

ORDINANCE NO. 2019-xxx

**AN ORDINANCE TO AMEND ORDINANCE NO. 2019-1320
AMENDING AND RESTATING CHAPTER 42, ARTICLE VIII, SEC. 42-559
OF THE CODE OF ORDINANCES FOR THE
CITY OF ORANGE BEACH, ALABAMA
TO CORRECT AN OMISSION RELATING TO SMALL WIRELESS FACILITIES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE BEACH, ALABAMA, AS FOLLOWS:

1. That Chapter 42, Article VIII, Sec. 42-559 of the Code of Ordinances for the City of Orange Beach is hereby amended and restated as follows:

| Sec. 42-559. – Rates for rights-of-way and collocation on city structures in the rights-of-way.

- | A. The recurring rate for use of the rights-of-way and attachment of small wireless facilities to a City structure in the rights-of-way shall be subject to the following requirements:

| (1) Annual Rate.

- | (a) Rights-of-Way: The City may charge for the occupancy and use of the rights-of-way, so long as such rate is reasonable, nondiscriminatory, and does not exceed \$270.00 per year per small wireless facility.
- | (b) Collocation on City Structures: The City may charge for collocation of a small wireless facility on City structures, but any such rate shall be reasonable, nondiscriminatory, and recover no more than a reasonable approximation of the City's actual costs associated with such collocation, not to exceed \$50.00 per City structure per year.

- | (2) Payments. Payments of rates due shall be made to the City annually on or before January 30 for the preceding calendar year. Payment amounts shall be pro-rated for those facilities or structures that were in place for only part of the year. For purposes of calculating pro-rated rates, the rate payment obligation commences on the date work in the rights-of-way to install the small wireless facility or structure begins, and ends on the date when the facility and structure have been completely removed from the rights-of-way.

- | (3) Cease Payment. Effective 30 days after written notice to the City, a wireless provider may remove its facilities at any time from the rights-of-way and City structures in the rights-of-way and cease paying the City compensation as of the date of removal of the facilities.

| (4) Reports and audit.

- | (a) The City may require any licensed wireless provider to submit an annual report setting forth the number and location of its small wireless facilities and structures during the preceding year.
- | (b) The City shall have the right to audit a licensed wireless provider's records to determine the accuracy of its rate payments, and the City shall have the right to pursue all remedies available at law or equity to recover unpaid or underpaid rates.

2. That all ordinances or parts of ordinances in conflict are, to the extent of such conflict, repealed; and
3. That this Ordinance shall become effective immediately upon its adoption and publication as required by law.

ADOPTED THIS 20th DAY OF AUGUST, 2019.

Renee Eberly
City Clerk

The City Clerk of the City of Orange Beach, Alabama hereby certifies
that the foregoing **ORDINANCE 2019-xxxx**
was posted on _____ in the following three

(3) public places:

Orange Beach City Hall _____

Orange Beach Post Office _____

Orange Beach Public Library _____

Renee Eberly, City Clerk