

ORDINANCE NO. 2023-08

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING SECTION 48-139 OF ITS CODE OF ORDINANCES, STORAGE LOT REQUIREMENTS, OF DIVISION 1, GENERALLY, OF ARTICLE III, TOW TRUCKS AND TOWS, OF CHAPTER 48, VEHICLES FOR HIRE, BY ALLOWING WRECKER STORAGE LOTS TO BE LOCATED WITHIN FIVE (5) MILES OF THE CORPORATE LIMITS OF THE CITY; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; DECLARING CERTAIN CONDUCT TO BE UNLAWFUL; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR EACH VIOLATION OF THIS ORDINANCE WITH EVERY DAY CONSTITUTING A NEW VIOLATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City of Tomball, Texas (the “City”) is a home-rule municipality pursuant to section 5 article 11 of the Texas Constitution and as such, is vested with the power of local self-government; and

WHEREAS, the City desires to allow wrecker storage yards to be located within five (5) miles of the corporate limits of the City; and

WHEREAS, the City Council finds it to be in the best interest of the health, safety and welfare of its residents to amend its code of ordinances as set forth herein; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS:

Section 1. The findings contained in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2. Section 48-139, Storage lot requirements, of Division 1, Generally, of Article III, Tow trucks and tows, of Chapter 48, Vehicles for hire, is hereby amended to delete therefrom the language struckthrough below and to add the language underscored below, such Section 48-139 to read as follows:

“Section 48-139. - Storage lot requirements.

(a) All tow truck license holders under this article shall maintain or have access to a vehicle depository located in the corporate limits of the city or located ~~within the extraterritorial jurisdiction of the~~ five miles of the corporate limits of the city, as that term is defined in V.T.C.A., Local Government Code ch. 42. The chief of police or the chief's designated representative shall make the determination of ~~the limits of the city's territorial jurisdiction whether the proposed location is within the corporate boundaries or within five (5) miles of the corporate limits of the city~~ upon written request to do so or in connection with any tow truck permit application. Such vehicle depositories maintained or used by tow truck license holders shall be state licensed vehicle storage lots pursuant to the Vehicle Storage Facility Act (V.T.C.A., Occupations Code ch. 2303).

(b) Any vehicle hauled or towed without the owner's consent shall be taken to a state-licensed storage facility authorized by this section, or to such other location as directed by the owner or authorized person, with the approval of the police officer at the scene. Additionally, each tow truck license holder shall have its own private storage lot. The sharing of storage lots is prohibited.”

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 3rd DAY OF April 2023.

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

SECOND READING:

READ, PASSED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 17th DAY OF April 2023.

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

Lori Klein Quinn
LORI KLEIN QUINN, Mayor
City of Tomball

ATTEST:

Tracylynn Garcia
TRACYLYNN GARCIA, City Secretary
City of Tomball