

ORDINANCE NO. 2017-35

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY DELETING SECTION 44-67, USE OF CERTAIN WIRELESS COMMUNICATION DEVICES WHILE DRIVING PROHIBITED, OF ARTICLE III, OPERATION OF VEHICLES, OF CHAPTER 44, TRAFFIC AND VEHICLES, MAKING FINDINGS, AND PROVIDING FOR SEVERABILITY.

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WHEREAS, HB 62 was adopted in the 85th session of the Texas Legislature; and

WHEREAS, HB 62 bans the use of certain wireless communication devices while operating a motor vehicle; and

WHEREAS, the City of Tomball had previously adopted an ordinance, codified in Section 44-67 of its Code of Ordinances prohibiting the use of certain wireless communication devices while driving; and

WHEREAS, HB 62 preempts municipal regulation in this area; and

WHEREAS, the City Council of the City of Tomball, Texas desires to repeal Section 44-67 of its Code of Ordinances; 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 deleting Section 44-67, Use of Certain Wireless Communication Devices While Driving Prohibited, of Article III, Operation of Vehicles, of Chapter 44, Traffic and Vehicles in its entirety.

Section 3. **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 4. 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 2ND DAY OF OCTOBER 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 16TH DAY OF OCTOBER 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