

ORDINANCE NO. 2023-28

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 4, ALCOHOLIC BEVERAGES, BY ADDING A NEW SECTION 4-3, VARIANCE PROCEDURES; 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.

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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 the citizens to allow variance procedures to the City’s alcoholic beverage regulations as set forth herein; 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 is amended by adding a new Section 4-3, Variance Procedures, to Chapter 4, Alcoholic Beverages, to read as follows:

“Section 4-3. Variance procedures.

The City Council may allow variances to the provisions of this Chapter if the City Council determines that enforcement is not in the best interest of the public, constitutes waste or inefficient use of the land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the City Council, after consideration of the health, safety and welfare of the public and the equities of the situation, determines is in the best interest of the community.”

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 21st DAY OF AUGUST 2023.

COUNCILMAN FORD	<u>Yay</u>
COUNCILMAN STOLL	<u>Nay</u>
COUNCILMAN DUNAGIN	<u>Yay</u>
COUNCILMAN TOWNSEND	<u>Yay</u>
COUNCILMAN PARR	<u>Yay</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 5TH DAY OF SEPTEMBER 2023.

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

Lori Klein Quinn
LORI KLEIN QUINN, Mayor
City of Tomball

ATTEST:

Tracy Lynn Garcia
Tracy Garcia, City Secretary
City of Tomball