

ORDINANCE NO. 2024 - XX

AN ORDINANCE AMENDING CHAPTER 122 – TAXATION - OF THE CODE OF ORDINANCES BY ADDING AN EXEMPTION FROM AD VALOREM TAXES FOR QUALIFYING CHILD-CARE FACILITY PROPERTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, Texas Tax Code Section 11.36, as added by S.B. 1145 of the 88th Texas Legislature regular session (2023), authorizes a municipality to adopt an exception from ad valorem property taxes on all or part of the appraised value of real property, or a portion thereof, for businesses operating as a qualifying child-care facility; and

WHEREAS, an exemption as described above, of 100 percent (100%) of the appraised value of all or a portion of real property used to operate a qualifying child-care facility is in the public interest; and

WHEREAS, providing tax incentives for child-care providers in New Braunfels may benefit families who may be forced to choose between working full-time or staying home to save on childcare costs; and

WHEREAS, providing tax incentives for child-care providers in New Braunfels may also benefit employers whose workforce can focus on their attendance and career advancement, instead of missing work when their children cannot be looked after.

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

SECTION 1: Amendment

That Chapter 122, Article V, of the New Braunfels Code of Ordinances is hereby amended with additions as underlined and deletions as stricken:

ARTICLE V. ~~RESERVED~~ CHILD-CARE FACILITIES

Sec. 122-121. - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Child-care facility means a facility licensed by the Health and Human Services Commission to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

Qualifying child-care facility means a child-care facility: the owner or operator of which participates in the Texas Workforce Commission's Texas Rising Start Program as described by Texas Government Code Section 2308.3155 for that facility; and at which at least 20 percent of the total number of children enrolled at the facility receive subsidized child-care services provided through the child-care services program administered by the Texas Workforce Commission.

Sec. 122-122. - Exemption

(a) Subject to subsection (b), a qualifying child-care facility is eligible for exemption from taxation by the City of 100 percent of the appraised value of:

(1) the real property owned and operated as a qualifying child-care facility; or
(2) the portion of the real property that is leased to a person who uses the property to operate a qualifying child-care facility.

(b) To qualify for the exemption authorized in subsection (a), the property for which the exemption is to apply must:

(1) except as provided in subsection (c), be used exclusively to provide developmental and educational services for children attending the child-care facility; and
(2) reasonably necessary for the operation of the child-care facility.

(c) The use of exempt property for functions other than providing developmental and educational services for children attending the child-care facility located on the property does not result in the loss of an exemption authorized by this section if those other functions are incidental to the use of the property for providing those services to those children and benefit those children or the staff and faculty of the facility.

(d) A person who claims an exemption under subsection (a)(2) must include with the application for the exemption an affidavit certifying to the chief appraiser for the appraisal district that appraises the property that is the subject to the application that:

(1) the person has provided to the child-care facility to which the property is leased a disclosure document stating the amount by which the taxes on the property are reduced as a result of the exemption and the method the person will implement to ensure that the rent charged for the lease of the property fully reflects that reduction;

(2) the rent charged for the lease of the property reflects the reduction in the amount of taxes on the property resulting from the exemption through a monthly or annual credit against the rent; and

(3) the person does not charge rent for the lease of the property that exceeds:

(A) for the property that consists of space in a commercial property, the rent charged by the person to other tenants of the commercial property for similar space; or

(B) for property other than the property described in (A), the average rent charged for comparable rental property.

(e) Notwithstanding any other provision of this section, a person may not claim the exemption under subsection (a)(2) for:

(1) property on which the person also claims a residence homestead exemption under Texas Tax Code Section 11.13; or

(2) any part of which is leased by the person to another person for use as a principal residence.

~~Sees. 122-121 – 122-124.~~ Secs. 122-123 – 122-124. Reserved.

SECTION 2: Repealer

All provisions of the New Braunfels Code of Ordinances, or other ordinances, whether codified or uncodified, in conflict with the provisions of this ordinance are hereby repealed, and all other

provisions of the Code of Ordinances or other ordinances, codified or uncodified, not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3: Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence or section of this ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such constitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this ordinance.

SECTION 4: Savings Clause

The repeal of any ordinance or part of ordinances effectuated by the enactment of this ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

SECTION 5: Effective Date

This ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels, with exemptions under this ordinance applying beginning with the tax year 2025.

PASSED AND APPROVED: First reading this the 14th day of October, 2024.

PASSED AND APPROVED: Second reading this the 28th day of October, 2024.

CITY OF NEW BRAUNFELS

Neil Linnartz, Mayor

ATTEST:

Gayle Wilkinson, City Secretary

APPROVED AS TO FORM:

VALERIA M. ACEVEDO, City Attorney