

ORDINANCE NO. 2022-23

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS AMENDING ITS CODE OF ORDINANCES BY AMENDING SECTION 40-28 (APPLICATION FOR PRELIMINARY PLAT APPROVAL), AND 40-30 (APPLICATION FOR FINAL PLAT APPROVAL) OF ARTICLE II, PROCEDURE FOR SUBMISSION OF PLATS, OF CHAPTER 40, SUBDIVISIONS; 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.

* * * * *

WHEREAS, the City Staff presented the proposed text amendment regarding the plat review schedule to the Planning and Zoning Commission; 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 Planning and Zoning Commission held a public hearing regarding the proposed text amendment; and

WHEREAS, the Planning and Zoning Commission recommended in its final report that the 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:

Section 1. The facts and matters contained in the preamble to this ordinance are hereby found to be true and correct.

Section 2. Article II, Procedures For Submission of Plats, of Chapter 40, Subdivisions 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 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.

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 15TH DAY OF AUGUST, 2022.

| | |
|---------------------|---------------|
| COUNCILMAN FORD | <u>AYE</u> |
| COUNCILMAN STOLL | <u>AYE</u> |
| COUNCILMAN DUNAGIN | <u>AYE</u> |
| COUNCILMAN TOWNSEND | <u>ABSENT</u> |
| COUNCILMAN PARR | <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 6th DAY OF SEPTEMBER, 2022.

| | |
|---------------------|-------|
| COUNCILMAN FORD | _____ |
| COUNCILMAN STOLL | _____ |
| COUNCILMAN DUNAGIN | _____ |
| COUNCILMAN TOWNSEND | _____ |
| COUNCILMAN PARR | _____ |

Lori Klein Quinn, Mayor

ATTEST:

DORIS SPEER, City Secretary

Exhibit "A"

AMEND: Section 40-28 (Application for Preliminary Plat Approval)

REVISE: Delete and Add the following entries in alphabetical order and renumber accordingly:

DELETE:

- ~~(1) *Submittal date and time.* All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the city secretary no later than 12:00 noon, seven days prior to the next regularly scheduled commission meeting. Materials received after 12:00 noon on the date specified in this article shall automatically be placed on the agenda of the second regularly scheduled planning and zoning commission meeting following submittal.~~
- ~~(2) *Copies required.* The applicant shall provide 20 24-inch by 36-inch paper prints from the original drawing of the plat reproduced on white paper with blue or black lines, each of which shall be folded to 8½ inches by 12 inches, and indicating the title block in the lower right hand corner of the plat.~~
- ~~(3) *Filing fees.* An application for final plat approval shall be accompanied by a nonrefundable application fee tendered in the form of a certified check and made payable to the "City of Tomball, Texas," in the amount as is specified in the city's schedule of fees as currently established or as hereafter adopted by resolution of the city council from time to time.~~
- ~~(4) *Encumbrances information.* An application for preliminary plat approval shall be accompanied by a title opinion or a statement or certificates, either in a separate writing or on the face of the plat, and properly executed by the applicant or the person who prepared the plat, certifying that all existing encumbrances other than liens, such as various types of easements, fee strips, or significant topographical features such as lakes, ponds, bayous or other bodies of water; creeks, streams, gullies, ravines, ditches, or other natural drainageways; and any known fault lines, on the land being platted, are fully shown and accurately identified on the face of the plat, and further stating whether the plat being submitted includes all of the contiguous land that the subdivider owns directly or indirectly, or has a legal or beneficial interest in, or whether the subdivider owns or has a legal interest in any adjacent property. If the subdivider owns or has a legal interest in any adjacent property, the extent of such ownership and a boundary description of the land involved shall also be provided.~~
- ~~(5) *Notice to utilities.* Evidence of notice to all utility companies that provide service to the area encompassed by the proposed subdivision, whether public or private, shall accompany each application for preliminary plat approval. Such notice shall contain a statement of the intent to subdivide, the intended use of the property within the~~

~~subdivision, and shall have attached to such notice a copy of the preliminary plat that is filed within the city.~~

ADD:

- (1) Submittal date and time. All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the Community Development Director or their designee. The Community Development Director or their designee shall determine the completeness of all plat applications. A Plat application submitted by the application deadline specified on the Plat Review Calendar kept by the Community Development Office that is deemed to be complete by the Community Development Director or their designee shall be placed on the agenda for the next regularly scheduled meeting of the Planning & Zoning Commission for consideration.
- (2) Time Period for Action. All preliminary plat applications shall be acted upon within thirty (30) days from the official filing date unless a waiver is submitted in accordance with Subsection (a).
 - (a) Waiver of Right to 30-day Action.
 - i. The Community Development Director or their designee shall be the official decision-maker for a Waiver of Right to 30-Day Action.
 - ii. An applicant may request a Waiver of Right to 30-day Action relating to the decision time of thirty (30) days mandated by State law. Such requests must be submitted on the official Waiver of Right to 30-day Action form provided by the Community Development Office.
 - iii. Waiver requests must be received by the Community Development Director or their designee prior to the Planning & Zoning Commission meeting at which action would have to be taken (based on the 30-day State law requirement).
 - iv. The granting of a Waiver of Right to 30-day Action shall not be deemed in any way a waiver to any requirement within this Code of Ordinances.
 - v. The Waiver of Right to 30-day Action may postpone consideration of plats for a period not to exceed 30 days from the date that the waiver is received by the City. In the event that the Waiver of Right to 30-day Action expires, the plat shall be considered void by the City of Tomball and a separate plat application will be required for review by the City and consideration by the Planning & Zoning Commission.
- (3) City Review.
 - a) The City staff shall meet to review each preliminary plat application to be placed on the agenda of the forthcoming meeting of the Planning & Zoning Commission. The City shall make comments on either.

- i. Approval of the plat
 - ii. Denial of the plat
 - iii. Approval of the Plat with conditions
- a) All comments detailing necessary conditions/revisions, or reasons for denial of the plat will be returned to the applicant following the official city review of the plat.
- (4) Resubmittal Following City Review.
 - a) At least five (5) days prior to the meeting of the Planning & Zoning Commission during which the plat is scheduled for action, the applicant shall provide to the Community Development Director or their designee a revised plat. The Community Development Director or their designee shall review the revised plat for compliance with comments from previous review(s) by the City.
 - b) Revised plats submitted to the Community Development Director or their designee at least five (5) days prior to the meeting of the Planning & Zoning Commission during which the plat is scheduled for action will be placed on the agenda for consideration by the Commission, for approval, approval with conditions, or denial based on staff findings.
 - c) In the event that a revised plat is not submitted at least five (5) days prior to the meeting of the Planning & Zoning Commission and no Waiver of Right for 30-Day Action is submitted by the applicant, the plat shall be subject to denial by the Planning & Zoning Commission due to insufficient time for review by staff.
- (5) Filing fees. An application for preliminary plat approval shall be accompanied by a nonrefundable application fee tendered in the form of a check and made payable to the "City of Tomball, Texas," in the amount as is specified in the city's schedule of fees as currently established or as hereafter adopted by resolution of the city council from time to time.
- (6) Encumbrances information. An application for preliminary plat approval shall be accompanied by a title opinion or a statement or certificates, either in a separate writing or on the face of the plat, and properly executed by the applicant or the person who prepared the plat, certifying that all existing encumbrances other than liens, such as various types of easements, fee strips, or significant topographical features such as lakes, ponds, bayous or other bodies of water; creeks, streams, gullies, ravines, ditches, or other natural drainageways; and any known fault lines, on the land being platted, are fully shown and accurately identified on the face of the plat, and further stating whether the plat being submitted includes all of the contiguous land that the subdivider owns directly or indirectly, or has a legal or beneficial interest in, or whether the subdivider owns or has a legal interest in any adjacent property. If the subdivider owns or has a legal interest in any adjacent property, the extent of such ownership and a boundary description of the land involved shall also be provided.

- (7) Notice to utilities. Evidence of notice to all utility companies that provide service to the area encompassed by the proposed subdivision, whether public or private, shall accompany each application for preliminary plat approval. Such notice shall contain a statement of the intent to subdivide, the intended use of the property within the subdivision, and shall have attached to such notice a copy of the preliminary plat that is filed within the city.

AMEND: Section 40-30 (Application for Final Plat Approval)

REVISE: Delete and Add the following entries in alphabetical order and renumber accordingly:

DELETE:

- ~~(1) *Time for filing.* All plats, maps, reproductions, fees, applications, and related materials shall be submitted to the city secretary no later than 12:00 noon, seven days prior to the next regularly scheduled commission meeting. Materials received after 12:00 noon on the date specified in this section shall automatically be placed on the agenda of the second regularly scheduled commission meeting following submittal.~~
- ~~(2) *Copies required.* The applicant shall provide 20 24-inch by 36-inch paper prints from the original drawing of the plat reproduced on white paper with blue or black lines, each of which shall be folded to 8½ inches by 12 inches, and indicating the title block in the lower right-hand corner of the plat.~~
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- (2) Time Period for Action. All final plat applications shall be acted upon within thirty (30) days from the official filing date unless a waiver is submitted in accordance with Subsection (a).

(a) Waiver of Right to 30-day Action.

- i. The Community Development Director or their designee shall be the official decision-maker for a Waiver of Right to 30-Day Action.
- ii. An applicant may request a Waiver of Right to 30-day Action relating to the decision time of thirty (30) days mandated by State law. Such requests must be submitted on the official Waiver of Right to 30-day Action form provided by the Community Development Office.
- iii. Waiver requests must be received by the Community Development Director prior to the Planning & Zoning Commission meeting at which action would have to be taken (based on the 30-day State law requirement).
- iv. The granting of a Waiver of Right to 30-day Action shall not be deemed in any way a waiver to any requirement within this Code of Ordinances.
- vi. The Waiver of Right to 30-day Action may postpone consideration of plats for a period not to exceed 30 days from the date that the waiver is received by the City. In the event that the Waiver of Right to 30-day Action expires, the plat shall be considered void by the City of Tomball and a separate plat application will be required for review by the City and consideration by the Planning & Zoning Commission.

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 - i. Approval of the plat
 - ii. Denial of the plat
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- b. All comments detailing necessary conditions/revisions, or reasons for denial of the plat will be returned to the applicant following the official city review of the plat.

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- a. At least five (5) days prior to the meeting of the Planning & Zoning Commission during which the plat is scheduled for action, the applicant shall provide to the Community Development Director or their designee a revised plat. The Community Development Director or their designee shall review the revised plat for compliance with comments from previous review(s) by the City. Revised plats submitted to the Community Development Director or their designee at least five (5) days prior to the meeting of the Planning & Zoning

- b. Commission during which the plat is scheduled for action will be placed on the agenda for consideration by the Commission, for approval, approval with conditions, or denial based on staff findings.
 - c. In the event that a revised plat is not submitted at least five (5) days prior to the meeting of the Planning & Zoning Commission and no Waiver of Right for 30-Day Action is submitted by the applicant, the plat shall be subject to denial by the Planning & Zoning Commission due to insufficient time for review by staff.
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-END-