

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF PFLUGERVILLE, TEXAS, AMENDING THE CITY'S CODE OF ORDINANCES, CHAPTER 33 FINANCE AND TAXATION BY ADDING A NEW SECTION 32.23, TELECOMMUNICATION SERVICES TAX RELATING TO TAXATION OF TELECOMMUNICATIONS SERVICES; REPEALING THE APPLICATION OF THE EXEMPTION PROVIDED FOR IN SECTION 321.210 OF THE TEXAS TAX CODE; PROVIDING FOR NOTIFICATION TO THE COMPTROLLER OF THE STATE OF TEXAS; PROVIDING THAT NO SUCH TAX PROVIDED FOR HEREUNDER SHALL SERVE AS AN OFFSET TO OR TO REDUCE ANY AMOUNT PAYABLE BY ANY PROVIDER OF TELECOMMUNICATIONS SERVICES PURSUANT TO ANY FRANCHISE, STREET USE ORDINANCE, STATUTE OR ANY OTHER IMPOSITION OF THE CITY OF PFLUGERVILLE; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING FOR SAVINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Pflugerville is a Home Rule Municipality located in Travis County, Texas, created in accordance with the provisions of the Texas Local Government Code and operating pursuant to the enabling legislation of the State of Texas and the Pflugerville City Charter; and

**WHEREAS**, a tax is authorized pursuant to Section 321.203(g) (Consummation of Sale) of the Texas Tax Code on all telecommunications services sold within the City; and

**WHEREAS**, the City is permitted under Section 321.210 (Telecommunications Exception) of the Texas Tax Code to repeal the application of the exemption provided, effective on the date permitted by law; and

**WHEREAS**, the City Council has determined that such repeal is in the best interest of the City and its citizens.

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:**

**SECTION 1. INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

## **SECTION 2. FINDINGS**

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Pflugerville, Texas and of the public health, safety and welfare.

## **SECTION 3. AMENDMENTS**

3.01 That Chapter 33: **FINANCE AND TAXATION**; is hereby amended to add a new Section 32.32, Telecommunications Services Tax which shall read as follows:

### **“Section 32.32 Telecommunications Service Tax**

#### **Sec 32.32.001 Authorization of Tax.**

A tax is hereby authorized pursuant to Section 321.203(g) (Consummation of Sale) of the Texas Tax Code on all telecommunications services sold within the City. For purposes of this section, the sale of telecommunications service is consummated at the location of the telephone or other telecommunications device from which the call or other communication originates. If the point of origin cannot be determined, the sale is consummated at the address to which the call or other communication is billed.

#### **Sec 32.32.002 Repeal of Exemption.**

The application of the exemption provided for in Section 321.210 (Telecommunications Exception) of the Texas Tax Code is hereby repealed by the City, effective on the date permitted by law.

#### **Sec 32.32.003 Rate of Tax.**

The rate of tax imposed by this section is the same as the rate imposed by the City for all other local sales and use taxes as authorized by state law.”

## **SECTION 4. NOTICE TO COMPTROLLER**

The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered or Certified Mail a copy of this Ordinance along with a copy of the minutes of the City Council’s vote and discussion on this Ordinance.

## **SECTION 5. CUMULATIVE REPEALER CLAUSE**

All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution from violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior

to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

**SECTION 6. SAVING CLAUSE**

All rights and remedies of the City of Pflugerville, Texas are expressly saved as to any and all violations of this provision of any other ordinance affecting the City's Code of Ordinances, Chapter 33: **FINANCE AND TAXATION** which have secured at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances same shall not be affected by this Ordinance but maybe prosecuted until final disposition by the court.

**SECTION 7. SEVERABILITY**

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise applicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

**SECTION 8. ENGROSSMENT AND ENROLLMENT**

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

**SECTION 9. EFFECTIVE DATE**

This Ordinance shall become effective from and after its date of passage and publication in accordance with law.

READ by the City Council of the City of Pflugerville on the following days:

\_\_ day of \_\_\_\_\_, 2021

\_\_ day of \_\_\_\_\_, 2021

READ, PASSED, ADOPTED AND APPROVED by the City Council of the City of Pflugerville, Texas, this \_\_ day of \_\_\_\_\_, 2021.

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Victor Gonzales  
Mayor

ATTEST:

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Karen Thompson  
City Secretary

APPROVED AS TO FORM:

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Charles E. Zech, City Attorney

DENTON NAVARRO ROCHA BERNAL & ZECH, P.C.