

CITY OF COCKRELL HILL, TEXAS

ORDINANCE NO. 2018-05232018 O-PH

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS, REPEALING THE APPLICATION OF THE EXEMPTION FROM LOCAL SALES AND USE TAXES ON RECEIPTS FROM THE SALE OF TELECOMMUNICATION SERVICES WITHIN THE CITY OF COCKRELL HILL, TEXAS, AS PROVIDED IN SECTION 321.210 OF THE TEXAS TAX CODE, AS AMENDED; AMENDING THE CODE OF ORDINANCES OF THE CITY OF COCKRELL HILL, TEXAS, BY ADDING A NEW CHAPTER 117, "TELECOMMUNICATIONS SERVICES TAX," AND IMPOSING A LOCAL SALES AND USE TAX ON THE RECEIPTS FROM THE SALE OF TELECOMMUNICATIONS SERVICES WITHIN THE CITY OF COCKRELL HILL, TEXAS; 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, CHARTER PROVISION, STATUTE, OR ANY OTHER IMPOSITION OF THE CITY OF COCKRELL HILL, TEXAS; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 321.210 of the Texas Tax Code provides the authority for the City of Cockrell Hill, Texas ("City"), to repeal the application of the exemption from local sales and use taxes on receipts from the sale of telecommunications services within the City; and

WHEREAS, the repeal of the application of the exemption would allow the City to impose a tax on the receipts from the sale of telecommunications services within the City; and

WHEREAS, the City Council finds that the repeal of the application of the exemption and the imposition of a tax on the receipts from the sale of telecommunications within the City is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS, THAT:

SECTION 1

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2

The application of the exemption provided for in Section 321.210 of the Texas Tax Code is hereby repealed by the City Council as authorized by Section 321.210 of the Texas Tax Code.

SECTION 3

TITLE XI, "Business Regulations," of the City's Code of Ordinances is hereby amended by adding a new Chapter 117, "Telecommunications Services Tax," to read as follows:

"Chapter 117 TELECOMMUNICATIONS SERVICES TAX

Section

- 117.01 Authority to levy
- 117.02 Rate of tax
- 117.03 Notice to Comptroller

§ 117.01 AUTHORITY TO LEVY.

A tax is hereby authorized and imposed on all receipts from the sale of telecommunications services within the city, as is provided for by state law. For purposes of this section, the sale of telecommunications services 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.

§ 117.02 RATE OF TAX.

The rate of tax imposed by this section shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the legislature of the State of Texas.

§ 117.03 NOTICE TO COMPTROLLER.

The City Administrator shall forward to the Comptroller of the State of Texas by certified or registered mail a copy of this Ordinance along with a copy of the minutes of the City Council's vote and discussion regarding this Ordinance."

SECTION 4

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for 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 ordinances shall remain in full force and effect. Further, the tax provided for hereunder shall not serve as an offset to, be in lieu of or in any way reduce any amount payable to the City pursuant to any franchise, street use ordinance, charter provision, statute, or without limitation by the

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foregoing enumeration, otherwise payable by any provider of telecommunications service; it being the express intent hereof that all such obligations, impositions, and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

SECTION 5

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional.

SECTION 6

This Ordinance shall take effect and be in full force from and after its passage.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS ON THIS 23rd DAY OF MAY, 2018.

APPROVED:



Luis D. Carrera, Mayor

ATTEST:



Bret Haney, City Administrator

APPROVED AS TO FORM AND LEGALITY:



Robert F. Brown, City Attorney

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