

**ORDINANCE NO. 2009-17**

**AN ORDINANCE AMENDING ARTICLE IV. SALES AND USE TAX, OF CHAPTER 74. TAXATION, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY THE ADDITION OF A NEW SECTION 74-75 "REPEAL OF TELECOMMUNICATIONS SALES TAX EXEMPTION"; MAKING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND MAKING OTHER PROVISIONS RELATED THERETO.**

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WHEREAS, the City Council of the City of Tomball ("City") seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, section 321.210 of the Texas Tax Code exempts from municipal sales taxes sales within a municipality of telecommunications services unless the application of the exemption is repealed; and

WHEREAS, the Tax Code permits the governing body of a municipality by ordinance adopted by a majority vote and in the manner required for the adoption of other ordinances to repeal the application of the sales tax exemption for telecommunications services sold within the municipality; and

WHEREAS, the Council finds that a repeal of the telecommunications sales tax exemption as described by section 321.210 of the Tax Code is in the best interest of the health, safety and welfare of its citizens; now, therefore,

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

Section 1. Article IV. Sales and Use Tax, of Chapter 74. Taxation, of the Code of Ordinances of the City of Tomball, Texas, is amended by the addition of a new section 74-75 that shall read as follows:

**“Sec. 74-75. Repeal of telecommunications sales tax exemption.**

Pursuant to section 321.210 of the Texas Tax Code, the City repeals the exemption of telecommunications services from the City's sales and use tax.”

Section 2. All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

Section 3. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this Ordinance shall be enforced as written.

Section 4. The City Secretary is hereby authorized and directed to send to the Comptroller for the State of Texas by United States certified or registered mail a copy of this ordinance.

Section 5. This Ordinance shall take effect immediately upon its passage.

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 15TH DAY OF JUNE 2009.

COUNCILMAN QUINN	<u>ABSENT</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>NAY</u>
COUNCILMAN DRIVER	<u>AYE</u>
MAYOR FAGAN	<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 6TH DAY OF JULY 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

**ATTEST:**

**APPROVED:**

Doris Speer  
Doris Speer, **City Secretary**

Gretchen Fagan  
Gretchen Fagan, **Mayor**

APPROVED AS TO FORM:

Scott Bounds  
Scott Bounds, **City Attorney**