

ORDINANCE NO. 2009-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 74, TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW ARTICLE V. ENTITLED “CHARITABLE ORGANIZATION EXEMPTION”; PROVIDING A PROPERTY TAX EXEMPTION FOR QUALIFIED CHARITABLE ORGANIZATIONS ENGAGED PRIMARILY IN PERFORMING RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL FUNCTIONS; REQUIRING A DETERMINATION LETTER FROM THE STATE COMPTROLLER’S OFFICE FINDING THE ORGANIZATION IS ENGAGED PRIMARILY IN PERFORMING RELIGIOUS, CHARITABLE, SCIENTIFIC, LITERARY, OR EDUCATIONAL FUNCTIONS; PROVIDING A FIVE (5) YEAR TERM FOR THE PROPERTY TAX EXEMPTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 11.184 of the Texas Tax Code authorizes the City of Tomball, Texas, to provide for a property tax exemption for charitable organizations engaged primarily in performing religious, charitable, scientific, literary, or educational functions;

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

Section 1. That Chapter 74, Taxation, of the Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding a new Article V., Section 74-75, which shall read as follows:

“ARTICLE V. CHARITABLE ORGANIZATION EXEMPTION

Sec. 74-75. Charitable organization exemption.

(a) Definitions.

(1) *Local charitable organization* means an organization that:

(A) is a chapter, subsidiary, or branch of a statewide charitable organization; and

(B) with respect to its activities in this state, is engaged primarily in

performing religious, charitable, scientific, literary, or educational functions as defined in Section 11.18(d) of the Texas Tax Code, as amended.

- (2) *Qualified charitable organization* means a statewide charitable organization or a local charitable organization.
- (3) *Statewide charitable organization* means a statewide organization that, with respect to its activities in this state, is engaged primarily in performing religious, charitable, scientific, literary, or educational functions as defined in Section 11.18(d) of the Texas Tax Code, as amended.

(b) **Exemption.** A qualified charitable organization is entitled to an exemption from taxation of:

- (1) the buildings and other real property and the tangible personal property that:
 - (A) are owned by the organization; and
 - (B) except as permitted by Subsection (c) of this Section, are used exclusively by the organization and other organizations eligible for an exemption from taxation under Sections 11.18 or 11.184 of the Texas Tax Code, as amended; and
- (2) the real property owned by the organization consisting of:
 - (A) an incomplete improvement, as defined by Section 11.184(j) of the Texas Tax Code, that:
 - (i) is under active construction or other physical preparation; and
 - (ii) is designed and intended to be used exclusively by the organization and other organizations eligible for an exemption from taxation under Sections 11.18 or 11.184 of the Texas Tax Code, as amended; and
 - (B) the land on which the incomplete improvement is located that will be reasonably necessary for the use of the improvement by the organization and other organizations eligible for an exemption from taxation under Sections 11.18 or 11.184 of the Texas Tax Code, as amended.

- (c) **Incidental use of property.** Use of exempt property by persons who are not charitable organizations eligible for an exemption from taxation under Sections 11.18 or 11.184 of the Texas Tax Code does not result in the loss of an exemption authorized by this section if the use is incidental to use by those charitable organizations and limited to activities that benefit the charitable organization that owns or uses the property.
- (d) **State comptroller's determination letter.** An organization applying for an exemption under this section must receive from the State Comptroller's office, and submit to the City a copy of the State Comptroller's office determination letter finding the organization is engaged primarily in performing functions listed in Section 11.18(d) of the Texas Tax Code.
- (e) **Term of exemption.** An exemption under this section expires at the end of the fifth (5th) tax year after the year in which the exemption is granted. To continue to receive an exemption under this section after that year, the organization must obtain a new determination letter and reapply for the exemption."

Section 2. In the event any section, paragraph, subdivision, 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, or whether there be one or more parts.

Section 3. This Ordinance shall become effective upon final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law.

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 5TH DAY OF JANUARY 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</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 2ND DAY OF FEBRUARY 2009.

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

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary