

ORDINANCE NO. 2008-02

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, BY ADDING THERETO A NEW CHAPTER 25, "ELECTIONS," ARTICLE I, "POLITICAL CONTRIBUTIONS"; LIMITING POLITICAL CONTRIBUTIONS TO CANDIDATES AND OFFICERS OF THE CITY; LIMITING POLITICAL CONTRIBUTIONS FOR CERTAIN MEASURES; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$500 FOR VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SAVINGS AND SEVERABILITY; PROVIDING FOR PUBLICATION; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

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WHEREAS, the City Council of the City of Tomball believes that a position in government is a position of public trust that demands a high standard of behavior; and

WHEREAS, the City seeks to promote integrity, honesty, and ethical conduct in all activities undertaken by the City's officials; and

WHEREAS, the City desire to prevent corruption or the appearance of corruption in the conduct of government by the City; and

WHEREAS, the average total contribution to candidates for city elective office in 2006 and 2007 was approximately \$8,250; and

WHEREAS, in 2006 and 2007, approximately five percent of the contributors to a candidate contributed more than \$1,000; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding thereto a new Chapter 25, "Elections," Article I, "Political Contributions" that shall provide as follows:

“CHAPTER 25

ELECTIONS

Article 1. Political Contributions

Sec. 25-1. Definitions.

“Candidate” means a person who has taken affirmative action, as described by the law regulating political funds and campaigns, for the purpose of gaining election to a municipal office.

“Contribution” means a direct or indirect transfer of money, goods, services, or any other thing of value and includes an agreement made or other obligation incurred, whether legally enforceable or not, to make a transfer. The term includes a loan or extension of credit, or a guarantee of a loan or extension of credit, other than a loan made in the due course of business by a corporation that is legally engaged in the business of lending money and that has conducted the business continuously for more than one year before the loan is made.

“Election” means an initial general or special election to select a person for a municipal office, and includes a runoff election, if any, associated therewith.

“Measure” means a question or proposition submitted in a city election for an expression of the voter’s will.

“Political Committee” means a group of persons that has a principle purpose of accepting political contributions or making political expenditures with regard to a measure.

“Political Contribution” means a contribution to a candidate or political committee that is offered or given with the intent that it be used in connection with a campaign for a city elective office or a city measure.

Sec. 25-2. Limitation on total contributions by individual.

(a) It shall be unlawful for any person to make a political contribution to a candidate that in the aggregate exceeds \$1,000 per election.

(b) It shall be unlawful for any person to make a political contribution to a political committee that in the aggregate exceeds \$1,000 per election.

(c) No candidate for Mayor or City Council, or any member of his or her campaign committee, shall accept a campaign contribution in excess of \$1,000 per election from any person, except the candidate.

(d) No political committee shall accept a campaign contribution in excess of \$1,000 per election from any person.

Sec. 25-3. Contribution limits indexed.

The amount of the contribution limit shall be modified each year with the adoption of the City Budget to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Averages) U.S. City Average.

Sec. 25-4. Contributions by minors.

Any contribution from a minor child shall be deemed a contribution from the child's parent(s) and/or legal guardian(s).

Sec. 25-5. No contributions at City Hall.

It shall be unlawful for any person to deliver a contribution to a candidate at the City Hall. It is a defense to prosecution that the delivery was made by the United States Postal Service or other commercial delivery service or common carrier.

Sec. 25-6. Exceptions and other defenses.

Nothing in this article applies to the solicitation, acceptance, or use of contributions for:

- (1) defending a pending criminal action or prosecuting or defending a pending civil action brought by or against a person in the person's status as a candidate or officeholder; or
- (2) participating in an election contest or participating in a civil action to determine a person's eligibility."

Section 3. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed

each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 5. Any person, firm or corporation that knowingly violates any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tomball, Texas, and, upon conviction, shall be punished by a fine not to exceed five hundred (\$500.00) dollars for each offense.

Section 6. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's home rule Charter.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 4TH DAY OF FEBRUARY 2008.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>NAY</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF FEBRUARY 2008.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>NAY</u>
COUNCILMAN HARVEY	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

(signed) Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

(signed) Doris Speer
Doris Speer, City Secretary