

**ORDINANCE NO. 2020-05**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING DIVISION 1, ARTICLE II OF CHAPTER 28, MUNICIPAL COURT OF THE CODE OF ORDINANCES; GRANTING THE CITY THE AUTHORITY TO ASSESS A FINE IN THE CASE OF A PERSON FAILING TO APPEAR FOR A COURT DATE OR VIOLATING A PROMISE TO APPEAR TO A COURT DATE; PROVIDING A REPEALER CLAUSE, A SEVERABILITY CLAUSE, A SAVINGS CLAUSE, AND AN EFFECTIVE DATE.**

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WHEREAS, the Texas Code of Criminal Procedures, Article 45.203 authorizes the governing body of a municipality to prescribe by ordinance, the collection, after due notice, of a fine not to exceed \$25 for an offense under Section 38.10, Penal Code or Section 543.009, Transportation Code;

WHEREAS, the City Council desires to pass an ordinance to enforce the collection of fines by special expense for the issuance and service of a warrant of arrest for the offenses of Failure to Appear (FTA) or a Violation of a Promise to Appear (VPTA); and

WHEREAS, Senate Bill 346, adopted during the 86<sup>th</sup> Legislative Session and which became effective January 1, 2020, includes minor changes related to assessments resulting from the criminal offenses of FTA and VPTA as they are established in Article 45.203(c) of the Texas Code of Criminal Procedure; 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.** Division1, Article II of Chapter 28, Municipal Court is hereby amended to read as follows:

“Division 1. Fines Imposed for Failure to Appear and/or Violation of a Promise to Appear.

Section 28.34. – If a person charged with a violation fails to attend a scheduled hearing, including an appeal hearing, the person is liable for the violation and will be assessed a fine, as determined from time to time by resolution of City Council, in an amount not to exceed \$25.”

**Section 3.** All provisions of the ordinances of the City of Tomball, Texas, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed and all other provisions of the ordinances of the City of Tomball, Texas, codified or uncodified, not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

**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.** The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty

accruing or to accrue, or as affecting any rights of the municipality under any section or provisions of any ordinances at the time of passage of this Ordinance.

**Section 6.** This Ordinance shall become effective immediately upon its passage.

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 2<sup>ND</sup> DAY OF MARCH 2020.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>ABSENT</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 16<sup>TH</sup> DAY OF MARCH 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