

ORDINANCE NO. 2009-31

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 14.4 AG-AGRICULTURAL DISTRICT AREA REGULATIONS TO DECREASE THE MINIMUM SIDE YARD REQUIREMENT FOR A DWELLING-SINGLE FAMILY DETACHED AND GARAGE, PRIVATE TO 15 FEET FROM 30 FEET; 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, Allen Land Management, on behalf of Zion Road Properties, L.L.C., has requested that the City amend its Zoning Ordinance to reduce the minimum side yard in the AG-Agricultural District to 15 feet from 30 feet; and

Whereas, the Planning and Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend the minimum side yard requirements of the City as required by Section 14.4 B.2 of the City’s Comprehensive Zoning Ordinance; and

Whereas, the Planning and Zoning Commission recommended in its final report that the City Council decrease the minimum side yard of a dwelling-single family detached in the AG-Agricultural District to 15 feet from 30 feet; and

Whereas, the City Council has determined that the reduction of the minimum side yard of a dwelling-single family detached and garage, private in the AG-Agricultural District would be appropriate, that the proposed change would not adversely affect the public health, safety, morals or general welfare but would benefit the community, and that the proposed change is in accord with the City’s comprehensive plan;

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

Section 1. The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

Section 2. The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Subsection 14.4 B. 2. to read as follows:

Section 14: AG- AGRICULTURAL DISTRICT ...

14.4 AREA REGULATIONS: ...

B. Size of Yards: ...

“2. Minimum Side Yard- Thirty feet (30’); provided, however, a dwelling-single family detached and garage, private may be located not less than 15 feet from the side property line or not less than 25 feet from the side property line adjacent to an arterial street, whichever is greater.

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.

Section 5. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City’s official newspaper within 14 days after the passage of the ordinance.

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 19TH DAY OF OCTOBER 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<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 2ND DAY OF NOVEMBER 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary