

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

AN ORDINANCE OF THE CITY OF PFLUGERVILLE ADDING SECTION 11 WIRELESS SERVICES DESIGN FOR NETWORK NODES, NODE SUPPORT POLES AND TRANSFER FACILITIES TO THE 2014 ENGINEERING DESIGN MANUAL AND CONSTRUCTION STANDARDS, REPLACING ALL ENGINEERING AND CONSTRUCTION STANDARDS IN CONFLICT; CONTAINING A SAVINGS CLAUSE; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

WHEREAS, the 2014 Engineering Design Manual and Construction Standards were adopted by City Council of the City of Pflugerville on February 24, 2015 by Ordinance No. 1206-15-02-24, and revised by the City Council of the City of Pflugerville, Texas, by Ordinance No. 1290-16-11-22; and

WHEREAS, the City Council has determined that the adoption of a right-of-way management ordinance will comply with and promote the regulations in Chapter 283 of the Texas Local Government Code pertaining to Certificated Telecommunications Providers as well as the Texas Utilities Code; and

WHEREAS, the Texas State Legislature has enacted S.B. No. 1004 relating to the deployment of network nodes in the public right-of-way and has amended Subtitle A, Title 9, Local Government Code by adding Chapter 284; and

WHEREAS, as expressly allowed Section 284.108 by Chapter 284 and pursuant to its police power authority reserved in Sec. 284.301 of Chapter 284, the City has drafted the Wireless Services Design for Network Nodes, Node Support Poles and Transfer Facilities as part of the Engineering Design Manual in order to give assistance and guidance to wireless telecommunications network providers to assist such companies in the timely, efficient, safe and complaint installation of technologically competitive equipment; and

WHEREAS, the City Council desires to regulate the installation of network nodes, node support poles, and transfer facilities pursuant to Chapter 284 in a way that is fair, reasonable and nondiscriminatory; and

WHEREAS, Section II of Ordinance No. 1206-15-02-24 directed the City Engineer to review the Engineering Design Manual and Construction Standards from time to time, and to recommend such revisions as are necessary to account for changing conditions, and updated technical standards for the development of public infrastructure, and administration of the Engineering Design Manual and Construction Standards; and

WHEREAS, the City Council recognizes the proposed addition to the Engineering Design Manual and Construction Standards will provide for enhanced public health protection; and

WHEREAS, the City Council finds that there is a public necessity for the addition of the Wireless Services Design section to the Engineering Design Manual and Construction Standards; and

WHEREAS, the City Council finds that the adoption of the proposed amendments to the Engineering Design Manual and Construction Standards promotes the health, safety, and general welfare of the citizens of Pflugerville and facilitates the implementation of adequate provisions regarding right-of-way.

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

**SECTION I. Incorporation of Recitals**

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes

**SECTION II. Adoption**

Adding Section 11 of the Engineering Design Manual and Construction Standards is hereby amended as set forth in **Exhibit “A,”** which is attached hereto and incorporated herein by reference for all purposes.

**SECTION III. Ongoing Projects**

Any project for which a complete development application and/or a right-of-way permit application has been accepted and permitted by the City before the effective date of this Ordinance may proceed pursuant to the 2014 Engineering Design Manual and Construction Standards adopted as Ordinance No. 1206-15-02-24, and the revision of the Engineering Design Manual and Construction Standards adopted as Ordinance No. 1290-16-11-22 and any specific requirements contained in the application or permit approval unless the permit expires or the applicant elects to subject the project to requirements of this Ordinance. Any project for which a permit has not been issued by the City before the effective date of this ordinance shall adhere to the standards set forth in this Ordinance.

**SECTION IV. Conflicts and Savings**

That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and that the Code of Ordinances of the City of Pflugerville, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V. Severability**

If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

**SECTION VI. Publication of Engineering Design Manual and Construction Standards**

The publishers of the City Code of Pflugerville, Texas are authorized to publish this addition to the Engineering Design Manual and Construction Standards of Pflugerville, Texas, to include Wireless Services Design for Network Nodes, Node Support Poles and Transfer Facilities, format and number paragraphs to conform to the existing City Code.

**SECTION VII. Effective Date.**

This Ordinance will take effect immediately upon its adoption by the City Council and publication as required by law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF PFLUGERVILLE, TEXAS

By: \_\_\_\_\_  
Victor Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Karen Thompson, City Secretary

APPROVED AS TO FORM:

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Charles E. Zech, City Attorney  
DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C.

## **EXHIBIT A**