

**ORDINANCE NO. 2010-21**

**AN ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADDING A NEW SECTION 74-32, ESTABLISHING PROCEDURES FOR THE MANAGEMENT AND ADMINISTRATION OF REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX, DETERMINING THAT THE CITY COUNCIL OF THE CITY OF TOMBALL SHALL MAINTAIN CONTROL OVER REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX, AND ESTABLISHING THE TOURISM ADVISORY COMMITTEE TO CONSIDER AND REVIEW ALL REQUESTS FOR THE FUNDING OF ACTIVITIES WITH REVENUE GENERATED BY THE HOTEL OCCUPANCY TAX; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, on April 7, 2003, the City of Tomball did adopt Ordinance No. 2003-04 levying a hotel occupancy tax to become effective on May 1, 2003, which was later amended on November 6, 2006 by the adoption of Ordinance No. 2006-16; and

**WHEREAS**, the City Council of the City of Tomball has determined that it is in the best interest of the City of Tomball to establish a procedure and plan for the management and administration of the revenue generated by the hotel occupancy tax; **NOW, THEREFORE,**

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

**THAT:**

**Section 1.** All of the matters heretofore set forth in the preamble are true and correct and are incorporated in this ordinance.

**Section 2.** Article II, “**HOTEL OCCUPANCY TAX,**” of Chapter 74 of the Code of Ordinances of the City of Tomball, Texas, is amended by adding a new Section 74-32, “Management and administration,” which shall read as follows:

**“Section 74-32. Management and administration.**

(a) All revenue generated by the hotel occupancy tax shall be held by the City in a separate account established for that purpose and shall not be co-mingled with any other money or maintained in any other account.

(b) Revenue derived from the hotel occupancy tax shall be expended in a manner that directly enhances and promotes tourism and the convention and hotel industry. Revenue generated by the hotel occupancy tax shall not be used for general revenue purposes or to pay for governmental expenses that are not directly related to increasing tourism or promoting the convention and hotel business.

(c) As authorized by Section 351.101(c) of the Texas Tax Code, the City Council by contract may delegate to a person, including another governmental entity or private organization, the management or supervision of programs and activities funded with revenue from the hotel occupancy tax; otherwise, the City Council retains administrative control over the revenue generated by the hotel occupancy tax and retains supervision of programs and activities funded with such revenue.

(d) The Tourism Advisory Committee (the “Committee”) is created. The Committee shall recommend to City Council those activities, programs, events and policies that will best promote tourism and the convention and hotel industry within the City of Tomball. Such activities, programs, events and policies, if approved by City Council, would be funded all or in part by revenue generated by the hotel occupancy tax adopted by the City of Tomball pursuant to the provisions of Chapter 351 of the Texas Tax Code. The Committee shall be organized under the following terms and conditions:

1. The Committee shall consist of nine members who shall be recommended by the Mayor and approved by City Council to serve three-year staggered terms. The initial term for positions 1, 4 and 7 will be 1 year; positions 2, 5, and 8 will be 2 years; and positions 3, 6 and 9 will be 3 years. Members serve at the will and pleasure of the City Council, and may be removed without cause at any time by a majority vote of Council. Members will become ineligible to serve if such member fails to meet one of the qualifications as described in item 7 below. Unless a member is removed, becomes ineligible, or resigns, such member will continue to serve until a new member has been recommended by the Mayor and approved by City Council. The Mayor shall designate a Chairperson from among the appointees who shall preside over all meetings. The Chair shall retain the right to vote and make motions as a member of the Committee. Any vacancies shall be filled by recommendation of the Mayor with Council approval.
2. The Committee shall meet at least once quarterly during a fiscal year. The Committee may meet in special session upon call by the Chair, Vice Chair, or the City Manager. Meetings shall be held in Council Chambers, or such other public place as approved by the Committee. Notice of every meeting of the

Committee shall be posted in accordance with the Texas Open Meetings Act (Chapter 551 of the Government Code). The Committee shall elect a Vice-Chair at its first meeting. The Vice-Chair shall preside over meetings when the Chair is unable to attend. The City Secretary, or the City Secretary's designee, shall review and maintain the minutes of Committee meetings and shall sign minutes of meetings with the Chair or Vice-Chair once approved by the majority of the Committee.

3. The Committee may adopt other rules and regulations for the conduct of its meetings. The Chair of the Committee shall present any recommendations from the Committee to the City Council.
4. The City Manager, or the City Manager's designee, is an ex-officio (non-voting) member of the Committee.
5. The Committee shall promulgate forms for use by persons or entities requesting hotel occupancy tax funds for use in qualifying events or projects. In addition to furnishing other information that may be required, such forms shall require the applicant to state in writing how the requested expenditure will enhance and promote tourism and the convention and hotel industry in the City of Tomball.
6. The Committee shall use its best efforts to study proposed use of funds generated by the hotel occupancy tax and shall recommend allocation of all funds as required by Texas Tax Code Section 351.103. From time to time, the Committee shall recommend activities, events, and programs to the City Council that will best promote the City of Tomball as a convention site and tourist destination. To assist it in achieving its goals, the Committee may communicate with other cities and examine their policies and practices regarding conventions and tourism. Members of the Committee may attend workshops and studies created for the purpose of assisting cities develop convention and visitor incentives.
7. Members of the Committee shall possess at least one of the following qualifications:
  - a. Positions 1, 2 and 3 must reside within the city limits of the City of Tomball, provided, however, that no more than three Committee members qualify may solely under this subsection;
  - b. Positions 4, 5 and 6 must work for, own, or be an officer or director of a business, other than a hotel or motel, with business locations within the city limits of the City of Tomball, provided, however, that no more than three Committee members may qualify solely under this subsection;

- c. Positions 7, 8 and 9 must work for, own, or be an officer of a hotel or motel located in the city limits of the City of Tomball, who may either be a resident or non resident of the City of Tomball, provided, however, that no more than three Committee members may qualify solely under this subsection.
- 8. No member, or an organization or entity for which a member has an ownership interest or is serving on the board of such organization or entity, shall be eligible for hotel occupancy tax financial assistance for any activities, programs, or events, during the term of such member or for a period of two years after the end of that member's term. No person shall be eligible to serve on the Committee who has a spouse, child or stepchild who owns or is employed by or is serving on the board of any organization or entity which is applying for or may apply for hotel occupancy tax financial assistance for any activities, program, or events.
- 9. A majority of the Committee members shall constitute a quorum. Once a request for hotel occupancy tax financial assistance has been filed, the Committee shall indicate in a written report to City Council whether it does or does not recommend the request within sixty (60) days. The report shall also describe how the request complies with any one or more of the statutory categories for expenditures set out in Section 351.101 (a) (1) – (8) of the Texas Tax Code. A copy of the request accompanied by the report of the Committee shall be delivered to City Council for a determination on whether the project is related to the promotion of tourism and the convention and hotel industry within the city limits of the City of Tomball. City Council shall not be bound by the recommendation of the Committee in determining whether the project should be approved.

(e) Each budget year, City Council shall allocate funds for use by the Committee as a line item in the following fiscal year based upon anticipated administrative costs and estimated costs for Committee member education and other matters. Any expenditure of funds by members of the Committee must be authorized in writing in advance by the City Manager. Any member receiving funds under this paragraph shall keep records of any and all expenditures and shall deliver copies of such records supported by receipts or invoices to the City Manager.

**Section 3.** 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 4.** This Ordinance shall become effective immediately upon its adoption.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 18TH DAY OF OCTOBER, 2010.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 1ST DAY OF NOVEMBER 2010.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>NAY</u>
COUNCILMAN DODSON	<u>AYE</u>

Gretchen Fagan  
GRETCHEN FAGAN, MAYOR  
City of Tomball

ATTEST:

Doris Speer  
DORIS SPEER, City Secretary  
City of Tomball