

ORDINANCE 19-2417

**AN ORDINANCE TO AMEND THE MUNICIPAL CODE
OF THE CITY OF HOOVER, ALABAMA**

WHEREAS, the Federal Communications Commission has issued a Declaratory Order regarding the appropriate fees and placement of small cell facilities for all state and local governments and mandated new guidelines entitled “Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment” as published in the Federal Register/Vol. 83, No. 199 on October 15, 2018;

WHEREAS, as a result of this Order and established guidelines, municipalities across the United States are required to reexamine the fees paid in connection with a cellular provider’s use of the ROW to deploy small wireless facilities, including, but not limited to, fees for access to the ROW itself, and fees for the attachment or use of property within the ROW owned or controlled by the government (i.e. street lights, traffic lights, utility poles, and other infrastructure within the ROW suitable for their placement) and otherwise enact legislation complying with the changes to be effective by January 14, 2019;

WHEREAS, upon review of Ordinance 18-2378 and its subsequent amendment in Ordinance 18-2385, the City Council of City of Hoover determines that it is necessary to amend and restate it in its entirety “Article VI Small Cell Technology of the City of Hoover Municipal Code.”

BE IT ORDAINED, by the City Council of the City of Hoover, Alabama, in a regular meeting duly assembled, with a quorum being present that the Municipal Code of the City of Hoover, Appendix IV, Franchises, is hereby amended as follows:

SECTION 1. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 4 “Permitted Use: Application and Fees,” subsection d, as follows:

Delete the following:

4(d). An initial administrative fee of \$200.00 is assessed for each permit application submitted to place and operate facilities on the public right of way or on private property.

And replace with the following:

4(d). An initial administrative and permit issuance fee of \$500.00 is assessed for each permit application submitted to place and operate facilities in the public right of way or on private property. This fee shall include application and placement for up to 5 nodes, with an additional \$100 fee for each small wireless facility beyond five.

SECTION 2. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 4 “Permitted Use: Application and Fees,” subsection e, as follows:

Delete the following:

4(e). An initial permit issuance fee of \$100.00 is assessed per node/support structure for public right of way or placement on private property.

And replace with the following:

4(e). For placement of a new pole or support structure (i.e. not a collocation), a one-time fee of \$1,000 is assessed, and each new pole or support structure must be designed to support more than one node and its necessary equipment.

SECTION 3. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 4 “Permitted Use: Application and Fees,” subsection f, as follows:

Delete the following:

4(f). An annual license fee of \$ 500.00 is assessed per node in the public right of way.

And replace with the following:

4(f). An annual license fee of \$ 270.00 is assessed per node in the public right of way.

SECTION 4. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 4, Permitted Use: Application and Fees, subsection j, as follows:

Delete in its entirety:

4(k). *Escalation of fees.* On December 31 of each year, the annual license fee as provided in subsections d through f shall be adjusted and increased only for inflation, never a decrease, utilizing the Consumer Price Index for All Urban Consumers (CPI-U) for the Southeast region; U.S. City Average; All items, not seasonally adjusted, 1982–1984=100 reference base, unless otherwise determined by the City Council.

And replace with the following:

4(k). *Repealed.*

SECTION 3. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 8, Application Review; decisions; time-frames, subsection b, as follows:

Delete the following:

8(b). Notice of Deficient Application. Within 14 days after receiving an application, the City shall determine and notify the applicant by electronic mail to the email address provided in the application as to whether the application is complete. If an application is deemed incomplete, the city shall specifically identify the missing information. An application is deemed complete if the City does not provide notification to the applicant within 14 days; however, this does not otherwise prohibit the City from requesting additional information or clarification as to answers or documents provided.

And replace with the following:

8(b). Notice of Deficient Application. Within 10 days after receiving an application, the City shall determine and notify the applicant by electronic mail to the email address provided in the application as to whether the application is complete. If an application is deemed incomplete, the city shall specifically identify the missing information. An application is deemed complete if the City does not provide notification to the applicant within 10 days; however, this does not otherwise prohibit the City from requesting additional information or clarification as to answers or documents provided.

SECTION 4. Amend “ARTICLE VII - SMALL CELL FACILITIES REGULATIONS,” Section 9, Application Requirements and Process, subsection e (16), as follows:

Delete in its entirety:

9(e)(16). An application shall not be deemed complete until the Applicant has submitted all documents, information, forms and fees 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 30 calendar days after an application for permit is submitted, the City shall notify the applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request. If the City does not notify the applicant in writing that the application is incomplete within 30 days following its receipt, the application is deemed complete.

And replace with the following:

9(e)(16). An application shall not be deemed complete until the Applicant has submitted all documents, information, forms and fees 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 10 calendar days after an application for permit is submitted, the City shall notify the applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request. If the City does not notify the applicant in writing that the application is incomplete within 10 days following its receipt, the application is deemed complete.

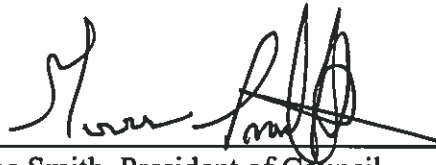
SECTION 5. Non-Applicability. The placement of an antenna(s), facilities or equipment related to the following types of wireless communication services are exempt from regulation under this ordinance: (a) amateur radio service that is licensed by the FCC if the facilities related thereto are not used 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 in this Chapter are not intended to alter, affect or modify the provisions in Article XII “Cable Television” and Article XIV “Telecommunications Regulations.”

SECTION 7. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Hoover, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

SECTION 8. 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 9. Effective Date. This ordinance shall become effective upon adoption and publication as provided by law.

ADOPTED this 7th day of January, 2019.



Gene Smith, President of Council

APPROVED:



Frank V. Brocato, Mayor

ATTEST:



Margie Handley, City Clerk