

ORDINANCE NO. 2020-25

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS BY AMENDING SECTION 34-1, DEFINITIONS, AND SECTION 34-7, MISCELLANEOUS SIGN PROVISIONS, OF ARTICLE I, IN GENERAL, OF CHAPTER 34, SIGNS, TO ADD A DEFINITION OF OLD TOWN AREA AND TO APPLY REGULATIONS TO SIGN COLORS WITHIN THE OLD TOWN AREA; 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, the City Council of the City of Tomball, Texas finds that it is in the best interest of the health, safety and welfare of its citizens to amend the regulations of signs; and

WHEREAS, the City Council desires to regulate signs in the manner 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. Section 34-1, Definitions, of Article I, In general, of Chapter 34, Signs, of the City of Tomball Code of Ordinances is hereby amended to add the language underscored below as follows:

“Section 34-1. – 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:

Old Town Area means the area within the boundary of the Revised Map of Tomball, recorded with the County on July 9, 1912.”

Section 3. Section 34-7, Miscellaneous sign provisions, of Article I, In general, of Chapter 34, Signs, of the City of Tomball Code of Ordinances is hereby amended to add the language underscored below as follows:

“Section 34-7. – Miscellaneous sign provisions.

- (a) *Banner signs.* A property shall be limited to one on-premises or one off-premises banner signs, with a maximum size of 32 square feet. All banners signs shall be considered temporary in nature, as defined in this chapter. Excluding signs as specified under subsections 34-5(b)(2) and (b)(3)d.
- (b) *Political signs.* A sign that contains primarily a political message and that is located on private real property with the consent of the property owner is exempt from the permit requirements of this chapter. Private real property does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose; provided, however, the sign may not have a sign area greater than 36 square feet, be more than eight feet high, be illuminated or have a moving part. This subsection does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.
- (c) *Signs on public rights-of-way.*
 - (1) With the exception of signs lawfully permitted or erected prior to the effective date of the ordinance from which this chapter is derived, it shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb, or other public improvement in any public street or grounds, on any public bridge or part of same, or on any public building or structure of any kind belonging to the city, or in any public place, or on any public improvement unless express consent therefor shall have first been granted by the city council. However, coin-operated devices used to display and vend newspapers may so be placed, so long as they are not placed to impede vehicular or pedestrian traffic. This subsection does not apply to public property leased for private business purposes.
 - (2) Subdivision identification signs erected or painted directly upon the face of lawfully existing fences or walls are permitted, provided that:

- a. The subdivision sign is facing a street which serves as an entrance to the subdivision to which such sign pertains;
 - b. The subdivision sign, or any part thereof, does not extend outward more than six inches from the face of the fence or wall upon which it is mounted; and
 - c. The subdivision sign, or any part thereof, does not extend above the fence or wall upon which it is mounted.
- (3) Any unlawful sign found on public property, buildings, or structures belonging to the city or within a public right-of-way of a public street, public sidewalk, or public alley shall be seized and removal thereof is hereby authorized in addition to authority under chapter 20, article II. The sign administrator, employees of the police department and the department of public works are hereby authorized to impound any signs found on public property, buildings or structures, or a public street, public sidewalk, or public alley and transport or cause the same to be transported to a location to be designated by the sign administrator for storage. Any sign impounded and stored and not redeemed by the owner thereof within 30 days may be destroyed or sold at public auction in the same manner as surplus property of the city.
- (4) During the early voting period through the end of the following Election Day, a maximum of two temporary political signs for each candidate, measure, or political party may be placed within the designated electioneering area of the early voting or voting polling place building's premises, which is also outside the prohibited area. The designated electioneering area is the portion of the grassy strip north of the Public Works Building, 501-B James Street, located outside the 100-foot prohibited area, and the area in Heritage Plaza, 400 Market Street, outside the designated 100-foot prohibited area. Such two signs shall each have a maximum area of four square feet but may contain the same message on both sides. Such signs must be placed in the designated electioneering area in a manner so as not to block or obscure other political signs. Such signs shall only be allowed from 7:00 a.m. on the beginning of the early voting period until 7:00 p.m. on Election Day, at which time the signs shall be removed by the person or organization placing them.
- a. Any unauthorized persons removing political signs otherwise permitted by this section shall be guilty of a misdemeanor and subject to a fine as provided in section 1-14.

- b. Failure to remove permitted signs in accordance with the section is a violation of this chapter subject to a fine as provided in this Code.
 - c. On Election Day only, each candidate may erect a single tent, canopy, or similar item encumbering or encroaching on public property in Heritage Plaza, 400 Market Street, in the designated location, located outside the 100-foot prohibited area, as decided during the drawing for location in Heritage Plaza conducted prior to the beginning of early voting.
 - d. Any signs on public property not permitted may be removed by the city. Any political signs installed prior to the authorized time, placed in a location other than the designated location delineated, or not removed within the time prescribed herein, may be removed by city personnel and discarded or destroyed.
 - e. The provisions of this subsection shall not apply to notices posted by order of the court or notices to the public as required by law to be posted in a public place.
- (d) In the “Old Town Area,” bright or fluorescent colors shall not be permitted on any part of any sign.”

Section 4. 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 5. 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 \$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 8th DAY OF SEPTEMBER 2020.

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| COUNCILMAN FORD | <u>AYE</u> |
| COUNCILMAN STOLL | <u>NAY</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 21ST DAY OF SEPTEMBER 2020.

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| COUNCILMAN FORD | <u>AYE</u> |
| COUNCILMAN STOLL | <u>NAY</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