

**ORDINANCE NO. 2017-20**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADDING LANGUAGE TO SECTION 40-65, STREETS; SPECIFIC STANDARDS, OF ARTICLE III, DESIGN STANDARDS, OF CHAPTER 40, SUBDIVISIONS, ALLOWING FOR THE PAYMENT OF A FEE IN LIEU OF THE CONSTRUCTION OF SIDEWALKS AT THE CITY MANAGER OR DESIGNEE'S DISCRETION; PROVIDING FOR AN APPEAL TO THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION HEREOF, WITH EACH DAY CONSTITUTING A NEW VIOLATION; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER MATTERS.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Tomball, Texas has determined that it is in the best interest of the health, safety and welfare of its citizens to amend its subdivision regulations to allow the payment of a fee in lieu of sidewalks at the discretion of the City Manager or designee and to allow an appeal of such decision to the City Council;

**WHEREAS**, the City Council desires to amend its subdivision regulations in accordance with the terms and provisions of this ordinance; now, therefore,

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

**Section 1.** The facts and matters set out in the preamble to this ordinance are hereby found to be true and correct.

**Section 2.** The Code of Ordinances of the City of Tomball, Texas is hereby amended by amending Section 4.-65, Streets; Specific Standards, of Article III, Design Standards, of Chapter 40, Subdivisions, to add the language underscored below and delete the language struck through below:

**“Sec. 40-65. - Streets; specific standards.**

(a) *Location and alignment.* The location and alignment of public streets proposed to be dedicated and established within a subdivision plat shall be designed in conformance with the standards listed in section 40-63.

(b) *Right-of-way width, widening.* The width of the right-of-way to be dedicated for any street shall be as follows:

(1) *Local streets.* The width of the right-of-way for local streets shall be not less than 80 feet. Provided, however, a right-of-way width of not less than 60 feet may be approved if there is also dedicated a ten-foot-wide drainage and utility easement immediately adjacent to each side of such local street, which, in combination, would total 80 feet in width, and an open ditch drainage system is provided for such street. In those instances where a proposed subdivision is located adjacent to an existing public street with a right-of-way width less than 60 feet, sufficient additional right-of-way shall be dedicated within the subdivision to accommodate the development of the street to a total right-of-way width of not less than 60 feet. Notwithstanding the foregoing, the planning and zoning commission may, on written application, in its discretion authorize a street right-of-way width of not less than 50 feet for a local street where such street cannot reasonably be made to continue or extend onto an existing, approved, proposed, or possible future street, is so located that logically it could not be extended to connect with an existing, approved, or proposed street, there is not a likelihood that it would inhibit the ability of the city to provide emergency services from fire, police, medical, or other rescue personnel, the street provides access to single-family residential properties only, and the total length of such street does not exceed 700 feet.

(2) *Collector streets.* The width of the right-of-way for collector streets shall be not less than 80 feet.

(3) *Arterial streets.* The width of the right-of-way for arterial streets shall be not less than 100 feet.

(c) *Abutments.* All lots shown on the plat shall abut a public street, or abut a private street that shall meet all requirements in this section for public streets. All lots shown on the plat shall have indicated thereon the front of the lot for subsequent construction of a building.

(d) *Curves and intersections.*

(1) *Local, collector, and arterial streets.* The design and construction of all local, collector, and arterial streets shall meet the guidelines set forth in the Policy on Geometric Design of Highways and Streets, fourth edition, 2001, as published by the American Association of State Highway and Transportation Officials (AASHTO), the city's current comprehensive plan, and any other

applicable design and construction standards adopted by the city. Such considerations as adopted by the city shall include, but not be limited to street function, street capacity, service levels, traffic safety, pedestrian safety, and utility facilities and their location, which may effect the minimum requirements. Proposed streets shall meet this criteria and be approved by the city engineer prior to final design.

(2) *Right angle.* The angle of street intersections shall not vary more than ten degrees from the perpendicular. Where acute angle intersections are approved a radius of at least 25 feet in the right-of-way line at the acute corner shall be provided.

(e) *Cul-de-sac right-of-way radii.* The radii of the right-of-way at the end of local streets terminated with a circular cul-de-sac turnaround shall be not less than 50 feet. The city shall cause to be erected at the entrance of any such street a sign reading "dead-end street," but such sign shall be at the expense of the developer.

(f) *Dead-end streets.* Dead-end streets shall not be approved except in those instances where the street is terminated by a temporary circular cul-de-sac turnaround or where the street is designated to be extended into adjacent property. Such dead-end streets must also comply with section 40-68, which contains the requirements for the dedication of a one-foot reserve.

(g) *Signs and traffic control devices.* The developer shall be responsible for the installation of all required street signs and traffic control devices, as determined by the city engineer or his designee. All such signs and traffic control devices shall be in accordance with the [most recent edition of the Texas Manual on Uniform Traffic Control Devices](#), ~~1980 edition~~, as published by the state department of transportation.

(h) *Street lighting.* The developer shall be responsible for the installation of street lighting in accordance with the City of Tomball Minimum Construction Standards for Community Improvements.

(i) *Sidewalks.* The developer shall be responsible for the installation of sidewalks in all residential and commercial subdivisions, except in residential subdivisions along streets with open ditch drainage. [At the discretion of the City Manager or designee, a developer of a subdivision may be permitted to pay a fee in lieu of the construction of sidewalks in an amount set forth in City of Tomball Master Fee Schedule adopted by the City Council. Any person wishing to appeal the determination of the City Manager or designee may do so by submitting an appeal to the City Council within ten \(10\) days of the City Manager or designee's determination. Such will be heard at the next available City Council meeting.](#) Sidewalks shall be constructed in accordance with the City of Tomball Minimum Construction Standards for Community

Improvements. Sidewalks, when applicable, shall be considered as part of the required street system, whether public or private.”

**Section 3.** Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, 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 \$2000. Each day of violation shall constitute a separate offense.

**Section 4.** 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 5.** This Ordinance shall take effect fourteen (14) days from and after its passage and the publication of the caption hereof, as provided by law and the City’s Home Rule Charter.

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 JULY 2017.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>ABSENT</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<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 17TH DAY OF JULY 2017.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

*Gretchen Fagan*  
Gretchen Fagan, Mayor

ATTEST:

*Doris Speer*  
Doris Speer, City Secretary