

**ORDINANCE NO. 2019-36**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE TOMBALL CODE OF ORDINANCES BY CHANGING THE ZONING DISTRICT CLASSIFICATION OF APPROXIMATELY 0.13 ACRES OF LAND, LEGALLY DESCRIBED AS TRACT SOUTH ½ LOTS 34, 35, & 36 & TRACT 33C BLOCK 30 TOMBALL, WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS, FROM THE SINGLE-FAMILY 6 DISTRICT TO THE OLD TOWN & MIXED USE DISTRICT; SAID PROPERTY BEING GENERALLY LOCATED ON THE WEST SIDE OF SOUTH CHERRY STREET, BETWEEN FLORENCE AND MCPHAIL STREETS; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.**

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**Whereas**, Colleen Pye has requested that approximately 0.13 acres of land, legally described as South ½ Lots 34, 35, & 36 & Tract 33C Block 30, generally located on the west side of South Cherry Street, between Florence and McPhail Streets, within the City of Tomball, Harris County, Texas, (the "Property"), be rezoned; and

**Whereas**, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested rezoning; and

**Whereas**, the public hearing was held before the Planning & Zoning Commission at least forty (40) calendar days after the City's receipt of the requested rezoning; and

**Whereas**, the Planning & Zoning Commission recommended in its final report that City Council approve the requested rezoning of Old Town & Mixed Use District; and

**Whereas**, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested rezoning and the City Council considered the final report of the Planning & Zoning Commission; and

**Whereas**, the City Council deems it appropriate to grant the requested rezoning.

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

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

**Section 2.** The zoning classification of the Property is hereby changed from the Single-Family 6 District to the Old Town & Mixed Use District subject to the regulations, restrictions, and conditions hereafter set forth.

**Section 3.** The Official Zoning Map of the City of Tomball, Texas shall be revised and amended to show the designation of the Property as Old Town & Mixed Use District, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

**Section 4.** This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification for the Property to the Old Town & Mixed Use District as described above.

**Section 5.** In the event any section, paragraph, subdivision, 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 any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 6.** 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 \$2,000. Each day of violation shall constitute a separate offense.

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 16<sup>TH</sup> DAY OF DECEMBER 2019.

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>

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 6<sup>TH</sup> DAY OF JANUARY 2020.

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