

**ORDINANCE NO. 2021-20**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING SECTION 32-45, FINGERPRINTS, PHOTOGRAPHS, OF ARTICLE II, PERMITS, OF CHAPTER 32, PEDDLERS AND SOLICITORS, TO REQUIRE FINGERPRINTING AND BACKGROUND CHECKS THROUGH THE FEDERAL BUREAU OF INVESTIGATIONS AND THE TEXAS DEPARTMENT OF PUBLIC SAFETY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; PROVIDING FOR SEVERABILITY, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.**

\* \* \* \* \*

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 the citizens to require applicants for a permit under Chapter 32, Peddlers and Solicitors, to submit to a background check through the Federal Bureau of Investigations and the Texas Department of Public Safety 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 amending Section 32-45, Fingerprints, Photographs, of Article II, Permit, of Chapter 32, Peddlers and Solicitors, by deleting therefrom the language struck through below and adding thereto the language underscored below, Section 32-45 to read as follows:

“Section 32-45. – ~~Fingerprints, photographs~~ Background checks.

~~At the time of making application for a permit required by this article, the applicant shall submit to fingerprinting and photographing by the Chief of Police.~~  
This section is enacted pursuant to sections 411.122 and 411.087 of the Texas

Government Code, which authorizes the city to obtain criminal history record information maintained or indexed by the Federal Bureau of Investigation ("FBI") through the Texas Department of Public Safety ("DPS"). Each individual whose application for a license, permit or authorization or any renewal thereof is subject to subsection:

- (a) shall be required to provide a complete set of fingerprints from a Fingerprint Applicant Services of Texas ("FAST") facility using the City's FAST pass provided to the Applicant by the City and other identifying information to the official designated by the permitting, licensing or authorizing department, along with any applicable fee and any release or waiver forms required in order for the official to conduct a national background check through the FBI.

Upon receipt of the fingerprints and any applicable fee, the city is authorized to submit the fingerprints to the DPS for a search of the State's criminal history record, and the DPS is authorized to forward a set of the fingerprints to the FBI for a national criminal history check. The results of the FBI check will be returned to the DPS, which will disseminate the results of state and national criminal history checks to the city.

In addition, each applicant for a license, permit or renewal shall provide two photos of themselves."

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

**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.** This Ordinance shall take effect immediately 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 7<sup>TH</sup> DAY OF JUNE 2021.

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 ORDAINED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 21<sup>ST</sup> DAY OF JUNE 2021.

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  
City of Tomball

ATTEST:

Doris Speer  
DORIS SPEER, City Secretary  
City of Tomball