

**CITY OF SEABROOK
ORDINANCE NO. 2016-12**

ORDINANCE CONTINUING TAXATION ON GOODS IN TRANSIT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEABROOK, TEXAS, TO TAX TANGIBLE PERSONAL PROPERTY IN TRANSIT WHICH WOULD OTHERWISE BE EXEMPT PURSUANT TO TEXAS TAX CODE, BY AMENDING CHAPTER 85, "TAXATION AND FINANCE", ARTICLE IV, "SALES TAX", SECTION 85-113 "TAXATION OF SUPER FREEPORT GOODS, (GOODS IN TRANSIT)," TO REAFFIRM THE CONTINUATION OF TAXATION ON GOODS IN TRANSIT BY RECODIFYING THE UPDATED TEXT OF SUCH PROVISION TO A NEW TITLE IN THE SAME CHAPTER UNDER ARTICLE I, "IN GENERAL" SECTION 85-1, "TAXATION ON GOODS IN TRANSIT"; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$500 OR AS OTHERWISE PROVIDED BY LAW FOR VIOLATION OF ANY PROVISION HEREOF BY INCLUSION INTO THE CODE OF ORDINANCES; PROVIDING FOR NOTICE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES INCONSISTENT OR IN CONFLICT HEREWITH; AND PROVIDING FOR SEVERABILITY.

WHEREAS, on December 4, 2007, the City Council of Seabrook, Texas, adopted Ordinance No. 2007-31 which adopted and enacted Section 85-113, "Taxation of Super Freeport Goods (Goods in Transit)" pursuant to HB 621, that provided that a municipality may provide for continued taxation of goods in transit which would otherwise be exempt from taxation under that legislation; and

WHEREAS, the 82nd Texas Legislature in its first Special Session enacted Senate Bill 1, to take effect on September 1, 2011, which amends Texas Tax Code Section 11.253; and

WHEREAS, Texas Tax Code Section 11.253(j-1) as amended allows the governing body of a taxing unit, after conducting a public hearing, to provide for the continued taxation of such goods-in-transit if it takes official action before January 1 of the first tax year in which the governing body proposes to tax goods-in-transit; and

WHEREAS, the City Council, after determining all legal requirements of notice have been met and having conducted a public hearing as required by Section 1-n(d), Article VIII, Texas Constitution, is of the opinion that it is in the best interest of the City to continue to tax such goods-in-transit as provided by Texas Tax Code 11.253; and

WHEREAS, Section 2.11(b) of the Seabrook City Charter provides that ordinances relating to taxes do not require two readings, as referenced therein;

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

Section 1. That the City Council of the City of Seabrook adopts the preceding preamble paragraphs as if repeated verbatim herein and finds them as matters of fact.

Section 2. That goods-in-transit, as defined by Texas Tax Code Section 11.253(a)(2), as amended by Senate Bill 1 enacted by the 82nd Texas Legislature in its first Special Session, shall remain subject to taxation by the City of Seabrook, Texas.

Section 3. That the Code of Ordinances of the City of Seabrook, Chapter 85, "Taxation and Finance", Article IV, "Sales Tax", Section 85- 113, "Taxation of Super Freeport Goods. (Goods in Transit)" is amended by recodifying the updated text of such provisions under a new title in the same Chapter in Article I, "In General" Section 85-1, "Taxation on Goods in Transit" as follows:

~~"[Section 85- 113. Taxation of Super Freeport Goods. (Goods in Transit)~~

~~Goods in transit, as provided for in HB 621(Tax Code § 11. 253)shall remain subject to taxation until the Seabrook City Council rescinds or repeals this Ordinance, or otherwise determines that an exemption should apply as provided by law.]"~~

"Section 85-1. Taxation on Goods in Transit.

(a) Definitions. The following terms have the same meaning as defined in section 11.253 of the Texas Tax Code, as amended.

(1) The terms "Dealer's motor vehicle inventory," "dealer's vessel and outboard motor inventory," "dealer's heavy equipment inventory," and "retail manufactured housing inventory" have the meanings assigned by Subchapter B, Chapter 23 of the Texas Tax Code, as amended.

(2) The term "Goods-in-transit" is defined to mean tangible personal property that:

(A) is acquired in or imported into this state to be forwarded to another location in this state or outside this state;

(B) is detained at a location in this state in which the owner of the property does not have a direct or indirect ownership interest for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property;

(C) is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and

(D) does not include oil, natural gas, petroleum products, aircraft, dealer's motor vehicle inventory, dealer's vessel and outboard motor inventory, dealer's heavy equipment inventory, or retail manufactured housing inventory.

(3) The term "Location" means a physical address.

(4) The term "Petroleum product" means a liquid or gaseous material that is an immediate derivative of the refining of oil or natural gas.

(b) A person is not entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit. A person's property consisting of goods-in-transit is hereby subject to ad valorem taxation pursuant to Section 11.253 of the Texas Tax Code, as amended."

Section 4. INCORPORATION INTO THE CODE; PENALTY CLAUSE.

This Ordinance is hereby incorporated and made a part of the Seabrook City Code. Violation of this Ordinance is subject to the penalty section of said Code of Ordinances, Section 1-15 "General penalty; continuing violations" which provides that any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500. Each day of violation shall constitute a separate offense.

Section 5. REPEAL OF CONFLICTING ORDINANCES.

In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances 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 of provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Seabrook, 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 6. NOTICE.

The City Secretary shall give notice of the enactment of this Ordinance by promptly publishing it or its descriptive caption and penalty after final passage in the official newspaper of the City; the Ordinance to take effect upon publication.

PASSED AND APPROVED on first and final reading this the 4th day of April, 2016.

By: _____
Glenn Royal
Mayor

ATTEST:

By: _____
Robin Hicks, TRMC
City Secretary

APPROVED AS TO FORM:

Steven L. Weathered
City Attorney