

ORDINANCE NO. 2023-55

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 50 – ARTICLE III (DISTRICT REGULATIONS) ADDING SECTION 50-75.1 (NEIGHBORHOOD RETAIL DISTRICT (NR)), AMENDING SECTION 50-82 (USE REGULATIONS (CHARTS)), AMENDING SECTION 50-112 (OFF STREET PARKING AND LOADING REQUIREMENTS), AMENDING SECTION 50-113 (LANDSCAPE REQUIREMENTS), AMENDING SECTION 50-115 (SCREENING, BUFFERING & FENCING REQUIREMENTS), SUBSECTION (b)(1) (SCREENING OF NON-RESIDENTIAL, MULTI-FAMILY, AND MANUFACTURED (MOBILE) HOME PARKS); 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 of Tomball has requested an amendment to the code of ordinances, amending Chapter 50 – Article III (*District Regulations*) adding Section 50-75.1 – Neighborhood Retail District (NR) zoning classification and subsequent district standards. Modifying Section 50-82 (*Use regulations (charts)*). Modifying Section 50-112 (*Off Street Parking and Loading Requirements*) adding parking regulations within the Neighborhood Retail District. Modifying Section 50-113 (*Landscape Requirements*) specifying parking lot screening requirements. Modifying Section 50-115 (*Screening, Buffering and Fencing Requirements*) replacing subsection (b)(1) (*Screening of Non-Residential, Multifamily, and manufactured (mobile) home parks*) with new land use buffering standards; 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, 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 III, District Regulations and Article IV, Development Standards, 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 5th DAY OF FEBRUARY 2024.

COUNCILMAN FORD	<u>YEA</u>
COUNCILMAN STOLL	<u>YEA</u>
COUNCILMAN DUNAGIN	<u>YEA</u>
COUNCILMAN TOWNSEND	<u>YEA</u>
COUNCILMAN PARR	<u>YEA</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 19th DAY OF FEBRUARY 2024.

COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____

LORI KLEIN QUINN, Mayor

ATTEST:

TRACYLYNN GARCIA, City Secretary

Exhibit “A”

AMEND: Chapter 50 – Article III (*District Regulations*)

ADD: Sec 50-75.1 – Neighborhood Retail District (NR)

- (a) General purpose and description – The Neighborhood Retail District is intended to accommodate a limited range of retail trade, services and office activities that are needed to serve a neighborhood area. The district is to be utilized as a transition district between residential uses and more intense non-residential uses. The district is to incorporate elevated landscaping and buffering standards to facilitate seamless integration alongside residential districts. Development within the district should be similar in scale as residential uses and adjacent properties. Architectural principles should be incorporated within site development to actively engage streetscapes and create pedestrian oriented environments. Uses within this district should not include uses that create excessive traffic, noise, trash, or late-night business operations. This district is ideally suited for intersections of major thoroughfares or at the intersection of a major thoroughfare and primary entrances to residential subdivisions and/or multi-family developments.
- (b) Permitted uses. Those uses listed for the Neighborhood Retail (NR) District in the use charts (section 50-82) as “P” or “C” are authorized uses permitted by right or conditionally permitted uses, respectively.
- (c) Height regulations. Maximum height:
 - 1) Forty feet (40’); also see setback requirements related to height (d)(2)(b.2) of this section.
 - 2) One story for accessory buildings
- (d) Area regulations
 - 1) Size of lots
 - a. Minimum lot area: 6,000 square feet.
 - b. Minimum lot width: 60 feet.
 - c. Minimum lot depth: 100 feet.
 - 2) Size of yards and setbacks
 - a. Minimum front yard: 15 feet. Where a lot faces a designated arterial street, the front yard shall be a minimum of 25 feet.
 - b. Minimum side yard.
 1. Interior: 5 feet
 2. Interior: If adjacent to a single-family, duplex, patio home or single-family attached district, then side and rear setbacks (within which parking is permitted) shall be according to the height of the primary structure as follows:
 - a. Setbacks shall be measured at a ratio of five feet in horizontal setback distance for every three feet of building height.
 3. Side yard adjacent to a street: 15 feet.
 4. Side yard adjacent to a designated arterial: 25 feet
 - c. Minimum rear yard: 15 feet. If adjacent to a single-family, duplex (two-family), patio home or single-family attached district, then minimum rear yard (within which parking is permitted) shall be 60 feet, unless separated by an alley in which case the minimum shall be 20 feet. When adjacent to an arterial, minimum rear yard shall be 25 feet.
 - d. Zero lot line exception: notwithstanding the requirements of this section, except where an interior side yard or rear yard is adjacent to property zoned for or restricted by a duly recorded subdivision plat to, or primarily use for, single-family residential purposes, there shall be no required interior side or rear yard if the wall adjoining such interior side or rear lot line, as applicable, is constructed with materials giving it a four-hour firewall rating. Yards adjacent to street or alley right-of-way are excluded from this provision.

- e. Minimum underground setback: any underground building structure shall be setback from any lot line by a minimum of 15 feet.
 - f. Minimum pavement setback: all paving, except driveways and sidewalks, shall be setback from any public street right-of-way by a minimum of 15 feet.
- 3) Maximum lot coverage. Maximum lot coverage is 50 percent of the net site area (after right-of-way dedication) for the gross ground floor area of all building structures, including main and accessory buildings.
 - 4) Maximum floor area. Maximum floor area ratio (FAR) is 1:1
 - 5) *Outdoor sales*: Outdoor sales are prohibited.
 - 6) *Outdoor storage*: Outdoor storage is prohibited.
 - 7) *Hours of Operation*: Except for uses permitted within a residential zoning district, no use shall operate before 6:00 a.m. nor after 11:00 p.m. on any day of the week.
 - 8) Façade Orientation Standards
 - a. Facades of primary building(s) immediately adjacent to street right-of-way(s) shall be front and/or side facades only. Rear facades of buildings shall be prohibited from facing street right-of-way(s).
 - 9) *Parking Standards* Refer to Section 50-112 (c)(1.1) – Parking regulations for the NR District

AMEND: Chapter 50 – Article IV (*Development Standards*), Section 50-112 (*Off Street Parking & Loading Requirements*), (c) (*Nonresidential and MF Districts; off-street parking provisions*)

ADD: (1.1) Parking regulations for the NR District

- a. Parking areas must be located to the side or rear of primary buildings. No parking shall be located between the front and/or side facades of primary buildings and street right-of-way(s) unless otherwise specified by the following:
 - a. One-way Vehicle drive-through lanes for overall circulation as well as drive-through and pickup/drop off services shall be exempt from this standard.
 - b. A maximum of one, one-way aisle of parallel and/or angled parking stalls shall be permitted between street rights-of-way(s) and facades of primary buildings.
- b. All parking and vehicle maneuvering areas shall be screened from streets by a solid row of hedges. As prescribed by Section 50-113 (f)(3)(f)
 - a. EXCEPTION: Vehicle visibility triangles shall be clear of hedges utilized for screening as prescribed by Section 38-34 – Obstructions prohibited in visibility triangle.
- c. No parking area may be located closer than 10 feet from property lines for properties zoned for Single-Family Residential uses.

AMEND: Chapter 50 – Article IV (*Development Standards*), Section 50-113 (*Landscape Requirements*), (f)(3) (*Requirements for landscaping in and around parking lots*)

ADD: (f) Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, planter, berm, fence, wall, or combination of these, with a minimum height of 36 inches. This requirement shall not be required along state highways.

1. Shrubs utilized for screening parking areas shall be a minimum 3-gallon planting size spaced 36-inches on center.

AMEND: Chapter 50 – Article IV (Development Standards), Section 50-115 (Screening, buffering and fencing requirements), (b) (*Screening of nonresidential, multifamily areas and manufactured (mobile) home parks*)

DELETE:

- (1) ~~An opaque screening wall of not less than six feet, nor more than eight feet, in height shall be erected on the property line separating zoning districts in the following cases:~~
- ~~a. When a multifamily use, nonresidential use, or manufactured (mobile) home park sides or backs upon a single-family, two-family or residential PD District;~~
 - ~~b. When any nonresidential use is on a tract, lot or parcel that is less than 15 acres and the nonresidential use sides or backs upon a multiple-family district; and~~
 - ~~c. When a commercial or industrial use is established on a building site located adjacent to any residential area, a ten-foot side landscaped open-space buffer shall be installed and maintained by the owner, developer, or operator of the commercial or industrial property between it and the adjacent residential area. The provisions of this section shall not apply where the residential area is separated by a public street, drainage ditch, or canal with a minimum easement of 30 feet. With written approval of the planning and zoning commission, and otherwise full compliance with landscaping standards, a required buffer may include a stormwater detention area. In no event, however, shall the following uses be allowed in buffers: playfields, stables, swimming pools, tennis courts, or similar active recreation uses.~~

ADD:

- (1) Land use buffering shall be provided along property lines separating zoning districts as prescribed below:
- a. When non-residential, multi-family residential, or manufactured (mobile) home park zoning shares a common boundary with single-family residential, two-family residential, residential planned developments or agricultural zoning districts.
 - b. Required land use buffers must consist of a minimum 10-foot-wide vegetative buffer yard and 7-foot opaque wooden fence plus at least 25 points based on the following criteria:
 - i. Points:
 - 1. Opaque masonry wall with 6-foot minimum height in lieu of providing opaque wooden fence = 10 points
 - 2. Each additional 5 feet of buffer yard = 5 points (maximum of 10 points)
 - 3. ONE (1) tree with a mature height of at least 20-feet and height of at least 8-feet and caliper size of 4-inches (measured 12-inches above ground level) at the time of planting per 25 lineal feet of buffer yard = 15 points
 - 4. THREE (3) smaller trees with a height of at least 8-feet and caliper size of 2-inches (measured 12-inches above ground level) at the time of planting per 25 lineal feet of buffer yard = 15 points
 - c. Trees planted to accommodate required land use buffering shall be in addition to the required trees prescribed within Section 50-113 (Landscaping Requirements).

- d. Preservation of existing trees: Each tree preserved to accommodate the required land use buffer shall count as one tree toward the overall land use buffering requirement regardless of size. Trees planned to be preserved must be on the City of Tomball approved planting list.
- e. For purposes of interpreting this section, mixed use zoning shall be considered nonresidential.
- f. Buffer yards are required between adjacent uses as indicated. For purposes of this section adjacent includes properties separated by an alley but does not include properties separated by a street.
- g. Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, planter, berm, fence, wall, or combination of these, with a minimum height of 36 inches. This requirement shall not be required along state highways.
- h. Open space in buffer yards shall be planted in grass or other vegetative ground cover.
- i. Alternative buffering may be permitted by the Director of Community Development or their designee during the site plan review process so long as the buffering and aesthetic intent of these requirements are met.

ADD:

(6) Mechanical equipment, including roof-mounted equipment, must be screened from the view from streets, parking lots, parks, and residential districts with materials consistent with the principal structure, opaque fencing, masonry walls, and/or landscaping. Wall mounted electrical panels are exempt from this standard.

AMEND: Chapter 50 – Article III (*District Regulations*), Section 50-82 (*Use Regulations (Charts)*), (b) (*Use charts*)

ADD: “NR” District and Subsequent Use Standards

Types of Land Uses	Residential Zoning Districts							Nonresidential Zoning Districts							OT&MU	Parking ratio <small>(Also see section 50-112)</small>
	AG	SF-20-E	SF-9	SF-6		D	MF	MHP	O	NR	GR		C	LI		
Agriculture																
Bulk grain and/or feed storage	P												C	C	1 space per 1,000 square feet	
Farm (ranch, garden, crops, livestock, or orchard) ‡	P	P	P	P		P	P	P	P	P			P	P	None	
Feed and grain store/farm supply store ‡	C										C		P	P	1 space per 500 square feet	
Flour and other grain mills														P	1 space per 1,000 square feet	
Livestock, wholesale/auction	C														None	
Livestock sales/auction	C														None	
Stable, commercial	C												C		1 space per 1,000 square feet	
Stables (private, principal or accessory use) ‡	P			C											None	
Residential																
Accessory building/structure (business or industry) ‡								P		P			P	P	None	
Accessory building/structure (residential) ‡	P	P	P	P		P	P								None	
Accessory dwelling	P	P	P	C		C	C								None	
Garage/accessory dwelling ‡	P	P	P	C		C	C								None	
Caretaker's, guard's residence ‡	P	C					P		P	P			P	P	1 space per caretaker/guard	
Dwelling, four-family (quadrplex) (defined under Multiple-family dwelling) ‡							P								2 spaces per dwelling	
Dwelling, HUD code-manufactured home ‡								P						C	2 spaces per dwelling	
Dwelling, industrialized home ‡	P	P	P	P		P	P							C	2 spaces per dwelling	
Dwelling, multiple-family ‡							P							P	2 spaces per dwelling	

Penal or correctional institutions	C													P	P		C	1 space per 500 square feet
Post office (governmental)	P	P	P	P			P	P	P	P	P			P	P		P	10 plus 1 per 200 square feet
Non-city public assembly (auditorium, gymnasium, stadiums, meeting halls, etc.)														P	P		C	1 space per 4 seats
Radio, television and communications towers	See section 50-116																	
Rectory/parsonage	P	P	P	P			P	P	P	P	P			P	P		P	5 spaces, plus 1 per bedroom
Retirement housing for the elderly †	See Assisted living facility																	
Riding academy	P	C	C	C			C	C	C	C	C			C	P		C	1 space per five stalls
Sanitary landfill (private)																	C	1 space per ten acres
School, business (e.g., barber/beauty/cosmetology)														C	P		P	1 space per three students, based on design
School, college or university	C	C	C	C			C	C	C	C	C			C	P		P	10 per classroom plus 2 per office
School, commercial trade (vocational) †														C	C		P	1 space per student
School, public or denominational †	P	P	P	P			P	P	P	P	P			P	P		P	See section 50-112
School, other than public or denominational †														C	C		P	See section 50-112
Sheltered care facility †														C	C		C	1 space per three beds or 1.5 per dwelling
Sign, all types (defined within the referenced section) †	See ch. 34 of this Code																	
Skilled nursing facility †														P	C		C	See section 50-112
Studio for radio and/or television (no towers) †														P	P		P	1 space per 200 square feet
Commercial and Wholesale Trade																		
Animal kennel (outdoor pens)	P																C	1 space per 500 square feet
Appliance repair																	P	1 space per 500 square feet
Book binding																	P	1 space per 500 square feet
Carpet and rug cleaning plant																	C	1 space per 1,000 square feet
Cattle, swine, or poultry feedlot (CAFO)	C																C	1 space per 5,000 square feet of land
Cleaning plant (commercial laundry) †																	C	1 space per 1,000 square feet
Communication equipment sales/service (installation and/or repair, no outdoor sales or storage or towers/antennae)																	P	1 space per 1,000 square feet
Construction contractor with storage yard	C																P	1 space per 1,000 square feet of land
Contractor's office/sales, no outside storage including vehicles																	P	1 space per 1,000 square feet of land
Contractor's temporary on-site construction office (only with permit from building official)	P	P	P	P			P	P	P	P	P			P	P		P	None
Distribution center †																	P	1 space per 1,000 square feet
Electric repair, (domestic equipment and autos)																	C	1 space per 1,000 square feet
Electronic assembly																	P	1 space per 1,000 square feet
Electro-plating/electro-typing																	P	1 space per 1,000 square feet
Exterminator service/company (no outdoor sales or storage)																	P	1 space per 300 square feet
Fix-it shops, small engine, saw filing, mower sharpening																	C	1 space per 500 square feet
Fur/hide tanning and finishing																	C	1 space per 1,000 square feet
Heating and air conditioning sales/services																	C	1 space per 1,000 square feet
Iron works (ornamental)																	C	1 space per 1,000 square feet
Lawnmower repair and/or sales																	C	1 space per 500 square feet
Loading or storage tracks																	P	None
Locksmith																	P	1 space per 500 square feet
Machine shop																	P	1 space per 1,000 square feet
Maintenance and repair service for buildings/janitorial																	C	1 space per 500 square feet
Manufactured home display or sales (new or used) †																	C	1 space per 1,000 square feet
Mattress, making and renovating																	P	1 space per 1,000 square feet
Milk depot, wholesale																	P	1 space per 1,000 square feet
Mini-warehouse/self storage †																	C	See section 50-112
Mortuary																	P	See section 50-112
Moving and storage company																	P	1 space per 1,000 square feet
News printing																	P	1 space per 1,000 square feet
Outdoor sales as a primary use †																	C	1 space per 5,000 square feet of land area
Pawn shop †																	P	1 space per 200 square feet
Pet and animal grooming shop (no outside kennels) †																	C	1 space per 200 square feet

