

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



MONDAY, OCTOBER 21, 2013

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, October 21, 2013 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 Pastor Richard Jennings, River of Praise Church

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 Presentations:

- **Mayor's Cup** – Presentation of Trophy to the Winner of the **2013 Mayor's Cup Blood Drive**
- Fire Department Presentations:
 - Pinning one (1) Lieutenant, six (6) Driver/Operators and one (1) Firefighter

6.0 Reports and Announcements

- October 22, 2013 – **"Zomball in Tomball Do-Over" at the Depot** – 6:00 p.m.-7:30 p.m.
- October 26, 2013 – **Tomball Bluegrass Festival** – 11:30 a.m.-6:00 p.m.
- November 4, 2013 – Appointments to Tourism Advisory Committee for terms expiring December 5, 2013
- November 5, 2013 – **Mayor's Coffee – 5:00 p.m.-7:00 p.m. – 207 Commerce (Sol de Luna)**
- November 9, 2013 – **Woodforest Run at the Depot** – 8:00 a.m.
- November 9, 2013 – **2nd Saturday at the Depot** – 5:00 p.m.
- November 19, 2013 – **20th Anniversary of Lone Star College-Tomball**
- November 23, 2013 – **48th Annual Tomball Holiday Parade** –10:00 a.m.
- December 6-7, 2013 – **2013 Tomball German Christmas Market** – 10:00 a.m.-8:00 p.m.
- December 7, 2013 – **"Christmas on Commerce" – a 2nd Saturday at the Depot Event**, from 10:00 a.m.-8:00 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:
 - Craig Meyers - ROW update on Medical Complex and M121
 - Lisa Coe/Mike Baxter – Success of **Sherine's Stride 5K and 1 Mile Walk/Run**

7.0 Approve the Minutes of the Following Meetings:

- October 7, 2013 Regular City Council Meeting
- October 14, 2013 Special City Council Meeting

8.0 New Business:

- 8.1 Consideration to approve **ZONING CASE P13-143**: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called "Fortune Telling and Similar Activities," permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 ("Definitions") by creating a definition for "Fortune Telling and

Similar Activities.”

- Conduct a Public Hearing on **ZONING CASE P13-143**
- Adopt, on First Reading, Ordinance 2013-19, an Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by amending Section 38.2 (“Use Charts”) by creating a new land use called “Fortune Telling and Similar Activities,” permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 (“Definitions”) by creating a definition for “Fortune Telling and Similar Activities,” 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.

- 8.2 Announce that the Public Hearing on Zoning Case P13-148 is postponed to the regularly scheduled City Council meeting of January 20, 2014, unless further tabled by the Planning and Zoning Commission.
- 8.3 Approve Resolution No. 2013-29, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 48th Annual Tomball Holiday Parade, “Cartoons on Parade”, to be held in Tomball on Saturday, November 23, 2013 and to Approve Requested Street Closures and In-kind Services
- 8.4 Authorize the City Manager to Request that Harris County Commissioners Court Enter into an Interlocal Agreement with the City of Tomball for Harris County to Provide Contingency Debris Removal Services to the City of Tomball in the Event of a Disaster Incident.
- 8.5 Approve Proposed Revisions to the City of Tomball Boards, Commissions, and Committees Handbook

9.0 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 October 2013 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: October 21, 2013

Topic:

- Led by Pastor Richard Jennings, River of Praise Church

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: October 21, 2013

Topic:

- Led by Members of the Tomball High School Student Council

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: October 21, 2013

Topic:

- *Mayor's Cup* – Presentation of Trophy to the Winner of the *2013 Mayor's Cup Blood Drive*
- Fire Department Presentations:
 - Pinning one (1) Lieutenant, six (6) Driver/Operators and one (1) Firefighter

Background:**Origination:**

Mayor, Fire Chief

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	

Regular City Council

Agenda Item

Meeting Date: October 21, 2013

Data Sheet

Topic:

- October 22, 2013 – **“Zomball in Tomball Do-Over” at the Depot** – 6:00 p.m.-7:30 p.m.
- October 26, 2013 – ***Tomball Bluegrass Festival*** – 11:30 a.m.-6:00 p.m.
- November 4, 2013 – Appointments to Tourism Advisory Committee for terms expiring December 5, 2013
- November 5, 2013 – ***Mayor’s Coffee – 5:00 p.m.-7:00 p.m. – 207 Commerce (Sol de Luna)***
- November 9, 2013 – ***Woodforest Run at the Depot*** – 8:00 a.m.
- November 9, 2013 – **2nd Saturday at the Depot** – 5:00 p.m.
- November 19, 2013 – **20th Anniversary of Lone Star College-Tomball**
- November 23, 2013 – **48th Annual Tomball Holiday Parade** –10:00 a.m.
- December 6-7, 2013 – **2013 Tomball German Christmas Market** – 10:00 a.m.-8:00 p.m.
- December 7, 2013 – ***“Christmas on Commerce” – a 2nd Saturday at the Depot Event***, from 10:00 a.m.-8:00 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:
 - Craig Meyers - ROW update on Medical Complex and M121
 - Lisa Coe/Mike Baxter – Success of ***Sherine’s Stride 5K and 1 Mile Walk/Run***

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:

“Zomball in Tomball Do-Over” at the Depot

ZOMBALL IN TOMBALL

DO-OVER

OCTOBER 22ND
AT THE DEPOT
6 P.M. - 7:30 P.M.

The Depot is at
201 S. Elm Street in
downtown Tomball.
Free admission
and parking.

- Creepy Caboose
 - Lowe's Gotcha Gazebo
 - Trunk-or-Treat
- with more than 13 goodie stations
- Free trick-or-treat bags
 - Danny's Trix & Kix will have a special gift for kids coming in costume while supplies last

For more information, please call 281-351-5484,
visit www.tomballtx.gov or
www.facebook.com/TomballTexanForFun.

"Zomball in Tomball"
is presented in-part
by Tomball's new.



Other upcoming festivals include
the Tomball Bluegrass Festival on
October 26th, and "Christmas on
Commerce" on December 14th.



Regular City Council Agenda Item Data Sheet

Meeting Date: October 21, 2013

Topic:

Approve the Minutes of the Following Meetings:

- October 7, 2013 Regular City Council Meeting
- October 14, 2013 Special City Council Meeting

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

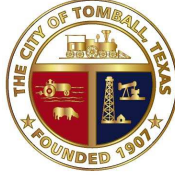
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Draft Minutes - October 7, 2013 Regular Council Meeting

Draft Minutes - October 14, 2013 Special Council Meeting

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, OCTOBER 7, 2013
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 Brown
Councilman Townsend
Councilman Dodson

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Robert Hauck
Fire Chief – Randy Parr
Director of Public Works – David Kauffman
Community Development Director – Craig Meyers
Marketing Director – Mike Baxter
Finance Director – Glenn Windsor
Assistant City Engineer – Lori Lakatos
City Planner – Rebeca Guerra
Community Events Coordinator – Rosalie Dillon
Chief-NWEMS – Raul Reyes

2.0 Invocation

- Led by Pastor John Holiday, Powerhouse Church of God in Christ

3.0 Pledges to U. S. and Texas Flags

- Led by Members of the Tomball High School Student Council

4.0 The following public comments were received:

Rodney Hutson 9431 Rosie Lane, 77354	-	Expressed his support and appreciation for City Manager, George Shackelford
Tomball High School Student Council Presidents	-	Extended invitation to Council and audience to attend the 2013 Homecoming Parade and Pep Rally, to be held on October 16, 2013

5.0 Presentations:

- Rodney Reid, representing the Harris County Fire Marshal's Office, presented plaques and certificates in recognition of the Crew of TFD Engine 1 by Harris County for Performing a Lifesaving Rescue at a Structure Fire:

Lieutenant Steven Foehner
Firefighter Chris Caron
Firefighter Steve McHenry
Firefighter William McDugle.

6.0 Reports and Announcements:

- October 12, 2013 – ***"Sherine's Stride for Breast Cancer Awareness" – 5K Run/Walk*** at 8:00 a.m. and ***1 Mile Run/Walk*** at 9:00 a.m.
- October 12, 2013 - **2nd Saturday at the Depot** – 5:00 p.m.
- October 14, 2013 at 5 p.m. – **Vote** on Proposed Tax Rate
- October 21, 2013 - Appointment of Member to Tomball Legacy Fund, Inc.
- October 26, 2013 – ***Tomball Bluegrass Festival*** – 11:30 a.m.-6:00 p.m.
- November 4, 2013 – Appointments to Tourism Advisory Committee for terms expiring December 5, 2013
- November 5, 2013 – **Mayor's Coffee** – 5:00 p.m.-7:00 p.m. – 207 Commerce (Sol de Luna)
- November 9, 2013 – ***Woodforest Run at the Depot*** – 8:00 a.m.
- November 9, 2013 – **2nd Saturday at the Depot** – 5:00 p.m.
- November 16, 2013 – **48th Annual Tomball Holiday Parade** –10:00 a.m.
- November 19, 2013 – **20th Anniversary of Lone Star College-Tomball Walk Tomball!** – Every Saturday at 8:00 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:
 - Mike Baxter – ***Bugs, Brew & Barbecue, VW Show and MusicFest***
 - Robert Hauck - ***Annual National Night Out at the Depot***

7.0 Motion was made by Councilman Dodson, second by Councilman Stoll, to approve the minutes of the following meetings:

- September 16, 2013 Regular City Council Meeting
- September 23, 2013 Special City Council meeting
- September 30, 2013 Special City Council Meeting

Motion carried unanimously.

8.0 Old Business:

8.1 Motion was made by Councilman Brown, second by Councilman Stoll, to adopt on Second Reading, Ordinance No. 2013-16, an Ordinance Amending the Code of Ordinances of the City of Tomball, Texas, by Deleting Article VII, Water Conservation, of Chapter 82, Utilities, Thereof in Its Entirety and Substituting Therefor a New Article VII, Water Conservation; Establishing Water Conservation Regulations; Defining Certain Terms; Providing Rules and Regulations Governing Drought Response States; Providing Procedures for Administration and Enforcement of a Water Conservation and Emergency Management Plan; Providing a Penalty in an Amount Not to Exceed Two Thousand Dollars (\$2,000.00) for Each Day of Violation of Any Provision Hereof; Repealing Ordinance No. 2002-20 and All Other Ordinances or Parts of Ordinances in Conflict Herewith; Providing for Severability; and Containing Other Provisions related to the Subject. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

8.2 Mayor Fagan reconvened and re-opened the public hearing regarding **ZONING CASE P13-117**: Request by Cecilio Cano to amend the City's Comprehensive Zoning Ordinance by rezoning approximately 5 acres of land, legally described as Lot 271, Tomball Outlots within the City of Tomball, Harris County, Texas, generally located westerly of South Persimmon Road, northerly of Agg Road, from the Light Industrial District to the Agricultural District at 6:27 p.m.

George Cano, son of Cecilio Cano 4406 Brandemere Way, 77066	-	Presented Cano family's request for zoning change.
Frederico Fano 1100 S. Cherry, 77375	-	Expressed his opposition to the proposed zoning change.

Receiving no additional comments, Mayor Fagan closed the public hearing at 6:30 p.m.

Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2013-17 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Stoll, to adopt, on First Reading, Ordinance No. 2013-17, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 5 Acres of Land, Legally Described as Lot 271, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Light Industrial District to the Agricultural District; Said Property being Generally Located Westerly of South Persimmon Road, Northerly of Agg Road; Providing for the Amendment of the Official Zoning Map of the City; 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. Adopt, on First Reading, Ordinance No. 2013-17, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Changing the Zoning District Classification of Approximately 5 Acres of Land, Legally Described as Lot 271, Tomball Outlots, within the City of Tomball, Harris County, Texas, from the Light Industrial District to the Agricultural District; Said Property being Generally Located Westerly of South Persimmon Road, Northerly of Agg Road; Providing for the Amendment of the Official Zoning Map of the City; 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. Vote was as follows:

Councilman Hudgens	<u>Nay</u>
Councilman Stoll	<u>Nay</u>
Councilman Brown	<u>Nay</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Nay</u>

Motion FAILED, 4 votes Nay, 1 vote Aye.

9.0 New Business:

- 9.1 Motion was made by Councilman Dodson, second by Councilman Brown, to adopt \$0.230000 as the Portion of the Tax Rate to Fund the Interest and Sinking (Debt Service) Fund for Fiscal Year 2013-2014. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 9.2 Motion was made by Councilman Brown, second by Councilman Stoll, to adopt \$0.111455 as the Portion of the Tax Rate to Fund the Maintenance and Operations (M&O) Fund for Fiscal Year 2013-2014. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Nay</u>
Councilman Dodson	<u>Aye</u>

Motion carried, 4 votes Aye, 1 vote Nay.

- 9.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2013-18 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, on First Reading, Ordinance No. 2013-18, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2013 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 9.4 Mayor Fagan Announced that the Final Vote on the Proposed 2013 Tax Rate will be held at a Special City Council Meeting on October 14, 2013 at 5:00 p.m. Councilman Townsend advised that he would be unable to attend the October 14 meeting.

No action taken.

- 9.5 Consideration of Proposed Revisions to the City of Tomball Boards, Commissions, and Committees Handbook was delayed; item moved to the October 21, 2013 Council meeting.

No action taken.

- 9.6 Motion was made by Councilman Townsend, second by Councilman Hudgens, to Approve the proposed amendments to Administrative Policy No. 32, entitled "*Pay and Training Policy for Volunteer Fire Fighters*", Revising the Pay and Training Policy for Tomball Volunteer Firefighters.

Motion carried unanimously.

- 9.7 City Council entered into a Workshop Session for the Following Purpose:

- Long-term Planning for the Tomball Fire Department

No action taken.

- 9.8 The City Council recessed at 7:26 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(s):

- Sec. 551.074 – Deliberations Regarding Personnel Matters - Evaluation of City Manager

Upon reconvening into Regular Session at 7:48 p.m., the following action was taken:

- 9.9 Motion was made by Councilman Townsend, second by Councilman Brown, to approve Amendments to and Extension of the Employment Contract for George Shackelford, City Manager.

Motion carried unanimously.

- 10.0 Motion was made by Councilman Stoll, second by Councilman Dodson, to adjourn. Vote was as follows:

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

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

Motion FAILED, 4 votes Nay, 1 vote Aye.

Motion was made by Councilman Stoll, second by Councilman Brown, to adjourn.

Motion carried unanimously.

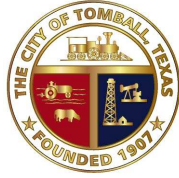
Meeting adjourned.

PASSED AND APPROVED this the 21st day of October 2013.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF SPECIAL CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, OCTOBER 14, 2013
5:00 P.M.**

1.0 Call to Order

The Council meeting was called to order at 5:00 p.m. by Mayor Fagan. Other members present were:

Councilman Hudgens
Councilman Stoll
Councilman Brown
Councilman Dodson

Councilmembers Absent:

Councilman Townsend

Others present:

City Manager – George Shackelford
City Secretary – Doris Speer
Community Development Director – Craig Meyers
Finance Director – Glenn Windsor
Assistant City Engineer – Lori Lakatos

2.0 No Public Comments were received.

3.0 Reports and Announcements:

- October 21, 2013 - Appointment of Member to Tomball Legacy Fund, Inc.
- October 26, 2013 – ***Tomball Bluegrass Festival*** – 11:30 a.m.-6:00 p.m.
- November 4, 2013 – Appointments to Tourism Advisory Committee for terms expiring December 5, 2013
- November 5, 2013 – ***Mayor's Coffee – 5:00 p.m.-7:00 p.m.*** – 207 Commerce (*Sol de Luna*)
- November 9, 2013 – ***Woodforest Run at the Depot*** – 8:00 a.m.
- November 9, 2013 – ***2nd Saturday at the Depot*** – 5:00 p.m.
- November 16, 2013 – ***48th Annual Tomball Holiday Parade*** – 10:00 a.m.
- November 19, 2013 – ***20th Anniversary of Lone Star College-Tomball***
- ***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.

4.0 Old Business:

- 4.1 Motion was made by Councilman Stoll, second by Councilman Dodson, to adopt, on Second Reading, Ordinance No. 2013-18, an Ordinance of the City of Tomball, Texas, Setting the Tax Levy of \$0.341455/\$100 Value Assessed for the Year 2013 on All Taxable Real and Personal Property Located in the City of Tomball, Texas; Providing for Penalty, Interest, and Additional Penalty on Taxes Not Timely Paid; and Providing Other Matters Relating to the Subject. Vote was as follows:

Councilman Hudgens	<u>Aye</u>
Councilman Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Absent</u>
Councilman Dodson	<u>Aye</u>

Motion carried unanimously.

- 5.0 Motion was made by Councilman Brown, second by Councilman Stoll, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this the 21st day of October 2013.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: October 21, 2013

Data Sheet

Topic:

Consideration to approve **ZONING CASE P13-143**: Request by the City of Tomball to amend Section 38.2 ("Use Charts") of the City's Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called "Fortune Telling and Similar Activities," permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 ("Definitions") by creating a definition for "Fortune Telling and Similar Activities."

- Conduct a Public Hearing on **ZONING CASE P13-143**
- Adopt, on First Reading, Ordinance 2013-19, an Ordinance of the City of Tomball, Texas, amending its Zoning Ordinance by amending Section 38.2 ("Use Charts") by creating a new land use called "Fortune Telling and Similar Activities," permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 ("Definitions") by creating a definition for "Fortune Telling and Similar Activities;" 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 August 28, 2013, an individual contacted the City of Tomball inquiring whether a psychic, astrology, and palm/tarot card/crystal reading land use was a permitted use within City limits. City staff informed this individual that the proposed land use was not listed in Section 38.2 ("Use Charts") of the Zoning Ordinance and would need to be added in order to be allowed within the City. Consequently, the City is initiating the addition of this unlisted land use per Section 38.1 ("Conformance With The Use Charts") of the Zoning Ordinance.

On October 14, 2013, the Planning and Zoning Commission considered Zoning Case P13-143. Commissioner Beauvais made a motion to approve Zoning Case P13-143, second by Commissioner Roquemore. The motion failed with a 2-3 vote. The vote was as follows:

Commissioner Tague - Aye
Commissioner Roquemore - Nay
Commissioner Torres - Nay
Commissioner Walicki - Aye
Commissioner Beauvais - Nay.

Therefore, the Planning and Zoning Commission's recommendation is to DENY Zoning Case P13-143. Due to the Commission's recommendation of denial, City Council's vote must be a super majority, per Local Government Code, Chapter 211.006(f).

Origination:

City of Tomball

Recommendation:

APPROVE Zoning Case P13-143

Funding:

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

Brandy Pate, Engineering and Planning

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

ATTACHMENTS:

Ordinance 2013-19

Notice of Public Hearing

P13-143 Staff Report

ORDINANCE NO. 2013-19

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY AMENDING SECTION 38.2 ("USE CHARTS") BY CREATING A NEW LAND USE CALLED "FORTUNE TELLING AND SIMILAR ACTIVITIES," PERMITTING IT ONLY WITH A CONDITIONAL USE PERMIT IN THE LIGHT INDUSTRIAL DISTRICT, AND ASSIGNING IT A PARKING REQUIREMENT OF ONE PARKING SPACE PER THREE HUNDRED (300) SQUARE FEET OF BUILDING AREA; AND AMENDING SECTION 45.2 ("DEFINITIONS") BY CREATING A DEFINITION FOR "FORTUNE TELLING AND SIMILAR ACTIVITIES;" PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City of Tomball has requested that Section 38.2 ("Use Charts") of the Zoning Ordinance be amended by creating a new land use called "Fortune Telling and Similar Activities," permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area;

WHEREAS, the City of Tomball has requested that Section 45.2 ("Definitions") of the Zoning Ordinance be amended by creating a definition for "Fortune Telling and Similar Activities."

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend the City's Zoning Ordinance;

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, the Planning & Zoning Commission recommended in its final report that the City Council deny the proposed amendments to the Zoning Ordinance;

WHEREAS, having considered the recommendation of the Planning and Zoning Commission, the City Council has determined to adopt their recommendation and to amend the City's Zoning Ordinance as provided herein;

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. Section 38.2 (“Use Charts”) of the Comprehensive Zoning Ordinance is hereby amended by adding the following text:

Types of Land Uses	Residential Zoning Districts								Non-Residential Zoning Districts								OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6		D	MF	MHP	O		GR			C	LI			
Personal & Business																		
Fortune Telling and Similar Activities															C			1 space: 300 sf

Section 3. Section 45.2 (“Definitions”) of the Comprehensive Zoning Ordinance is hereby amended by adding the following text:

FORTUNE TELLING AND SIMILAR ACTIVITIES: A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall be limited to uses where the fortune is told through astrology, tarot card reading, crystal gazing, palmistry, or any similar means.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 5. 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 6. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City’s official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF OCTOBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
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 4TH DAY OF NOVEMBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

ATTEST:

Gretchen Fagan, Mayor

Doris Speer, City Secretary

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
OCTOBER 14, 2013
&
CITY COUNCIL
OCTOBER 21, 2013**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, October 14, 2013, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, October 21, 2013, 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 P13-143: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called “Fortune Telling and Similar Activities,” permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 (“Definitions”) by creating a definition for “Fortune Telling and Similar Activities.”

ZONING CASE P13-148: Request by the City of Tomball to amend Section 34.4 (“Area Regulations for Residential Uses”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating non-conforming lot regulations for lots within 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.

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.

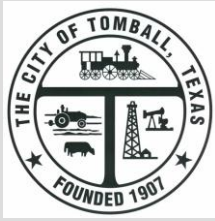
CERTIFICATION

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 October 2013 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.



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: October 14, 2013

ZONING CASE P13-143: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called “Fortune Telling and Similar Activities,” permitting it with a Conditional Use Permit (CUP) in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 (“Definitions”) by creating a definition for “Fortune Telling and Similar Activities.”

BACKGROUND

On August 28, 2013, an individual contacted the City of Tomball inquiring whether a psychic, astrology, and palm/tarot card/crystal reading land use was a permitted use within City limits. City staff informed this individual that the proposed land use was not listed in Section 38.2 (“Use Charts”) of the Zoning Ordinance and would need to be added in order to be allowed within the City. Consequently, the City is initiating the addition of this unlisted land use per Section 38.1 (“Conformance With The Use Charts”) of the Zoning Ordinance.

PROPOSED AMENDMENTS

Section 38.2 “Use Charts”

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts							OT&MU	Parking Ratio (Also see Section 39)
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR			C	LI			
Personal & Business																
Fortune Telling and Similar Activities													C			1 space: 300 sf

Section 45.2 “Definitions”

Fortune Telling and Similar Activities: A use involving the foretelling of the future in exchange for financial or other valuable consideration. Fortune telling shall be limited to uses where the fortune is told through astrology, tarot card reading, crystal gazing, palmistry, or any similar means.

ANALYSIS

City staff is recommending that this land use be permitted with a Conditional Use Permit in the Light Industrial District. Based on research done by City staff of other zoned municipalities, it would appear that the most appropriate zoning classification for this land use is the Light Industrial District. This district provides robust adjacency considerations in the form of deeper building setbacks and screening/buffering requirements which are ideal for such a use. Moreover, in the City of Tomball, most of the industrially-zoned properties are adjacent to either residential zoning districts or uses. Requiring a CUP will further protect neighboring properties because they allow for

additional adjacency considerations to be incorporated into the design of the site and operation of the business.

The United States Fourth Circuit Court of Appeals upheld the right of a local government to allow fortune telling businesses with a Conditional Use Permit in Industrial zoning districts on February 26, 2013, (*Patricia Moore-King v. County of Chesterfield, Virginia*). The case ruling states, “With respect to an occupation such as fortune telling where no accrediting institution like a board of law examiners or medical practitioners exists, a legislature may reasonably determine that additional regulatory requirements are necessary.” City staff concurs with the Fourth Circuit Court of Appeals’ determination that fortune telling businesses require “additional regulatory requirements.” In this situation, the most appropriate “additional regulatory requirements” appear to be allowing this land use only in the Light Industrial District with a CUP.

The City’s authority to place particular uses in specific zoning districts is a well-established police power granted to it by the Tenth Amendment of the U.S. Constitution. The courts have established in several rulings (but more specifically in *City of Renton v. Playtime Theatres, Inc.*) that this power must be exercised in a way that is “content-neutral” in its application of time, place, and manner. In addition, it must provide an avenue for any lawful land use to be established somewhere within that municipality. City staff is recommending that Fortune Telling and Similar Activities be located in the Light Industrial District with a CUP because of the potential effects on an area rather than the content of the specific land use. Moreover, the land use is being given an opportunity to be established in an appropriate zone within the City. Consequently, it would appear that this recommendation is content-neutral, while still protecting a substantial property right.

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on September 30, 2013; no public comments have been received as of October 9, 2013.

RECOMMENDATION

Approval of the proposed amendments.

Regular City Council

Agenda Item

Meeting Date: October 21, 2013

Data Sheet

Topic:

Announce that the Public Hearing on Zoning Case P13-148 is postponed to the regularly scheduled City Council meeting of January 20, 2014, unless further tabled by the Planning and Zoning Commission.

Background:

On July 15, 2013, City Council discussed allowing detached single-family residences on any existing 25-foot wide platted lots in the Old Town Area bound 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. During this meeting, City Council deliberated allowing this provided all new detached single-family residences access the property from an alleyway, if available, and that they provide at least two off-street parking stalls. Per City Council's direction, Staff is bringing forth this proposed amendment to help accomplish the City Council's overall vision for that portion of the Old Town Area.

On October 14, 2014, the Planning and Zoning Commission considered **ZONING CASE P13-148**: Request by the City of Tomball to amend Section 34.4 ("Area Regulations for Residential Uses") of the City's Zoning Ordinance (Ordinance No. 2008-01) by creating non-conforming lot regulations for lots within 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.

Commissioner Beauvais made a motion to approve Zoning Case P13-148, second by Commissioner Walicki. After a discussion was held, Chairman Tague made a motion to table Zoning Case P13-148 to the regularly scheduled Planning and Zoning Commission meeting of January 13, 2014, second by Commissioner Beauvais. The motion passed with a 3-2 vote. The vote was as follows:

Commissioner Tague - Aye
Commissioner Roquemore - Nay
Commissioner Torres - Nay
Commissioner Walicki - Aye
Commissioner Beauvais - Aye

Origination:

City of Tomball

Recommendation:

Funding:

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

Brandy Pate, Engineering and Planning

ACTION TAKEN

APPROVAL ☐ YES ☐ NO	READINGS PASSED ☐ 1 ST ☐ 2 ND	OTHER
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ATTACHMENTS:

Notice of Public Hearing

P13-148 Staff Report

Draft Ordinance

**NOTICE OF PUBLIC HEARING
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
OCTOBER 14, 2013
&
CITY COUNCIL
OCTOBER 21, 2013**



Notice is Hereby Given that a Public Hearing will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, October 14, 2013, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, October 21, 2013, 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 P13-143: Request by the City of Tomball to amend Section 38.2 (“Use Charts”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating a new land use called “Fortune Telling and Similar Activities,” permitting it only with a Conditional Use Permit in the Light Industrial District, and assigning it a parking requirement of one parking space per three hundred (300) square feet of building area; and amending Section 45.2 (“Definitions”) by creating a definition for “Fortune Telling and Similar Activities.”

ZONING CASE P13-148: Request by the City of Tomball to amend Section 34.4 (“Area Regulations for Residential Uses”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating non-conforming lot regulations for lots within 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.

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.

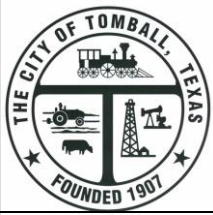
CERTIFICATION

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 October 2013 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.



Text Amendment Staff Report

Planning & Zoning Commission Hearing Date: October 14, 2013

ZONING CASE P13-148: Request by the City of Tomball to amend Section 34.4 (“Area Regulations for Residential Uses”) of the City’s Zoning Ordinance (Ordinance No. 2008-01) by creating non-conforming lot regulations for lots within 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.

BACKGROUND

On July 15, 2013, City Council discussed allowing detached single-family residences on any existing 25-foot wide platted lots in the Old Town Area bound 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. During this meeting, City Council deliberated allowing this provided all new detached single-family residences access the property from an alleyway, if available, and that they provide at least two off-street parking stalls. Per City Council’s direction, Staff is bringing forth this proposed amendment to help accomplish the City Council’s overall vision for the Old Town Area.

PROPOSED AMENDMENTS

Section 34.4 (“Area Regulations for Residential Uses”)

D. Non-Conforming Lots: Except in the Old Town Area, 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.

E. Non-Conforming Lots in the Old Town Area: For platted, non-conforming lots within 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 following standards shall apply to allow for single-family detached residential uses only:

1. Size of Lots:

- a. Minimum Lot Area – Two thousand five hundred (2,500) square feet.
- b. Minimum Lot Width – Twenty-five (25) feet.
- c. Minimum Lot Depth – One hundred (100) feet.

2. Size of Yards:

- a. Minimum Front Yard – Fifteen (15) feet.

- b. Minimum Side Yard – Five (5) feet for interior lots and corner lots.
 - c. Minimum Rear Yard – Ten (10) feet.
 - d. Encroachment by building eaves and air conditioning compressors – Building eaves and air conditioning compressors may encroach no more than three (3) feet beyond building lines into the required rear and side yards.
- 3. Minimum Floor Area: Eight hundred (800) square feet of heated and/or air-conditioned floor area.
- 4. Maximum Heights
 - a. Two (2) stories / Thirty-five (35) feet for the main building.
 - b. One (1) story / Fifteen (15) feet for accessory buildings.
- 5. Alley Access: Lots which are adjacent to an alley shall provide vehicular access only from said alley. Alleys, in their entirety, shall meet minimum City standards or shall be improved, in their entirety, in order to meet minimum City standards.
- 6. Off-Street Parking: A minimum of two (2) off-street parking spaces shall be provided on the same lot as the main structure. For the purposes of this Subsection, the first two parking spaces contained in covered garages for each dwelling unit shall not be considered as off-street parking spaces. The minimum dimensions of each parking space shall be in accordance with Section 39.1; provided, however, two spaces shall not be less than twelve (12) feet by forty (40) feet, if aligned linearly. All driveways and parking areas shall be concrete or asphalt. If a lot is adjacent to an alley, all required off-street parking shall be provided within the rear of the lot and shall be accessed only from the alley.
- 7. Garages: A garage shall be provided on the same lot as the main structure. Those lots which are adjacent to an alley, and that have provided two off-street parking spaces which are accessible only from said alley, are exempt from this Subsection.
- 8. Architectural Requirements
 - a. Color Variation: New single-family detached residences shall not be predominantly painted in the same color as the structures adjacent or across from the lots in which they are constructed.
 - b. Roof Variation: New single-family detached residences shall not have the same roofline as the structures adjacent or across from the lots in which they are constructed.
 - c. Building Façade: The architectural style and scale of new single-family detached residences within the Old Town Area, as described in this Section, shall be constructed in the Colonial, Greek Revival, Creole, Arts & Crafts, or other similar style which is historically accurate, to the greatest extent possible, in order to preserve the unique character of Tomball's downtown area. To this end, a

Building Façade Plan shall be submitted as part of a Single-Family Site Plan Application consistent with requirements set forth in Section 34.6.

PUBLIC COMMENT

A public hearing notice was published in the Tomball Tribune on September 30, 2013; no public comments have been received as of October 9, 2013.

RECOMMENDATION

Staff recommends **APPROVAL** of Zoning Case P13-148.

ORDINANCE NO. 2013-xx

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS ZONING ORDINANCE BY AMENDING SECTION 34.4 (“AREA REGULATIONS FOR RESIDENTIAL USES”) BY CREATING NON-CONFORMING LOT REGULATIONS FOR LOTS WITHIN 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; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

* * * * *

WHEREAS, the City of Tomball has requested that the Zoning Ordinance be amended to provide non-conforming lot regulations for lots within 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; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend Section 34.4 of the City’s Zoning Ordinance; and

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, the Planning and Zoning Commission recommended in its final report that the City Council approve the amendment to Section 34.4 of the Zoning Ordinance; and

WHEREAS, having considered the recommendation of the Planning and Zoning Commission, the City Council has determined to adopt their recommendation and to amend the City’s Zoning Ordinance as provided herein;

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 Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 34.4 thereof to read as follows:

“D. Non-Conforming Lots: Except in the Old Town Area, 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.

E. Non-Conforming Lots in the Old Town Area: For platted, non-conforming lots within 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 following standards shall apply to allow for single-family detached residential uses only:

1. Size of Lots:

- a. Minimum Lot Area – Two thousand five hundred (2,500) square feet.
- b. Minimum Lot Width – Twenty-five (25) feet.
- c. Minimum Lot Depth – One hundred (100) feet.

2. Size of Yards:

- a. Minimum Front Yard – Fifteen (15) feet.
- b. Minimum Side Yard – Five (5) feet for interior lots and corner lots.
- c. Minimum Rear Yard – Ten (10) feet.
- d. Encroachment by building eaves and air conditioning compressors – Building eaves and air conditioning compressors may encroach no more than three (3) feet beyond building lines into the required rear and side yards.

3. Minimum Floor Area: Eight hundred (800) square feet of heated and/or air-conditioned floor area.

4. Maximum Heights

- a. Two (2) stories / Thirty-five (35) feet for the main building.
- b. One (1) story / Fifteen (15) feet for accessory buildings.

5. Alley Access: Lots which are adjacent to an alley shall provide vehicular access only from said alley. Alleys, in their entirety, shall meet minimum City standards or shall be improved, in their entirety, in order to meet minimum City standards.

6. Off-Street Parking: A minimum of two (2) off-street parking spaces shall be provided on the same lot as the main structure. For the purposes of this Subsection, the first two parking spaces contained in covered garages for each dwelling unit shall

not be considered as off-street parking spaces. The minimum dimensions of each parking space shall be in accordance with Section 39.1; provided, however, two spaces shall not be less than twelve (12) feet by forty (40) feet, if aligned linearly. All driveways and parking areas shall be concrete or asphalt. If a lot is adjacent to an alley, all required off-street parking shall be provided within the rear of the lot and shall be accessed only from the alley.

7. Garages: A garage shall be provided on the same lot as the main structure. Those lots which are adjacent to an alley, and that have provided two off-street parking spaces which are accessible only from said alley, are exempt from this Subsection.

8. Architectural Requirements

- a. Color Variation: New single-family detached residences shall not be predominantly painted in the same color as the structures adjacent or across from the lots in which they are constructed.
- b. Roof Variation: New single-family detached residences shall not have the same roofline as the structures adjacent or across from the lots in which they are constructed.
- c. Building Façade: The architectural style and scale of new single-family detached residences within the Old Town Area, as described in this Section, shall be constructed in the Colonial, Greek Revival, Creole, Arts & Crafts, or other similar style which is historically accurate, to the greatest extent possible, in order to preserve the unique character of Tomball's downtown area. To this end, a Building Façade Plan shall be submitted as part of a Single-Family Site Plan Application consistent with requirements set forth in Section 34.6."

Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 4. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

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

publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 21ST DAY OF OCTOBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
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 4TH DAY OF NOVEMBER 2013.

COUNCILMAN HUDGENS	_____
COUNCILMAN STOLL	_____
COUNCILMAN BROWN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN DODSON	_____

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Regular City Council

Agenda Item

Meeting Date: October 21, 2013

Data Sheet

Topic:

Approve Resolution No. 2013-29, a Resolution of the City Council of the City of Tomball, Texas, Supporting the 48th Annual Tomball Holiday Parade, “Cartoons on Parade”, to be held in Tomball on Saturday, November 23, 2013 and to Approve Requested Street Closures and In-kind Services

Background:

The Chamber of Commerce must request approval from TxDOT to close FM 2920 for the annual Holiday Parade; the request must include a Resolution from the City of Tomball supporting the parade.

This is the City's customary resolution supporting and endorsing the annual Chamber-sponsored Tomball Holiday Parade, scheduled to take place on Saturday, November 23, 2013.

In addition to closing FM 2920 from FM 2978 to Business 249 from 9:15 a.m. until 12:30 p.m. for the parade, the Chamber is requesting closure of the following streets on Saturday, November 23, from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Road
- North Walnut between Main and Epps Streets
- 100 and 200 Blocks of Commerce
- 100 and 200 Blocks of Houston
- 100 and 200 Blocks of Oxford
- South Elm between Main and Market Streets
- South Walnut between Main and Fannin Streets
- 100 and 200 Blocks of Market Street
- Parking lot at the corner of Main and South Walnut.

The Chamber is also requesting the use of Tomball Police, Fire and Public Works personnel; the estimated cost for the use of City personnel/support services is \$6,000-\$6,400.

The annual Holiday Parade is extremely popular with the local community and brings visitors from the surrounding areas who often remain to shop, eat, and enjoy our city's amenities; we anticipate large crowds at the event.

Origination:

Greater Tomball Area Chamber of Commerce

Recommendation:

Approve Resolution No. 2013-29

Funding:

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

City Secretary

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

ATTACHMENTS:

Resolution No. 2013-29

GTACC Request and Map of Parade Route

RESOLUTION NO. 2013-29

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF TOMBALL, TEXAS, SUPPORTING THE 48TH ANNUAL
TOMBALL HOLIDAY PARADE, “CARTOONS ON
PARADE”, TO BE HELD IN TOMBALL ON SATURDAY,
NOVEMBER 23, 2013 AND TO APPROVE REQUESTED
STREET CLOSURES AND IN-KIND SERVICES.**

* * * * *

WHEREAS the Greater Tomball Area Chamber of Commerce will undertake the 48th Annual Tomball Holiday Parade, to be held in the City of Tomball at 10:00 a.m. on Saturday, November 23, 2013; and

WHEREAS the theme of the 48th Annual Tomball Holiday Parade is “**Cartoons on Parade**”, and the purpose of the 48th Annual Tomball Holiday is to celebrate our quality of life and to create an avenue for others outside to come to our fair City to enjoy fun, food and good cheer; and

WHEREAS it is a chance for Tomball area merchants and business people to gain a new customer base through monies spent by those attending the 48th Annual Tomball Holiday Parade; and

WHEREAS activities celebrating the 48th Annual Tomball Holiday Parade will include the annual parade, food, crafts, and hometown merchants selling from their businesses; and

WHEREAS the Greater Tomball Area Chamber of Commerce desires and requests the support and endorsement of the City of Tomball in this community-wide effort;

NOW, THEREFORE, BE IT RESOLVED that the City of Tomball and its governing body endorses and supports the efforts of the Greater Tomball Area Chamber of Commerce in promoting and undertaking the 48th Annual Tomball Holiday Parade and pledge to encourage this effort to celebrate our heritage and promote our future betterment.

**PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL
HELD ON THE 21st DAY OF October, 2013.**

GRETCHEN FAGAN, Mayor

ATTEST:

DORIS SPEER, City Secretary

Greater
Tomball Area



Chamber of Commerce

www.tomballchamber.org

October 10, 2013

City of Tomball
Mr. George Shackelford
401 Market Street
Tomball, Texas 77375

RE: Tomball Holiday Parade

Dear Mr. Shackelford,

We are anticipating a fabulous Tomball Holiday Parade at 10 a.m. on Saturday, November 23, 2013 with help from our city, police and fire departments, as well as from numerous volunteers. The popular attraction is a Tomball tradition that has continued for 48 years. We are looking forward again to the expertise of the Tomball Police Department for crowd control and as visual deterrents from any negative activity.

To insure the safety of the many visitors and Parade participants who will be in Tomball on November 23, we are asking for street closures for the following streets on Saturday morning only from 7:00 a.m. until noon:

- North Elm between Main Street and Hufsmith Rd.
- North Walnut between Main Street and Epps
- 100 & 200 block of Commerce
- 100 & 200 block of Houston
- 100 & 200 block of Oxford
- South Elm between Main Street and Market Street
- South Walnut between Main Street and Fannin
- 100 & 200 block of Market Street
- Parking lot at corner of Main and South Walnut

From 9:15 a.m. until 12:30 p.m.

- FM 2920 from FM 2978 to Business 249

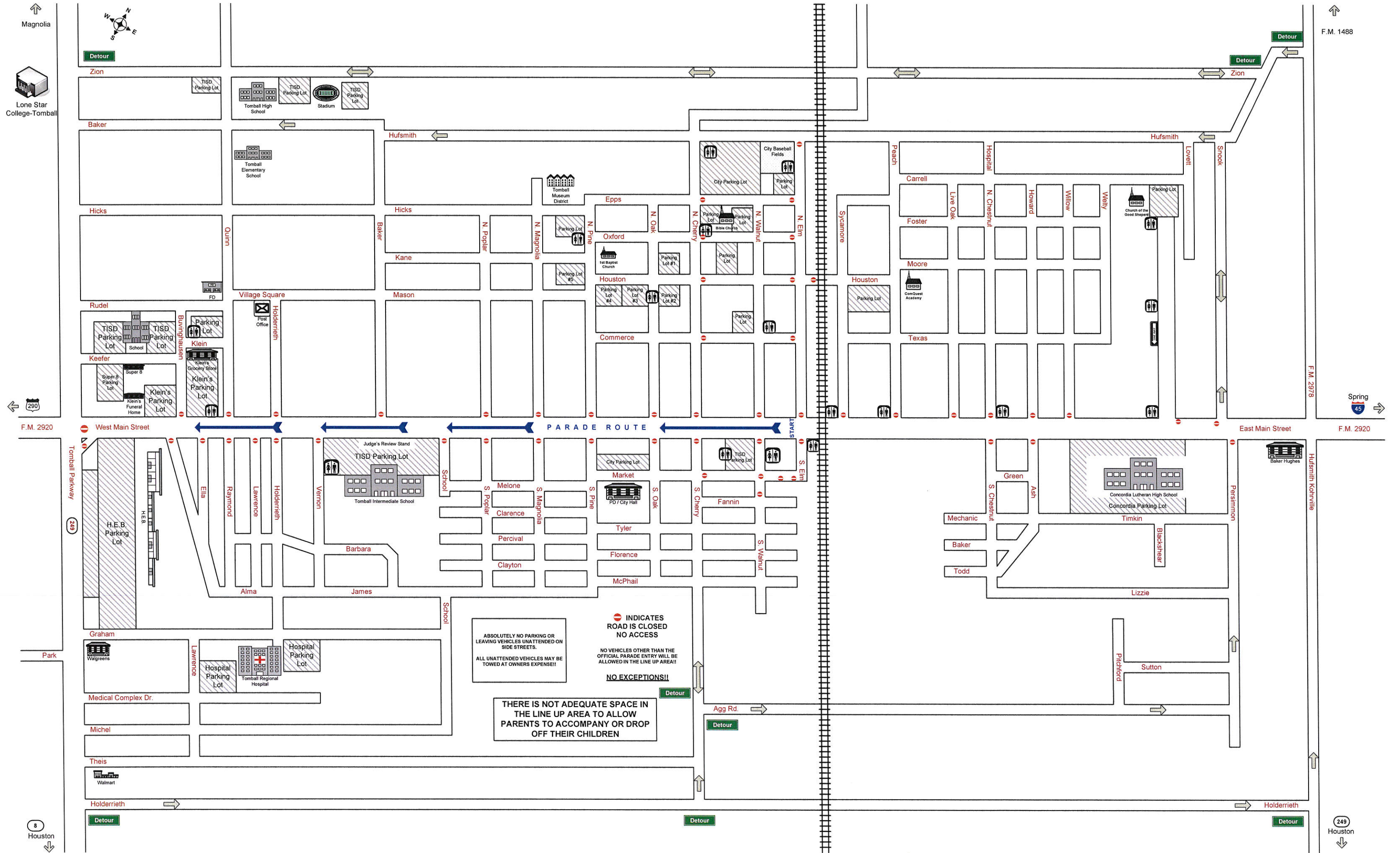
Enclosed is a map for your review. Residents of these streets will still have access to and from their homes.

We appreciate the City of Tomball, its special partnership with the chamber and the assistance always offered for our events. Should you have any questions or concerns, please contact Brandy Beyer or myself at 281-351-7222.

Sincerely,

Bruce Hillegeist
President

Encl: Map



Regular City Council

Agenda Item

Meeting Date: October 21, 2013

Data Sheet

Topic:

Authorize the City Manager to Request that Harris County Commissioners Court Enter into an Interlocal Agreement with the City of Tomball for Harris County to Provide Contingency Debris Removal Services to the City of Tomball in the Event of a Disaster Incident.

Background:

The City of Tomball had executed an agreement with Harris County in 2007 that, when activated, would provide the City of Tomball with resources from a third party contractor working under a master contract with Harris County to remove and dispose of storm debris from the City in the event of a large scale disaster incident. The contract has expired and, after reviewing the current FEMA guidelines that prohibit the "piggybacking" onto existing contracts and consulting with the Harris County Office of Emergency Management personnel, both Harris County and I feel comfortable that this inter-local agreement will pass the test under the FEMA guidelines.

Origination:

City of Tomball Office of Emergency Management

Recommendation:

STaff recommends approval

Funding:

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

Randy Parr

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

ATTACHMENTS:

Sample Interlocal Agreement

HARRIS COUNTY

Public Infrastructure Department
Architecture & Engineering Division

1001 Preston, 7th Floor
Houston, Texas 77002
(713) 755-5370

September 12, 2013

Honorable County Judge
& Commissioners

Attention: Commissioner Steve Radack

SUBJECT: Recommendation by the Director of Architecture & Engineering that the County Judge Execute an Interlocal Agreement between Harris County and the City of Hilshire Village, Precinct 3, to Provide Debris Removal and Disposal Services to the City Following Federally Declared Disasters from within its Corporate Limits

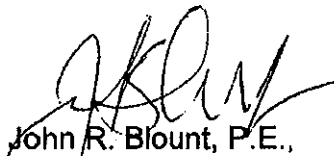
Dear Court Members:

It is recommended by the Director of Architecture & Engineering that the County Judge execute an interlocal agreement between Harris County and the City of Hilshire Village, Precinct 3, to provide debris removal and disposal services to the City following federally declared disasters from within its corporate limits.

This agreement has been reviewed and approved as to form by the County Attorney's Office.

Therefore, it is recommended that the County Judge execute this agreement on behalf of Harris County and it is also requested that the County Clerk return both executed originals to this office for further handling.

Sincerely,


John R. Blount, P.E.,
Director, Architecture & Engineering

JRB/ASM/vht

cc: Commissioner Steve Radack
Lynn Blue
Arthur L. Storey, Jr.
Robert J. Bosworth, 

David E. Goldberg
Joshua Stuckey
Alisa Max
Central File

**INTERLOCAL AGREEMENT
FOR DEBRIS REMOVAL AND DISPOSAL SERVICES**

This Agreement is made between **Harris County, Texas** ("County") and the **City of Hilshire Village**, a Texas municipality (the "City").

RECITALS:

The City desires that Harris County provide debris removal from within its corporate limits using contractors of the County.

The County is willing to endeavor to provide such services if the City agrees to be responsible for all payments earned by the County's contractors for providing such services within the corporate limits of the City to the extent that the County does not receive reimbursement for such payments from the Federal Emergency Management Agency (FEMA) or the Federal Highway Administration (FHA).

Pursuant to the authority granted by the Texas Interlocal Cooperation Act (Texas Government Code, 791, *et seq.*) providing for the cooperation between local governments, the Parties hereto, mutually agree to the following:

TERMS:

I.

The County will endeavor to provide removal from within the corporate limits of the City of debris resulting from federally declared disasters.

II.

The County shall endeavor to obtain reimbursement from FEMA or FHA of the amounts earned by its contractors for performing services under this Agreement. Upon determining any such amounts will not be reimbursed by FEMA or FHA, the County shall notify the City, and the City shall forward to the County, within 30 days of such notice, an amount equal to the unreimbursed amount.

III.

This Agreement shall be in effect from and after the date of execution by both Parties. Either party may terminate this agreement upon 30 days notice, provided that such termination shall not affect the City's obligations in regard to debris removal conducted by the County prior to termination.

IV.

Payments under this Agreement shall be made from current funds.

The terms of this Agreement supersede any previous agreement between the parties to the extent that such agreement would apply to services contemplated herein.

IN WITNESS WHEREOF, the instrument has been executed on behalf of Harris County, Texas, by a duly authorized representative of Harris County, Texas, and on behalf of the City by a duly authorized representative.

APPROVED AS TO FORM
VINCE RYAN
Harris County Attorney

HARRIS COUNTY

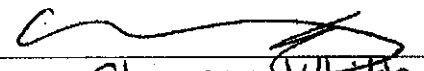
By: 
TREVOR SMITH
Assistant County Attorney
C.A. File No: 13GEN1336

By: _____
ED EMMETT
County Judge
Date Signed: _____

Attest

By: 
Justin Brooks
City Secretary

CITY OF HILSHIRE VILLAGE

By: 
Print Name: Shannon Whiting
Title: Mayor
Date Signed: 9/10/13

ORDER OF COMMISSIONERS COURT
Authorizing Interlocal Agreement with the City of Hilshire Village

The Commissioners Court of Harris County, Texas, met in regular session at its regular term at the Harris County Administration Building in the City of Houston, Texas, on _____, with all members present except _____.

A quorum was present. Among other business, the following was transacted:

ORDER AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY
OF HILSHIRE VILLAGE FOR DEBRIS REMOVAL

Commissioner _____ introduced an order and moved that Commissioners Court adopt the order. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

	Yes	No	Abstain
Judge Ed Emmett	☐	☐	☐
Comm. El Franco Lee	☐	☐	☐
Comm. Jack Morman	☐	☐	☐
Comm. Steve Radack	☐	☐	☐
Comm. R. Jack Cagle	☐	☐	☐

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and law-fully adopted. The order thus adopted follows:

IT IS ORDERED that

1. The Harris County Judge is authorized to execute on behalf of Harris County an Interlocal Agreement with the City of Hilshire Village for removal of debris resulting from a federally declared disaster. The Interlocal Agreement is incorporated by reference and made a part of this order for all intents and purposes as though set out in full word for word.
2. All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purposes of this order.

Regular City Council Agenda Item Data Sheet

Meeting Date: October 21, 2013

Topic:

Approve Proposed Revisions to the City of Tomball Boards, Commissions, and Committees Handbook

Background:

Following Council's creation of the Tomball Legacy Fund, Inc. and the Charter Review Commission, staff presents proposed revisions to the City's Boards, Commission, and Committees Handbook.

Attached, for Council review and consideration is a draft containing proposed revisions. The general application has been revised to include Position 7 of the Tomball Legacy Foundation, Inc., the application for the Tourism Advisory Committee has been added, and the Table of Contents has been revised.

Amendments are also proposed to *Definitions* (page 1) to include Non-Profit Corporation Boards, to *Sunset Committees Defined* to include the Charter Review Commission (page 10), and a new section has been added, *Non-profit Corporation Boards Defined*, with a description of the Tomball Legacy Fund, Inc. (page 10).

Origination:

City Secretary

Recommendation:

Approval of Proposed Revisions.

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:

City of Tomball Boards, Commissions and Committees Handbook - Proposed Revisions

The City of Tomball, Texas



Boards, Commissions, and Committees Handbook

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City of Tomball

*Gretchen Fagan
Mayor*

*George Shackelford
City Manager*

Dear Citizen:

I would like to thank you on behalf of the Citizens of Tomball for your willingness to serve the City as an appointed member of a Board, Commission, or Committee. Your commitment of time and talent is a very important contribution to our community.

The work done by citizens who serve on Boards, Commissions, and Committees is a vital part of our city government. Board, Commission, and Committee members assist the City Council in setting public policy, implementing public policy and in communicating that policy to the community as a whole.

In recognition of the important civic commitment members of Boards, Commissions, and Committees have made, we have prepared this orientation handbook for those who are interested in possible service and to assist appointed members in performing their duties.

It is our hope that your service to the City of Tomball will be both rewarding and fulfilling. Again, thank you for your willingness to serve.

Sincerely,

Gretchen Fagan
Mayor

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CITY OF TOMBALL

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

As an Applicant for a City Board, Commission, or Committee, your application will be available to the public. You will be contacted before any action is taken on your appointment to confirm your continued interest in serving. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. Applications will be kept on file for two years and will expire at the end of two years; for instance, an application dated in 2014 will expire in 2016.

Please Type or Print Clearly:

Date: _____

Name: _____

Phone: _____
(Home)

Address: _____

Phone: _____
(Work)

City/State/Zip _____

Cell: _____

Email: _____

I have lived in Tomball ____ years.

I am ____ am not ____ a U.S. Citizen

NOTE: DTAC Board does not require Tomball residency

Occupation: _____

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Applications for the following Council-appointed Boards, Commissions, and Committees will be kept on file in the City Secretary's office (281-290-1002) for one year.

If you are interested in serving on more than one board, please indicate your preference by numbering in order of preference (i.e., 1, 2, 3, etc.)

Decision-Making Boards and Commissions

- () Planning & Zoning Commission
() Board of Adjustments

Meeting Information

Second Monday each month, 6 p.m.
To Be Announced; Evenings

Separate Legal Entities

- () Tomball Economic Development Corporation

() Tomball Regional Health Foundation

Meeting Information

First Wednesday of January, April,
July & October, 9 a.m. (special
meetings may be called)
Fourth Wednesday each month, 4 p.m.

Ad Hoc/Advisory Committees

- () Downtown Tomball Advisory Committee
DTAC does not require Tomball residency

Meeting Information

As called

Non-profit Corporation Boards

- () Tomball Legacy Fund, Inc.
Position 7, Tomball Legacy Fund, does not
require Tomball residency

Meeting Information

As called

I AM INTERESTED IN SERVING ON THE ABOVE-INDICATED BOARDS, COMMISSIONS, AND COMMITTEES.

Signature of Applicant

Please return this application to:

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



CITY OF TOMBALL

APPLICATION FOR THE TOURISM ADVISORY COMMITTEE

As an Applicant for the **Tourism Advisory Committee**, your application will be available to the public. All appointments are made by the Tomball City Council. Incumbents whose terms expire are automatically considered for reappointment unless they indicate non-interest or have been appointed to two (2) consecutive terms. A member who is absent for more than 25% of called meetings in any twelve consecutive months or absent from more than two consecutive meetings, for other than medical reasons, will be automatically removed from service. Applicant must be a citizen of the United States and must reside within the city limits of Tomball unless otherwise stated in the position announcement. 2013 applications expire on December 31, 2015; a new application will be required in 2016.

Please Type or Print Clearly:

Date: _____

Name: _____

Phone: _____
(Home)

Address: _____

Phone: _____
(Work)

City/State/Zip _____

Cell: _____

Email: _____

I have lived in Tomball ____ years.

I am ____ am not ____ a U.S. Citizen

I am applying as (please check all that apply):

- _____ a Tomball Resident, residing within the city limits of Tomball
- _____ an Owner, Officer or Director of a business, other than a hotel or motel,
with offices within the city limits of Tomball
- _____ an Employee or Officer of a hotel or motel located in the
city limits of Tomball

Occupation: _____

Professional and/or Community Activities: _____

Additional Pertinent Information/References: _____

Applications for the Tourism Advisory Committee will be kept on file in the City Secretary's office (281-290-1002) for two years.

I AM INTERESTED IN SERVING ON THE TOURISM ADVISORY COMMITTEE.

Signature of Applicant

Please return this application to:

City Secretary
City of Tomball
401 Market Street
Tomball, TX 77375
dspeer@ci.tomball.tx.us
fax: 281-351-6256



Board Member Election on Disclosure

An appointed Board Member may choose whether or not to allow public access to the information in the custody of the City relating to the Board Member's home address, home telephone number, cellular and pager numbers (if not paid for by City), emergency contact information, personal email address, and information that reveals whether the person has family members.

Each Board Member shall state his/her choice in writing to the City Secretary's Office. If a Board Member elects not to allow public access to this information, the information is protected by Sections 552.024 and 552.117 of the Public Information Act and rulings of the Texas Attorney General. If a Board Member fails to report his/her choice, the information may be subject to public access.

If during the course of their term a Board Member wishes to close or open public access to the information, the individual may request in writing to the City Secretary's Office to close or open access as the case may be. A Board Member may request to close or open public access to the information by submitting a written request to the City Secretary's Office. Only the City Secretary's Office is allowed to disclose the information listed above.

(Please strike through any information that you do not wish to be made accessible to the public)

**Please complete the information below and return
to the City Secretary's Office within fourteen days of receipt.**

☐

I **DO** elect public access to my: (please indicate items you would like available, if any)

___ home address

___ home telephone number

___ personal email address

___ cell or pager numbers not paid for by the City

___ emergency contact information

___ information that reveals whether I have family members.

☐

I **DO NOT** elect public access to my home address, home telephone number, cell or pager numbers, emergency contact information, or any information that reveals whether I have family members.

Board Member's Signature

Date

Board Member's Printed Name

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TABLE OF CONTENTS

Chapter I. Definitions

Boards & Commissions Defined	1
Advisory Commissions & Boards Defined	1
Capital Improvement Plan Advisory Committee	2
Tourism Advisory Committee	2
Decision-Making Boards & Commissions Defined	3
Board of Adjustments	3
Planning and Zoning Commission	5
Building Standards Commission	7
Separate Legal Entities Defined	8
Tomball Economic Development Corporation	8
Tomball Regional Health Foundation	9
Standing Committees Defined	10
Comprehensive Plan Advisory Committee (CPAC)	10
Charter Review Commission (CRC)	10
Sunset Committees Defined	10
Non-profit Corporation Boards Defined	10
Tomball Legacy Fund, Inc.	10

Chapter II. Board, Commission, and Committee Appointment Process

Application Process	11
Appointment Process	11
Notice of Appointment	11
Eligibility and Qualifications	11
Nepotism (Home Rule Charter)	11
Oath of Office	11
Open Meetings Act Training	11

Chapter III. Meetings

Role of the Chair	12
The Role of Other Offices	12
The Agenda	12
Parliamentary Procedures	12
Public Hearings	12
Signing the Minutes for the Meeting	13
Meeting Attendance	13
Working with City Staff	13
Reporting to the City Council	13

Chapter IV. Responsibilities of the Members of Boards, Commissions, and Committees

General	14
Open Meetings Act	14
Open Records Act	15

Chapter V. Legal Liability

Personal Liability	16
Board Liability	16

Chapter VI. Code of Ethics of the City of Tomball, Texas (Ord. 93-06)

Declaration of Policy	17
Definitions	18
City Employee	18
City Officer	18
City Official	18
Ethical Principles	18
Standards of Conduct	19
Grant of Special Consideration	19
Appearances on Behalf of Private Interests	19
Appearances by Past Officials	19
Securing Special Privileges	19
Gifts	19
Disclosure or Use of Confidential Information	19
Incompatible Outside Activities	20
Incompatible Employment	20
Use of City Property for Personal Use	20
State Laws Governing Conduct	20
Conflicts of Interest	20
Bribery	21
Gifts to Public Servants	21
Tampering with Governmental Records	22
Impersonating Public Servant	22
Misuse of Official Information	22
Disrupting Meeting or Procession	22
Official Oppression	23
Official Misconduct	23
Nepotism	23
Disclosure of Interest in Property	23
Violations	24

Appendixes

Appendix A	Definitions	26
Appendix B	Chart of Kinship	29
Appendix C	Roberts Rules of Order Relating to Motions	30

CHAPTER I

DEFINITIONS

Boards, Commissions, and Committees Defined. The City of Tomball City Council depends on the input from residents serving on Boards, Commissions and Committees. Tomball may have several kinds of Boards, Commissions and Committees, including:

Advisory Boards, Commissions, and Committees
Decision-making Boards
Separate Legal Entities
Standing Committees Sunset Committees
[Non-profit Corporation Boards.](#)

Advisory Boards, Commissions and Committees Defined. These Boards, Commissions and Committees advise the City Council, City Manager and City staff. They play a key role in keeping the City government close to the people it serves and providing ideas, feedback, and suggestions and may serve as a sounding board for proposed policy. These Boards, Commissions and Committees currently (or may) include:

Capital Improvement Plan Advisory Committee
Tourism Advisory Committee.



Capital Improvement Plan Advisory Committee

Purpose: To regularly review and update the Capital Improvements Program (CIP) in accordance with the requirements of Vernon's Texas Local Government Code, Chapter 395.

Duties: At least annually review, analyze and interpret the CIP with the City Manager, Director of Engineering and Planning, and Planning and Zoning Commission. Recommend changes indicated by sound planning principals and financial constraints.

Time Commitments: Typically, one to two times annually, approximately 1½ to 2 hours per meeting.

Members: Membership is composed of the members of the Planning and Zoning Commission plus a resident of the City of Tomball's extraterritorial jurisdiction (ETJ) for a total of six (6) members appointed by City Council.

Term: This is an ad hoc committee, called as needed to review the CIP; terms expire when the board is no longer active.

Meetings: Usually held at 6:00 p.m. on the second Monday in the month. The Chair of the Planning and Zoning Commission chairs the meetings. Separate minutes of the meeting are taken and kept.



Tourism Advisory Committee

Purpose: To regularly review applications and advise City Council regarding requests for funding grants from the Hotel-Motel Occupancy Tax revenues.

Duties: Recommend funding grants.

Time Commitments: Typically, four times annually, approximately 1½ to 2 hours per meeting.

Members: Nine (9) members; membership is composed of three Tomball residents, three Tomball business owners, officers or directors other than a hotel or motel, and three employees or officers of a Tomball hotel or motel.

Term: Terms are three-year, staggered terms, expiring in December of each year.

Meetings: Usually held at 6:00 p.m. on the fourth Tuesday in the first month of each quarter. Separate minutes of the meeting are taken and kept.

Decision-making Boards and Commissions Defined. These are legislative and/or ‘quasijudicial’ bodies that are empowered by State law to make decisions affecting City policy relating to the public health, safety or welfare. These Boards and Commissions are “governing bodies” under the Texas Open Meetings Act and are thus required to comply in all respects with the Act. These Boards and Commissions include:

Board of Adjustments
Impact Fee Advisory Committee
Planning and Zoning Commission
Building Standards Commission.

Board of Adjustments

Purpose: To consider variances and special exceptions to the terms of the Zoning Ordinance and to hear and decide appeals of decisions and interpretations made by an administrative official in the enforcement of the Zoning Ordinance.

Duties: The duties of the Board of Adjustments shall be to:

1. Determine the true intent and meaning of the Code of Ordinances of the City of Tomball or any of the regulations that have been misconstrued or incorrectly interpreted.
2. To hear and decide cases under the City’s Zoning Ordinance, including appeals that allege error in an order, requirement, decision or determination made by an administrative official in the enforcement of the Zoning Ordinance;
3. To hear and decide special exceptions when the Zoning ordinance requires the Board to do so; and
4. To authorize, in specific cases, a variance from the terms of the Zoning Ordinance if the variance is not contrary to the public interest and if, due to special conditions, a literal enforcement of the Zoning Ordinance would result in unnecessary hardship, and so that the spirit of the Zoning Ordinance is observed and substantial justice is done. In order to grant a variance, the Board of Adjustments must make findings that an undue hardship exists, using the following criteria:
 - a. That literal enforcement of the controls will create an unnecessary hardship or practical difficulty in the development of the affected property.
 - b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district.
 - c. That the relief sought will not injure the permitted use of adjacent conforming property.
 - d. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.
 - e. Financial hardship alone is not an “undue hardship” if the property can be used, meeting the requirements of the zoning district it is located in.

In granting a variance, the Board may impose such conditions, limitations and safeguards as it deems appropriate to protect adjacent property owners and to ensure the public health, safety, convenience and general welfare.

5. To make interpretations on zoning district boundaries shown on the Zoning Map where uncertainty exists because physical features on the ground differ from those on the Zoning Map or where the “Zoning District Boundaries” rules do not apply or are ambiguous.

Limitations on Authority:

1. The Board of Adjustments may not grant a variance authorizing a use other than those permitted in the district for which the variance is sought, except as specifically provided for in the Zoning Ordinance.
2. The Board of Adjustments shall have no power to grant or modify Conditional Use Provisions.
3. The Board of Adjustments shall have no power to grant a zoning amendment. In the event that a request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the Board shall neither hear nor grant any variances with respect to the subject property until final disposition of the zoning amendment by the Commission and the City Council.
4. The Board of Adjustments shall not grant a variance for any parcel of property or portion thereof upon which a required site plan or any plat is pending on the agenda of the Planning and Zoning Commission and/or the City Council. All administrative and procedural remedies available to the applicant shall have been exhausted prior to hearing by the Board of Adjustments.

Time Commitments: As needed. Typically every 30-60 days, usually requiring 1 to 2 hours.

Members: The City Council appoints five (5) regular members and up to four (4) alternate members to serve in the absence of one or more of the regular Board members on an alternating basis. Such Board members shall be residents of the City of Tomball. Knowledge of and experience in technical review, design or the development industry is helpful. The members of the Board (and alternate members, as needed) shall regularly attend meetings and public hearings of the Board, shall serve without compensation, and shall not hold any other office or position with the City while serving on the Board. A Board member shall not act in a case in which he has a personal or financial interest.

Term: Two (2) year terms. The terms of office of the Board members shall be staggered so no more than one-half (½) of the Board is appointed or replaced in any 12-month period. The four (4) alternates, if appointed, shall serve two-year terms. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from required meetings of the Board shall, at the discretion of the City Council, render any such member subject to immediate removal from office.

Meetings: As needed, typically every 30-60 days. The Board shall conduct regular biannual meetings in May and November. All regular meetings shall begin at 6:00 p.m. and shall be held at Tomball City Hall unless otherwise posted in accordance with state law.

Planning and Zoning Commission

Purpose: To review, advise and make recommendations to the City Council on matters relating to City and extraterritorial jurisdiction (ETJ) planning and development.



Duties: The Planning and Zoning Commission shall:

1. Serve as an advisory body and adjunct to the City Council, and shall make recommendations regarding amendments to the Master or Comprehensive Plan, changes of zoning, zoning ordinance amendments, and zoning to be given to newly annexed areas, and other planning related matters for the physical development of the City.
2. Recommend to the Council the approval or disapproval of plats of proposed subdivisions submitted in accordance with City ordinances as adopted or hereafter amended.
3. Recommend to the Council plans for the clearance and rebuilding of slum districts and blighted areas that may develop within the City.
4. Conduct an annual review of the City's Comprehensive Plan and make recommendations to the City Council as deemed necessary to keep the City's Comprehensive Plan current with changing conditions and trends and with the planning needs of the City.
5. Serve in an advisory capacity on any planning related item(s) in the City and perform other duties as provided for by the City Charter.
6. Serve as the Building Standards Commission.
7. 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.
8. 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 that, 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.
9. The Commission shall have all the rights, powers, privileges and authority authorized and granted by the City Council and through the Statutes of the State of Texas authorizing and granting cities the power of zoning and subdivision regulation as found in Chapters 211 and 212 of the Texas Local Government Code, as amended from time to time.
10. Operate under the guidelines of the powers granted by the Civil Statutes of the State of Texas.

Time Commitments: Once per month, in the evening, if needed, usually requiring 1 to 2 hours. Additional meetings may be required infrequently to accommodate particular circumstances.

Members: The City Council appoints five (5) members. Members must be residents of the City of Tomball, real property owners, and not employees of the City. Members also perform duties as the City's Building Standards Commission and the Capital Improvement Plan Advisory Committee.

Term: All appointees to the Commission shall serve as a member of the Commission for a term of office of three (3) years, expiring June 1 of each year. Terms overlap, creating at least one vacancy each year. Members may be reappointed with no limitation on the number of terms one member may serve.

Meetings: Usually every second Monday of the month at 6:00 p.m. at Tomball City Hall.

Building Standards Commission

Purpose: To administer due process in matters concerning alleged violations of ordinances related to substandard buildings or structures in the City of Tomball.



Duties: The duties of the Building Standards Board shall be:

1. To order the repair, within a fixed period, of buildings found to be in violation of an ordinance.
2. To declare a building substandard in accordance with the powers granted by Chapter 54 of the Local Government Code.
3. To order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal of persons or property if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building or structure found to exist.
4. To issue orders or directives to any peace officer of the State, including a sheriff or constable or the Police Chief, to enforce and carry out the lawful orders or directives of the Commission.
5. To determine the amount and duration of a civil penalty the City may recover in an amount permitted by State law.

Time Commitments: As needed. Typically, one to two times annually, in the evening, usually requiring 1 to 2 hours. Additional meetings may be required infrequently to accommodate particular circumstances.

Members: The City Council appoints five (5) members. Members must be residents of the City of Tomball, real property owners, and not employees of the City. The Planning and Zoning Commission members serve as the members of the Building Standards Commission, along with the City's Building Official and the City's Fire Marshall as ex officio members.

Term: All appointments to the Commission shall serve as a member of the Commission for a term of office of three (3) years, expiring June 1 of each year. Terms overlap, creating at least one vacancy each year. Members may be reappointed with no limitation on the number of terms one member may serve.

Meetings: Called on a case-by-case basis; typically one to two times annually, generally in conjunction with a Planning and Zoning Commission meeting.

Separate Legal Entities Defined. These are boards that are recognized by the State as separate legal entities with their own Articles of Incorporation and By-Laws and are registered with the office of the Secretary of State and, in the case of the Hospital Board, are created by an act of the State Legislature and recognized as a separate governmental entity. These Boards include:

The Tomball Economic Development Corporation
The Tomball Regional Health Foundation.

Tomball Economic Development Corporation



Purpose: To promote economic development in the City of Tomball and to promote or develop municipal infrastructure related to the development or expansion of business enterprise.

Duties: Directors shall exercise ordinary business judgment in managing the affairs of the Corporation. In acting in their official capacity as Directors of the Corporation, Directors shall act in good faith and take actions they reasonably believe to be in the best interests of the Corporation or which would be lawful and shall refrain from actions not in the best interest of the Corporation or which would be unlawful. A Director shall not be liable if, in the exercise of ordinary care, the Director acts in good faith relying on written financial and legal statements provided by an accountant or attorney retained by the Corporation.

Time Commitment: The time commitment varies somewhat, based on projects being undertaken. Normally, 4 to 6 meetings annually, typically the fourth Tuesday of the second month of each quarter, 5:30 p.m., in meetings of 1 to 2 hours duration; the annual meeting is in May. Some outside reading and study will be required.

Members: Seven (7) members are appointed by the City Council. Each Director must reside within the City of Tomball. The Mayor and members of the Tomball City Council who are not members of the Corporation shall be ex-officio directors of the Corporation. The Mayor and the City Council of Tomball may appoint up to three individuals who meet the special qualifications as outlined in Section 3.09, to serve as ex-officio directors of the Corporation. Ex-officio directors shall be given notice of all meetings of the Board, may participate in discussions at Board meetings, but shall not be entitled to vote on matters considered by the Board.

Term: Two (2) year terms, which may be staggered, if so provided for by the Governing Body (the City of Tomball). Currently, terms are staggered.

Meetings: An average of 4 to 6 meetings annually, usually on the fourth Tuesday of the second month of each quarter, 5:30 p.m., in meetings of 1 to 2 hours duration; the annual meeting is in May. Other meetings are called at the discretion of the Board.

Tomball Regional Health Foundation

(Formerly the Tomball Regional Hospital Authority)

Tomball Regional Health Foundation is the new name of the Tomball Regional Hospital Authority ("TRHA"), following the sale of Tomball Regional Medical Center to a subsidiary of Community Health Systems, Inc. on October 1, 2011. The Tomball Regional Health Foundation will administer the proceeds from the sale of Tomball Regional Medical Center for charitable purposes in the surrounding communities.



Purpose: The Foundation will continue to be a vital part of the community, supporting health and wellness initiatives on behalf of its residents and seeking to meet the broader aspects of health needs in the community.

Duty: The mission of the TRHF is to promote wellness and improve health status for all residents in our communities through programs that enhance access to health care, preventative care and health education. The vision of the TRHF is to be a catalyst for measurably improving access to healthcare and health status of the Tomball, Magnolia, Waller and surrounding communities.

Members: Currently, the total number constituting the members of the Board is eleven; five (5) of the eleven (11) Board Members shall be appointed by City Council and six (6) of the eleven (11) Board Members shall be elected by the Board. No officer or employee of the City of Tomball shall be eligible for appointment or election as a Board Member. Any vacancy occurring in the Board shall be filled by the body appointing the Board Member whose seat is being vacated. The term of the new Board Member shall commence immediately and shall continue until the expiration of the term for which the Board Member was appointed to fill.

Criteria for Selection of Board Members: Board Members selected by the Tomball City Council shall be residents of the City of Tomball. Board Members elected by the Board shall be residents of the Authority's service area as defined by the Board from time to time and those Prospective Directors shall be interviewed to confirm their willingness, interest and qualifications (as determined by the Board) in serving on the Board.

Term: Two (2) year terms. Positions 1, 3 and 5 expire in the same year; Positions 2 and 4 expire in the same year. **(Ord. 2000-03).**

Time Commitment and Meetings: Regular monthly meetings shall be held the fourth Wednesday of every month or as designated by the Chairman of the Board at our office location of 29201 Quinn Road, Suite A, Tomball, Texas 77375.

Special meetings of the Board may be called by or at the direction of, the Chairman of the Board or a majority of the Board Members then in office, to be held at such date, hour and place as shall be designated in the notice of the meeting.

Notice of the date, hour, place and subject of any meeting of the Board shall be given in accordance with applicable statutory requirements including, without limitation, the requirements of the Texas Open Meetings Act (GOV'T CODE ANN. §§ 551.001 *et seq.*)

Standing Committees Defined. Currently, the City of Tomball does not have any Standing Committees. These are permanent advisory committees, in most cases reporting to the City Council and sometimes to the City Manager. Examples of Standing Committees in other cities are insurance advisory committees and oil and gas advisory committees.

Sunset Committees Defined. Sunset Committees are temporarily appointed, advisory boards, committees, or commissions that terminate upon completion of their specific task. Examples of Sunset Committees include:

Comprehensive Plan Advisory Committee (CPAC)
Charter Review Commission (CRC).

There have been other Sunset Committees and Commissions, such as the Zoning Commission, and the Oil and Gas Advisory Committee.

Non-profit Corporation Boards Defined. Non-profit corporations are 501(c)(3) organizations, established by the City of Tomball for the purpose of receiving private and/or corporate grant funds, to supplement the City of Tomball's ability to fund various programs, projects, events and other expenditures benefitting the Tomball community. An example of a Non-Profit Corporation Board is the Tomball Legacy Fund, Inc.

Tomball Legacy Fund, Inc.

Duty: To receive private and/or corporate grant funds, to supplement the City of Tomball's ability to fund various programs, projects, events and other expenditures benefitting the Tomball community.

Members: The Tomball Legacy Fund Board, Inc. shall be composed of seven (7) individuals. Positions 1 through 6 shall be filled by six (6) members who shall be the members of the City Council of the City of Tomball; Position 7 shall be filled by one (1) member who shall be appointed by City Council.

Criteria for Selection. The Mayor and City Council members shall serve in such capacity for a period coinciding with their respective terms of office with the City. Directors in Positions 1 through 6 must reside within the City and if such residence ceases, it shall be deemed as a resignation. The Director for Position 7 is not required to reside within the City and his/her term of office shall coincide with the term of the Mayor. Directors are removable by the governing body of the City at any time without cause. The Directors shall serve without compensation, unless compensation is proposed and approved by the City's governing body, said compensation in no event to exceed the compensation of the elected officers of the City's governing body, except that such Directors shall be reimbursed for their actual expenses incurred in the performance of their duties. Any vacancy occurring on the Board of Directors through death, resignation, or otherwise shall be filled by appointment by the governing body of the City, said appointee to hold office until the expiration of the relinquished term.

Term. The periods of service of the members shall commence on August 5, 2013 and expire as noted above.

CHAPTER II

BOARD, COMMISSION, AND COMMITTEE APPOINTMENT PROCESS

Application Process. Citizens interested in serving on a board, commission, committee or separate legal entity can obtain an application from the City Secretary's office at City Hall or from the City's website, www.ci.tomball.tx.us. The completed application can be submitted directly to the Mayor or returned to the City Secretary's office. Applications are valid for two years, after which a new application must be submitted.

Appointment Process. The City of Tomball City Council makes appointments to City of Tomball Boards, Commissions, Committees, and separate legal entities. The City Council considers applications to these boards during regular City Council meetings.

Notice of Appointment. After the City Council appoints a person to serve as a member of a Board, Commission, Committee or separate legal entity, the City Secretary will notify the appointee in writing of the appointment. Generally, the City Council will appoint members to no more than three (3) consecutive terms of service on a single board.

Eligibility and Qualifications. The Tomball City Council seeks qualified persons to serve on Boards, Commissions and Committees. The qualifications required to serve on a particular Board, Commission or Committee are determined by City of Tomball Home Rule Charter, Ordinance, or by the State law which established the Board, Commission, or Committee.

Appointments to Boards, Commissions, Committees or separate legal entities that do have eligibility requirements must be made in accordance with the governing City Home Rule Charter, City Ordinance or State statutes. Board, Commission or Committee members must continue to meet the eligibility requirements during the entire time they serve. If a member cannot continue to maintain the necessary requirements he/she shall resign his/her position.

Nepotism. Section 6.05 of the Home Rule Charter provides that no officer of the City or officer of any City Board shall appoint, or vote for or confirm the appointment to any office, position, clerkship, employment or duty, of any person related within the second-degree of affinity (by marriage) or within the third-degree by consanguinity (by blood) to the person so appoint or so voting, or related to any other member of the governing body or board of the City.

Oath of Office. Upon appointment, an oath of office is administered to all members of Boards, Commissions, and Committees. The oath of office can be administered by the City Secretary or designee or a City-employed Notary Public for the State of Texas.

Open Meetings Act Training. Upon appointment, each new board member is required to complete the Open Meetings Act Training as required by the State of Texas Attorney General within ninety (90) days of his/her appointment and provide a certificate of completion to the City Secretary for the City's records.

CHAPTER III

MEETINGS

Role of the Chair. The function of the Chair is to provide leadership for the group. The Chair is selected by other board members in a method agreeable to all board members. There are certain duties and responsibilities that must be performed.

The Chair can ensure the smooth operation of the board, commission or committee. The Chair must be strong enough to make certain that the meeting is run by the rules, but democratic enough to use the power and authority of the position wisely. The Chair's ability to handle meetings will have a significant impact on operation and effectiveness.

The Chair must make certain that discussions do not get sidetracked on minor issues and must have the ability to remain focused on the agenda.

The Role of Other Officers. The Vice-Chair will serve as Chair in the absence of the Chair. Other officers and duties shall be determined by the respective board, commission, or committee.

The Agenda. The agenda should always be prepared prior to the meeting and copies given to all Board, Commission, or Committee members. Extra copies of the agenda should be available for the public.

The agenda is prepared by the department head or staff person assigned to the Board, Commission or Committee. Certain Boards, Commissions and Committees are required by the state, in the Open Meetings Act, to post the agenda publicly, at least 72 hours prior to the meeting and it is a City of Tomball practice that all boards, commissions and committees follow these procedures.

Parliamentary Procedures. Meetings of Boards, Commissions and Committees are generally conducted under standard parliamentary rules adopted by that body.

Public Hearings. These hearings are open forums that allow the public an opportunity to express their opinions on a specific issue. Public Hearings are generally conducted in the following manner:

1. The Chairman of the Board, Commission or Committee formally opens the public hearing.
2. The applicant's presentation of his request.
3. Proponents (those in favor) of a measure speak first.
4. Opponents (those against) speak second.

After hearing all who wish to comment on the issue, the proponents are allowed to give a rebuttal and summarize their position, and then the Chair formally closes the Public Hearing.

Members of the Board, Commission or Committee may ask questions at any time of the witness, if recognized by the Chair. Members are encouraged to ask questions even after the hearing is closed. After the Public Hearing is closed, members of the public may speak ONLY when recognized by the Chair.

A time limit for individual speakers may be set by the Board, Commission or Committee for purposes of order and equity before the Public Hearing begins.

Signing the Minutes for the Meeting. The minutes of Boards, Commissions and Committees MUST be signed by the Chair and the Secretary once the minutes are approved by a majority vote of the members of the Board, Commission or Committee.

Meeting Attendance. Every Board, Commission or Committee member is expected to maintain a suitable attendance record. It is important to keep in mind that attendance is very important to the Board, Commission or Committee. Because attendance is important, the City Council has adopted an attendance policy of no more than three (3) consecutive absences without an excuse for regular board, commission or committee members. The Chair of the Board, Commission or Committee can excuse a member's absence.

The term "meetings" includes all meetings of the board and all meetings of the board's subcommittees on which the member serves. The Secretary of the Board, Commission or Committee is responsible for keeping track of the members' attendance. If a member does not follow the attendance policy set for the board, commission or committee, the member can be removed from service by a vote of the City Council.

Working with City Staff. Each Board, Commission, or Committee member is encouraged to work closely with City staff and with the appropriate department staff assigned to that Board, Commission or Committee. City staff is assigned to provide general assistance, such as preparation of agenda materials and general review of department programs and activities, and to perform limited studies and other services.

Reporting to the City Council. The Council is dependent on each Board, Commission or Committee to make recommendations to City projects. It is through the Boards, Commissions and Committees that the City Council can receive community input. All Boards, Commissions and Committees are encouraged to communicate the position of the body to the City Council and, from time-to-time, may want to visit informally with a Council member.

There will be occasions when City staff will be required to prepare an agenda item for City Council review. In preparation of such a report, the staff member should present both the staff position and Board, Commission or Committee's position. The position of a member not voting in the majority on an item should also be presented in the staff report if indicated by the member.

It is the desire of the City Council to have an opportunity to hear and consider all sides of an issue and alternative recommendations to assist in their decision-making process.

CHAPTER IV

RESPONSIBILITIES OF THE MEMBERS OF BOARDS, COMMISSIONS AND COMMITTEES

General. It is an honor to be selected as a City Board, Committee, or Committee member and it provides an unusual opportunity for genuine public service. Although specific duties of each body vary widely, there are certain responsibilities that are common to all members. The following is a summary of those responsibilities:

1. Members should understand the role and scope of their responsibilities and should be informed of the individual board, commission or committee's purpose and of its operating procedures.
2. Members should be careful to represent the majority views of their individual board, commission or committee. Individual "opinions" to the public and press should be identified as such.
3. Members should represent the public interest and not special interest groups.
4. Good communication is essential - members are in a position to serve as liaison between the City and its citizens and can help to reconcile opposing viewpoints and to build a consensus around common goals and objectives. Members serve as a communication link between the community, staff, and City, presenting recommendations and providing a channel for citizen expression.
5. Members are encouraged to review their agenda packets, contact City staff with questions, and be thorough in their recommendations; if possible, members should personally view situations under consideration prior to the meeting in order to be fully prepared to discuss, evaluate, and act on all matters scheduled for consideration. Conclusions based on preparedness will strengthen the value of the group's recommendations.
6. Members are encouraged to establish a good working relationship within the group; respect individual viewpoints; allow other members time to present their views fully before making comments; be open and honest; welcome new members.
7. Council appointments to boards, commissions or committees are made without regard to political party affiliation. Members are not restricted from participating in political activities; however, members should not use or involve their membership in the conduct of political activities.

Open Meetings Act. Texas Law requires that every meeting of the City Council be open to the public. The law also requires all Boards and Commissions, other than Advisory Boards, Commissions, and Committees, to follow this as well. In Tomball, all Boards, Commissions and Committees follow the procedures for open meetings.

- a. A Posted Notice is required of a meeting. Written notice of the date, hour, place and subject of each meeting must be posted on a public bulletin board, located at a place convenient to the public for at least 72 hours preceding the scheduled time of the meeting. Only those matters posted can be discussed and acted on by the governmental body.

- b. Minutes are required to be prepared or a tape recording made of each open meeting. Minutes must state the subject of each deliberation and indicate each vote, order, decision or other action taken.
- c. Closed Meetings. The Texas Open Meetings Act does allow for closed or executive meetings on a few limited subjects. Generally, Boards, Commissions or Committees will not have occasion or legal basis to meet in closed or executive session. Closed meetings are allowed to discuss pending litigation, certain personnel matters, and the lease or acquisition of land. However, before a closed meeting can be held, a quorum of the governmental body must convene in an open meeting and the presiding officer publicly announce that a closed meeting will be held and identify the sections of the Open Meeting Act authorizing the closed meeting. No final action, decision, or vote can be made in a closed meeting. All final actions, decisions, and votes must be made in open meetings. Further, the governmental body is required to keep a certified agenda of the matters discussed in the closed meeting and a record of any further action taken. The presiding officer must include an announcement at the beginning and end of the closed meeting indicating the time and place, and must certify that the agenda is a true and correct record of the proceedings. Blank certified agenda forms for use by presiding officers are available in the City Secretary's office. In lieu of maintaining a certified agenda, a tape recording of the closed meeting may be made.
- d. Penalties. A fine of not less than \$100 nor more than \$500 or imprisonment in the county jail for not less than one month nor more than six months, or both fine and imprisonment, can be imposed for violating the provisions of the Open Meetings Act or conspiring to circumvent the provisions of the Open Meetings Act by meeting in numbers less than a quorum for the purposes of secret deliberations.

Open Records Act. Texas law also requires that virtually all information held by a governmental body must fall under the rules of the Texas Open Records Act. If a request for information is received by a Board, Commission or Committee, the City Secretary should be notified for the proper procedure.

CHAPTER V

LEGAL LIABILITY

Personal Liability. Board, commission or committee members cannot be held personally liable for erroneous acts while honestly exercising the functions of their offices in good faith. The only time a member can be held personally liable is when they act outside the scope of their office and in bad faith. When members of City Boards, Commissions or Committees are acting in good faith and within the bounds allowed by the City, state and federal law, the City will provide a defense for such members to the greatest extent permissible. However, if a Board, Commission or Committee member acts fraudulently, maliciously, or in violation of a criminal law while serving in his/her official capacity, the City generally will not provide that member a defense.

Board Liability. A city, its officers, and members of boards, commissions or committees as a governmental entity, must treat all individuals or groups in the same manner unless there is a compelling governmental interest to treat someone or some group differently. Therefore, the City Attorney should be consulted concerning whether or not an individual or group can be treated differently. If an officer or board, commission or committee member illegally discriminates against an individual or group, that individual or group can seek damages from the City and from the individual officer for a violation of rights under the state and federal civil rights statutes.

The above discussion is by no means intended to be a comprehensive and complete discussion of legal liabilities to which the City or Board, Commission or Committee member may be subjected.

Board, Commission or Committee members are strongly encouraged to consult with the City Attorney anytime they feel their actions while serving on such Board, Commission or Committee may have some legal consequences. The law in this area is quite complex and requires a thorough analysis of the law and facts pertaining to each particular situation.



CHAPTER VI
CODE OF ETHICS OF
THE CITY OF TOMBALL, TEXAS

ORDINANCE NO. 93-06

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE III, DIVISION 4, TO CHAPTER 2 OF THE CODE TO ESTABLISH A CODE OF ETHICS FOR CITY OFFICERS AND EMPLOYEES; CONTAINING DEFINITIONS; PROVIDING A PENALTY IN AN AMOUNT OF \$500 PER OFFENSE, OR AS PROVIDED BY STATE LAW; DIRECTING PUBLICATION OF THE CAPTION OF THIS ORDINANCE; FINDING THAT THE MEETINGS AT WHICH THIS ORDINANCE IS CONSIDERED ARE OPEN TO THE PUBLIC; PROVIDING FOR SEVERABILITY AND THE REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING OTHER DETAILS RELATING TO THE PASSAGE OF THIS ORDINANCE.

* * * * *

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

Section 1.0. That Chapter 2 of the Code of Ordinances of the City of Tomball, Texas, is hereby amended by adding a new Article III, Division 4, which provides as follows, and which shall be renumbered to conform to the numbering system of such Code:

“CODE OF ETHICS OF
THE CITY OF TOMBALL, TEXAS”

1.0. Declaration of Policy.

It is hereby determined by the City Council of the City of Tomball, Texas, that the proper operation of government requires that public officers and employees be independent and impartial; that the government’s decisions and policies be made within the proper channels of the governmental structure; that a public office not be used for personal gain; and that the public have confidence in the integrity of its government and its governmental officials.

The purpose of this Code is to enumerate existing state laws which regulate the conduct and activities of City officers and employees, and to promulgate such additional minimum standards as are deemed necessary and appropriate to assure the faithful and impartial administration of the City’s government.

2.0. Definitions.

For the purposes of this Code of Ethics the following words, terms, and phrases shall have the meanings ascribed thereto:

2.01. **City Employee.** Any person employed by the City, including those individuals employed on a part-time basis.

2.02. **City Officer.** The Mayor, members of the City Council, the City Manager, City Secretary, Municipal Court Judge and Clerk, Alternate Judges, and Substitute Judges, and each member and alternate member of all of the City Boards, Commissions, and Committees.

2.03. **City Official.** A City officer or City employee.

3.0. Ethical Principles.

The following Code of Ethics for all City officers and employees is adopted. To further the objectives of this Code of Ethics, certain ethical principles shall govern the conduct of every officer or employee, who shall:

1. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of the citizens of Tomball;
2. Recognize that the chief function of local government at all times is to serve the best interests of all of the people;
3. Be dedicated to public service by being cooperative and constructive, and by making the best and most efficient use of available resources;
4. Refrain from any activity or action that may hinder one's ability to be objective and impartial on any matter coming before the Council or the City. Do not seek or accept gifts or special favors; believe that personal gain by use of confidential information or by misuse of public funds or time is dishonest;
5. Recognize that public and political policy decisions, based on established values, are ultimately the responsibility of the City and City Council; and
6. Conduct business in open, duly noticed meetings in order to be directly accountable to the citizens of Tomball. It is recognized that certain exceptions are made by the State for executive sessions; however, any action as a result of that type of meeting will be handled later in open session.

4.0. Standards of Conduct.

In order to more fully effectuate the policy declared in this Code of Ethics, to assure that all City officials act and conduct themselves both inside and outside the City's service so as to give no occasion for distrust of their integrity, and to avoid even the appearance of impropriety by any City official, the following standards of conduct are adopted.

4.01. Grant of Special Consideration.

No City official shall grant any special consideration, treatment, or advantage to any citizen, individual, business organization, or group beyond that which is normally available to every other citizen, individual, business organization, or group. This shall not prevent special considerations authorized and granted by the City Council for the purpose of creating incentives necessary to secure or retain employees.

4.02. Appearances on Behalf of Private Interests.

No City official shall represent or appear on behalf of private interests of others before any agency of the City, or any City board, commission, committee, or City Council concerning any case, project, or matter over which the official exercises discretionary authority, nor shall a City official represent any private interest of others in any action or proceeding involving the City, nor voluntarily participate on behalf of others in any litigation to which the City is a party.

4.03. Appearances by Past Officials.

No City official, holding a position which involves decision-making, advisory, or supervisory responsibility, shall, within twelve (12) months following the end of service with the City, represent or appear on behalf of private interests of others before the City or any agency thereof concerning any case, project, or matter over which the official has exercised discretionary authority.

4.04. Securing Special Privileges.

No City official shall use his official position to secure special privilege or exemption for himself or others.

4.05. Gifts.

No City official shall accept or solicit any gift or favor that could reasonably tend to influence that individual in the discharge of official duties or that the official knows or should know has been offered with the intent to influence or reward official conduct.

4.06. Disclosure or Use of Confidential Information.

No City official shall disclose any confidential information gained by reason of his office or employment with the City, concerning any property, operation, policy, or affair of the City, or use such confidential information to advance any personal interest, financial or otherwise, of such official or others.

4.07. Incompatible Outside Activities.

No City official shall engage in any outside activity which will conflict with, or be incompatible with, the City office or employment.

4.08. Incompatible Employment.

No City official shall accept outside employment which is incompatible with the full and proper discharge of his or her duties and responsibilities with the City, or which might impair his or her independent judgment in the performance of his or her public duty.

4.09. Use of City Property for Personal Use.

No City official shall use City supplies, equipment, vehicles, or facilities for any purpose other than the conduct of official City business, unless otherwise specifically provided for by law, ordinance, or City policy.

5.0. State Laws Governing Conduct.

5.01. Conflicts of Interest.

- 5.01.01. Pursuant to §171.001 et seq., Texas Local Government Code, a local public official having a substantial interest in a business entity or piece of real property must file, before any vote or decision is made on any matter affecting the business entity or real property, an affidavit stating the nature and extent of the interest. The official must file the affidavit with the City Secretary, and is required to abstain from any further participation in the matter if (1) the proposed action would have a special economic effect on the business entity that is distinguishable from the effect on the public, or (2) it is reasonably foreseeable that the action would have a special economic effect on the value of the real property which is distinguishable from its effect on the public. An exception to the abstention rule is provided in cases where a majority of members of the entity are likewise required to and do file affidavits.
- 5.01.02. A substantial interest in a business entity exists when the official (1) owns ten percent (10%) or more of the voting stock or shares of the business entity, or (2) owns ten percent (10%) or more or \$5,000 or more of the fair market value of the business entity, or (3) has received from the business entity funds which exceed ten percent (10%) of the official's gross income for the prior year.
- 5.01.03. A substantial interest in real property exists when the official has an equitable or legal interest in such property which has a fair market value of \$2,500 or more.
- 5.01.04. A local public official means a member of the City Council or other official of the City, paid or unpaid, who exercises responsibilities which are more than advisory only. A business entity means any entity recognized by law.
- 5.01.05. It is an offense for a local public official to act as a surety for a business entity that is contracting with the City, or to act as a surety on any official bond required of an officer of the City. §171.003.

5.01.06. A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity has a substantial interest. §171.002(c).

5.01.07. The provisions of §171.001 et seq., are IN ADDITION to any other municipal charter provisions or municipal ordinances defining and prohibiting conflicts of interest.

5.02. Bribery.

It is unlawful for a City official to accept or agree to accept (1) any benefit as consideration for a decision, opinion, recommendation, vote, or other exercise of discretion as a public servant or (2) any benefit as consideration for a decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding, or (3) any benefit as consideration for a violation of a duty imposed by law on a public servant. §36.02, Penal Code.

5.03. Gifts to Public Servants.

5.03.01. It is unlawful for a City official to solicit, accept, or agree to accept any benefit from a person the official knows is subject to regulation, inspection, or investigation by the official or the City. §36.08(a), Penal Code.

5.03.02. In the event of litigation involving the City, it is unlawful for any City official to solicit, accept, or agree to accept any benefit from a person against whom the official knows litigation is pending or contemplated by the official or the City. §36.08(c), Penal Code.

5.03.03. It is unlawful for a City official who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion. §36.08(d), Penal Code.

5.03.04.1 It is unlawful for a City official who has judicial or administrative authority, is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, to solicit, accept, or agree to accept any benefit from a person the official knows is interested in or likely to become interested in any matter before the official or tribunal. §36.08(e), Penal Code.

5.03.05. Exceptions to Gifts to Public Servants.

The provisions of §36.08, Penal Code, described above, do not apply to (1) fees prescribed by law to be received by the public official or any other benefit to which the official is lawfully entitled and for which the

official has given legitimate consideration; (2) gifts or other benefits conferred on account of kinship or personal, professional, or business relationships independent of the official's status with the City; (3) certain honorariums in consideration of legitimate services; (4) benefits consisting of food, lodging, transportation, or entertainment accepted as a guest and reported as required by law; or (5) benefits for which statements must be filed pursuant to §251.001 and §251.012, Texas Election Code, if the benefit and source of any benefit exceeding fifty dollars (\$50.00) is reported and the benefit is used solely to defray expenses which accrue in the performance of duties or activities in connection with office which are nonreimbursable by the City. §36.10, Penal Code.

5.04. Tampering with Governmental Records.

It is unlawful for any person to knowingly make a false entry in, or false alteration of, a governmental record, or to make, present, or use any record, document, or thing with knowledge of its falsity with the intent that it be taken as a genuine governmental record, or to intentionally destroy, conceal, remove, or otherwise impair the verity, legibility, or availability of a governmental record. §36.10, Penal Code.

5.05. Impersonating Public Servant.

It is unlawful for any person to impersonate a City official with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts. §37.11, Penal Code.

5.06. Misuse of Official Information.

It is unlawful for a City official, in reliance on information to which he has access as a result of his office and which has not been made public, to acquire or aid another in acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information or to speculate or aid another in speculating on the basis of the information. §39.03, Penal Code.

5.07. Disrupting Meeting or Procession.

It is unlawful for any person, with intent to prevent or disrupt a lawful meeting, to obstruct or interfere with the meeting by physical action or verbal utterance. §42.05, Penal Code.

5.08. Official Oppression.

It is unlawful for a City official to intentionally subject another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful, to intentionally deny or impede another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful, or to intentionally subject another to sexual harassment. §39.02, Penal Code.

5.09. Official Misconduct.

It is unlawful for a City official, with intent to obtain a benefit or with intent to harm another, to intentionally or knowingly violate a law relating to his office or employment or to misapply any thing of value belonging to the government that has come into his custody or possession by virtue of his office of employment. §39.01, Penal Code.

5.10. Nepotism.

It is unlawful for any City official to appoint, or vote for the appointment, to any office, employment or duty, of any person related within the second degree by affinity or within the third degree by consanguinity to the person so appointing or so voting, or to any other member of a board or governing body to which the person so voting or appointing may be a member, when the salary, fees, or compensation of such appointee is to be paid out of public funds. An exception is provided for persons who have been continuously employed in such office, employment or duty for the following periods prior to the election or appointment, as applicable, of the officer or member related to such employee in the prohibited degree: (1) at least thirty (30) days, if the officer or member is appointed, or (2) at least six (6) months, if the officer or member is elected.

When a person is allowed to continue in an office, position, or duty because of an exception above, the officer who is related to such person in the prohibited degree shall not participate in the deliberation or voting upon the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of such person, if such action applies only to such person and is not taken with respect to a bona fide class or category of employees. Art. 5996a, Tex. Rev. Civ. Stat. Ann.

5.11. Disclosure of Interest in Property.

It is unlawful for a City official, or a person elected, appointed, or employed as a City official but for which office such person has not yet qualified, to fail to make public disclosure of any legal or equitable interest he may have in property which is acquired with public funds, provided such official has actual notice of the acquisition or intended acquisition. The public disclosure required is the filing of an affidavit with the county clerks of all counties in which the property is located and wherein the official resides at least ten (10) days prior to the acquisition. Article 6252-9e, Tex. Rev. Cit. Stat. Ann.

6.0. Violations.

6.01. Any person violating any standard contained in Article 4.0 above shall be deemed guilty of a misdemeanor and, upon conviction thereof shall be fined in an amount not to exceed \$500. Each day of violation shall constitute a separate offense.

6.02. Penalties for violations of conduct described in Article 5.0 above are as set forth in the applicable statutory provision.”

Section 7.0. Publication; Effective Date; Open Meetings.

The City Secretary of the City of Tomball, Texas, is hereby directed to publish this Ordinance in the official newspaper of the City of Tomball, Texas, in compliance with the provisions of Section 6.14(A) of the City Charter, which publication shall be sufficient if it contains the caption of this Ordinance. This Ordinance shall be effective after the publication requirement of the City Charter is satisfied.

It is found and determined that the meetings at which this Ordinance was considered were open to the public, as required by Article 6252-17, V.A.T.C.S., and that advance public notice of the time, place, and purpose of the meetings was given.

Section 8.0. Severability. 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 and 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, or whether there be one or more parts.

Section 9.0. Rights and Remedies; Repeal; Code of Ordinances.

All rights and remedies which have accrued in favor of the City under this chapter and its amendments shall be and are preserved for the benefit of the City.

All ordinances in force when this Ordinance becomes effective and which ordinances are inconsistent herewith or in conflict with this Ordinance are hereby repealed, insofar as said ordinances are inconsistent or in conflict with this Ordinance.

The provisions of this Ordinance shall be included and incorporated as an amendment to the Code of Ordinances of the City of Tomball, Texas, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

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 3rd DAY OF May , 1993.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN WILEY	<u>AYE</u>
COUNCILMAN MATHESON	<u>AYE</u>
COUNCILMAN OLDHAM	<u>AYE</u>
COUNCILMAN WOOD	<u>AYE</u>

SECOND READING:

READ, PASSED, APPROVED, AND ADOPTED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL, HELD ON THE 17th DAY OF May, 1993.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN WILEY	<u>AYE</u>
COUNCILMAN MATHESON	<u>ABSENT</u>
COUNCILMAN OLDHAM	<u>AYE</u>
COUNCILMAN WOOD	<u>AYE</u>

[signed] H. G. Harrington

H. G. (Hap) Harrington

ATTEST:

[signed] Mary Reagan

Mary Reagan, City Secretary

APPROVED AS TO FORM:

[signed] Mario L. Dell'Osso

Mario L. Dell'Osso

Olson & Olson

Attorneys for the City of Tomball

APPENDIX A

DEFINITIONS

“Affinity”	means a relation by marriage.
“Business entity”	means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law.
“Board” or “Body”	means any board, commission, agency or committee of the City created by the passage of a City Ordinance or Resolution with decision or advisory making authority designated as a board, commission, agency or committee by the City Council.
“City”	means the City of Tomball.
“City Council”	means the City Council of the City of Tomball.
“Closed meeting”	means a meeting closed to the public that complies with specific state statutes.
“Consanguinity”	means a relation or connection by blood.
“Degree”	relating to consanguinity and affinity. First degree of consanguinity means parents, children and siblings First degree of affinity means spouse, in laws/parents, children and siblings Second degree means grandparents, grandchildren, aunts, uncles, nephews, nieces and first cousins
“Deliberation”	means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.
“Employee”	means a person who is employed by the City.
“Ex officio”	means by virtue or because of an office.
“Governmental”	means a board or commission that has rule-making, quasi-judicial, or advisory power and that is classified as a department, agency or political subdivision of a county or municipality.

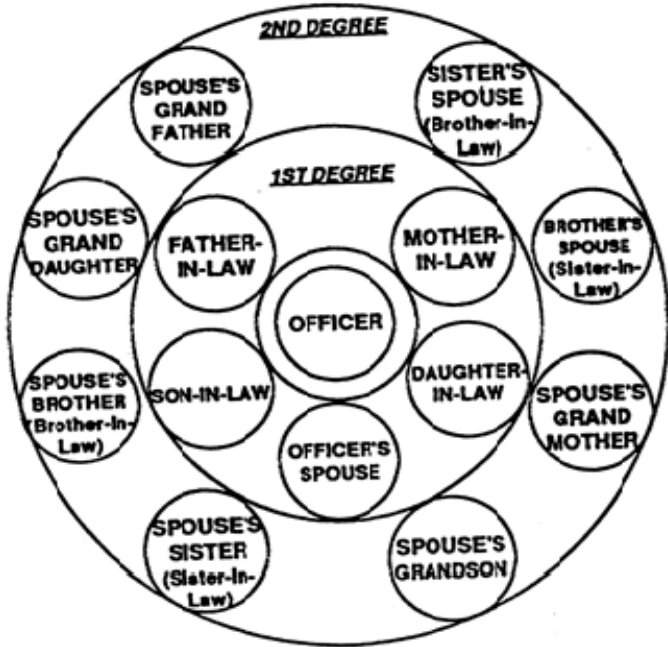
“Governing body”	“He,” “his” or “him” means the Tomball City Council and every Board, Commission, or Committee that exercises decision-making authority on behalf of the City and shall include the female gender as well as the masculine.
“Incidental Interest”	means an interest in a person, entity or property which is not a substantial interest and which has insignificant value or which would be affected only in a de minimis fashion by a decision.
“Judicial”	the power to judge, to administer justice and interpret laws and ordinances.
“Meeting”	means a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action. The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business.
“Member”	means a member of a board.
“Person”	means any individual, firm, trust, corporation, partnership or any other legal entity.
“Quorum”	means the prescribed number of members of any body that must be present to legally transact business.
“Remote Interest”	means an interest of a person or entity, including an Officer or Member who would be affected in the same way as the general public. The interest of a council member in the property tax rate, general city fees, city utility charges or a comprehensive zoning ordinance or similar decisions is incidental to the extent that the council member would be affected in common with the general public.
“Substantial Interest in a business entity or real property”	means an individual, firm, trust, corporation, partnership or any other legal entity: 1) with respect to a business entity, the interest is ownership of ten percent (10%) or more of the voting stock or shares of the business entity or ownership of either ten percent (10%) or more or Fifteen Thousand Dollars (\$15,000) or more of the fair market value of the business entity.

- 2) with respect to a business entity, funds received by the person from the business entity exceed ten percent (10%) of the officer or member's gross income for the previous year.
- 3) with respect to real property, equitable or legal ownership with a fair market value of Two Thousand Five Hundred Dollars (\$2,000) or more

or, as established from time to time in Section 171.002, Texas Local Government Code.

APPENDIX B

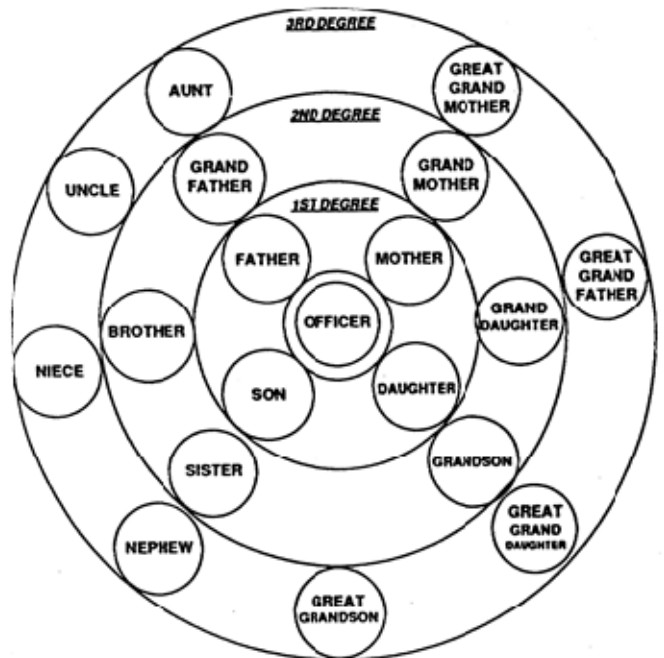
CHART OF KINSHIP



Affinity Kinship Chart
(Marriage)

The chart to the left shows: *Affinity
Kinship (relationship by marriage)

The chart to the right shows: *Consanguinity
Kinship (relationship by blood) for purposes on
interpreting nepotism as defined in VTCA
Government Code, Chapter 573, §§573.021-.025.



Consanguinity Kinship Chart
(Blood)

APPENDIX C

ROBERT'S RULES OF ORDER RELATING TO MOTIONS

MOTION	DEBATABLE	DEBATE CONFINED TO PENDING QUESTION	CAN BE AMENDED	CAN RECONSIDER	REQUIRES MAJORITY VOTE	MUST BE SECONDED	OUT OF ORDER WHEN ANOTHER HAS THE FLOOR
Adjourn	No	Yes	No	No	Yes	Yes	Yes
Adopt/Accept a Report	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Adopt Constitutions, By-laws, and Rules of Order	Yes	Yes	Yes	1	Yes	Yes	Yes
Adopt Standing Rules	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Amend	2	Yes	Yes	Yes	Yes	Yes	Yes
Amend an Amendment	2	Yes	No	Yes	Yes	Yes	Yes
Amend Constitution, By-laws, and Rules or Order	Yes	Yes	Yes	1	3	Yes	Yes
Amend Standing Rules	Yes	Yes	Yes	Yes	4	Yes	Yes
Appeal (excluding Indecorum)	Yes	Yes	No	Yes	Yes	Yes	No
Debate, to Close, Limit or Extend	No	Yes	Yes	Yes	No	Yes	Yes
Division of Assembly	No	Yes	No	No	Yes	No	No
Division of Question	No	Yes	Yes	No	Yes	5	5
Fix the Time to Adjourn	6	Yes	Yes	Yes	Yes	Yes	Yes
Informal Consideration of Question	Yes	Yes	No	1	Yes	Yes	Yes
Lay on the Table	No	Yes	Yes	No	Yes	Yes	Yes
Main Motion or Question	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Nomination, to Make	Yes	Yes	No	No	Yes	No	Yes
Nominations, to Close	No	Yes	Yes	No	No	Yes	Yes
Nomination, to Re-open	No	Yes	Yes	1	Yes	Yes	Yes
Objection to Consideration of a Question	No	Yes	No	1	7	No	No

MOTION	DEBATABLE	DEBATE CONFINED TO PENDING QUESTION	CAN BE AMENDED	CAN RECONSIDER	REQUIRES MAJORITY VOTE	MUST BE SECONDED	OUT OF ORDER WHEN ANOTHER HAS THE FLOOR
Order, Question of	No	Yes	No	No	Yes	No	No
Order, to Make a Special	Yes	Yes	Yes	Yes	No	Yes	Yes
Orders of the Day, to Call for	No	Yes	No	No	Yes	No	No
Parliamentary Inquire	No	Yes	No	No	Yes	No	No
Postpone Definitely (to Certain Time)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Postpone Indefinitely	Yes	No	No	8	Yes	Yes	Yes
Previous Question	No	Yes	No	9	No	Yes	Yes
Privilege, to Raise Question of	No	Yes	No	No	Yes	No	No
Recess, to Take a	6	Yes	Yes	No	Yes	Yes	Yes
Reconsider	2	10	No	No	Yes	Yes	Yes
Substitute (same as Amend)	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Suspend the Rules	No	Yes	No	No	No	Yes	Yes
Take from the Table	No	Yes	No	No	Yes	Yes	Yes
Withdraw	No	Yes	No	1	Yes	No	Yes

FOOTNOTES TO TABLE OF ROBERT'S RULES OF ORDER

1. An affirmative vote on this motion cannot be reconsidered.
2. Undebatable when the motion to be amended, reconsidered, or rescinded is undebatable.
3. Constitutions, By-Laws, and Rules of Order before adoption are in every respect main motions and may be amended by majority vote. After adoption they require prior notice and 2/3 vote for amendment.
4. Standing Rules may be amended at any time by a majority vote if previous notice has been given, or by a 2/3 vote without notice.
5. If resolutions or propositions relate to different subjects that are independent of each other, they must be divided on the request of a single member, which may be made when another has the floor. If they relate to the same subject and yet each part can stand alone, they may be divided only on a regular motion and vote.
6. Undebatable if made when another question is before the assembly.
7. The objection can be made only when the question is first introduced, before debate. A 2/3 vote must be opposed to the consideration in order to sustain the objection.
8. Negative vote on this motion cannot be reconsidered.
9. Cannot be reconsidered after a vote has been taken under it.
10. Opens to debate main question when latter is debatable.