

**ORDINANCE NO. 2023-03**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS CODE OF ORDINANCE BY AMENDING SECTION 50-2 (DEFINITIONS), OF ARTICLE I, IN GENERAL AND SECTION 50-82 (USE REGULATIONS (CHARTS)), SUBSECTION (B)(USE CHARTS), OF ARTICLE III, DISTRICT REGULATIONS, OF CHAPTER 50, ZONING; 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**, Apex Clean Energy Holdings, LLC. Has requested an amendment to the code of ordinance, particularly by adding the “Electric Energy Storage” land use and providing a definition to the Planning & Zoning Commission; 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, the Planning & Zoning Commission held a public hearing on the requested text amendment; 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 text amendment; and

**WHEREAS**, at least fifteen (15) days after the publication in the official newspaper of the City of the time and place of a public hearing, the City Council held a public hearing on the proposed text amendment; and

**WHEREAS**, the City Council finds it to be in the best interest of the health, safety, and welfare of the citizens to approve the text amendment as contained in this ordinance;

**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.** Article II, In General and Article III, District Regulations, of Chapter 50, Zoning of the Code of Ordinances of the City of Tomball, Texas is hereby amended as set out in Exhibit A, attached hereto and made a part of this Ordinance for all purposes.

**Section 3.** 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 4.** 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 20TH DAY OF FEBRUARY 2023.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<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 6TH DAY OF MARCH 2023.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DUNAGIN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN PARR	<u>AYE</u>

Lori Klein Quinn  
LORI KLEIN QUINN, Mayor

ATTEST:

Tracylynn Garcia  
TRACYLYNN GARCIA, City Secretary

Exhibit “A”

**AMEND:** Section 50-2 (*Definitions*)

**REVISE:** Add the following entry

**ADD:**

*Electric Storage System* – One or more devices assembled together capable of storing energy that allows power system operators and utilities to collect and store energy from the grid and discharge it at a future time to provide electricity when needed, such as to ensure adequate peaking generation capacity and grid resiliency.

**AMEND:** Section 50-82 (b) (*Use Regulations (Charts)*)

**REVISE:** Add the following entry

**ADD:**

Types of Land Uses	Residential Zoning Districts										Nonresidential Zoning Districts						Parking				
	AG	SF-20-E	SF-9	SF-6			D		MF		MHP	O		GR			C	LI		OT&MU	
Institutional/Governmental																					
Electric Storage System																		C			2 spaces per facility

-END-