

**NOTICE OF REGULAR CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, APRIL 21, 2014

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, April 21, 2014 at 6:00 P.M., City Hall, 401 Market Street, Tomball, Texas 77375, for the purpose of considering the following agenda items. All agenda items are subject to action. The Tomball City Council reserves the right to meet in a closed session for consultation with attorney on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1.0 Call to Order

2.0 Invocation

- Led by Christian Collins, Young Adult Leader, Grace Church-Tomball

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in*

accordance with law.]

5.0 Reports and Announcements

- April 21-25, 2014 – **Annual Spring Clean-Up and Chipping Week**
- April 26, 2014 – **Tomball Consolidated Recycling Day at LoneStar College-Tomball - 10:00 a.m.-2:00 p.m.**
- April 28-May 6, 2014 – Early Voting for the **May 10, 2014 Charter Amendment Election**
- May 3-4, 2014 – **3rd Annual Rails & Tails Mudbug Festival - 11:00 a.m.-6:00 p.m.**
- May 10, 2014 – **Charter Amendment Election – City Hall, 7:00 a.m.-7:00 p.m.**
- May 24, 2014 – **3rd Annual Memorial Day Weekend Chili Challenge - 12:00 Noon-5:00 p.m.**
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Rosalie Dillon- **6th Annual 5K Bunny Run and 1 Mile Kids Walk**

6.0 Approve the Minutes of the April 7, 2014 Regular City Council Meeting

7.0 New Business:

- 7.1 Approve Professional Services Agreement with Marsh Darcy Partners, Inc., in the Amount of \$30,900.00 to Prepare a Management and Improvement Plan for the Development Review Process of the Community Development Department and Fire Marshal's Office.
- 7.2 Approve Proposed Specifications for the Request for Proposals for Sanitation Collection and Disposal Services for the City of Tomball.
- 7.3 Approve Resolution No. 2014-09, a Resolution of the City Council of the City of Tomball, Texas Sponsoring the July 4th Celebration, to be Held in Tomball on Friday, July 4th, 2014, Closing State Highway Business 249 from Hicks Street to the North Entrance to the Kroger Parking Lot from 3:00 p.m. until 11:00 p.m., and Authorizing the City Manager to Issue a Letter to TxDOT requesting the Closure of the Designated Portion of State Highway Business 249.
- 7.4 Consideration to approve **ZONING CASE P14-028**: Request by Stutt Cox Builders, Inc., on behalf of Ronald and Amy Haffner, for a Conditional Use Permit to operate an accountant's office with one residential sleeping quarter. The property is approximately 0.68 acres, is legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, is generally located south of Brown Road between State Highway 249 and Quinn Road, and is located in the Office District.
 - Conduct a Public Hearing on **ZONING CASE P14-028**
 - Adopt, on First Reading, Ordinance No. 2014-08, an Ordinance of the City

of Tomball, Texas, amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Ronald and Amy Haffner to operate an accountant's office with one residential sleeping quarter; said property being approximately 0.68 acres, and being legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, generally located south of Brown Road between State Highway 249 and Quinn Road; providing requirements and conditions for this Conditional Use Permit; containing findings and other provisions relating to the subject; providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.

- 7.5 Consideration to approve **ZONING CASE P14-040**: Request by 2978 Panormus, LP to amend the City's Zoning Ordinance by rezoning approximately 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, City of Tomball, Harris County, Texas, said 34.4945 acres being comprised of Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records; generally located northerly of FM 2920 between Snook Lane and FM 2978, from the Commercial and Single-Family Residential-9 Districts to the Planned Development - 6 District to facilitate a mixed use development.

- Conduct a Public Hearing on **ZONING CASE P14-040**
- Adopt, on First Reading, Ordinance No. 2014-09, An Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance, by approving a Planned Development District ("PDD") being approximately 34.86 acres of land, legally described as Tracts 11M-4 and 12, Joseph Pruitt Survey; Lots 296 and 297, Tomball Outlots; and Tracts 298A, 298B-1, 298C-1, 302A, 302B, 302E, 303A-1, 303C-1, 303D, 306B, & 311A, Tomball Outlots; within the City of Tomball, Harris County, Texas; amending the official Zoning Map of the City to reflect the PDD to be known as Planned Development District #6 (PDD-6); adopting a Concept Plan and regulations applicable to PDD-6; 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.

- 7.6 Adopt on First Reading, Ordinance No. 2014-10, an Ordinance Amending Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, by Deleting Sections 14-35, International Building Code Adopted, and 14-36, Amendments to the International Building Code, of Article II, Building Code, and Adopting New Sections 14-35 and 14-36 Adopting the International Building Code, 2012 Edition, and Making Amendments Thereto; by Deleting Sections 14-65, International Mechanical Code Adopted, and 14-66, Amendments to the International Mechanical Code, of Article III, Air Conditioning and Mechanical Work, and Adopting New Sections 14-65 and 14-66 Adopting the International Mechanical Code, 2012 Edition, and Making Amendments Thereto; by Deleting Section 14-147, Supervision of Work, of Subdivision I, Generally, of Division 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-147; by Deleting Sections 14-185, License Required, of Subdivision III, Master Electrician, of

Division 3, Electricians, of Article IV, Electricity, and Adopting New Section 14-185, License Required and 14-193, Insurance; by Deleting Section 14-210, License Required, of Subdivision IV, Journeyman Electrician, of Division 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-210, License Required; by Deleting Section 14-230, License Required, of Subdivision V, Apprentice Electrician Registration, of Subdivision 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-210, License Required; by Deleting Sections 14-272, Death of Master Electrician, and 14-284, Adoption, of Division 4, Permits and Inspections, of Article IV, Electricity, and Adopting New Sections 14-272, Death of Master Electrician, and 14-284, Adoption, Providing for the Adoption of the 2011 Edition of the National Electrical Code, NFPA 70; by Deleting Sections 14-325, International Residential Code Adopted, and 14-328, Amendments to the International Residential Code, of Division 2, Housing Code, of Article V, Housing, and Adopting New Sections 14-325 and 14-328 Adopting the International Residential Code, 2012 Edition, and Making Amendments Thereto; by Deleting Section 14-391, Bond, of Division 1, Generally, of Article VI, Plumbing and Gas; by Deleting Sections 14-405, International Plumbing Code Adopted, and 14-406, Amendments to the International Plumbing Code, of Division 2, Codes, of Article VI, Plumbing and Gas, and Adopting New Sections 14-405 and 14-406 Adopting the International Plumbing Code, 2012 Edition, and Making Amendments Thereto; Providing a Penalty in an Amount Not to Exceed \$2000 for Each Day of Violation Hereof; and Providing for Severability.

- 7.7 Adopt, on First Reading, Ordinance No. 2014-11, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Deleting All of Article III, Fire Prevention Code, of Chapter 34, Fire Prevention and Protection, and Adopting a New Article III, Fire Prevention Code, Adopting the 2012 Edition of the International Fire Code as Published by the International Code Council and the 2012 Edition of the NFPA 101 as Published by the National Fire Protection Association, and Making Local Amendments Thereto; by Deleting All of Article IV, Standards for the Installation of Fire Sprinkler Systems, of Chapter 34, Fire Prevention and Protection, and Adopting a New Article IV Adopting NFPA 13, NFPA 13D, and NFPA 13R Standards, and Making Local Amendments Thereto; Providing a Penalty in an Amount not to Exceed \$2,000 for Each Day of Violation Hereof; and Providing for Severability

- 7.8 Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Sec. 551.072 – Deliberations Regarding Real Property

8.0 Adjournment

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall, City of Tomball, Texas, a place readily accessible to the general public at all times, on the 17th day of April 2014 by 6:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Doris Speer _____
Doris Speer
City Secretary, TRMC

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information.

AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.

Regular City Council
Agenda Item
Data Sheet

Meeting Date: April 21, 2014

Topic:

- Led by Christian Collins, Young Adult Leader, Grace Church-Tomball

Background:

Origination:

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: April 21, 2014

Topic:

- Led by Members of the Tomball High School Student Council

Background:

Origination:

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

Regular City Council Agenda Item Data Sheet

Meeting Date: April 21, 2014

Topic:

- April 21-25, 2014 – **Annual Spring Clean-Up and Chipping Week**
- April 26, 2014 – **Tomball Consolidated Recycling Day at LoneStar College-Tomball** - 10:00 a.m.-2:00 p.m.
- April 28-May 6, 2014 – Early Voting for the **May 10, 2014 Charter Amendment Election**
- May 3-4, 2014 – **3rd Annual Rails & Tails Mudbug Festival** - 11:00 a.m.-6:00 p.m.
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- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Rosalie Dillon- **6th Annual 5K Bunny Run and 1 Mile Kids Walk**

Background:

Origination:

Various

Recommendation:

N/A

Funding:

Party(ies) responsible for placing this item on agenda:

City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Annual Spring Clean-Up and Chipping Week

Tomball Consolidated Recycling Day at LoneStar College-Tomball

Tomball Consolidated Recycling Day at LoneStar College-Tomball

May 10, 2014 Charter Amendment Election

City of Tomball
Spring Clean up
Week of April 21-26, 2014
Monday – Saturday - 8:00 am - 4:30 pm

Objective:

Provide the citizens of Tomball the opportunity to dispose of large, hard-to-handle items that cannot be collected under the normal garbage service. **** (Remember this is for residents of Tomball only (must have City utility bill as proof); NO COMMERCIAL BUSINESS OPERATORS) ****

Roll Offs will be available at the City Landfill Site (0.4 miles north of E. Hufsmith on Rudolph) to dispose of the acceptable items. See map to landfill site below.

Acceptable Items:

- | | | |
|------------------------------|--------------------------|-----------------------------------|
| • Lumber | • Bricks (small amount) | • Gutter material |
| • Bicycle parts | • Empty buckets or pails | • Cardboard boxes |
| • Plywood (4 cubic yd. max) | • Rocks (small amount) | • Lawn mowers (oil & gas removed) |
| • Rugs/carpet | • Washing machines | • Dishwashers |
| • Siding | • Dryers | |
| • Clothing | • Water heaters | |
| • Box springs and mattresses | • Furniture | |

Not Acceptable:

- | | | |
|----------------------------------|--|--|
| • Tree trimmings | • Insecticides | • Raw meats, food products or byproducts |
| • Limbs or stumps | • Container with unmarked labels holding liquids | • Televisions |
| • Tires | • Sealed containers of any type | • Computers |
| • Engine blocks | • Large amounts of construction or demolition material | • Refrigerators |
| • Structural steel | • Smoke detectors | • AC units |
| • Equipment with oil or gasoline | • Pressurized vessels | • Appliances with Freon or fluids |
| • Fertilizers | • Flammable, combustible or corrosive products | • Paint |
| • Pool chemicals | | |
| • Batteries | | |
| • Oil filters | | |

All appliances must be drained and tagged by a licensed technician.

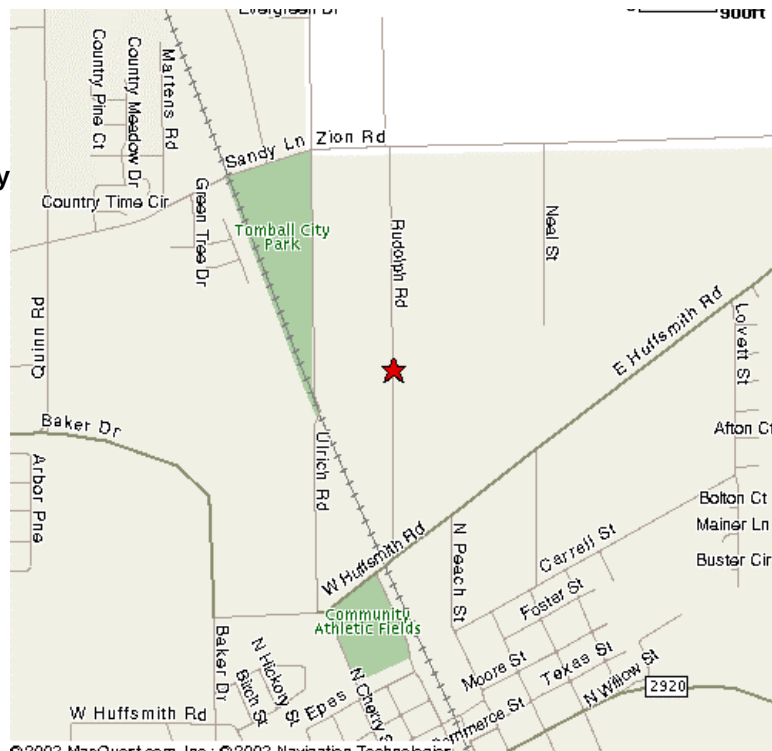
Acceptable items are anything that is inert and would not harm the environment before or after disposal into a landfill.

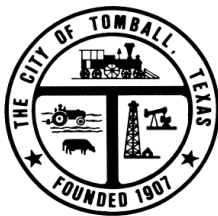
The City of Tomball will provide a free chipping service for brush and small limbs during the week of Tomball Cleanup. To participate, please call **(281) 290-1400** the week before the cleanup begins to be added to the chipping list.

CHIPPING SPECIFICATIONS:

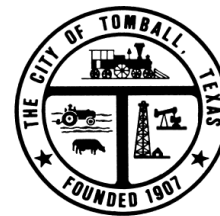
- Turn all big ends toward road or in one direction
- Limit size to 6 ft.-8 ft., maximum
- Keep logs separate from limbs, nothing over 6" dia.
- Place limbs & brush near roadside and not on property
- Leaves, please bag for regular garbage pickup

Map to Tomball landfill site





PRESS RELEASE



TOMBALL PUBLIC WORKS DEPARTMENT

501 James St., Tomball, Texas 77375
(281) 290-1400 Fax: (281) 351-4735

For Immediate Release

Date: March 7, 2014
Contact: David Kauffman, Director of Public Works
Phone: (281) 290-1425

Tomball Annual Spring Cleanup Week and Consolidated Recycling Day

Bulk Waste Drop Off

Time to clean out the garage and the old shed, and clean up the yard! The City of Tomball Public Works Department will conduct its Annual Spring Cleanup Week beginning April 21 and ending April 26, 2014. The drop off site for bulk waste only is located at the City's closed landfill site on Rudolph Rd., 0.4 miles north of E. Hufsmith. A city utility bill is required as proof of residency, and no commercial operators are accepted. The drop off site is open for bulk waste items such as; old furniture, mattresses, appliances (properly drained and tagged), carpeting, and small amounts of lumber and building materials. Items not accepted at the drop off site include; brush and yard waste, batteries, unmarked containers, hazardous chemicals, household trash (food) televisions, and paint.

Curbside Brush and Limb Chipping Service

In addition to the bulk waste drop off, the public works department will also be providing curbside brush and limb chipping services. Please place all limbs (less than 6" in diameter) parallel with the street and place all stumps and logs separately. Leaves and small clippings should be bundled or bagged and placed with your normal weekly trash pickup. Please call 281-290-1400 the week before the cleanup begins to be added to the chipping list. No brush, limbs, or trees placed by contractors.

Consolidated Recycling Day

Join your community for a great day of recycling! Tomball Consolidated Recycling Day will be held April 26, 2014 from 10am – 2pm, and will be located at 30555 Tomball Parkway, at the Lone Star College – Tomball Campus. Drive thru and drop off your e-waste (electronics), old prescription drugs, car tires, car batteries, used motor oil and antifreeze, paper shredding, and recyclable paper/cardboard, plastics, and glass. Items not accepted include paint and hazardous chemicals and televisions over 27". This event is sponsored by; The City of Tomball, Tomball Police Department, Tomball Public Works, CompuCycle, Lone Star College Tomball, Southern Shred, Interstate Batteries, WCA of America, DEA National Take-Back Initiative, Phoenix Oil, Mann's Tire, Locatelli's Pizza, Buffalo Wild Wings, and Walgreens.

For more information go to www.ci.tomball.tx.us or contact the Public Works Department at 281-290-1425.

Tomball Consolidated Recycling Day

Lone Star College –Tomball Campus
30555 Tomball Parkway

South entrance

April 26th from 10am-2pm

Drive Thru and Drop Off the following APPROVED items:
E-Waste (computers and all accessories, Fax machines, laptop batteries, UPS/Lithium/Ni-Cad Batteries, Small kitchen appliances), Prescription Drugs (pill & liquid), Tires (car/truck/atv), Car Battery (Non-Leaking), Used Motor Oil, Household paper/plastics/glass, Paper Shredding

~~Plastic Bags, Paint, Styrofoam~~

Thanks to our Community Partners and Sponsors!!!



Southern Shred

TIRE AND WHEEL CONNECTION



LOCATELLI'S PIZZA



Walgreens
AT THE CORNER OF **HAPPY & HEALTHY™**

Got Drugs?

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NOTICE OF SPECIAL ELECTION – CHARTER AMENDMENTS
(AVISO DE ELECCIÓN ESPECIAL -- LAS ENMIENDAS A LA CARTA)

To the Registered Voters of the City of Tomball, Texas: *(A los votantes registrados de la Ciudad de Tomball, Texas:)*

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m. on May 10, 2014, for voting in a special election to select Proposed Charter Amendments to the City of Tomball Home Rule Charter. *Se que los centros de votación a continuación estará abierto desde las 7:00 a.m. a 7:00 p.m. del día 10 de mayo, 2014, para votar en una elección especial para seleccionar Enmiendas propuestas a la carta a la ciudad de Tomball Carta autonómica.*

The proposed amendments are as follows (a copy of the proposed amendments in Vietnamese or Mandarin is available by contacting the City Secretary at 281-290-1002 or at City Hall, 401 Market Street, Tomball, Texas) *(Las enmiendas propuestas son como seguir) (una copia de las enmiendas propuestas en vietnamita o Mandarín está disponible por ponerse en contacto con el Secretario de Ciudad en 281-290-1002 o en el Ayuntamiento, 401 Calle de Market, Tomball, Texas):*

AMENDMENT NO. 1

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT (Explanatory Note: Provision is transitional in nature and no longer germane to the Charter.):

DELETE ENTIRE “SECTION 1.05 - CONTINUATION OF BUDGET

The budget adopted for the City for fiscal year October 1, 1986, to September 30, 1987 shall be and become the budget for the current year.”

ENMIENDA NRO. 1

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR UN REQUISITO OBSOLETO:

BORRAR TODA LA “SECCIÓN 1.05 - CONTINUACIÓN DEL PRESUPUESTO

El presupuesto adoptado por la Ciudad para el año fiscal del 1 de octubre de 1986 al 30 de septiembre de 1987 será el presupuesto para el año en curso”.

AMENDMENT NO. 2

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT (Explanatory Note: Provision is transitional in nature and no longer germane to the Charter):

DELETE ENTIRE “SECTION 1.06 - INTERIM MUNICIPAL GOVERNMENT

Upon adoption of this Charter, the persons then filling elective offices will continue to fill these offices to which they were elected. Thereafter, the City Council and Mayor shall be elected as provided in Article VI, Section 6.02. Persons, who on the date this Charter is adopted, who are filling appointive positions with the City which are retained under this Charter, may continue to fill these positions for the term for which they were appointed, unless removed by the Council or by other means provided for in this Charter. Persons who, on the effective date of this Charter, are filling elective offices, that by this Charter are made appointive offices, shall continue to serve in those offices for the terms to which they were elected.”

ENMIENDA NRO. 2

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR UN REQUISITO OBSOLETO:

BORRAR TODA LA “SECCIÓN 1.06 - GOBIERNO MUNICIPAL PROVISORIO

Tras la adopción de esta Carta Orgánica, las personas que en ese momento ocupan cargos electivos seguirán ocupando estos cargos para los que fueron electos. A partir de entonces, el Consejo Municipal y el Alcalde serán electos según lo dispuesto en el Artículo VI, Sección 6.02. Las personas, que en la fecha de adopción de esta Carta Orgánica, que ocupan las posiciones por designación en la Ciudad que se retienen según esta Carta Orgánica, pueden seguir ocupando dichas posiciones por el mandato por el cual fueron designados, a menos que el Consejo Municipal u otros medios dispuestos en esta Carta Orgánica los destituyan. Las personas que, en la fecha de entrada en vigencia de esta Carta Orgánica, ocupan cargos electivos, que se convierten por esta Carta Orgánica en cargos por designación, seguirán ocupando dichos cargos por los periodos para los cuales fueron electas”.

AMENDMENT NO. 3

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT (Explanatory Note: Provision is transitional in nature and no longer germane to the Charter):

DELETE ENTIRE “SECTION 1.07 - INTERIM ELECTION PROCEDURE

For an orderly transition to three-year (3-year) terms from two-year (2-year) terms, the following schedule will be implemented:

Persons presently in an elective term will continue in office. Immediately following the Charter Election, at the next regularly scheduled Council Meeting, the three (3) City Councilmen whose terms are expiring April 1987 will draw for Positions 1 and 5 for three-year (3-year) terms and Position 3 for a two-year (2-year) term, in a manner not inconsistent with State law. A separate drawing will be held the same date for Positions 2 and 4 by the incumbents with one (1) year remaining on their existing term. These positions will be for three-year (3-year) terms starting May 1988. If the Councilman chooses to run for re-election, he must run for the Position number that he drew.

In the first (1st) election, on the first (1st) Saturday of April 1987, after the adoption of this Charter, Councilmen shall be elected for Positions 1, 3 and 5 as outlined above.

In the second (2nd) election year, on the third (3rd) Saturday of May 1988, after adoption of this Charter, Councilmen shall be elected for Positions 2 and 4 for three-year (3-year) terms. The Mayor will be elected for a two-year (2-year) term.

In the third (3rd) election year, on the third (3rd) Saturday of May 1989, after adoption of this Charter, Position 3 will be elected for a three-year (3-year) term.

In the fourth (4th) election year, on the third (3rd) Saturday of May 1990, after adoption of this Charter, the Mayor will be elected for a two-year (2-year) term. Positions 1 and 5 will be elected for three-year (3-year) terms.

In the fifth (5th) election year, on the third (3rd) Saturday of May 1991, after adoption of this Charter, the Positions 2 and 4 will be elected for three-year (3-year) terms.

In the sixth (6th) election year, on the third (3rd) Saturday of May 1992, after adoption of this Charter, Position 3 and the Mayor will be elected for three-year (3-year) terms.

This will complete the schedule whereby two (2) of the six (6) members comprising the Office of Mayor and City Council will be up for election each year.”

ENMIENDA NRO.3

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR UN REQUISITO OBSOLETO:

BORRAR TODA LA “SECCIÓN 1.07 - PROCEDIMIENTO DE ELECCIÓN PROVISORIA

Para lograr una transición ordenada a los mandatos de tres años (3 años) de los mandatos de dos años (2 años), se implementará el siguiente cronograma:

Las personas actualmente en un mandato electivo seguirán en sus cargos. Inmediatamente después de la Elección de la Carta Orgánica, en la siguiente Asamblea del Consejo programada regularmente, los tres (3) Concejales de la Ciudad cuyos mandatos terminan en abril de 1987 serán sorteados para las Posiciones 1 y 5 para mandatos de tres años (3 años) y la Posición 3 para un mandato de dos años (2 años), de una manera que no sea incompatible con las leyes del Estado. Se realizará un sorteo aparte en la misma fecha para las Posiciones 2 y 4 para los titulares de los cargos con un (1) año restante en su mandato existente. Estas posiciones serán mandatos de tres (3) años a partir de mayo de 1988. Si el Concejál opta por postularse para reelección, debe ser candidato para el número de Posición que le fue sorteado.

En la primera (1.ra) elección, el primer (1.er) sábado de abril de 1987, después de la adopción de esta Carta Orgánica, se elegirán Concejales para las Posiciones 1, 3 y 5 según lo descrito arriba.

En el segundo (2.do) año electoral, el tercer (3.er) sábado de mayo de 1988, después de la adopción de esta Carta Orgánica, se elegirán Concejales para las Posiciones 2 y 4 para los mandatos de tres años (3 años). El Alcalde será electo para un mandato de dos años (2 años).

En el tercer (3.er) año electoral, el tercer (3.er) sábado de mayo de 1989, después de la adopción de esta Carta Orgánica, se elegirá la Posición 3 para un mandato de tres años (3 años).

En el cuarto (4.to) año electoral, el tercer (3.er) sábado de mayo de 1990, después de la adopción de esta Carta Orgánica, se elegirá al Alcalde para un mandato de dos años (2 años). Las Posiciones 1 y 5 serán electas para mandatos de tres años (3 años).

En el quinto (5.to) año electoral, el tercer (3.er) sábado de mayo de 1991, después de la adopción de esta Carta Orgánica, se elegirán las Posiciones 2 y 4 para mandatos de tres años (3 años).

En el sexto (6.to) año electoral, el tercer (3.er) sábado de mayo de 1992, después de la adopción de esta Carta Orgánica, se elegirán la Posición 3 y el Alcalde para mandatos de tres años (3 años).

Esto completará el cronograma mediante el cual dos (2) de los seis (6) miembros que conforman la Oficina del Alcalde y Consejo Municipal se someterán a elección cada año”.

AMENDMENT NO. 4

A CHARTER AMENDMENT ELIMINATING AN OBSOLETE REQUIREMENT (Explanatory Note: Provision is transitional in nature and no longer germane to the Charter):

DELETE ENTIRE “SECTION 1.09 - SUBMISSION OF THE CHARTER TO THE VOTERS

The Charter Commission in preparing this Charter concludes it is impracticable to segregate each subject so as to permit a vote of “yes” or “no” on the same, for the reason that the Charter is so constructed that in order to enable it to work and function it is necessary that it should be adopted in its entirety. For these reasons, the Charter Commission directs that the Charter be voted upon as a whole and that it shall be submitted to the qualified voters of the City at an election to be held on January 17, 1987. Not less than (30) days prior to that election, the Council shall cause the City Secretary to mail a copy of this Charter to each qualified voter of the City as appears from the latest certified list of registered voters. If a majority of the qualified voters voting in the election shall vote in favor of the adoption of this Charter, it shall become the Charter of the City and after the returns have been canvassed, the same shall be declared adopted and the City Secretary shall file an official copy of the Charter with the records of the City. The City Secretary shall furnish the Mayor a copy of said Charter which copy of the Charter so adopted, authenticated and certified by his signature and the seal of the City, shall be forwarded by the Mayor to the Secretary of the State of Texas and shall show approval of such Charter by the majority vote at that election.”

ENMIENDA NRO. 4

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR UN REQUISITO OBSOLETO:

BORRAR TODA LA “SECCIÓN 1.09 - PRESENTACIÓN DE LA CARTA ORGÁNICA A LOS VOTANTES

La Comisión de la Carta Orgánica en la preparación de esta Carta Orgánica llega a la conclusión de que es impracticable separar cada tema para permitir un voto por “sí” o “no” sobre el mismo, porque la Carta Orgánica fue construida de forma tal que para que pueda servir y funcionar se debe adoptar en su totalidad. Por estos motivos, la Comisión de la Carta Orgánica instruye que se vote por la Carta Orgánica en su totalidad y que será presentada a los votantes calificados de la Ciudad en una elección que se realizará el 17 de enero de 1987. No menos de treinta (30) días antes de esa elección, el Consejo hará que el Secretario de la Ciudad envíe por correo una copia de esta Carta Orgánica a cada uno de los votantes calificados de la Ciudad como aparece en la lista certificada de votantes registrados más reciente. Si una mayoría de los votantes calificados que vota en la elección votara a favor de la adopción de esta Carta Orgánica, se convertirá en la Carta Orgánica de la Ciudad y después del escrutinio de los resultados, se declarará la adopción de la misma y el Secretario de la Ciudad entregará una copia oficial de la Carta Orgánica para ser archivada con los registros de la Ciudad. El Secretario de la Ciudad entregará al Alcalde una copia de dicha Carta Orgánica, la cual adoptada, autenticada y certificada por su firma y el sello de la Ciudad, será enviará por el Alcalde al Secretario del Estado de Texas y mostrará la aprobación de dicha Carta Orgánica por el voto mayoritario en esa elección”.

AMENDMENT NO. 5

A CHARTER AMENDMENT AUTHORIZING THE COMPLETE EDITING OF THE CHARTER TO REFLECT THE RESULTS OF THE MAY 10, 2014 SPECIAL ELECTION (Explanatory Note: New provision necessary to specifically authorize the complete editing of the Charter and to reflect the results of the special election.):

“SECTION 1.10 - RENUMBERING OF CHARTER

Subsequent to the Charter amendment election of May 10, 2014, the Council shall by ordinance authorize the general editing of this Charter to renumber and rearrange as necessary all articles, sections, and subsections therein, or amendments thereto.”

ENMIENDA NRO. 5

UNA ENMIENDA A LA CARTA ORGÁNICA QUE AUTORIZA LA EDICIÓN COMPLETA DE LA CARTA ORGÁNICA PARA REFLEJAR LOS RESULTADOS DE LA ELECCIÓN ESPECIAL DEL 10 DE MAYO DE 2014:

“SECCIÓN 1.10- NUEVA NUMERACIÓN DE LA CARTA ORGÁNICA

Subsiguiente a la elección de enmienda de la Carta Orgánica del 10 de mayo de 2014, el Consejo autorizará por ordenanza la edición general de esta Carta Orgánica para colocar una nueva numeración y organización según sea necesaria de todos los artículos, las secciones y subsecciones de estos, o enmiendas a los mismos”.

AMENDMENT NO. 6

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS (Explanatory Note: Addition in the first sentence is a standard legal disclaimer lacking in the current Charter. Garnishment of employee wages is now mandated in certain cases under state and federal laws. The proposed change in the final sentence is necessary to comply with those laws.):

"SECTION 3.07 – PROVISIONS RELATING TO ASSIGNMENT, EXECUTION, AND GARNISHMENT

The property, real and personal, belonging to the City shall not be sold or appropriated under any writ of execution or cost bill; and no lien of any kind shall ever exist against any such property owned by the City except that the lien be created or authorized by this Charter or state law. The funds belonging to the city in the hands of any person, firm or corporation shall not be subject to garnishment, attachment or sequestration nor shall the City be subject to garnishment on account of any debt it may owe or funds or property it may have on hand or owing to any person. Neither the City nor any of its officers or agents shall be required to answer any writ or garnishment on any account whatever. The City shall not be obligated to recognize any assignment of wages or funds by its employees, agents or contractors, except as required by state or federal law.”

ENMIENDA NRO. 6

UNA ENMIENDA A LA CARTA ORGÁNICA QUE MODIFICA LOS REQUISITOS ACTUALES PARA CUMPLIR CON LAS LEYES FEDERALES Y ESTATALES:

“SECCIÓN 3.07- DISPOSICIONES RELATIVAS A CESIÓN, EJECUCIÓN Y EMBARGO

Los bienes, muebles e inmuebles, que pertenecen a la Ciudad no serán vendidos o incautados mediante ninguna orden de ejecución o pliego de costas; y ningún gravamen de ningún tipo existirá nunca sobre ninguno de dichos bienes pertenecientes a la Ciudad salvo que el gravamen sea creado o autorizado por esta Carta Orgánica o las leyes estatales. Los fondos que pertenecen a la ciudad en manos de cualquier persona, firma o corporación no serán sujetos a embargo, retención o confiscación ni la Ciudad será sujeta a embargo debido a alguna deuda que podría deber o fondos o bienes de los que podría disponer o deberle a cualquier persona. Ni la Ciudad ni ninguno de sus funcionarios o agentes tendrá obligación de responder a ninguna orden judicial o embargo bajo ningún concepto. La Ciudad no estará obligada a reconocer ninguna cesión de salarios o fondos por parte de sus empleados, agentes o contratistas, salvo los requisitos de las leyes estatales o federales”.

AMENDMENT NO. 7

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS (Explanatory Note: Proposed changes will make the section more fully understandable to the public and will comply with current state law.):

“SECTION 5.01 – ELECTIONS: REGULAR AND SPECIAL

- A. All City elections shall be conducted in accordance with the Texas Election Code.
- B. The regular City election shall be held annually on the second Saturday in May or such other date as required by the Texas Election Code. The Council shall be responsible for specifying the places for holding such elections.
- C. The Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The Council will fix the time and places for such a special election and provide all means for holding same.

- D. Municipal elections shall be conducted by election officials appointed by the Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- E. All municipal elections shall be publicized in accordance with the Texas Election Code.”

ENMIENDA NRO. 7

UNA ENMIENDA A LA CARTA ORGÁNICA QUE MODIFICA LOS REQUISITOS ACTUALES PARA CUMPLIR CON LAS LEYES FEDERALES Y ESTATALES:

“SECCIÓN 5.01- ELECCIONES: REGULARES Y ESPECIALES

- A. Todas las elecciones de la Ciudad se llevarán a cabo en conformidad con el Código Electoral de Texas.
- B. La elección regular de la Ciudad se realizará anualmente el segundo sábado de mayo o en cualquier otra fecha que requerida por el Código Electoral de Texas. El Consejo será el responsable de especificar los lugares para la celebración de dichas elecciones.
- C. El Consejo podrá, por resolución u ordenanza, ordenar una elección especial por motivos compatibles con esta Carta Orgánica y las leyes del Estado de Texas. El Consejo fijará el horario y los lugares para dicha elección especial y proveerá todos los medios para la celebración de la misma.
- D. Las elecciones municipales estarán a cargo de funcionarios electorales designados por el Consejo, o según lo disponga la ley de otro modo. Se colocarán boletas de votación de muestra con formato idéntico al usado en la elección específica en el o los lugares de votación para proveer orientación a los votantes.
- E. Las elecciones municipales se anunciarán de acuerdo con el Código Electoral de Texas”.

AMENDMENT NO. 8

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH FEDERAL AND STATE LAWS (Explanatory Note: Reference to a “loyalty” oath is no longer in common usage, and state law has superseded these deadlines.):

“SECTION 5.03 – FILING FOR OFFICE

Any qualified citizen as defined by Article 6.03 of this Charter may file for election to the Office of Mayor or Council Member. A signed application and prescribed oath shall be filed with the City Secretary in accordance with the Texas Election Code.”

ENMIENDA NRO. 8

UNA ENMIENDA A LA CARTA ORGÁNICA QUE MODIFICA LOS REQUISITOS ACTUALES PARA CUMPLIR CON LAS LEYES FEDERALES Y ESTATALES:

“SECCIÓN 5.03 -POSTULARSE A UN CARGO

Cualquier ciudadano calificado según la definición del Artículo 6.03 de esta Carta Orgánica puede postularse para ser electo para el cargo de Alcalde o Concejal. Se debe presentar al Secretario de la Ciudad una solicitud firmada y un juramento prescrito en conformidad con el Código Electoral de Texas”.

AMENDMENT NO. 9

A CHARTER AMENDMENT ELIMINATING OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes are necessary to make the Charter coincide with current practice as to such appointments.):

"SECTION 5.06 - CONDUCTING ELECTIONS

All residents who have complied with voter registration requirements as provided by the State Election Code shall be eligible to vote in the City elections. Election officials will be appointed by the Council, consistent with State laws, and compensation shall be set by the Council. Early voting shall be governed by the State Election Code of the State of Texas.”

ENMIENDA NRO. 9

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 5.06 - CELEBRACIÓN DE ELECCIONES

Todos los residentes que hayan cumplido con los requisitos de registro de votante según lo dispuesto en el Código Electoral del Estado serán elegibles para votar en las elecciones de la Ciudad. El Consejo designará a los funcionarios electorales de acuerdo a las leyes del Estado, y el Consejo fijará una remuneración. La votación anticipada se registrá por el Código Electoral del Estado del Estado de Texas”.

AMENDMENT NO. 10

A CHARTER AMENDMENT ELIMINATING OBSOLETE REQUIREMENTS (Explanatory Note: To remove transitional language that is no longer germane to the Charter.):

“SECTION 6.02 - NUMBER, SELECTION, AND TERM

The Legislative and governing body of the City shall consist of a Mayor and five (5) Councilmen and shall be known as the "City Council of the City of Tomball, Harris County, Texas."

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections shall be held in the manner provided for by this Charter and the election laws of the State of Texas.
- D. There shall be no limitation of elected terms for the Office of Mayor and Councilman.”

ENMIENDA NRO. 10

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 6.02 -NÚMERO, SELECCIÓN Y MANDATOS

El órgano legislativo y de gobierno de la Ciudad estará formado por un Alcalde y cinco (5) Concejales y será conocido como el “Consejo Municipal de la Ciudad de Tomball, Condado de Harris, Texas”.

- A. La Ciudad en general elegirá al Alcalde. La Ciudad en general elegirá los Concejales para las posiciones conocidas como Posiciones 1, 2, 3, 4 y 5.
- B. El Alcalde será el funcionario que presidirá el Consejo y será reconocido como el jefe del Gobierno de la Ciudad a todos los fines ceremoniales y por el Gobernador para fines de ley militar. El Alcalde podrá votar únicamente en caso de empate en una votación y no tendrá la facultad para vetar ninguna acción del Consejo.

- C. El Alcalde y cada Concejal ocupará su cargo por un periodo de tres (3) años o hasta que su sucesor sea electo y cumpla con los requisitos. Todas las elecciones se llevarán a cabo en la manera dispuesta por esta Carta Orgánica y las leyes electorales del Estado de Texas.
- D. No habrá ninguna limitación a los mandatos electos para el cargo de Alcalde y Concejal”.

AMENDMENT NO. 11

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS (Explanatory Note: Council Recommendation is to reduce the minimum age requirement to 18):

“SECTION 6.03 - QUALIFICATIONS

Each member of the Council shall be a resident citizen of the City, shall be a minimum of **eighteen (18)** years of age and a qualified voter of the State of Texas, shall have been a resident citizen of Tomball for a period of not less than one (1) year immediately preceding his election. An incumbent seeking re-election must file for the same position number. Any person presently holding an elective office shall resign that office upon election to another elective office of profit or trust. No employee of the City shall continue in such position after election to an elective office. A citizen cannot file for an elective office if the candidate has a felony conviction except as provided by the State Election Code. The Mayor or Councilman shall, if convicted of a felony while in office, immediately upon conviction thereof, forfeit said office. If the Mayor or any Councilman fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six (6) month period without valid excuse, the Council must, at its next regular meeting, declare a vacancy as set forth in Section 6.09 of this Charter.”

ENMIENDA NRO. 11

UNA ENMIENDA A LA CARTA ORGÁNICA QUE MODIFICA REQUISITOS ACTUALES:

“SECCIÓN 6.03- REQUISITOS

Cada miembro del Consejo será un ciudadano residente de la Ciudad, tendrá un mínimo de dieciocho (18) años de edad y será un votante calificado del Estado de Texas, habrá sido un ciudadano residente de Tomball por un periodo no menor a un (1) año inmediatamente anterior a su elección. El titular de un cargo que busque la reelección debe postularse para el mismo número de posición. Cualquier persona que en la actualidad ocupe un cargo electivo renunciará a ese cargo en el momento de ser electo para otro cargo electivo de confianza o con remuneración. Ningún empleado de la Ciudad continuará ocupando dicha posición después de ser electo para un cargo electivo. Un ciudadano no puede postularse para un cargo electivo si el candidato tiene una condena por un delito mayor salvo lo dispuesto por el Código Electoral del Estado. El Alcalde o Concejal, de ser condenado por un delito mayor durante el desempeño de su función, en el momento de la condena por el mismo, deberá renunciar a dicho cargo. Si el Alcalde o cualquier Concejal no mantiene los requisitos anteriores o llegara a ausentarse de dos (2) asambleas regulares programadas dentro de cualquier periodo de seis (6) meses sin un justificativo válido, el Consejo debe, en su siguiente asamblea regular, declarar una vacante según lo estipula la Sección 6.09 de esta Carta Orgánica”.

AMENDMENT NO. 12

A CHARTER AMENDMENT AMENDING CURRENT REQUIREMENTS TO COMPLY WITH STATE LAW (Explanatory Note: Proposed changes will provide, in certain cases, for appointment of vacancies occurring on the City Council, in keeping with the recent approval of an amendment to the Texas Constitution and in the interest of economy.):

“SECTION 6.09 - VACANCIES

When a vacancy occurs in the Council, the following provisions shall apply, to wit:

Any vacancy or vacancies occurring for which the unexpired term is twelve (12) months or less shall be filled by appointment of the Council. Any vacancy or vacancies for which the unexpired term is for more than twelve (12) months must be filled by a majority of voters voting in a special election called for such purpose in accordance with the Texas State Constitution.

It is further provided that in a special or regular election: The person(s) elected to fill a vacancy or vacancies shall serve only the unexpired term for that particular position.”

ENMIENDA NRO. 12

UNA ENMIENDA A LA CARTA ORGÁNICA QUE MODIFICA LOS REQUISITOS ACTUALES PARA CUMPLIR CON LA LEY ESTATAL:

“SECCIÓN 6.09 - VACANTES

Cuando se produce una vacante en el Consejo, se aplicarán las siguientes disposiciones, a saber:

Cualquier vacante o vacantes que se produzca en un cargo con doce (12) meses o menos restantes de mandato será cubierta por designación del Consejo. Cualquier vacante o vacantes en un cargo con más de doce (12) meses restantes de mandato debe ser cubierta por una mayoría de los votantes que votan en una elección especial convocada para dicho fin de acuerdo a la Constitución del Estado de Texas.

Además se dispone que en una elección especial o regular: La o las personas electas para cubrir una vacante o vacantes fungirá únicamente durante el mandato sin finalizar de esa posición particular.”

AMENDMENT NO. 13

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices and use of electronic methods of notification.):

“SECTION 6.12 – MEETINGS OF COUNCIL

The Council shall schedule at least two (2) regular meetings each month and as many additional meetings as it deems necessary to transact the business of the City and its citizens. The Council shall fix the days and time of the regular meetings. All regular meetings of the Council shall be held at the City of Tomball City Hall, unless the Council votes to approve a location other than the City Hall in the event it is determined to be in the public interest. All meetings shall be open and accessible to the public; however, the Council may recess to an Executive Session only for the purposes provided by the Texas Open Meetings Act. Final action thereon shall not be taken by the Council until the matter is placed on the agenda and a vote taken in an open meeting.

The City Secretary, upon written request of the Mayor or any three (3) Council members, shall call special meetings of the Council, notice of such special meetings shall be given to each member of the Council, which said notice shall state the date for such meeting and the subject to be considered at such meeting, and no other subject shall be thereby considered.”

ENMIENDA NRO. 13

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 6.12- ASAMBLEAS DEL CONSEJO

El Consejo programará al menos dos (2) asambleas regulares cada mes y tantas asambleas adicionales como considere necesarias para manejar los asuntos de la Ciudad y sus ciudadanos. El Consejo fijará los días y el horario de las asambleas regulares. Todas las asambleas regulares del Consejo se realizarán en el City Hall de la Ciudad de Tomball, a menos que el Consejo vote para aprobar un lugar distinto al City Hall en caso que se determine que es de interés público. Todas las asambleas serán abiertas y accesibles al público; sin embargo, el Consejo podrá recurrir a una Sesión Ejecutiva únicamente por los fines dispuestos en la Ley de Asambleas Públicas de Texas. El Consejo no tomará una medida final sobre los mismos hasta que el asunto se coloque en la agenda y se someta a votación en una asamblea abierta.

El Secretario de la Ciudad, por pedido escrito del Alcalde o cualesquiera tres (3) miembros del Consejo, convocará asambleas especiales del Consejo, de las cuales se dará aviso a cada miembro del Consejo, en el cual se indicará la fecha de dicha asamblea y el tema a considerar en dicha asamblea, y no se considerará ningún otro tema en la misma.”

AMENDMENT NO. 14

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices.):

“SECTION 6.14 – ORDINANCES

In addition to such acts of the Council as are required by statute or by this Charter to be by ordinance, every act of the Council establishing a fine or other penalty or providing for the expenditure of funds or for the contracting of indebtedness shall be by ordinance. The enacting clause of all ordinances shall be, “BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOMBALL:”

A. Procedure for Passage of Ordinances

Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication in book or pamphlet form. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining presentation of said ordinance may be by caption only. Copies of said ordinances shall be made available at the City Hall upon request. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.”

ENMIENDA NRO. 14

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 6.14- ORDENANZAS

Además de ciertos actos del Consejo que por ley o por esta Carta Orgánica deben ser por ordenanza, todo acto del Consejo que establece una multa u otra sanción o dispone el gasto de fondos o la contratación de endeudamiento será por ordenanza. La fórmula de promulgación de todas las ordenanzas será: “EL CONSEJO MUNICIPAL DE LA CIUDAD DE TOMBALL ORDENA”:

A. Procedimiento de aprobación de ordenanzas

Se presentará cada ordenanza por escrito o en forma impresa y, después de su aprobación, entrará en vigencia en el momento indicado en la misma; siempre que cualquier ordenanza que impone una sanción, multa o decomiso por una violación de sus disposiciones entrará en vigencia no menos de catorce (14) días desde la fecha de su aprobación. El Secretario de la Ciudad informará todas las ordenanzas en consideración, mediante la publicación del encabezamiento o resumen, incluida la sanción, multa o decomiso por una violación de cualquier ordenanza de ese tipo en el periódico oficial de la Ciudad después de la primera lectura y al menos una vez dentro de los catorce (14) días posteriores a la aprobación de dicha ordenanza. Notará en cada ordenanza, cuyo encabezamiento por la presente se debe publicar, y en el registro de la misma, el hecho de que la misma ha sido publicada según el requisito de la Carta Orgánica, y la fecha de dicha publicación, y la promulgación de dicha ordenanza; siempre que las disposiciones de esta sección no se aplicarán a la corrección, revisión y modificación de las ordenanzas de la Ciudad para publicación en forma de libro o panfleto. Será necesario para la validez de cualquier ordenanza que se lea dos (2) veces y se considere en dos (2) sesiones del Consejo a menos que esta Carta Orgánica lo trate de otro modo. En la primera (1.ra) lectura, dicha ordenanza será leída en su totalidad a menos que se presente y se apruebe una moción que suspenda el requisito de la lectura de la ordenanza, en cuyo caso se leerá únicamente el encabezamiento de la ordenanza, seguido por una explicación de la ordenanza. La presentación restante (1) de dicha ordenanza podrá ser a través solo de su encabezamiento. Habrá disponibles por pedido copias de dichas ordenanzas en el City Hall. Cada ordenanza será autenticada por la firma del Alcalde y del Secretario de la Ciudad y será registrada sistemáticamente en un libro de ordenanzas en una manera aprobada por el Consejo. Será necesario registrar únicamente el encabezamiento o título de ordenanzas en las actas o el registro diario de las asambleas del Consejo. El Consejo tendrá la facultad de hacer que las ordenanzas de la Ciudad sean corregidas, revisadas, codificadas e impresas en forma de código con la frecuencia que el Consejo considere recomendable, y dicho código impreso, cuando el Consejo lo adopta, tendrá plena vigencia sin la necesidad de publicar el mismo o cualquier parte del mismo en un periódico. Sin embargo, si se enmienda la ordenanza, entonces se debe publicar una vez, solo mediante su encabezamiento, en el periódico oficial de la Ciudad. Dicho código impreso deberá ser admitido como prueba en todos los tribunales y lugares sin necesidad de otras pruebas”.

AMENDMENT NO. 15

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS AND PROVIDE FOR PERIODIC REVIEW OF THE CHARTER (Explanatory Note: Subsection C.(6) is proposed to be deleted because it has never been routinely observed and is thought to be an unnecessary administrative practice. New Subsection C.(6) is proposed to be added to guarantee the periodic review of the overall condition and ongoing relevancy of the Charter.):

“SECTION 7.01 - CITY MANAGER

A. Appointment and Qualifications:

The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary:

- (1)

The City Manager shall be appointed for a term not to exceed two years by a majority vote appointment shall be secured through an explicit Contractual agreement which shall protect the rights of both the Council and the City Manager.
- (2)

The City Manager shall receive compensation as may be fixed by the Council.

C. Duties of the City Manager. The City Manager shall:

- (1)

Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2)

Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3)

Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4)

Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5)

Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6)

Prepare a written report to the Council, first in 2019, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.”

ENMIENDA NRO. 15

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS Y DISPONER LA REVISIÓN PERIÓDICA DE LA CARTA ORGÁNICA:

“SECCIÓN 7.01 - ADMINISTRADOR DE LA CIUDAD

A. Designación y requisitos:

El Consejo designará a un funcionario administrativo y ejecutivo de la Ciudad que será responsable ante el Consejo de la administración de todos los asuntos de la Ciudad. Será escogido exclusivamente por el Consejo en base a su formación ejecutiva y administrativa, experiencia y capacidad. Ningún miembro del Consejo será, durante el plazo de su mandato y por un año posterior al mismo, designado Administrador de la Ciudad.

B. Mandato y Salario:

- (1)

El Administrador de la Ciudad será designado por un mandato que no supere los dos años por un voto mayoritario garantizado por un acuerdo contractual explícito que protegerá los derechos tanto del Consejo como del Administrador de la Ciudad.
- (2)

El Administrador de la Ciudad recibirá una remuneración que fijará el Consejo.

- C. Obligaciones del Administrador de la Ciudad. El Administrador de la Ciudad deberá:
- (1)

Ser responsable ante el Consejo de la administración eficiente y económica del gobierno de la Ciudad. Tendrá la facultad, con la aprobación del Consejo, de designar y destituir a todos los jefes de departamentos. Tendrá la facultad de designar y destituir a todos los demás empleados del servicio administrativo de la Ciudad. Puede autorizar al jefe de un departamento a designar y destituir subordinados en su respectivo departamento. Salvo a efectos de indagación, el Consejo y sus miembros tratará con el servicio administrativo exclusivamente a través del Administrador de la Ciudad.
- (2)

Preparar el presupuesto anualmente y presentarlo al Consejo y ser responsable de su administración después de la adopción.
- (3)

Preparar y presentarle al Consejo, a partir del final del año fiscal, un informe completo de las actividades financieras y administrativas de la Ciudad para el año precedente.
- (4)

Mantener al Consejo al tanto de la situación financiera y las necesidades futuras de la Ciudad y hacer ciertas recomendaciones que considere adecuadas.
- (5)

Desempeñar ciertas funciones como podrían disponerse en esta Carta Orgánica o podría requerirle el Consejo, que no sean incompatibles con esta Carta Orgánica.
- (6)

Preparar un informe escrito al Consejo, primero en 2019, y a partir de entonces en intervalos que no superen los cinco años, relativo a la necesidad de revisión de esta Carta Orgánica, con especial atención puesta en los conflictos, de existir, entre la Carta Orgánica y la ley estatal y recomendar ciertas enmiendas a la Carta Orgánica que podrían ser necesarias a efectos legales, administrativos u otros motivos”.

AMENDMENT NO. 16

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note 1: In view of its overall essential duties, the specific reference to the department’s responsibility for animal control is thought to be an unnecessary detail in the Charter. Specific reference to the chief’s removal from office is a redundancy, previously included among the powers of the City Manager enumerated in Article VII of the Charter.) (Explanatory Note 2: Proposed changes to reflect current administrative practices.):

“SECTION 7.03 – POLICE DEPARTMENT

- A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City.
- A. Chief of Police
- The Chief of Police is the senior officer of the Police Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes the employees of the Police Department. He is responsible to the City Manager for the administration of the Police Department and the performance of Council-established duties and directives.
- B. Reserve Police
- The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City.”

ENMIENDA NRO. 16

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 7.03- DEPARTAMENTO DE POLICÍA

- Se establece un Departamento de Policía para preservar el orden, procurar la seguridad de los residentes, prevenir la violencia y proteger la vida y los bienes contra daños y pérdida dentro de los límites y la jurisdicción admisible de la Ciudad.
- A. Jefe de Policía
- El Jefe de Policía es el funcionario de mayor categoría del Departamento de Policía. Es designado por el Administrador de la Ciudad, con la aprobación del Consejo, por un periodo indefinido. Con la aprobación del Administrador de la Ciudad, designa y destituye a los empleados del Departamento de Policía. Es responsable ante el Administrador de la Ciudad de la administración del Departamento de Policía y del desempeño de obligaciones y directivas establecidas por el Consejo.
- B. Policía de Reserva
- El Jefe de Policía puede designar o destituir “Oficiales de Policía de Reserva” según las directivas dispuestas por el Consejo. Ninguna otra persona, salvo lo dispuesto de otro modo por las leyes del Estado de Texas, actuará como “policía especial” dentro de la Ciudad”.

AMENDMENT NO. 17

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE AND REQUIREMENTS (Explanatory Note 1: Provision to be deleted is generally outdated and no longer practical.): (Explanatory Note 2: Proposed changes to reflect current administrative practices.):

“SECTION 7.04 – CITY SECRETARY

There shall be a City Secretary for the City. The City Manager, with the approval of the Council, shall appoint a City Secretary and such assistants as the Council shall deem advisable. The City Secretary, or an Assistant City Secretary, shall give notice of Council meetings, shall keep the minutes of proceedings of such meetings, and shall authenticate by his signature and record in full in a book kept and indexed for the purpose, all ordinances and resolutions, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.”

ENMIENDA NRO. 17

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR LENGUAJE Y REQUISITOS OBSOLETOS:

“SECCIÓN 7.04 - SECRETARIO DE LA CIUDAD

Habrá un Secretario de la Ciudad para la Ciudad. El Administrador de la Ciudad, con la aprobación del Consejo, designará a un Secretario de la Ciudad y ciertos asistentes como el Consejo considere adecuado. El Secretario de la Ciudad, o un Secretario de la Ciudad Asistente, anunciará las asambleas del Consejo, conservará las actas de dichas asambleas, y autenticará con su firma y registrará por completo en un libro conservado e indexado para tal fin, todas las ordenanzas y resoluciones, y desempeñará todas las demás funciones asignadas por el Administrador de la Ciudad y otras dispuestas en otros lugares de esta Carta Orgánica y las leyes del Estado de Texas”.

AMENDMENT NO. 18

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE LANGUAGE AND REQUIREMENTS (Explanatory Note: Proposed to reflect titles in current use and current administrative practices.):

“SECTION 7.05 – FINANCE DIRECTOR

There shall be a Finance Director for the City. The City Manager, with the approval of the Council, shall appoint a Finance Director and such assistants as the Council shall deem advisable. The Finance Director shall perform the duties delegated to him by the City Manager and those which may be imposed upon him by the laws of the State of Texas.”

ENMIENDA NRO. 18

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR LENGUAJE Y REQUISITOS OBSOLETOS:

“SECCIÓN 7.05 -DIRECTOR DE FINANZAS

Habr  un Director de Finanzas para la Ciudad. El Administrador de la Ciudad, con la aprobaci n del Consejo, designar  a un Director de Finanzas y ciertos asistentes como el Consejo considere adecuado. El Director de Finanzas desempe ar  las funciones que le delegue el Administrador de la Ciudad y aquellas impuestas por las leyes del Estado de Texas.”

AMENDMENT NO. 19

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENT (Explanatory Note: Proposed to reflect current administrative practices as to the assessment and collection of taxes.):

DELETE ENTIRE “SECTION 7.06 – DEPARTMENT OF TAXATION

There shall be established and maintained a Department of Taxation to collect taxes for the City. The City Manager shall appoint an Assessor/Collector to administer said department.

The Assessor/Collector shall perform all duties assigned by the City Manager. He shall, at the end of every business day, pay to the City Treasurer all monies collected. At the end of every month, he shall submit a written report to the City Manager of all monies so collected and paid. The duties of City Secretary, City Treasurer and City Tax Assessor/Collector may be performed by the same individual.”

ENMIENDA NRO. 19

UNA ENMIENDA A LA CARTA ORG NICA PARA ELIMINAR REQUISITO OBSOLETO: BORRAR TODA LA “SECCI N 7.06- DEPARTAMENTO DE IMPUESTOS

Se establecer  y mantendr  un Departamento de Impuestos para recaudar los impuestos para la Ciudad. El Administrador de la Ciudad designar  a un Asesor/Recaudador para administrar dicho departamento.

El Asesor/Recaudador realizar  todas las tareas asignadas por el Administrador de la Ciudad. Al final de cada d a laboral, dicho asesor deber  pagarle al Tesorero de la Ciudad todas las sumas de dinero recaudadas. Al final de cada mes, deber  presentar un informe escrito al Administrador de la Ciudad de todas las sumas de dinero recaudadas y pagadas de este modo. Las funciones de Secretario de la Ciudad, Tesorero de la Ciudad y Asesor/Recaudador de Impuestos de la Ciudad pueden ser desempe adas por el mismo individuo”.

AMENDMENT NO. 20

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Entire existing section concerning the fire department was found to be generally outdated and requiring total revision, in order to accurately reflect current departmental policies and practices.):

“SECTION 7.07 – CITY FIRE DEPARTMENT

The Fire Department is established for general protection from fire for the residents of the City, for fire prevention education and enforcement, for salvage and rescue operations, and for other related activities as may be assigned by the Council. The department shall consist of full-time, part-time, volunteer members or any combination thereof. All such members shall function under the Standard Operating Guidelines of the Fire Department.

A. Fire Chief

The Fire Chief is the senior officer of the Fire Department. He is appointed by the City Manager, with the approval of the Council, for an indefinite term. With the approval of the City Manager, he appoints and removes employees of the Fire Department. His is responsible to the City Manager for the administration of the Fire Department and the performance of Council-established duties and directives.

B. Fire Marshal

A Fire Marshal shall be selected by the Fire Chief, with the approval of the City Manager and shall be responsible for enforcement of the City Fire Codes and other functions as may be assigned by the Fire Chief. He shall be a member of the command staff of the Fire Department, and he may be removed from office by the Fire Chief with the approval of the City Manager.

C. Mutual Aid Agreements with Other Fire Departments

Subject to approval by the Council, the Fire Department may enter into inter-local and mutual aid agreements with other fire departments in the area by which to provide and receive assistance in emergency situation.”

ENMIENDA NRO. 20

UNA ENMIENDA A LA CARTA ORG NICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCI N 7.07- DEPARTAMENTO DE BOMBEROS DE LA CIUDAD

El Departamento de Bomberos se establece para la protecci n general contra incendios de los residentes de la Ciudad, para la educaci n de prevenci n de incendios y la aplicaci n de c digos, para las operaciones de salvamento y rescate, y para otras actividades relacionadas que podr a asignar el Consejo. El departamento estar  formado por miembros voluntarios, de tiempo completo, medio tiempo o cualquier combinaci n de los mismos. Todos esos miembros responder n a las Directivas est ndares de operaci n del Departamento de Bomberos.

A. Jefe de Bomberos

El Jefe de Bomberos es el funcionario de mayor categor a del Departamento de Bomberos. Es designado por el Administrador de la Ciudad, con la aprobaci n del Consejo, por un periodo indefinido. Con la aprobaci n del Administrador de la Ciudad, designa y destituye a los empleados del Departamento de Bomberos. Es responsable ante el Administrador de la Ciudad de la administraci n del Departamento de Bomberos y del desempe o de las obligaciones y directivas establecidas por el Consejo.

B. Inspector de Bomberos

El Jefe de Bomberos escoger  un Inspector de Bomberos, con la aprobaci n del Administrador de la Ciudad y ser  responsable de la aplicaci n de los C digos contra incendios de la Ciudad y otras funciones que podr a asignar el Jefe de Bomberos. Ser  miembro del personal a cargo del Departamento de Bomberos, y podr a ser destituido de su cargo por el Jefe de Bomberos con la aprobaci n del Administrador de la Ciudad.

C. Acuerdos de ayuda mutua con otros departamentos de bomberos

Sujetos a la aprobaci n del Consejo, el Departamento de Bomberos podr  celebrar acuerdos de ayuda mutua y entre localidades con otros departamentos de bomberos de la zona mediante los cuales podr  proveer y recibir asistencia en situaciones de emergencia”.

AMENDMENT NO. 21

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note 1: Subsection B is no longer an administrative practice.): (Explanatory Note 2: Proposed changes to reflect current administrative practices.):

“SECTION 7.09 – MUNICIPAL COURT

There shall be established and maintained a Court designated as a "Municipal Court" for the trial of misdemeanor offenses, with all such powers and duties as are now or hereafter may be prescribed by the laws of the State of Texas relative to Municipal or Recorder's Court.

A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.

B. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.

- C. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- D. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.
- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.”

ENMIENDA NRO. 21

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 7.09- TRIBUNAL MUNICIPAL

Se establecerá y mantendrá un Tribunal designado como un “Tribunal Municipal” para el juicio de faltas, con todas las facultades y obligaciones que ordenan ahora o en lo sucesivo las leyes del Estado de Texas relativas al Tribunal Municipal o del Registrador.

- A. El Juez de dicho Tribunal será designado por el Consejo, y será un abogado licenciado, y recibirá cierto salario que fije el Consejo. El Juez de dicho Tribunal permanecerá en el cargo según el criterio del Consejo.
- B. El Secretario de dicho Tribunal y sus subsecretarios tendrán la facultad de tomar juramentos y declaraciones juradas, elaborar certificados, colocar el sello de dicho Tribunal a los mismos y generalmente hacer y desempeñar toda y cualquier función habitual y necesaria para el Secretario de los Tribunales en el proceso de expedición de dichos tribunales y el tratamiento de los asuntos de los mismos.
- C. El Consejo designará otros abogados licenciados para fungir como Jueces Temporales de dicho Tribunal en caso de discapacidad o ausencia del Juez del Tribunal Municipal. El Consejo fijará el salario de los Jueces Temporales.
- D. Un Juez de la Ciudad no puede tener ningún otro cargo en la Ciudad ni empleo en la Ciudad durante el mandato que le designó el Consejo. Si una persona que se desempeña como Juez de la Ciudad se convierte en un candidato en una elección de la Ciudad, deberá renunciar a su posición como Juez de la Ciudad en el momento de ser electo para un Cargo de la Ciudad.
- E. El Alcalde se desempeñará como Juez del Tribunal Municipal en ausencia del Juez de la Ciudad o sus representantes alternativos”.

AMENDMENT NO. 22

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices.):

“SECTION 7.10 – HEALTH DEPARTMENT

To assure a high quality of health and sanitation standards for the City, the City shall utilize and adhere to all rules and regulations regarding health and sanitation standards outlined, required, and governed by the Harris County Department of Health and the State Health Department.”

ENMIENDA NRO. 22

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 7.10- DEPARTAMENTO DE SALUD

Para garantizar una alta calidad de normas de salud y sanidad pública para la Ciudad, la Ciudad utilizará y se adherirá a todas las reglas y reglamentos relativos a las normas de salud y sanidad pública descritas, requeridas y regidas por el Departamento de Salud del Condado de Harris y el Departamento de Salud del Estado”.

AMENDMENT NO. 23

A CHARTER AMENDMENT TO CREATE A DEPARTMENT OF COMMUNITY DEVELOPMENT (Explanatory Note 1: Building Department has been merged into an expanded Department of Community Development. Proposed changes reflect current administrative structure.) (Explanatory Note 2: Proposed changes to reflect current administrative practices.):

“SECTION 7.12 – DEPARTMENT OF COMMUNITY DEVELOPMENT

There shall be a Director of Community Development for the City. The City Manager, with the approval of the Council, shall appoint a Director of Community Development and such assistants as the Council shall deem advisable. The Director of Community Development shall oversee the city’s development processes, including planning and zoning, engineering, code enforcement, and inspections, and shall perform such other duties assigned by the City Manager and those elsewhere provided in this Charter and the laws of the State of Texas.”

ENMIENDA NRO. 23

UNA ENMIENDA A LA CARTA ORGÁNICA PARA CREAR UN DEPARTAMENTO DE DESARROLLO DE LA COMUNIDAD:

“SECCIÓN 7.12-DEPARTAMENTO DE DESARROLLO DE LA COMUNIDAD

Habrá un Director de Desarrollo de la Comunidad para la Ciudad. El Administrador de la Ciudad, con la aprobación del Consejo, designará a un Director de Desarrollo de la Comunidad y ciertos asistentes como el Consejo considere adecuado. El Director de Desarrollo de la Comunidad supervisará los procesos de desarrollo de la ciudad, incluidos planificación y zonificación, ingeniería, aplicación de códigos e inspecciones, y desempeñará todas las demás funciones asignadas por el Administrador de la Ciudad y otras dispuestas en otros lugares de esta Carta Orgánica y las leyes del Estado de Texas”.

AMENDMENT NO. 24

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Provision is not in current practice and is not contemplated for future purposes.):

DELETE ENTIRE “SECTION 7.13 – DEPARTMENT OF PARKS, RECREATION AND BEAUTIFICATION

The Council shall appoint an Advisory Board for Park, Recreation and Beautification. The Advisory Board shall study the recreation, park facilities, and beautification programs of the City and shall confer with the City Manager and advise him with respect to the development and use of the City's parks, the recreation programs and City's beautification program. The Advisory Board shall recommend to the Council rules for the use of parks, public grounds, and recreation facilities consistent with the ordinances of the City and the statutes of the State of Texas and appropriate programs for the beautification of the City.”

ENMIENDA NRO. 24

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

BORRAR TODA LA “SECCIÓN 7.13- DEPARTAMENTO DE PARQUES, RECREACIÓN Y EMBELLECIMIENTO

El Consejo designará una Junta Asesora para Parques, Recreación y Embellecimiento. La Junta Asesora estudiará los programas de recreación, las instalaciones de parques y el embellecimiento de la Ciudad y consultará con el Administrador de la Ciudad y le hará recomendaciones respecto del desarrollo y del uso de los parques de la Ciudad, los programas de recreación y un programa de embellecimiento de la Ciudad. La Junta Asesora recomendará al Consejo reglas para el uso de parques, espacios públicos e instalaciones de recreación en conformidad con las ordenanzas de la Ciudad y los reglamentos del Estado de Texas y programas adecuados para el embellecimiento de la Ciudad”.

AMENDMENT NO. 25

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices.):

“SECTION 8.02 – BUDGET AS PUBLIC RECORD

The budget and all supporting schedules shall be filed with the person performing the duties of City Secretary and shall be submitted to the Council. Copies of the budget and the capital program, as adopted, shall be public records and shall be made available to the public at suitable places in the City to include the City Hall, and at two other public locations within the corporate limits of the City.

ENMIENDA NRO. 25

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 8.02 EL PRESUPUESTO COMO UN REGISTRO PÚBLICO

El presupuesto y todos los anexos de respaldo se deben entregar a la persona que desempeñe las funciones de Secretario de la Ciudad y será presentado al Consejo. Las copias del presupuesto y del programa de capital, según su adopción, serán registros públicos y estarán a disposición del público en lugares adecuados en la Ciudad que incluyan el City Hall, y en dos otros lugares públicos dentro de los límites corporativos de la Ciudad.”

AMENDMENT NO. 26

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices.):

**“SECTION 8.11 – EFFECTIVE DATE OF BUDGET; CERTIFICATION;
COPIES MADE AVAILABLE**

Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted, shall be filed with the person performing the duties of City Secretary and the County Clerk of Harris County. Copies of the final budget shall be posted for the public at the office of the City Secretary and at two other public locations within the corporate limits of the City. Copies of the budget may be obtained by the public at the City Hall.”

ENMIENDA NRO. 26

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 8.11- FECHA DE ENTRADA EN VIGENCIA DEL PRESUPUESTO; CERTIFICACIÓN; COPIAS PUESTAS A DISPOSICIÓN

En el momento de adopción final, el presupuesto entrará en vigencia para el año fiscal. Una copia del presupuesto según su versión final adoptada se debe entregar a la persona que desempeñe la función de Secretario de la Ciudad y al Secretario del Condado de Harris. Se colocarán copias del presupuesto final para el público en la oficina del Secretario de la Ciudad y en otros dos lugares dentro de los límites corporativos de la Ciudad. El público podrá obtener copias del presupuesto en el City Hall”.

AMENDMENT NO. 27

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS AND LANGUAGE (Explanatory Note: Proposed changes to reflect current administrative practices.):

“SECTION 8.17 – DISBURSEMENT OF FUNDS

All checks, vouchers or warrants for the withdrawal of money from the City Depository shall be signed by the City Manager and countersigned by the City Secretary or the Finance Director. In the absence of the City Manager, the Mayor, or the Mayor Pro-Tem in the absence of the Mayor, may sign.”

ENMIENDA NRO. 27

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR LENGUAJE Y REQUISITOS OBSOLETOS:

“SECCIÓN 8.17- DESEMBOLSO DE FONDOS

Todos los cheques, vouchers o warrants para el retiro de dinero de la Depositaria de la Ciudad serán firmados por el Administrador de la Ciudad y refrendados por el Secretario de la Ciudad o el Director de Finanzas. En ausencia del Administrador de la Ciudad, el Alcalde, o el Alcalde Pro témpore en ausencia del Alcalde, pueden firmar”.

AMENDMENT NO. 28

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to reflect current administrative practices.):

“SECTION 8.20 – TAXES, WHEN DUE AND PAYABLE

All taxes due the City shall be payable on receipt of the tax bill and shall be considered delinquent if not paid before February 1 of the year following the year in which imposed. The postponement of any delinquency date and the amount of penalty, interest and costs to be imposed on delinquent taxes shall be in accordance with applicable ordinances of the City and the Property Tax Code of the State of Texas.”

ENMIENDA NRO. 28

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 8.20- IMPUESTOS, FECHA DE VENCIMIENTO Y PAGO

Todos los impuestos adeudados a la Ciudad serán pagaderos en el momento de recepción de la factura del impuesto y se considerarán en mora si no se pagan antes del 1 de febrero del año siguiente al año en el que fueron impuestos. La postergación de cualquier fecha de morosidad y el monto de la sanción, interés y costos a imponerse en impuestos en mora estarán de acuerdo con ordenanzas aplicables de la Ciudad y el Código de Impuestos Prediales del Estado de Texas”.

AMENDMENT NO. 29

A CHARTER AMENDMENT TO ELIMINATE OBSOLETE REQUIREMENTS (Explanatory Note: Proposed changes to simplify the Charter language as to tax liens and to reflect current administrative practices.):

“SECTION 8.21 – TAX LIENS

- A. A special lien in favor of the City is hereby created on all real, personal and mixed property in the City for all unpaid taxes. The priority of said lien shall be determined in accordance with state law.
- B. All seizure and foreclosure proceedings shall be administered in accordance with State property tax codes.”

ENMIENDA NRO. 29

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 8.21- GRAVÁMENES FISCALES

C. Vacancies

Members of the Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists.

Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

D. Powers and Duties

The Commission shall have the power and shall be required to:

- (1) Recommend to the Council amendments, extensions and additions to the Master Plan for the physical development of the City.
- (2) Recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with City ordinance as adopted or hereafter amended.
- (3) Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas which may develop within the City.
- (4) Recommend to the Council the amendment, extension and revision of the Building Code, which code shall include the minimum standards of construction for building, the minimum standards for plumbing and the minimum standards for electrical and mechanical equipment.
- (5) Submit annually to the City Manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommendations for capital improvements which, in the opinion of the Commission, are necessary or desirable to be constructed during the forthcoming five (5) years. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.
- (6) Meet no less than once each quarter, meetings to be held at the City Hall unless prior notice of change of meeting place be given by publication in a newspaper in general circulation in the City.
- (7) Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

E. Liaison with City Council

The City Manager or his representative shall attend the meetings of the Commission and shall serve as liaison between the Commission and the Council.”

ENMIENDA NRO. 33

UNA ENMIENDA A LA CARTA ORGÁNICA PARA ELIMINAR REQUISITOS OBSOLETOS:

“SECCIÓN 10.01 – COMISIÓN DE PLANIFICACIÓN Y ZONIFICACIÓN

El Consejo designará una Comisión de Planificación y Zonificación de la Ciudad compuesta por cinco (5) miembros, que serán residentes de la Ciudad, pero no serán empleados de la Ciudad.

A. Duración del cargo

Los miembros de la Comisión serán designados por mandatos intercalados de tres (3) años.

B. Reglamento

La Comisión elegirá anualmente uno (1) de su número Presidente y establecerá su propio reglamento que incluirá lo siguiente: Un quórum constará de una mayoría de los miembros de la Comisión y un voto afirmativo de una mayoría de los presentes será necesario para aprobar cuestiones pendientes. Todas las asambleas estarán abiertas al público y la persona que desempeña las funciones de Secretario de la Ciudad mantendrá un registro de todos los procedimientos y será un registro público.

C. Vacantes

Los miembros de la Comisión participarán activamente en las actividades de la Comisión, y cualquier miembro que se ausente de tres (3) asambleas consecutivas de la Comisión sin justificativo válido según lo determina la Comisión, perderá automáticamente la membresía. La Comisión notificará de inmediato al Consejo que existe una vacante en la Comisión.

Las vacantes que se producen en la Comisión, cualquiera sea el motivo, se cubrirán dentro de treinta (30) días por designación del Consejo para el resto del mandato sin finalizar.

D. Facultades y obligaciones

La Comisión tendrá la facultad y deberá:

- (1) Recomendar al Consejo enmiendas, extensiones y adiciones al Plan Maestro para el desarrollo físico de la Ciudad.
- (2) Recomendar al Consejo la aprobación o desaprobación de planos catastrales de subdivisiones propuestas presentados según una ordenanza de la Ciudad en la versión adoptada o su enmienda posterior.
- (3) Recomendar al Consejo planes para demoler y reconstruir distritos de barrios pobres y zonas deterioradas que se podrían haber desarrollado en la Ciudad.
- (4) Recomendar al Consejo la enmienda, extensión y revisión del Código de Construcción, el cual incluirá los estándares mínimos de construcción para edificar, los estándares mínimos de fontanería y los estándares mínimos para equipos eléctricos y mecánicos.
- (5) Presentar anualmente al Administrador de la Ciudad, no menos de noventa (90) días antes del inicio del año del presupuesto, una lista de recomendaciones para mejoras de capital que, según la opinión de la Comisión, son necesarias o deseables para ser construidas durante los próximos cinco (5) años. Dicha lista estará preparada en orden de preferencia, con recomendaciones respecto de cuáles proyectos se construirán en cuál año.
- (6) Reunirse no menos de una vez por trimestre, y las reuniones se llevarán a cabo en City Hall a menos que se informe previamente un cambio del lugar de reunión a través de la publicación en un periódico de circulación general de la Ciudad.
- (7) Operar bajo las directivas de las facultades otorgadas por los Reglamentos Civiles del Estado de Texas.

E. Enlace con el Consejo Municipal

El Administrador de la Ciudad o su representante asistirá a las reuniones de la Comisión y servirá de enlace entre la Comisión y el Consejo”.

AMENDMENT NO. 34

A CHARTER AMENDMENT TO COMPLY WITH STATE AND FEDERAL LAW (Explanatory Note: Current specified deadlines are not consistent with state law, which severely limits the number of City elections that can be held in a given year.):

“SECTION 11.08 – ELECTION TO BE CALLED

If the officer whose removal is sought does not resign, then it shall become the duty of the Council to order an election and fix a date for holding such recall election, in accordance with State law.

ENMIENDA NRO. 34

UNA ENMIENDA A LA CARTA ORGÁNICA PARA CUMPLIR CON LAS LEYES ESTATALES Y FEDERALES:

“SECCIÓN 11.08- CONVOCATORIA A ELECCIÓN

Si el funcionario cuya destitución se procura no renuncia, entonces será obligación del Consejo ordenar una elección y fijar una fecha para celebrar dicha elección de destitución, de acuerdo a la ley del Estado.”

LOCATION OF POLLING PLACE: *(DIRECCIÓN DEL LUGAR DE VOTACIÓN:)*

401 Market Street, Tomball, Texas 77375.

Early voting by personal appearance will be conducted each weekday at: 401 Market Street, Tomball, Texas 77375, between the hours of 7:45 a.m. and 5:00 p.m., Monday, Wednesday, and Thursday, between the hours of 7:45 a.m. and 7:45 p.m. on Tuesday, and between the hours of 7:45 a.m. and 4:00 p.m. on Friday, beginning on April 28, 2014 and ending on May 6, 2014.
(La votación anticipada en persona se llevará a cabo de lunes a viernes en: 401 Market Street, Tomball, Texas 77375, entre las 7:45 a.m. y las 5:00 p.m. el lunes, miércoles y jueves, entre las 7:45 a.m. y las 7:45 p.m. el martes,

Applications for ballot by mail shall be mailed to: *(Las solicitudes de boletas para votar por correo deben enviarse a:)*

401 Market Street
(Address) (Dirección)

Tomball, TX	77375
(City) (Ciudad)	(Zip Code) (Código Postal)

Applications for ballot by mail presented in person must be received no later than the close of business on April 25, 2014.
(Las solicitudes de boletas para votar por correo hechas en persona deberán recibirse para el fin del horario de oficina el 25 de abril de 2014.)

Issued this the 17th day of February 2014. (*Emitido este día 17 de febrero de 2014.*)


Signature of Mayor (Firma del Alcalde)

Regular City Council Agenda Item Data Sheet

Meeting Date: April 21, 2014

Topic:

Approve the Minutes of the April 7, 2014 Regular City Council Meeting

Background:**Origination:**

City Secretary

Recommendation:

N/A

Funding:**Party(ies) responsible for placing this item on agenda:**

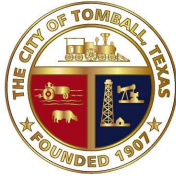
City Secretary

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - April 7, 2014 Regular City Council Meeting

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, APRIL 7, 2014
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order at 6:00 p.m. by Mayor Fagan. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Degges
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
City Attorney – Loren B. Smith
Fire Chief – Randy Parr
Police Chief – Robert Hauck
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
IT Manager – Doug Tippey
Community Development Director – Craig Meyers
City Engineer – Lori Lakatos
City Planner – Rebeca Guerra
Community Events Coordinator – Rosalie Dillon
NWEMS Director – Brian Bayani

2.0 The invocation was led by Randy Parr, Fire Chief.

3.0 The pledges to the U. S. and Texas Flags were led by Brian Bayani, NWEMS Director.

4.0 The following public comments were received:

- | | | |
|--|---|--|
| Andrea Aroche
16806 Avenfield Road, 77377 | - | Requested a letter of authorization to begin working on electric service prices for 2016 |
| Paul Michna
1325 Virgie Community Rd
77354 | - | Thanked Councilman Dodson for his service to the City of Tomball |

5.0 Reports and Announcements:

- April 12, 2014 – **6th Annual 5K Bunny Run and 1 Mile Kids Walk**
- April 21-25, 2014 – **Annual Spring Clean-Up and Chipping Week**
- April 26, 2014 – **Tomball Consolidated Recycling Day at LoneStar College-Tomball - 10:00 a.m.-2:00 p.m.**
- April 28-May 6, 2014 – Early Voting for the **May 10, 2014 Charter Amendment Election**
- May 3-4, 2014 – **3rd Annual Rails & Tails Mudbug Festival**
- May 10, 2014 – **Charter Amendment Election** – City Hall, 7:00 a.m.-7:00 p.m.
- May 24, 2014 – **3rd Annual Memorial Day Weekend Chili Challenge**
- **Walk Tomball!** – Every Saturday at 9:00 a.m. at the Depot
- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Randy Parr presented a report on the **“Shattered Lives”** events at Tomball High School campuses and advised that the Tomball Regional Health Foundation donated \$10,000 to each campus in sponsorship.

6.0 Motion was made by Councilman Dodson, second by Councilman Stoll, to approve the Minutes of the March 17, 2014 Regular City Council Meeting and the March 25, 2014 Special Council Meeting.

Motion carried unanimously.

7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2014-06, an Ordinance of the City Council of Tomball, Texas, Levying an Assessment against Section One Properties within the City of Tomball Public Improvement District Number Two (Raleigh Creek Subdivision); and Making Certain Findings Related Thereto. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>

Councilman Degges	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

8.0 New Business:

- 8.1 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the appointment of Current Police Chief Rob Hauck as Assistant City Manager.

Motion carried unanimously.

- 8.2 Presentation of the Comprehensive Annual Financial Report (CAFR Audit) and the Single Audit Report for the Fiscal Year Ended September 30, 2013 to City Council was made by Glenn Windsor and Kevin Sanford, Weaver Tidwell, LLP.

No action necessary.

- 8.3 Motion was made by Councilman Hudgens, second by Councilman Stoll, to approve Resolution No. 2014-07, a Resolution of the City Council of the City of Tomball, Texas, Supporting the Sixth Annual Homecoming Parade and Pep Rally, to be held at the Tomball Depot, Sponsored by the Tomball Independent School District and the TISD Student Council, on Wednesday, September 10, 2014.

Motion carried unanimously.

- 8.4 Motion was made by Councilman Dodson, second by Councilman Stoll, to approve the Bidding Process for the sale of selected surplus city-owned properties/lots and to remove the original City Hall property from the list of proposed surplus lots.

Motion carried unanimously.

- 8.5 Discussion regarding the Surplus MRAP Vehicle received by the City of Tomball through the Defense Department's National Military Surplus Program for Use by Tomball Public Safety Departments.

No action taken.

- 8.6 Motion was made by Councilman Townsend, second by Councilman Hudgens, to approve the following plats as recommended by the Planning and Zoning Commission:

- **RALEIGH CREEK SECTION TWO;** Being a Replat of Reserve "J" and Reserve "I" of Raleigh Creek Section One, as recorded in Film Code No. 656125 H.C.M.R., and situated in the Joseph Miller Survey, Abstract Number 50, Harris County, Texas.
- **REPLAT OF THE POINT;** Being a Subdivision of 6.3636 Acres and being a Replat of the Point F.C. No. 644081 out of the Claude M. Pillot Survey, Abstract No. 632, City of Tomball, Harris County, Texas.

Motion carried unanimously.

- 8.7 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Resolution No. 2014-08, a Resolution of the City Council of the City of Tomball, Texas, Setting a Public Hearing on May 19, 2014 at 6:00 P.M., to Discuss and Review Land Use Assumptions and Capital Improvements Plan Relating to Possible Adoption of Impact Fees

Motion carried unanimously.

- 8.8 Motion was made by Councilman Hudgens, second by Councilman Townsend, to award Contract for Purchase of New Avaya Telephone System to DataVox, in the Amount of \$88,891.92.

Motion carried unanimously.

- 8.9 Executive Session: The City Council recessed at 6:50 p.m. to meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Sec. 551.072 – Deliberations Regarding Real Property

Upon reconvening into regular session at 7:38 p.m., no action was taken.

- 9.0 Motion was made by Councilman Townsend, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 21st day of April 2014.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council
Agenda Item
Data Sheet

Meeting Date: April 21, 2014

Topic:

Approve Professional Services Agreement with Marsh Darcy Partners, Inc., in the Amount of \$30,900.00 to Prepare a Management and Improvement Plan for the Development Review Process of the Community Development Department and Fire Marshal's Office.

Background:

Origination:

City Manager's Office

Recommendation:

Funding:

Party(ies) responsible for placing this item on agenda:

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Professional Services Agreement
City Manager Memo

**PROFESSIONAL SERVICES AGREEMENT
(Not Including Architectural or Engineering Services)**

**THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §**

THIS AGREEMENT is made, entered into, and executed by and between the CITY OF TOMBALL, TEXAS (the "City"), a municipal corporation of the State of Texas, and Marsh Darcy Partners, Inc. ("MDP"), a Texas Corporation.

WITNESSETH:

WHEREAS, MDP represents that it is capable of providing and qualified to provide professional services to the City and MDP desires to perform the same;

NOW, THEREFORE, the City and MDP in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**1.
SCOPE OF AGREEMENT**

MDP agrees to perform certain professional services as outlined and defined in the Proposal attached hereto as Exhibit A, and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Work," and for having rendered such services, the City agrees to pay MDP compensation as stated in the sections to follow.

**2.
CHARACTER AND EXTENT OF SERVICES**

MDP shall do all things necessary to render the services and perform the Scope of Work in a professional and workmanlike manner. It is expressly understood and agreed that MDP is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that MDP shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior approval of the City. The City shall be under no obligation to pay for services rendered not identified in Exhibit "A" without prior written authorization from the City.

**3.
OWNERSHIP OF WORK PRODUCT**

MDP agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by MDP pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files,

and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

4.
TIME FOR PERFORMANCE

The time for performance is as estimated in Exhibit A attached hereto. Upon written request of MDP, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which MDP has no control.

5.
COMPLIANCE AND STANDARDS

MDP agrees to perform the work hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the work to be performed hereunder and MDP's performance.

6.
INDEMNIFICATION

MDP shall and does hereby agree to indemnify, defend, and hold harmless the City, its officers, agents, and employees from any and all damages, loss or liability of any kind whatsoever, by reason of death or injury to property or third persons caused by the negligent act or omission of MDP, its officers, agents, employees, invitees or other persons for whom it is legally liable, with regard to the performance of this Agreement, and MDP will, at its cost and expense, defend, pay on behalf of, and protect the City and its officers, agents, and employees against any and all such claims and demands. Such indemnity shall apply where the suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney fees arise in whole or in part from the negligence of MDP.

7.
COMPENSATION

For and in consideration of the services rendered by MDP pursuant to this Agreement, the City shall pay MDP only for the actual work performed under the Scope of Work, on the basis set forth in Exhibit "A," up to an amount not to exceed **\$30,900.00** plus reimbursable expenses.

8.
INSURANCE

MDP shall procure and maintain insurance in accordance with the terms and conditions set forth in Exhibit "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness, disease, or death, claims or damages because of injury to or destruction of property, including loss of use resulting therefrom, and claims of errors and omissions.

9.
TERMINATION

The City may terminate this Agreement at any time by giving seven (7) days prior written notice to MDP. Upon receipt of such notice, MDP shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, MDP shall submit a statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay MDP that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed maps, studies, reports, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

10.
ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to MDP at the following address:

Sue Darcy, President
Marsh Darcy Partners, Inc.
8955 Katy Frwy., Suite 215
Houston, TX 77024

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City Manager
City of Tomball
401 W. Market Street
Tomball, Texas 77375

11.

LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, MDP has been advised by the City and MDP clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that MDP may become entitled to hereunder and the total sum that the City shall become liable to pay to MDP hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

12. SUCCESSORS AND ASSIGNS

The City and MDP bind themselves and their successors, executors, administrators, and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Neither the City nor MDP shall assign, sublet, or transfer its interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

13. DISCLOSURE OF INFORMATION

MDP shall under no circumstances release any material or information developed in the performance of its services hereunder without the express written permission of the City.

14. MODIFICATIONS

This instrument, including Exhibits A and B, contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

15. ADDITIONAL SERVICES

If authorized in writing by the City, MDP shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the Scope of Work, as defined in Exhibit "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Exhibit "A," up to the amount authorized in writing by the City.

16.
CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, MDP shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

17.
PAYMENT FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with MDP's standard invoicing practices and will be submitted to the City by MDP at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

18.
MISCELLANEOUS PROVISIONS

A. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Harris County, Texas.

B. This Agreement is for sole benefit of the City and MDP, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

C. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Tomball, Texas, has lawfully caused this Agreement to be executed by its Mayor; and MDP, acting by its duly authorized officer/representative does now sign, execute and deliver this instrument.

EXECUTED on the _____ day of _____ 20__.

ATTEST:

CITY OF TOMBALL, TEXAS

Doris Speer, City Secretary

Gretchen Fagan, Mayor

Marsh Darcy Partners, Inc.

By: _____
Name: Sue Darcy
Title: President

EXHIBIT “A”

SCOPE OF WORK AND BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

City of Tomball Development Review Process Evaluation

Purpose/Goal:

Prepare a management and improvement plan for the development review services provided by the Community Development and Fire departments. This plan will guide the actions of the staff toward increasing plan and permit review efficiency, enhancing customer service interfaces and user-friendliness, and positioning the department to adapt to anticipated increases in service demand levels. This scope will include a review of current conditions, an evaluation of future service demands, and an analysis of opportunities for organizational changes and process improvements that can further enhance customer service and achieve efficiencies.

Representative Tasks:

Task 1 – Analysis of Perceptions and Goals

- Conduct a kick off meeting with city management and an introductory meeting with departmental staff.
- Interview external customers and stakeholders of the department to identify their perceptions of policies, procedures, and practices pertaining to the development review processes. Interviews may be conducted individually or in groups with the assumption that there will be no more than 30 interview sessions included in this scope.
- Interview departmental staff to identify their perspective of the performance of the department.
- Evaluate policies, procedures, and practices identified during the interviews in comparison to organizational goals and policies established by the city manager. Compile and provide to the city manager any comments received regarding City codes for use by the city manager in the separate code update project which is not part of this scope.

Task 2 – Analysis of Current Operations

- Attend selected routine meetings with departmental staff to observe actual practices. Meetings may include scheduled development meetings, specific project meetings, or routine staff meetings.
- Observe interactions of departmental staff with internal and external customers.

- As needed after consultation with the city manager, prepare flowcharts of selected processes that are identified as potential problem areas to identify conflict points and opportunities for improvement.
- As needed, conduct follow up interviews and/or informal question and answers with staff or external customers.

Task 3 – Analysis of Current Service Demand

- Utilizing available data provided by the City, review and comment on existing permitting and inspections workload and efficiency measures.
- Recommend additional workload measures and/or data tracking, as needed, to adequately document and track actual workload and efficiency outcomes; provide a financial analysis of recommended changes.
- After consultation with the city manager, benchmark selected performance measures and staffing levels with at least three other peer cities.

Task 4 – Analysis of Future Service Demand and Delivery Options

- Establish performance measures in a format in which milestones can be monitored to predict when/if additional staff or resources will be required due to workload growth.
- Work with city management to establish policies for monitoring and responding to growth conditions that may trigger changes in staffing, resources, and policies.

Task 5 – Final Report

- Identify and summarize findings and recommendations regarding the policies, practices, and staffing of the City's development review functions. The report will include coverage of items that receive positive review as well those that need improvement.
- Recommend changes in policies, procedures, practices, and staffing/organization that add value and decrease response time of the department's outputs.
- Document findings, observations, and recommendations in a final report.
- Present the final recommendations at one city council meeting.
- This scope of work is planned to be completed in no more than five months.

Assumptions:

- City management will identify the departmental employees, other employees, and external stakeholders to be interviewed. The interviews will be conducted in

no more than 30 sessions of approximately one hour each, unless approved in advance by the city manager.

- City staff will provide assistance to schedule the interviews.
- City staff will compile the various codes and other documents that will be reviewed.
- Peer cities for benchmarking will be selected by mutual agreement between the City and Marsh Darcy Partners. Note: The success of the benchmarking exercise may be dependent upon the degree of cooperation received from the peer cities.

Fee Schedule

Total fees payable to MDP, inclusive of expenses, will not exceed \$30,900. MDP will invoice Client monthly for actual labor charges and expenses in accordance with the Fee Rates below. Expenses will not exceed \$375.

Reimbursable Expenses

Sub-Contract work	Cost
All non-labor expenses	Cost
Photocopies (black and white)	\$0.10 per page
Photocopies (color) 8.5"x11"	\$0.75 per page
Photocopies (color) over 8.5"x11"	\$1.15 per page
Vehicle travel per mile	Maximum IRS allowable rate

Hourly Rate

President	\$150/hour
Vice President/ Project Manager	\$150/hour
Senior Planner	\$105-\$150/hour
Planner/Analyst	\$ 95-\$140/hour
Planner Associate	\$ 90/hour
Special District Coordinator	\$ 65-\$75/hour
Administrative	\$ 65/hour

Alan Mueller is designated as the project manager under this Agreement.

EXHIBIT “B”

MEMORANDUM

TO: Honorable Mayor and City Council

FROM: George Shackelford, City Manager

SUBJECT: Development Review Process Consultant

DATE: April 16, 2014

Several months ago, the City Council gave staff permission to prepare a "request for qualifications" to conduct an outside review of our development review process. The RFQ was advertised and sent out to eighteen (18) companies. The city received nine (9) proposals back for the staff to review.

We put together a team comprised of myself, Fire Chief Randy Parr, Community Development Director Craig Meyers, Tomball EDC Director Kelly Violette, and outside engineer David Kelly to review the proposals and narrow the selection down to a workable number.

The team all independently reviewed the proposals and all agreed on the top three (3) to interview. We conducted SKYPE interviews with the three top companies and unanimously selected Marsh Darcy from Houston as the company to negotiate a contract.

Attached in your packet is a proposed contract with Marsh Darcy to conduct the development process review. All their references provided good comments and the cities were very pleased with their work.

Our final proposed pricing is a little higher than some of their previous city projects because in our RFQ, we asked for a "peer review" of other cities. The team felt that the peer review would be helpful to the finished product and provide the Council valuable information to see how we compare to other similar cities. The total price for that segment is \$3,600 which could be deducted should the Council not feel it would provide sufficient information. We can actually make that decision as the project progresses.

Mr. Alan Mueller and Sue Darcy from Marsh Darcy will be present at the Council meeting to answer any questions the Council might have.

RECOMMENDATION: Adopt the contract to Marsh Darcy for \$30,900.00.

Regular City Council

Agenda Item

Meeting Date: April 21, 2014

Data Sheet

Topic:

Approve Proposed Specifications for the Request for Proposals for Sanitation Collection and Disposal Services for the City of Tomball.

Background:

The current service contract between WCA Waste Corporation of America and the City of Tomball was executed on October 1, 2009, and will expire September 30, 2014, therefore it is necessary for the City to solicit competitive proposals in order to maintain consistent sanitary services for the Tomball community. The new sanitation collection and disposal service contract will be effective October 1, 2014.

Additionally, staff has received a number of customer inquiries regarding the availability of 95-gallon poly carts as opposed to the current "bag only" curbside refuse service. Staff has requested that WCA conduct a service audit to include the feasibility of providing 95-gallon poly carts for residential service, as well as the option to provide 95-gallon poly carts for recycling pickup instead of the current 18-gallon hand-held bins. WCA reports that the 95-gallon poly cart service is feasible and recommended a once-per-week pickup to potentially offset the costs. WCA also reports a 30%-40% participation in curbside residential recycling and recommends the use of a 95-gallon recycle cart to reduce overflow and increase recycling volumes thereby increasing the volume of refuse being diverted from landfills.

Therefore, staff has prepared a Request for Proposals package that includes a base option for "bag only" service as currently provided, with alternate line items for once-per-week 95-gallon poly cart service, a second alternate for 95-gallon poly cart recycling containers, as well as additional educational materials intended to promote recycling. It is staff's intention to solicit pricing for the available options and bring the results back to the City Council to review and ultimately select the best options for the Tomball community.

Attached for your review are copies of the Draft Solid Waste Collection and Disposal Services Agreement, the Draft Request for Proposals, and Draft Proposal Form which specifies the actual line item options to be considered.

Origination:

Public Works

Recommendation:

Staff recommends approval of the Request for Proposals for Sanitation Collection and Disposal Services for the City of Tomball.

Funding: Yes

Account Number: 100-155-6327

Party(ies) responsible for placing this item on agenda:

Director of Public Works

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Solid Waste Collection and Disposal Agreement

RFP

Draft Solid Waste Agreement Proposal Form

“SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

Service Contract “Draft “ Only

“Draft” Only

SOLID WASTE COLLECTION AND DISPOSAL SERVICES FOR THE CITY OF TOMBALL, TEXAS

SERVICE CONTRACT

This Contract is dated as of the ____ day of _____ in the year 2014, between the City of Tomball (hereinafter called the CITY) and _____ (hereinafter called the CONTRACTOR).

Witnesseth: the CITY and the CONTRACTOR, in consideration of mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1.0 – GENERAL DESCRIPTION OF SERVICES

For and in consideration of the compliance by the CONTRACTOR with the covenants and conditions herein set forth and the ordinances and regulations of the CITY governing the collection and disposal of solid waste, the CITY grants to the CONTRACTOR a franchise for use of designated public streets, alleys and access roadways within the corporate limits of the CITY for the purpose of providing collection services for residential, commercial and industrial waste except for hazardous waste and biosolids. The CONTRACTOR shall provide all supervision, materials, equipment, labor, insurance and all other skills and property required to fulfill each of its obligations under this agreement.

ARTICLE 2.0 – CONTRACT DOCUMENTS

The Contract documents, all of which are attached hereto and made a part hereof, comprise the entire Agreement between the CITY and the CONTRACTOR with respect to the transaction and services hereby contemplated. Execution of the Contract is a representation that the CONTRACTOR has become familiar with all laws, rules, regulations, ordinances and restrictions applicable to, governing or affecting the services to be provided by the CONTRACTOR hereunder.

ARTICLE 3.0 – CONTRACT TERM

The initial term of the Contract is for three (3) years and the CITY may, at its sole option, renew the contract for two one-year term extensions. The CITY shall give the CONTRACTOR written notice of its intention to extend the Contract a minimum of ninety (90) days before the expiration of the initial term or applicable extension.

ARTICLE 4.0 – STARTING DATE

The starting date for which the CONTRACTOR shall begin providing the services required hereunder shall be October 1, 2014.

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ARTICLE 5.0 – DEFINITIONS

For purposes of this agreement, the following terms shall be defined as follows:

Bags – Plastic container designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of bag and its contents shall not exceed 40 pounds.

Bin/dumpster – Metal collection receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.

Biosolids – Solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment plant.

Bulky Waste – Furniture, appliances and other household items too large for a refuse container.

Commercial/Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and other waste generated by a producer at a commercial or industrial unit.

Commercial/Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the CITY and not a residential unit as defined herein.

Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.

Contract Area – The geographical boundaries of the CITY limits within which the CONTRACTOR will provide services.

Contractor – The Individual, Corporation or Partnership with whom the CITY has executed the service contract.

Customers – Those occupants of designated residential units and/or commercial and industrial units as defined herein, that are located within the CITY limits and the generated solid waste and/or recyclable materials, as defined herein.

Disposal Facility – A refuse depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separations centers, licensed, permitted or approved to receive municipal solid waste for processing or final disposal by Texas Commission on Environmental Quality and other agencies having jurisdiction and requiring such licenses, permits and approval.

Garbage – All normal and usual household and institutional waste products that are placed in approved containers for collection purposes and are usually a mixture of putrescible, nonputrescible, combustible, and incombustible materials, such as organic

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wastes from food preparation and consumption, wrapping and packaging materials, metal, glass and plastic containers and other items. This definition also applies to similar waste products from commercial establishments such as restaurants, cafeterias, school and hospitals.

Green Waste – Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar material, which are generated in the maintenance of yards and gardens, and are separated from other solid waste materials.

Hazardous Waste – Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law.

Processing Facility – A facility capable of changing the nature of solid waste or separating solid waste to facilitate its re-use in lieu of disposal.

Recyclables – Materials recovered from the solid waste stream for the purposes of re-use of reclamation. Includes, but not limited to; newsprint, inserts, glass, food and beverage containers, plastic containers, aluminum and other commodities economically impacting waste reduction.

Residential Refuse – All garbage and rubbish generated at a residential unit.

Residential Unit – A dwelling occupied by a person or group of persons, including but not limited to apartments, condominiums, mobile homes and single-family dwellings, and receiving any utilities from the CITY. Each dwelling within any such residential unit, which is individually billed by the CITY for water and/or sewer services, shall be treated as a residential unit. Other multiple residential facilities not billed individually, such as apartment complexes, shall be considered as a commercial unit for the purposes of this contract.

Roll-Off Container – Large collection container with open or closed top that can be rolled onto the back of a truck. Generally, in excess of 20 cubic yards capacity.

Rubbish – All nonputrescible solid waste including wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, and other products such as are used for packing, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Construction Debris, Garbage or Hazardous Waste.

Solid Waste – Useless, unwanted or discarded materials with insufficient liquid content to be free flowing, that results from domestic, industrial, commercial, agricultural, governmental and community operations, which require proper storage, collection,

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transportation and disposal to prevent environmental pollution unfavorable to public health, safety and welfare.

Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

ARTICLE 6.0 – RESIDENTIAL REFUSE COLLECTION

6.1 Service Provided

- A. The CONTRACTOR shall provide curbside collection service for residential refuse at each residential unit two times per week. Bags shall be placed at the curbside by 7:00 A.M. on the designated collection day. All refuse must be placed in bags except as noted within these documents and there will be a limit of 25 bags per collection day. Should a customer exceed the maximum limit, the contractor shall pick up the maximum limit and shall leave a printed explanation notice to the customer to explain why the excess was left.
- B. The CONTRACTOR will provide front-door collection of garbage and/or recyclables for senior and disabled residents and will make this service available to any resident as requested by the CITY.

6.2 Location of Bags for Collection

Each bag containing residential refuse shall be placed at curbside for collection and not weigh more than forty (40) pounds. Curbside refers to that portion of right-of-way adjacent to paved or traveled CITY streets or roadways. Bags shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, bags shall be placed as close as practicable to an access point for the collection vehicle. The CONTRACTOR may decline to collect any bag not so placed or any residential refuse not in a bag, except by prior written exception from the CITY.

6.3 Time of Collection

Collection of residential refuse shall not start before 7:00 A.M. and may not continue after 7:00 P.M. Exception to collection hours shall be effected only upon mutual agreement of the CITY and the CONTRACTOR, or when the CONTRACTOR reasonably determines that an exception is necessary in order to complete collection on an existing collection route due to unusual circumstances.

6.4 Routes of Collection

The CONTRACTOR shall establish residential unit collection routes. The CONTRACTOR shall submit a map designating the residential unit collection routes to the CITY for their approval, which approval shall not be unreasonably withheld. The CITY, at its option, may publish at its expense at least once during each calendar year, a map of such residential unit collection routes, in the newspapers published in the immediate area. The CONTRACTOR shall notify the CITY within thirty (30) days to implementation of any changes in route or schedules. All such changes must be approved by the CITY and documented in the same detail as the original maps supplied by the CONTRACTOR. Upon the CITY’s approval of the proposed changes, CONTRACTOR shall promptly give written or published notice to the affected residential units at its expense and in a manner that is acceptable to the CITY.

6.5 Days of Collection

The days of collection will be on a consistent schedule throughout the Contract area. Scheduled days of collection are limited to Monday through Saturday. No regularly scheduled collection shall be allowed on Sunday.

6.6 Holidays

The CONTRACTOR may decide to observe any holidays by suspension of collection service on the holiday, but such decision in no manner relieves the CONTRACTOR of the obligation to provide collection service at least twice per week. CONTRACTOR shall provide the City of Tomball with an annual schedule for pick up when observed holidays fall on a normal collection day.

ARTICLE 7.0 – RESIDENTIAL BRUSH AND TREE TRIMMING COLLECTION

7.1 Service Provided

- A. The CONTRACTOR shall provide once per week curbside collection of brush and tree trimmings at residential units. The CONTRACTOR shall take all brush and tree limbs not longer than four (4) feet, and stacked in a pile not to exceed four (4) feet in height, and does not exceed four (4) feet in width. Tree limbs larger than four (4) inches in diameter will not be collected.
- B. The CONTRACTOR shall collect all Christmas trees, no matter what size, placed for collection.
- C. In the event that brush and/or tree trimming set out for collection do not meet the specification above, the CONTRACTOR shall leave a printed explanation notice for the customer.

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7.2 Time and Place of Collection

Normal collection points for residential brush and tree trimmings shall be at curbside near the driveway. Brush and tree trimmings shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians or impeding the flow of storm water. All brush and tree trimmings will normally be picked up on the first scheduled collection day of the week.

ARTICLE 8.0 – RESIDENTIAL BULKY WASTE COLLECTION

8.1 Service Provided

- A. The CONTRACTOR shall provide curbside collection of furniture, appliances and other items too large for residential refuse containers. All bulky items must be acceptable for disposal at a Type I municipal solid waste landfill.
- B. Service shall be provided to all customers in residential units located within the Contract area, for the benefit of customers who are currently living in the unit or who have recently vacated the unit.

8.2 Time and Place of Collection

The CONTRACTOR shall provide curbside collection of residential bulky waste within one week of notification by customer at a designated toll-free number, provided to the CITY. The customer shall be given a date and time for which collection will occur.

ARTICLE 9.0 – RESIDENTIAL **AND COMMERCIAL** RECYCLABLE COLLECTION

9.1 Service Provided

- A. The CONTRACTOR shall provide once per week curbside collection of recyclables from a recyclable container provided by the CONTRACTOR.
- B. The CONTRACTOR will provide the initial recyclables containers to all residential units at no cost to the customers. Customers may purchase additional or replacement containers from the CONTRACTOR at cost. The CONTRACTOR will make this cost known to the CITY. The CONTRACTOR will deliver a recycle bin to new customers within one week of notification by the CITY.
- C. The CONTRACTOR, at the request of the City, shall conduct and engage in recycling education to include, but not limited to, brochures and printed materials and public town hall meetings.

9.2 Time and Place of Collection

The CONTRACTOR shall provide curbside collection of recyclable commodities once per week within the Contract area. Normal collection points for residential recyclables shall be at curbside (adjacent to roadway). Recyclables containers will normally be picked up on the second scheduled collection day of the week.

9.3 Materials to be Collected

The CONTRACTOR shall furnish all labor, supervision, and equipment necessary to provide curbside recyclable collection for residential units within the Contract area as follows:

- A. The CONTRACTOR shall collect all recyclables as determined by the CITY. The CONTRACTOR shall collect the following items: newspaper and inserts, aluminum cans, No. 1 (PET) plastic and No.2 (HDPE) plastic containers.
- B. The CONTRACTOR shall collect all recyclables placed in a container provided by the CONTRACTOR. If unacceptable materials are placed in the container, the CONTRACTOR shall collect all acceptable materials and leave the unacceptable materials with a clearly explanatory printed notice to the customer.
- C. The CONTRACTOR shall be responsible for collecting overflow recyclables placed on top of or beside the recyclables container.
- D. The CONTRACTOR may add new recyclable materials only if it is demonstrated that an economical market exists for the material and with approval of City Council.
- E. The CONTRACTOR shall not dispose recyclables in a landfill, without prior written consent by the CITY.
- F. The CONTRACTOR understands that recyclable commodities service is provided to residents of the CITY of Tomball through the CITY billing and collection department. As new utility customers are added to the CITY's billing, the CITY shall notify the CONTRACTOR of the additional customers who shall then become a designated residential unit for purposes of this agreement. The CONTRACTOR shall begin collection service for newly added designated household within one week of receipt of notice that the household has been added to the CITY's utility billing. It shall be the CONTRACTOR's responsibility to deliver a recyclable container to newly designated households in advance of the first collection date for each household.

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9.4 Ownership of Recyclables

At any time after recyclable commodities have been placed outside for collection, such recyclable commodities shall be considered transferred to the CITY for the purpose of sale or other disposal pursuant to the terms of this agreement. Only the customer who placed said recyclable commodities outside of collection might take back such materials as the customer desires until such recyclable commodities have been collected by the CONTRACTOR. At the time that the recyclables are collected by the CONTRACTOR, ownership of said recyclables shall transfer from the CITY to the CONTRACTOR.

ARTICLE 10.0 – COMMERCIAL/INDUSTRIAL COLLECTION

10.1 Services Provided

- A. The CONTRACTOR shall provide collection service for the collection of commercial/industrial refuses to all commercial/industrial units in accordance with individual agreements with generators at rates specified in the Proposal.
- B. The CONTRACTOR shall provide initial bins or 95-gallon polycart containers specifically designed for commercial/industrial refuse collection at no cost. Bins and hand load container shall be covered or otherwise maintained to provide protection from weather and wind. Replacement 95-gallon polycart containers shall be purchased from the CONTRACTOR at cost. The CONTRACTOR will make this cost known to the CITY.

10.2 Location of Bins and Containers

- A. Each bin shall be placed in an accessible, outside location on a hard surface according to individual agreement. The CONTRACTOR may decline to collect refuse in bins not so placed. Bins can not block the visibility triangle at intersections.
- B. Commercial 95-gallon polycart container shall be placed at curbside for collections. Curbside refers to that portion of right-of-way adjacent to paved or traveled public roadways including alleys. Containers with contents not weighing more than one hundred (100) pounds shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. The CONTRACTOR may decline to collect any container not so placed.

10.3 Time of Collection

Collection of commercial/industrial refuse from bins and commercial 95 gallon polycart hand load containers shall take place according to individual agreements

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with generators requiring such service. Establishments generating putrescible garbage or refuse shall receive a minimum of twice a week pickup. In no event, however, will collection service begin before 7:00 A.M. or after 7:00 P.M. where service is adjacent to residential units.

10.4 Roll-Off Container Service

The CONTRACTOR shall provide permanent or temporary roll-off containers and/or compactors for special collections of bulky waste, construction debris or stable matter when requested by commercial/industrial units at rates established in the attached Exhibit “A” and in accordance with individual agreement with generators.

10.5 City Facilities

The CONTRACTOR shall collect at no cost to the CITY all refuse generated by CITY facilities and placed for collection at identified CITY locations. The CITY agrees that the number of locations and facilities for which services are provided free of charge shall not exceed twenty-five (25) in any given year. The collection schedule for services provided at no charge shall be mutually agreed upon by the CITY and the CONTRACTOR.

10.6 Community Service

The CONTRACTOR will provide donated special collection services for important and community events including, but not limited to:

- Tomball Spring and Fall Clean Up
- Independence Day
- Rotary Fish Fry
- Tomball Night
- Holiday Parade
- Tomball German Heritage Festival
- The Regional Arts Council Arts Festival
- Tomball German Christmas Market
- Rails and Tails (Crawfish Festival)
- Bugs, Brew & BBQ (Car show and BBQ)
- Honky Tonk Music Festival
- Blue Grass Music Festival

These services will be provided as mutually agreed to be fair to the CONTRACTOR and the CITY.

ARTICLE 11.0 – COMPLIANTS REGARDING SERVICE/SPILLAGE

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11.1 Complaint Receipt and Handling

- A. All customer complaints shall be initially directed to the CONTRACTOR for handling. The CONTRACTOR shall make provisions for receiving and resolving customer complaints and service issues pertaining to all services under this agreement. Complaints received by the CITY shall be forwarded to the CONTRACTOR immediately and it shall be the duty of the CONTRACTOR to take whatever steps may be required to remedy the cause of the complaint and to notify the CITY of its disposition within twenty-four (24) hours after receipt. In the event of alleged missed scheduled collection, the CONTRACTOR shall investigate and, if such allegations are confirmed, shall arrange for the collection of the refuse within twenty-four (24) hours after receiving the complaint. The CONTRACTOR shall maintain a complaint log, which includes; name of complainant, date, address, nature of complaint, action taken and date complaint was resolved. Such logs shall be made available to the CITY each month on or before the 10th day of the month. All complaints shall be given prompt and courteous attention.
- B. The CONTRACTOR shall maintain a toll-free telephone number, listed in the Tomball telephone directory in the name of the CONTRACTOR, and shall at all times during the hours of 8:00 A.M. and 5:00 P.M. of each normal working day, except Saturdays, Sundays, and holidays, have some person available at such number with whom the public, the CITY, its employee or agents may communicate, discuss and refer any complaint or inquiry arising in connection with such collection and disposal service.
- C. The CONTRACTOR shall have his service personnel meet with the Permit/Utility Billing Supervisor at least twice per month or as needed to resolve open complaints.

11.2 Damage Claims Resolution

The CONTRACTOR shall provide the CITY with a full explanation of the disposition of any complaint involving a customer's claim of damage to private property as the result of actions of the CONTRACTOR's employees, agents or subcontractors.

11.3 Failure to Remedy Complaints

Failure to remedy the cause of the complaint as provided for in the paragraphs above shall be considered a breach of the contract.

ARTICLE 12.0 – COLLECTION AND TRANSPORT OF REFUSE

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12.1 Appearance

The CONTRACTOR shall ensure that all collection and transport service equipment is in good condition and repair, and attractively painted and clean looking in appearance. The CITY shall have the right to inspect and approve appearance of collection service equipment.

12.2 Due Diligence

- A. The CONTRACTOR shall exercise the utmost care and diligence in the performance of the work required by the Contract documents. Every effort must be made to prevent spillage during the collection process. However, in the event that solid waste is spilled, the collector shall immediately clean up the material before leaving the location of the spillage.
- B. The CONTRACTOR shall be solely responsible for all damages to containers and property resulting from the CONTRACTOR's actions or omissions.

12.3 Vehicles

- A. The CONTRACTOR shall provide and maintain during the entire period of the Contract a fleet of solid waste collection vehicles sufficient in number and capacity to perform the work and render the service required by the contract. The vehicles must contain all residential and commercial/industrial refuse, bulky waste and recyclables so that no material is spilled, leaked, or blown from the vehicle during its transit to the identified disposal site.
- B. The CONTRACTOR shall maintain collection vehicles in good repair at all times. All parts and systems of the collection vehicles shall be operated and maintained properly. Any leakage or spills of fuels, lubricants, or oil from or by collection vehicles shall be cleaned up immediately before leaving the location of the spill or leak and immediately reported to the CITY. It shall be the CONTRACTOR's responsibility to repair or replace property damaged by the CONTRACTOR. The CONTRACTOR shall save, defend, indemnify, and hold the CITY harmless from and against any claims, demands, costs, suits, and liabilities asserted by an individual or entity for injuries to persons or damage to property arising in any way from or incident to the breakdown or disrepair of any of the CONTRACTOR's vehicles and other equipment or any leakage, spills of fuels, lubricants, oil, chemicals, emissions, noise, or pollutants discharged therefore.
- C. The CONTRACTOR's vehicles and other equipment must be clearly identified. This identification shall be affixed to each vehicle and piece of equipment. All vehicles and equipment used in collection and transport service shall be in good repair, clean, well maintained and free of excessive noise, odor or emission.

ARTICLE 13.0 – PRICE AND METHOD OF PAYMENT

13.1 Contractor’s Compensation

- A. On or before the 10th business day of each month after the work has been performed, the CONTACTOR shall submit to the CITY an invoice for all services rendered to residential, commercial/industrial units and other services provided at the rates and upon the terms provided in this agreement (see Exhibit “A”, Schedule of Fees, Unit Price)
- B. The CONTRACTOR’s rate of compensation shall be determined based upon the unit prices stipulated in the CONTRACTOR’s Cost, attached hereto in Exhibit “A”. Within thirty (30) days of the CITY’s receipt of invoice and any supporting data requested by the CITY, the CITY will remit payment to the CONTRACTOR subject to the conditions of this Agreement and the CONTRACTOR’s compliance with the terms of this agreement. Any such payments by the CITY shall be reduced by such amounts as the CITY may otherwise withhold or retain as provided by the Contact documents, as well as the ten percent (10%) franchise fee being deducted from the invoice.
- C. Information regarding the number of units in the Contract area shall be obtained from the CITY reports of additions, changes or deletions of units faxed or emailed by the CITY’s Utility Billing Department throughout each month. All invoices for payment submitted by the CONTRACTOR to the CITY shall refer to the proper number of units.

13.2 Collection Services

The CITY shall act as collector for all accounts and shall submit all statements to and collect from all occupied residential units and commercial/industrial units, which have contracted with the CONTRACTOR for services provided herein.

13.3 New Customers

New customers must come to the CITY requesting solid waste collection and disposal. The CITY will contact the CONTRACTOR to arrange for the specific services that will be required. The CITY shall receive all changes from commercial/industrial customers and such changes shall be faxed or emailed to the designated contact number or address provided by the CONTRACTOR. All customers who request temporary roll-off services must be processed through the CITY prior to any service by the CONTRACTOR.

13.4 Delinquent and Closed Accounts

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- A. The CITY shall notify the CONTRACTOR of any delinquency in the payment for collection services on the part of any unit. The CONTRACTOR shall discontinue refuse collection services at any unit upon receipt of written notice from the CITY that such unit is not occupied or is delinquent in payment for service. Upon further notification by the CITY, the CONTRACTOR shall resume refuse collection on the next regularly scheduled collection day.
- B. The CITY shall remit payments to the CONTRACTOR for all occupied residential units and non-delinquent commercial/industrial units until such time the CONTRACTOR is notified to discontinue refuse collection services as provided by the contract documents.

ARTICLE 14.0 – MODIFICATION OF CONTRACT RATES

14.1 Contract Term

- A. The unit prices specified in the CONTRACTOR’s Cost, see attached Exhibit “A”, shall not be subject to change during the first year of the term hereof. The Contract prices constitute the total compensation payable to the CONTRACTOR for services performed pursuant to the Contract documents.
- B. The rates which may be charged for the second and subsequent years of the term of the Contract shall be adjusted upward or downward to reflect changes in the cost of operations as reflected by fluctuations in the Consumer Price Index for Urban Wage Earner and Clerical Workers (all items, Houston area), as published by the U.S. Department of Labor, Bureau of Labor Statistics.
- C. It is the responsibility of the CONTRACTOR to initiate any and all rate modifications. No later than June 15th, the CONTRACTOR shall send to the CITY a comparative statement setting out for the index:
 - 1. The index value for May of the current year;
 - 2. The index value for May the previous year;
 - 3. The net percentage change; and
 - 4. The increase or decrease in the fees, which may be charged by the CONTRACTOR.

Changes in rates, either increases or decreases, will become effective as of the CITY’s fiscal year start date, October 1st.

- D. Any adjustments to change the rates charged for collection services shall be reviewed and considered by the CITY staff for recommendation to the City

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Council. The CONTRACTOR may petition the CITY, in writing, for an increase in the rates established hereunder by submitting documentation to support the requested increase. The CONTRACTOR shall present its increase justification to the CITY Council at a duly scheduled Council meeting. The CONTRACTOR agrees to provide all documentation and information requested by the CITY staff and/or the CITY Council. Any increase must be approved by the CITY Council.

ARTICLE 15.0 – STREET USE/FRANCHISE FEE

The CITY recognizes that, as a franchisee, the CONTRACTOR must use street and alleys of the CITY. In order to assist in the maintenance of those streets and alleys and also, in order to compensate the CITY in the administration of this franchise, a ten percent (10%) franchise fee for all work performed under this Agreement for which the CONTRACTOR has been paid will be remitted to the CITY, by being deducted from the invoice.

ARTICLE 16.0 – TERMINATION FOR CAUSE

The CITY may terminate the Contract for cause upon any of the following events of default:

- A. If, in the CITY’s sole discretion, the CONTRACTOR fails to fulfill or maintain in a timely and proper manner any obligations, duties or provisions of or under the Contract documents and, unless otherwise provided herein, the CONTRACTOR shall fail to cure such default within thirty (30) calendar days of its receipt of written notice from the CITY specifying the conditions in which the CONTRACTOR has failed to perform. Such termination may be stayed at the sole option of the CITY, pending cure of the default if action to cure begins during the thirty (30) day period and is successfully completed.
- B. If the CONTRACTOR is adjudicated a voluntary or involuntary bankrupt, or a petition is filed by or against the CONTRACTOR to declare the CONTRACTOR bankrupt, or if the CONTRACTOR is subject to the appointment of a receiver or trustee and fails to have the receiver or trustee removed within sixty (60) days, or if any assignment of the CONTRACTOR’s becomes insolvent, or is unable to pay its debt as they become due.
- C. If the CONTRACTOR fails to provide and maintain the performance bond as required by the contract; fails to obtain or maintain the insurance policies and endorsements as required by the contract; or fails to provide the proof of insurance as required by the contract.

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ARTICLE 17.0 – BONDS AND INSURANCE

17.1 Performance Bond

Upon Contract execution, the CONTRACTOR shall furnish the CITY a bond with a corporate surety in the amount equal to one hundred percent (100%) of the annual Contract sum. The CONTRACTOR shall pay all premiums chargeable for the bond. The bond shall be valid and non-cancelable for the period of Contract and shall be renewed annually upon Contract renewal or extension.

17.2 Insurance

The CONTRACTOR shall comply with all applicable laws relating to Workmen’s Compensation and shall carry insurance, at its own expense, with responsible insurance companies acceptable to the CITY of the types and in the minimum amounts set forth in Exhibit “B” attached hereto. Unless prohibited by law, all policies of insurance held or obtained by the CONTRACTOR and each of its subcontractors, whether required by the Contract or not, shall be sufficiently endorsed to waive any and all claims by the underwriters or insurers against the CITY, their officers, directors, agents, employees, and invitees, for injuries, death, losses and/or damages covered by such policies. The CONTRACTOR shall have its insurance carriers deposit with the CITY before starting any work under this Contract certificates of insurance showing all insurance coverage and providing for not less than ten (10) days prior written notice of cancellation, reduction or other material change. Failure to maintain said insurance, approved as aforesaid, shall constitute sufficient grounds for immediate cancellation or suspension of this Contract by the CITY.

ARTICLE 18.0 – INDEMNIFICATION

The CONTRACTOR will indemnify, save harmless, and exempt the CITY, its officers, agents, servants, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorneys’ fees incident to any work done in the performance of this Contract arising out of a willful or negligent act or omission of the CONTRACTOR, its officers, agents, servants, and employees; provided, however, that the CONTRACTOR shall not be liable for any suits, actions, legal proceeding, claims, demands, damages, cost, expenses, and attorneys’ fees arising out of a willful or negligent act or omission of the CITY, its officers, agents, servants and employees.

The CONTRACTOR shall assume all responsibilities for, including control and removal of, and indemnify and hold the CITY harmless against and from loss, cost of damage arising from pollution or contamination which originates above the surface of the land or water:

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From spills or leaks of fuels, lubricants, motor oils, paints, solvents, garbage, rubbish, sewage, sludge and other materials in the CONTRACTOR’s possession and control, whether or not caused by the negligence of the CONTRACTOR.

18.1 Pollution Control and Removal

Without relieving the CONTRACTOR of any of its obligations above provided, it is agreed that the CITY may take part to any degree it deems necessary in the control and removal of any pollution or contamination which is the responsibility of the CONTRACTOR under the foregoing provisions; and the CONTRACTOR shall reimburse the CITY for the cost thereof.

ARTICLE 19.0 – REPRESENTATIONS AND RESPONSIBILITIES

It is the responsibility of the CONTRACTOR to be familiar with the nature and extent of the Contract documents, work, locality, and with all local conditions, regulations and laws that in any manner may affect cost, progress or performance of the work. The CONTRACTOR has made examinations, investigations and studies of all reports and related data as deemed necessary for the performance of the work at the Contract price, within the Contract term and in accordance with the other terms and conditions of the Contract documents; and no additional examination, investigations, reports or similar data are or will be required by the CONTRACTOR for such purpose.

19.1 Independent Contractor

The CONTRACTOR shall be an independent contractor with respect to all work done and services performed hereunder, and neither the CONTRACTOR nor anyone used or employed by the CONTRACTOR shall be deemed for any purpose to be the agent, servants or representative of the CITY in the performance of such work or services or any part thereof, or in any matter dealt with herein, and the CITY shall have no direction or control of the CONTRACTOR, or its employees and agents, except in the results to be obtained. It is understood that by this provision, neither party is assuming any liability for the actions or omission of the other party, except as is stated in this contract.

Should there be a change in the CONTRACTOR’s name or ownership by a merger or take-over by another entity, or any such event, this Contract is not subject to change and shall be upheld throughout the life of the agreement period or until the CITY so chooses to change.

19.2 Subcontractors and Assignments

A. The CONTRACTOR shall not subcontract any part of its responsibility under this Agreement without the approval of the CITY. All work performed for the CONTRACTOR by a subcontractor will be performed in accordance with the

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Contract documents, and the rights of the CITY shall be preserved and protected so that subcontracting of the work under the Contract will not prejudice those rights.

- B. The Obligations of the CONTRACTOR pursuant to the Contract documents are not to be transferred, or assigned to any person or organization without the express written consent of the CITY. In the event of any such assignment, the assignee shall comply with any conditions that the CITY may reasonably require. Any such assignment shall not relieve or excuse the CONTRACTOR from responsibility for performance to the CITY in the event the assignee does not fully perform all work and other obligations of the CONTRACTOR under the contract.

19.3 Inspection of Records and Operations

The CITY shall have the right from time to time during reasonable business hours to inspect and audit all of the CONTRACTOR's books and records bearing directly or indirectly on the work and services performed hereunder. The CITY shall also have the right to inspect facilities, equipment, personnel and operations of the CONTRACTOR to assure itself of the appearance, sound business operations and compliance with contractual obligations by the CONTRACTOR.

The CONTRACTOR shall supply the CITY with monthly reports documenting the tonnage of all refuse, rubbish, construction debris, and any other waste collected for the CITY. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

The CONTRACTOR shall supply the CITY with monthly reports documenting the amount of tonnage for each category of recyclables and the dollar value of the gross revenues received for each category. This report is to be submitted to the Permits/Utility Billing Supervisor no later than the 10th day of the month following the month of collection.

19.4 Laws, Taxes and Fees

The CONTRACTOR agrees that it shall comply with all laws, policies, ordinances, codes, rules and regulations, and shall pay all taxes and fees which may be chargeable against the performance of the work or incidental to the contract.

19.5 Reports and Accidents

The CONTRACTOR shall report to the CITY as soon as practicable all accidents or occurrences resulting in injuries to the CONTRACTOR's employees, agents, licensees, or invitees, or damage to property arising out of or during the course of

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the work or services performed for the CITY by the CONTRACTOR or of any subcontractor of the CONTRACTOR, and when requested, shall furnish the CITY with a copy of reports made by the CONTRACTOR to the CONTRACTOR’s insurer or to others of such accidents or occurrences.

19.6 Captions and Headings

The captions, article numbers and other such designations appearing in the Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope of intent of such sections in this Agreement or in any way affect this agreement.

ARTICLE 20.0 – MISCELLANEOUS PROVISIONS

20.1 Force Majeure

This Contract is subject to all laws, orders, rules and regulations, and neither the CITY nor the CONTRACTOR shall be liable for any delay or damage due, occasioned or caused as a result of such laws, orders, rules or regulations, or by action of the elements, or causes beyond the control of the parties; and any delay due to above causes or any of them, shall not be deemed to be a breach of or failure to perform this contract, or any part thereof. In the event of such a force majeure, the CONTRACTOR shall give the CITY prompt telephone notification followed by written notice of the particulars and estimated duration of said force majeure. During such period or periods of time, a deduction in the proportional charge for collection and removal of refuse and/or recyclables at the prevailing rates shall be made. The CONTRACTOR must make a reasonable effort to resume service as soon as possible.

20.2 Storm Related Debris

The CONTRACTOR shall provide the CITY with additional services for the removal of storm related debris to include; bagged leaves and green waste; cut limbs and brush stacked in piles not to exceed four feet long and four feet wide; damaged fencing material; damaged carpet; and similar storm related debris. Additional services to be provided by the CONTRACTOR shall include; grapple trucks or similar equipment capable of self loading material; delivery, hauling, and removal of additional containers sufficient for containing and removing storm related debris. The total annual amount of storm related debris removal services shall not exceed 1,520 cubic yards.

CONTRACTOR and CITY agree that the CONTRACTOR may submit, as requested by CITY, a proposal for costs associated with removal of additional storm related debris for any volume that exceeds the specified annual amount. The CITY may, at its sole option, enter into a separate agreement with CONTRACTOR for the purpose of removing additional storm related debris.

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However, the CONTRACTOR is under no obligation to provide services for the removal of storm related debris that exceeds the specified annual amount.

20.3 Notices

All notices required to be given by either party to the other party under the terms of this Contract shall be in writing and, unless written notice of a change of address is given, shall be sent to the parties at the addresses following:
CITY:

City Manager
City of Tomball
401 Market Street
Tomball, TX 77375

CONTRACTOR:

.
.
.
.

All notices shall be deemed to have been properly served when delivered by the mail or delivered by confirmed facsimile.

20.4 Change Orders and Modifications

Any change order or modifications to the Contract must be mutually agreed upon by the parties and be incorporated by written amendment(s) to the contract. The City Manager and/or the CITY Council shall have the authority to change or modify the Contract on behalf of the CITY.

20.5 Ownership

Title to refuse, rubbish and other waste to be collected under the term of this Agreement shall pass to the CONTRACTOR when placed in the CONTRACTOR's collection vehicle, removed by the CONTRACTOR from a bin or container, or removed by the CONTRACTOR from the customer's premises, whichever first occurs.

20.6 Attorney's Fees

On the event that the CITY is required to take any legal action to enforce the terms and conditions of any Agreement because of the breach of or failure to

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perform any term or condition by the CONTRACTOR, the CONTRACTOR agrees to pay all costs expended by the CITY, including reasonable attorney fees.

20.7 Federal and State and Local Law to Apply

This Agreement shall be construed under and in accordance with Federal, State and Local Laws and all obligations of the parties created hereunder are performable in Tomball, Harris County, Texas

20.8 Entire Agreement

This instrument contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect and this Agreement may not be amended except by a subsequent modification in writing, signed by the parties hereto or by ordinance adopted by the CITY.

20.9 Severability

If any part of this Agreement for any reason is declared invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid portion thereof eliminated. It is hereby declared the intention of the parties that they would have executed the remaining portion of this Agreement without any such part, parts or portions which may, for any reason, be hereafter declared invalid.

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IN WITNESS WHEREOF, the parties hereto have executed the Contract on the day and year first written above.

The Contract will be effective on _____, 2014

ATTEST:

CITY OF TOMBALL

Doris Speer, City Secretary

By: _____
George Shackelford, City Manager

ATTEST:

.....

By: _____

(Title)

(Title)

(Seal if bid is by a Corporation)

REQUEST FOR PROPOSAL
Project 2014-?

The City of Tomball hereby requests proposals for the performance of sanitation services within the City of Tomball. The City's basic requirements are detailed in the attached format and Proposers are encouraged to submit proposals in the City format, although other formats and alternatives will be given consideration as time allows.

The City of Tomball prides itself on a high level of service for our citizens and our citizens are accustomed to and demand superior service. Quality of service will be an important component of any proposal accepted by the City of Tomball and Proposers are encouraged to submit references and explain their commitment to service on a day-in and day-out basis as a vital part of their bid.

The defined terms appearing in the General Specifications apply to all Contract Documents. The City of Tomball, City Secretary will furnish a set of "Request for Proposal" forms upon request.

Proposals must be delivered to, and be filed with the office of the City Secretary at 401 Market Street in Tomball, Texas on or before 9:00 a.m. on June 13, 2014. The envelope containing the proposal must be sealed and plainly marked **"Proposal for Solid Waste Collection and Disposal" "PROJECT 2014-?, DO NOT OPEN"**.

Proposals will be publicly opened and read at 9:00 a.m. on the aforementioned date at Tomball City Hall located at 401 Market Street in Tomball, Texas. The selected proponent will be awarded the contract by the City Council upon recommendation of the staff of the City of Tomball.

Contract recommendations are to be based on the best combination of the ability to perform the service to the City's specifications and the costs of such service.

The City reserves the right to reject any or all Proposals, to waive irregularities and/or informalities in any proposal, and make an award in any manner, consistent with the law deemed in the best interest of the City.

George Shackelford, City Manager

C E R T I F I C A T I O N

I certify that the above "Request for Proposal" was posted on the bulletin board of City Hall, City of Tomball, Texas on the 12 th day of May, 2014.

Doris Speer, City Secretary

INSTRUCTION TO PROPOSERS

SOLID WASTE COLLECTION AND DISPOSAL

1. RECEIPT AND OPENING OF PROPOSALS

The City of Tomball (the “City”) invites and will receive Proposals on the forms attached thereto, all information on which must be appropriately completed. Proposals will be received at the office of the City Secretary until 9:00 a.m. Central Daylight Savings Time on June 13, 2014, and publicly opened and read aloud in the office of the City Secretary of the City of Tomball at 9:00 a.m., Central Daylight Savings Time, on the aforesaid date. The envelope containing the Proposals must be sealed and addressed to Doris Speer, City Secretary, City of Tomball and plainly marked **“Proposal for Solid Waste Collection and Disposal” “PROJECT 2014-2, DO NOT OPEN”**.

2. PREPARATION OF THE PROPOSAL

All Proposals must be prepared and signed by the Proponent in the form attached hereto. Additional copies of the Proposal form may be obtained from the City on request. All blank spaces in each Proposal Form together with appropriate schedules must be completed in full, in ink or typewritten, in both words and figures.

If a unit price or a lump sum already entered by the Proponent on the Proposal Form is to be altered, it shall be crossed out with ink and the new unit price or lump sum bid entered above or below it, and initialed by the Proponent in ink.

Each Proposal, together with appropriate schedules, must be submitted in a sealed envelope bearing on the outside the name of the Proponent, the Proponent address, and plainly marked **“Proposal for Solid Waste Collection and Disposal” “PROJECT 2014-2, DO NOT OPEN”**. If forwarding by mail, the sealed envelope containing the Proposal must be enclosed in another envelope addressed as specified in the Proposal.

Any Proposal may be withdrawn in writing to the City Secretary prior to the above scheduled time for the opening of Proposal or authorized postponement thereof.

Any Proposal received after the time and date specified shall not be considered.

3. PROPOSAL SECURITY AND EVIDENCE OF INSURANCE

Each Proposal must be accompanied by a bond or a cashier’s check of the Proponent, drawn on a national bank, in an amount of Fifteen Thousand Dollars (\$15,000.00), as a guarantee on the part of the Proponent that the Proponent will, if called upon to do so, accept and enter into a contract on the attached form (or such form as may mutually be agreed upon by the City and the selected Proponent), to perform the work

covered by such Proposal and at the rates stated therein and to furnish a corporate surety for its faithful and entire fulfillment. Checks and bonds will be returned promptly after the City and the selected Proponent have executed the Contract, or, if no Proponent's Proposal has been selected within ninety (90) days after the date of the opening of Proposals, upon demand of the Proponent at any time thereafter, so long as the Proponent has not been notified of the acceptance of the Proposal.

Each Proposal must be accompanied by a certificate of insurance evidencing the coverage set forth in the General Specifications.

4. LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO THE CONTRACT

The Contract shall be deemed, as having been awarded when formal notice of award shall have been mailed by the City to the Proponent via certified mail, return receipt requested.

The Proponent to whom the contract shall have been awarded will be required to execute five (5) copies of the Contract on the form attached hereto (or such form as may mutually be agreed upon by the City and the selected Proponent) and to furnish requested insurance certificates for surety (equal to 100% of the annual Contract sum) and various liabilities. In case of the Proponent refusal or failure to do so within twenty (20) days after the Proponent's receipt of formal notice of award, the Proponent will be considered to have abandoned all Proponents rights and interests in the award, the Proponent's proposal security may be declared forfeited to the City as liquidated damages and the award may then be made to the next best qualified Proponent or the work readvertised for Proposals as the City may elect.

5. SECURITY FOR FAITHFUL PERFORMANCE

The Proposal shall be accompanied by a letter from a corporate surety satisfactory to the City stating that the Performance Bond will be furnished by it to the person submitting the Proposal in the event that the Proponent is successful. Such letter is to be signed by an authorized representative of the surety together with a certified and effectively dated copy of the Proponent's power of attorney attached thereto.

The successful Proponent will be required to furnish a performance bond as security for the faithful performance of this Contract. Said performance bond must be in an amount equal to the estimated contract price.

Premium for the bonds described above shall be paid by the Contractor. A certificate from the surety showing that the bond premiums are paid in full shall accompany the bond.

The form of the bond is appended hereto.

The surety on the bond shall be a duly authorized corporate surety with an AAAA rating authorized to do business in the State of Texas.

6. POWER OF ATTORNEY

Attorneys-in-fact who sign bonds must file with each bond a certified and effectively dated copy of their power of attorney.

7. SCOPE OF WORK

The work under this Contract shall consist of the items contained in the Proposal, including all incidentals necessary to fully complete said work in accordance with the Contract Documents. It should be noted that the City does not pay Federal Excise Taxes and/or Texas and local retail sales and use taxes. Tax exemption certificates can be provided upon request to the selected Proponent.

Collection times for residential unit pick ups shall be from 7:00 a.m. to 2:00 p.m., Monday through Saturday. Collection times for commercial and industrial unit pick ups shall be from 7:00 a.m. to 7:00 p.m., Monday through Saturday. Commercial and industrial customers shall be allowed to have individual agreements for pick up times, approved by Code Enforcement.

Should the sanitation service provider decide to observe any holiday by the suspension of collection service on the holiday, such provider will in no manner be relieved of the obligation to provide collection service at least twice per week. Sanitation service provider shall provide the City of Tomball with an annual schedule for pick up when observed holidays fall on a normal collection day.

The sanitation service provider will provide donated special collection services for important and community events and for City locations.

The sanitation service provider will provide to the City monthly reports of complaints, tonnage of refuse collected, and the tonnage collected and gross revenues on recyclable collections.

8. CONDITIONS

Each Proponent shall be fully acquainted with conditions relating to the scope and restrictions attending the execution of the work under the Contract. The Proponents shall thoroughly examine and be familiar with the General Specifications.

The failure or omission of any Proponent to receive or examine any form, instrument, addendum or other document, or to become acquainted with conditions existing, shall in no way relieve the Proponent of any obligations with respect to the Proposal or to the Contract. The City shall make all such documents available to the Proponents.

The Proponent shall make the Proponent's own determination as to conditions and shall assume all risk and responsibility and shall complete the work in and under conditions the Proponent may encounter or create, without extra cost to the City.

The Proponent's attention is directed to the fact that all applicable State and Federal laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over the work to be performed shall apply to the Contract throughout, and they will be deemed to be included in the Contract as though written out in full in the Contract.

Proponents must comply with the conflict of interest provisions of the City Charter and Code of Ordinances. Prior to the submission of a proposal, Proponents may be required to file with the City Secretary a disclosure of interest. Proponents are obligated to provide updated information concerning the disclosure of interest, as warranted, throughout the time the proposals are being considered.

9. ADDENDA AND EXPLANATIONS

Explanations, such as the meaning or interpretation if the invitation, specifications, definitions, etc., desired by a prospective Proponent shall be requested of the City in writing, and if explanations are necessary, a reply shall be made in the form of an Addendum, a copy of which will be forwarded to each Proponent. Every request for such explanation shall be in writing addressed to the City Secretary. Any verbal statements regarding same, by any person, previous to the award, shall be unauthoritative and not binding.

Addenda issued to prospective Proponents prior to date of receipt of Proposals shall become a part of the Contract Documents, and all Proposals shall include the work described in the Addenda.

Any and all such interpretations and any supplemental instructions will be in the form of written Addenda, which, if issued, shall be mailed by certified mail, return receipt requested, to all prospective Proponents (at the respective addresses furnished for such purposes).

10. NAME, ADDRESS, AND LEGAL STATUS OF THE PROPONENT

The Proposal must be properly signed in ink and the telephone and address, including the County and State, of the Proponent given. The legal status of the Proponent, whether Corporation, Partnership, or Individual, shall also be stated in the Proposal.

A Corporation shall execute the Proposal by its duly authorized Officers in accordance with its corporate by-laws and shall also list the State in which it is incorporated. A partnership Proponent shall give full names and addresses of all

partners. Partnership and individual Proponents will be required to state in the Proposal the names of all persons interested therein.

Anyone signing a Proposal as an agent of another or others must submit with the Proposal, legal evidence of the signer's authority to do so.

11. COMPETENCY OF PROPONENT

The opening and reading of the Proposal shall not be construed as an acceptance of the Proponent as a qualified, responsible Proponent. The City reserves the right to determine the competence and responsibility of a Proponent from its knowledge of the Proponent's qualifications and from other sources.

The City will require submission with the Proposal of supporting data regarding the qualifications of the Proponent in order to determine whether the Proponent is a qualified, responsible Proponent. The Proponent will be required to furnish the following information sworn to under oath:

- (a) An itemized list of the Proponent's equipment available for use on the Contract;
- (b) Evidence that the Proponent is capable of commencing performance as required in the Contract Documents;
- (c) Evidence, in form and substance satisfactory to the City, that the Proponent has been in existence as a going concern in refuse collection and operation of a sanitary landfill, in excess of five (5) consecutive years immediately preceding the date of Proposal and possesses not less than five (5) consecutive years of actual operating experience as a going concern in refuse collection and operation of a sanitary landfill;
- (d) Evidence, in form and substance satisfactory to the City, that Proponent possesses as a going concern the managerial and financial capacities to perform all phases of the work called for in the Contract Documents;
- (e) Evidence, in form and substance satisfactory to the City, of Proponent's experience as a going concern in the refuse collection from operations of comparable size to that contemplated by the Contract Documents;
- (f) A copy of the latest available financial statements of the Proponent (or its Parent Corporation if Individual Subsidiary or Division Financial Statements are not prepared and generally available) Certified by a Firm of Independent Certified Public Accountants;
- (g) Statement that the Proponent is in good standing in the State of Texas, and in the case of a Corporation organized under the Laws of any other State,

evidence that the Proponent is licensed to do business in the State of Texas, in the form of a Certificate from the Secretary of State; and,

- (h) Such additional information as will satisfy that the Proponent is adequately prepared to fulfill the Contract.

The Proponent may satisfy any or all of the experience and qualification requirements of this paragraph by submitting the experience and qualifications of its Parent Corporation and subsidiaries of the parent.

12. DISQUALIFICATION OF PROPONENTS

Although not intended to be an exhaustive list of causes for disqualification, any one or more of the following causes, among others, may be considered sufficient for the disqualification of a Proponent and the rejection of the Proposal:

- (a) Evidence of collusion among Proponents;
- (b) Lack of competency as revealed by either Financial Statement, experience or equipment statements as submitted, or other factors;
- (c) Lack of responsibility as shown by past work, judged from the standpoint of workmanship as submitted;
- (d) Default on a previous contract for failure to perform; and,
- (e) Disqualification of Proponent will also be based upon the failure to complete any and all parts of, or follow instructions in, the entire Proposal Packet. There are to be no alterations in this Proposal Packet, and all Proposals received must be received with the Packet in complete context as presented to each Proponent.

13. METHOD OF AWARD

The City reserves the right to accept any Proposal or to reject any or all Proposals, and to waive defects or irregularities in any Proposal. In particular, any alteration, erasure or interlineations of the Contract Documents and of the Proposal shall render the accompanying Proposal irregular and subject to rejection by the City. The City intends that the Contract shall be awarded July 21, 2014.

DEFINITIONS

For purposes of this agreement, the following terms shall be defined as follows:

Bags – Plastic or paper sack container designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of bag and its contents shall not exceed 40 pounds.

Bin/dumpster – Metal collection receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.

Biosolids – Solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment plant.

Bulky Waste – Furniture, appliances and other household items too large for a refuse container.

Commercial/Industrial Refuse – All bulky waste, construction debris, garbage, rubbish and other waste generated by a producer at a commercial or industrial unit.

Commercial/Industrial Unit – All premises, locations or entities, public or private, requiring refuse collection within the corporate limits of the CITY and not a residential unit as defined herein.

Construction Debris – Waste building materials resulting from construction, remodeling, repair or demolition operations.

Contract Area – The geographical boundaries of the CITY limits within which the CONTRACTOR will provide services.

Contractor – The Individual, Corporation or Partnership with whom the CITY has executed the service contract.

Customers – Those occupants of designated residential units and/or commercial and industrial units as defined herein, that are located within the CITY limits and the generated solid waste and/or recyclable materials, as defined herein.

Disposal Facility – A refuse depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separations centers, licensed, permitted or approved to receive municipal solid waste for processing or final disposal by Texas Commission on Environmental Quality and other agencies having jurisdiction and requiring such licenses, permits and approval.

Garbage – All normal and usual household and institutional waste products that are placed in approved containers for collection purposes and are usually a mixture of putrescible, nonputrescible, combustible, and incombustible materials, such as organic

wastes from food preparation and consumption, wrapping and packaging materials, metal, glass and plastic containers and other items. This definition also applies to similar waste products from commercial establishments such as restaurants, cafeterias, school and hospitals.

Green Waste – Grass, weeds, leaves, tree trimmings, plants, shrubbery pruning, and such other similar material, which are generated in the maintenance of yards and gardens, and are separated from other solid waste materials.

Hazardous Waste – Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law.

Processing Facility – A facility capable of changing the nature of solid waste or separating solid waste to facilitate its re-use in lieu of disposal.

Recyclables – Materials recovered from the solid waste stream for the purposes of re-use of reclamation. Includes, but not limited to; newsprint, inserts, glass, food and beverage containers, plastic containers, aluminum and other commodities economically impacting waste reduction.

Residential Refuse – All garbage and rubbish generated at a residential unit.

Residential Unit – A dwelling occupied by a person or group of persons, including but not limited to apartments, condominiums, mobile homes and single-family dwellings, and receiving any utilities from the CITY. Each dwelling within any such residential unit, which is individually billed by the CITY for water and/or sewer services, shall be treated as a residential unit. Other multiple residential facilities not billed individually, such as apartment complexes, shall be considered as a commercial unit for the purposes of this contract.

Roll-Off Container – Large collection container with open or closed top that can be rolled onto the back of a truck. Generally, in excess of 20 cubic yards capacity.

Rubbish – All nonputrescible solid waste including wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded clothing, used and discarded shoes and boots, and other products such as are used for packing, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances, and any and all other waste materials not included in the definition of Construction Debris, Garbage or Hazardous Waste.

Solid Waste – Useless, unwanted or discarded materials with insufficient liquid content to be free flowing, that results from domestic, industrial, commercial, agricultural, governmental and community operations, which require proper storage, collection,

transportation and disposal to prevent environmental pollution unfavorable to public health, safety and welfare.

Stable Matter – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.

GENERAL SPECIFICATIONS

The City of Tomball is seeking proposals for the performance of services as described herein. Proposers may elaborate on the method by which they propose to provide the services requested and they may offer alternative solutions for the delivery of the services required by the citizens of the City of Tomball.

1. Collection and Disposal of Unlimited Residential Garbage and Trash

The City is currently providing curbside collection of bagged only residential garbage and trash. The number of homes that is currently being served is 2,412. Bulky waste and yard waste are to be placed at the curb and collection of these items must be provided a minimum of one time per week. Brush and limbs must be stacked in lengths of not over four (4) cubic feet.

2. Collection and Disposal of Commercial and Industrial Solid Waste

The City is presently providing commercial service to small businesses with 95 gallon carts and is providing containerized commercial service with various size front loader boxes. The Proposer may select to change the method of collecting the commercial accounts and, if so, the Proposer must describe specifically the method by which the proposed service is to be provided. Industrial service to the City of Tomball is to be provided in a manner that serves the needs of the business. Alternative methods must be made available so that the businesses and industries will have a level of service that reflects their needs as they grow.

3. Curbside Recycling Program

The Proposer is to describe the curbside recycling program that the Proponent submits for the citizens of the City. This program is to provide as a minimum, a one-time per week curbside collection of newsprint, inserts, plastic containers, and aluminum. The Proposer must also agree to collect additional recyclable items and other materials at no additional cost to the City as markets develop.

The Proposer must agree to provide the recycling container(s) to each residential unit and must utilize a collection vehicle that is constructed for the specific purpose of collecting curbside recyclables.

The proposer must agree to provide recycling containers, as requested, to each commercial unit and must utilize a collection vehicle that is constructed for the specific purpose of commercial recyclables.

The City reserves the right to approve the color and type of containers to be provided in the Tomball recyclable program.

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Services	Pick Ups Per Week	Estimated Number of Units	Proposed Fee Per Unit Per Month
1	Residential curbside refuse collection and disposal consisting of Plastic bags placed curbside and including once per week curbside collection and disposal of 18 gallon recyclable container and green waste collection and disposal.	2	2412	\$ _____
Alternate A	Residential curbside refuse collection and disposal consisting of 95 gallon poly cart placed curbside and including once per week curbside collection and disposal of 18 gallon recyclable container and green waste collection and disposal.	1	2412	\$ _____
Alternate B	Residential curbside refuse collection and disposal consisting of 95 gallon poly cart placed curbside and including once per week curbside collection and disposal of 95 gallon recyclable poly cart and green waste collection and disposal.	1	2412	\$ _____
2	Residential curbside refuse collection and disposal. (Additional 95 Gallon Poly Cart to Same Customer)	1	100	
3	95 Gallon Poly Cart (Commercial)	1	130	\$ _____
4	Additional 95 Gallon Poly Cart to Same Customer	1	0	\$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Service	Pick Ups Per Week	Estimated Number of Units	Proposed Fee Per Unit Per Month
5	95 Gallon Poly Cart (Commercial)	2	59	\$ _____
6	Additional 95 Gallon Poly Cart to Same Customer (Commercial)	2	6	\$ _____
7	3 Yard Commercial Dumpster	1	55	\$ _____
8	Additional 3 Yard Commercial Dumpster to Same Customer.	1	0	\$ _____
9	3 Yard Commercial Dumpster	2	12	\$ _____
10	Additional 3 Yard Commercial Dumpster to Same Customer.	2	0	\$ _____
11	3 Yard Commercial Dumpster	3	4	\$ _____
12	Additional 3 Yard Commercial Dumpster to Same Customer	3	0	\$ _____
13	3 Yard Commercial Dumpster	4	4	\$ _____
14	Additional 3 Yard Commercial Dumpster to Same Customer	4	0	\$ _____
15	3 Yard Commercial Dumpster	5	1	\$ _____
16	Additional 3 Yard Commercial Dumpster to Same Customer	5	0	\$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Service	Pick Ups Per Week	Estimated Number of Units	Proposed fee Per Unit Per Month
17	3 Yard Commercial Dumpster	6	2	\$ _____
18	Additional 3 Yard Commercial Dumpster to Same Customer	6	1	\$ _____
19	4 Yard Commercial Dumpster	1	40	\$ _____
20	Additional 4 Yard Commercial Dumpster to Same Customer	1	1	\$ _____
21	4 Yard Commercial Dumpster	2	13	\$ _____
22	Additional 4 Yard Commercial Dumpster to Same Customer	2	1	\$ _____
23	4 Yard Commercial Dumpster	3	7	\$ _____
24	Additional 4 Yard Commercial Dumpster to Same Customer	3	0	\$ _____
25	4 Yard Commercial Dumpster	4	3	\$ _____
26	Additional 4 Yard Commercial Dumpster to Same Customer	4	0	\$ _____
27	4 Yard Commercial Dumpster	5	0	\$ _____
28	Additional 4 Yard Commercial Dumpster to Same Customer	5	0	\$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Service	Pick Ups Per Week	Estimated Number of Units	Proposed Fee Per Unit Per Month
29	4 Yard Commercial Dumpster	6	0	\$ _____
30	Additional 4 Yard Commercial Dumpster to Same Customer.	6	0	\$ _____
31	4 Yard Commercial Dumpster	7	0	\$ _____
32	6 Yard Commercial Dumpster	1	48	\$ _____
33	Additional 6 Yard Commercial Dumpster to Same Customer	1	4	\$ _____
34	6 Yard Commercial Dumpster	2	33	\$ _____
35	Additional 6 Yard Commercial Dumpster to Same Customer	2	0	\$ _____
36	6 Yard Commercial Dumpster	3	24	\$ _____
37	Additional 6 Yard Commercial Dumpster to Same Customer	3	4	\$ _____
38	6 Yard Commercial Dumpster	4	2	\$ _____
39	Additional 6 Yard Commercial Dumpster to Same Customer	4	0	\$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Service	Pick Ups Per Week	Estimated Number of Units	Proposed Fee Per Unit Per Month
40	6 Yard Commercial Dumpster	5	2	\$ _____
41	Additional 6 Yard Commercial Dumpster to Same Customer	5	0	\$ _____
42	6 Yard Commercial Dumpster	6	5	\$ _____
43	Additional 6 Yard Commercial Dumpster to Same Customer	6	0	\$ _____
33	8 Yard Commercial Dumpster	1	30	\$ _____
45	Additional 8 Yard Commercial Dumpster to Same Customer	1	0	\$ _____
46	8 Yard Commercial Dumpster	2	44	\$ _____
47	Additional 8 Yard Commercial Dumpster to Same Customer	2	2	\$ _____
48	8 Yard Commercial Dumpster	3	38	\$ _____
49	Additional 8 Yard Commercial Dumpster to Same Customer	3	2	\$ _____
50	8 Yard Commercial Dumpster	4	4	\$ _____
51	Additional 8 Yard Commercial Dumpster to Same Customer	4	0	\$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Item #	Description of Current Service	Pick Ups Per Week	Estimated Number of Units	Proposed Fee Per Unit Per Month
52	8 Yard Commercial Dumpster	5	7	\$ _____
53	Additional 8 Yard Commercial Dumpster to Same Customer	5	1	\$ _____
54	8 Yard Commercial Dumpster	6	7	\$ _____
55	Additional 8 Yard Commercial Dumpster to Same Customer	6	0	\$ _____

Roll Off Containers With Open Tops

Item #	Description of Current Service	Delivery Charge	Monthly Rental	Haul and Disposal Fee
56	20 Yard Container (One Year or More)	\$ _____	\$ _____	\$ _____
57	Temp. 20 Yard Container (Less Than One Year)	\$ _____	\$ _____	\$ _____
58	30 Yard Container (One Year or More)	\$ _____	\$ _____	\$ _____
59	Temp. 30 Yard Container (Less Than One Year)	\$ _____	\$ _____	\$ _____
60	40 Yard Container (One Year or More)	\$ _____	\$ _____	\$ _____
61	Temp. 40 Yard Container (Less Than One Year)	\$ _____	\$ _____	\$ _____
62	Compactor / Roll Off Container / Equipment	\$ _____	N/A	Haul: \$ _____ Disposal: \$ _____

City of Tomball, Texas

Solid Waste Collection and Disposal

Company Submitting Proposal: _____

Name and Title: _____

Telephone: _____

Email: _____

Regular City Council Agenda Item Data Sheet

Meeting Date: April 21, 2014

Topic:

Approve Resolution No. 2014-09, a Resolution of the City Council of the City of Tomball, Texas Sponsoring the July 4th Celebration, to be Held in Tomball on Friday, July 4th, 2014, Closing State Highway Business 249 from Hicks Street to the North Entrance to the Kroger Parking Lot from 3:00 p.m. until 11:00 p.m., and Authorizing the City Manager to Issue a Letter to TxDOT requesting the Closure of the Designated Portion of State Highway Business 249.

Background:

In 2012, the City expanded the July 4th activities to include the use of Business 249 between Keefer and Hicks. The event was succesful and grew exponentially last year. Local restaurants were very pleased with the turnout as were other area businesses. Live bands entertained the attendees and there were numerous activities for all ages. We are requesting the support of Council to continue this long tradition of entertaining the community and numerous visitors on July 4th.

Origination:

Fire Department/Marketing Department

Recommendation:

Staff recommends approval

Funding: Yes

Account Number:

Party(ies) responsible for placing this item on agenda:

Randy Parr/Mike Baxter

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Resolution No. 2014-09

RESOLUTION NO. 2014-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, SPONSORING THE *JULY 4TH CELEBRATION*, TO BE HELD IN TOMBALL ON FRIDAY, JULY 4, 2014, CLOSING STATE HIGHWAY BUSINESS 249 FROM HICKS STREET TO THE NORTH ENTRANCE TO THE KROGER PARKING LOT FROM 3:00 PM UNTIL 11:00 PM., AND AUTHORIZING THE CITY MANAGER TO ISSUE A LETTER TO TxDOT REQUESTING THE CLOSURE OF THE DESIGNATED PORTION OF STATE HIGHWAY BUSINESS 249

* * * * *

WHEREAS the City of Tomball annually provides a *July 4th Celebration* for the enjoyment of its citizens and the surrounding community, with a fireworks display under the direction of the Tomball Fire Department; and

WHEREAS the *July 4th Celebration* provides a unique opportunity to showcase Tomball's many attractions and encourage citizens to enjoy the festivities and sales offered by local merchants in Tomball on July 4th; and

WHEREAS the *July 4th Celebration* has become one of the most popular fireworks displays, drawing people from surrounding areas including Magnolia, Spring, Houston and The Woodlands; and

WHEREAS the *July 4th Celebration* plans include many activities sponsored during the day by the Tomball Fire Department and the Tomball Police Department, including a block party; and

WHEREAS the City of Tomball desires and requests the closure of the following portion of State Highway 249 on Friday, July 4, 2014, from 2:00 pm to 10:30 pm;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the *July 4th Celebration* as a safe July 4th holiday for its citizens and the surrounding community.

PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL HELD ON THE 21ST DAY OF APRIL 2014.

GRETCHEN FAGAN, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: April 21, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-028**: Request by Stutts Cox Builders, Inc., on behalf of Ronald and Amy Haffner, for a Conditional Use Permit to operate an accountant's office with one residential sleeping quarter. The property is approximately 0.68 acres, is legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, is generally located south of Brown Road between State Highway 249 and Quinn Road, and is located in the Office District.

- Conduct a Public Hearing on **ZONING CASE P14-028**
- Adopt, on First Reading, Ordinance No. 2014-08, an Ordinance of the City of Tomball, Texas, amending its Comprehensive Zoning Ordinance by granting a Conditional Use Permit to Ronald and Amy Haffner to operate an accountant's office with one residential sleeping quarter; said property being approximately 0.68 acres, and being legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, generally located south of Brown Road between State Highway 249 and Quinn Road; providing requirements and conditions for this Conditional Use Permit; containing findings and other provisions relating to the subject; providing a penalty in an amount not to exceed two thousand dollars for violations hereof; and providing for severability.

Background:

On August 20, 2013, City staff met with the applicant, Stutts Cox Builders, Inc., to discuss the possible construction of an accountant's office with residential quarters at the subject site. City staff informed the applicant that the property was zoned PD-1 District which allows for "Office w/Residential look," per the original Zoning Ordinance and Map adopted by the City on February 4, 2008. On December 2, 2013, City Council rezoned the subject site from the PD-1 District to the Office District and amended the Zoning Ordinance allowing a "Residential Use" with a Conditional Use Permit (CUP) in the Office District.

Additionally, at the August 20, 2013 meeting, the applicant expressed their desire to construct their proposed building 25 feet from the side and rear property lines. City staff informed the applicant that this would be in violation of the Zoning Ordinance and that they would be required to get side and rear building setback variances from the Board of Adjustments. On January 9, 2014, the Board of Adjustments approved their requests to allow a 25-foot rear setback where a 60-foot rear setback is required in Section 25.4.B.3 of the Zoning Ordinance and to allow a 25-foot side setback where a 35-foot side setback is required in Section 25.4.B.2 of the Zoning Ordinance.

After the rezoning, text amendment, and variances were approved, the applicant submitted their CUP application and Concept Plan to allow for an accountant's office with one residential unit on February 26, 2014. The Concept Plan proposes numerous site improvements, including a 3,500-square foot building, 10-foot landscape buffer encircling the property, 17 trees, paved and curbed driving and parking areas, and 12 parking stalls. The hours of operation will be from 8:30 am to 5:30 pm. Because the site is not proposed to be used at night, drive aisle lighting is not proposed, nor required.

The Planning and Zoning Commission voted to recommend approval of Zoning Case P14-028 on Monday, April 14, 2014. The vote carried unanimously, 4 votes AYE - 0 votes NAY.

Origination:

Stutts Cox Builders, Inc., on behalf of Ronald and Amy Haffner

Recommendation:

APPROVAL

Funding:

Party(ies) responsible for placing this item on agenda:

Brandy Pate Harbolt, Engineering and Planning

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing
Property Owner Notification Letter
P14-028 Staff Report
Ordinance 2014-08

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 14, 2014
&
CITY COUNCIL
APRIL 21, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 14, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 21, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-028: Request by Stutt Cox Builders, Inc., on behalf of Ronald and Amy Haffner, for a Conditional Use Permit to operate an accountant's office with one residential sleeping quarter. The property is approximately 0.68 acres, is legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, is generally located south of Brown-Hufsmith Road between State Highway 249 and Quinn Road, and is located in the Office District.

ZONING CASE P14-040: Request by 2978 Panormus, LP to amend the City's Zoning Ordinance by rezoning approximately 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, City of Tomball, Harris County, Texas, said 34.4945 acres being comprised of Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records; generally located northerly of FM 2920 between Snook Lane and FM 2978, from the Commercial and Single-Family Residential-9 Districts to the Planned Development - 6 District to facilitate a mixed use development.

Persons interested in this case will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball,

TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

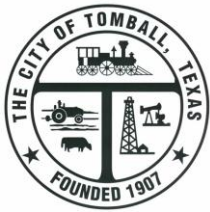
CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 10th day of April 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant
P&Z Commission Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-028

APPLICANT: Stutts Cox Builders, Inc., on behalf of Ronald and Amy Haffner

LOCATION: South of Brown-Hufsmith Road between State Highway 249 and Quinn Road

PROPOSAL: Request for a Conditional Use Permit to operate an accountant's office with one residential sleeping quarter. The property is approximately 0.68 acres, is legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, and is located in the Office District.

* * *

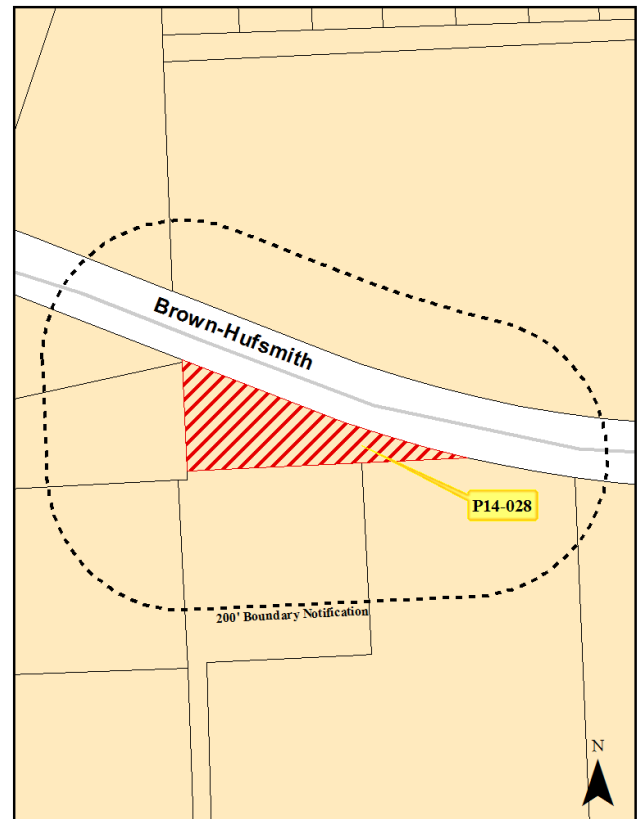
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.

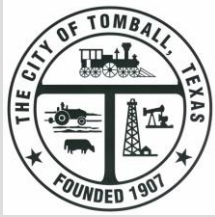


**Planning & Zoning Commission
Public Hearing:
Monday, April 14, 2014, 6:00 PM**

**City Council Public Hearing:
*Monday, April 21, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Conditional Use Permit (CUP) Staff Report

Planning & Zoning Commission Hearing Date: April 14, 2014

Rezoning Case: P14-028

Property Owner(s): Ronald and Amy Haffner

Applicant(s): Stutts Cox Builders, Inc.

Legal Description: Lot 2, Block 2, Brown-Hufsmith Commercial

Location: South of Brown Road between State Highway 249 and Quinn Road (Exhibit "A")

Area: 0.68 acres

Comp Plan Designation: Employment/Office (Exhibit "B")

Present Zoning and Use: Office District (Exhibit "C") / Undeveloped

Proposed Use(s): Professional and general business office with one residential unit

Request: CUP to allow an accountant's office with one residential unit.

Adjacent Zoning & Land Uses:

North: Planned Development – 1 (PD-1) and General Retail Districts / Brown Road and undeveloped land

South: PD-1 and SF-20-E Districts / Single-family residences

West: PD-1 and General Retail Districts / Single-family residences and undeveloped land

East: PD-1 District / Brown Road (Exhibit "D")

BACKGROUND

On August 20, 2013, City staff met with the applicant, Stutts Cox Builders, Inc., to discuss the possible construction of an accountant's office with residential quarters at the subject site. City staff informed the applicant that the property was zoned PD-1 District which allows for "Office w/Residential look," per the original Zoning Ordinance and Map adopted by the City on February 4, 2008. On December 2, 2013, City Council rezoned the subject site from the PD-1 District to the Office District and amended the Zoning Ordinance allowing a "Residential Use" with a CUP in the Office District.

Additionally, at the August 20, 2013, meeting, the applicant expressed their desire to construct their proposed building 25 feet from the side and rear property lines. City staff informed the applicant that this would be in violation of the Zoning Ordinance and that they would be required to get side and rear building setback variances from the Board of Adjustments. On January 9, 2014, the Board of Adjustments approved their requests to allow a 25-foot rear setback where a 60-foot rear setback is required in Section 25.4.B.3 of the Zoning Ordinance and to allow a 25-foot side setback where a 35-foot side setback is required in Section 25.4.B.2 of the Zoning Ordinance.

After the rezoning, text amendment, and variances were approved, the applicant submitted their CUP application (Exhibit “E”) and Concept Plan (Exhibit “F”) to allow for an accountant’s office with one residential unit on February 26, 2014. The Concept Plan proposes numerous site improvements, including a 3,500-square foot building, 10-foot landscape buffer encircling the property, 17 trees, paved and curbed driving and parking areas, and 12 parking stalls. The hours of operation will be from 8:30 am to 5:30 pm. Because the site is not proposed to be used at night, drive aisle lighting is not proposed, nor required.

ANALYSIS

According to the Zoning Ordinance, “a conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions.”

When considering applications for a CUP, the City shall, on the basis of the Concept Plan and other information submitted, evaluate the impact of the conditional use on, and the compatibility of the use with, surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. Specific considerations shall include the extent to which:

- 1. The proposed use at the specified location is consistent with the goals, objectives, and policies contained in the adopted Comprehensive Plan;**

The Comprehensive Plan identifies the subject site as “Employment/Office” which is “where employment uses that are not industrially focused should occur. These uses include corporate headquarters, regional offices, professional offices, light enclosed manufacturing or assembly facilities, office/showrooms, and small business office suites. Some retail activities are permitted in this land use to support offices and employment operations.” Although residential uses are not specifically mentioned in the “Employment/Office” section of the Comprehensive Plan, this project’s low-intensity residential component is not anticipated to be detrimental to the Comprehensive Plan’s goals, objectives, and policies. Therefore, the proposed accountant’s office with one residential unit appears to be consistent with the Comprehensive Plan.

- 2. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;**

Per the Zoning Ordinance, the Office District “is established to create an appropriate setting for low intensity office and professional uses. The district can be used as a transition district between residential uses and more intense uses, and with appropriate buffers and landscaping, this district may be located in close proximity to residential districts. Permitted uses should be compatible with adjacent residential areas by limiting heights to one (1) or two (2) stories, and shall not include uses that create excessive amounts of traffic, noise, trash, or late-night business operations. Traffic generated by uses in this district shall not be encouraged to travel through residential areas. Adaptive reuse of existing structures is encouraged. Buildings in this district should be compatible and similar in scale with residential uses and adjacent property.”

The development is planned to be low intensity in nature. It is designed to be compatible with the surrounding residential uses and provides a reasonable transition between Brown Road and the adjacent residences. In addition, it is not anticipated to create excessive

amounts of traffic, noise, trash, or late-night business operations and vehicular traffic will not normally travel through adjacent residential areas. The design and use of the office is intended to be compatible with intent of the PD-1 District in the immediate vicinity. Therefore, the proposed office/residential uses, and associated Concept Plan, appear to be consistent with the general purpose and intent of the Office District.

3. The proposed use meets all supplemental standards specifically applicable to the use as set forth in the Zoning Ordinance;

Should the CUP application be approved, the applicant will be required to submit a full Site Plan application, and supporting documents, to the City for review and approval before construction. The site improvements proposed on the Concept Plan appear to be generally consistent with the Zoning Ordinance.

4. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and, as required by the particular circumstances, includes improvements or modifications either on-site or within the public rights-of-way to mitigate development-related adverse impacts;

The design of the proposed office is intended to be compatible with the requirements of the PD-1 District, which is immediately adjacent to the site. As a result, the proposed uses and Concept Plan appear to be compatible with, and preserve the character and integrity of, the adjacent uses.

5. The proposed use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

The proposed uses and Concept Plan do not appear to be materially detrimental to the public health, safety, convenience and welfare, or result in material damage or prejudice to other property in the vicinity.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on April 3, 2014. No public comment forms have been received as of April 10, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis section of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-028 subject to the following two (2) Conditions of Approval:

- 1) The site shall be developed and operated in substantial compliance with Exhibit "F." If the site is not developed or operated in substantial compliance with Exhibit "F," the Conditional Use Permit shall be revoked.
- 2) The site shall be prohibited from having outdoor storage, sales, or displays. If the site is found to be utilizing outdoor storage, sales, or displays, the Conditional Use Permit shall be revoked.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Site Photos
- E. Conditional Use Permit Application
- F. Concept Plan

Exhibit "A"
Aerial Photo



Exhibit "B"
Comprehensive Plan

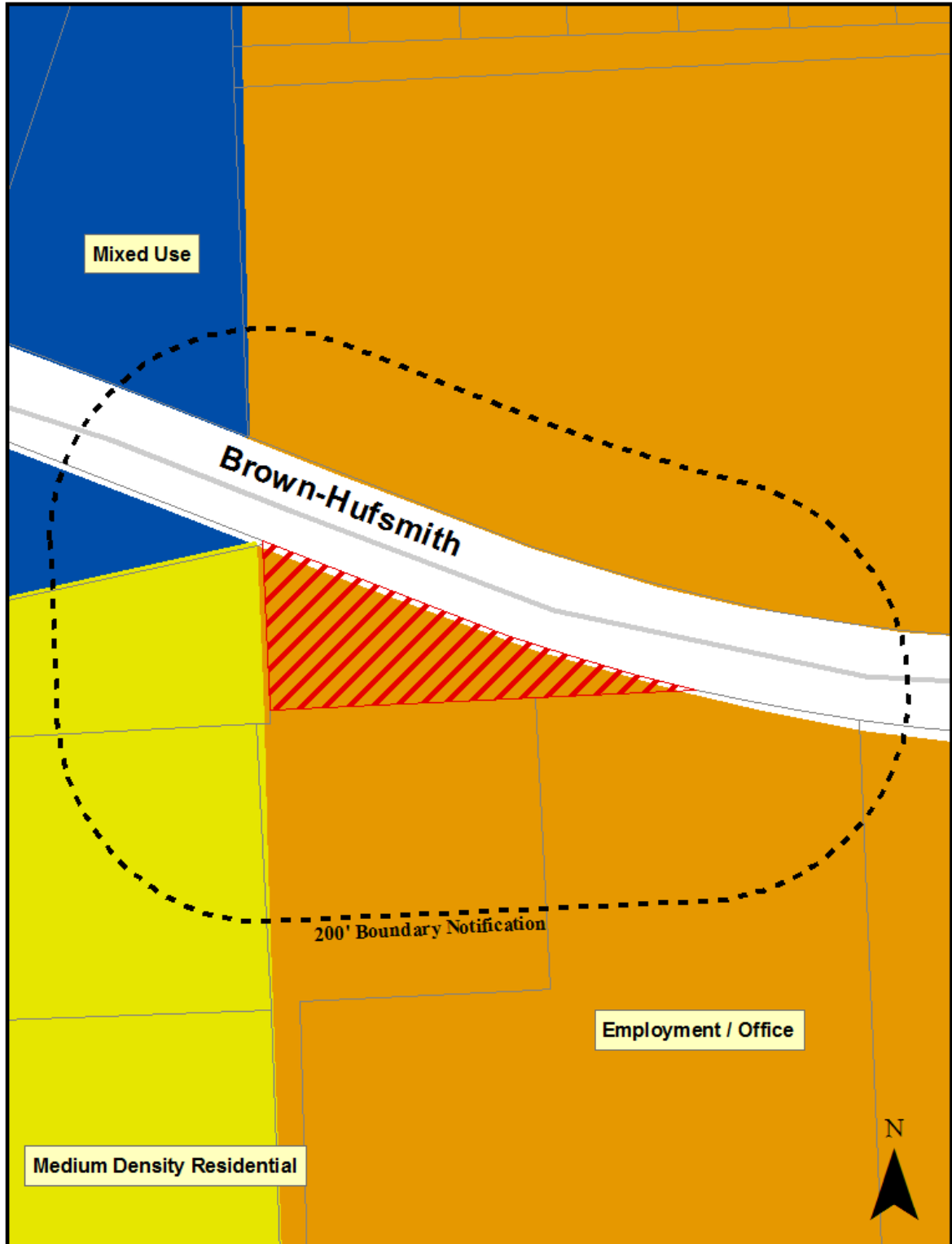
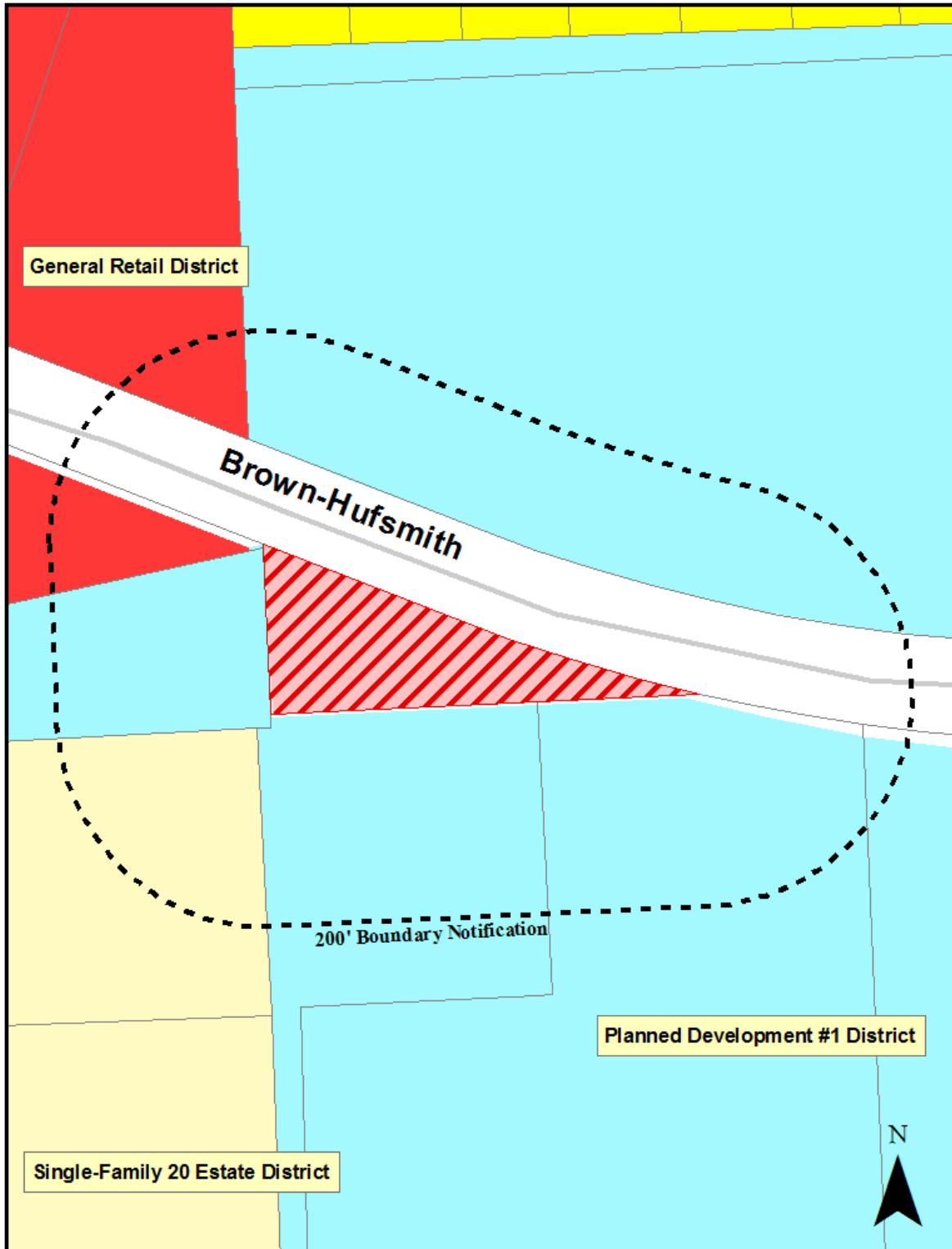


Exhibit "C"
Zoning Map



**Exhibit “D”
Site Photos**



Figure 1: Subject site and single-family residence to the east and south.



Figure 2: Undeveloped land to the north.



Figure 3: Single-family residence to the west.

Exhibit "E"
Conditional Use Permit Application

Revised 1/20/09



**APPLICATION FOR
CONDITIONAL USE PERMIT**
Engineering & Planning Department

A conditional use is a land use which, because of its unique nature, is compatible with the permitted land uses in a given zoning district only upon a determination that the external effects of the use in relation to the existing and planned uses of adjoining property and the neighborhood can be mitigated through imposition of certain standards and conditions. This Section sets forth the standards used to evaluate proposed conditional uses and the procedures for approving conditional use permit (CUP) applications.

No conditional use shall be established and no building permit shall be issued for any use designated as a conditional use within any zoning district until a conditional use permit (CUP) is approved and issued in accordance with the provisions of this Section and Section 10 of The Zoning Ordinance.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant ALLAN COX
Name: STUTTS COX BUILDERS, Inc Title: SEC-TRANS
Mailing Address: PO BOX 1026 City: TOMBALL State: TX
Zip: 77377-1026
Phone: (281) 255-8900 Fax: (281) 754-4661 Email: secox@sbcglobal.net

Owner RON & AMY STAFFNER
Name: RON & AMY STAFFNER Title: OWNERS
Mailing Address: 14011 PARK DR., Suite B City: TOMBALL State: TX
Zip: 77377
Phone: (281) 381-5469 Fax: (281) 357-5378 Email: ron@tomballcdns.com

Engineer/Surveyor (if applicable)
Name: E.E.C. Surveying, Inc. Title: _____
Mailing Address: 7424 FM 1488, Suite A City: Magnolia State: TX
Zip: 77054
Phone: (281) 356-5172 Fax: (281) 356-1935 Email: one survey station @ sbcglobal.net

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405

www.ci.tomball.tx.us

3,500 sq Office Building, 1 story, store
Description of Proposed Project: + Hardie Siding - 2,300 sq office, 1,200 sq residence.
Physical Location of Property: 500' East of W 249 - South of Brown Rd.
(General Location - approximate distance to nearest existing street corner)
Legal Description of Property: Joseph House Survey, Abstract 34, Tract 2 8 0.68 ac
Harris County, Brown - Uniform to Commenced
[Survey: Abstract No. and Tracts; or platted Subdivision Name with Lots Block]
IICAD Identification Number: 1308830020002 Acreage: 0.68
Current Use of Property: VACANT
Proposed Use of Property: Office for CPA Firm

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X Bon Haffner 2/25/14
Signature of Applicant Date

X [Signature] 2/25/14
Signature of ~~Owner~~ CONTRACTOR Date



STUTTS COX BUILDERS INC.

GENERAL CONTRACTORS

February 25, 2014

TO: City of Tomball
Engineering and Planning Department

Re: Haffner Property – Brown Road – Tract 2 - 0.68 acres

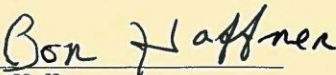
This 0.68 acre tract resulted from splitting the original tract by the land acquisition process to acquire the property needed to construct the extension of Brown Road from SH 249 to Quinn Road. This tract, tract 2, is shown on the recorded plat, Brown-Hufsmith Commercial, filed May 14, 2008 in the Harris County Records. This 0.68 acre pie shaped property is located on the south side of the new Brown Road extension approximately 500 yards east of the intersection of SH 249 and Brown Road.

The property owners, Ron and Amy Haffner, live near Kerrville, Texas but continue to maintain their accounting business in Tomball. This 3,500 sf building will allow the owners to move out of their rental property and establish a more permanent business environment with the layout they require. The Haffner's utilize electronic communications to manage most accounting and management functions, however, they find it necessary to stay overnight in Tomball 60 to 90 days per year, especially during tax season; thus the need for living quarters. This building plan provides five office spaces, a break room, conference room, restrooms and a 1,200 sf living quarters for the Haffner's.

This site has been rezoned to Office District to allow living quarters and the standard setbacks have been reduced by the BOA to allow building and parking to fit the site; decision memos from Zoning and the BOA are included. The single story structure will have a large porch and be constructed from stone and Hardie siding; "Hill Country" style, in order to meld into the neighborhood residential community. The business utilizes between four and eight workers during the normal business day and serves no more than two or three clients at one time, causing little traffic and no outside noise in the ample parking areas. The Owners have a quiet and clean business.

This building is the best use for this property and an ideal fit with the two adjacent residential properties. Long term, this building is the best for the City, the neighborhood and the Owners.

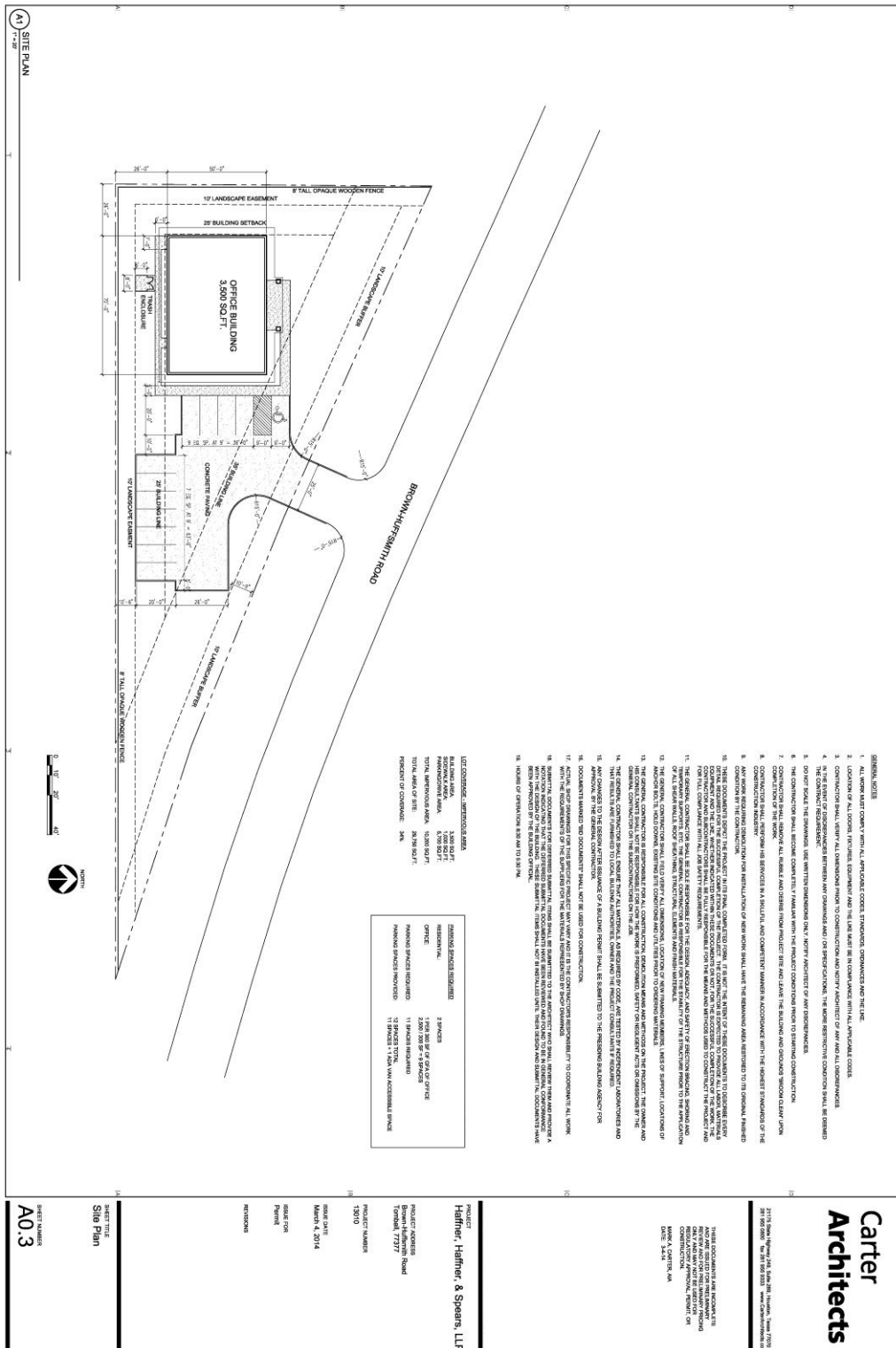
We thank you in advance for your consideration for the Conditional Use Permit.


Ron Haffner


Allan Cox, Sec - Treas
Stutts Cox Builders, Inc.

P.O. BOX 1026 • TOMBALL, TX 77377-1026 • 281-255-8100 • FAX 281-754-4661
CELL 713-201-4275 • SCCOX@SBCGLOBAL.NET

Exhibit “F” Concept Plan



ORDINANCE NO. 2014-08

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO RONALD AND AMY HAFFNER TO OPERATE AN ACCOUNTANT'S OFFICE WITH ONE RESIDENTIAL SLEEPING QUARTER; SAID PROPERTY BEING APPROXIMATELY 0.68 ACRES, AND BEING LEGALLY DESCRIBED AS LOT 2, BLOCK 2, BROWN-HUFSMITH COMMERCIAL, GENERALLY LOCATED SOUTH OF BROWN-HUFSMITH ROAD BETWEEN STATE HIGHWAY 249 AND QUINN ROAD; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Ronald and Amy Haffner have made application for a Conditional Use Permit to allow an accountant's office with one residential sleeping quarter to operate at the Property; and

WHEREAS, the Planning & Zoning Commission, after notice and hearing as required by law, has recommended that the City Council grant the Conditional Use Permit subject to the terms and conditions contained in their final report; and

WHEREAS, the City Council, after notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such Conditional Use Permit should be granted subject to the terms and conditions contained herein.

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. A Conditional Use Permit to allow an accountant's office with one residential sleeping quarter to operate at the Property, in accordance with the Concept Plan, attached hereto as Exhibit "A," and subject to the terms and conditions set forth below, is hereby granted to Ronald and Amy Haffner.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use Permit authorized for the Property, with the appropriate references

thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use Permit authorized.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City, save and except the granting of the Conditional Use Permit as herein provided.

Section 5. The Conditional Use Permit granted hereby shall be null and void after the expiration of two (2) years from the date of adoption hereof unless the Property is being used in accordance with the Conditional Use Permit herein authorized within said two-year period, or unless an extension of time is approved by City Council.

Section 6. The Conditional Use Permit authorized hereby shall be, and is, subject to the following additional limitations, restrictions, and conditions:

- 1) The site shall be developed and operated in substantial compliance with Exhibit "F." If the site is not developed in substantial compliance with Exhibit "F," the CUP shall be revoked.
- 2) The site shall be prohibited from having outdoor storage, sales, or displays. If the site is found to be utilizing outdoor storage, sales, or displays, the CUP shall be revoked.

Section 7. 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 8. In the event any 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 than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

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 APRIL, 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

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 5TH DAY OF MAY 2014.

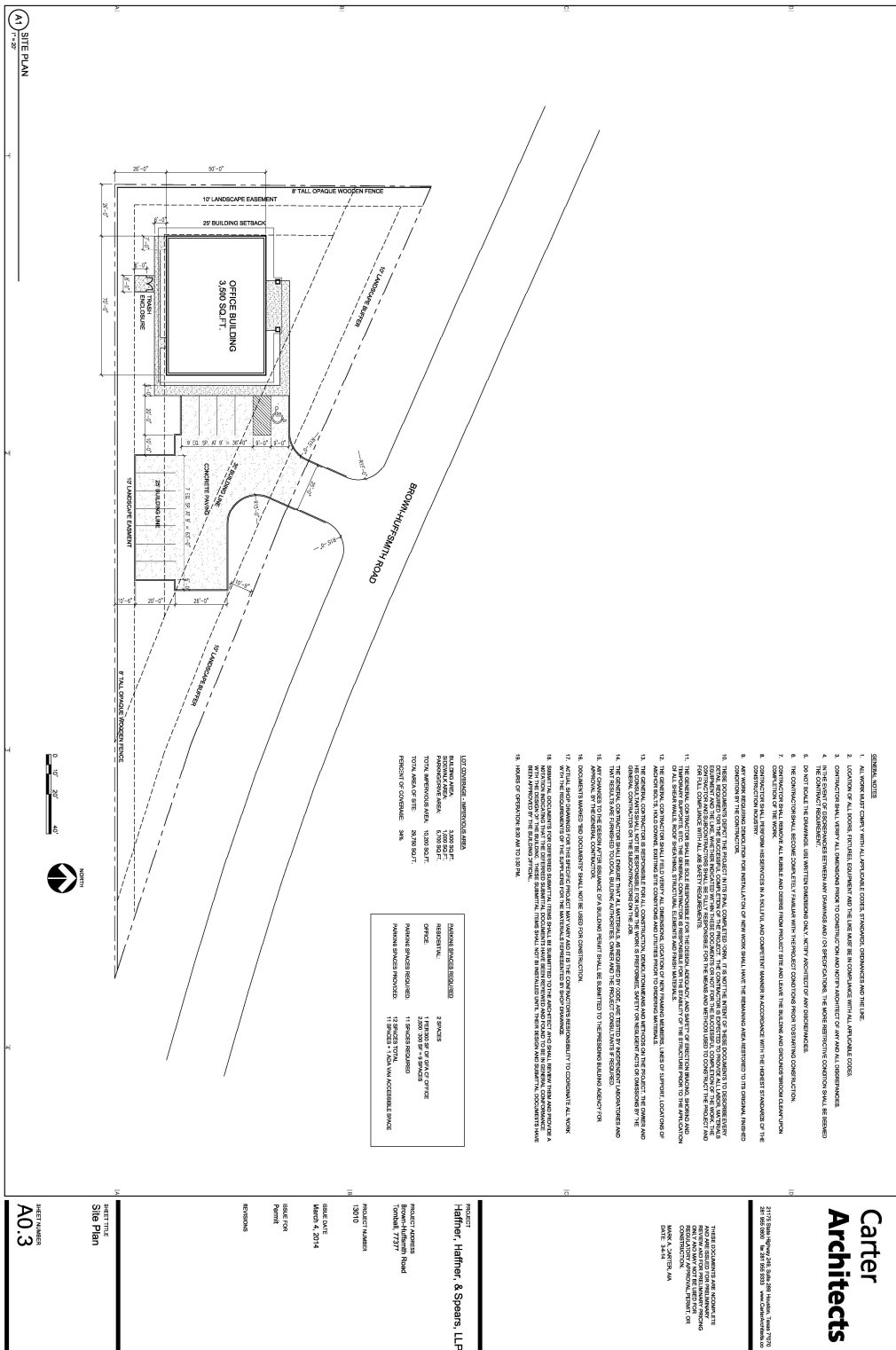
COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Exhibit “A” Concept Plan





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Carter Architects

201 W. Main Street, 3rd Floor, Boston, MA 02108
 617.552.1000 Fax: 617.552.1001 www.carterarchitects.com
 THESE DOCUMENTS ARE EXCLUSIVE
 PROPERTY OF CARTER ARCHITECTS
 AND ARE NOT TO BE REPRODUCED OR
 TRANSMITTED IN ANY FORM OR BY
 ANY MEANS, ELECTRONIC OR MECHANICAL,
 INCLUDING PHOTOCOPYING, RECORDING, OR
 BY ANY INFORMATION STORAGE AND
 RETRIEVAL SYSTEM, WITHOUT THE
 WRITTEN PERMISSION OF CARTER ARCHITECTS, LLC
 DATE: 05-20-14

PROJECT
 Farmer, Haffner, & Spears, LLP

PROJECT ADDRESS
 Brown-Harmon Road
 Tolland, CT 06067

PROJECT NUMBER
 13010

ISSUE DATE
 February 8, 2014

SCALE
 As Shown

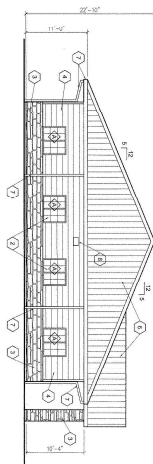
PROJECT
 Farmer

REVISIONS

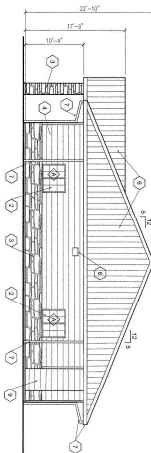
SHEET TITLE
 Exterior Elevations

SHEET NUMBER
 A2.1

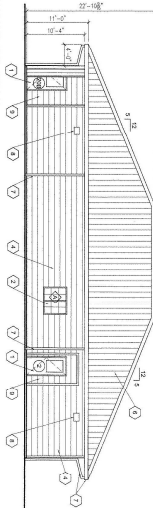
D3 EXTERIOR ELEVATION - EAST



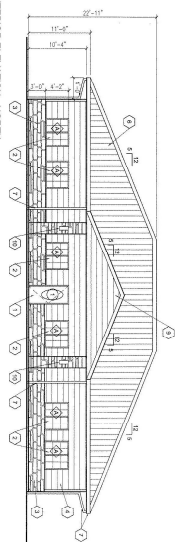
D3 EXTERIOR ELEVATION - WEST



B3 EXTERIOR ELEVATION - SOUTH



A3 EXTERIOR ELEVATION - NORTH



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- 20. SEE TO CORRELATE WITH ARCHITECTURAL MANUFACTURING FROM VENDOR

Regular City Council

Agenda Item

Meeting Date: April 21, 2014

Data Sheet

Topic:

Consideration to approve **ZONING CASE P14-040**: Request by 2978 Panormus, LP to amend the City's Zoning Ordinance by rezoning approximately 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, City of Tomball, Harris County, Texas, said 34.4945 acres being comprised of Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records; generally located northerly of FM 2920 between Snook Lane and FM 2978, from the Commercial and Single-Family Residential-9 Districts to the Planned Development - 6 District to facilitate a mixed use development.

- Conduct a Public Hearing on **ZONING CASE P14-040**
- Adopt, on First Reading, Ordinance No. 2014-09, An Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance, by approving a Planned Development District ("PDD") being approximately 34.86 acres of land, legally described as Tracts 11M-4 and 12, Joseph Pruitt Survey; Lots 296 and 297, Tomball Outlots; and Tracts 298A, 298B-1, 298C-1, 302A, 302B, 302E, 303A-1, 303C-1, 303D, 306B, & 311A, Tomball Outlots; within the City of Tomball, Harris County, Texas; amending the official Zoning Map of the City to reflect the PDD to be known as Planned Development District #6 (PDD-6); adopting a Concept Plan and regulations applicable to PDD-6; 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.

Background:

On January 13, 2014, City staff met with 2978 Panormus, LP to discuss the development of a mixed-use facility on an approximately 34.5 acre tract located northerly of FM 2920 between Snook Lane and FM 2978. The property owners indicated their desire to have hotel, multi-family, retail, restaurant, and commercial uses, amongst others, at the subject site.

On March 5, 2014, the City received a Planned Development District application from the property owners. The Concept Plan submitted with the application shows that Tract 11M-4 will be dedicated to the City of Tomball for the construction of an east-west road (Peck Station Parkway) connecting Snook Lane and FM 2978, the portion north of Peck Station Parkway will be used for commercial purposes and the like, and the portion south of Peck Station Parkway will be used for multi-family purposes. The property owners are proposing numerous elements to ensure the quality of the development, including multiple pedestrian walking/connectivity facilities; landscaping; screening/buffering; limitations on outdoor sales, display, and storage; and superior building façade materials.

The Planning and Zoning Commission voted to recommend approval of Zoning Case P14-040 on Monday, April 14, 2014. The vote carried unanimously, 4 votes AYE - 0 votes NAY.

Origination:

2978 Panormus, LP

Recommendation:

APPROVAL

Funding:**Party(ies) responsible for placing this item on agenda:**

Brandy Pate Harbolt, Engineering and Planning

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Notice of Public Hearing

TISD Letter of No Objection to Project

Ordinance 2014-09

Property Owner Notification Letter

P14-040 Staff Report

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
APRIL 14, 2014
&
CITY COUNCIL
APRIL 21, 2014**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, April 14, 2014, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, April 21, 2014, at 6:00 P.M.** at Regular Meetings, in the City Council Chambers of the City of Tomball at City Hall, 401 Market Street, Tomball, Texas. On such dates, the Planning & Zoning Commission and City Council will consider the following:

ZONING CASE P14-028: Request by Stutts Cox Builders, Inc., on behalf of Ronald and Amy Haffner, for a Conditional Use Permit to operate an accountant's office with one residential sleeping quarter. The property is approximately 0.68 acres, is legally described as Lot 2, Block 2, Brown-Hufsmith Commercial, is generally located south of Brown-Hufsmith Road between State Highway 249 and Quinn Road, and is located in the Office District.

ZONING CASE P14-040: Request by 2978 Panormus, LP to amend the City's Zoning Ordinance by rezoning approximately 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, City of Tomball, Harris County, Texas, said 34.4945 acres being comprised of Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records; generally located northerly of FM 2920 between Snook Lane and FM 2978, from the Commercial and Single-Family Residential-9 Districts to the Planned Development - 6 District to facilitate a mixed use development.

Persons interested in this case will be given an opportunity to be heard. Action by the Planning & Zoning Commission serves as a recommendation to the City Council and is not a final action on the request. Should the Planning & Zoning Commission vote to table a decision/recommendation on this case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a decision/recommendation is forwarded to the City Council by the Planning & Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, at the Public Works Building, located at 501 James Street, Tomball,

TX 77375. Further information may be obtained by contacting the Assistant City Planner, Rodney Schmidt, at (281) 290-1410, rschmidt@tomballtx.gov.

CERTIFICATION

I hereby certify that the above notice of meeting was posted on the bulletin board of City Hall; City of Tomball, Texas, a place readily accessible to the general public at all times, on the 10th day of April 2014 by 5:00 p.m., and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

Brandy Pate

Brandy Pate
Senior Administrative Assistant
P&Z Commission Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please feel free to contact the City Secretary's office at (281) 290-1002 or FAX (281) 351-6256 for further information. AGENDAS MAY ALSO BE VIEWED ONLINE AT www.ci.tomball.tx.us.



Tomball Independent School District

310 South Cherry Street

Tomball, Texas 77375

(281) 357-3100

Fax (281) 357-3128

www.tomballisd.net

Huey Kinchen Jr.
Superintendent

Damon Palermo, SIOR
Managing Principal
Palermo Corporate Real Estate Advisors
10200 Grogan's Mill Road, Suite 550
The Woodlands, Texas 77380

April 14, 2014

Dear Mr. Damon Palermo:

Tomball Independent School District has reviewed the information provided by you regarding the development of the 34 acre tract near the intersection of FM 2920 and FM 2978 being called Peck Station. Based on your presentation of the project and after reviewing that information with David Schuelke, Assistant Superintendent of Ancillary Services and Huey Kinchen, Superintendent of Schools, Tomball ISD does not interpose an objection to the proposed project. Our decision is based on no subsidized housing or tax credit units for the multi-family development of approximately 285 to 310 units with 60% one bedroom, 30% two bedroom, and 10% three bedroom with estimated average monthly rents of \$1,060.

Sincerely,

Jim Ross
Chief Financial Officer
Tomball ISD

ORDINANCE NO. 2014-09

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE, BY APPROVING A PLANNED DEVELOPMENT DISTRICT ("PDD") BEING APPROXIMATELY 34.86 ACRES OF LAND, LEGALLY DESCRIBED AS TRACTS 11M-4 AND 12, JOSEPH PRUITT SURVEY; LOTS 296 AND 297, TOMBALL OUTLOTS; AND TRACTS 298A, 298B-1, 298C-1, 302A, 302B, 302E, 303A-1, 303C-1, 303D, 306B, & 311A, TOMBALL OUTLOTS; WITHIN THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS; AMENDING THE OFFICIAL ZONING MAP OF THE CITY TO REFLECT THE PDD TO BE KNOWN AS PLANNED DEVELOPMENT DISTRICT #6 (PDD-6); ADOPTING A CONCEPT PLAN AND REGULATIONS APPLICABLE TO PDD-6; 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 owner of approximately 34.86 acres of land, legally described as Tracts 11M-4 and 12, Joseph Pruitt Survey; Lots 296 and 297, Tomball Outlots; and Tracts 298A, 298B-1, 298C-1, 302A, 302B, 302E, 303A-1, 303C-1, 303D, 306B, & 311A, Tomball Outlots; within the City of Tomball, Harris County, Texas, generally located northerly of FM 2920 between Snook Lane and FM 2978, has requested that the Property be rezoned; and

Whereas, the owner has presented an application to the City for a PDD to allow the development of Peck Station, a Mixed Use Planned Development; and

Whereas, the PDD application consists of an application for PDD (Exhibit "A"); a request letter (Exhibits "B"); and concept plan (Exhibit "C") attached to and made a part of this Ordinance; 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 and at least ten (10) days written notice of that hearing to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to change the zoning for the Property from the Single Family-9 to PDD-6; and

Whereas, the public hearing was held at least forty (40) calendar days after the City's receipt of the request for rezoning; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council grant such proposed change in the zoning district classification of the Property; 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 on the proposal to change the zoning district classification for the Property from the Single Family-9 District to PDD-6, the City Council held the public hearing on the proposal to change the zoning for the Property and the City Council

considered the final report of the Planning & Zoning Commission regarding the change of zoning district classification; and

Whereas, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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 zoning classification of the Property is hereby changed from the Single Family - 9 to PDD-6 subject to the regulations, restrictions, and conditions hereafter set forth.

Section 3. The Official Zoning Map of the City of Tomball shall be revised and amended to show the designation of the Property as PDD-6, with the appropriate reference thereon to the number and effective date of this Ordinance and a brief description of the nature of the change.

Section 4. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Tomball, save and except the change in zoning classification of the Property, to PDD-6 as described above.

Section 5. PDD-6 shall be subject to the following additional limitations, restrictions and covenants:

A. Compliance with Application and Site Plans. The granting of the PDD shall be conditioned upon the proposed improvements and land uses being located, constructed, and conducted upon the Property in substantial compliance with the application for PDD (Exhibit "A"); two request letters (Exhibits "B" and "C"); concept plan (Exhibit "D") made a part hereof for all purposes.

Section 1: SOUTHERN TRACT

1.1 Permitted Uses

A. First Use - Storm Water Management (No parking required)

B. Second Use – Up to 310 Multi-Family Units (Parking as per 1.5 below) and overflow parking as needed.

1.2 Height Regulations:

Maximum Height:

- A. Three (3) stories or forty-five (45) feet whichever is less for the main building(s).
- B. One (1) story for other accessory buildings, including detached garages, carports, gazebo, mail kiosks, laundry rooms, etc.
- C. Two (2) stories for Clubhouse.

1.3 Area Regulations:

A. Size of Lots:

- 1. Minimum Lot Area — Not to exceed twenty (20) dwelling units per acre (calculated on gross acreage), except with density bonuses up to twenty six (26) dwelling units per acre for covered parking as described in Off-street Parking, Section 39. The minimum lot (i.e., project) size shall be ten (10) acres.
- 2. Minimum Lot Width - One hundred twenty feet (120')
- 3. Minimum Lot Depth — Two hundred feet (200')

B. Size of Yards:

- 1. Minimum Front Yard — Twenty-five feet (25'). Where a lot faces a designated arterial street, the front yard shall be a minimum of 35 feet.
- 2. Minimum Side Yard:
 - a. Interior – Five feet (5')
 - b. Interior adjacent to property zoned for or adjacent to single family residential purposes — fifty (50') feet.
 - c. Side yard adjacent to a street — fifteen feet (15').
- 3. Minimum Rear Yard – Fifteen feet (15'). If adjacent to a single-family, Duplex (Two Family), patio home or single family attached district, then rear setbacks (within which parking is permitted) shall be fifty feet (50').
- 4. Minimum Building Separation Requirements
 - a. One-story buildings — Fifteen feet (15') for buildings without openings; twenty feet (20') for buildings with openings

b. Two-story buildings (or a two-story building adjacent to a one-story building) — Twenty feet (20') for buildings without openings; thirty-five feet (35') for buildings with openings.

c. Over two-story buildings (or an over two-story building adjacent to a one- or two-story building) — Thirty-five feet (35') for buildings with or without openings, or as required by the adopted building code, whichever is greater.

d. Between a main building and an accessory building — Ten feet (10'), or as required by the adopted building code, whichever is greater.

C. Minimum Floor Area per Dwelling Unit:

1. Efficiency unit — Five hundred (500) square feet per unit.

2. One-bedroom unit — Seven hundred twenty-five (725) square feet per unit.

3. Two- or more bedroom unit — Eight hundred (800) square feet for the first two bedrooms, plus an additional one hundred twenty-five (125) square feet for every bedroom over two (e.g., three-bedroom unit must have 925 square feet, etc.).

D. Maximum Lot Coverage: Fifty percent (50%) total, including main and accessory buildings, and pools.

E. Green Space/Recreational Areas. - A minimum of 50 percent of the gross platted area shall be open green space and common recreational areas. The minimum percentage of open space and common recreational areas may be reduced by the Planning and Zoning Commission at the time of site plan approval to 20 percent of the gross platted area, provided the area is intensively landscaped with underground irrigation systems and continuous maintenance is provided for. The open green space and common recreational areas shall be areas not be specifically designated or used as building sites for dwelling units, buildings sites for utility or storage buildings, parking lots, garages, streets or driveways within the multiple family development. The actual surface area of open green space, such as lawns and landscaping, and common recreational areas, such as swimming pools and surrounding paved deck, tennis courts, community rooms, saunas, and other recreational areas, shall be considered in calculating the minimum requirement for open green space and common recreational areas. Required buffer yards, except surfaced parking and driveways located within said buffer yards, if any, may be included in computing the minimum required area of green space and common recreational areas.

F. Screening - In addition to the requirements in Section 42, the following screening requirements shall apply to multiple family dwelling developments.

1. All refuse containers shall be opaquely screened on all four sides.

2. A minimum six-foot solid fence, wall, or other similar opaque screening device shall be constructed on the side or rear of any multiple family dwelling complex adjacent to a single-family zoned property

1.4 Special Requirements:

A. Fire Easements Accessible: All points on the exterior facades of all buildings shall be within one hundred fifty feet (150') of a dedicated fire lane easement (as measured by an unobstructed pathway, or route, for fire hoses).

B. Fire Sprinkler System: All multi-family developments shall be provided with a fire sprinkler system in accordance with all other City ordinances.

C. A four-foot (4) wide paved walkway shall connect the front door of each ground floor unit to a parking area. The minimum width of any sidewalk adjacent to head-in parking spaces shall be six feet (6') to accommodate a two-foot (2') bumper overhang for vehicles. Sidewalks of concrete cement or other masonry construction shall be provided between the dwelling units and all community facilities provided for residents in accordance with applicable city standards and specifications. All walks shall be lighted at night with a minimum intensity of two foot-candles' illumination.

D. Building Length: Buildings shall not exceed two hundred feet (200') in length.

E. Oversized Parking Areas: Boats, campers, trailers and other recreational vehicles shall be prohibited unless oversize parking areas are provided and are approved by the City. This parking area shall not be used to meet the minimum parking requirements and shall not be visible from a public street.

F. Signage - Address Numbers: All buildings containing residential units shall provide signage which clearly identifies the numbers (i.e., addresses) of the units within each building. Signage shall be visible from entrances into the complex and/or from vehicular drive aisles within the complex such that each individual unit is easy to locate by visitors, delivery persons, and/or emergency personnel.

G. Lighting: All parking areas shall have appropriate lighting and shall be positioned such that lights are shielded and do not adversely impact adjacent residential areas.

H. Gated/Secured Entrances: Gated/secured entrances shall be in accordance with the design standards for gated/secured entrances on private streets as adopted.

I. Streets or driveways: Each multiple family dwelling complex shall have driveways constructed of concrete cement or hot mixed asphalt, shall be curbed and guttered in accordance with existing requirements of the city, and shall be at least 28 feet in width throughout. All driveways shall be lighted at night with a minimum intensity of two foot candles illumination.

1.5 Residential Districts – Off-Street Parking Provisions

A. Parking Regulations

1. Off-street parking. Each dwelling unit within a multifamily dwelling complex shall be provided with on-site off-street parking as follows:

- a. One parking space for each one bedroom unit;
- b. Two parking spaces for each two bedroom unit; and;
- c. Three parking spaces for each three bedroom unit.
- d. Supplemental overflow paved parking shall be provided as needed.

Northern Tract B –

1.1 Permitted Uses: (Refer to Attached Charts)

1.2 Height Regulations:

Maximum Height:

- A. Seventy feet (70') for main building(s),
- B. One (1) story for accessory buildings.

1.3 Area Regulations:

A. Size of Lots:

1. Minimum Lot Area — Ten thousand (10,000) square feet
2. Minimum Lot Width – Sixty feet (60')
3. Minimum Lot Depth – One hundred feet (100')

B. Size of Yards

1. Minimum Front Yard – Twenty five feet (25')
2. Minimum Side and Rear if adjacent to side street – Fifteen feet (15'),
 - a. Side and Rear - Ten feet (10')

b. Side and Rear Setback if adjacent to single family or single family zoned property – Fifty feet (50')

C. Maximum Lot Coverage: Sixty percent (60%) including main and accessory buildings; maximum ninety percent (90%) impervious coverage (including all buildings, parking areas, sidewalks, etc.).

F. Other Requirements

- a. No outside storage shall be permitted.
- b. No outside sales shall be permitted.
- c. All businesses operations shall be conducted indoors with the exception of outdoor display. Outdoor display shall be limited to a 30-foot radius area from the front entrance of a nonresidential use. No display may be located in an area designated as a parking or loading area or drive aisle.

Section 6. 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 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 7. 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 8. City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Tex. Gov't. Code Ch. 551.

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 APRIL, 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

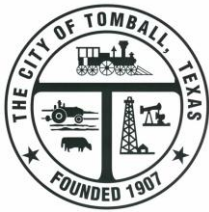
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 5TH DAY OF MAY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Notice of Public Hearing

YOU ARE INVITED TO ATTEND Public Hearings before the **PLANNING & ZONING COMMISSION** and **CITY COUNCIL** of the City of Tomball regarding the following item:

CASE NUMBER: P14-040

APPLICANT: 2978 Panormus, LP

LOCATION: Northerly of FM 2920 between Snook Lane and FM 2978

PROPOSAL: Request to amend the City's Zoning Ordinance by rezoning approximately 34.4945 acres of land situated in the Jesse Pruitt Survey, Abstract Number 629, City of Tomball, Harris County, Texas, said 34.4945 acres being comprised of Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records; from the Commercial and Single-Family Residential-9 Districts to the Planned Development - 6 District to facilitate a mixed use development.

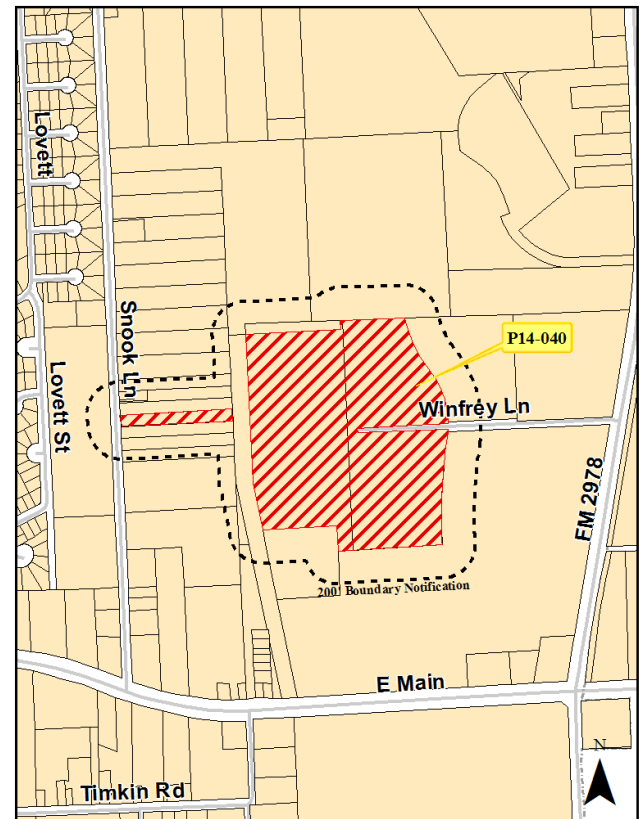
CONTACT: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@tomballtx.gov

Interested parties may contact the City of Tomball between 8:00 a.m. and 5:00 p.m. Monday through Friday for further information. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Community Development Department office, located at 501 James Street, Tomball, TX 77375. The staff report will be available no later than 4:00 p.m. on the Friday preceding the meeting.

This notice is being mailed to all owners of real property within 200 feet of the request as such ownership appears on the last approved Harris County Appraisal District tax roll. Interested parties may appear and speak on the project or the staff recommendation at the meeting. Written comments may also be submitted for consideration.



**Planning & Zoning Commission
Public Hearing:**

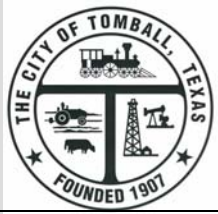
Monday, April 14, 2014, 6:00 PM

City Council Public Hearing:

***Monday, April 21, 2014, 6:00 PM**

**The Public Hearings will be held in the
City Council Chambers, City Hall
401 Market Street, Tomball, Texas**

*Should the Planning & Zoning Commission vote to table the recommendation on the case, the date and time of a future meeting will be specified and the City Council will not review the subject case until such a recommendation is forwarded to the City Council by the Planning & Zoning Commission.



Rezoning Staff Report

Planning & Zoning Commission Public Hearing Date: April 14, 2014

Rezoning Case: P14-040

Property Owner(s): 2978 Panormus, LP

Applicant(s): 2978 Panormus, LP

Legal Description: Harris County Appraisal District Tracts 12 and 11M-4, all of Lots 296, 297 and 302 and a portion of Lots 298, 303, 308, 309, 310 and 311 of Tomball Townsite, a subdivision as shown on map or plat recorded under Volume 2, Page 65 of the Harris County Map Records

Location: Northerly of FM 2920 between Snook Lane and FM 2978 (Exhibit "A")

Area: 34.4945 acres

Present Zoning and Use: Commercial and Single-Family Residential-9 (SF-9) Districts (Exhibit "C") / Vacant

Comp Plan Designation: Mixed Use (Exhibit "B")

Proposed Zoning and Use: Planned Development #6 District / Mixture of hotel, multi-family, retail, restaurant, commercial, and other uses listed on the Concept Plan (Exhibit "D")

Adjacent Zoning & Land Uses:

- **North:** SF-9 and Commercial / Agricultural, residential, and vacant
- **South:** SF-9 and Commercial / Residential and vacant
- **West:** Planned Development #2 District / Snook Lane and vacant
- **East:** SF-9 and Commercial / Vacant
- **Between Tract 11M-4 & Remainder of Subject Site:** SF-9 / High-voltage electricity transmission line

BACKGROUND

On January 13, 2014, City staff met with 2978 Panormus, LP to discuss the development of a mixed use facility on an approximately 34.5 acre tract located northerly of FM 2920 between Snook Lane and FM 2978. The property owners would like to have hotel, multi-family, retail, restaurant, and commercial uses, amongst others, at the subject site.

On March 5, 2014, the City received a PDD (Exhibit "E") application from the property owners. The Concept Plan submitted with the application shows that Tract 11M-4 will be dedicated to the City of Tomball for the construction of an east-west road (Peck Station Parkway) connecting Snook Lane and FM 2978, the portion north of Peck Station Parkway will be used for commercial purposes and the like, and the portion south of Peck Station

Parkway will be used for multi-family purposes. The property owners are proposing numerous elements to ensure the quality of the development, including multiple pedestrian walking/connectivity facilities; landscaping; screening/buffering; limitations on outdoor sales, display, and storage; and superior building façade materials.

ANALYSIS

There are a number of land uses in the area. To the north of the subject site are agricultural and single-family residential uses and vacant land; to the south is a single-family residence and vacant land; to the west is Snook Lane and vacant land; to the east is vacant land; and between Tract 11M-4 and the remainder of the site is a high-voltage electricity transmission line (Exhibit “F”). Although there are single-family residential uses in the vicinity of the subject site, the Concept Plan and development standards proposed for this development appear to minimize land use incompatibilities.

There are also a number of zoning districts in the area. To the north, south, and east of the subject site are the SF-9 and Commercial Districts; to the west is Planned Development #2 District which is intended to be developed as townhomes; and between Tract 11M-4 and the remainder of the site is the SF-9 District. A Planned Development District “accommodates planned associations of uses developed as integral land use units such as office parks, retail/commercial or service centers, shopping centers, residential developments having a mixture of housing options, or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners.” Although there are single-family residential districts in the vicinity of the subject site, the Concept Plan and development standards proposed for this development appear to minimize zoning district incompatibilities.

The Comprehensive Plan identifies the site as “Mixed Use.” According to the Comprehensive Plan, “Mixed Use is intended to include a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner.” The proposed rezoning to a mixed use Planned Development District appears to be consistent with the Comprehensive Plan.

ZONING CONSIDERATIONS

In making its recommendation regarding a proposed zoning change, the Planning & Zoning Commission shall consider the following factors:

- A. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned, and their relationship to the general area and to the City as a whole.**

Although there are single-family residential uses in the vicinity of the subject site, the Concept Plan and development standards proposed for this development appear to minimize land use incompatibilities.

- B. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area.**

The proposed rezoning is not anticipated to negatively impact public streets, water supply, sanitary sewers, or other utilities to the area. On April 14, 2014, the Tomball

Independent School District issued a letter which indicated that they do not have “an objection to the proposed development...for the multi-family development of approximately 285-310 units....” (Exhibit “G”)

- C. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.**

There are no other tracts, vacant or occupied, in the vicinity or elsewhere in the City zoned PDD intended for the same purpose as proposed by the property owner.

- D. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.**

There has been no development City-wide or within the vicinity in a PDD intended for the same purpose as proposed by the applicant.

- E. How other areas designated for similar development will be, or are likely to be, affected if the proposed amendment is approved.**

If the proposed zoning change were approved, there should be few if any affects on other areas designated for similar developments.

- F. Any other factors that will substantially affect the public health, safety, morals, or general welfare.**

The proposed zone change is not anticipated to substantially affect the public health, safety, morals, or general welfare.

- G. Whether the request is consistent with the Comprehensive Plan.**

The Comprehensive Plan identifies the site as “Mixed Use.” According to the Comprehensive Plan, “Mixed Use is intended to include a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner.” The proposed rezoning to a mixed use Planned Development District appears to be consistent with the Comprehensive Plan.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on April 3, 2014. No public comment forms have been received as of April 10, 2014.

RECOMMENDATION

Based on the findings outlined in the analysis and zoning consideration sections of this staff report, City staff recommends **APPROVAL** of Zoning Case P14-040.

EXHIBITS

- A. Aerial Photo
- B. Comprehensive Plan
- C. Zoning Map
- D. Concept Plan
- E. Rezoning Application
- F. Site Photos
- G. Tomball Independent School District Letter

Exhibit "A"
Aerial Photo



Exhibit "B"
Comprehensive Plan

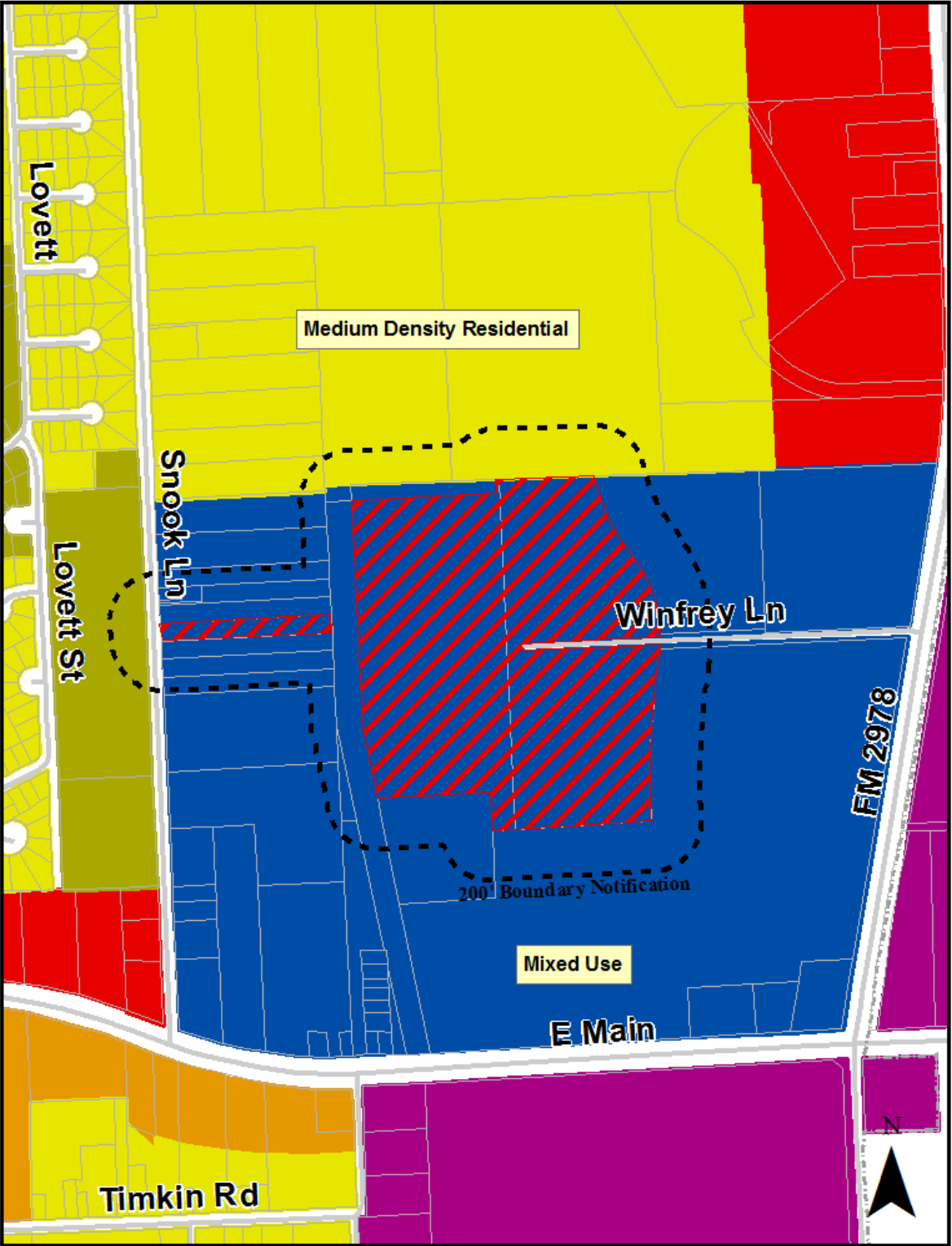
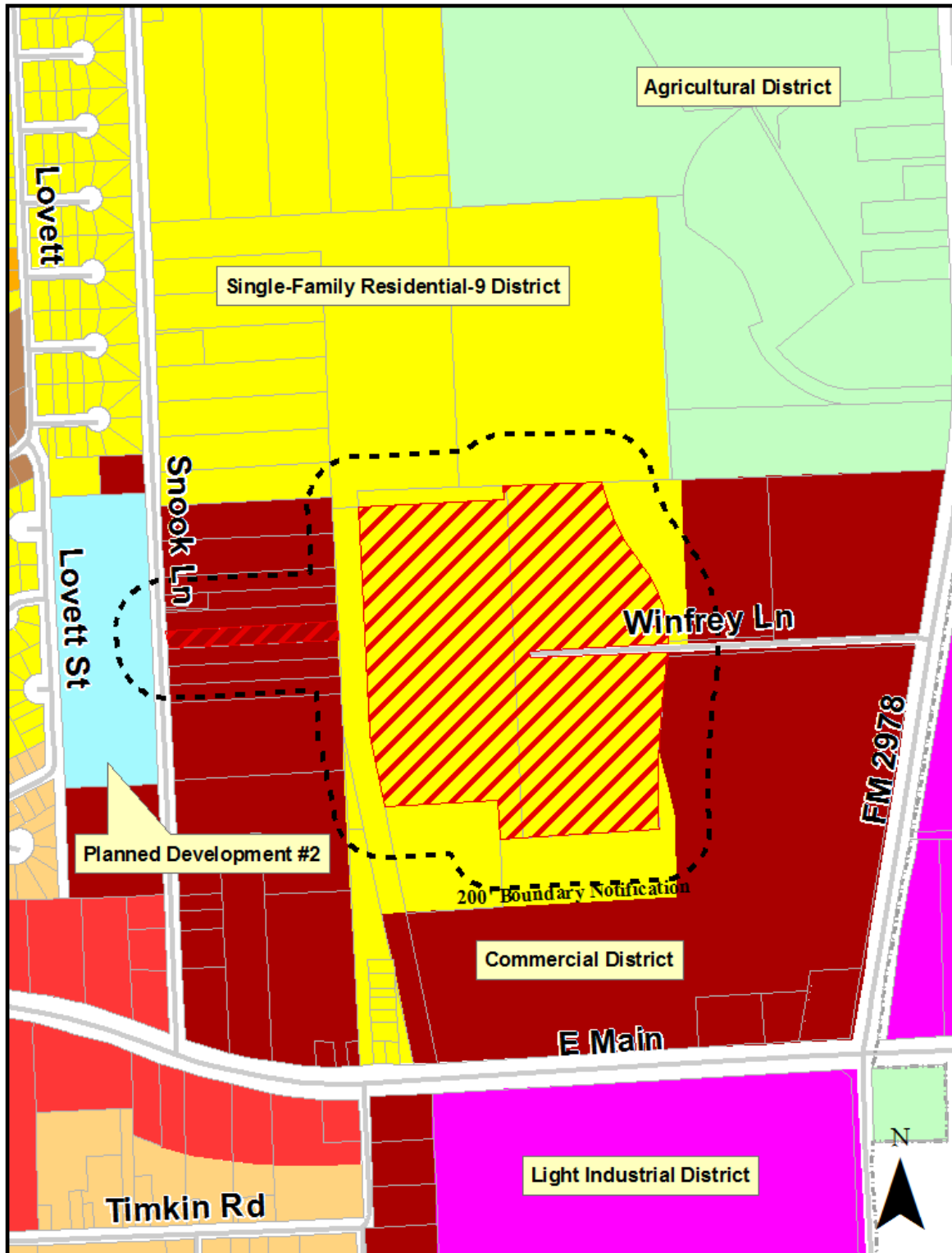
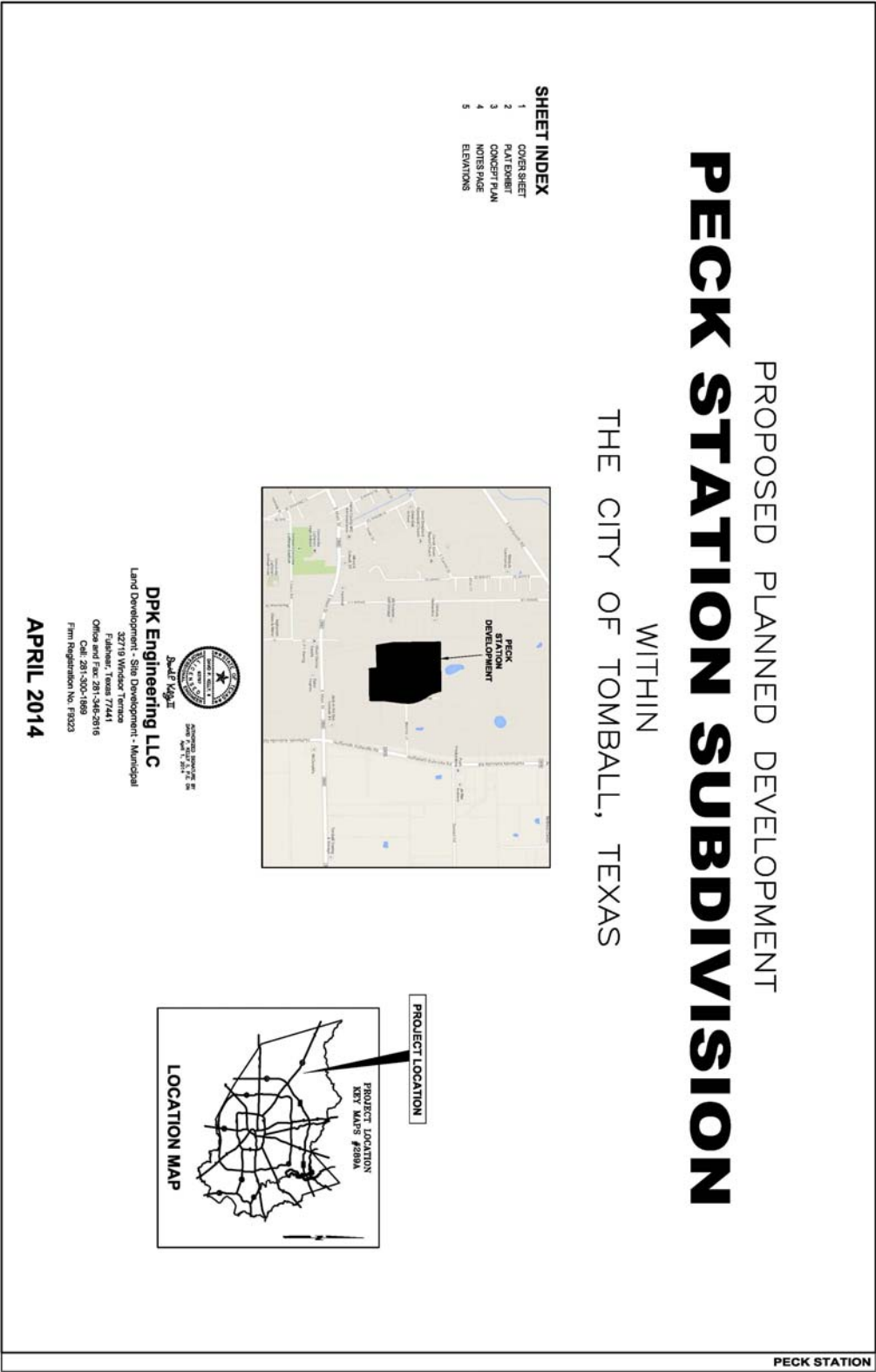


Exhibit "C"
Zoning Map





[illegible]

DPK Engineering LLC
Land Development • Site Development • Municipal
SEIT'S SERVICE TEAM
Frydberg, Team 1144C
Office and Fax 261.444.2976
Cell 261.300.1888
Frydberg@dpkeng.com

DATE OF INSTALL CONCRETING & PAVING	DATE
DATE: January, 2018 JOB NO. 011.30.818	RECEIVED BY: [Signature] OFFICE: [Signature]

APPROVED FOR
BY
DANIEL M. KELLY, P.E., CM
April 11, 2014

SUBMITTED BY
DC SUBMITTER

TOMBALL, EASTGATE
PLANNED DEVELOPMENT

The seal of the City of Houston, Texas, is located in the bottom right corner of the page. It features a circular design with the words "CITY OF HOUSTON, TEXAS" around the perimeter. In the center, there is a five-pointed star above the word "ASTRO".

TYPICAL ELEVATIONS

	SHEET NUMBER
	5
	OF 5

Exhibit "E"
Rezoning Application



Revised 1/20/09

**Application for
Planned Development**
Engineering & Planning Department



The PD, Planned Development, district is a district which accommodates planned associations of uses developed as integral land use units such as office parks, retail/commercial or service centers, shopping centers, residential developments having a mixture of housing options (e.g., single-family, multi-family, Duplex (Two Family), etc.), or any appropriate combination of uses which may be planned, developed or operated as integral land use units either by a single owner or a combination of owners. A Planned Development district may be used to permit new or innovative concepts in land utilization not permitted by other zoning districts.

No planned development shall be established and no building permit shall be issued for any use designated as a Planned Development within any zoning district until a Planned Development Permit is approved and issued in accordance with the provisions of the Zoning Ordinance and Concept Plan.

The minimum acreage for a planned development request shall be four (4) acres.

APPLICATION SUBMITTAL: Applications will be *conditionally* accepted on the presumption that the information, materials and signatures are complete and accurate. If the application is incomplete or inaccurate, your project may be delayed until corrections or additions are received.

Applicant

Name: 2978 Panormus, LP Title: Jerry A. Hayley, Co-General Partner
Mailing Address: 10200 Grogan's Mill Road, Suite 550 City: The Woodlands State: TX
Zip: 77380
Phone: (281) 367-1194 Fax: (281) 292-0658 Email: jahayley64@gmail.com

Owner

Name: 2978 Panormus, LP Title: Damon Palermo, Co-General Partner
Mailing Address: 10200 Grogan's Mill Road, Suite 550 City: The Woodlands State: TX
Zip: 77380
Phone: (281) 210-3401 Fax: () Email: dpalermo@palermocrea.com

Engineer/Surveyor (if applicable) Surveyor information on next page.

Name: DPK Engineering LLC Title: David Kelly - Owner
Mailing Address: 3322 Wellspring Lake Dr. City: Fulshear State: TX
Zip: 77441
Phone: (281) 346-2616 Fax: () Email: david.kelly@dpkengineering.com

Description of Proposed Project: 34 Acre Mixed Use Development

900' North and 900' West of the northwest corner of FM 2920 and FM 2978; and on along the east line of Snook Ln, approximately 1,500 north of FM 2920.

Physical Location of Property: _____
[General Location -- approximate distance to nearest existing street corner]

City of Tomball, Texas 501 James Street, Tomball, Texas 77375 Phone: 281-290-1405 www.ci.tomball.tx.us

34.4945 Acres out of the Jesse Pruitt Survey, A-629, Harris County, Texas
Legal Description of Property: See Attached Legal Description
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]

044-055-000-0109, 044-055-000-0150 &
HCAD Identification Number: 035-290-000-0296 Acreage: 34.4945 Acres

Current Use of Property: Vacant

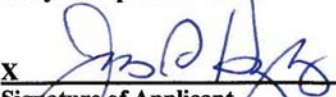
Proposed Use of Property: A mix of hotel, multi-family, retail, restaurant and other commercial uses (this is more specifically addressed in the Planned Development Application).

Please note: A courtesy notification sign will be placed on the subject property during the public hearing process and will be removed when the case has been processed.

Engineer/Surveyor (if applicable)

Name: Hovis Surveying Company Title: Mary McKenzie
Mailing Address: 5000 Cabbage City: Spring State: TX
Zip: _____
Phone: (281) 320-9591 Fax: (281) 376-1726 Email: hovis@hovissurveying.com

This is to certify that the information on this form is COMPLETE, TRUE, and CORRECT and the under signed is authorized to make this application. I understand that submitting this application does not constitute approval, and incomplete applications will result in delays and possible denial.

X		<u>March 4, 2014</u>
	Signature of Applicant	Date
X		<u>March 2014</u>
	Signature of Owner	Date

**2978 PANORMUS, LP
10200 Grogan's Mill Road, Suite 550
The Woodlands, Texas 77380**

Planned Development District - Request Letter

March 6, 2014

City of Tomball Planning and Zoning
501 James Street
Tomball, TX 77375

Reference: The rezoning of approximately 34.4 acres of land located near the northwest corner of FM 2920 and FM 2978, west of the Winfrey Lane ROW, in Tomball, Texas, (the "Property").

City of Tomball Staff,

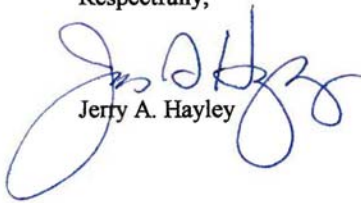
2978 Panormus, LP (the "Owners") respectfully request that the City of Tomball consider the rezoning of the Property (being the composite of two individual tracts) known as "Peck Station" from its current Single-Family Residential-9 District zoning designation to a Planned Development District ("PDD") which would be a Mixed Use Development. The City's Zoning Ordinance defines Single Family Residential-9 District as an area restricted to "low density detached, single family residences on lots of not more than 9,000 square feet". By virtue of the passage of time and area land economics, the current zoning designation does not represent the highest and best use of the Property. It is our opinion, that our request is strengthened by the conclusions of the Comprehensive Plan, commissioned by the City in December of 2009, which determined the Future Land Use for the Property to be Mixed Use. The Comprehensive Plan defines Mixed Use as an area that "includes a mix of office, retail/commercial, and high density residential uses in a master planned, integrated manner".

The proposed uses contemplated under the PDD will be consistent with the Comprehensive Plan's definition of Mixed Use, will be subject to the rules and guidelines set forth and will be assets to the community as a whole. The varying and complementary uses when complete will not only create a well-planned and integrated business environment; they will generate jobs and significant economic development for the nascent commercial district taking shape along Tomball's eastern city limits. With the resulting tie-in between FM 2978 and Snook Lane, Peck Station will positively route traffic and become the likely impetus for development of adjacent properties.

Permitting the uses considered within the attached PDD application, will encourage thoughtful and productive growth on the Property in a manner which is consistent with, or more stringent than, the City of Tomball's zoning ordinances.

Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Jerry A. Hayley".

Jerry A. Hayley

A handwritten signature in blue ink, appearing to read "Damon P. Palermo".

Damon P. Palermo

**Exhibit “F”
Site Photos**



Figure 1: East and north of subject site.



Figure 2: East of subject site; subject site is wooded area.



Figure 3: East and south of subject site.



Figure 4: View of subject site from Snook Lane.



Figure 5: Single-family residence to the north.



Figure 6: Single-family residence to the south.



Figure 7: Vacant land to the west of subject site.

Exhibit "G"
Tomball Independent School District Letter



Tomball Independent School District

310 South Cherry Street
Tomball, Texas 77375
(281) 357-3100
Fax (281) 357-3128
www.tomballisd.net

Huey Kinchen Jr.
Superintendent

Damon Palermo, SIOR
Managing Principal
Palermo Corporate Real Estate Advisors
10200 Grogan's Mill Road, Suite 550
The Woodlands, Texas 77380

April 14, 2014

Dear Mr. Damon Palermo:

Tomball Independent School District has reviewed the information provided by you regarding the development of the 34 acre tract near the intersection of FM 2920 and FM 2978 being called Peck Station. Based on your presentation of the project and after reviewing that information with David Schuelke, Assistant Superintendent of Ancillary Services and Huey Kinchen, Superintendent of Schools, Tomball ISD does not interpose an objection to the proposed project. Our decision is based on no subsidized housing or tax credit units for the multi-family development of approximately 285 to 310 units with 60% one bedroom, 30% two bedroom, and 10% three bedroom with estimated average monthly rents of \$1,060.

Sincerely,

Jim Ross
Chief Financial Officer
Tomball ISD

Our Children are the Promise of Our Future

Regular City Council

Agenda Item

Meeting Date: April 21, 2014

Data Sheet

Topic:

Adopt on First Reading, Ordinance No. 2014-10, an Ordinance Amending Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, by Deleting Sections 14-35, International Building Code Adopted, and 14-36, Amendments to the International Building Code, of Article II, Building Code, and Adopting New Sections 14-35 and 14-36 Adopting the International Building Code, 2012 Edition, and Making Amendments Thereto; by Deleting Sections 14-65, International Mechanical Code Adopted, and 14-66, Amendments to the International Mechanical Code, of Article III, Air Conditioning and Mechanical Work, and Adopting New Sections 14-65 and 14-66 Adopting the International Mechanical Code, 2012 Edition, and Making Amendments Thereto; by Deleting Section 14-147, Supervision of Work, of Subdivision I, Generally, of Division 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-147; by Deleting Sections 14-185, License Required, of Subdivision III, Master Electrician, of Division 3, Electricians, of Article IV, Electricity, and Adopting New Section 14-185, License Required and 14-193, Insurance; by Deleting Section 14-210, License Required, of Subdivision IV, Journeyman Electrician, of Division 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-210, License Required; by Deleting Section 14-230, License Required, of Subdivision V, Apprentice Electrician Registration, of Subdivision 3, Electricians, of Article IV, Electricity, and Adopting a New Section 14-210, License Required; by Deleting Sections 14-272, Death of Master Electrician, and 14-284, Adoption, of Division 4, Permits and Inspections, of Article IV, Electricity, and Adopting New Sections 14-272, Death of Master Electrician, and 14-284, Adoption, Providing for the Adoption of the 2011 Edition of the National Electrical Code, NFPA 70; by Deleting Sections 14-325, International Residential Code Adopted, and 14-328, Amendments to the International Residential Code, of Division 2, Housing Code, of Article V, Housing, and Adopting New Sections 14-325 and 14-328 Adopting the International Residential Code, 2012 Edition, and Making Amendments Thereto; by Deleting Section 14-391, Bond, of Division 1, Generally, of Article VI, Plumbing and Gas; by Deleting Sections 14-405, International Plumbing Code Adopted, and 14-406, Amendments to the International Plumbing Code, of Division 2, Codes, of Article VI, Plumbing and Gas, and Adopting New Sections 14-405 and 14-406 Adopting the International Plumbing Code, 2012 Edition, and Making Amendments Thereto; Providing a Penalty in an Amount Not to Exceed \$2000 for Each Day of Violation Hereof; and Providing for Severability.

Background:

The Community Development Department is pursuing updates to existing building codes. The proposed updates include the following:

- From 2003 International Building Code to 2012 International Building Code
- From 2003 International Residential Code to 2012 International Residential Code
- From 2003 International Mechanical Code to 2012 International Mechanical Code
- From 2003 International Plumbing Code to 2012 International Plumbing Code
- From 2005 National Electric Code to 2011 National Electric Code

Over the past year, the City's Building Official and Building Inspectors have attended numerous training seminars on the updated codes. On June 4, 2013, a representative from the Insurance Services Office (ISO) met with Community Development staff to evaluate the Permits and Inspections Division utilizing the Building Code Effectiveness Grading Schedule (BCEGS). On June 13, 2013, ISO provided their results to the City (see attached letter dated June 13, 2013) which included the need to adopt the latest codes in order to maintain our existing Class 6 rating.

On April 14, 2014, the Planning and Zoning Commission voted unanimously to recommend approval to the proposed building code updates. An Ordinance to adopt the updated building codes is attached as well as redlined changes to Chapter 14, Buildings and Building Regulations.

Origination:

Community Development Department

Recommendation:

Adopt Ordinance No. 2014-10 on First Reading

Funding:

Party(ies) responsible for placing this item on agenda:

Craig Meyers, Director of Community Development

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance 2014-10
Chapter 14 Proposed Revisions_Redline Version
ISO Letter 06.13.13
Presentation

ORDINANCE NO. 2014-10

ADOPT ON FIRST READING, ORDINANCE NO. 2014-10, AN ORDINANCE AMENDING CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY DELETING SECTIONS 14-35, INTERNATIONAL BUILDING CODE ADOPTED, AND 14-36, AMENDMENTS TO THE INTERNATIONAL BUILDING CODE, OF ARTICLE II, BUILDING CODE, AND ADOPTING NEW SECTIONS 14-35 AND 14-36 ADOPTING THE INTERNATIONAL BUILDING CODE, 2012 EDITION, AND MAKING AMENDMENTS THERETO; BY DELETING SECTIONS 14-65, INTERNATIONAL MECHANICAL CODE ADOPTED, AND 14-66, AMENDMENTS TO THE INTERNATIONAL MECHANICAL CODE, OF ARTICLE III, AIR CONDITIONING AND MECHANICAL WORK, AND ADOPTING NEW SECTIONS 14-65 AND 14-66 ADOPTING THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION, AND MAKING AMENDMENTS THERETO; BY DELETING SECTION 14-147, SUPERVISION OF WORK, OF SUBDIVISION I, GENERALLY, OF DIVISION 3, ELECTRICIANS, OF ARTICLE IV, ELECTRICITY, AND ADOPTING A NEW SECTION 14-147; BY DELETING SECTIONS 14-185, LICENSE REQUIRED, OF SUBDIVISION III, MASTER ELECTRICIAN, OF DIVISION 3, ELECTRICIANS, OF ARTICLE IV, ELECTRICITY, AND ADOPTING NEW SECTION 14-185, LICENSE REQUIRED AND 14-193, INSURANCE; BY DELETING SECTION 14-210, LICENSE REQUIRED, OF SUBDIVISION IV, JOURNEYMAN ELECTRICIAN, OF DIVISION 3, ELECTRICIANS, OF ARTICLE IV, ELECTRICITY, AND ADOPTING A NEW SECTION 14-210, LICENSE REQUIRED; BY DELETING SECTION 14-230, LICENSE REQUIRED, OF SUBDIVISION V, APPRENTICE ELECTRICIAN REGISTRATION, OF SUBDIVISION 3, ELECTRICIANS, OF ARTICLE IV, ELECTRICITY, AND ADOPTING A NEW SECTION 14-210, LICENSE REQUIRED; BY DELETING SECTIONS 14-272, DEATH OF MASTER ELECTRICIAN, AND 14-284, ADOPTION, OF DIVISION 4, PERMITS AND INSPECTIONS, OF ARTICLE IV, ELECTRICITY, AND ADOPTING NEW SECTIONS 14-272, DEATH OF MASTER ELECTRICIAN, AND 14-284, ADOPTION, PROVIDING FOR THE ADOPTION OF THE 2011 EDITION OF THE NATIONAL ELECTRICAL CODE, NFPA 70; BY DELETING SECTIONS 14-325, INTERNATIONAL RESIDENTIAL CODE ADOPTED, AND 14-328, AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE, OF DIVISION 2, HOUSING CODE, OF ARTICLE V, HOUSING, AND ADOPTING NEW SECTIONS 14-325 AND 14-328 ADOPTING THE INTERNATIONAL RESIDENTIAL CODE, 2012 EDITION, AND MAKING AMENDMENTS THERETO; BY DELETING SECTION 14-391, BOND, OF DIVISION 1, GENERALLY, OF ARTICLE VI, PLUMBING AND GAS; BY

DELETING SECTIONS 14-405, INTERNATIONAL PLUMBING CODE ADOPTED, AND 14-406, AMENDMENTS TO THE INTERNATIONAL PLUMBING CODE, OF DIVISION 2, CODES, OF ARTICLE VI, PLUMBING AND GAS, AND ADOPTING NEW SECTIONS 14-405 AND 14-406 ADOPTING THE INTERNATIONAL PLUMBING CODE, 2012 EDITION, AND MAKING AMENDMENTS THERETO; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

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

Section 1. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting in their entirety Sections 14-35 and 14-36 of Chapter 14 thereof and new Sections 14-35 and 14-36 of Chapter 14, are hereby added to read as follows:

“Sec. 14-35. International Building Code adopted.

The International Building Code, 2012 Edition (non-residential), hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which shall be kept on file with the city secretary.

Sec. 14-36. Amendments to the International Building Code.

(a) Section 101.4.1 of said Code is hereby amended to read as follows:

101.4.1 Electrical. The provisions of the National Electrical Code, 2011 Edition, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(b) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Building Safety. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her,. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official.

(c) Section 104 of said Code is hereby amended to provide as follows:

104 Powers and Duties of the Building Official.

104.1 General. The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this Code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code.

104.3 Stop Orders. Whenever any work is being done contrary to the provisions of this Code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

(d) Section 105 of said Code is hereby amended and by adding a new Section 105.8 to provide as follows:

105.2. Work exempt from permit.

105.2.2. Fences not over 8 feet high.

105.8 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of \$100,000, \$300,000 per occurrence, and a property damage limit of \$400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

(e) Section 109.4 of said Code is hereby amended to provide as follows:

109.4 Work commencing before permit issuance. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

(f) Section 111.1 of said Code is hereby amended to provide as follows:

111.1 Use and Occupancy. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this Code, or other ordinances of the City shall not be valid.

(g) Section 113.1 of the Code is hereby amended to provide as follows:

113.1 Appeals. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

(h) Section 113.2 and 113.3 of the Code are hereby deleted in their entirety.

(i) Section 903, entitled "Automatic Sprinkler Systems" is hereby deleted in its entirety. Sprinkler systems are required as provided in the International Fire Code, 2012 Edition, as adopted.

(j) Section 1507.8 of said Code is hereby amended to provide as follows:

1507.8 Wood Shingles and Shakes.

(a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.

(b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or reproofing of any structure.

(c) Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, providing the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A

wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs.

(k) Section 1507.9 of said Code is hereby deleted in its entirety.

(l) Appendices. The following Appendices contained in this Code are deleted in their entirety:

Appendix A, Employee Qualifications;

Appendix B, Board of Appeals;

Appendix D, Fire Districts;

Appendix E, Supplementary Accessibility Requirements;

Appendix H, Signs; and

Appendix I, Patio Covers.

The following Appendices are hereby adopted in their entirety:

Appendix C, Group U - Agricultural Buildings;

Appendix F, Rodent Proofing;

Appendix G, Flood-Resistant Construction;

Appendix J of said Code is hereby amended to provide as follows:

J106.1 Maximum Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 3 horizontal to 1 vertical (33 percent) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

1. A cut surface may be at a slope of 2 horizontal to 1 vertical (50 percent) provided that all the following are met:
 - 1.1. It is not intended to support structures or surcharges.
 - 1.2. It is adequately protected against erosion.
 - 1.3. It is no more than 8 feet (2438 mm) in height.

- 1.4. It is approved by the building official.
2. A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100 percent).

J107.6 Maximum Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 3 horizontal to 1 vertical (33 percent) shall be justified by soils reports or engineering data.”

Section 2. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting in their entirety Sections 14-65 and 14-66 of Chapter 14 thereof and new Sections 14-65 and 14-66 of Chapter 14, are hereby added to read as follows:

“Sec. 14-65. International Mechanical Code adopted.

The *International Mechanical Code*, 2012 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

Sec. 14-66. Amendments to the International Mechanical Code.

- (a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Building Safety. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her,. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official.

- (b) Sections 106.4.3 and 106.4.4 of said Code are deleted in their entirety and a new Section 106.4.3 is substituted therefor as follows:

106.4.3 Expiration: Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of such permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (c) Section 106 of said Code is amended by adding a new Section 106.5.4, to provide as follows:

106.5.4 State License. All persons performing work within the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

- (d) Said Code is amended by deleting Section 106.5 and Appendix B, entitled 'Permit Fee Schedule' as fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

- (e) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.”

Section 3. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting in their entirety Sections 14-147, 14-185, 14-186–14-192, 14-193, 14-210, 14-230, 14-272, and 14-284 of Chapter 14 thereof and new Sections 14-147, 14-185, 14-186–14-192, 14-193, 14-210, 14-230, 14-272, and 14-284 of Chapter 14, are hereby added to read as follows:

“Sec. 14-147. Supervision of work.

All electrical work performed within the city shall be under the control, supervision, direction, and responsibility of a master electrician licensed by the State of Texas. A journeyman or apprentice electrician shall perform the actual work under the supervision, control and responsibility of a master electrician.

Sec. 14-185. License required.

Except as otherwise provided by this article, it shall be unlawful for any person to perform or contract for electrical work within the city unless such person is licensed by the State of Texas as a master electrician.

Secs. 14-186--14-192. Reserved.

Sec. 14-193. Insurance

- (a) For any permits to be issued, the applicant must provide evidence of holding a comprehensive general liability insurance policy (including products liability and completions operations coverage) with minimum limits of \$1,000,000.00 for death or bodily injury and \$250,000.00 for property damage, per occurrence. This policy

must be issued by a carrier with a rating of B+ or better in the last published edition of Best's Insurance Reports-Property Casualty Volume (published by A. M. Best Company, Oldwich, New Jersey 08858). Proof of the coverage shall be provided in the form of a certificate issued by an authorized agent or employee of the company issuing the policy, that specifies coverage and identifies the insured. Each certificate shall provide that not less than 30 days' written notice shall be given to the city in the event of reduction or cancellation of the policy prior to the expiration date specified on the certificate, or lapse by nonrenewal.

- (b) These insurance requirements would not apply to any permits obtained by homeowners as outlined in section 14-141.

Sec. 14-210. License required.

No person shall undertake any work as a journeyman electrician unless such person has first obtained the appropriate current State of Texas electrician license.

Sec. 14-230. License required.

No person shall undertake any work as an apprentice electrician unless such person has first obtained the appropriate current State of Texas electrician license.

Sec. 14-272. Death of master electrician.

After the death of a master electrician, for a period of 60 days, any person engaged in the electrical contractor business shall have the privilege of completing any work currently authorized under the master electrician's license.

Sec. 14-284. Adoption.

- (a) With the passing of the Ordinance from which this article derives, the 2011 edition of the National Electrical Code, NFPA 70, prepared by the National Fire Protection Association, Inc., will be adopted.
- (b) In case of conflict between the provisions of the National Electrical Code and the provisions of this article, this article shall prevail.”

Section 4. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting in their entirety Sections 14-325 and 14-328 of Chapter 14 thereof and new Sections 14-325 and 14-328 of Chapter 14, are hereby added to read as follows:

“ Sec. 14-325. International Residential Code adopted.

The *International Residential Code*, 2012 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached to the ordinance from which this section derives and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

Sec. 14-328. Amendments to the International Residential Code.

- (a) Section R103 of said Code is hereby amended to provide as follows:

R103 Department of Building Safety. The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her,. Said deputies shall serve at the pleasure of the building official and may be removed without cause by building official.

- (b) Section R105.2. Work exempt from permit.

105.2.2. Fences not over 8 feet high.

- (c) Section R105.5 of said Code is hereby amended to provide as follows:

R105.5 Expiration: No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit. Section R103 of said Code is hereby amended to provide as follows:

- (d) Section R105 of said Code is hereby amended by adding a new Section

R105.10 to provide as follows:

R105.10 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City. Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of \$100,000, \$300,000 per occurrence, and a property damage limit of \$400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

- (e) Section R108 of the Code is amended by adding to section R108.2 the following provision:

R108.2 Schedule of permit fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

- (f) Section R108 of said Code is hereby amended by adding a new Section R108.6 to provide as follows:

R108.6 Work commencing before permit issuance. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

- (g) Section R112.1 of the Code is hereby deleted and new Section 112.1 is substituted therefor as follows:

112.1. Appeals. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

- (h) Section R112.3 of the Code is hereby deleted in its entirety.

- (i) Section R113 of the Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

- (j) Sections R905.7 and R905.8 of the Code are deleted in their entirety and a new Section R905.7 is substituted therefor as follows:

R905.7 Wood Shingles and Shakes

- (a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.

- (b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or re-roofing of any structure. Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, provided that the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs.

- (k) Appendices. The following Appendices contained in the Code is deleted its

entirety:

Appendix E, Manufactured Housing Used As Dwellings

Appendices B through D contained in the Code are hereby adopted.”

Section 5. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting in their entirety Sections 14-391, 14-405, and 14-406 of Chapter 14 thereof and new Sections 14-405 and 14-406 of Chapter 14 are hereby added to read as follows:

Sec. 14-391. Bond - *deleted*.

Sec. 14-405. International Plumbing Code adopted.

The *International Plumbing Code*, 2012 Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., and as amended herein, is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

Sec. 14-406. Amendments to the International Plumbing Code.

(a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Plumbing Inspection. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her,. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official.

(b) Section 104 of said Code is hereby amended to provide as follows:

104.7 Stop Work Orders. Whenever any work is being done contrary to the provisions of this Code, the Building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work. The building official shall issue all necessary notices or orders to ensure compliance with this code.

(c) Sections 106.5.3 and 106.5.4 of said Code are deleted in their entirety and a new Section 106.5.3 is substituted therefor as follows:

106.5.3 Expiration. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (d) Section 106.6 of said Code is hereby amended to provide as follows:

106.6 Fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

- (e) Section 106 of said Code is amended by adding a new Section 106.6.4, which provides as follows:

106.6.4 State License. All persons performing work in the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

- (f) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

- (g) Section 108 of said Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

- (h) Section 605 of said Code is amended by deleting any and all references to "polybutylene pipe and tubing." Installation of polybutylene pipe and tubing, or use for repair, is prohibited.

- (i) Section 702 of said Code is amended by deleting any and all references to concrete pipe and asbestos-cement pipe and tubing. Installation of concrete pipe or asbestos-cement pipe and tubing, or use for repair, is prohibited.

- (j) Appendix A, Plumbing Permit Fee Schedule, contained in the Code is deleted its entirety and Appendices B-F contained in said Code are hereby adopted."

Section 6. 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 \$2000. Each day of violation shall constitute a separate offense.

Section 7. In the event any 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 than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 8. This Ordinance shall become effective on June 1, 2014. Building Permit Applications submitted on that date or thereafter shall be in conformance with this Ordinance. 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 this Ordinance.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 21ST DAY OF APRIL 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 5TH

DAY OF MAY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor
City of Tomball

ATTEST:

Doris Speer, City Secretary
City of Tomball

Chapter 14

BUILDINGS AND BUILDING REGULATIONS*

* **Cross References:** Street numbering, ch. 14; civil emergencies, ch. 22; emergency services, ch. 26; environment, ch. 30; fire prevention and protection, ch. 34; floods, ch. 38; health and sanitation, ch. 42; manufactured homes and trailers, ch. 46; solid waste, ch. 62; streets, sidewalks and other public places, ch. 66; subdivisions, ch. 70; utilities, ch. 82.

Article I. In General

Sec. 14-1. Fire district.
Sec. 14-2. Fencing of swimming pools, related structures.
Secs. 14-3--14-7A. Reserved.
Sec. 14-8. Maximum sound levels.
Sec. 14-9. Maximum glare.
Sec. 14-10. Reserved.
Sec. 14-11. Release of pollutants.
Secs. 14-12--14-34. Reserved.

Article II. Building Code

Sec. 14-35. International Building Code adopted.
Sec. 14-36. Amendments to the International Building Code.
Secs. 14-37--14-64. Reserved.

Article III. Air Conditioning and Mechanical Work

Sec. 14-65. International Mechanical Code adopted.
Sec. 14-66. Amendments to the International Mechanical Code.
Sec. 14-67. Work done by homeowners.
Sec. 14-68. Issuance of registration certificates generally.
Sec. 14-69. Transfer of registration.
Sec. 14-70. Expiration of registration.
Sec. 14-71. Renewal registration.
Sec. 14-72. Work restricted.
Sec. 14-73. Issuance of permits restricted.
Sec. 14-74. Misuse of city registration.
Sec. 14-75. Supervision of work.
Sec. 14-76. Payroll records.
Sec. 14-77. Suspension, withholding or revocation.
Secs. 14-78--14-99. Reserved.

Article IV. Electricity

Division 1. Generally

Sec. 14-100. Definitions.
Sec. 14-101. Liability for damages.
Sec. 14-102. Reserved.
Sec. 14-103. Unfranchised public utilities.
Sec. 14-104. Penalty for violation.
Secs. 14-105--14-114. Reserved.

Division 2. Electrical Inspector

Sec. 14-115. Office established.
Sec. 14-116. Qualifications.
Sec. 14-117. Appointment.
Sec. 14-118. Office may be combined.

Sec. 14-119. Conflict of interest.
Sec. 14-120. Interfering with electricians in business.
Sec. 14-121. Duties generally.
Sec. 14-122. Right of entry.
Sec. 14-123. Disconnect service.
Sec. 14-124. Decision of questions.
Sec. 14-125. Review of decisions.
Sec. 14-126. Records.
Secs. 14-127--14-139. Reserved.

Division 3. Electricians

Subdivision 1. Generally

Sec. 14-140. Work restricted.
Sec. 14-141. Homeowners.
Sec. 14-142--14-146. Reserved.
Sec. 14-147. Supervision of work.
Secs. 14-148--14-164. Reserved.

Subdivision II. Electrical Board

Sec. 14-165. Created.
Sec. 14-166. Composition.
Sec. 14-167. Appointment.
Sec. 14-168. Terms.
Sec. 14-169. Removal.
Sec. 14-170. Compensation.
Sec. 14-171. Officers.
Sec. 14-172. Quorum.
Sec. 14-173. Reserved.
Sec. 14-174. Appeal from action.
Secs. 14-175--14-184. Reserved.

Subdivision III. Master Electrician

Sec. 14-185. License required.
Sec. 14-186--14-193. Reserved.
Sec. 14-194. Insurance.
Sec. 14-195. Issuance of permits restricted.
Sec. 14-196. Misuse of license.
Secs. 14-197--14-209. Reserved.

Subdivision IV. Journeyman Electrician

Sec. 14-210. License required.
Sec. 14-211--14-214. Reserved.
Sec. 14-215. Display.
Secs. 14-216--14-229. Reserved.

Subdivision V. Apprentice Electrician Registration

Sec. 14-230. License required.
Secs. 14-231--14-233. Reserved.
Sec. 14-234. Display.
Secs. 14-235--14-244. Reserved.

Division 4. Permits and Inspections

Sec. 14-245. Permit required.
Sec. 14-246. Exceptions-enumerated.
Sec. 14-247. Same-Compliance.
Secs. 14-248--14-250. Reserved.
Sec. 14-251. Emergencies.
Sec. 14-252. Application.
Sec. 14-253. Checking of plans and specifications.

Sec. 14-254. Fees.
Sec. 14-255. Temporary installations.
Secs. 14-256--14-260. Reserved.
Sec. 14-261. Display.
Sec. 14-262. Expiration.
Sec. 14-263. Refusal to finish installation.
Sec. 14-264. Suspension or revocation.
Secs. 14-265--14-268. Reserved.
Sec. 14-269. Certificate of approval.
Secs. 14-270--14-271. Reserved.
Sec. 14-272. Death of master electrician.
Secs. 14-273--14-283. Reserved.
Sec. 14-284. Continuing education.
Sec. 14-285. Adoption.
Secs. 14-286--14-292. Reserved.
Sec. 14-293. Special provisions.
Secs. 14-294--14-314. Reserved.

Article V. Housing

Division 1. Generally

Secs. 14-315--14-324. Reserved.

Division 2. Housing Code

Sec. 14-325. International Residential Code adopted.
Sec. 14-326. Conflicts.
Sec. 14-327. Enforcement.
Sec. 14-328. Amendments to the International Residential Code.
Sec. 14-329. Penalty for violation.
Secs. 14-330--14-339. Reserved.

Division 3. Substandard Buildings

Sec. 14-340. Reserved.
Sec. 14-341. Building standards commission.
Sec. 14-342. Enforcement of orders.
Sec. 14-343. Determination.
Sec. 14-344. Nuisance declared.
Sec. 14-345. Inspectors.
Sec. 14-346. Criteria for determination of repair, vacation or demolition.
Sec. 14-347. Procedure for condemnation.
Sec. 14-348. Emergency measures for condemnation.
Sec. 14-349. Notice of emergency measures.
Sec. 14-350. Lien against property.
Secs. 14-351--14-354. Reserved.

Division 4. Correctional Facilities

Sec. 14-355. Definitions.
Sec. 14-356. Permit required.
Sec. 14-357. Permit applications.
Sec. 14-358. Term of permit; renewal.
Sec. 14-359. Issuance or denial of permit.
Sec. 14-360. Transfer upon change.
Sec. 14-361. Revocation of permit.
Sec. 14-362. Other permit provisions.
Sec. 14-363. Notices.
Sec. 14-364. Penalty; continuing violations.
Sec. 14-365. Approval by city officials.
Sec. 14-366. Security and resident monitoring.
Secs. 14-367--14-389. Reserved.

Article VI. Plumbing and Gas

Division 1. Generally

Sec. 14-390. Compliance with plumbing license law required.
Sec. 14-391. Bond.
Secs. 14-392--14-404. Reserved.

Division 2. Codes

Sec. 14-405. International Plumbing Code adopted.
Sec. 14-406. Amendments to the International Plumbing Code.
Sec. 14-407. Penalty.
Secs. 14-408--14-429. Reserved.

Article VII. Building/Development Standards

Division 1. General Provisions

Sec. 14-430. Definitions.
Secs. 14-431--14-434. Reserved.

Division 2. Single-Family Residential

Sec. 14-435. Building lines.
Sec. 14-436. Lot requirements.
Sec. 14-437. Off-street parking/driveways.
Secs. 14-438, 14-439. Reserved.

Division 3. Duplexes

Sec. 14-440. Building lines.
Sec. 14-441. Lot requirements for duplexes.
Sec. 14-442. Off-street parking/driveways.
Secs. 14-443--14-449. Reserved.

Division 4. Townhomes

Sec. 14-450. Building lines.
Sec. 14-451. Lot requirements for townhomes.
Sec. 14-452. Off-street parking/driveways/streets.
Sec. 14-453. Density.
Sec. 14-454. Green space/recreational areas.
Sec. 14-455. Screening.
Sec. 14-456. Sidewalks.
Secs. 14-457--14-559. Reserved.

Division 5. Patio Homes

Sec. 14-460. Building lines.
Sec. 14-461. Lot requirements for patio homes.
Sec. 14-462. Lot coverage.
Sec. 14-462. Off-street parking/driveways/streets.
Sec. 14-463. Density.
Sec. 14-464. Green space/recreational areas.
Sec. 14-465. Screening.
Sec. 14-466. Sidewalks.
Secs. 14-467--14-469. Reserved.

Division 6. Multi-Family Developments

Sec. 14-470. Compliance required; application.
Sec. 14-471. Density.
Sec. 14-472. Height; stories.

Sec. 14-473. Spacing between buildings.
Sec. 14-474. Building lines.
Sec. 14-475. Off-street parking.
Sec. 14-476. Green space/recreational areas.
Sec. 14-477. Screening.
Sec. 14-478. Fire sprinkler system.
Sec. 14-479. Streets or driveways
Sec. 14-480. Sidewalks.
Sec. 14-481. Windows.
Secs. 14-482--14-485. Reserved.

Division 7. Commercial Properties

Sec. 14-486. Building lines for commercial properties.
Sec. 14-487. Off-street parking and design standards.
Secs. 14-488, 14-489. Reserved.

Division 8. Old Town Tomball

Sec. 14-490. Nonconforming commercial properties.

ARTICLE I.

IN GENERAL

Sec. 14-1. Fire district.

The fire district of the city shall be as shown and indicated on an official map thereof on file in the office of the city secretary.
(Code 1978, § 5-1)

Sec. 14-2. Fencing of swimming pools, related structures.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Poolside means the side of an object nearest to a swimming pool.

Private residential swimming pool means any swimming pool located on private property under the control of the head of household there residing, the use of which is limited to swimming or bathing by members of such head's family or their invited guests.

Public swimming pool means any swimming pool, other than a private residential swimming pool, used or designed to be used collectively by numbers of persons for swimming or bathing operations, whether the admission of such persons is free of charge or not.

Swimming pool or related structure means any structure, basin, chamber or tank containing an artificial body of water or other liquid having a depth of two feet or more at any point, including but not limited to private residential swimming pools, public swimming pools, oil vats, detention ponds, ponds, and any and all bodies of water or other liquid used for swimming, diving or recreational bathing. Expressly excluded from this definition are stock tanks and other open structures having at least one side with a three-to-one slope.

(b) *Enclosure required generally.* Every person in possession of land within the corporate limits of the city, either as owner, purchaser under contract, lessee, tenant, or licensee, upon which is situated a swimming pool or related structure shall, except as hereinafter set forth, at all times maintain upon the lot or premises on which the swimming pool or related structure is located, and completely surrounding the swimming pool or related structure, lot or premises, a fence, wall or other solid structure designed to prevent small children from inadvertently wandering into the swimming pool or related structure.

- (1) Such fence, wall or other solid structure shall not be less than four feet in height, with no openings therein, other than self-latching doors or gates, of a width greater than four inches, and without a fixed or detachable stile or ladder.
- (2) All gates or doors opening into such enclosure shall be equipped with self-closing and self-latching devices capable of automatically closing such gates or doors.
- (3) The self-latching devices shall be fixed to the gates or doors not less than 30 inches in height above the highest surface below such gate or door.

(c) *When permit not required.* If a swimming pool or related structure is in a patio, in a court or in a room which can be reached only through the living quarters of the person in possession of the land, there need be no other enclosure and such gates or doors as may be in such living quarters enclosure need not be equipped as required by subsection (b) of this section.

(d) *Exemption permit.* If a swimming pool or other related structure is so remote from populated areas that the space surrounding the pool would be a deterrent to keep small children from inadvertently wandering into the swimming pool or other structure, then upon determination by the city that the pool is located a sufficient distance away from populated areas, the city may issue a permit to the landowner exempting him from this section, such permit to be renewable every year from the date of issuance. Upon the date of issuance, the landowner must submit sufficient evidence that the area surrounding the pool has not become populated. If the area becomes populated, the city shall revoke the permit and require compliance with this section within 30 days following such revocation.

(e) *Use of structure.* A single-family dwelling house or accessory building may be used as part of the enclosure required by this section, whether fence, wall or other solid structure, around a private residential swimming pool.

(f) *Inspection, approval.* The final inspection and approval of a swimming pool for which a building permit is issued by the city shall be withheld until all requirements of this section have been complied with by the owner, purchaser under contract, lessee, tenant, or licensee, and so certified by the city administrator, or his duly authorized agent.

(g) *Compliance.* It shall be unlawful for any person to maintain any swimming pool in the city which is not enclosed in accordance with the requirements of this section or which does not have a valid permit exempting it from the operation of this section.
(Code 1978, § 5-2)

Secs. 14-3--14-7A. Reserved.

Editors Note: Ord. No. 2001-20, § 1, adopted January 7, 2002, repealed §§ 14-3--14-7A in their entirety. Formerly, §§

14-3--14-7A pertained to building lines for single-family detached dwellings, lot requirements for single-family detached dwelling, lot requirements for duplexes, building lines for commercial properties, commercial off-street parking and design standards, and nonconforming commercial properties, respectively, and derived from Code 1978, §§ 5-3--5-7; Ord. No. 99-12, § 1, adopted August 16, 1999; Ord. No. 99-18, § 1, adopted August 2, 1999; Ord. No. 99-38, §§ 1, 2, adopted February 21, 2000; Ord. No. 2000-02, §§ 1, 2, adopted January 17, 2000; Ord. No. 2000-08, § 1, adopted April 3, 2000; Ord. No. 2000-09, § 1, adopted April 17, 2000; Ord. No. 2000-31, §§ 1, 2, adopted December 18, 2000; Ord. No. 2001-10, § 1, adopted July 16, 2001.

Sec. 14-8. Maximum sound levels.

(a) All industrial or commercial businesses within the city limits shall conform to the maximum sound levels as set out below. Sound levels shall be measured with a sound level meter and an associated octave band analyzer, both manufactured in accordance with the specifications prescribed by the American Standards Association. Noise emission from any commercial or industrial operation shall not cause sound pressure levels greater than those listed in the table below, measured at any point at the commercial or industrial operation's boundary, either at ground level or at a habitable elevation, whichever is more restrictive.

Octave Band Center Frequency (HZ)	Sound Pressure Level (DB)*
31.5	83
63	68
125	58
250	52
500	47
1000	44
2000	39
4000	37
8000	35

*re: 0.0002 microbar

(b) The sound level produced by any industry shall not exceed the limits established in this section. (Code 1978, § 5-8)

Sec. 14-9. Maximum glare.

The maximum glare produced by any industry shall be limited to four footcandles of illumination intensity beyond the industrial or commercial tract boundary throughout the light frequency spectrum beginning with ultraviolet and ending through the infrared wavelengths. (Code 1978, § 5-9)

Sec. 14-10. Reserved.

Editors Note: Ord. No. 2001-20, § 1, adopted January 7, 2002, repealed § 14-10, which pertained to commercial fencing requirements and derived from Code 1978, § 5-10.

Sec. 14-11. Release of pollutants.

All industrial or commercial endeavors are hereby prohibited from releasing particulate matter, eye irritants, radiation, or odorous matter into the atmosphere or water. All industries are hereby prohibited from posing fire, explosion or chemical hazards, or producing toxic and/or noxious matter.

(Code 1978, § 5-11)

Secs. 14-12--14-14. Reserved.

Editors Note: Ord. No. 2001-20, § 1, adopted January 7, 2002, repealed §§ 14-12--14-14 in their entirety. Formerly, §§ 14-12--14-14 pertained to enforcement of land use restrictions, definitions, and paving of commercial sales or storage lots, respectively, and derived from Code 1978, § 5-12, Ord. No. 99-24, § 1, adopted November 1, 1999, and Ord. No. 2001-18, §§ 1, 2, adopted January 7, 2002, respectively.

Secs. 14-15--14-34. Reserved.

ARTICLE II.

BUILDING CODE*

* **Editors Note:** Ord. No. 2005-13, § 1, adopted December 19, 2005, repealed and reenacted article II in its entirety to read as herein set out. Formerly, article II, §§ 14-35--14-42 pertained to similar subject matter and derived from the Code of 1978, §§ 5-17--5-22; Ord. No. 97-07, § 1, adopted March 17, 1997; Ord. No. 2001-21, §§ 1--3, adopted January 7, 2002.

Cross References: Fire prevention code, § 34-71 et seq.

Sec. 14-35. International Building Code adopted.

The International Building Code, 2003~~12~~ Edition (non-residential), hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which shall be kept on file with the city secretary.

(Ord. No. 2005-13, § 1, 12-19-05)

Sec. 14-36. Amendments to the International Building Code.

(a) Section 101.4.1 of said Code is hereby amended to read as follows:

101.4.1 Electrical. The provisions of the National Electrical Code, 2011~~1999~~ Edition, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

(b) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Building Safety. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City ~~Council~~ **Manager** and may be removed without cause by City ~~Council~~ **Manager**. The building official may appoint deputies to assist him/her, ~~subject to City Council approval~~. Said deputies shall serve at the pleasure of the ~~City Council~~ **building official** and may be removed without cause by ~~City Council~~ **the building official**.

(c) Section 104 of said Code is hereby amended to provide as follows:

104 Powers and Duties of the Building Official.

104.1 General. The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this Code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this Code.

104.3 Stop Orders. Whenever any work is being done contrary to the provisions of this Code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

(d) Section 105 of said Code is hereby amended and by adding a new Section 105.8 to provide as follows:

105.2. Work exempt from permit.

105.2.2. Fences not over 8 feet high.

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105.8 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of \$100,000, \$300,000 per occurrence, and a property damage limit of \$400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

(e) Section ~~108~~9.4 of said Code is hereby amended to provide as follows:

~~108~~9.4 *Work commencing before permit issuance.* The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

(f) Section ~~110~~1.1 of said Code is hereby amended to provide as follows:

~~110~~1.1 *Use and Occupancy.* No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this Code, or other ordinances of the City shall not be valid.

(g) Section ~~112~~3.1 of the Code is hereby amended to provide as follows:

1123.1 Appeals. Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

(h) Section 1123.2 and 113.3 of the Code ~~is~~^{are} hereby deleted in ~~its~~^{their} entirety.

(i) Section 903, entitled "Automatic Sprinkler Systems" is hereby deleted in its entirety. Sprinkler systems are required as provided in the International Fire Code, 2012~~00~~ Edition, as adopted.

(j) Section 1507.8 of said Code is hereby amended to provide as follows:

1507.8 Wood Shingles and Shakes.

- (a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.
- (b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or reproofing of any structure.
- (c) Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, providing the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs.

(k) Section 1507.9 of said Code is hereby deleted in its entirety.

(l) Appendices. The following Appendices contained in this Code are deleted in their entirety:

Appendix A, Employee Qualifications;

Appendix B, Board of Appeals;

Appendix D, Fire Districts;

Appendix E, Supplementary Accessibility Requirements;

Appendix H, Signs; and

Appendix I, Patio Covers.

The following Appendices are hereby adopted in their entirety:

Appendix C, Group U - Agricultural Buildings;

Appendix F, Rodent Proofing;

Appendix G, Flood-Resistant Construction;

Appendix J of said Code is hereby amended to provide as follows:

J106.1 Maximum Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 3 horizontal to 1 vertical (33 percent) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

1. A cut surface may be at a slope of 2 horizontal to 1 vertical (50 percent) provided that all the following are met:
 - 1.1. It is not intended to support structures or surcharges.
 - 1.2. It is adequately protected against erosion.
 - 1.3. It is no more than 8 feet (2438 mm) in height.
 - 1.4. It is approved by the building official.
2. A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100 percent).

J107.6 Maximum Slope. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 3 horizontal to 1 vertical (33 percent) shall be justified by soils reports or engineering data.

(Ord. No. 2005-13, § 1, 12-19-05)

Secs. 14-37--14-64. Reserved.

ARTICLE III.

AIR CONDITIONING AND MECHANICAL WORK*

* **Cross References:** Fire prevention code, § 34-71 et seq.

Sec. 14-65. International Mechanical Code adopted.

The *International Mechanical Code*, 2003~~12~~ Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary." (Ord. No. 2001-24, § 1, 1-7-02)

Editors Note: Ord. No. 2001-24, § 1, adopted January 7, 2002, repealed and reenacted § 14-65 to read as herein set out. Formerly, § 14-65 pertained to mechanical code and derived from Code 1978, § 5-32.

Sec. 14-66. Amendments to the International Mechanical Code.

- (a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Building Safety. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City ~~Council~~ Manager and may be removed without cause by City ~~Council~~ Manager. The building official may appoint deputies to assist him/her, ~~subject to City Council approval~~. Said deputies shall serve at the pleasure of the ~~City Council~~ building official and may be removed without cause by the ~~City Council~~ building official.

- (b) Sections 106.4.3 and 106.4.4 of said Code are deleted in their entirety and a new Section 106.4.3 is substituted therefor as follows:

106.4.3 Expiration: Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of such permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (c) Section 106 of said Code is amended by adding a new Section 106.5.4, to provide as follows:

106.5.4 State License. All persons performing work within the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

- (d) Said Code is amended by deleting Section 106.5 and Appendix B, entitled 'Permit Fee Schedule' as fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

- (e) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

(Ord. No. 2001-24, § 2, 1-7-02)

Editors Note: Ord. No. 2001-24, § 2, adopted January 7, 2002, repealed and reenacted § 14-66 to read as herein set out. Formerly, § 14-66 pertained to application of article and derived from Code 1978, § 5-33.

Sec. 14-67. Work done by homeowners.

A homeowner shall be permitted to do mechanical work on the dwelling he resides in, provided a permit is acquired for such work and the work is inspected and approved by the city.
(Code 1978, § 5-34)

Sec. 14-68. Work restricted.

No mechanical work shall be performed by any person not the holder of a state license, if it is required by the state to have a license, and having complied with all requirements of the state for the performance of such work.
(Code 1978, § 5-39)

Sec. 14-69. Issuance of permits restricted.

A holder of a master mechanical installer's license who is employed as a master for a person shall take out mechanical permits only for that person, and shall supervise, direct and control the mechanical work for which the mechanical permit is obtained. A master who is engaged in the mechanical business for himself shall take out mechanical permits for his business only and no mechanical permit shall be taken out by any master that he does not supervise, direct and control the mechanical work for which the permit was obtained.
(Code 1978, § 5-41)

Sec. 14-70. Misuse of city registration.

No master mechanical installer shall assign or in any other way convey his registration, the use thereof, or any rights thereunder, to anyone by power of attorney or any other process, or become involved in any type of agreement, assignment or use whereby the master will not have supervision, direction and control of the mechanical work for which the mechanical permit is obtained by the master.
(Code 1978, § 5-42)

Sec. 14-71. Supervision of work.

All mechanical work performed within the city shall be done under the control, supervision, direction and responsibility of a master. Any other worker who performs the mechanical work under the supervision, control and responsibility of the master shall be an employee of the master.
(Code 1978, § 5-43)

Sec. 14-72. Payroll records.

For purposes of enforcing this article, the mechanical inspector, or his designated representative, may examine the payroll records for the preceding 12 months of the master, during normal business hours. Should the master fail or refuse to make a full, true and accurate disclosure of his payroll records, the mechanical inspector may, after written notification by certified mail, withhold the issuance of mechanical permits to that master until such time as there has been a full, true and accurate disclosure of the payroll records. Violation of

this section will be subject to the penalty as provided for violation of any city ordinance.
(Code 1978, § 5-44)

Sec. 14-73. Suspension, withholding or revocation.

(a) When given a ten-day notice by registered or certified mail, and after a hearing before a board appointed by the city council, where the person notified may be represented by an attorney at law of his choice, the holder of a license or certificate issued under the provisions of this article may have his license or certificate revoked or suspended by the city for any of the following reasons:

- (1) Habitual drunkenness or the use of narcotics.
- (2) Conviction of a crime involving moral turpitude.
- (3) Adjudication of insanity.
- (4) Fraud or misrepresentation in obtaining a registration or permit.
- (5) Violating on more than one occasion, either willfully or maliciously, or by reason of incompetence, any provision of this article or the Standard Mechanical Code or amendments thereto.
- (6) Conviction of defrauding any person from whom he has rendered or contracted to render service.
- (7) Securing permit for mechanical work not actually performed by the master or by licensed employees under his control, supervision and direction. This is intended to prevent a master from securing a permit for the purpose of evading the spirit and intent of this article by entering into any simulated scheme, transaction or device, whereby mechanical work will be done by persons who are not employees of the master, or employees of his employer.
- (8) Securing a permit under any pretext for any installation concerning which applicant has no valid contract. This is intended to prevent a master from securing a permit for the purpose of evading the spirit and intent of this article by simulated scheme, transaction or device, or performing mechanical work without a valid permit.

(b) The city may withhold the issuing or renewal of a license or registration certificate to an applicant by the same process used for revocation or suspension as described above.
(Code 1978, § 5-45)

Secs. 14-78--14-99. Reserved.

ARTICLE IV.

ELECTRICITY

DIVISION 1.

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GENERALLY

Sec. 14-100. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apprentice electrician means the person undertaking electrical work under the direct, constant, personal supervision and control of either a licensed master electrician or a licensed journeyman electrician.

Electrical inspector means the building official or his designee as electrical inspector of the city charged with the enforcement of this article and all provisions of this Code and the pertaining city ordinances.

Electrical work means the installing, maintaining, altering, repairing or erecting of any electrical wiring, apparatus, devices, appliances, fixtures or equipment for which a permit is required by the provisions of this article, except poles and guy anchors installed by any electric, telephone, telegraph, signal and/or public service company as a part of its distribution system.

Journeyman electrician means those persons with four years substantiated electrical experience undertaking electrical work under the supervision, direction, and control of a licensed master electrician and who has been properly registered with the city. The term "journeyman electrician," however, shall not include an "apprentice electrician," and nothing in this definition shall be construed as prohibiting an apprentice electrician from doing electrical work under the direct, constant, personal supervision and control of either a licensed master or a licensed journeyman electrician.

Master electrician means the holder of a master electrician's license as provided in this article.

Sec. 14-101. Liability for damages.

The provisions of this article shall not be construed to relieve from or lessen the responsibility of any party owning, operating, or controlling any electric wiring, apparatus, devices, appliances, fixtures or equipment for damages to person or property caused by any defect therein, nor shall the city be held as assuming by this section any such liability by reason of the inspection authorized in this article, or the certificates of approval issued as provided in this article, or otherwise.

Sec. 14-102. Reserved.

Sec. 14-103. Unfranchised public utilities.

(a) No person or public service company that does not operate under a franchise granted by the city shall have the right to install any electrical conduit, wires, ducts, poles or equipment of any character for the transmission, distribution or utilization of electric energy, or for the operation of signals or the transmission of intelligence on, over or under the streets, in the city, without first obtaining from the city council a franchise right or grant for

the particular installation so desired to be made, and any such installation so made under such franchise or grant shall be in strict conformity with all pertaining rules, regulations and ordinances of the city.

(b) Any installation of duct, conduit or wires under the public streets shall be in accordance with this article and other city ordinances covering the use of public places and streets.

Sec. 14-104. Penalty for violation.

Any person who shall violate any provision of the code adopted by the provisions of this article shall be deemed guilty of an offense, and shall be punished as provided in section 1-14 of this Code. Each day such violation continues shall be deemed a separate offense.

Secs. 14-105--14-114. Reserved.

DIVISION 2.

ELECTRICAL INSPECTOR

Sec. 14-115. Office established.

The office of the electrical inspector is hereby established in and for the city and shall be the City's Building Official or his designee.

Sec. 14-116. Appointment.

The electrical inspector shall be the City's Building Official or his designee.

Sec. 14-117. Office may be combined.

The chief electrical inspector may be the same person as the city building official.

Sec. 14-118. Conflict of interest.

It shall be unlawful for the electrical inspectors to engage in the business of the sale, installation or maintenance of electrical wiring, apparatus, devices, appliances, fixtures or equipment either directly or indirectly. They shall have no financial interest in any concern engaged in such business in the city at any time while holding the office of electrical inspector for the city.

Sec. 14-119. Interfering with electricians in business.

(a) It shall be unlawful for any person connected with the electrical inspection department of the city in any way whatsoever to solicit business of any kind for any master electrician, or assist or encourage the solicitation of any business for any master electrician.

(b) It shall be unlawful for any person connected with the electrical inspection department of the city to prevent or to assist in preventing any person from doing business with any master electrician whose license has not been suspended or revoked.

Sec. 14-120. Duties generally.

The electrical inspector shall, upon application, cause to be issued permits for the installation and alteration of electrical wiring, devices, appliances, fixtures, apparatus and equipment, and final inspections, and shall be responsible for inspection of all new electrical installations and re-inspections of all electrical installations, as provided for in this article.

Sec. 14-121. Right of entry.

The electrical inspector or his designee shall have the right to enter any building in the discharge of his official duties or for the purpose of making any inspection or re-inspection of the installation of electrical electric wiring, apparatus, devices, appliances, fixtures, and electrical equipment.

Sec. 14-122. Disconnect service.

The electrical inspectors are hereby empowered, in emergencies, to disconnect and to order the discontinuance of electrical services to any electric wiring, apparatus, device, appliance, fixture or equipment found to be dangerous to life or property within the provisions of this article until such wiring, apparatus, device, appliance, fixture or equipment and its installation has been made safe.

Sec. 14-123. Decision of questions.

The electrical inspector shall decide all questions not provided for in this article pertaining to the installation, operation, or maintenance of electric wiring and apparatus, subject to appeal to the city council.

Sec. 14-124. Review of decisions.

Any person aggrieved by any action of an electrical inspector may within ten days after such action file a petition, in writing, with the city council and thereupon the city council will render a decision within 15 days. The city council shall have the right to sustain, modify or reverse the action of any electrical inspector, provided, that until such time as the electrical inspector's action is reversed or modified by the city council, such action shall remain in effect. The decision of the city council shall be final.

Sec. 14-125. Records.

The electrical inspector shall keep complete records of all permits issued, inspections and re-inspections made, and other official work performed in accordance with the provisions of this article.

Secs. 14-126--14-139. Reserved.

DIVISION 3.

ELECTRICIANS

Subdivision 1.

Generally

Sec. 14-140. Work restricted.

No electrical work shall be performed by any person not holding a license required by the provisions of this division.

Sec. 14-141. Homeowners.

A homeowner shall be permitted to do electrical work on the dwelling he resides in, provided a permit is acquired for such work and the work is inspected and approved by the electrical inspector.

Secs. 14-142--14-146. Reserved.

Sec. 14-147. Supervision of work.

All electrical work performed within the city shall be under the control, supervision, direction, and responsibility of a master electrician licensed by the [sState of Texas](#). A journeyman or apprentice electrician shall perform the actual work under the supervision, control and responsibility of a master electrician.

Secs. 14-148--14-164. Reserved.

Secs. 14-173. Reserved.

Secs. 14-175--14-184. Reserved.

Subdivision III.

Master Electrician

Sec. 14-185. License required.

Except as otherwise provided by this article, it shall be unlawful for any person to perform or contract for electrical work within the city unless such person is licensed by the [sState of Texas](#) as a master electrician.

Secs. 14-186--14-192~~3~~. Reserved.

Sec. 193. Insurance

(a) For any permits to be issued, the applicant must provide evidence of holding a comprehensive general liability insurance policy (including products liability and completions operations coverage) with minimum limits of \$1,000,000.00 for death or bodily injury and \$250,000.00 for property damage, per occurrence. This policy must be issued by a carrier with a rating of B+ or better in the last published edition of Best's Insurance Reports-Property Casualty Volume (published by A. M. Best Company, Oldwich, New Jersey 08858). Proof of the coverage shall be provided in the form of a certificate issued by an authorized agent or employee of the company issuing the policy, that specifies coverage and identifies the insured. Each certificate shall provide that not less than 30 days' written notice shall be given to the city in the event of reduction or cancellation of the policy prior to the expiration date specified on the certificate, or lapse by nonrenewal.

(b) These insurance requirements would not apply to any permits obtained by homeowners as outlined in section 14-141.

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Sec. 14-194. Issuance of permits restricted.

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A master electrician shall take out electrical permits only under his own license, and shall supervise, direct and control the electrical work for which the electrical permit is obtained.

Sec. 14-195. Misuse of license.

No master electrician shall assign or in any other way convey his license, its use, or its rights, to anyone by power of attorney or any other process, or become involved in any type of agreement, assignment or use whereby the master electrician will not have supervision, direction and control of the electrical work for which he has obtained electrical permits.

Secs. 14-196--14-209. Reserved.

Subdivision IV.

Journeyman Electrician

Sec. 14-210. License required.

No person shall undertake any work as a journeyman electrician unless such person has first obtained the appropriate current [State of Texas](#) electrician license.

Secs. 14-211--14-214. Reserved.

Sec. 14-215. Display.

Every journeyman electrician shall carry his license while performing the acts which this license entitles him to perform.
(Ord. No. 2000-30, § 2, 1-2-01)

Secs. 14-216--14-229. Reserved.

Subdivision V.

Apprentice Electrician Registration

Sec. 14-230. License required.

No person shall undertake any work as an apprentice electrician unless such person has first obtained the appropriate current [State of Texas](#) electrician license.

Secs. 14-231--14-233. Reserved.

Sec. 14-233. Reserved.

Sec. 14-234. Display.

Every apprentice electrician shall carry his license while performing the acts which this license entitles him to perform.

Secs. 14-235--14-244. Reserved.

DIVISION 4.

PERMITS AND INSPECTIONS

Sec. 14-245. Permit required.

No wiring, poles, duct line, apparatus, devices, appliances, fixtures or equipment for the transmission, distribution or utilization of electrical energy for any purpose shall be installed within the city limits, nor shall any alteration or addition be made to any such existing wiring, poles, duct lines, apparatus, devices, appliances, fixtures or equipment without first securing a permit.

Sec. 14-246. Exceptions-enumerated.

(a) No permit shall be required for replacing fuses or lamps or the connection of portable equipment to suitable permanently installed receptacles or for repairs to portable appliances.

(b) No permit shall be required for replacing flush or snap switches, receptacles, light fixtures or minor repairs on permanently connected electrical appliances, replacement of small motors of same voltage, amperage, horsepower, but not to exceed three horsepower.

(c) No permit shall be required for the installation, maintenance or alteration of wiring poles and down guys, apparatus, devices, appliances or equipment for telegraph, telephone, signal service or central station protective service used in conveying signals or intelligence, except where electrical work is done on the primary side of the source of power at a voltage over 50 volts and of more than 500 watts.

(d) No permit shall be required for the installation, maintenance or alteration of electric wiring, apparatus, devices, appliances or equipment to be installed by an electric public service company for the use of such company in the generation, transmission, distribution, sale or utilization of electrical energy. However, an electric public service company shall not do any wiring on a customer's premises other than wiring which is a part of the company's distribution system, including metering equipment wherever located and transformer vaults in which company's transformers are located, nor shall any of its employees do any work other than that done for such company as herein before provided for, by virtue of this exception.

(e) No permit shall be required for the installation of temporary wiring, apparatus, devices, appliances or equipment used by a recognized electrical training school or college.

(f) No permit shall be required for the installation and maintenance of railway crossing signal devices when such is performed by due authority of the railroad and in accordance with the standards of the American Railroad Association.

Sec. 14-247. Same-Compliance.

Where no permit is required for the installation or repair of wiring, apparatus, devices, or equipment for the transmission, distribution, or utilization of electrical energy for any purpose, the wiring, apparatus, devices or equipment shall be installed or repaired in conformity with the provisions of the version National Electric Code adopted by Council.

Secs. 14-248--14-250. Reserved.

Sec. 14-251. Emergencies.

The electrical inspector may issue and enforce any rules or regulations he may deem necessary covering the granting of emergency permits.

Sec. 14-252. Application.

To obtain an electrical permit, the applicant shall first file an application in writing. Each application shall:

- (1) Identify and describe the work to be covered by the permit.
- (2) Describe the location of the proposed work by street address.
- (3) Show the use or occupancy of the building.
- (4) Be accompanied by plans and specifications as required by the electrical inspector. However, a permit may be issued covering part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been made complying with all pertinent requirements of this article. The holder of such permit may proceed without assurance that the permit covering the work in the entire building or structure will be granted.
- (5) Be signed by the master electrician.
- (6) The permit, when issued, shall be issued to the applicant to cover the proposed work as described and detailed. Any changes or additions must be covered by additional permits at the time changes are made.

Sec. 14-253. Checking of plans and specifications.

The application, plans, and specifications filed by an applicant for an electrical permit shall be checked by the electrical inspector. The issuance of a permit based upon these plans and specifications shall not prevent the electrical inspector from requiring the correction of errors. Such plans may be reviewed by other departments of the city to check compliance with laws and ordinances under their jurisdiction.

Sec. 14-254. Fees.

(a) Before any permit shall be issued, under the provisions of this division, the applicant shall pay fees according to the established schedule.

(b) Ordinary fees will be doubled for any permit issued after the work has been started or after the work has been partially completed or concealed.

(c) In case it becomes necessary to make a re-inspection of any work, fees will be charged according to the established schedule.

Sec. 14-255. Temporary installations.

No permit for temporary use shall be valid for a longer period than 90 days unless required for construction purposes. At the end of 90 days, the electrical inspector may issue written instructions to the electric public service company to disconnect service to the temporary installation. A letter addressed to occupant" at the address of the temporary installation shall be deemed as being sufficient to notify the owner, if name and address of owner is not known to the electrical inspector.

Secs. 14-256--14-260. Reserved.

Sec. 14-261. Display.

Any permit for electrical work shall be displayed in a visible location.

Sec. 14-262. Expiration.

Every permit issued shall expire and become null and void if the building or work authorized by such permit is not commenced within 60 days from the date of the permit or if the building or work authorized by the permit has been suspended for a period of 180 days. Before such work can be restarted, a new permit shall be obtained.

Sec. 14-263. Refusal to finish installation.

Any electrical contractor who accepts payment for electrical work, then refuses to finish the work for which a permit was issued, shall, after written notification by the electrical inspector, and after being reviewed by the city council, be prohibited from pulling permits or performing new work within the city limits until such work is completed.

Sec. 14-264. Suspension or revocation.

The electrical inspector may, in writing, suspend or revoke an electrical permit issued under the provisions of this division whenever the permit is issued in error or on the basis of incorrect information supplied or when in violation of any ordinance, regulation or any of the provisions of this article.

Secs. 14-265--14-268. Reserved.

Sec. 14-269. Certificate of approval.

When the electrical work is found to be in compliance with this article, the electrical inspector shall give approval to the public utility company authorizing connection of the electrical service.

Secs. 14-270--14-271. Reserved.

Sec. 14-272. Death of master electrician.

After the death of a master electrician, for a period of 60 days, any person engaged in the electrical contractor business shall have the privilege of completing any work currently authorized under the master electrician's license.

Secs. 14-273--14-283. Reserved.

Sec. 14-284. Adoption.

(a) ~~The latest edition of the National Electrical Code prepared by the National Fire Protection Association, Inc., as adopted by the city council, will be in effect, copies of which are available for review in the building official's office and the city secretary's office.~~ With the passing of the Ordinance from which this article derives, the 2011 edition of the National Electrical Code, NFPA 70, prepared by the National Fire Protection Association, Inc., will be adopted.

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(b) In case of conflict between the provisions of the National Electrical Code and the provisions of this article, this article shall prevail.

Secs. 14-285--14-292. Reserved.

Sec. 14-293. Special provisions.

(a) Temporary power poles shall have a minimum of two 120-volt duplex receptacles and one 240-volt receptacle.

(b) Electrical metallic tubing (EMT) shall not be buried in ground nor embedded in concrete.

(c) Aluminum conductors are only permitted to be installed in the following circumstances;

(i) overhead between poles, and

(ii) for new commercial buildings, 5,000 square feet or larger, on all service entrance conductors and feeder conductors, both interior and exterior, sized 4/0 and larger, and

(iii) underground from pole to pole and from pole to outside electrical box that is not attached to a building or structure.

Secs. 14-294--14-314. Reserved.

ARTICLE V.

HOUSING

DIVISION 1.

GENERALLY

Secs. 14-315--14-324. Reserved.

DIVISION 2.

HOUSING CODE*

* **Cross References:** Fire prevention code, § 34-71 et seq.

Sec. 14-325. International Residential Code adopted.

The *International Residential Code*, 2003~~12~~ Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., is hereby adopted. A copy of said Code is attached to the ordinance from which this section derives and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

(Ord. No. 2001-25, § 1, 1-7-02)

Editors Note: Ord. No. 2001-25, § 1, adopted January 7, 2002, repealed and reenacted § 14-325 to read as herein set out. Formerly, § 14-325 pertained to the adoption of the housing code and derived from Code 1978, § 11-16.

Sec. 14-326. Conflicts.

Upon any conflict with the provisions of the code adopted by this division and the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations, the provisions of this Code of Ordinances, state law or city ordinances, rules or regulations shall prevail and be controlling.
(Code 1978, § 11-17)

Sec. 14-327. Enforcement.

The code adopted by this division shall be enforced by the building inspector.
(Code 1978, § 11-18)

Sec. 14-328. Amendments to the International Residential Code.

(a) Section R103 of said Code is hereby amended to provide as follows:

R103 Department of Building Safety. The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City ~~Council~~ Manager and may be removed without cause by City ~~Council~~ Manager. The building official may appoint deputies to assist him/her, -

~~subject to City Council approval.~~ Said deputies shall serve at the pleasure of the ~~City Council~~ building official and may be removed without cause by ~~City Council~~ the building official.

(b) Section R105.2. Work exempt from permit.
105.2.2. Fences not over 8 feet high.

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~~(b)~~(c) Section R105.5 of said Code is hereby amended to provide as follows:

R105.5 Expiration: No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit. Section R103 of said Code is hereby amended to provide as follows:

~~(c)~~(d) Section R105 of said Code is hereby amended by adding a new Section

R105.10 to provide as follows:

R105.10 Liability Insurance. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City. Comprehensive general liability insurance covering all risks associated with the work, with a minimum bodily injury limit of \$100,000, \$300,000 per occurrence, and a property damage limit of \$400,000, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

~~(d)~~(e) Section R108 of the Code is amended by adding to section R108.2 the following provision:

R108.2 Schedule of permit fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time.

~~(e)~~(f) Section R108 of said Code is hereby amended by adding a new Section R108.6 to provide as follows:

R108.6 Work commencing before permit issuance. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

~~(f)~~(g) Section R112.1 of the Code is hereby deleted and new Section 112.1 is substituted therefor as follows:

112.1. *Appeals.* Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this Code shall be to the City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

(g) Section R112.3 of the Code is hereby deleted in its entirety.

(h) Section R113 of the Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(i) Sections R905.7 and R905.8 of the Code are deleted in their entirety and a new Section R905.7 is substituted therefor as follows:

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R905.7 Wood Shingles and Shakes

(a) Allowed roof coverings of any structure regulated by this Code shall be as provided in this Section.

(b) Wood shingles and shakes are not allowed, shall not be allowed as an alternative material, and shall not be installed or used on any new construction or re-roofing of any structure. Existing structures which have wood shingles or shakes may be repaired with fire-retardant shingles or shakes of a comparable grade; however, owners shall have the option of installing any allowed Class A, Class B, or Class C roofing material, over the existing wood shingles and shakes, provided that the existing roof structural system is adequate for modification. "Repair" means the replacement of damaged or destroyed shingles or shakes, provided the area repaired does not exceed twenty-five percent (25%) of the square foot surface area of the roof. A wood shingle or shake roof may not be replaced with wood shingles or shakes in increments which are undertaken as repairs.

(k) Appendices. The following Appendices contained in the Code is deleted its entirety:

Appendix E, Manufactured Housing Used As Dwellings

Appendices B through D contained in the Code are hereby adopted."

Sec. 14-329. Penalty for violation.

Any person who shall violate any provision of the code adopted by this division shall be deemed guilty of a misdemeanor, and shall be punished as provided by section 1-14 of this Code.
(Code 1978, § 11-20)

Secs. 14-330--14-339. Reserved.

DIVISION 3.

SUBSTANDARD BUILDINGS

Sec. 14-340. Reserved.

Editors Note: Ord. No. 2005-03, § 1, adopted May 2, 2005, repealed § 14-340 in its entirety, which pertained to codes adopted, and derived from original codification.

Sec. 14-341. Building standards commission.

(a) The building standards commission is created, to be composed of five members. The members of the city planning commission shall serve in the role of the building standards commission in addition to their duties as a planning commission. When fulfilling their duties as the city's building standards commission, the commission shall give public notice through its posted agenda, and such other notice as may be required, in a manner intended to notify the public of the role and duties the commission is fulfilling.

(b) In addition to the five members of the building standards commission, the city fire marshal and the building inspector shall be ex officio, nonvoting members of the commission. Any employee of the city designated by the city manager shall be authorized to act as substitute for the respective superior of their respective department or division as an ex officio member of the building standards commission.
(Code 1978, § 11-36; Ord. No. 92-04, § 1.0, 5-5-92)

Sec. 14-342. Enforcement of orders.

It shall be the duty of the city council to enforce the orders of the building standards commission or orders of the city council, if an appeal is made, which orders are to be enforced by the council filing action in the appropriate court of this state when so authorized by the council.
(Code 1978, § 11-33)

Sec. 14-343. Determination.

All buildings or structures, including but not limited to mobile homes or portable-type buildings, which have any or all of the following defects or lack of facilities shall be deemed substandard buildings or structures:

- (1) All buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail or rain, or damage through fire, to the extent that the roof, windows and doors, or portions of the house, building or structure which protect from the weather, will no longer reasonably protect from the weather.
- (2) All buildings or structures which constitute, or in which are maintained, fire hazards.
- (3) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand reasonable anticipated storms and/or hurricanes.
- (4) All buildings or structures so constructed or permitted to be so constructed as to constitute a menace to health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease, including such conditions hazardous to safety as adequate bracing or the use of deteriorated materials.

(Code 1978, § 11-34)

Sec. 14-344. Nuisance declared.

All substandard buildings or structures within the term of this division which shall constitute a menace

to the health, morals, safety or general welfare of its occupants or of the public are declared to be public nuisances and shall be ordered to be vacated, repaired or demolished as hereinafter provided.
(Code 1978, § 11-35)

Sec. 14-345. Inspectors.

It shall be the duty of the ex officio members of the building standards commission to inspect all buildings or structures reported to be or believed to be substandard and to present a report of such inspection to the commission, which shall, except in cases of emergency as hereinafter set forth, notify the proper party of the intention of such commission to hold its hearing and follow the procedure provided in section 14-348.
(Code 1978, § 11-37)

Sec. 14-346. Criteria for determination of repair, vacation or demolition.

The following standards may be followed in substance by the building standards commission in ordering repair, vacation or demolition:

- (1) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this division, it shall be ordered repaired.
- (2) If the substandard building or structure is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants or the public, it shall be ordered to be vacated.
- (3) In any case where a substandard building or structure is 50 percent damaged or decayed, it shall be demolished, and in all cases where a building cannot be repaired so that its existence will no longer be in violation of the terms of this division, it shall be demolished.

(Code 1978, § 11-38)

Sec. 14-347. Procedure for condemnation.

Where an emergency does not exist, the following steps may be taken in the condemnation of a substandard building:

- (1) When it shall come to the notice of the building standards commission that a building or structure in the city is substandard under the terms of this division, the commission may cite the owner of the building or structure or his authorized agent or representative to appear and show cause why such building should not be declared to be a substandard building and why he should not be ordered to vacate, repair or destroy such building or structure. The date of such hearing shall be not less than ten days after such citation shall have been made.
- (2) Such citation may be served by delivery of a copy thereof to the owner or the person in possession, or, if such premises be unoccupied, by attaching a copy of such citation in a place of prominence on such building or structure.
- (3) On the day set in such citation for the hearing, the hearing shall be had and on the basis of such hearing the building standards commission shall determine whether or not such building or

structure is a substandard building or structure; then, in that event, the commission shall issue such orders as shall appear reasonably necessary to prevent the building or structure from being a hazard to life or property and to eliminate the building or structure's substandard qualities.

- (4) The owner of any substandard building or structure or his authorized representative may appeal from the decision of the building standards commission by giving notice thereof within ten days from the date of the hearing to the city secretary and file with the city secretary a fee of \$10.00. Such appeal shall be to the city council, and upon the perfection of appeal the city council shall set a date for having before it and such appeal shall be by a trail de novo.
- (5) Pending appeal, such orders of the building standards commission as shall require vacation of the alleged substandard building or structure or such emergency measures as may have been ordered shall remain in effect, but all other orders of the commission shall be suspended in their operation.

(Code 1978, § 11-39)

Sec. 14-348. Emergency measures for condemnation.

When it shall appear that a building or structure in the city is a substandard building or structure under the terms of this division and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property, the condition shall be deemed a condition justifying the use of emergency measures, and the building standards commission, or a majority of the commissioners, may order any of the following emergency measures to be taken:

- (1) Immediate vacation of such building, structure and/or adjoining buildings or structures.
- (2) Vacation of the danger area around such building or structure.
- (3) Such emergency shoring-up and bracing of walls, roofs and supports as are required to render such buildings or structures safe.
- (4) The destruction of such walls, roofs and supports or the entire structure or so much thereof as cannot be braced or made secure.
- (5) The posting of notices on or near such building or structure notifying the public of such order and ordering all persons to keep out of such building or structure and the areas of danger surrounding it.

(Code 1978, § 11-40)

Sec. 14-349. Notice of emergency measures.

When any of the measures as set forth in section 14-348 are ordered to be taken, notice of such order shall be given as follows:

- (1) Such order shall be directed to the owner of such building or structure or his authorized representative, if such shall be known. Where notification can be accomplished without

increasing the danger to life or property, notice shall be given by personal service on the owner, if known, of the building or structure or his representative.

- (2) If such notification would create such a delay as would materially increase the danger to life or property, then such notice need not be given.

(Code 1978, § 11-41)

Sec. 14-350. Lien against property.

If notification is unnecessary or if such notice is given and the owner or his representative shall refuse or fail to carry out the order of the building standards commission or shall fail to carry out such order satisfactorily in the judgment of the commission, then, in either of such events, the commission, upon approval of the mayor, may proceed to carry out such order, either by private contract or through an agency of the city, and all costs thus incurred shall constitute a valid lien against the property so affected.

(Code 1978, § 11-42)

Secs. 14-351--14-354. Reserved.

DIVISION 4.

CORRECTIONAL FACILITIES

Sec. 14-355. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Church means a building, whether situated within the city or not, in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Community center means a community facility, whether situated within the city or not, operated by an association engaged in promoting the religious, educational and physical development of boys, girls, young men or young women operating under a state or national organization of like character, or a multiservice center, whether situated within the city or not.

Correctional facility means a facility for the housing and rehabilitation or training of adults on parole, early or prerelease, or any other form of executive, judicial or administrative release from a penal institution. Such a facility shall not include a facility which is:

- (1) Used primarily as a temporary holding facility;
- (2) Used primarily for persons arrested for or found guilty of misdemeanor offenses;
- (3) Located in or near court facilities; or

- (4) Used primarily to hold prisoners awaiting transfer to a state facility.

Director means the city manager and such employees of the city as he may designate to perform the duties of the director under this division.

Facility for the elderly means a nursing home for the elderly licensed by the state, a board and lodging home for senior citizens registered with the state, or a nutrition site for the elderly operated by the city, whether situated in the city or not.

Licensed day-care center means a facility licensed by the state, whether situated within the city or not, that provides care, training, education, custody, treatment or supervision for more than 12 children under 14 years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than 24 hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

Operator means the manager or other natural person principally in charge of a correctional facility.

Owner means the proprietor if a sole proprietorship, all general partners if a partnership, the corporation if a corporation, or a governmental entity.

Permit means a current, valid permit issued by the director pursuant to the terms of this division to an operator for a correctional facility.

Planning commission means the planning commission created by the city Charter in Charter section 10.01.

Public park or recreational facility means a publicly owned or controlled park or recreation facility operated for the benefit of the general public, whether situated in the city or not, and including but not limited to those park and playground properties placed under the direction and control of the city parks and recreation department.

Residential means pertaining to the use of land, whether situated within the city or not, for premises such as homes, townhomes, patio homes, mobile homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for nontransient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. A premises which is designed primarily for living, sleeping, cooking and eating therein shall be deemed to be residential in character unless it is actually occupied and used exclusively for other purposes. Hotels, motels, boardinghouses, nursing homes, hospitals and nursery schools shall not be considered to be residential.

School means a building, whether situated within the city or not, where persons regularly assemble for the purpose of instruction or education together with the playgrounds, stadia and other structures or grounds used in conjunction therewith. The term is limited to:

- (1) Public and private schools used for primary or secondary education, in which any regular kindergarten or grades one through 12 classes are taught;

- (2) Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one through 12; and
- (3) Public and private institutions of higher education.

Tract means a contiguous parcel of land under common ownership, whether situated within the city or not.

(Ord. No. 91-12, § 2(11-50), 11-18-91)

Cross References: Definitions generally, § 1-2.

Sec. 14-356. Permit required.

(a) It shall be unlawful for any person to own or operate a correctional facility located within the city unless there is a permit for the correctional facility.

(b) It shall be unlawful for any person to own or operate a correctional facility located within the city unless the permit is posted at or near the principal public entrance to the correctional facility in such a manner that it will be conspicuous to all who enter the premises.

(c) In any prosecution under subsection (a) of this section, it shall be presumed that there was no permit at the time of the alleged offense, unless a permit was then posted as provided in subsection (b) of this section.

(Ord. No. 91-12, § 2(11-51), 11-18-91)

Sec. 14-357. Permit applications.

(a) Applications for a permit, whether original or renewal, must be made to the director by the intended operator of the correctional facility. Applications must be submitted by hand delivery to the office of the director during regular working hours (8:00 a.m. to 4:00 p.m., Monday through Friday, city holidays excepted). Application forms shall be supplied by the director. The intended operator shall be required to give the following information on the application form:

- (1) The name, street address, and mailing address if different, and state driver's license number of the intended operator;
- (2) The name and street address, and mailing address if different, of the owner;
- (3) The name under which the correctional facility is to be operated, a general description of the services to be provided, including the name of any federal, state or other governmental entity for which the services are to be provided, the classification of offenders to be served, the maximum number of beds which are permitted to be provided as well as the number of beds which are intended to be used, and if operated on behalf of a governmental entity, a copy of any existing contract or bid specifications for its operation, all security and resident monitoring plans required under state or federal law, and any additional security and monitoring measures which are to be implemented;

- (4) The telephone number of the correctional facility;
 - (5) The address and legal description of the tract of land on which the correctional facility is to be located;
 - (6) If the correctional facility is in operation, the date on which the owner acquired the correctional facility for which the permit is sought, and the date on which the correctional facility began operations as a correctional facility at the location for which the permit is sought;
 - (7) If the correctional facility is not in operation, the expected startup date, which shall be expressed in number of days from the date of issuance of the permit. If the expected startup date is to be more than ten days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.
- (b) The application shall be accompanied by the following:
- (1) Payment in full of a fee of \$350.00 for an original application, or \$100.00 for a renewal application, as applicable, by certified check, cashier's check or money order, which fee shall not be refundable under any circumstances;
 - (2) If the correctional facility is to be operated under an assumed name, a certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act, V.T.C.A., Business and Commerce Code § 36.01 et seq.;
 - (3) If the correctional facility is a state corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
 - (4) If the correctional facility is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 - (5) If the correctional facility is a limited partnership formed under state law, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the secretary of state under the Texas Revised Limited Partnership Act, Vernon's Ann. Civ. St. art. 6132a-1;
 - (6) If the correctional facility is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto, filed in the office of the secretary of state under the Texas Revised Limited Partnership Act, Vernon's Ann. Civ. St. art. 6132a-1;
 - (7) Proof of the current fee ownership of the tract of land on which the correctional facility is to be situated in the form of a copy of the recorded deed;
 - (8) If the persons identified as the fee owners of the tract of land in subsection (7) of this subsection are not also the owners of the correctional facility, then the lease, purchase contract, purchase

option contract, lease option contract or other documents evidencing the legally enforceable right of the owners or proposed owners of the correctional facility to have or obtain the use and possession of the tract or portion thereof that is to be used for the correctional facility for the purpose of the operation of the correctional facility;

- (9) Any of subsections (2) through (8) of this subsection shall not be required for a renewal application if the applicant states that the documents previously furnished the director with the original application or previous renewals thereof remain correct and current.

- (c) A separate application and permit shall be required for each correctional facility.

(Ord. No. 91-12, § 2(11-52), 11-18-91)

Sec. 14-358. Term of permit; renewal.

Each permit issued under this division shall be valid for a period of one year and shall expire on the anniversary of its date of issuance, unless sooner revoked or surrendered. Each permit shall be subject to renewal as of its expiration date by the filing of a renewal application with the director. Renewal applications must be filed at least 20 days prior to the expiration date of the permit that is to be renewed.

(Ord. No. 91-12, § 2(11-53), 11-18-91)

Sec. 14-359. Issuance or denial of permit.

- (a) Within 35 days of receipt of any application, either original or renewal, the director shall grant or deny the requested permit and give written notice to the applicant as to the decision.

- (b) The director shall issue a permit to the applicant unless one or more of the following conditions exist:

- (1) The applicant's correctional facility is located within 2,000 feet of any church, community center, facility for the elderly, licensed day-care center, public park or recreation facility or school. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's correctional facility to the nearest point on the property line of such church, community center, facility for the elderly, licensed day-care center, public park or recreation facility or school;
- (2) The applicant's correctional facility is located within 2,000 feet of any other correctional facility for which there is a permit or which is by law exempt from the terms of this division. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's correctional facility to the nearest point on the property line of any other correctional facility;
- (3) Seventy-five percent or more of the tracts within a circular area are residential in character. The radius of such circular area shall be 2,000 feet, and the center of such circular area shall correspond to the midpoint of a line adjoining the two most distant points on the boundary of the tract on which the correctional facility is located;

- (4) The applicant failed to supply all of the information requested on the application;
- (5) The applicant gave materially false, fraudulent or untruthful information on the application;
- (6) The application or the correctional facility does not meet any other requirement of this division;
- (7) The operator has had a permit revoked for the same enterprise within the 180-day period next preceding the date that the application was filed;
- (8) The applicant has not demonstrated that the owner of the correctional facility owns or holds a lease for the property or the applicable portion thereof upon which the correctional facility will be situated or has a legally enforceable right to acquire the same; or
- (9) The applicant's correctional facility will or is intended to house more than 75 adults on parole, early or prerelease, or any other form of administrative release from a penal institution.

(c) Property uses and distances for original applications shall be determined as of the time that the application is filed. If a renewal application is timely filed as provided in section 14-358, the property uses and measurements for the renewal application shall be determined as of the time that the original application for the correctional facility was filed. If not timely filed, renewal applications shall be subject to the same fees and shall be treated in the same manner in all respects as original applications.

(d) If the director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within 35 days of the receipt of its application by the director. An applicant may appeal the decision of the director regarding such denial by filing a written request for a hearing with the director within 15 days after he is given notice of such denial. The director's decision on the application shall be final unless an appeal is timely filed. The applicant's written request for a hearing shall set out the grounds on which the denial is challenged. An evidentiary hearing shall be conducted by the planning commission under rules consistent with this Code and with the nature of the proceedings, and which ensure that each party may present evidence, cross-examine witnesses and be represented by legal counsel.

(e) The planning commission shall conduct the hearing within 30 days after receipt of the applicant's written request for a hearing unless the applicant requests an extension in writing. The planning commission shall render a written decision, adopted by majority vote of those present at the hearing, and shall issue notice thereof to the applicant within ten days after the conclusion of the hearing. A tie vote of those present at the hearing shall constitute a denial of the appeal. The written decision of the planning commission shall be final unless an appeal is filed to city council pursuant to subsection (f) of this section.

(f) The applicant may appeal the decision of the planning commission to the city council by filing a written notice of appeal and all materials otherwise required by this Code for such an appeal with the city secretary within 15 days after the applicant is given notice of the planning commission's decision. A vote of city council shall be taken within 30 calendar days after the date on which the city secretary receives the notice of appeal. All parties shall be required to comply with the planning commission's decision during the pendency of the appeal; provided, however, that an applicant for a renewal or transfer permit shall be entitled to the issuance of a temporary permit pending the disposition of the appeal upon written demand therefor filed by the applicant with the director. Temporary permits issued under this subsection shall be valid until the 60th day after the

decision becomes final. The decision of the city council shall be final.

(g) Failure of the director to give timely notice of his action on an application, or failure of the planning commission to timely conduct or give notice of its decision on an appeal from the director's decision, or failure of the city council to vote on an appeal from the decision of the planning commission within the limitations of time specified above, shall entitle the applicant for an original permit to the issuance of a temporary permit upon written demand therefor filed by the applicant with the director. Such a temporary permit shall only be valid until the third day after the director gives notice of his action on the application, or the planning commission gives notice of its decision on the appeal, or the city council votes on the appeal, as applicable.

(Ord. No. 91-12, § 2(11-54), 11-18-91)

Sec. 14-360. Transfer upon change.

(a) A permit under this division is personal to the owner and operator designated in this application, provided it may be transferred pursuant to this section. A transfer application must be filed by the tenth day next following any change of the owner or operator designated on the application.

- (1) If a transfer application is not timely filed, the permit shall be invalid for any purpose relating to the operation of the correctional facility, and any transfer shall require the filing of an original permit application and be subject to the regulations applicable thereto.
- (2) For purposes of measurements between correctional facilities under subsection (b) of this section, a correctional facility for which the permit has become invalid by operation of this section shall be treated as though it had a permit until the permit is revoked pursuant to section 14-361 and any appeal therefrom to the city council has been concluded.

(b) The director shall prescribe a form on which permit transfer applications shall be made. The form shall include a statement that the original application remains correct as previously submitted in all respects except those that are amended therein. The transfer application shall be accompanied by a nonrefundable transfer fee of \$100.00. Transfer applications shall be filed in the same place and at the same time as original applications, and the fee shall be payable in the same manner as for original applications, as provided in section 14-356.

(c) Transfer applications shall be reviewed, issued and subject to appeal pursuant to section 14-359, except that subsections 14-359(1), (2), and (3) shall not apply, and they shall be issued for the remaining term of the permit to be transferred.

(Ord. No. 91-12, § 2(11-55), 11-18-91)

Sec. 14-361. Revocation of permit.

(a) The director shall have the authority to request the revocation of a permit for any one or more of the following reasons:

- (1) The operator of the correctional facility gave materially false, fraudulent or untruthful information on the original, renewal or transfer application form;

- (2) The correctional facility has not been open for operations for a period of 30 consecutive days, unless due to circumstances beyond the control of the owner, and the owner is proceeding with due diligence, given all attendant circumstances, to open or reopen the facility;
- (3) The permit was erroneously issued in contravention of the criteria of this division; or
- (4) The correctional facility or its operation has failed to comply with all applicable statutes and regulations.

(b) Prior to revocation of a permit, the director shall investigate the grounds alleged to determine whether probable cause for revocation may exist and, if so, shall notify the owner and operator in writing of the reasons for the proposed revocation and grant such owner and operator the opportunity to appear at an evidentiary hearing before the planning commission at a time and place specified within such notice. Such hearing shall be held not less than 15 days after the notice is given. Hearings shall be conducted under rules consistent with this Code and with the nature of the proceedings and which ensure that each party may present evidence, cross-examine witnesses and be represented by legal counsel. If, after the hearing, the planning commission finds by majority vote of those present at the hearing that the permit should be revoked, it shall issue a written order revoking such permit which shall be effective on the 60th day after notice thereof is given to the operator. A tie vote of those present at the hearing shall constitute a finding that the permit should be revoked.

(c) Any operator or owner who has complied with these rules shall have the right to appeal an order of the planning commission revoking a permit to the city council in accordance with the procedure set forth in subsection 14-359(f). The filing of an appeal of a revocation to the city council shall have the effect of superseding or suspending the order of the planning commission pending the disposition of the appeal to city council.

(d) A correctional facility shall be treated as having a permit for purposes of measurements under subsection 14-359(b)(2), pending the date for filing an appeal of a permit revocation, and if an appeal is filed, pending the disposition of the appeal by the city council.
(Ord. No. 91-12, § 2(11-56), 11-18-91)

Sec. 14-362. Other permit provisions.

(a) A permit is valid only at the location for which it is issued.

(b) A permit may be cancelled upon written request of the owner or operator and surrender of the permit itself to the director. Permits shall be surrendered at the same place and at the same time as provided in subsection 14-357(a). The surrender of a permit shall be effective upon its filing in the office of the director.
(Ord. No. 91-12, § 2(11-57), 11-18-91)

Sec. 14-363. Notices.

(a) Any notice required or permitted to be given by the director or any other city office, division, department or other agency under this division to any applicant, operator or owner of a correctional facility may

be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application which has been received by the director, or any notice of address change which has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. If any notice given by mail is returned by the postal service, the director shall cause it to be posted at the principal entrance to the correctional facility.

(b) Any notice required or permitted to be given to the director by any person under this division shall not be deemed given until and unless it is received in the office of the director at the time and in the manner provided for filing of applications in subsection 14-357(a).

(c) It shall be the duty of each owner who is designated on the permit application and each operator to furnish notice to the director in writing of any change of residence or mailing address.
(Ord. No. 91-12, § 2(11-58), 11-18-91)

Sec. 14-364. Penalty; continuing violations.

(a) Violation of any provision of this division shall be punishable by a fine of \$500.00. Each day any violation continues shall constitute and be punishable as a separate offense.

(b) The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.
(Ord. No. 91-12, § 2(11-59), 11-18-91)

Sec. 14-365. Approval by city officials.

Whenever in connection with the establishment or continued operation of a correctional facility, another governmental entity, its prospective or current contractor, or any owner or operator desires an expression of the approval of city officials, other than that evidenced by a permit or pursuant to a formal agreement with that governmental entity, it shall be furnished by means of a resolution duly enacted by city council. No such resolution shall be deemed to modify or repeal any portion of this division. No expression of approval by city officials shall be deemed an approval by the city unless made in accordance with this section.
(Ord. No. 91-12, § 2(11-60), 11-18-91)

Sec. 14-366. Security and resident monitoring.

The director shall furnish a copy of all applications to the chief of police. The chief of police or his designees shall review all security and resident monitoring plans and make comments concerning any deficiencies to the owner, operator and governmental entity for which the facility is to be operated. The chief of police or his designees shall monitor all correctional facilities for compliance with the required security and resident monitoring plans and notify the owner, operator and applicable governmental entity of any alleged violations.
(Ord. No. 91-12, § 2(11-61), 11-18-91)

Secs. 14-367--14-389. Reserved.

ARTICLE VI.
PLUMBING AND GAS
DIVISION 1.
GENERALLY

Sec. 14-390. Compliance with plumbing license law required.

Before any person shall do any work or make any connections with the sewer or gas system in the city, or do any plumbing work connected or intended to be connected with the sewer or gas system, he shall be licensed as provided in the state plumbing license law, Vernon's Ann. Civ. St. art. 6243-101, as amended.
(Code 1978, § 19-1)

~~**Sec. 14-391. Bond.**~~

~~Every master plumber doing business in the city shall execute and deliver to the city a bond with a surety bonding company in the sum of \$1,000.00 to indemnify the city or any citizen for any damage caused by the failure of such master plumber to comply strictly with the provisions of this article. No plumbing permit shall be issued to any master plumber unless such bond has been delivered to the city and is in full force and effect.~~
~~(Code 1978, § 19-2)~~

Secs. 14-392--14-404. Reserved.

DIVISION 2.
CODES*

* **Editors Note:** Ord. No. 2001-26, § 1, adopted January 7, 2002, repealed and reenacted div. 2 to read as herein set out. Formerly, div. 2 pertained to similar subject matter and derived from Code 1978, §§ 19-16--19-19.
Cross References: Fire prevention code, § 34-71 et seq.

Sec. 14-405. International Plumbing Code adopted.

The *International Plumbing Code*, 2003¹² Edition, hereinafter sometimes referred to as the "Code," as published by the International Code Council, Inc., and as amended herein, is hereby adopted. A copy of said Code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.
(Ord. No. 2001-26, § 1, 1-7-02)

Sec. 14-406. Amendments to the International Plumbing Code.

(a) Section 103 of said Code is hereby amended to provide as follows:

103 Department of Plumbing Inspection. The enforcement of this Code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City ~~Council~~ Manager and may be removed without cause by City ~~Council~~ Manager. The building official may appoint deputies to assist him/her, ~~subject to City Council approval~~. Said deputies shall serve at the pleasure of the ~~City Council~~ building official and may be removed without cause by the ~~City Council~~ building official.

(b) Section 104 of said Code is hereby amended to provide as follows:

104.7 Stop Work Orders. Whenever any work is being done contrary to the provisions of this Code, the Building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work. The building official shall issue all necessary notices or orders to ensure compliance with this code.

(c) Sections 106.5.3 and 106.5.4 of said Code are deleted in their entirety and a new Section 106.5.3 is substituted therefor as follows:

106.5.3 Expiration. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1- 1/2) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

(d) Section 106.6 of said Code is hereby amended to provide as follows:

106.6 Fees. Fees shall be charged in accordance with the City's Fee Schedule, as it may be amended from time to time. The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

(e) Section 106 of said Code is amended by adding a new Section 106.6.4, which provides as follows:

106.6.4 State License. All persons performing work in the City governed by this Code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

(f) Section 109 of said Code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this Code shall be to ~~the City's Planning Commission, followed by~~ City Council. The City Council may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

(g) Section 108 of said Code is deleted in its entirety and the penalty provision of this Ordinance is substituted in its place.

(h) Section 605 of said Code is amended by deleting any and all references to "polybutylene pipe and tubing." Installation of polybutylene pipe and tubing, or use for repair, is prohibited.

(i) Section 702 of said Code is amended by deleting any and all references to concrete pipe and asbestos-cement pipe and tubing. Installation of concrete pipe or asbestos-cement pipe and tubing, or use for repair, is prohibited.

(j) Appendix A, Plumbing Permit Fee Schedule, contained in the Code is deleted its entirety and Appendices B-FG contained in said Code are hereby adopted.

Sec. 14-407. Penalty.

Any person who shall violate any provisions of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

(Ord. No. 2001-26, § 2, 1-7-02)

Secs. 14-408--14-429. Reserved.

ARTICLE VII.

BUILDING/DEVELOPMENT STANDARDS*

* **Editors Note:** Ord. No. 2001-20, § 1, adopted January 7, 2002, repealed and reenacted art. VII, §§ 14-430--14-442, to read as herein set out. Formerly, art. VII pertained to construction and development standards for multiple family dwellings and derived from Ord. No. 2000-18, § 1, adopted September 5, 2000.

DIVISION 1.

GENERAL PROVISIONS

Sec. 14-430. Definitions.

For the purposes of this article, the following words, terms and phrases shall have the meanings set forth below.

Building shall mean a structure designed or built for the support, shelter, protection, housing, or enclosure of persons, animals, chattels, or property of any kind.

Building line shall mean an imaginary line, running parallel with applicable lot lines or street easements or roadway right-of-way lines, and beyond which no building or structure may be located other than fences, sidewalks, driveways, uncovered patios, swimming pools, or utility facilities placed by companies authorized to do so pursuant to franchise, license, or other authorization by the city or other governmental entity having jurisdiction thereover. Provided, however, no fence shall be authorized beyond a front building line and no swimming pool shall be authorized beyond a front or side building line, except as specifically authorized herein. In measuring a building line adjacent to a street easement or roadway right-of-way, the nearest boundary of the street easement or roadway right-of-way shall be used.

Multiple family dwelling shall mean a building designed and constructed to contain three or more independent dwelling units, which may share common passageways, vehicular access ways, and other essential facilities.

Street, arterial. A street designed as a principal traffic artery, more or less continuous across the city, intended to connect remote parts of the city, and used primarily for fast or heavy volume traffic.

Street, collector. A street designed to carry traffic from local streets to the major system of arterial streets and highways.

Street, Local. A street used primarily for access to abutting properties and which is intended to serve traffic within a limited area.

Structure shall mean anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, whether above, below, or at grade.
(Ord. No. 2001-20, § 1, 1-7-02; Ord. No. 2004-10, § 1, 11-15-04)

Secs. 14-431--14-434. Reserved.

DIVISION 2.

SINGLE-FAMILY RESIDENTIAL

Sec. 14-435. Building lines.

(a) *Front.* The front building line shall not be less than 25 feet, except that where a lot faces an arterial street, the front building line shall be not less than 35 feet.

(b) *Side, generally.* The side building line, to include eaves and appurtenances, shall not be less than five feet from the side property line.

(c) *Side, corner lots.* The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet, except that where a lot sides on an arterial street, such building line shall not be less than 25 feet.

(d) *Rear, generally.* The rear building line shall not be less than 15 feet, except where the rear property line abuts an alleyway, there shall be a minimum of 30 feet between the buildings abutting said alleyway; provided, however, if the alleyway is a 20-foot alleyway, then the minimum rear building line shall be not less than five feet, and if the alleyway is a 15-foot-wide alleyway, then the rear building line shall not be less than seven and one-half feet. In all cases, buildings must be constructed in relation to the rear property line so that there will at all times be 30 feet between the rear building lines.

(e) *Rear, on arterial street.* The rear building line where lots back on an arterial street shall not be less than 25 feet.

(f) *Encroachment by building eaves and air conditioning units.* Building eaves and air conditioning

compressors may encroach not more than three feet beyond building lines other than front building lines on lots created by subdivision plats for single family residential use duly approved by the city and recorded with the county clerk of Harris or Montgomery County, Texas, as applicable, on or before November 1, 1999.
(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-436. Lot requirements.

(a) *Minimum width.* The minimum width of lots for single-family detached dwellings shall be 75 feet; radial lots shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line. No lot shall be created that has a front yard with less than 75 feet of frontage on the front street.

(b) *Minimum depth.* No single-family residential detached dwelling shall be constructed on a lot that is less than 120 feet in depth.

(c) *Minimum area.* No single-family residential detached dwelling shall be constructed on a lot that is less than 9,000 square feet in area.

(d) *Nonconforming lots.* Where a lawfully existing lot having less area, depth, or width than herein required existed in separate ownership on the effective date of the ordinance from which this article derives, the foregoing regulations relating to the size of such lot shall not prohibit the erection of a single-family dwelling thereon.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-437. Off-street parking/driveways.

(a) *Parking.* Each lot used for single-family detached dwelling purposes shall have constructed and maintained thereon two off-street parking spaces. For the purposes of this subsection, the first two parking spaces contained in covered garages and/or covered carports shall not be considered as off-street parking spaces. For example, if a dwelling has a three-car garage, one additional off-street parking space would be required in addition to that included within the garage. For the purposes of this subsection, the minimum dimensions of each parking space shall be 9 feet by 20 feet; provided, however, two spaces adjacent to the other shall be not less than 18 feet by 20 feet if side by side, and not less than 12 feet by 40 feet if aligned linearly.

(b) *Driveway, parking surface.* All driveways and parking areas shall have a topping, which is the same as the abutting street, or they may be concrete cement.

(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-438, 14-439. Reserved.

DIVISION 3.

DUPLEXES

Sec. 14-440. Building lines.

(a) *Front.* The front building line shall not be less than 25 feet, except that where a lot faces an

arterial street, the front building line shall not be less than 35 feet.

(b) *Side, generally.* The side building line, to include eaves and appurtenances, shall not be less than five feet.

(c) *Side, corner lots.* The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet, except that where a lot sides on an arterial street, such building line shall not be less than 25 feet.

(d) *Rear, generally.* The rear building line shall not be less than 15 feet, except where the rear property line abuts an alleyway, there shall be a minimum of 30 feet between the buildings abutting said alleyway; provided, however, if the alleyway is a 20-foot alleyway, then the minimum rear building line shall be not less than five feet, and if the alleyway is a 15-foot-wide alleyway, the rear building line shall not be less than seven and one-half feet. In all cases, buildings must be constructed in relation to the rear property line so that there will at all times be 30 feet between the rear building lines.

(e) *Rear, on arterial street.* The rear building line where a lot backs on an arterial street shall not be less than 25 feet.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-441. Lot requirements for duplexes.

(a) *Minimum width.* The minimum width of lots for duplexes shall be 85 feet. No lot shall be created that has a front yard with less than 85 feet of frontage on the front street.

(b) *Minimum depth.* No duplex dwelling shall be constructed on a lot that is less than 120 feet in depth.

(c) *Minimum area.* No duplex dwelling shall be constructed on a lot that is less than 10,200 square feet in area.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-442. Off-street parking/driveways.

(a) *Parking spaces.* Each lot used for duplex dwelling purposes shall have constructed and maintained thereon four off-street parking spaces. For the purposes of this subsection, the first two parking spaces contained in covered garages and/or covered carports for each unit of the duplex shall not be considered as off-street parking spaces. For example, if each dwelling unit of a duplex has a three-car garage, two additional off-street parking spaces would be required in addition to that included within the garages. For the purposes of this subsection, the minimum dimensions of each parking space shall be nine feet by 20 feet; provided, however, two spaces adjacent to the other shall be not less than 18 feet by 20 feet if side by side, and not less than 12 feet by 40 feet if aligned linearly.

(b) *Driveway, parking surface.* The topping of all driveways and parking areas shall be the same as the abutting street, or they may be concrete cement.

(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-443--14-449. Reserved.

DIVISION 4.

TOWNHOMES

Sec. 14-450. Building lines.

(a) *Front.* The front building line shall not be less than 25 feet, except that where a lot faces on an arterial street, the front building line shall not be less than 35 feet.

(b) *Side, interior lots.* There shall be no side building line for a side of an interior lot which is adjacent to another townhome.

(c) *Side, corner lots.* The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet, except that where a lot sides on an arterial street, such building line shall not be less than 25 feet.

(d) *Side, generally.* The side building line other than when adjacent to an interior lot line, to include eaves and appurtenances, shall not be less than five feet.

(e) *Rear, generally.* The rear building line shall not be less than 15 feet, except where the rear property line abuts an alleyway, there shall be a minimum of 30 feet between the buildings abutting said alleyway; provided, however, if the alleyway is a 20-foot alleyway, then the minimum rear building line shall be not less than five feet, and if the alleyway is a 15-foot-wide alleyway, the rear building line shall not be less than seven and one-half feet. In all cases buildings must be constructed in relation to the rear property line so that there will at all times be 30 feet between the rear building lines.

(f) *Rear, on arterial street.* The rear building line where a lot backs on an arterial street shall not be less than 25 feet.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-451. Lot requirements for townhomes.

(a) *Minimum width.* The minimum width for townhome lots shall be 30 feet.

(b) *Minimum depth.* The minimum depth for townhome lots shall be 120 feet.

(c) *Minimum area.* No townhome shall be constructed on a lot that is less than 3,600 square feet in lot area.

(d) *Minimum height.* No townhome shall be constructed with more than two stories, or greater than 25 feet in total height, including gables.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-452. Off-street parking/driveways/streets.

(a) *Parking spaces.* Each lot used for townhome dwelling purposes shall have constructed and maintained thereon two off-street parking spaces. For the purposes of this subsection, the first two parking spaces contained in covered garages and/or covered carports for each townhome unit shall not be considered as off-street parking spaces. For example, if each townhome unit has a two-car garage or two-car carport, two additional off-street parking spaces would be required in addition to that included within the garages and/or carports. For the purposes of this subsection, the minimum dimensions of each parking space shall be nine feet by 20 feet; provided, however, two spaces adjacent to the other shall be not less than 18 feet by 20 feet if side by side, and not less than 12 feet by 40 feet if aligned linearly.

(b) *Paving.*

(1) *Streets/driveways.* Each townhome complex shall have streets and driveways constructed of concrete cement or hot mixed asphalt, shall be curbed and guttered in accordance with existing requirements of the city, and shall be at least 28 feet in width throughout. All streets and driveways shall be lighted at night with a minimum intensity of two foot-candles' illumination.

(2) *Parking areas.* The topping of all parking areas shall be the same as the abutting street or driveway, or shall be concrete cement.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-453. Density.

No townhome development shall contain more than 12 townhome units per acre.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-454. Green space/recreational areas.

A minimum of 30 percent of the gross platted area shall be open green space and common recreational areas. Said open green space and common recreational areas shall be areas not specifically designated or used as building sites for townhome units, buildings sites for utility or storage buildings, parking lots, garages, streets, or driveways within the townhome development. The actual surface area of open green space, such as lawns and landscaping, and common recreational areas, such as swimming pools and surrounding paved deck, tennis courts, community rooms, saunas, and other recreational areas, shall be considered in calculating the minimum requirement for open green space and common recreational areas. Required buffer yards, except surfaced parking and driveways located within said buffer yards, if any, may be included in computing the minimum required area of green space and common recreational areas.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-455. Screening.

The following screening requirements shall apply to townhome developments.

(1) All commercial refuse containers shall be screened.

(2) A six-foot solid fence, wall, or other similar screening device shall be constructed along the two sides and the rear of the complex.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-456. Sidewalks.

Sidewalks of concrete cement or other masonry construction shall be provided between the townhome units and all community facilities provided for residents in accordance with applicable city standards and specifications.

(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-557--14-559. Reserved.

DIVISION 5.

PATIO HOMES

Sec. 14-460. Building lines.

(a) *Front.* The front building line shall not be less than 25 feet, except that where a lot faces on an arterial street, the front building line shall not be less than 35 feet.

(b) *Side, interior lots.* The side building line, to include eaves and appurtenances, shall not be less than five feet.

(c) *Side, corner lots.* The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet, except that where a lot sides on an arterial street, the building line shall not be less than 25 feet.

(d) *Rear, generally.* The rear building line shall not be less than 15 feet, except where the rear property line abuts an alleyway, there shall be a minimum of 30 feet between the buildings abutting said alleyway, provided that if the alleyway is a 20-foot alleyway, then the minimum rear building line shall be not less than five feet, and if the alleyway is a 15-foot-wide alleyway, then the rear building line shall not be less than seven and one-half feet. In all cases buildings must be constructed in relation to the rear property line so that there will at all times be 30 feet between the rear building lines.

(e) *Rear, on arterial street.* The rear building line where a lot back on an arterial street shall not be less than 25 feet.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-461. Lot requirements for patio homes.

(a) *Minimum width.* The minimum width of lots for patio homes shall be 40 feet.

(b) *Minimum depth.* The minimum depth of lots for patio homes shall be 100 feet.

(c) *Minimum area.* No patio home shall be constructed on a lot which contains less than 4,000 square feet in lot area.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-462. Lot coverage.

Not more than 60 percent of a lot may be covered with buildings, driveways, sidewalks, or other impermeable material.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-462. Off-street parking/driveways/streets.

(a) *Parking.* Each lot used for patio home dwelling purposes shall have constructed and maintained thereon two off-street parking spaces. For the purposes of this subsection, the first two parking spaces contained in covered garages and/or covered carports shall not be considered as off-street parking spaces. For example, if a dwelling has a three-car garage, one additional off-street parking space would be required in addition to that included within the garage. For the purposes of this subsection, the minimum dimensions of each parking space shall be nine feet by 20 feet; provided, however, two spaces adjacent to the other shall be not less than 18 feet by 20 feet if side by side, and not less than 12 feet by 40 feet if aligned linearly.

(b) *Paving.*

(1) *Streets.* Each patio home development shall have streets constructed of concrete cement or hot mixed asphalt, shall be curbed and guttered in accordance with existing requirements of the city, and shall be at least 28 feet in width throughout.

(2) *Driveways and parking areas.* All driveways and parking areas shall have a topping, which is the same as the abutting street, or they may be concrete cement.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-463. Density.

No patio home development shall contain more than ten patio home units per acre.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-464. Green space/recreational areas.

A minimum of 30 percent of the gross platted area shall be open green space. 'Open green space' is defined as, and limited to common areas of open space or landscaping and community recreational areas. Open green space does not include areas specifically designated or used as building sites for patio home units, building sites for utility or storage buildings, parking lots, garages, streets, or driveways within a patio home development. The actual surface areas of open green space, such as common area lawns and landscaping, community swimming pools and surrounding paved deck area, community tennis courts, community rooms, community saunas, and other common recreational areas, shall be considered in calculating the minimum requirement for open green space. Required buffer yards, except surfaced parking and driveways located within said buffer yards, if any, may be included in computing the minimum required area of green space.

(Ord. No. 2001-20, § 1, 1-7-02; Ord. No. 2005-02, § 1, 3-7-05)

Sec. 14-465. Screening.

A fence, wall, or other similar screening device, of not less than six feet nor more than eight feet in height, shall be constructed and maintained along the two sides and the rear of each patio home development complex; provided, however, no such screening device shall be required adjacent to portions of the development which contain green space, lakes, or natural habitat for a distance of 50 feet or more from such perimeter boundary.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-466. Sidewalks.

Sidewalks of concrete cement or other masonry construction shall be provided along all streets within a patio home development in accordance with applicable city standards and specifications.

(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-467--14-469. Reserved.

DIVISION 6.

MULTI-FAMILY DEVELOPMENTS

Sec. 14-470. Compliance required; application.

It shall be unlawful for any person to cause or permit the development, construction or occupancy of any multiple family dwelling, except as provided herein. Provided further, it shall be unlawful for any person to convert the use of any hotel, motel, motor court, or other similar temporary lodging facility into a multiple family dwelling except in compliance with the provisions hereof. Notwithstanding the foregoing, it shall be a defense to prosecution hereunder that a multiple family dwelling development was approved by the city prior to the date of adoption hereof.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-471. Density.

No multiple family dwelling development shall contain more than 20 units per acre.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-472. Height; stories.

No multiple family dwelling shall be constructed to a height which exceeds 45 feet above the natural grade, or which contains more than three stories.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-473. Spacing between buildings.

Each building within a multiple family dwelling complex shall be separated from other buildings by not less than 35 feet.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-474. Building lines.

The following minimum building lines shall be required for lots or tracts containing multiple family dwelling buildings, measured from the applicable property line; provided however if the lot is encumbered with a street easement or roadway right-of-way, such building line shall be measured from the boundary line of such street easement or roadway right-of-way nearest the center of the lot.

- (1) *Front yard.* The front yard building line shall not be less than 25 feet, except that where a front yard faces an arterial street, the front building line shall not be less than 35 feet.
- (2) *Side yard, interior.* The interior side yard building line shall be not less than five feet, except that where an interior side lot line is adjacent to property restricted by a duly recorded subdivision plat to, or primarily used for, single family residential purposes, such interior side building line shall be not less than 25 feet.
- (3) *Side yard, street.* The side building line adjacent to a street shall be not less than 15 feet, except that where the side yard is adjacent to an arterial street such building line shall be not less than 25 feet.
- (4) *Rear yard; interior; alleyways.* The rear building line shall be not less than 15 feet. Provided, however, where the rear property line abuts an alleyway, there shall be a minimum of 30 feet between the buildings abutting said alleyway. Provided further, if the rear property line abuts an alleyway having a width of 20 feet or less but more than 15 feet, then the rear building line shall be not less than five feet; and if the rear property line abuts an alleyway having a width of 15 feet or less, then the rear building line shall be not less than seven and one-half feet. In all cases, buildings shall be constructed in relation to the rear property line so that there shall at all times be not less than 30 feet between the rear building lines.
- (5) *Rear yard, major street.* A rear building line adjacent to an arterial street shall be not less than 25 feet.
- (6) *Zero lot line exception.* Notwithstanding the foregoing, except where an interior side or rear lot line is adjacent to restricted by a duly recorded subdivision plat to, or primarily used for, single family residential purposes, there shall be no required interior side rear building line if the wall adjoining such interior side or rear lot line, as applicable, is constructed with materials giving it a four-hour fire wall rating.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-475. Off-street parking.

(a) Except as provided in subsection (b), each dwelling unit within a multifamily dwelling complex shall be provided with on-site off-street parking as follows:

- (1) Two parking spaces for each one-bedroom unit;

(2) Two and one-half parking spaces for each two-bedroom unit; and

(3) Three parking spaces for each three-bedroom unit.

(b) In a multifamily dwelling complex restricted to senior citizen residents that meets the qualifications enumerated in subsection (c), each dwelling unit shall be provided with on-site street parking as follows:

(1) One and one-half parking spaces for each one-bedroom unit; and

(2) One and seven-tenths parking spaces for each two- and three-bedroom unit.

(c) Qualification as a multifamily dwelling complex restricted to senior citizen residents must meet the following minimum criteria:

(1) Shall be restricted to households in which all members are 62 years of age or older; or

(2) Shall be restricted to households in which at least one member is 55 years of age or older; and

(3) Shall, in any circumstance, be restricted by recorded agreement or covenant to occupancy by older persons as defined in the Federal Fair Housing Act, for a minimum of 30 years.

(d) If a multifamily dwelling complex for senior citizens fails to meet and maintain the minimum criteria described in subsection (c), then such dwelling complex will be required to immediately comply with the on-site off-street parking requirements applicable to standard multifamily dwelling complexes, as set forth in subsection (a).

(e) All parking areas shall be constructed of the same material as the adjoining street, or of concrete. No on-street parking shall be permitted. All parking areas shall be separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing, or other protection device in accordance herewith and in accordance with other applicable city specifications.

(Ord. No. 2001-20, § 1, 1-7-02; Ord. No. 2006-23, § 1, 12-4-06)

Sec. 14-476. Green space/recreational areas.

A minimum of 50 percent of the gross platted area shall be open green space and common recreational areas. Said open green space and common recreational areas shall be areas not specifically designated or used as building sites for dwelling units, buildings sites for utility or storage buildings, parking lots, garages, streets or driveways within the multiple family development. The actual surface area of open green space, such as lawns and landscaping, and common recreational areas, such as swimming pools and surrounding paved deck, tennis courts, community rooms, saunas, and other recreational areas, shall be considered in calculating the minimum requirement for open green space and common recreational areas. Required buffer yards, except surfaced parking and driveways located within said buffer yards, if any, may be included in computing the minimum required area of green space and common recreational areas.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-477. Screening.

The following screening requirements shall apply to multiple family dwelling developments.

(1) All refuse containers shall be screened.

(2) A six-foot solid fence, wall, or other similar screening device shall be constructed on the two sides and rear of any multiple family dwelling complex.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-478. Fire sprinkler system.

(a) The multiple family dwelling developer shall design and construct a fire sprinkler system so as to provide adequate water flow for fire protection.

(b) The water distribution system shall comply in all respects with applicable rules, regulations, and ordinances of the state and city.

(c) All materials and installations shall be in accordance with *American Water Works Association Standards* and with other applicable standards of the City, shall be class 150 or better, and shall be approved by the director of public works, or designee.

(d) Fire hydrants in multiple family dwelling complexes shall be spaced at intervals not to exceed 300 feet as measured along the street or driveways. All mains and laterals shall be looped. Streamer connections shall be national standard threads.

(e) The class and type of fittings and valves used in the water distribution system in multiple family dwelling complexes shall comply with applicable city codes. Each valve shall be of the double gate type, shall have a nonrising stem and shall operate counterclockwise to open. Valve boxes of a type approved by the city shall be installed on each valve.

(f) Before the water distribution system shall be put in service in a multiple family dwelling complex, it shall be subject to a static pressure test under the supervision of a designated city representative to determine if the system is free of leaks. The lines shall be subjected to pressure of 120 pounds per square inch for 25 hours and water loss shall be negligible. If the amount of water lost during the test is excessive, the developer shall find and repair the leak or leaks and retest the line until results are satisfactory.

(g) Before the system shall be put in service, it shall be sterilized by chlorination as directed by the designated city representative. After the initial chlorination, the line shall be drained and refilled and the city shall collect samples from the system and have them tested by a laboratory. The water samples shall comply with the state health department standards. The sterilization procedure shall be repeated until the water samples meet the health standards. The developer shall sterilize the water distribution system at no cost to the city.

(Ord. No. 2001-20, § 1, 1-7-02; Ord. No. 2006-13, § 1, 10-16-06)

Sec. 14-479. Streets or driveways

Each multiple family dwelling complex shall have streets and driveways constructed of concrete cement or hot mixed asphalt, shall be curbed and guttered in accordance with existing requirements of the city, and shall be at least 28 feet in width throughout. All streets and driveways shall be lighted at night with a minimum intensity of two foot-candles' illumination.
(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-480. Sidewalks.

Sidewalks of concrete cement or other masonry construction shall be provided between the dwelling units and all community facilities provided for residents in accordance with applicable city standards and specifications. All walks shall be lighted at night with a minimum intensity of two foot-candles' illumination.
(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-481. Windows.

All multiple story buildings within a multiple family development complex shall be constructed so that there shall be no windows above the first floor on any sides which are adjacent to existing residential platted lots or existing single-family residences.
(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-482--14-485. Reserved.

DIVISION 7.

COMMERCIAL PROPERTIES

Sec. 14-486. Building lines for commercial properties.

(a) *Front.* The front building line shall not be less than 25 feet, except that where a lot faces an arterial street, the front building line shall not be less than 35 feet.

(b) *Side, corner lots.* The building line on the side of a corner lot adjacent to a street shall not be less than 15 feet, except that where a lot sides on an arterial street, the building lines shall not be less than 25 feet.

(c) *Rear, generally.* The rear building line shall not be less than 15 feet, except where the rear property line abuts an alleyway, there shall be a minimum of thirty feet (30'), between the buildings abutting said alleyway, provided that if the alleyway is a 20-foot-wide alleyway, then the minimum rear building line shall be not less than five feet, and if the alleyway is a 15-foot-wide alleyway, then the rear building line shall not be less than seven and one-half feet. In all cases buildings must be constructed in relation to the rear property line so that there will at all times be 30 feet between the rear building lines.

(d) *Rear, arterial street.* The rear building line where a lot backs on an arterial street shall not be less than 25 feet.

(e) *Side, interior.* The side building lines shall not be less than five feet.

(f) *Zero lot line.* If the wall adjoining the building line is constructed with materials giving it a four-hour firewall rating, then such building line may be zero, unless such wall abuts either an existing single-family residence or a platted single-family residential lot as set out in subsection (g) of this section.

(g) *Adjacent to single-family use.* No commercial building line shall be less than 25 feet on a side that abuts either an existing single-family residence, or a platted single-family residential lot, which does not have an existing place of business located on such single-family residential lot.

(h) *Platted lots defined.* A platted lot is a distinct separate tract of land which is identified by a tract or lot symbol on a subdivision plat which has been approved by the city and properly recorded with the county clerk's office.

(i) *Exceptions for certain retail shopping center outbuildings fronting State Highway 249.* Notwithstanding any other provision of this section to the contrary, the building line for retail outbuildings adjacent to State Highway 249 and State Highway 249 bypass shall be ten feet if:

- (1) The retail outbuilding is within a shopping center development (a development comprised of retail businesses which share common parking and pedestrian areas and facilities for their clientele) which contains not less than one and one-fourth acres of land and which has not less than 240 feet of frontage on said State Highway 249 and State Highway 249 bypass;
- (2) The retail outbuilding contains not more than 100 square feet of floor area;
- (3) The retail outbuilding is located so as not to create a hazard to vehicular or pedestrian traffic on the shopping center site, the adjacent State Highway 249 and State Highway 249 bypass, or any other adjacent public or private street or property; limit spacing of said structures to no greater than one per 300 feet;
- (4) The retail outbuilding is located not less than 50 feet from any paved portion of State Highway 249 and State Highway 249 bypass, whether main lane or access road; and
- (5) The retail outbuilding is located so as to be a minimum of 300 feet from the closest retail outbuilding along either side of State Highway 249 and State Highway 249 bypass, measured in a straight line from the center fronts of each retail outbuilding.

(Ord. No. 2001-20, § 1, 1-7-02)

Sec. 14-487. Off-street parking and design standards.

(a) All commercial, institutional, governmental, and industrial establishments in the city, other than those within the "Old Town" area as set forth in Division 8 herein, shall provide parking as follows:

- (1) *General.* One space per 200 square feet for the ground floor, and one space per 300 square feet for the second floor level and up. "General" use shall include post offices; community, welfare, and health centers; optical shops; medical appliance stores; catering services; barber and beauty shops; custom cleaning shops; self service laundries; laundry or cleaning pickup and receiving stations; shoe repair, tailor, and custom sewing shops; travel bureaus; instructional art or art work

studios; photography studios; inside retail sales stores; antique shops; retail food stores; bakery shops; book stores; camera shops; cigar-tobacco stores; clothing stores; drug stores; beverage stores; florist shops; pet shops; resale, hobby, and art supply stores; paint and wallpaper stores; appliance fix-it shops; tool and equipment rentals (inside display only); duplication shops; custom print shops; custom commercial engraving shops; retail stores that offer consumer goods for inside retail sales; and any other commercial activity having the same characteristics of the above and not otherwise listed below.

- (2) *Restaurants, bars, lounges, taverns.* One space per 100 square feet of floor area.
- (3) *Drive-in restaurant.* One space per 50 square feet of floor area, with a minimum of 12 spaces.
- (4) *Lumber, brick, or building materials sales yard.* One space per 200 square feet of retail floor area, plus one space per 1000 square feet of site area exclusive of floor area.
- (5) *Sports complex.* One space per 40 square feet of seating area.
- (6) *Day care center.* One space per 500 square feet of floor area.
- (7) *Bowling alley.* Six spaces per lane.
- (8) *Theater, auditorium, or arena.* One space for every three seats.
- (9) *Sports club-health spa.* One space per 200 square feet of floor area.
- (10) *Hotel, motel.* One space per guest room, office, and lobby.
- (11) *Church.* One space for every three seats in sanctuary.
- (12) *Elementary school.* One space per 20 students.
- (13) *Middle school.* One space per 15 students.
- (14) *High school.* One space per three students.
- (15) *College.* One space per two students.
- (16) *Bank or savings and loan.* One space per 300 square feet of floor area.
- (17) *General office.* One space per 300 square feet of floor area.
- (18) *Medical clinic or doctor's office.* One space per 300 square feet of floor area.
- (19) *Veterinarian's office.* One space per 300 square feet of floor area.
- (20) *Nursing or convalescent home.* One space for every four beds, plus one space for each employee.

- (21) *Hospitals*. Three spaces for each bed.
- (22) *Funeral home or mortuary*. One space per 300 square feet of floor area, plus one space for each two seats in chapel.
- (23) *Library*. One space per 500 square feet of floor area, with a minimum of ten spaces.
- (24) *Feed store*. One space per 600 square feet of floor area.
- (25) *Swimming pool sales and supplies*. One space per 200 square feet of floor area, plus one space per 1,000 square feet of outside sales area.
- (26) *Equipment sales or rentals (Outside display)*. One space per 200 square feet of floor area, plus one space for each 1,000 square feet of site area exclusive of buildings.
- (27) *Concrete cement, asphalt patching, or recycling plant*. Five spaces.
- (28) *Furniture store*. One space per 500 square feet of floor area.
- (29) *Automotive related uses*.
 - a. *Automotive or motorcycle display, sales and service*. One space per 200 square feet of floor area, with a minimum of five spaces.
 - b. *Auto glass, muffler, or seat cover shops*. One space per 200 square feet of retail floor area, plus one space per 500 square feet of service floor area, with a minimum of two spaces.
 - c. *Auto parts sales (inside only)*. One space per 200 square feet of sales floor area, plus one space per 500 square feet of storage floor area.
 - d. *Auto parts sales (outside display)*. One space per 500 square feet of site area exclusive of building, with a minimum of four spaces.
 - e. *Auto repair garage, auto painting, or body shop*. One space per 500 square feet of floor area, with a minimum of five spaces.
 - f. *Service station*. Three spaces for each service stall, plus one space for each employee on duty during largest shift.
- (30) *Other*. General warehouse, wholesale, light industrial, open bulk storage and manufacturing facilities shall provide the following parking and loading spaces:
 - a. One and three-quarters space per two employees on largest shift; plus one space per local driver, salesman or service man; plus one space per each local company vehicle; or one

space per 800 gross square feet of floor space, whichever is greater.

- b. One truck loading space at least 12 feet in width, 15 feet in length, and 14 feet of height clearance on the property for the first 5,000 to 20,000 square feet of gross industrial or commercial floor area, plus one such truck loading space for each additional 20,000 square feet, or part thereof.

(b) Off-street parking facilities shall be maintained and continued so long as the main use continues.

(c) Conforming buildings and uses existing at the time of adoption of this section may be modernized, altered or repaired without providing additional off-street parking, provided there is no increase in area or capacity.

(d) Where a conforming building or use existed at the time of the adoption of this section and such building or structure is enlarged or increased in capacity by adding floor area, volume or seats, off-street parking as specified in this code shall be provided for the additional floor area, volume, capacity or seats so created or used.

(e) Whenever the use of a building or portion thereof changes, the new use shall meet the off-street parking requirements of this section prior to issuance of a certificate of occupancy or approval by the appropriate building inspectors.

(f) Off-street parking and loading areas shall be drained to prevent damage to abutting property and/or public streets and alleys and shall be paved with either concrete cement or asphalt.

(g) Off-street parking and loading facilities shall be separated from walkways, sidewalks, streets or alleys by a wall, fence or curbing or other approved protection device in accordance with city specifications.

(h) Location and design of entrances and exits shall be in accordance with city specifications. Landscaping, curbing or other barriers shall be provided along lot boundaries to control entrance and exits of vehicles or pedestrians.

(i) Minimum widths of interior drives shall be related to the angle of parking stalls and use of one-way or two-way traffic as follows:

Parking Angle (degree)	Width of Aisle (feet)	Traffic Direction
30	11	One-way
45	13	One-way
60	18	One-way
90	24	Two-way

(j) Required off-street parking areas shall have individual spaces marked by painted lines or curbs or other means to indicate individual spaces, and shall be so designed, maintained, and regulated that no parking or maneuvering incidental to parking shall be on any public or private street, walk, or alley, and so that any automobile may be parked and unparked without moving another. Signs or markers shall be used as necessary to ensure that preservation of the natural features as well as the efficient traffic operation of the parking area.

(k) All streets and driveways shall be lighted at night with a minimum intensity of two foot-candles' illumination if off-street parking or loading facilities are to be used at night. The lighting shall be designed and installed to minimize glare on adjacent property.

(l) Where off-street parking spaces for ten or more automobiles are located closer than 40 feet to a lot which either contains an existing single-family residence or is platted for residential use and when such parking spaces are not entirely screened visually from such a lot by an intervening building or structure, there shall be provided along the lot line a continuous screen with a minimum height of six feet. Such screen shall consist of a solid wall or fence.

(m) For the purposes of this section, parking and loading space shall be on the same site and under the same ownership. Parking and loading spaces shall not be on other sites or under other ownerships.

(n) Each commercial and industrial structure erected or altered in the city shall be provided with off-street loading and unloading facilities as specified above.

(o) Computing parking space requirements.

(1) Where fractional spaces result, the minimum parking spaces requirements shall be rounded upward to the next largest whole.

(2) The parking space requirements for a use not specifically described above shall be calculated based upon the requirements for the most similarly described use.

(3) A parking analysis and tabulation shall be required on the site plan for each development and shall be a part of the site plan submittal. Each analysis shall include an explanation of applicable parking requirements (as a minimum, include occupancy classification type, building square footages, and number of employees), total parking spaces required, total parking spaces provided, required and provided Americans With Disabilities Act (ADA) accessible spaces, and required and provided ADA van accessible spaces. When the director of public works, or designee determines necessary, an additional traffic impact study may be required to determine the impacts of a development on the off-site public street system.

(4) For mixed uses, the parking space requirements shall equal the sum of the requirements of the various uses computed separately.

(5) Service areas provided exclusively for the occupants of a building, including cafeterias, auditoriums, etc., are excluded from the calculation of "floor area" for determining required parking if the director of public works, or designee, determines these areas do not require parking capacity.

(6) "Floor area" shall mean the entire area located within the outside dimensions of a building, and the outside dimensions of the building shall be used to calculate the size of the "floor area."

(7) A parking space shall be a minimum of nine feet in width by 20 feet in length. Parking spaces

shall not extend into the driving lanes, across property lines and/or public right-of-way lines.

(8) Driving widths of interior drives shall be in accordance to subsection 14-7(i) hereof. Driveway maneuverability to and from parking spaces shall be provided on dead-end parking drive isles.
(Ord. No. 2001-20, § 1, 1-7-02)

Secs. 14-488, 14-489. Reserved.

DIVISION 8.

OLD TOWN TOMBALL

Sec. 14-490. Nonconforming commercial properties.

(a) For purposes of this division, "Old Town Area" shall be defined to include all lots shown on the revised map filed of record with Harris County on July 8, 1912, a true and correct copy of which is on file in the office of the city secretary, and which is identified as the "Old Town Tomball Map."

(b) The provisions of this division shall apply to buildings and development located within the Old Town Area only. In the event of conflict between the provisions of this division and division 7 herein regarding buildings and development within such Old Town Area, the provisions of this division shall apply.

(c) Building lines.

(1) A commercial building that was constructed before August 16, 1999, and which does not comply with the building lines set forth in division 7 above, may expand in size provided it maintains a minimum ten-foot front building line and a minimum ten-foot side street building line, provided the owner demonstrates that the use as conducted and managed, or as proposed, has minimal non-compatibilities that have been integrated into the neighborhood. Factors to evaluate this may include:

- a. That the neighborhood residents patronize or are employed at the use (for non-residential uses).
- b. That management practices eliminate problems such as noise, waste materials, competition for on-street parking, or similar conflicts.
- c. The uses' history of complaints against it.
- d. That the use has been maintained in good condition or that the nonconformity represents a disincentive for such maintenance.

(2) Commercial properties located on Main Street, Market Street, and Commerce Street may have a zero front building line, but must maintain a minimum ten-foot side street building line.

(d) Parking spaces and standards.

(1) Minimum required parking spaces.

- a. Off-street parking. For that portion of the Old Town Area bounded by Fannin Street, Houston Street, the railroad tracks, and Pine Street, and including the lots that front on Fannin Street and Houston Street adjacent to such portion, the parking requirements for all businesses shall be one space for each 800 square feet of building area. This parking requirement shall apply to all new construction and additions to existing buildings.
- b. Off-site parking. Use of off-site parking shall be permitted to satisfy the off-street parking requirements of this division said off-site parking is within the Old Town Area or blocks adjacent thereto. Provided further, no off-site parking space shall be designated for use by more than one business for the purposes of satisfying such requirements.
- c. On-street parking. In the area bounded by Main Street, Market Street, and Commerce Street, between Pine and Elm, one parking space credit shall be allowed for every 22 feet of development frontage less five feet reserve on either side of driveways and ten feet reserve on street intersections.

(2) Off-street parking design standards. Required off-street parking areas within the Old Town Area shall have individual spaces marked by painted lines or curbs or other means to indicate individual spaces. Parking schemes which require the use of adjacent public or private streets for maneuvering incidental to such parking shall not be prohibited. This requirement shall apply to all parking required for new construction and/or additions to existing buildings.

(e) The building owner must include in his proposal measures for buffering, landscaping, or other site design, and any limitations necessary to address nuisance concerns, such as noise, to protect adjacent property owners.

(f) Vacant land, or lots or tracts formerly used as residential property, may be developed for commercial use without conforming to the building line requirements of this division if the property owner or his agent establishes the following:

- (1) Three or more properties within a three-block distance, whether on the same side of the street or across the street, have the same nonconformity;
 - (2) Proposed development plans for the property are no more nonconforming than existing properties on the same street and maintain the same character as existing buildings; and
 - (3) A new certificate of occupancy will be required for any new use of a new or existing building.
- (g) Lot requirements for single-family residences.
- (1) *Minimum width.* The minimum width of lots for single-family detached dwellings shall be 50 feet; radial lots shall have a minimum width of 50 feet at and for a distance of 30 feet behind the building line. No lot shall be created that has a front yard with less than 50 feet of frontage on the

front street.

- (2) *Minimum depth.* No single-family residential detached dwelling shall be constructed on a lot that is less than 100 feet in depth.
 - (3) *Minimum area.* No single-family residential detached dwelling shall be constructed on a lot that is less than 5,000 square feet in area.
 - (4) *Nonconforming lots.* Where a lawfully existing lot having less area, depth, or width than herein required existed in separate ownership on the effective date of Ord. No. 2004-09, the foregoing regulations relating to the size of such lot shall not prohibit the erection of a single-family dwelling thereon.
- (h) Building lines for single-family detached dwellings shall be in accordance with the provisions of section 14-435.
- (i) Lot requirements for duplexes.
 - (1) *Minimum width.* The minimum width of lots for duplexes shall be 75 feet, unless the lot has an area of at least 7,000 square feet, in which event the minimum width of the lot for duplexes shall be 50 feet.
 - (2) *Minimum depth.* No duplex dwelling shall be constructed on a lot that is less than 100 feet in depth.
 - (3) *Minimum area.* No duplex dwelling shall be constructed on a lot that is less than 7,000 square feet in area.
- (j) Building lines for duplexes shall be in accordance with the provisions of section 14-440.
(Ord. No. 2001-20, § 1, 1-7-02; Ord. No. 2004-09, § 1, 11-1-04)



4 B EVES DRIVE SUITE 200 MARLTON, NJ 08053 (856) 985-5600 FAX: (856) 810-9065

June 13, 2013

Mr. David Allen, Building Official
City of Tomball
401 Market St.
Tomball, Texas 77375

RE: Building Code Effectiveness Grading Schedule Classification Results
Tomball, Harris County, Texas

Dear Mr. Allen:

We wish to thank you and Mr. Craig Meyers for the cooperation given to us during our recent Building Code Effectiveness Grading Schedule (BCEGS) survey. Insurance Services Office, Inc. (ISO) is the leading supplier of statistical data, underwriting information, and actuarial analysis to the property/casualty insurance industry in the United States. The BCEGS classifications are distributed by ISO for use by property/casualty insurers to assist in their insurance underwriting and premium development programs for residential and commercial properties. Insurers can use the BCEGS classification number to offer insurance premium discounts to eligible properties in Tomball.

ISO has completed its analysis of the building codes adopted by your community and the effort put forth to enforce those codes. The resulting BCEGS Classification is a Class 10 for 1 & 2 family residential property and a Class 10 for commercial and industrial property.

The new Classification is a regression from the former Class 6 for 1 & 2 family residential property and a Class 6 for commercial and industrial property. The principal reasons contributing to this regression are:

- Current adopted building codes ten years old.
- Current adopted additional codes ten years old.
- Plan review staff experience less than 5 years.

A revised BCEGS classification would apply to new buildings receiving a Certificate of Occupancy during or after the calendar year in which the revision takes place.

Before we re-classify your community to reflect this change, we would like to know if Tomball desires to develop a program to regain Class PL 6 and CL 6. If this letter is acknowledged by **July 15, 2013** advising us that this matter will be reviewed within the next three months we will postpone the implementation of the classification changes.

After review, if it is your decision to begin an improvement program to regain PL Class 6 and CL class 6, we will need to receive, by **September 13, 2013**, a list of the changes you intend to make. Additionally, we would appreciate your estimate of the amount of time which will be needed to complete each item. No re-classifying action will be taken if changes are implemented to regain the current classification within one year of the receipt of this letter.

We want to highlight the fact that the ISO Building Code Effectiveness Grading program is an advisory insurance underwriting information and rating tool. It is not intended to analyze all aspects of a comprehensive building code enforcement program. It is not for purposes of determining compliance with any state or local law nor is it for making loss prevention or loss safety recommendations.

If you have any questions about the classification that was developed, please let us know.

Sincerely,

Esther Sola'

BCEGS Community Mitigation Analyst
(312) 241-7297
esola@iso.com

cc: Mr. George Shackleford, City Manager

Ms. Esther Sola', BCEGS Community Mitigation Analyst
ISO National Processing Center
4 B Eves Drive - Suite 200
Marlton, NJ 08053

Date: _____

We have reviewed your letter of June 13, 2013 advising the results of the recent survey for **Tomball, TX**. With regards to the regression from our previous classification, we plan to take the following action (please check the appropriate statement below):

- ☐ We will review the results of the survey and decide if Tomball will institute programs to regain our previous BCEGS classification number. We understand that we are to notify ISO by **July 15, 2013** of our decision.
- ☐ We are in the process of developing an action plan or have implemented an action plan to effect changes that will regain our original class. This plan will be submitted to ISO by **September 13, 2013** and will include details of condition(s) to be addressed and a timeline for bringing the plan to completion.
- ☐ Tomball has completed the action plan and we are attaching the relevant information to be evaluated by ISO for the purposes of re-classifying Tomball.
- ☐ The conditions that have resulted in our less favorable classification are mandates Tomball must adhere to. We do not intend to make significant changes in the immediate future to the other aspects of our agency that might improve the BCEGS classification.
- ☐ We have reviewed the results of the survey for Tomball and feel our building code enforcement effort at present represents our best interest. We understand that you will contact us in approximately 5-years to update the survey. We can request a new BCEGS survey from ISO if we institute changes that would affect our classification.
- ☐ We would like an ISO BCEGS representative to contact us regarding our recent BCEGS evaluation. The person they should call is _____ at the following phone number (____) _____.
- ☐ Other, please explain.

Name: _____ Title: _____
Street Address: _____
City: _____ State: _____ Zip Code: _____
Phone Number: (____) _____.



Purpose of Codes

- **Reduces potential hazards**
 - Fires, structural collapse, general deterioration
 - Minimize damage when a disaster strikes
- **Promotes higher quality construction through minimum code standards**
 - Protects investments by preserving property values
 - Promotes energy conservation/lower utility bills
- **Promotes safer construction**
 - Safer for occupants and first responders

Why Update Codes?

- Ability to utilize uniform standards and updated technology and methods which can save money
- Outdated codes negatively affect a community's ISO Building Code Effectiveness Grading Schedule (BCEGS)
 - Impact of higher insurance premiums for residents and business owners
- Older codes reference older standards
 - ASTM, AWWA, NFPA, ASCE, etc.
- Design professionals and builders are already utilizing newer codes and find themselves having to revert to "old technology and methods" to comply with 2003 codes
- Most surrounding communities are on newer codes

3

Where Are We Today?

- 11 years behind
(2003 IBC, IRC, IMC, IPC)
- 9 years behind
(2005 NEC)

4

Why The Urgency?

- ISO review of the City in June 2013
 - Proposed BCEGS re-rating of Class 10 (the WORST possible rating) since our adopted codes are over ten years old (currently Class 6 when previously rated in 2005)
- BCEGS Rating (the lower the better)
 - Municipalities with effective, well-enforced codes should demonstrate lower losses and insurance rates
- Deadline to adopt updated codes is June 13, 2014 to maintain current Class 6

5

Proposed Ordinance Changes

- Changes 2003 International Building Code to 2012 International Building Code
- Changes 2003 International Residential Code to 2012 International Residential Code
- Changes 2003 International Mechanical Code to 2012 International Mechanical Code
- Changes 2003 International Plumbing Code to 2012 International Plumbing Code

6

Proposed Ordinance Changes

- Changes 2005 National Electric Code to 2011 National Electric Code
- Changes reference of International Fire Code 2000 to International Fire Code 2012
- Exempts permits for fences up to eight feet in height (instead of six feet high)
- Requires comprehensive general liability insurance requirements for electricians

7

Proposed Ordinance Changes (Minor Items)

- Changes “licensed by the state” to “licensed by the State of Texas” for electricians
- Inserts that “for a period of 60 days” after the death of a master electrician, any person in the electrical contractor’s business may complete any work authorized under the master electrician’s license
- Eliminates the requirement for a master plumber to provide a bond to the City

8

Proposed Ordinance Changes (Minor Items)

- Eliminates the step of hearing appeals at Planning Commission prior to City Council, to be consistent with the City Charter
- Changes “the Building Official serves at the pleasure of the City Manager and is able to appoint deputies” (previously City Council) in order to be consistent with the City Charter

9

What Has Been Done So Far?

- Purchased updated codes and significant change books (itemized changes)
 - With the amount of changes over three updates, it is not possible to present all changes
- Training for the Building Official and Inspectors on the updated codes
- Informed the development community that the City is pursuing a transition to updated codes in 2014
- Discussed update in detail with City Council on February 3, 2014

10

What Has Been Done So Far?

- Solicited feedback from the development community and received some supportive statements for the code updates:
 - “none of us see any issue with changing codes for future projects”
 - “most of the entities that we work with either use the 2009 or 2012 codes”
 - “while there are some differences it’s not a sweeping change, just some technical updates”
 - “I think it would be good because 2003 is already 10 years old”
 - “honestly we see no real difference”

11

Changes

- 382 sections changed from IRC 2003 to IRC 2012
- 462 sections changed from IBC 2003 to IBC 2012
- 92 sections changed from IMC 2003 to IMC 2012
- 168 sections changed from IPC 2003 to IPC 2012
- 553 sections changed from NEC 2005 to NEC 2011
- 7073 pages of code since 2003
- 3269 pages of significant changes since 2003

12

Significant Changes Ex: 2003-2012

- IBC 2003 versus IBC 2012
 - 300 occupancy separation requirements (2003)
 - 110 occupancy separation requirements (2012)-simplified
 - Occupancy separation between mercantile (M) and storage (S-1)
 - 3 hour separation required (2003)
 - No separation required (2012)
 - Occupancy separation between office (B) and factory (F-1)
 - 3 hour separation required (2003)
 - No separation required (2012)
 - Thousands of \$\$\$\$ could have been saved

13

Significant Changes Ex: 2003-2012

- IMC 2003 versus IMC 2012
 - Requirement of locking-type caps on refrigerant lines to prevent unauthorized access to the refrigerant
 - Increased length of dryer duct allowance from 25 feet to 35 feet
- IPC 2003 versus IPC 2012
 - Relaxes burden on small retail spaces with an occupant load up to 100 persons do not require two accessible toilet rooms

14

Significant Changes Ex: 2003-2012

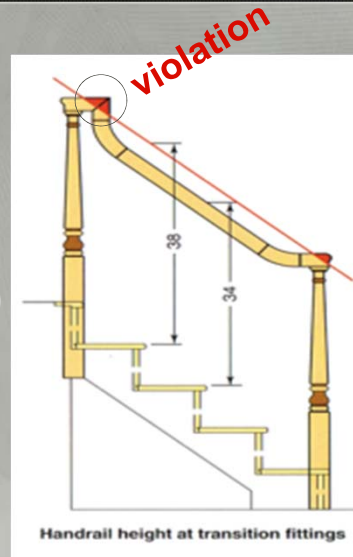
- IRC 2003 versus IRC 2012

- o Handrail height (2003)

- Cannot exceed 38" above the finished surface

- o Handrail height (2012)

- Can exceed 38" at handrail fittings between flights



15

Significant Changes Ex: 2003-2012

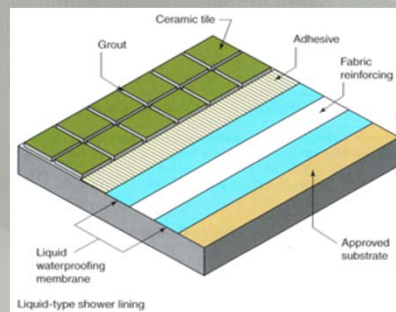
- IPC 2003 versus IPC 2012

- Shower-pan lining (2003)

- Traditional hot-mop method or vinyl pan (expensive)

- Shower-pan lining (2012)

- Allows liquid-type shower-pan lining (less costly)



16

Other IRC Changes (2003 vs 2012)

- Requirement for stairway light switches at each floor level

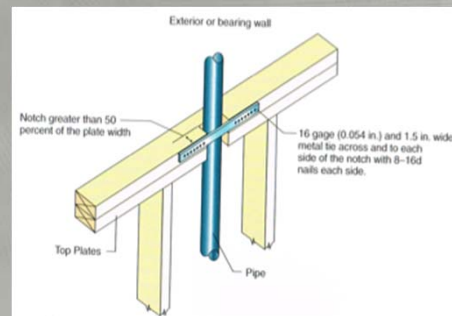
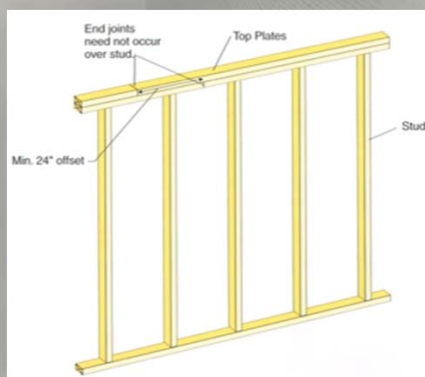


- No fireblocking is required between wood frame floors or floor-ceiling assemblies

17

Other IRC Changes (2003 vs 2012)

- End joints do not need to occur over a stud

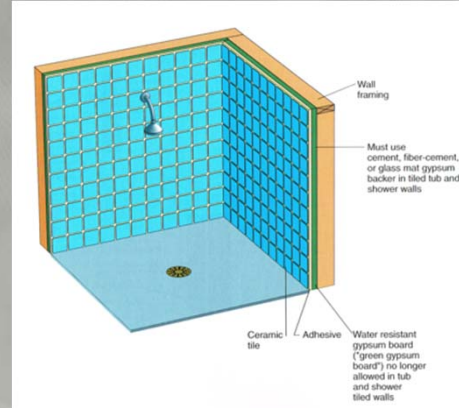


- Only one metal tie is required to connect double top plates when top plates are cut, notched or drilled

18

Other IRC Changes (2003 vs 2012)

- Green gypsum board is no longer allowed as a backer behind tiled tubs and showers and must use cement, fiber-cement or glass mat gypsum backer
 - Green gypsum board is not water proof which can result in mold build-up and deterioration



19

Other IRC Changes (2003 vs 2012)

- Wood/plastic composites are allowed

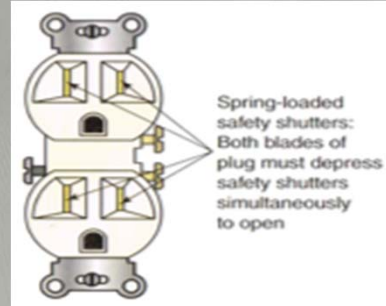
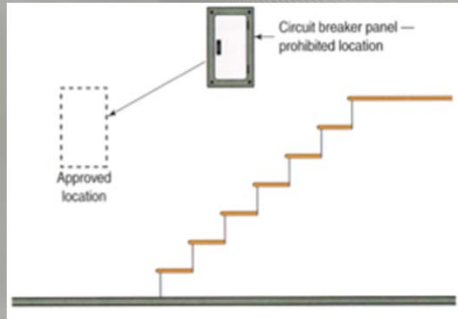


- Minimum dimensions for address numbers (for visibility)

20

Other IRC Changes (2003 vs 2012)

- Circuit breaker panels are prohibited on stairways

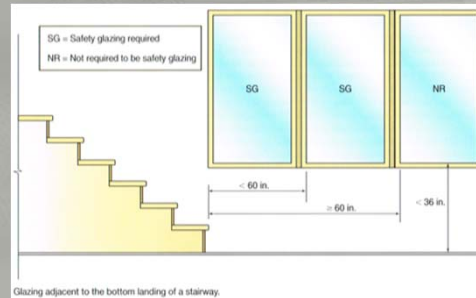
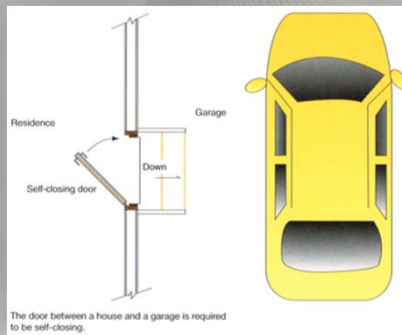


- Tamper-resistant receptacles
 - Prevent insertion of small object into one side of receptacle

21

Other IRC Changes (2003 vs 2012)

- Garage opening protection
 - Require self-closing devices (spring-loaded hinges, etc.)

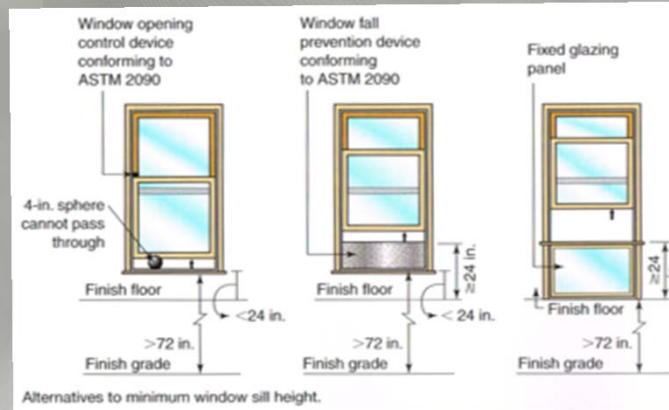


- Safety glazing on stairways and near the bottom stair

22

Other IRC Changes (2003 vs 2012)

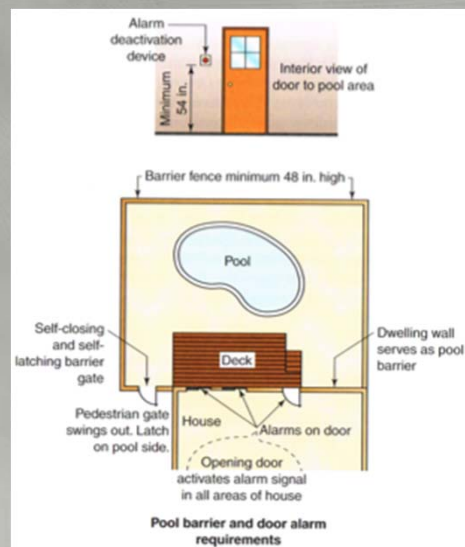
- Guards and window fall protection



23

Other IRC Changes (2003 vs 2012)

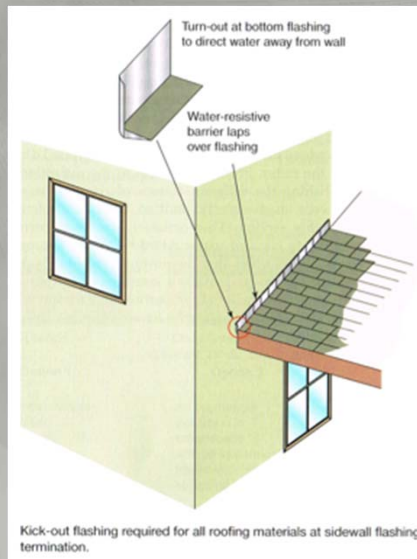
- Outdoor swimming pool alarms on doors within house



24

Other IRC Changes (2003 vs 2012)

- Requirement of kick-out flashing to prevent water intrusion into the wall assembly



25

Other IRC Changes (2003 vs 2012)

- Allowance of wireless smoke alarm interconnection (new technology)
- Requirement of carbon monoxide detectors
 - Where fuel burning appliances exist within the home and/or where garages are attached to the residential dwelling
- Allowance of sloped ceilings within bathrooms so that they can be fit under stairways (more utilization of space)

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Schedule

- Planning and Zoning Commission on April 14, 2014 (unanimously recommended approval)
- City Council on April 21, 2014 (1st reading)
- City Council on May 5, 2014 (2nd reading)
- Effective date of updated codes on June 1, 2014 (new Building Permit submittals)

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Questions?



28

Regular City Council

Agenda Item

Meeting Date: April 21, 2014

Data Sheet

Topic:

Adopt, on First Reading, Ordinance No. 2014-11, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas by Deleting All of Article III, Fire Prevention Code, of Chapter 34, Fire Prevention and Protection, and Adopting a New Article III, Fire Prevention Code, Adopting the 2012 Edition of the International Fire Code as Published by the International Code Council and the 2012 Edition of the NFPA 101 as Published by the National Fire Protection Association, and Making Local Amendments Thereto; by Deleting All of Article IV, Standards for the Installation of Fire Sprinkler Systems, of Chapter 34, Fire Prevention and Protection, and Adopting a New Article IV Adopting NFPA 13, NFPA 13D, and NFPA 13R Standards, and Making Local Amendments Thereto; Providing a Penalty in an Amount not to Exceed \$2,000 for Each Day of Violation Hereof; and Providing for Severability

Background:

This is being presented to City Council to update the current International Fire Codes (IFC) from 2006 to 2012. Amendments to the IFC are also being presented. This is to provide continuity with the proposed IBC, IPC, IRC, IMC, and NEC. While maintainingn the City's current ISO rating and to create a safe built environment consistent with the mission of the Fire Marshal's Office.

Origination:

Fire Marshal's Office

Recommendation:

Adopt Ordinance No. 2014-11 on First Reading

Funding:

Party(ies) responsible for placing this item on agenda:

Doug Sanguedolce, Fire Marshal

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Ordinance No. 2014-11 - IFC Update

ORDINANCE NO. 2014-11

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL TEXAS BY DELETING ALL OF ARTICLE III, FIRE PREVENTION CODE, OF CHAPTER 34, FIRE PREVENTION AND PROTECTION, AND ADOPTING A NEW ARTICLE III, FIRE PREVENTION CODE, ADOPTING THE 2012 EDITION OF THE INTERNATIONAL FIRE CODE AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL AND THE 2012 EDITION OF THE NFPA 101 AS PUBLISHED BY THE NATIONAL FIRE PROTECTION ASSOCIATION, AND MAKING LOCAL AMENDMENTS THERETO; BY DELETING ALL OF ARTICLE IV, STANDARDS FOR THE INSTALLATION OF FIRE SPRINKLER SYSTEMS, OF CHAPTER 34, FIRE PREVENTION AND PROTECTION, AND ADOPTING A NEW ARTICLE IV ADOPTING NFPA 13, NFPA 13D AND NFPA 13R STANDARDS, AND MAKING LOCAL AMENDMENTS THERETO; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2000 FOR EACH DAY OF VIOLATION HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

Section 1. The Code of Ordinances of the City of Tomball, Texas, is hereby amended by deleting Article III of Chapter 34 thereof and substituting therefore a new Article III of Chapter 34 to read as follows:

“ARTICLE III. FIRE PREVENTION CODE

Sec. 34-71. International Fire Code adopted.

For the purpose of providing regulations consistent with nationally recognized practices for the reasonable protection of life and property from the hazards of fire, the City of Tomball hereby adopts the *International Fire Code*, 2012 Edition, hereinafter sometimes referred to as the “Code,” with Appendix Chapters “B” through “J,” as published by the International Code Council, Inc., except such portions as are deleted or amended by this ordinance, and the same are hereby adopted and incorporated as fully as if set out at length herein. One (1) copy of the Code is now filed in the Office of the City Secretary. From the date on which this ordinance shall take effect, the provisions thereof shall be controlling within the limits of the City of Tomball and its extraterritorial jurisdiction.

Sec. 34-71a. Life Safety Code, NFPA 101.

The NFPA 101, 2012 Edition, as published by the National Fire Protection Association, Inc., and as amended herein, is hereby adopted in its entirety with the listed exceptions. A copy of said Life Safety Code is attached to the ordinance and made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.

Sec. 34-72. RESERVED

Sec. 34-73. Gas flare fires.

It shall be unlawful for any person to allow gas flares to burn within the city.

Sec. 34-74. Amendments to the 2012 International Fire Code.

(a) Section 102.7 of said Code is hereby amended to provide as follows:

102.7 Referenced codes and standards. The codes and standards referenced in this Code shall be those that are listed in Chapter 80 and such codes and standards shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between the provisions of this Code and the referenced standards, the provisions of this Code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well.

(b) Section 103 is hereby amended by deleting Sections 103.1, 103.2 and 103.3 of said Code and substituting therefore a new Section 103.1 to provide as follows:

103.1 Department of Fire Prevention. The enforcement of this Code shall be under the administrative and operational control of the Fire Marshal. The Fire Marshal shall be selected by the Fire Chief and serve in the position at the pleasure of the City Council. The Fire Marshal may appoint deputies to assist him/her, subject to the approval of the Fire Chief.

(c) Section 109.3 of said Code is hereby amended to provide as follows:

109.3 Violation penalties. Any person, firm, corporation, or other entity who violates a provision of this Code or shall fail to comply with any of

the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under provisions of this Code, shall be guilty of a misdemeanor punishable by a fine of not more than two thousand dollars (\$2,000.00) or by imprisonment not exceeding twenty (20) days or both such fine and imprisonment. Each day that a violation continues shall constitute a separate offense.

(d) Section 111.4 of said Code is hereby amended to provide as follows:

111.4 Failure to comply. Any person, firm, corporation, or other entity who shall continue any work after having been served with a stop work order, except such work as that person, firm, corporation, or other entity is directed to perform to remove a violation or unsafe condition, shall be liable for a fine not to exceed two thousand dollars (\$2,000.00).

(e) Section 202 of the Code is hereby amended by adding and/or changing the following definitions:

CITY. Shall mean the City of Tomball, Texas.

FIRE CHIEF. Shall mean the City of Tomball Chief of the Fire Department.

FIRE CODE OFFICIAL. The Fire Marshal, or a duly authorized representative, is the designated authority charged by the Fire Chief with the duties of administration and enforcement of the Code.

FIRE MARSHAL. See Fire Code Official.

HIGH-RISE BUILDING. A building having any floors used for human occupancy located more than 55 feet (16,764 mm) or three stories above the lowest level of fire department vehicle access.

SELF-SERVICE STORAGE FACILITY. Real property designated and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

STANDBY PERSONNEL. Qualified fire service personnel, approved by the Fire Chief or Fire Marshal. When utilized, the number required shall be as directed by the Fire Chief or Fire Marshal. Charges for utilization shall be as normally calculated by the jurisdiction.

(f) Section 307.2 of said Code is hereby amended to provide as follows:

307.2 Permit required. A permit shall be obtained from the Fire Code Official in accordance with Section 105.6 prior to kindling a fire for recognized cilvicultural practices, prevention or control of disease or pests. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

Examples of state or local law, or regulations referenced elsewhere in this section may include but not be limited to the following:

1. Texas Commission on Environmental Quality guidelines and/or restrictions.
2. State, County or Local temporary or permanent bans on open burning.
3. Local written policies as established by the Code Official.

(g) Section 307.2.1 of said Code is hereby added to provide as follows:

307.2.1. Open burning is prohibited within the city limits of Tomball unless a permit has been issued by the Fire Marshal for ceremonial fires, trench burning operations for major land clearing, and the prevention or disposal of diseased livestock. A permit is not required for barbeque pits and approved outdoor fireplaces, which are used for its actual design and intent and used in accordance with this code.

(h) Section 307.2.2 of said Code is hereby amended to provide as follows:

307.2.2 Trench Burns. Trench burns shall be conducted in air curtain trenches and in accordance with Section 307.2.

(i) Section 307.4 of said Code is hereby amended to provide as follows:

307.4 Location. The location for open burning shall not be less than 300 feet (91,440 mm) from any structure, and provisions shall be made to prevent the fire from spreading to within 300 feet (91,440 mm) of any structure.

(j) Section 307.4.1 of said Code is hereby deleted in its entirety.

(k) Section 307.4.2 of said Code is hereby deleted in its entirety.

(l) Section 307.5 of said Code is hereby amended to provide as follows:

307.5 Attendance. Trench burns or ceremonial fires shall be constantly attended until the fire is completely extinguished. A minimum of one portable fire extinguisher complying with Section 906 with a minimum 4-

A rating or other approved on site fire extinguishing equipment, such as dirt, sand, water, garden hose or water truck, shall be available for immediate utilization. A permit is required from the Fire Marshal's office, prior to the ignition of any said fire. The Fire Marshal may require a dedicated standby of qualified personnel to assist in the supervision.

(m) Section 308.1.2 of said Code is hereby amended to provide as follows:

308.1.2 Throwing or placing sources of ignition. No person shall throw, sail, launch, or place, or cause to be thrown, sailed, launched, or placed, a lighted match, cigar, cigarette, matches, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire.

(n) Section 308.1.4 of said Code is hereby amended to provide as follows:

308.1.4 Open-flame cooking devices. Charcoal burners and other open-flame cooking devices used for cooking or recreational uses shall not be operated on combustible balconies or within 10 feet (3048 mm) of combustible construction.

No permit is required for this operation.

Exceptions:

1. One and two-family dwellings.

(o) Section 403.4 of said Code is hereby amended to provide as follows:

403.4 Evacuation plan retention box. Where determined by the Fire Code official, Certain occupancies shall install an approved repository of records containing the evacuation plans, floor plans, emergency cut-offs and other pertinent information to the building.

(p) Section 503.2.1 of said Code is hereby amended to provide as follows:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm) and an unobstructed vertical clearance of not less than 14 feet (4267 mm).

(q) Section 503.3 of said Code is hereby amended to provide as follows:

503.3 Marking. Approved striping or, when allowed by the Code Official, signs, or both, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs and striping shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

1. **Striping** - Fire apparatus access roads shall be marked by painted lines of red traffic paint six inches (6") in width to show the boundaries of the lane. The words lettered "FIRE LANE -- NO PARKING -- TOW AWAY ZONE" shall appear in four inch (4") white letters on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the vertical face of the curb.

2. **Signs** - Signs shall read "NO PARKING FIRE LANE" or "FIRE LANE NO PARKING" and shall be 12" wide and 18" high. Signs shall be painted on a white background with letters and borders in red, using not less than 2" lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be six feet, six inches (6'6") above finished grade. Signs shall be spaced not more than thirty feet (30') apart. Signs may be installed on permanent buildings or walls or as approved by the Fire Marshal.

(r) Section 503.4 of said Code is hereby amended to provide as follows:

503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1, and any area marked as a fire lane as described in Section 503.3, shall be maintained at all times. This shall include painted fire lanes or tow away zones maintained and/or managed by a company or firm.

(s) Section 506 of said Code is hereby deleted and a new Section 506 is substituted therefore to provide as follows:

506.1 Key boxes required. The following structures and/or properties shall be equipped with an approved key lock security system box or electronic override key switch at or near the main entrance or such other location as required by the Fire Marshal:

1. Structures that are either equipped with, or required to be equipped with, fire sprinkler systems or fire detection alarm systems that report to an alarm monitoring center;

2. Multi-family residential structures that have restricted access through locked doors or gates and that have a common area or corridor for access to the living units;
3. Buildings, regardless of use or occupancy, that contains four (4) or more occupancies within the same structure that have separate entryways and exit ways that are separated by tenant space and/or have restricted common entryways and exit ways into the common area of the building;
4. Properties having mechanical gates that control vehicular and pedestrian access to commercial property or to private streets in subdivisions, apartment complexes, condominiums or other residential developments which contain more than two residential units; or
5. Commercial property with parking garages or secured parking and storage unit areas that will restrict access for emergency services.
6. In new and existing buildings where an elevator is provided, an approved box suitable for the storage of elevator keys and shall be located near the elevator car.
7. For any building above two stories or any Group E, H, I occupancy, including buildings used for higher education; a box shall be provided in an approved location for the storage of building specific data, not limited to floor plans, MSDS information and equipment disconnects to assist with emergency operations.

506.3 Type of key lock box required. The Fire Marshal shall designate the type of key lock box system to be implemented within the city and shall have the authority to require all structures and/or property to use the designated system.

506.4 Access to buildings. The owner or operator of a structure and/or property required to have a key lock box shall at all times keep the required keys in the lock box that will allow for access to the structure, required rooms and/or property. Required keys shall not include keys to individual living units

(t) Section 509.2 of said Code is hereby amended by adding a second paragraph as follows:

In new buildings equipped or required to be equipped with an automatic fire sprinkler system, access to the fire sprinkler control valves shall be provided directly through an exterior door.

(u) Section 807.4.4.2 of said Code is hereby amended by adding an exception to provide as follows:

Exception: Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 shall be limited to 50 percent of the wall area.

(v) Section 901.7 of said Code is hereby amended to provide as follows:

901.7 Systems out of service. Where a required fire protection system is out of service or in the event of an excessive number of activations, the fire department and the Code Official shall be notified immediately and, where required by the Code Official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service. Where utilized, fire watches shall be provided with at least one approved means for notification of the fire department and their only duty shall be to perform constant patrols of the protected premises and keep watch for fires.

(w) Section 902.1 of said Code is hereby amended by changing the following definition:

FIRE AREA. The aggregate floor area enclosed and bounded *exterior walls* of a building. Areas of the building not provided with surrounding walls shall be included in the fire area if such areas are included within the horizontal projection of the roof or floor next above.

(x) Section 903 Automatic Sprinkler System of said Code is hereby amended by deleting the following exceptions.

- Section 903.2.10
- Section 903.2.11.3, exception #1 and #2 only
- Section 903.4, exceptions #1 and #3 only

(y) Section 903.2 of said Code is hereby amended by adding the following paragraphs:

- I. Any building having a gross floor area of less than 12,000 square feet (1115 m²) must be provided with an approved automatic sprinkler system throughout the building if, as a result of any addition, the total gross floor area of the building will exceed 12,000 square feet (1115 m²) following the addition, regardless of existing firewall separation.

Exception:

1. Existing retail strip center buildings containing more than 5 spaces, regardless of occupancy use.

- II. Any building or individual suite in a multi-tenant strip center, having a fire area and/or occupant load greater than that allowed by the Code shall be provided with an automatic fire sprinkler system if it is determined that an amount greater or equal to fifty percent (50%) of the properties appraised value is effected by a man-made or natural disaster, including fire.

(z) Section 903.2.4 of said Code is hereby amended to provide as follows:

Section 903.2.4 Group F-1 and F-2. An automatic sprinkler system shall be provided throughout all newly constructed buildings containing Group F-1 or Group F-2 occupancy where one of the following exists:

- 1: Where the Group F-1 or Group F-2 fire area exceeds 12,000 square feet;
- 2: Where the Group F-1 or Group F-2 fire area contains more than one story above grade; or
- 3: Where the combined area of all Group F-1 or Group F-2 fire areas on all floors, including any mezzanines, exceeds 12,000 square feet.

(aa) Section 903.2.7 of said Code is hereby amended to provide as follows:

903.2.7 Group M and Group B. An automatic sprinkler system shall be provided throughout all newly constructed buildings containing Group M and Group B occupancy where one of the following conditions exists:

- 1: Where a Group M or Group B fire area exceeds 12,000 square feet;
- 2: Where a Group M or Group B fire area contains occupancy space that is located more than two stories above grade; or
- 3: Where the combined area of all Group M or Group B fire areas on all floors, including any mezzanines, exceeds 12,000 square feet.

(bb) Section 903.2.9.1 of said Code is hereby amended to provide as follows:

903.2.9.1 Repair garages. An *automatic sprinkler system* shall be provided throughout all buildings used as repair garages in accordance with the *International Building Code*, as shown:

1. Buildings having two or more stories above grade plane, including *basements*, with a *fire area* containing a repair garage exceeding 5,000 square feet.
2. Buildings no more than one story above grade plane, with a *fire area* containing a repair garage exceeding 5,000 square feet (1115 m²).

3. Buildings with repair garages servicing vehicles parked in *basements*.
4. A Group S-1 *fire area* used for the repair of commercial trucks or buses where the *fire area* exceeds 5,000 square feet

(cc) Section 903.2.9.3 of said Code is hereby amended to provide as follows:

903.2.9.3 Self-service storage facility. An automatic sprinkler system shall be installed throughout all newly constructed self-service storage buildings exceeding 5000 square feet per fire area when access to each storage space is only available from an interior corridor.

(dd) Section 903.2.11 of said Code is hereby amended by changing Section 903.2.11.3, and adding Sections 903.2.11.3.1, 903.2.11.6.1 and 903.2.11.6.2, to provide as follows:

903.2.11.3 Buildings more than thirty feet (30') or three (3) stories in height.

An automatic sprinkler system shall be installed throughout all newly constructed buildings with a floor level, other than penthouses in compliance with Section 1509 of the International Building Code that is located thirty feet (30') or three (3) stories or more above the lowest level of fire department vehicle access.

Exceptions:

1. Airport control towers.

903.2.11.3.1 High-Piled Combustible Storage. For any building with a clear height exceeding twelve feet (12'), see Chapter 23 to determine if those provisions apply.

903.2.11.6.1 Spray Booths and Rooms. New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system.

903.2.11.6.2 Mixing Room. New and existing mixing booths shall be protected by an approved automatic fire-extinguishing system.

(ee) Section 903.3.1.2 of said Code is hereby amended to provide as follows:

903.3.1.2 NFPA 13R sprinkler systems. Where allowed in buildings of Group R, up to and including four stories in height, automatic sprinkler systems shall be installed throughout in accordance with NFPA 13R. However, sprinkler protection is required in attic spaces, and elevator control rooms of such buildings three or more stories in height.

(ff) Section 903.3.5.1 of said Code is hereby amended by adding a second paragraph to provide as follows:

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a 10-psi safety factor.

(gg) Section 906.2 of the said Code is hereby amended as by deleting the exceptions.

(hh) Section 907.1.3 of said Code is hereby amended by adding the following section:

907.1.3.1 Design Standards. All fire alarm systems new or replacement serving fifty (50) or more alarm actuating devices shall be intelligent addressable fire detection systems.

Exception: Existing systems need not comply unless a building remodel or expansion initiated after the effective date of this code, as adopted, causes the total fire area to exceed the square footage of the building in the applicable sections of this code.

(ii) Section 907.2 of said Code is hereby amended to provide as follows:

907.2 Where required – new buildings and structures. A manual and automatic fire alarm system shall be provided in new buildings and structures other than in Group U occupancies that have a fire area exceeding 5000 square feet in accordance with Sections 907.2.1 through 907.2.23. Systems shall be equipped with one means of automatic activation, and manual activation.

Approved automatic fire detection systems shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances and equipment shall comply with Section 907.1.2. The automatic fire detectors shall be smoke detectors, except that an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

(jj) Section 907.4 of said Code is hereby amended by adding a second sentence to provide as follows:

Manual alarm actuating devices shall be an approved double action type.

(kk) Section 907.6.5 of said Code is hereby amended to provide as follows:

Section 907.6.5 Monitoring. An approved supervising station in accordance with NFPA 72 fire alarm systems shall monitor all new and existing manual, automatic, or manual and automatic fire alarm system.

(ll) Section 912.1 of said Code is hereby amended by adding criteria #1 and #2 to provide as follows:

1. Fire department connections to the fire sprinkler system shall consist of a five inch (5") "Storz" type adapter as approved by the code official.
 - a. **Exception:** NFPA 13D installed sprinkler systems.
2. The fire department connection shall be located remotely, at a distance no greater than 100 feet to the nearest fire hydrant.

(mm) Section 1011.1 of said Code is hereby amended by adding criteria #1 to provide as follows:

1. Buildings two (2) or more stories in height shall provide secondary exits signs located near each exit access. These signs shall be mounted no higher than sixteen inches (16") from the finished floor surface to the bottom of the sign. Approved signs may be self-luminescent for means of illumination.

(nn) Section 1015.1 of said Code is hereby amended by adding #4 to the list of requirements.

4. Each individual tenant space in a retail strip center shall be provided with a secondary exit door in an approved location, regardless of travel distance or occupant load.

(oo) Section 2404.4 of said Code is hereby amended to provide as follows:

2404.4 Fire Protection. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system complying with Chapter 9 which shall also protect exhaust plenums, exhaust ducts and both sides of dry filters when such filters are used.

(pp) Section 3202 of said Code is hereby amended by adding a second paragraph to the definition of “High-Piled Combustible Storage” to provide as follows:

Any building exceeding 3,000 square feet that has a clear height in excess of 12 feet, making it possible to be used for storage in excess of 12 feet, shall be considered to be high-piled storage and shall comply with the provisions of this section. When a specific product cannot be identified, a fire protection system shall be installed as for Class IV commodities, to the maximum pile height.

(qq) 5601.1 of said Code is hereby amended by deleting the “exceptions” contained in paragraphs numbered 1 through 4 and adding the following sections:

5601.1.3 Fireworks. The possession, manufacture, storage, sale, handling and use of fireworks are prohibited within the corporate limits of the city.

The possession, manufacture, storage, sale, handling and use of fireworks are declared to be a nuisance and are prohibited within the area immediately adjacent and contiguous to the city limits and extending outside the city limits for a distance of five thousand (5,000) feet unless such area is within the corporate limits of another municipality.

Exceptions:

1. Only when approved for fireworks displays, storage and handling of fireworks as provided in Section 5601.2.4.2 and 5601.4.
2. The use of fireworks for approved displays as permitted in section 5608.
- 3.

(rr) Section 5605.1 of said Code is hereby deleted.

(ss) Appendix Table D103.4 of said Code is hereby amended to provide as follows:

Table D103.4 Width should be a minimum of 24 feet for lengths up to 500 feet.

(tt) Appendix D103.5 of said Code is hereby amended to provide as follows:

Appendix D103.5 Fire apparatus access road gates. Gates securing the fire apparatus access roads shall comply with all of the following criteria:

1. The minimum gate width shall be 24 feet.”

Section 2. The Code of Ordinances of the City of Tomball, Texas, is hereby further amended by deleting Article IV of Chapter 34 thereof and substituting therefore a new Article IV of Chapter 34 to read as follows:

“ARTICLE IV. STANDARDS FOR THE INSTALLATION OF FIRE SPRINKLER SYSTEMS

Sec. 34-91. NFPA 13, NFPA 13D, and NFPA 13R Standards for the Installation of Sprinkler Systems.

The NFPA 13, NFPA 13D, and NFPA 13R Standards, hereinafter sometimes referred to as the “standards”, as published by the National Fire Protection Association, Inc., and as amended herein, are hereby adopted.

Sprinkler systems shall comply with the most recent edition of applicable standards at the time of installation. A copy of said standards is attached to the ordinance from which this section is derives and made a part hereof for all purposes, an authentic copy of which has been filed with the city secretary.

Sec. 34-92. Amendments to NFPA 13D.

(a) Section 3.3.13.1 of NFPA 13 D Is hereby amended by deleting the definition of ‘Check Valve’ and substituting therefore a new definition to provide as follows:

Double Check Valve. A valve that allows flow in one direction only, on the system side.

(b) Section 3.3.13.2 of NFPA 13 D Is hereby amended by deleting the definition of ‘Control Valve’ and substituting therefore a new definition to provide as follows:

Each system shall have a single control valve arranged to shut off both the domestic system and the sprinkler system, and there shall be a separate shutoff valve for the domestic system only. However, the sprinkler system shall be permitted to have a separate control valve where supervised by a central station or remote station alarm service.

(c) Section 8.3.1 of NFPA 13D is here by amended to provide as follows:

8.3.1 Sprinklers shall be installed in all areas.”

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 \$2000. Each day of violation shall constitute a separate offense.

Section 4. In the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances 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 than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 21ST DAY OF APRIL 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

SECOND READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 5TH DAY OF MAY 2014.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN DEGGES	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor
City of Tomball

ATTEST:

Doris Speer, City Secretary
City of Tomball

Regular City Council Agenda Item Data Sheet

Meeting Date: April 21, 2014

Topic:

Executive Session: The City Council will meet in Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose:

- Sec. 551.072 – Deliberations Regarding Real Property

Background:**Origination:****Recommendation:****Funding:****Party(ies) responsible for placing this item on agenda:**

ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	