maintained in good and safe condition.
6. Each Applicant or Provider that applies for a permit to place Facilities (including the Accessory Equipment) and Support Structures on the Right of Way and installs and utilizes those 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:
 - a. the installation, construction, maintenance, use or operation of

the permitted Facilities, Accessory Equipment or any Support Structure on or about the Right of Way, and/or

- b. the failure of the Provider or Applicant to perform any of their respective responsibilities, obligations, and requirements imposed by the permit and/or this Ordinance.

- 7. Franchise Agreements for Other Uses of Right of Way. This Ordinance regulates the placement of DAS and/or Small Cell Technology Facilities (and associated Accessory Equipment) on or in the immediate vicinity of Support Structures that are located or proposed to be located on the Right of Way or private property. No provision of this Ordinance is intended to permit, regulate or authorize the placement by a Provider or Applicant of fiber optic lines, coaxial cable, switches, pedestals or networking equipment of any type that is used to transport telecommunication signals, data, or messages between Support Structures or between any other points. In the event any such Provider or Applicant desires to place telecommunications equipment or Facilities along the Right of Way at points not regulated by this Ordinance, the City may enter into franchise or similar agreements that authorize, govern, and apply to such use of other locations on or along the Right of Way, consistent with the Code of Ordinances of the City.

SECTION 4. Fees and Fiscal Responsibility.

- A. Permit and License Fees. The Applicant for a permit to place Facilities and

associated Support Structures on the Right of Way shall pay the following types of fees:

1. A \$500.00 non-recurring Application fee that may include up to five (5) Facilities, with an additional \$100.00 for each Facility beyond five (5); each location in a combined Application shall be required to receive a unique permit per location; and
2. A \$270.00 annual license fee due by January 30 every year the Facility remains in operation, except as provided in Section 4.B. of this Ordinance, with such \$270.00 annual license fee being for up to five (5) Facilities. In the event that a Provider has been received a permit for more than five (5) Facilities, the annual license fee due shall be \$270.00, plus \$50.00 per every Facility in excess of five (5) Facilities; and
3. Any other fees as may be required by the Zoning Ordinance for a conditional use permit for a new Support Structure.

B. Annual License Fee Payments. In the first year of the issuance of a permit under this Ordinance, the Provider's or Applicant's annual license fee shall be due upon completion of a structure or installation and payable within thirty (30) days therefrom and not prorated. In the first year of a permit issued under this Ordinance, the license fee shall be the amount due under Section A.2. of this Ordinance for facilities completed and/or installed between January 1 and June 30 and shall be one-half (1/2) of the amount due under Section A.2. of this Ordinance for facilities completed and/or installed

between July 1 and December 31. Thereafter, the Provider's or Applicant's annual license fee payable under Section 4A(2) shall be due and payable to the City annually on or before December 31 for the following calendar year. All payments due under this Permit shall be made to the City of Florence, Mississippi.

- C. Annual license fee payments not received by the City on or before the due date shall be assessed interest of one percent (1%) per month commencing on the first day after the due date. Failure to make full payment, including applicable interest charges, after thirty (30) days advance written notice, within sixty (60) days next following the applicable payment date shall constitute a violation of this Ordinance.
- D. Fiscal Responsibility. After the approval of an Application, but before the issuance of a permit, the Applicant or Provider shall be required to provide a bond in an amount to be determined by the City Engineer. The purpose of this bond shall be to provide the City with the financial ability to remove, and/or to otherwise make safe any Facility or Support Structure that a Provider has abandoned and/or failed to and/or has refused to remove as is provided for in Section 5 of this Ordinance.

SECTION 5. Abandonment of Facilities on Right of Way

- A. If a Provider or Applicant abandons any Facility (including the Accessory Equipment) or an associated Support Structure (collectively "Facilities" for purposes of this Section) that is located on the Right of Way, the Provider

shall notify the Zoning Administrator in writing, within thirty (30) days of the abandonment, and the following rights and obligations shall exist.

B. The City may require the Provider or Applicant, at the expense of the Provider or Applicant, to remove and reclaim the abandoned Facilities within six (6) months 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 Provider or Applicant fails to remove and reclaim the abandoned Facilities within such six (6) month period and the Facilities are located on the Right of Way, the City shall have the authority to:

1. Remove the abandoned Facilities and charge its expense of any such removal operation to the account of the Provider or Applicant;
2. At the City's discretion, either resell the abandoned Facilities to a third party or dispose and salvage the Facilities, provided that the net proceeds of any resale of abandoned Facilities by the City to a third party shall be credited to the account of the Applicant or Provider that used those Facilities immediately before the Abandonment; and
3. Charge any expense incurred by the City to restore the Right of Way to the account of the Provider or Applicant.

SECTION 6. Non-Applicability

The placement of an antenna(s), facilities, or equipment related to the following types of wireless communication 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. Further, the provisions Ordinance are supplemental to, and not intended to alter, affect, or modify any other provision of any other Ordinance of the City that may be applicable to the placement or use of Telecommunications Towers.

SECTION 7. Posting of Permits.

At all times while work or construction is in progress, a copy of the permit issued by the City under this Ordinance must be located at the site of work or construction and shall, upon request, be shown to the Zoning Administrator or any law enforcement officer employed by the City.

SECTION 8. Suspension or Revocation of Permit.

If work under an issued permit fails to conform to the conditions of the permit, the requirements of this Ordinance, and/or any other Ordinance of the City, the permit may be revoked or suspended. If the permit is suspended, work shall be stopped until the Applicant gives assurance to the Zoning Administrator of the ability of the Applicant to complete the work in accordance with the conditions of the permit, this Ordinance, and/or any other Ordinance of the City. Any notice of revocation, suspension, or stop work order shall be mailed and/or delivered in writing to the Applicant at the address, fax number, and/or email address provided

by the Applicant in the Application. Any such notice of revocation, suspension, or stop work order shall state the reasons for the issuance of the notice of revocation, suspension, or stop work order.

SECTION 9. Liability of the City.

A. Neither the City nor any officer, official, employee, agent, and/or representative of the City shall be held responsible for any damages caused by any work or construction in any street, alley, sidewalk, right-of-way, or other place performed by any person under the authority or claimed authority of a permit issued pursuant to the provisions of this Ordinance. The Applicant shall be solely liable for any damage or loss occasioned by any act or omission occurring in connection with such work or construction, and the Applicant shall fully indemnify, hold harmless and defend the City, its officers, officials, agents, and employees from and against any and all suits, actions, judgments, losses, costs, demands, claims, expenses (including attorney's fees), damages, and liabilities of every kind to which the City and its officers, officials, agents, and employees may be subjected for injury of any type, death, or property damage arising from or connected with any such act or omission. The City shall promptly notify an Applicant, via the address(es) set forth in the permit, of any claim or suit served upon the City and alleging intentional conduct, negligent conduct, wrongful conduct, misconduct, malfeasance, misfeasance, and/or nonfeasance by the Applicant in connection with work or construction that is the subject of a

permit.

- B. Neither the City nor any officer, official, employee, agent, and/or representative of the City shall be held responsible for any injury of any type, death, or damage, arising out of or caused by the use, operation, existence, effects, maintenance, repair, and/or misuse of a Facility erected under the authority of a permit issued under this Ordinance. The Applicant shall be solely liable for any damage or loss occasioned by any act or omission occurring in connection with such use, operation, existence, effects, maintenance, repair, and/or misuse, and shall fully indemnify, hold harmless and defend City, its officers, officials, agents, and employees from and against any and all suits, actions, judgments, losses, costs, demands, claims, expenses (including attorney's fees), damages, and liabilities of every kind to which the City and its officers, officials, agents, and employees may be subjected for injury of any type, death, or property damage arising from or connected with any such act or omission. The City shall promptly notify an Applicant, via the address(es) set forth in the permit, of any claim or suit served upon the City alleging intentional conduct, negligent conduct, wrongful conduct, misconduct, malfeasance, misfeasance, and/or nonfeasance by the Applicant in connection with such use, operation, existence, effects, maintenance, repair, and/or misuse that is the subject of a permit.

SECTION 10. Violations and Penalties

- A. Any person or entity violation any of the provisions of this Ordinance shall be guilty of a misdemeanor. Each person or entity shall be deemed guilty of a separate offense for each day or portion of a day during which any violation of any of the provisions of this Ordinance is committed. Upon conviction for violating any provision of this Ordinance, such violator(s) shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each violation and/or by a term of no more than six (6) months in jail.
- B. No individual or entity that has violated any provision of this Ordinance shall be issued another permit under this Ordinance, nor shall any contractor or agent apply for or be issued such a permit on behalf of such individual or entity until the outstanding violation is corrected or a plan for correction is approved by the Mayor and Board of Aldermen of the City.
- C. No provision of this Ordinance shall be construed as a waiver of any claim, remedy, and/or request for relief that the City may make in a court of law or equity.

SECTION 11. Severability

If any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance or the application thereof to any person or circumstances be adjudged or held to be unconstitutional, illegal, invalid, unlawful, or unenforceable by a court of competent jurisdiction, such finding or such invalidity shall not serve as an invalidation or affect the validity or enforceability of any other section or provision of this Ordinance. To this end, the provisions of this Ordinance are

declared to be severable. Such an invalid sentence, paragraph, subdivision, clause, phrase, or section shall also not affect the validity of this Ordinance or the Code of Ordinances of the City of Florence, Mississippi as a whole.

The City Clerk is instructed to publish this Ordinance one (1) time in the Rankin County News. This Ordinance is to become effective after publication and thirty-one (31) days thereof.

The motion to adopt the foregoing Ordinance having been made by Alderman John Banks and seconded by Alderman Helms, and the Ordinance having been considered and put to a roll call vote, the results being as follows:

VOTING:

AYE

NAY

John Banks
ALDERMAN JOHN BANKS

AYE

NAY

Brian Grantham
ALDERMAN BRIAN GRANTHAM

AYE

NAY

Trey Gunn
ALDERMAN TREY GUNN

AYE

NAY


John Helms
ALDERMAN JOHN HELMS

AYE

NAY

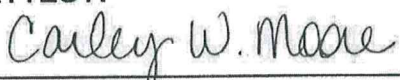
Todd Norris
ALDERMAN TODD NORRIS

Whereupon the Mayor declared the Motion carried and the Ordinance
ordained, this the 17th day of December, 2019.



BOB MORRIS, MAYOR
CITY OF FLORENCE, MISSISSIPPI

ATTEST:



CARLEY W. MOORE, CITY CLERK
CITY OF FLORENCE, MISSISSIPPI

PREPARED BY:

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