

ORDINANCE NO. 2017-34

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY ADDING A PENALTY PROVISION TO ARTICLE VI, RIGHT OF WAY MANAGEMENT, AND ARTICLE VII, TELECOMMUNICATIONS AND WIRELESS FACILITIES, OF CHAPTER 38, STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, PROVIDING FOR SEVERABILITY, MAKING OTHER FINDINGS.

* * * * *

WHEREAS, the City Council of the City of Tomball, Texas adopted Ordinance 2017-29 establishing regulations governing the use of its rights-of-way and regulating the placement of wireless facilities therein;

WHEREAS, the City Council desires to amend Ordinance 2017-29 to add penalty provisions for violation of the provisions of the ordinance; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of its citizens to add such penalty provisions as set forth in this ordinance; now, therefore,

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

Section 1. The facts and matters contained 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 adding a new Section 38-167, Penalty, to Article VI, Right-of-Way Management, of Chapter 38, Streets, Sidewalks and Other Public Places, the new Section 38-167 to read as follows:

“Section 38-167. Penalty.

Any person, corporation, or entity who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in

an amount not to exceed \$2,000.00. Each day in which any violation occurs, or each occurrence of any violation, shall constitute a separate offense.”

Section 3. The Code of Ordinances is further amended by adding a new Section 38-208, Penalty, to Article VII, Telecommunications and Wireless Facilities, of Chapter 38, Streets, Sidewalks, and Other Public Places, the new Section 38-208 to read as follows:

“Section 38-208. Penalty.

Any person, corporation, or entity who intentionally, knowingly, recklessly, or with criminal negligence violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day in which any violation occurs, or each occurrence of any violation, shall constitute a separate offense.”

Section 4. **Severability.** 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 18TH DAY OF SEPTEMBER 2017.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>NAY</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 2ND DAY OF OCTOBER 2017.

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

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary