

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



MONDAY, JULY 16, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, July 16, 2012 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 Chaplain Anthony Malfitano, Rolling Thunder, Texas Chapter 1
- 3.0 Pledges to U.S. and Texas Flags
- 4.0 Public Comments and Receipt of Petitions *[At this time, anyone will be allowed to speak on any matter other than personnel matters or matters under litigation, for length of time not to exceed three minutes. No Council/Board discussion or action may take place on a matter until such matter has been placed on an agenda and posted in accordance with law.]*
- 5.0 Reports and Announcements

- **June 25 through August 13, 2012 – Tomball Kids Club at MLK, Jr. Park – Hosted by HEB, in Partnership with Buffalo Wild Wings and Cisco’s Salsa Company**
- **July 31, 2012 - Harris County Runoff Election;** Early Voting, July 23 through July 27, 2012, 7:00 a.m.-7:00 p.m., 501 James Street
- **August 6, 2012 –Public Hearing** on FY 2012-2013 Budget – 6:00 p.m.
- August 20, 2012 – Appoint/Reappoint Members to the Tomball Regional Hospital Authority Board of Directors for Terms Expiring September 1, 2012
- ***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:
 - Randy Parr and Mike Baxter – Results of the ***4th of July Street Party***
 - City of Tomball received the Texas State Comptroller’s 2012 Leadership Circle Score Sheet – Gold Level – for Financial Transparency

6.0 Approve the Minutes of the Following Meetings:

- Special City Council Meeting - July 2, 2012
- Special Tomball City Council and Tomball Economic Development Corporation Meeting - July 2, 2012
- Regular City Council Meeting - July 2, 2012

7.0 Old Business:

- 7.1 Adopt, on Second Reading, Ordinance No. 2012-19, an Ordinance of the City Council of Tomball, Texas, an Ordinance of the City Council of Tomball, Texas, Levying an Assessment against Reserve at Spring Lakes Section One Properties within the City of Tomball Public Improvement District Number Three; and making Certain Findings Related Thereto
- 7.2 Presentation and Discussion of Proposed Chapter 60, Sign Ordinance

8.0 New Business:

- 8.1 Approve Request from Hawes Hill Calderon, LLP for Hawes Hill Calderon, as PID Administrators, to Engage McCall Gibson Swedlund Barfoot, PLLC., Auditors, to Prepare Developer Reimbursement Report for Tomball Public Improvement District No. 1 (Pine Country Section 2 Subdivision)
- 8.2 Consideration and Possible Action Regarding **ZONING CASE P12-448**: Request by E.L. Chapman for a Conditional Use Permit to operate a “Feed & Grain Store/Farm Supply Store.” The property is an approximately 0.71-acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.
- Conduct a Public Hearing on **ZONING CASE P12-448**
 - Adopt on first reading, Ordinance 2012-21, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to E.L. Chapman to Operate a “Feed

& Grain Store/Farm Supply Store”; said Tract being Approximately 0.71 acres, and being Legally Described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally Located on the Easterly Side of State Highway 249 Expressway, Northerly of Hirschfield Road at 13918 Hirschfield Road, Tomball, Texas; 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

8.3 Council Consideration to Set August 6, 2012 at 6:00 p.m. as the Date for the Public Hearing on the FY 2012-2013 Budget, as presented to Council by the City Manager

8.4 Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property
- Sec. 551.087 – Deliberations Regarding Economic Development

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 12th day of July 2012 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: July 16, 2012

Topic:

- Led by Chaplain Anthony Malfitano, Rolling Thunder, Texas Chapter 1

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: July 16, 2012

Topic:

- **June 25 through August 13, 2012 – Tomball Kids Club at MLK, Jr. Park – Hosted by HEB, in Partnership with Buffalo Wild Wings and Cisco's Salsa Company**
- **July 31, 2012 - Harris County Runoff Election;** Early Voting, July 23 through July 27, 2012, 7:00 a.m.-7:00 p.m., 501 James Street
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- Reports by City staff and members of council about items of community interest on which no action will be taken:
 - Randy Parr and Mike Baxter – Results of the ***4th of July Street Party***
 - City of Tomball received the Texas State Comptroller's 2012 Leadership Circle Score Sheet – Gold Level – for Financial Transparency

Background:

Origination:

Recommendation:

Funding:

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

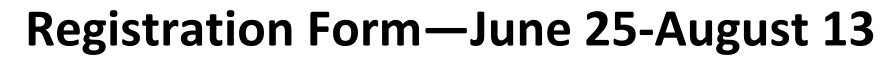
ACTION TAKEN		
APPROVAL	READINGS PASSED	OTHER
☐ YES ☐ NO	☐ 1 ST ☐ 2 ND	

ATTACHMENTS:

Tomball Kids Club

4th of July Street Party

2012 Leadership Circle Score Sheet



Permission to
use picture
(Yes or No)

[illegible]

Event Report

To: Staff
From: Mike Baxter
CC: Fiile
Date: 07/10/2012
Re: Facebook Comments re: July 4th Celebration – 2012

The follow are comments collected from “Tomball, Texan for Fun!” on Facebook in the days immediately following our July 4th Celebration & Street Party.

“The fireworks-especially the finale- were incredible this year!! Thanks so much for a great celebration!”
Jocelyn Hattenberger

“They were beautiful... and this is a great photo!” *Jana Pasche*

“OhhhhAwww!!!!” *Varlorie Lyda Evans Peake*

“Nice Picture!!” *Sue Allen Dougarian*

“Really enjoyed the beautiful fireworks . . . Thank you Tombal” *Vivienne Isaacks Rich*

“That is an awesome picture. Is it a camera phone picture?” *Linda Carroll Leonard*

“The fireworks display was awesome!!! Thank you Tomball! Happy 4th of July” *Julie Herzik Matus*

“Saw the Fireworks... good job TFD” *Kelly Johnson Sweet*

“That was the biggest fireworks show I have ever seen. THANK YOU TOMBAL!!!! So much fun!!!
Valorie Lyda Evens Peake

“What a great fireworks show! Thanks so much and happy 4th” *Carrie Wilkins*

“It was the most awesome fireworks display I have seen in years, absolutely fantastic” *Jerry Littlefield*

“The fireworks were the best ever!! Thanks Tomball for a terrific 4th” *Cyndi Tidwell Waltman*

“Great show!!! Best ever!!! Way to go . . . Thanks so much to all you guys that worked so hard to get this done this year . . . From setting up to shutting down. Thank you. The 7:30 band was so good also... Big thumbs up to all of you for all your hard work. The traffic was well taken care of. Tomball Police Department did a great job to handle such a large crowd... 10-10-10 ... that's my vote.” *Christel Guillory Burmaster*

“Fantastic fireworks show!!” *Julie Herndon Walker*

“The fireworks were great!” *Bridget Douga Karr*

"TTTTTERRIFIC!!!!!!" *Jeffie Bridgeman Cappadonna*

"A fun and SAFE, Fourth of July! Thank u to everyone involved for all the hard work and time! Great 'booms' as my little ones put it!" *Carol Cudd*

"Awesome fireworks!!!!" *Jodi Howell Dudley*

"It was an amazing fireworks show tonight. A huge shout-out to the Fire, Police, EMS and City departments working hard for days to put this event on. Also, a huge thanks for the CERT volunteers, Explorer volunteers, and the students who worked the kids events tonight. It took a lot of people to make this a success. Looking forward to next year already." *Lisa Gardner Sterle*

"Yep, they were pretty cool." *Lisa Schneider*

"They were wonderful" *Mary Harvey*

"Awesome Photo" *Mary Margaret Dougherty Campbell*

"It was wonderful." *Lezlie Adam Armour*

"The fireworks in Tomball . . . great job! We were in the parking lot . . . every spot filled and watching the fireworks... very enjoyable and free! LOL *Nancy Netardus*

"Fireworks were awesome tonight! Great Job Tomball!!!! *Larry Nichols*

"Awesome display!! My family said one of the best they have ever seen!!" *Kelly-Trey Harris Tolar*

"BEST fireworks show in the 10 years we have lived here. The grand finale rocked like never before... thanks to all who had a part in putting on the show. Hope to see it again next year!!!" *Carolyn Neary Kent*

"GREAT SHOW!!! Way to go, to all those involved in making this the best one EVER... Thanks to our Police Department for keeping traffic going smoothly" *Christel Buillory Burmaster*

"Wow!!! Thank you Tomball for the magnificent fireworks display! And, such easy access to a spot to watch!! Thank God for tiny towns in Texas with giant hearts!!!!!" *David Hinton*

"The fireworks show was awesome! Thank you Tomball!! *Julie Herzik Matus*

"Awesome, awesome!!! Great job tball" *Christel Guillory Burmaster*

"Would have been nice if the shopping centers would cooperate and turn off their lights" *Candice Kretschmann*

"We just got home from watching the fireworks. In all of my years watching fireworks, these were by far the best and most awesome." *Jerry Littlefield*

"The kids games were PATHETIC... having that out on the asphalt in the heat was ridiculous... Change the venue or don't bother next !!! *Jaclynn Taylor*

"My sweet little man and husband! Great picture!!" *Natalie Lozada O'Brien*

"Very fun!!! Thanks to all who made it happen." *Lorraine Hogarth Zajac*

"Thanks Tomball the fireworks were great!" *Leland Andre' Watson*

"Great show! The best ending to a show I've ever seen." *Priscilla Fletcher*

"The fireworks were awesome!! It was a great show" *MaryAnne Kocan Jeter*

"The fireworks display was spectacular! We were very impressed!" *Leslie Archer*

"Hats off to everyone in Tomball!!! Ya'll were so very organized and the fireworks were the best I've ever seen!!! Absolutely beautiful! Thanks again for all the hard work!! It was enjoyed by many!! :) (Just need more tractors & trailers for hayride next time." *Susan Edmonds*

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2012 Leadership Circle Score Sheet

[City of Tomball](#)



2012 Leadership Circle Score Sheet	Maximum Value	Points Earned
Major Criteria		
Budget (Official Adopted Budget)	2	2
Annual Financial Report or Comprehensive Financial Report	2	2
Check Register	2	2
Financial Transparency Webpage	2	2
Major Criteria Total Points	8	8
Minor Criteria		
Local Government contact information	1	1
Contact information for elected officials	1	1
Public information request contact & instructions	1	1
Easy access to financial documents in 3 clicks or less	1	1
Budgets for three most recent fiscal years	1	1
Annual financial reports for three most recent completed reports	1	1
Check registers for three most recent fiscal years	1	0
Searchable check registers	1	1
Descriptive check registers	1	0
Visual representation of financial data	1	1
Current tax rates for local option taxes	1	1
Raw format budget	1	0
Minor Criteria Total Points	12	9
Combined Total Points (Major and Minor Criteria)	20	17
Leadership Circle Award Level: Gold		

Award Levels:

- Gold – All 3 major documents, a financial transparency webpage, and 8 minor criteria – 16 total points
- Silver – Any 2 major documents, a financial transparency webpage, and 6 minor criteria – 12 total points
- Bronze – Any 2 major documents and 4 minor criteria – 8 total points

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Regular City Council

Agenda Item

Data Sheet

Meeting Date: July 16, 2012

Topic:

Approve the Minutes of the Following Meetings:

- Special City Council Meeting - July 2, 2012
- Special Tomball City Council and Tomball Economic Development Corporation Meeting - July 2, 2012
- Regular City Council Meeting - July 2, 2012

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 - Special City Council Meeting - July 2, 2012

Draft Minutes - Special Tomball City Council and Tomball Economic Development Corporation Meeting - July 2, 2012

Draft Minutes - Regular City Council Meeting - July 2, 2012

**MINUTES OF SPECIAL CITY COUNCIL MEETING
CITY OF TOMBALL, TEXAS**



MONDAY, JULY 2, 2012

4:00 P.M.

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Townsend
Councilman Dodson
Councilman Hudgens
Councilman Brown

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
Director Human Resources – Lisa Coe
Police Chief – Rob Hauck
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Assistant City Engineer – Lori Lakatos
IT Specialist – Doug Tippey
Assistant Fire Chief – Jonathan Fontenot
Fire Marshal – Doug Sanguedolce
Accountant – Craig Price

draft

2.0 No public comments were received.

3.0 Workshop Session:

3.1 The Tomball City Council entered into a Workshop Session regarding the Fiscal Year 2012-2013 Budget.

George Shackelford provided an overview of the FY 2012-2013 Budget.

The next budget workshop is scheduled for July 16, 2012 at 4:00 p.m.; the public hearing on the FY 2012-2013 Budget is scheduled for August 6, 2012 at 6:00 p.m.

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

Motion carried unanimously.

Meeting adjourned.

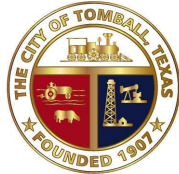
PASSED AND APPROVED this _____ day of _____ 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

draft

**MINUTES OF SPECIAL TOMBALL CITY COUNCIL
AND
TOMBALL ECONOMIC DEVELOPMENT CORPORATION
MEETING
CITY OF TOMBALL, TEXAS**



**MONDAY, JULY 2, 2012
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Townsend
Councilman Dodson
Councilman Hudgens
Councilman Brown

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Rob Hauck
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
IT Specialist – Doug Tippey
Community Events Coordinator – Rosalie Dillon

draft

The Tomball Economic Development Corporation meeting was called to order by President Gretchen Fagan. Other members present were:

Steven Vaughan
William Sumner
Lori Klein Quinn
Richard Bruce
Chad Degges
Kelly Violette – TEDC Executive Director
Tiffani Wooten – TEDC Coordinator

Draft

TEDC Members absent:

Vincent O'Donnell - Excused

2.0 No Public Comments were received before entering into Executive Session.

3.0 New Business:

3.1 Executive Session: The Tomball City Council and the Tomball Economic Development Corporation recessed at 6:03 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. 551.087 – Deliberations Regarding Economic Development

Upon reconvening into Special Session at 7:00 p.m., no action was taken.

4.0 Motion was made by William Sumner, second by Lori Klein Quinn, to adjourn.

Motion carried unanimously.

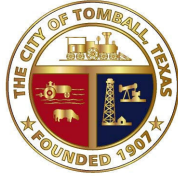
Tomball Economic Development Corporation Meeting was adjourned; City Council continued with Regular Meeting.

PASSED AND APPROVED this ____ day of _____ 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

MINUTES OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, JULY 2, 2012
6:00 P.M.**

1.0 Call to Order

The Council meeting was called to order by Mayor Gretchen Fagan. Other members present were:

Councilman Stoll
Councilman Townsend
Councilman Dodson
Councilman Hudgens
Councilman Brown

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Loren Smith
Police Chief – Rob Hauck
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
City Planner – Rebeca Guerra
Assistant City Engineer – Lori Lakatos
Assistant City Planner – Rodney Schmidt
IT Specialist – Doug Tippet
Community Events Coordinator – Rosalie Dillon
Kelly Violette – TEDC Executive Director

draft

2.0 Invocation

- Led by Shawn O'Hearn, Pastor, Saddlecreek Church

3.0 Pledges to U. S. and Texas Flags

- Led by Randy Parr, Fire Chief

4.0 The following public comments were received:

Darrell Roquemore 614 N. Hickory, 77375	- Stated his wish to serve on the Planning and Zoning Commission.
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5.0 Reports and Announcements:

- **June 25 through August 13, 2012 – Tomball Kids Club at MLK, Jr. Park – Hosted by HEB, in Partnership with Buffalo Wild Wings and Cisco's Salsa Company**
- **July 4, 2012 – City of Tomball Fourth of July Celebration – 2:00 p.m.-10:00 p.m.**
- July 10, 2012 – Blood Drive
- July 14, 2012 – **Second Saturday at the Depot** – 6:30 p.m.
- July 16, 2012 – **Budget Workshop** on FY 2012-2013 Budget – 4 p.m.
- **August 6, 2012 – Public Hearing** on FY 2012-2013 Budget – 6:00 p.m.
- **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:
 - Lori Lakatos – Update on Medical Complex Right-of-Way Purchases
 - Randy Parr – Promotion of Justin Martinets to Driver/Operator – Fire Department
 - George Shackelford – Introduced Rebeca Guerra, City Planner

6.0 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve the minutes of the June 18, 2012 Regular City Council Meeting.

Motion carried unanimously.

7.0 Old Business:

- 7.1 Motion was made by Councilman Townsend, second by Councilman Dodson, to approve Lease Agreement between the City of Tomball and Burlington Northern Santa Fe Railroad (BNSF), Covering Lease of Property off of North Elm Street for the City's Parking Lot Project, at an Annual Lease Rate of \$3,000.00, and Authorize Payment of a One-Time Railroad Protective Liability Insurance Fee as required by BNSF, in the Amount of \$885.00. Vote was as follows:

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

Draft

Motion carried, 3 votes Aye, 2 votes Nay.

- 7.2 Motion was made by Councilman Dodson, second by Councilman Brown, to adopt, on Second Reading, Resolution No. 2012-17-TEDC, a Resolution of the City Council of the City of Tomball, Texas, authorizing and approving a development and property exchange agreement between the Tomball Economic Development Corporation and 2978 Industrial Properties, LLC, (The “Company”) related to the development of the Tomball Business and Technology Park Project; containing other provisions relating to the subject; and providing for severability.

Motion carried unanimously.

- 7.3 Motion was made by Councilman Townsend, second by Councilman Dodson, to adopt, on Second Reading, Ordinance No. 2012-15, an Ordinance of the City Council of Tomball, Texas, Approving the Service and Assessment Plan for the City of Tomball Public Improvement District Number Three. Vote was as follows:

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

Draft

Motion carried unanimously.

- 7.4 Motion was made by Councilman Townsend, second by Councilman Brown, to adopt, on Second Reading, Ordinance No. 2012-16, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit Amendment to K. E. Jams Investments, Inc., to Expand a “Recreational Vehicle Park”; Being an Approximately 23.74 Acre Site, and Being Legally Described as Lot 168, Amending Plat of Tomball Outlots, generally located on the Westerly Side of South Cherry Street, Northerly of Agg Road at 1402 South Cherry Street, Tomball, Texas; Providing Requirements and Conditions for This Conditional Use Permit Amendment; Containing Findings and Other Provisions Relating to the Subject; Providing a Penalty in an Amount Not To Exceed Two Thousand Dollars for Violations Hereof; and Providing for Severability. 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.

- 7.5 Motion was made by Councilman Brown, second by Councilman Stoll, to adopt, on Second Reading, Ordinance No. 2012-18, an Ordinance of the City of Tomball, Texas, Amending Its Comprehensive Zoning Ordinance by Amending Section 38.2 (“Use Charts”) to Allow a “Playfield or Stadium (Private)” Land Use in the Agricultural District with a Conditional Use Permit; 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 Stoll	<u>Aye</u>
Councilman Brown	<u>Aye</u>
Councilman Townsend	<u>Aye</u>
Councilman Dodson	<u>Aye</u>
Councilman Hudgens	<u>Aye</u>

Draft

Motion carried unanimously.

8.0 New Business:

- 8.1 Motion was made by Councilman Dodson, second by Councilman Brown, to approve Request from Tomball Regional Hospital for City Support of the "3rd Annual American Heart Association's Northwest Harris County Satellite Heart Walk" on Saturday, October 20, 2012, to Support the American Heart Association.

Motion carried unanimously.

- 8.2 Mayor Fagan opened the Public Hearing of the City Council of the City of Tomball at 7:28 p.m. to Consider Proposed Assessments against Reserve at Spring Lakes Section One Properties in the City of Tomball Public Improvement District Number Three, Established by City Council Resolution No. 2009-28.

Receiving no public comments, Mayor Fagan closed the public hearing at 7:28 p.m.

- 8.3 Motion was made by Councilman Townsend, second by Councilman Stoll, to read Ordinance No. 2012-19 by caption only on First Reading.

Motion carried unanimously.

Motion was made by Councilman Dodson, second by Councilman Townsend, to adopt, on First Reading, Ordinance No. 2012-19, an Ordinance of the City Council of Tomball, Texas, an Ordinance of the City Council of Tomball, Texas, Levying an Assessment against Reserve at Spring Lakes Section One Properties within the City of Tomball Public Improvement District Number Three; and making Certain Findings Related Thereto. Vote was as follows:

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

draft

Motion carried unanimously.

- 8.4 Mayor Fagan announced that consideration of Ordinance No. 2012-20, an Ordinance Deleting Article IV., Electricity, of Chapter 14, Buildings and Building Regulations, of the Code of Ordinances of the City of Tomball, Texas, in Its Entirety and Substituting Therefor a New Article IV., Electricity, of Chapter 14, Buildings and Building Regulations; Repealing all Ordinances or Parts of Ordinances Inconsistent or in Conflict Herewith; Providing a Penalty in an Amount of Not More Than \$2,000 for Violation of Any Provision Hereof; Providing for Savings and Severability; Providing for Publication; and Making Other Provisions and Findings Related Thereto, will be moved to the July 16, 2012 meeting.

No action taken.

- 8.5 Motion was made by Councilman Dodson, second by Councilman Brown, to approve Resolution No. 2012-19, a Resolution of the City Council of the City of Tomball, Texas, Authorizing the Purchase of Property from Tomball 10 Joint Venture for use in the Medical Complex Drive Expansion Project; and Authorizing the City Manager to Execute All Documents Related Thereto, in the Amount of \$314,810.00.

Motion carried unanimously.

- 8.6 Motion was made by Councilman Townsend, second by Councilman Stoll, to approve Interlocal Agreement between the City of Tomball and the Tomball Independent School District (TISD), affording the Tomball Police Department the Ability to Assign Four Student Resource Officers (SROs) to TISD Campuses.

Motion carried unanimously.

- 8.7 Motion was made by Councilman Townsend, second by Councilman Brown, to approve Interlocal Agreement between the City of Tomball and the Tomball Independent School District, affording the Tomball Police Department the Ability to Provide Police Services on a Contractual Basis for Specialized Events occurring Before, During and After the Normal Campus Hours.

Motion carried unanimously.

- 8.8 Motion was made by Councilman Townsend, second by Councilman Dodson, to appoint Darrell Roquemore to Fill Vacancy and Complete Unexpired Term on City of Tomball Planning and Zoning Commission.

Motion carried unanimously.

- 8.9 Motion was made by Councilman Brown, second by Councilman Dodson, to appoint Rocky Pilgrim to Alternate Position 2, to Fill Vacancy and Complete Unexpired Term on City of Tomball Board of Adjustments.

Motion carried unanimously.

- 8.10 Motion was made by Councilman Dodson, second by Councilman Townsend, to approve **BJS MANUFACTURING CENTER REPLAT**: A subdivision of 71.3618 Acres of Land out of the Jesse Pruitt Survey, A-629, City of Tomball, Harris County, Texas; Being a Replat of Restricted Reserve "A" and Reserve "B" of BJ Services Tract, Film Code No. 537089 M.R.H.C.; Being a Replat of Lots 327 and 328 of Tomball Townsite, Volume 2, Page 65 M.R.H.C. and Being a Replat of Lots 330 and 333 of Corrected Map of Tomball Outlots, Volume 4, Page 75 M.R.H.C.

Motion carried unanimously.

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

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this _____ day of _____ 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Draft

Regular City Council

Agenda Item

Meeting Date: July 16, 2012

Data Sheet

Topic:

Adopt, on Second Reading, Ordinance No. 2012-19, an Ordinance of the City Council of Tomball, Texas, an Ordinance of the City Council of Tomball, Texas, Levying an Assessment against Reserve at Spring Lakes Section One Properties within the City of Tomball Public Improvement District Number Three; and making Certain Findings Related Thereto

Background:

Public infrastructure improvements are underway for the Reserve at Spring Lakes Subdivision within Public Improvement District Number Three created by the City in 2009. Per Chapter 372 of the Local Government Code, a Service and Assessment Plan must be approved by City Council prior to levying the assessments. The Plan shows the estimated total costs for public improvements in the PID and the assessments to be levied against residential property in the PID. Each property (lot) will pay a portion of the public improvement costs based on the size of the property. The Plan also specifies how the assessments are to be collected.

As required following the adoption of the Service and Assessment Ordinance (Ordinance No. 2012-15), the public hearing has been held prior to consideration of the Ordinance to levy the assessment for properties within PID Number 3.

On July 2, 2012, Council adopted Ordinance no. 2012-19 on First Reading.

Origination:

Scott Bean, Hawes Hill Calderon, LLP

Recommendation:

Adopt Ordinance No. 2012-19 on Second Reading

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:

Ordinance No. 2012-19

Ordinance No. 2012-19 - Exhibit A-Assessment Roll

Information Sheet and Amortization Schedule

ORDINANCE NO. 2012-19

**AN ORDINANCE OF THE CITY COUNCIL OF TOMBALL, TEXAS,
LEVYING AN ASSESSMENT AGAINST RESERVE AT SPRING LAKE
SECTION ONE PROPERTIES WITHIN THE CITY OF TOMBALL PUBLIC
IMPROVEMENT DISTRICT NUMBER THREE; AND MAKING CERTAIN
FINDINGS RELATED THERETO.**

* * * * *

WHEREAS, the City of Tomball (the “City”) is authorized pursuant to TEX. LOCAL GOV’T CODE, ch. 372, as amended (“Chapter 372”) to create public improvement districts for the purposes described therein, and to levy and collect an assessment in furtherance of the purposes thereof; and

WHEREAS, the City has created City of Tomball Public Improvement District Number Three (the “PID”), adopted a Service and Assessment Plan (the “Plan”) for the PID, all in accordance with the applicable provisions of Chapter 372; and

WHEREAS, the City Council filed a proposed assessment roll with the City secretary which roll was available for public inspection, and following notice thereof by mail and publication as required by Chapter 372, the City Council held a public hearing at which written or oral objections to the proposed assessments were considered and passed on by the City Council; and

WHEREAS, the City Council has determined that the levy of a special assessment for and on behalf of the PID is necessary and advisable, and that the proposed assessment roll apportions the cost of the subject improvements in the PID on the basis of special benefits accruing to the property because of the improvements, **NOW THEREFORE**,

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

Section 1. The facts recited in the preamble hereto are found to be true and correct.

Section 2. The assessment roll attached hereto is hereby approved and the special assessments described therein are hereby levied on the subject property in accordance with the terms of the Plan, which Plan determines, *inter alia*, the method of payment of the assessments, and makes provision for the payment thereof in periodic installments, interest thereon and the collection thereof. The Mayor, City Secretary and any other appropriate officials of the City are hereby authorized to take all necessary actions on behalf of the City to implement the terms thereof in accordance therewith.

Section 3. There is hereby created a first and prior lien securing payment of the assessment levied, effective as of the date of this Ordinance as provided in the Plan and Chapter 372.

Section 4. It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as

required by the Open Meetings Law, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

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 2ND DAY OF JULY 2012.

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>

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 16TH DAY OF JULY 2012.

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

PASSED AND ADOPTED the _____ day of _____, 2012.

GRETCHEN FAGAN, Mayor

Approved as to form:

Attest:

SCOTT BOUNDS, City Attorney

DORIS SPEER, City Secretary

Public Improvement District Number Three
Reserve at Spring Lake Subdivision
Section One Assessment Roll
City of Tomball, Harris County, Texas

Owner	Block #	Lot #	Lot Area (Acres)	Lot Category	Total Assessment	Annual Assessment Installment (Financed)	Financed Assessment Term	Annual Administrative Cost	Total Annual Payment
Zion Road Properties, LLC	1	1	1.1518	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	2	1.3426	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	3	1.3510	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	4	1.3603	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	5	1.2602	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	6	1.0192	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	7	1.0208	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	1	8	1.0225	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	1	1.4758	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	2	1.2077	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	3	1.1824	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	4	1.5678	2	\$ 68,893.62	\$ 6,750.00	15 years	\$ 241.65	\$ 6,991.65
Zion Road Properties, LLC	2	5	1.3678	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	6	1.2844	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	7	1.3097	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	8	1.1502	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	9	1.8058	2	\$ 68,893.62	\$ 6,750.00	15 years	\$ 241.65	\$ 6,991.65
Zion Road Properties, LLC	2	10	1.3783	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	11	1.3788	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	2	12	1.3837	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	3	1	1.1645	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	3	2	1.3230	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	3	3	1.3883	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65
Zion Road Properties, LLC	3	4	1.3776	1	\$ 45,929.08	\$ 4,500.00	15 years	\$ 241.65	\$ 4,741.65

Council Item Information Sheet – Service and Assessment Plan/Section One Assessment Roll for Public Improvement District Number Three (Reserve at Spring Lakes Subdivision)

Action Requested

Approval of the Service and Assessment Plan for Public Improvement District Number Three and approval of the Section One Assessment Roll.

Information

Public infrastructure improvements are underway for the Reserve at Spring Lakes Subdivision within Public Improvement District Number Three created by the City in 2009. Per Chapter 372 of the Local Government Code, a Service and Assessment Plan must be approved by City Council prior to levying the assessments. The Plan shows the estimated total costs for public improvements in the PID and the assessments to be levied against residential property in the PID. Each property (lot) will pay a portion of the public improvement costs based on the size of the property. The Plan also specifies how the assessments are to be collected.

The assessments prescribed in the Plan are by lot category. The total, one-time assessment per lot category is specified in the plan as well as the annual installment (financed assessment rate at 5.25% annual interest) as follows:

<u>Reserve at Spring Lakes Lot Categories (By Size)</u>	<u>Total Assessment (Principal)</u>	<u>Financed Assessment (Annual Payment)</u>
1.) Up to 1.5 Acres	\$45,929.08	\$4,500.00
2.) 1.5 Acres to 2.0 Acres	\$68,893.62	\$6,750.00
3.) 2.0 Acres to 3.0 Acres	\$91,858.15	\$9,000.00
4.) 3.0 Acres and Larger	\$114,822.69	\$11,250.00

The annual payment, principal, and interest are demonstrated on the attached example amortization schedule which will be kept for each property covered by the assessment. The principal amount of the assessment is payable at any time by each homeowner which would terminate the assessment.

The assessments are formulated to reimburse the developer for 50% of the public infrastructure costs of the development plus interest while staying at or below the equivalent of a \$0.90 tax rate on a project wide basis. For illustration, the attached amortization schedule details the amortization for a Lot Category 1 property. It is estimated that the average price of the homes to be constructed on Lot Category 1 properties will be \$500,000. The annual assessment payment for the Lot Category 1 is \$4,500, or the equivalent of a \$0.90 tax rate on a \$500,000 home.

Proper disclosure notices detailing the assessment will be presented to potential homebuyers by the homebuilders, and for acknowledgement at closing in the same manner as disclosure notices used in MUDs and other special districts with an ad valorem tax rate.

Future Actions

The District Administrator will work with City staff on the collection of the assessments. The PID assessments will be collected on an annual basis in the same manner as property taxes and transferred to a City-established PID revenue fund. A reimbursement report will be performed by an independent CPA firm prior to reimbursement to the developer. The revenues will be disbursed to the developer once a year after administrative costs have been deducted.

TOMBALL PID THREE EXAMPLE AMORTIZATION SCHEDULE

AMORTIZATION SCHEDULE BY LOT CATEGORY

LOT	
CATEGORY	1
Duration (in years)	15
Interest Rate	5.25%
Annual Payment	
Amount	\$4,500.00
Total Lifetime Payments	\$67,500.00
Total	
Principal	\$45,929.08
Total Interest	\$21,570.92

	Payment	Principal	Interest	Payment	Principal Balance
					\$45,929.08
1		\$2,088.72	\$2,411.28	\$4,500.00	\$43,840.36
2		\$2,198.38	\$2,301.62	\$4,500.00	\$41,641.97
3		\$2,313.80	\$2,186.20	\$4,500.00	\$39,328.18
4		\$2,435.27	\$2,064.73	\$4,500.00	\$36,892.91
5		\$2,563.12	\$1,936.88	\$4,500.00	\$34,329.78
6		\$2,697.69	\$1,802.31	\$4,500.00	\$31,632.10
7		\$2,839.32	\$1,660.69	\$4,500.00	\$28,792.78
8		\$2,988.38	\$1,511.62	\$4,500.00	\$25,804.40
9		\$3,145.27	\$1,354.73	\$4,500.00	\$22,659.13
10		\$3,310.40	\$1,189.60	\$4,500.00	\$19,348.74
11		\$3,484.19	\$1,015.81	\$4,500.00	\$15,864.55
12		\$3,667.11	\$832.89	\$4,500.00	\$12,197.44
13		\$3,859.63	\$640.37	\$4,500.00	\$8,337.80
14		\$4,062.27	\$437.73	\$4,500.00	\$4,275.53
15		\$4,275.53	\$224.47	\$4,500.00	\$0.00
TOTAL		\$45,929.08	\$21,570.92	\$67,500.00	

Regular City Council

Agenda Item

Data Sheet

Meeting Date: July 16, 2012

Topic:

Presentation and Discussion of Proposed Chapter 60, Sign Ordinance

Background:

On August 15, 2011, during a City Council Workshop, staff presented a draft Chapter 60, Sign Ordinance for discussion. Staff has made revisions, based on the comments received, to the Sign Ordinance and is presenting it for discussion.

Origination:

City Council

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

Engineering and Planning

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

ATTACHMENTS:

Sign Ordinance Presentation

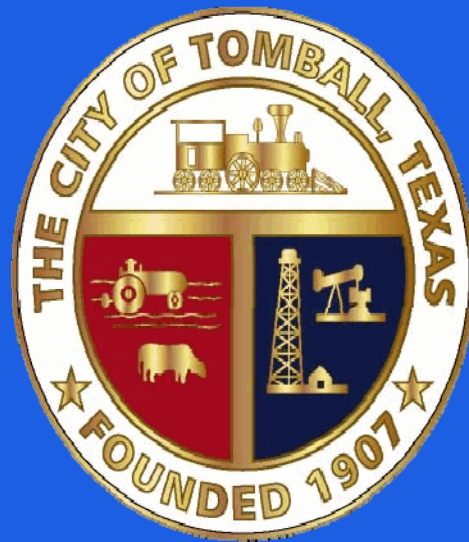
Draft - Chapter 60. Signs - Redlined

Sign Ordinance_Comments and Responses

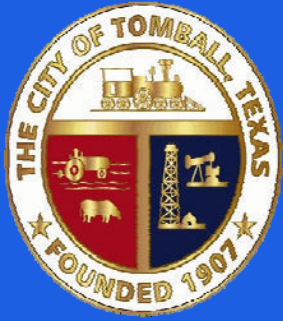
CHAPTER 60

SIGN ORDINANCE

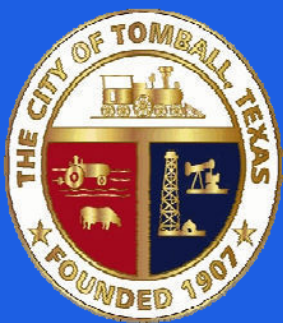
Existing Regulations and
Proposed Changes



July 16, 2012



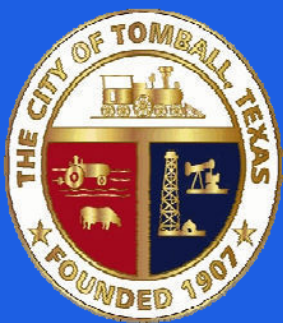
Existing Regulations



On-Premise Signs

- Any sign identifying or advertising the business, person, activity, goods, products, or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises are used for business purposes.

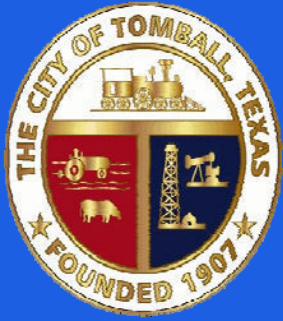




Off-Premise Signs

- Any sign advertising a business, person, activity, goods, products, or services not usually located on the premises where the sign is installed and maintained, or which directs persons to any location not on the premises.

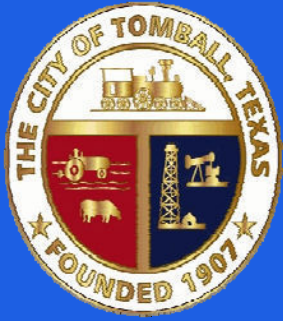




Ground Sign

- A sign, which is supported by uprights or braces in or upon the ground, including portable signs as defined herein.

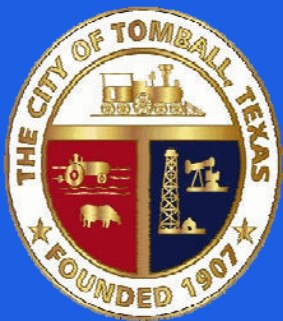




Marquee Sign

- A projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.

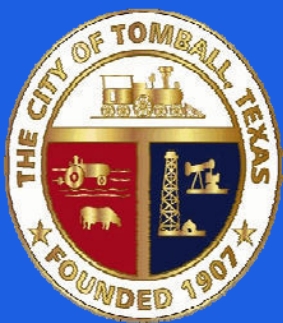




Projecting Sign

- Any sign which is affixed to any building wall or structure and extends beyond the building wall or structure more than 12 inches.

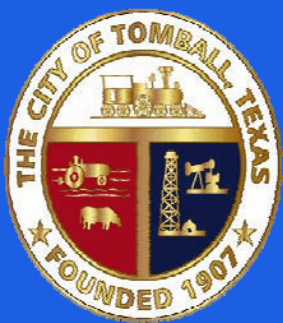




Roof Sign

- *Roof sign* means any sign erected, constructed, or maintained above the roof of any building.

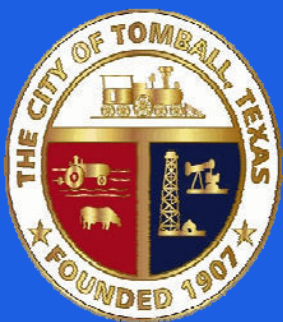




Wall Sign

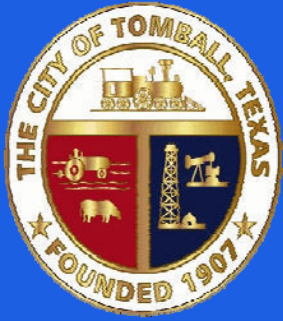
- *Wall sign* means any sign affixed to or painted upon the wall of any building.



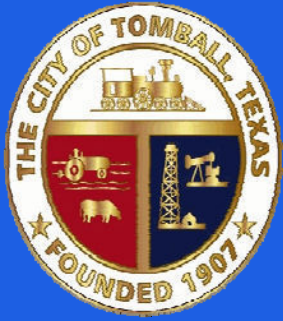


No permit currently required from the City of Tomball for...

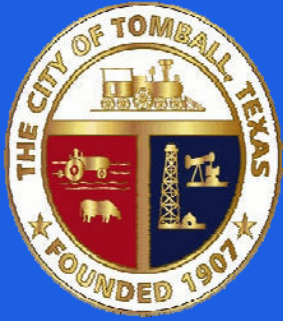
- **Governmental/Public Signs**
- **Signs for Civic Events**
- **Window Signs**
- **Wall Signs**
- **Marquee Signs**
- **Railroad Signs**
- **Projecting Signs**
- **Temporary Parking Signs**
- **Legal Notices and House Numbers**
- **Repair, Construction, Sale, or Rent Signs**
- **Garage Sale Signs**
- **Motor Vehicle Signs**
- **Lighter- or Heavier- Than-Air Signs**
- **Holiday Displays**
- **Political Signs**
- **Signs on Public Rights-of-Way**



Suggested Changes



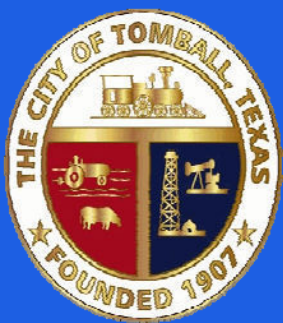
New Definitions



Aircraft

- *Aircraft* means a vehicle capable of atmospheric flight due to interaction with the air, such as buoyancy or lift.

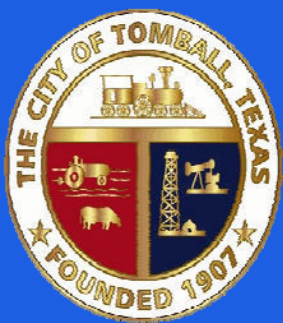




Awning Sign

- *Awning sign* means any sign constructed of a fabric-type or other material stretched over a rigid metal frame that is attached to the wall or roof of a building.

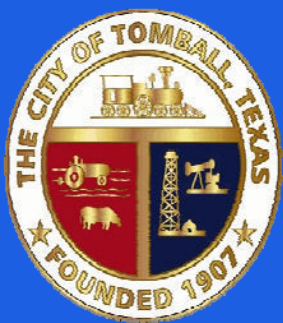




Banner Sign

- *Banner sign* means any sign constructed of cloth, canvas, light fabric or other light material; excluding awning signs.

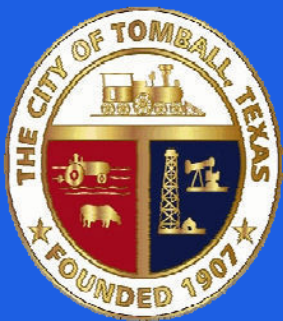




Billboard

- *Billboard* means a signage panel for the display of advertisements in public places, such as alongside highways.

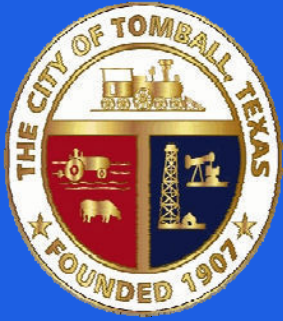




Flag Sign

- *Flag sign* means any flag, except the flags of the United States, Texas or any other governmental entity, used for advertising that contains or displays any written message, business name, pictorial representation, logo, corporate symbol, silhouette, or other visual representation identifying or advertising a particular business, good, service or merchandise sold or available for sale on the premises where the flag is erected, displayed or maintained.

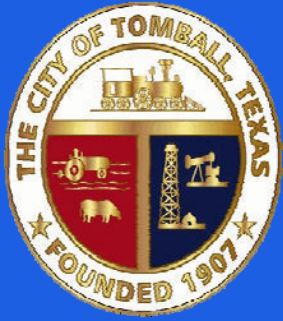




Inflatable Sign

- *Inflatable sign* means a sign that gains its shape from inserting air or other gas.

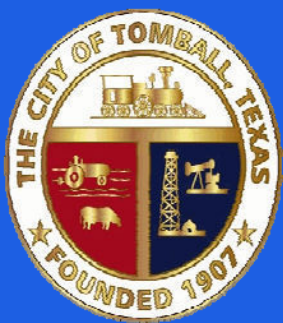




Living or Human Sign

- *Living or human sign* means a sign held by or attached to a human being or living creature for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, or product. This can also include a person dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service, or product.

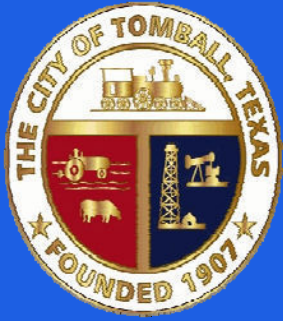




Message Board Sign

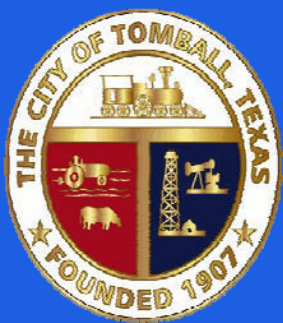
- *Message board* sign means any sign or portion of a sign attached to a structure which contains a sign face designed to allow the removal or replacement of individual letters, words or symbols on the sign face for the purpose of changing an advertising message.





Premise

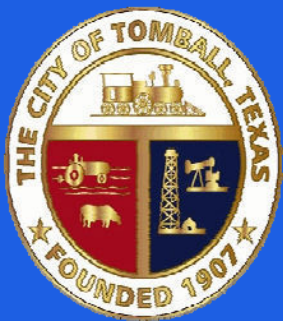
- *Premise* means a lot, tract, or parcel of land including all buildings.



Temporary Sign

- *Temporary Sign* means that a sign shall not be permitted for length of time longer than fourteen (14) consecutive calendar days for each distinct event.

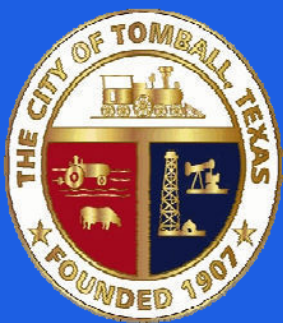




Wayfinding Sign

- *Wayfinding Sign* means a systematic network of directional, on- or off-premise, signage installed and maintained by a public or private entity to guide vehicular or pedestrian movement to / through a residential subdivision or non-residential development.

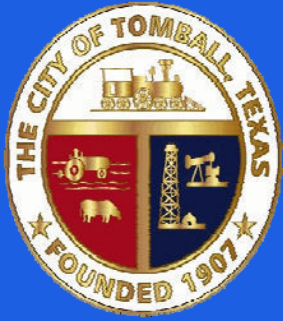




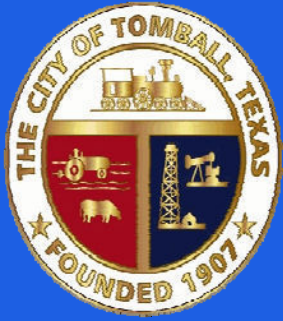
Window Sign

- *Window Sign* means any sign painted or adhered on glass surface(s) of windows or doors.



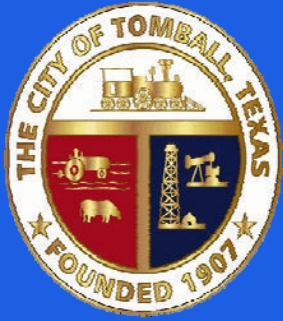


Language Revisions



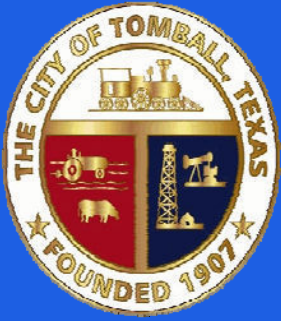
Organized Community Event Signs

- Remove the requirement that organized community events must obtain a sign permit.
- Farmer's Market, Tomball Night, German Heritage Festival, etc.
- Suggested: Temporary signs that provide information about and/or direct the public to a special event of civic interest, including, but not limited to, parades, **organized community events**, organized community holiday festivities or celebrations, and special events organized by charitable or nonprofit organizations. (Section 60-5.b.2)



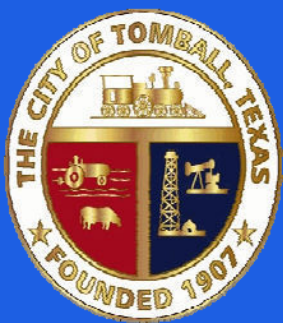
Wall, Marquee, and Projecting Sign Permits

- Existing: Wall, marquee, and projecting signs are currently not required to obtain a permit.
- Proposed: Would be amended to remove wall, marquee, and projecting signs from the list of exemptions. (Section 60-5.b.3)



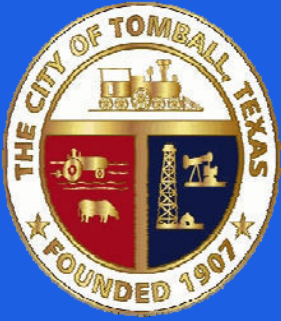
Repair, Construction, Sale, or Rent Signs

- Existing: No permit required if not larger than 40 square feet.
- Proposed: A sign not over **10** square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises **so long as the building or other structure is under repair or construction or so long as the premise is for sale or rent;** (Section 60-5.b.3.d)



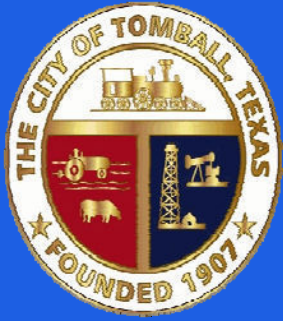
Marquee and Projecting Signs

- Proposed: Construction permit applications for new ground signs when erected or constructed to heights exceeding **six (6)** feet above ground level, or for new roof, **marquee, and projecting** signs when erected 20 feet above ground level, shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the state. (Section 60-5.c.1)



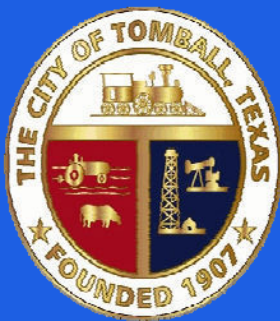
Banner, Flag, Human or Living, or Inflatable Signs

- Existing: Banner, flag, human or living, or inflatable signs are not regulated.
- Proposed: **A property will be limited to one (1) on-premise temporary banner or flag.** (Section 60-7.a)
 - Prohibit Human or Living and Inflatable.
 - Propose limitation on number of distinct events per year?



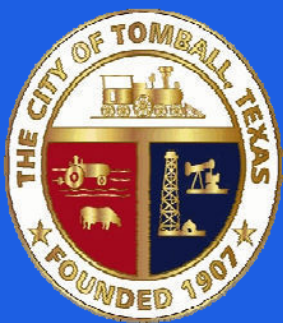
Christmas Displays

Proposed: Removing Christmas Display Regulations. (Section 60-7.b)



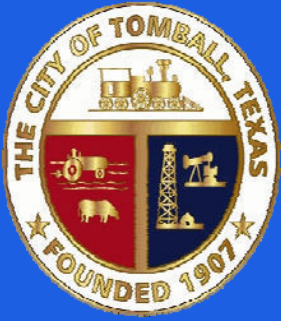
Message Board Signs

- **Proposed:**
 - Lettering on message board signs shall remain attached to the sign face at all times and shall spell out comprehensible and non-offensive messages.
 - If at any time the message board sign is found to be missing letters or spelling out an incomprehensible or offensive message, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign.
 - Such person so notified shall correct the condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this Chapter.
 - Freestanding portable message board signs shall be prohibited. (Section 60-7.I)



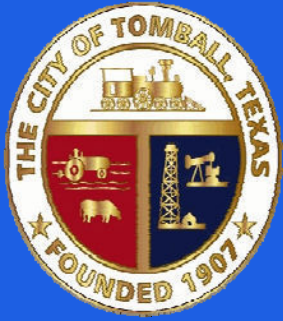
Sight Visibility Triangle

- Existing: Amend Sections 60-8 and 60-9 to require that on- and off-premise signs adhere to the visibility triangle requirements of Chapter 66 of the Tomball Code of Ordinances.
- Proposed: **On-premise signs shall adhere to the visibility triangle requirements of Chapter 66 of the Tomball Code of Ordinances.** (Section 60-8.d)
- Proposed: **Off-premise signs shall adhere to the visibility triangle requirements of Chapter 66 of the Tomball Code of Ordinances.** (Section 60-9.d)



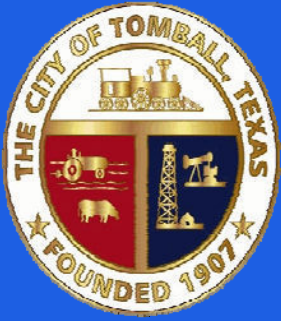
Number of On-Premise Signs

Proposed: An integrated business development shall be permitted one on-premises ground sign for each five entities, with a maximum sign area of 300 square feet plus 50 square feet for each entity in the development identified on such sign in excess of five, **not to exceed a maximum sign area of 600 square feet.** Provided, further, if more than one on-premises ground sign is permitted hereby, there shall be separation between ground signs (on-premises and off-premises) of a minimum distance of 100 feet, measured in a straight line from the base of each sign structure. . (Section 60-8.c.3)



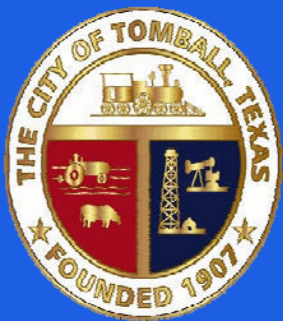
Number of Off-Premise Signs

Proposed: **There shall not be more than two (2) off-premise signs per property.**
(Section 60-9.c.4)



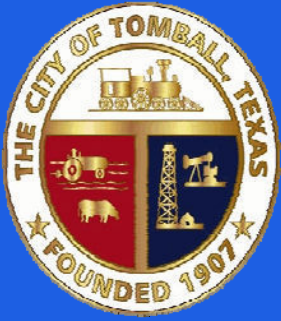
Non-Conforming Signs

- Proposed:
 - Add the following language to make consistent with the CEVMS language that allows for LED clock or timer on non-conforming signs.
 - The addition of an LED Clock or time counter for informational purposes to off-premise signs shall not constitute an enlargement, expansion, or extension in so far as it is placed within the original face of the nonconforming sign and is not more than ten (10) percent of the total sign area. (Section 60-10.a)



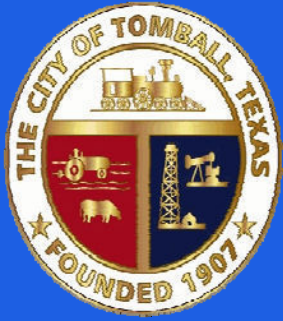
Sign Height Limitations (Sec. 60-29)

- Proposed:
 - No **on-premise** ground sign shall be established, constructed, or erected which exceeds an overall height of **42** feet including cutouts extending above the rectangular border, measured from the highest point on the sign to the natural grade level of the ground surface in which the sign supports are placed.
 - Roof, wall, **projecting, and marquee** signs shall not at any point exceed eight (8) feet above the roof level.
 - **No off-premise sign shall be established, constructed, or erected which exceeds an overall height of 12 feet measured from the highest point on the sign to the natural grade level of the ground surface.**



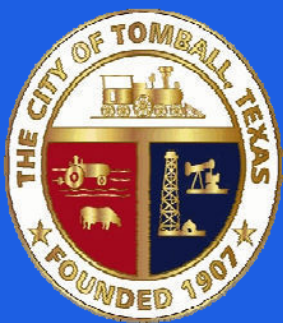
Sign Size Limitations (Sec. 60-30)

- Proposed:
 - No on-premises wall sign shall be established which has a face area exceeding 300 square feet per building face.
 - All CEVM signs shall be limited to 32 square feet for a single business or use and 50 square feet for a multi-tenant business or use.
 - All on-premise window signs shall maintain, at minimum, 50% transparency within each overall window.



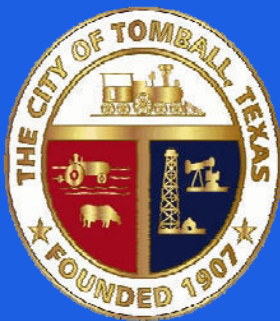
Sign Size Limitations cont. (Sec. 60-30)

- **No off-premises sign shall be established, constructed, or erected which has a face area exceeding 40 square feet, including cutouts, but excluding uprights.**



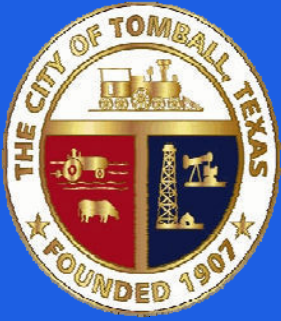
Wayfinding Signs (Sec. 60-34)

- **Proposed:**
 - **On-Premise Signs shall have a maximum sign face area of 12 sf.**
 - **Off-Premise Signs shall have a maximum sign face area of 40 sf.**
 - **Shall include only arrows, directions, and references to specific destinations or geographical areas.**
 - **A Wayfinding Guide Sign Plan shall be submitted to the Sign Administrator at the time of permitting. The Plan shall include:**
 - 1. Sign detail with dimensions, colors and font size for each sign.**
 - 2. Mounting height, type and location of mount.**
 - 3. Distance to any existing adjacent traffic control devices driveways or other physical roadway features.**



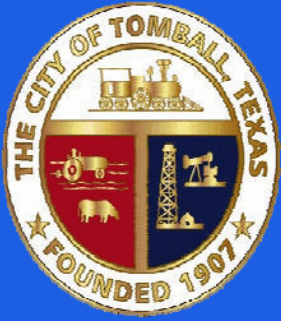
Attention Getting Devices (Sec. 60-35)

- Proposed:
 - Shall mean devices erected, placed or maintained outdoors so as to attract attention to any commercial business, or any goods, products or services available on the premises of a commercial business, including but not limited to the following devices: cut out figures; discs; festooning, including tinsel, strings of ribbons, and pinwheels; inflatable objects, including balloons; non-governmental flags; pennants; propellers; steam- or smoke-producing devices; streamers; whirligigs; wind devices; blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, search, flood or spot lights; or similar devices, any of which are located or employed in connection with the conduct of a commercial business. Attention-getting devices shall not include any structure or device that is permitted under City Building Code.



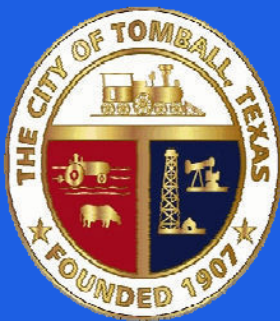
Attention Getting Devices (Sec. 60-35)

- Proposed:
 - **It shall be unlawful for any person to place, erect, maintain, or display any attention-getting device on any private or public property within the City. No attention-getting device shall be eligible for a permit under this Code.**
 - **Enforcement of this section shall be the duty of the Sign Administrator.**



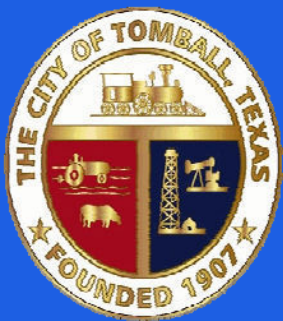
Billboards (Sec. 60-36)

- Proposed:
 - No new billboards shall be permitted within the City Limits or the Extraterritorial Jurisdiction of the City.
 - Existing billboards:
 1. Sign face replacement shall be allowed without a permit to the extent that no structural modifications are required.
 2. In the event a billboard is damaged by any means or cause and the repair or reconstruction cost, whichever is applicable, equals or exceeds 50 % of the cost of erecting a new sign of the same type at the same location, it must be removed.



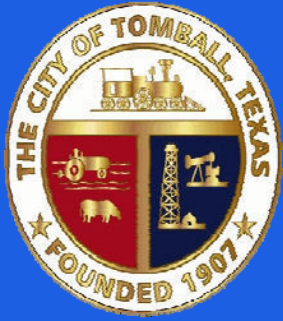
Billboards cont. (Sec. 60-36)

- 3. Any billboard lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is hereby declared to be a violation of this section, and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the Sign Administrator of such violation.**



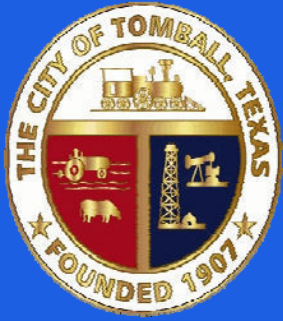
Prohibited Signage (Sec. 60-37)

- Proposed:
 - All signage listed in this section shall be prohibited within the City Limits. All prohibited signage shall be removed within 120 calendar days from the effective date of this Chapter.
 - A. Inflatable Signs
 - B. Human or Living Signs
 - C. Freestanding temporary signage for non-civic events, except as otherwise exempted by this Chapter.
 - D. Attention-Getting Devices
 - E. Any sign not specifically mentioned in this Chapter is prohibited unless approved by City Council.



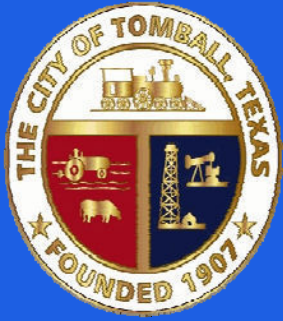
Downtown Specific Plan (DSP) Area (Sec. 60-38)

- Proposed:
 - **Language added based on Chapter 3 of the Draft Downtown Specific Plan document.**
- **Identifies signage types**
- **Lays out signage requirements**



Sign Fees

- Discussion of proposed fees:
 - **Site Inspection / Sign Plan Review**
 - **Individual Signs 32 SF or less**
 - **Individual Signs 33 SF or more**
 - **Distinct Event Banners (No Permit Recommended)**

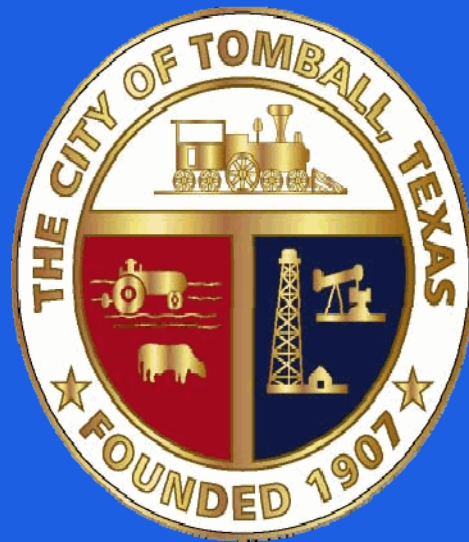


QUESTIONS

CHAPTER 60

SIGN ORDINANCE

Existing Regulations and
Proposed Changes



July 16, 2012

Chapter 60

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SIGNS*

* **Editors Note:** Ord. No. 2002-12, § 2, adopted May 6, 2002, enacted provisions intended for use as [Chapter 58](#), §§ 58-1--58-10, 58-26--58-33. At the direction of the [City](#), said provisions have been redesignated as [Chapter 60](#), §§ 60-1--60-10, 60-26--60-33.

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Article I. In General

Sec. 60-1. Definitions.

Sec. 60-2. Scope: [Conflicts](#).

Sec. 60-3. Classifications.

Sec. 60-4. [Sign Administrator](#) and [Enforcement](#).

Sec. 60-5. Sign [Permits](#) and [Fees](#).

Sec. 60-6. Sign [Maintenance](#) and [Removal](#).

Sec. 60-7. Miscellaneous [Sign Provisions](#).

Sec. 60-8. On-Premises [Sign Provisions](#).

Sec. 60-9. Off-Premises [Sign Provisions](#).

Sec. 60-10. Nonconforming [Signs](#).

Secs. 60-11--60-25. Reserved.

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Article II. Design and Structural Requirements

Sec. 60-26. Design.

Sec. 60-27. Construction.

Sec. 60-28. Electrical [Requirements](#).

Sec. 60-29. Height [Limitation](#).

Sec. 60-30. Size [Limitation](#).

Sec. 60-31. Method of [Determining Area of Sign](#).

Sec. 60-32. Clearances.

Sec. 60-33. Portable [Signs](#).

[Sec. 60-34. Wayfinding Signs.](#)

[Sec. 60-35. Attention-Getting Devices.](#)

[Sec. 60-36. Billboards.](#)

[Sec. 60-37. Prohibited Signage.](#)

[Sec. 60-38. Downtown Specific Plan \(DSP\) Area.](#)

ARTICLE I.

IN GENERAL

Sec. 60-1. Definitions.

The following words, terms, and phrases, when used in this [Chapter](#), shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

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[Aircraft](#) means a vehicle capable of atmospheric flight due to interaction with the air, such as buoyancy or lift.

Advertising means to seek the attraction of or to direct the attention of the public to any goods, services, or merchandise whatsoever.

Awning sign means any sign constructed of a fabric-type or other material stretched over a rigid metal frame that is attached to the wall, roof, or mansard of a building.

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Banner sign means any sign constructed of cloth, canvas, light fabric or other light material; excluding awning signs.

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Billboard means a signage panel for the display of advertisements in public places, such as alongside highways.

Business purposes means the erection or use of any property, building or structure, permanent or temporary, for the primary purpose of conducting in the building or structure or on the property a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity; business purpose shall not include any property, building, or structure erected or used for the primary purpose of securing a permit to erect a sign.

Changeable electronic variable message signs (CEVMS) means a sign which permits lights to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an light emitting diode (LED) or digital sign, and which varies in color or intensity. A CEVMS sign does not include a sign located within the right of way which functions as a traffic control device and which is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Commercial or industrial activity means property that is devoted to use for business purposes, and not for residential purposes. "Commercial or industrial activity" shall not include the following:

- (1) Signs;
- (2) Agricultural, forestry, ranching, grazing, farming, and related activities;
- (3) Activities not housed in a permanent building or structure;
- (4) Activities conducted in a building primarily used as a residence.

Curblin means an imaginary line drawn along the edge of the pavement on either side of a public street.

Display surface means the entire surface of a sign, on one side, devoted to exhibiting or contrasting exhibits of advertising. The display surface shall generally include the entire sign surface except for the sign frame and incidental supports thereto.

Electrical sign means any sign containing electrical wiring or utilizing electric current, but not including signs illuminated by an exterior light source.

Flag sign means any flag, except the flags of the United States, Texas or any other governmental entity, used for advertising that contains or displays any written message, business name, pictorial

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representation, logo, corporate symbol, silhouette, or other visual representation identifying or advertising a particular business, good, service or merchandise sold or available for sale on the premises where the flag is erected, displayed or maintained.

Ground sign means a sign, which is supported by uprights or braces in or upon the ground, including portable signs as defined herein.

Inflatable sign means a sign that gains its shape from inserting air or other gas.

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Integrated business development means a planned development, comprised of two or more separate commercial entities, whether located on a single lot, tract, or parcel of land or not, which provides common off-street parking, pedestrian ways, landscaping, and/or other areas designed, constructed, and maintained for the common use and benefit of the development's tenants or occupants, and the customers thereof.

Living or human sign means a sign held by or attached to a human being or living creature for the purpose of advertising or otherwise drawing attention to an individual, business, commodity, service, or product. This can also include a person dressed in costume for the purpose of advertising or drawing attention to an individual, business, commodity, service, or product.

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Marquee sign means a projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a frame or pipe support extending beyond a building.

Message board sign means any sign or portion of a sign attached to a structure which contains a sign face designed to allow the removal or replacement of individual letters, words, or symbols on the sign face for the purpose of changing an advertising message.

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Off-premises sign means any sign advertising a business, person, activity, goods, products, or services not usually located on the premises where the sign is installed and maintained, or which directs persons to any location not on the premises.

On-premises sign means any sign identifying or advertising the business, person, activity, goods, products, or services primarily sold or offered for sale on the premises where the sign is installed and maintained when such premises are used for business purposes.

Person means an individual, company, corporation, partnership, association, or any other entity.

Portable sign means any sign designed or constructed to be easily moved from one location to another, including signs mounted upon or designed to be mounted upon a trailer, bench, wheeled carrier, or other non-motorized mobile structure; a portable sign which has its wheels removed shall still be considered a portable sign.

Premise means a lot, tract, or parcel of land including all buildings.

Projecting sign means any sign which is affixed to any building wall or structure and extends beyond the building wall or structure more than 12 inches.

Public right-of-way means any part of a right-of-way not privately owned or controlled, and which is the responsibility of the City of other similar public agency to maintain.

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Public street means the entire width between property lines of any road, street, way, alley, bridge, or other similar thoroughfare, not privately owned or controlled, when any part thereof is open to the public for vehicular traffic, is the responsibility of the City or other similar public agency to maintain, and over which the City has legislative jurisdiction under its police power.

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Reflectorized lights means any lamp constructed with reflector-type materials so as to focus, intensify, flood, or spot such lamp in a certain direction, including, but not limited to, lamps designated by the manufacturers as flood, spot, reflector or flood, reflector spot, reflector light, or clear reflector.

Residential purposes means property devoted to use as a single-family or multifamily residence. Residential purposes shall include, but not be limited to, property used for houses, duplexes, condominiums, townhomes, patio homes, and apartments; property used for hotels, motels, and boardinghouses shall not be considered as used for residential purposes. Property devoted to both residential and nonresidential use shall be considered as used for residential purposes if its principal use is residential.

Roof sign means any sign erected, constructed, or maintained above the roof of any building.

Sign means any outdoor display, design, pictorial, or other representation, which is constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever, that is designed, intended, or used for advertising. The term "sign" shall include the sign structure. Every sign shall be classified and conform to the requirements of each of such classification set forth in this Chapter.

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Sign facing or *facing* means a separate and distinguishable portion of the overall display surface.

Sign structure means any structure which supports or is capable of supporting any sign. A sign structure may be a single pole and may or may not be an integral part of a building.

Temporary Sign means that a sign shall not be permitted for length of time longer than fourteen (14) consecutive calendar days for each distinct event.

Wall sign means any sign affixed to or painted upon the wall of any building.

Wayfinding Sign means a systematic network of directional, on- and off-premise, signage installed and maintained by a public or private entity to guide vehicular or pedestrian movement to / through a residential subdivision or non-residential development.

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Window Sign means any sign painted or adhered on glass surface(s) of windows or doors.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-2. Scope; Conflicts.

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(a) In accordance with the provisions of § 216.902 of the Texas Local Government Code, the provisions of this [Chapter](#) shall apply to all signs, as that term is defined herein, within the [City](#) and shall also extend to and be enforced within the [Extraterritorial Jurisdiction](#) of the [City](#).

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(b) Where this [Chapter](#) shall differ or conflict with [Article II](#) of [Chapter 14](#), adopting the [International Building Code](#), or any other ordinance, this [Chapter](#) will prevail.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-3. Classifications.

(a) For the purpose of this [Chapter](#), a sign shall be first classified as either an on-premises sign or an off-premises sign.

(b) All signs shall further be classified into one of the following type signs:

(1) Ground [Sign](#);

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(2) Marquee [Sign](#);

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(3) Projecting [Sign](#);

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(4) Roof [Sign](#);

Deleted: s

(5) Wall [Sign](#); [or](#)

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(6) [Window Sign](#).

(c) Any on-premises or off-premises sign of any type may also be included within one or more of the following additional classifications according to special functions:

(1) Electrical [Sign](#);

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(2) Portable [Sign](#); [or](#)

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(3) Temporary [Sign](#).

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(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-4. [Sign Administrator](#) and [Enforcement](#).

(a) *Sign [Administrator](#)*. The [City Manager](#) shall appoint a [Sign Administrator](#). The [Sign Administrator](#) is empowered to delegate the duties and powers granted to and imposed upon him by this [Chapter](#) to other persons serving under the [Sign Administrator](#). The [Sign Administrator](#) is directed to enforce and carry out all provisions of this [Chapter](#).

(b) *Enforcement Responsibility.* The duties of the [Sign Administrator](#) shall include not only the approval of permits as required by this [Chapter](#), but also the responsibility of insuring that all signs comply with this [Chapter](#) and any other applicable law, and that all signs for which a permit is required, do in fact, have a permit. The [Sign Administrator](#) shall make such inspections as may be necessary and initiate appropriate action to bring about compliance with this [Chapter](#) and other applicable law if such inspection discloses an instance of noncompliance. The [Sign Administrator](#) shall investigate thoroughly any complaints of alleged violations of this [Chapter](#).

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(c) *Powers of Sign Administrator.* The [Sign Administrator](#) shall have the power and authority to administer and enforce the conditions of this [Chapter](#) and all other laws relating to signs. Included among such powers are the following specific powers:

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(1) Every sign for which a permit is required shall be subject to the inspection and approval of the [Sign Administrator](#) or delegated representative.

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(2) Upon presentation of proper identification to the owner, agent, or tenant in charge of such property, the [Sign Administrator](#) or his representative may enter, for the purposes of inspecting and investigating signs or sign structures, any building, structure, or other premises or property between the hours of 8:00 a.m. and 5:00 p.m., Mondays through Saturdays; provided, however, that in cases of an emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life, or severe property damage, and where the owner, agent, or tenant in charge of the property is not available after the [Sign Administrator](#) has made a good faith effort to locate same, the [Sign Administrator](#) may enter the aforementioned structures and premises at any time upon presentation of proper identification to any other person upon the premises. Whenever the [Sign Administrator](#) is denied admission to inspect any premises, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection for violations of this [Chapter](#).

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(3) Upon notice and issuance of a stop order from the [Sign Administrator](#), work on any sign that is being conducted in a manner contrary to the provisions of this [Chapter](#) or is being conducted in a dangerous or unsafe manner shall be immediately stopped. Such notice and order shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, written notice shall not be required to be given by the [Sign Administrator](#). Following the issuance of a stop order, the [Sign Administrator](#) shall initiate proceedings to revoke any permit issued for the work covered by such stop order, consistent with subsection (c)(4) of this section, unless the cause of the stop order is resolved to the [Sign Administrator](#)'s satisfaction.

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(d) *Violations and Penalties.* Any person who shall violate any provision of this [Chapter](#) shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in section 1-14.

(e) *Appeals.* Any person wishing to appeal a decision of the [Sign Administrator](#) on the grounds that the decision misconstrues or wrongly interprets this [Chapter](#) may appeal the same to the [City Council](#).

pursuant to its rules and regulations, provided that the appealing party shall give notice of appeal in writing to the [City Secretary](#) no less than ten days following the decision appealed from and provided further that the appealing party shall comply with the [Sign Administrator's](#) decision pending appeal unless the [Sign Administrator](#) shall direct otherwise.

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(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-5. Sign [Permits](#) and [Fees](#).

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(a) *Permit required.* No person shall erect, construct, or reconstruct a sign without first having secured a written permit from the [City](#) to do so, subject to the exceptions in subsection (b).

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(b) *Exceptions.*

(1) *Governmental/public signs.* No permit shall be required under this [Chapter](#) for signs erected by the [City](#), [County](#), public school district, [State](#), or other political subdivisions thereof, the federal government, signs otherwise required by federal, state, or local laws, and signs otherwise authorized by the [City](#) as public signs.

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(2) *Signs for civic events.* Temporary signs that provide information about and/or direct the public to a special event of civic interest, including, but not limited to, parades, [organized community events](#), organized community holiday festivities or celebrations, and special events organized by charitable or nonprofit organizations.

(3) *Other signs.* On-premises signs of the following descriptions; any sign listed hereunder shall be erected and maintained in a safe condition in conformity with section 60-7, all other [City](#) ordinances, and the building codes of the [City](#):

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a. Signs painted [or adhered](#) on glass surfaces, [windows](#), or doors;

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b. [Railroad signs](#);

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b. . Wall signs;¶

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c. . Marquee signs;¶

c. [Legal notices and house numbers](#);

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d. [A sign not over 10 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises so long as the building or other structure is under repair or construction or so long as the premise is for sale or rent](#);

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e. . Projecting signs;¶

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e. [Temporary signs setting forth the location of or directions to parking or buildings located on the premises, or regulating of the flow of on-premises traffic. Such directional signs may be lighted, consistent with the other requirements for electrical signs in this \[Chapter\]\(#\) and with the requirements of the \[Building Code\]\(#\).](#)

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f. [Signs displayed, designed, or used for or upon motor vehicles](#);

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- g. Signs designed and used for display upon or with lighter or heavier-than-aircraft; [and](#)
- h. Temporary garage sale signs.

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(c) *Application procedure.*

- (1) The application for a permit shall be submitted in such form as the [Sign Administrator](#) may prescribe and shall be accompanied by drawings and descriptive data to verify compliance with the provisions of this [Chapter](#). Construction permit applications for new ground signs when erected or constructed to heights exceeding [six \(6\)](#) feet above ground level, or for new roof, [marquee, and projecting](#) signs when erected 20 feet above ground level, shall be accompanied by a drawing of the sign structure and the sign prepared by and certified by a professional engineer registered in the [State](#); the [Sign Administrator](#) at his option may also require similar certification by a registered professional engineer where any unusual structural provisions of a proposed sign indicate such certification is necessary in the interest of public safety.

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- (2) Every application shall be executed by both the owner of the premises upon which the sign is to be constructed, or the authorized lessee of such premises, and the sign company, stating that the sign is authorized to be erected or to be thereafter maintained on the premises, and shall contain a statement of the owner or lessee and the sign company that the sign does not violate any applicable deed restrictions or other similar restrictions on the premises.

- (3) If the location, plans, and specifications set forth in any application for permit conform to all of the requirements of this [Chapter](#) and other applicable provisions of the [Building Code](#) and other codes, the [Sign Administrator](#) shall issue the permit.

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- (d) *Existing signs.* All signs lawfully existing on the date of adoption of this [Chapter](#), must conform to the requirements of section 60-6 and subsection 60-7(a) through [\(m\)](#). Signs previously erected or in the process of being erected, and lawfully permitted in the [City's Extraterritorial Jurisdiction](#) shall be considered as existing signs under this subsection (d)(1); provided, however, that the date of the first publication of notice for a public hearing (as required by V.T.C.A., Local Government Code § 43.052) regarding the proposed annexation of an area, shall for the purposes of this [Chapter](#), be considered the date to determine the applicability of this [Chapter](#) to any sign within the [Extraterritorial Jurisdiction](#), as extended by such annexation. Any sign within such area required by any proper authority to be licensed or permitted shall not be considered to have been legally permitted for the purposes of this subsection (d)(1) unless such license or permit has been properly issued.

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- (e) *Construction permit effectiveness; renewal permit.* Any permit for construction of a sign shall become null and void unless construction of the sign is completed within 180 days, or the permit is renewed for an additional 180 days, in which case an additional fee shall be payable and the proposed sign shall meet all of the requirements of this [Chapter](#) on the date of renewal.

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- (f) *Fees.* Permit fees shall be in accordance with the schedule of fees adopted by the [City Council](#).

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- (g) *No refund of fees.* The applicant for a permit or holder of a permit shall not be entitled to a refund of

any fee paid in case the permit is revoked.

- (h) *Electrical signs.* Any electrical sign shall conform fully to the Electrical Code of the City and shall receive a permit under the provisions of that Code.

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(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-6. Sign Maintenance and Removal.

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- (a) All signs shall be kept in good repair and, unless of galvanized or non-corroding metal or treated with appropriate wood preservative, shall be thoroughly painted as often as is necessary consistent with good maintenance. All braces, bolts, clips, supporting frame, and fastenings shall be free from deterioration, termite infestation, rot, or loosening. All signs shall be able to withstand safely at all times the wind pressures specified elsewhere in this Chapter. In case any sign is not so maintained, the Sign Administrator shall give written notice to the owner or lessee thereof to so maintain the sign, or to remove the sign.

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- (b) Should any sign in the opinion of the Sign Administrator become insecure or in danger of falling or otherwise unsafe, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Such person so notified shall correct the unsafe condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this Chapter.

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- (c) In case any sign shall be installed, erected, constructed, or maintained in violation of any of the terms of this Chapter, the Sign Administrator shall give written notice to the owner, lessee, or person responsible for the sign ordering such owner, lessee, or person to alter the sign so as to comply with this Chapter or to remove the sign.

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- (d) Any written notice to alter or to remove a sign shall be given by the Sign Administrator by certified mail or written notice served personally upon the owner, lessee, or person responsible for the sign, or the owner's agent. If such order is not complied with within ten days, the Sign Administrator shall revoke the permit and direct the owners, lessee, or person responsible therefore to remove the sign.

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(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-7. Miscellaneous Sign Provisions.

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<#>Christmas displays. Christmas displays and similar temporary displays erected without advertising shall not be subject to the provisions of this chapter, but shall be subject to the fire code and rules and regulations for fire safety promulgated by the fire marshal and shall not violate article II of chapter 66.¶
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- (a) Banner and Flag Signs. A property shall be limited to one (1) on-premise temporary banner or flagsigns. All banners signs shall be considered temporary in nature.

- (b) Political Signs. The following signs are exempt from the permit requirements of this Chapter: A sign that contains primarily a political message and that is located on private real property with the consent of the property owner. Private real property does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose. Provided, however, the sign may not have a sign area greater than 36 square feet, be more than eight feet high, be illuminated or have a moving part. This subsection does not apply to a sign, including a

billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.

(c) Signs on *Public Rights-of-Way*.

(1) With the exception of signs lawfully permitted or erected prior to the effective date of this Chapter, it shall be unlawful to place a sign upon a public street, public sidewalk, public alley, public right-of-way, public curb, or other public improvement in any public street or grounds, on any public bridge or part of same, or on any public building or structure of any kind belonging to the City, or in any public place, or on any public improvement unless express consent therefore shall have first been granted by the City Council. However, coin-operated devices used to display and vend newspapers may so be placed, so long as they are not placed to impede vehicular or pedestrian traffic. This subsection does not apply to public property leased for private business purposes.

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(2) Subdivision identification signs erected or painted directly upon the face of lawfully existing fences or walls are permitted provided that:

- a. The subdivision sign is facing a street which serves as an entrance to the subdivision to which such sign pertains;
- b. The subdivision sign, or any part thereof, does not extend outward more than six inches from the face of the fence or wall upon which it is mounted; and
- c. The subdivision sign, or any part thereof, does not extend above the fence or wall upon which it is mounted.

(3) Any unlawful sign found on public property, buildings, or structures belonging to the City or within a public right-of-way of a public street, public sidewalk, or public alley shall be seized and removal thereof is hereby authorized in addition to authority under Article II of Chapter 66. The Sign Administrator, employees of the police department and the department of public works are hereby authorized to impound any signs found on public property, buildings or structures, or a public street, public sidewalk, or public alley and transport or cause the same to be transported to a location to be designated by the Sign Administrator for storage. Any sign impounded and stored and not redeemed by the owner thereof within 30 days may be destroyed or sold at public auction in the same manner as surplus property of the City.

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(d) Signs on *Private Property*. No person shall place a sign on private property or utility easement without the written consent of the owner or agent for the owner of the private property or utility easement.

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(e) Signs *Resembling Official Signs*. No sign shall be constructed which resembles any official marker erected by the City, State, or any governmental agency or which by reason of position, shape, or color would conflict with the proper functioning of any traffic sign or signal or which by its shape or color would conflict with or be confused with emergency vehicle lights, especially blinking lights.

Use of words such as "stop", "look", "danger", or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic is prohibited.

(f) Sight Obstruction at Intersections. No sign shall be erected, constructed, reconstructed, or maintained in violation of the provisions of Article II of Chapter 66.

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(g) Signs Not to Obstruct.

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(1) No sign shall be erected, constructed, or maintained so as to obstruct any means of egress, or any opening necessary for required light, ventilation, or firefighting or for escape from the premises, or so as to prevent free passage from one part of a roof to any part thereof.

(2) No sign shall be attached to any exterior stairway, fire escape, fire tower balcony, or balcony serving as a horizontal exit.

(h) Signs Not to Create Easements. No permit for a sign extending beyond private property onto a public street, public sidewalk, or public alley shall constitute a permanent easement, and every such permit shall be revocable at any time by action of the City Council, and the City shall not be liable for any damages to the owner by reason of such revocation.

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(i) Change of Ornamental Features, Electric Wiring, or Advertising Display. No sign permit is required for the change of any of the ornamental features, electric wiring or devices, or the advertising display of a sign lawfully existing or permitted. This provision shall not release a person from complying with all other applicable permitting requirements of the City, including those of the City Building Code.

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(j) Signs Obscuring or Interfering with View. Signs may not be located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal or device, or so as to obstruct or interfere with the view of a driver of approaching, emerging, or intersecting traffic, or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of 250 feet along the street.

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(k) Proper Shielding of Lighted Signs; Interference with Drives of Motor Vehicles. Signs containing lights which are not effectively shielded to prevent beams or rays of light from being directed at any portion of the traveled way from which the sign is primarily viewed and which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interferes with any driver's operation of a motor vehicle, are prohibited.

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(l) Message Board Signs. Lettering on message board signs shall remain attached to the sign face at all times and shall spell out comprehensible and non-offensive messages. If at any time the message board sign is found to be missing letters or spelling out an incomprehensible or offensive message, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Such person so notified shall correct the condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this Chapter. Freestanding portable message board signs shall be prohibited.

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(Ord. No. 2002-12, § 2, 5-6-02)

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Sec. 60-8. On-Premises Sign Provisions.

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(a) The provisions of this section apply only to on-premises signs.

(b) On-premises signs, including ground signs, wall signs, marquee signs, projecting signs, [window signs](#), and roof signs erected, constructed, or reconstructed after the date of adoption of this [Chapter](#) shall comply with the requirements of this [Chapter](#).

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(c) On-premises ground signs shall be permitted as follows:

(1) One on-premises ground sign shall be permitted on a lot, tract, or parcel of land for each 100 feet of frontage on a public street, provided that there is a minimum separation of 100 feet between ground signs (on-premises and off-premises) located on the same lot, tract, or parcel of land, measured in a straight line from the base of each sign structure. Each lot, tract, or parcel of land shall, in any event, be entitled to at least one on-premises ground sign.

(2) A lot, tract, or parcel of land having frontage on more than one public street shall be entitled to one on-premises ground sign on each frontage, notwithstanding the provisions of subsection (c)(1), provided the frontage on which the sign is located measures at least 50 feet and there is a minimum separation between ground signs (on-premises and off-premises) of 100 feet, measured along the property line at the street frontage.

(3) An integrated business development shall be permitted one on-premises ground sign for each five entities, with a maximum sign area of 300 square feet plus 50 square feet for each entity in the development identified on such sign in excess of five, [not to exceed a maximum sign area of 600 square feet](#). Provided, further, if more than one on-premises ground sign is permitted hereby, there shall be separation between ground signs (on-premises and off-premises) of a minimum distance of 100 feet, measured in a straight line from the base of each sign structure.

(d) [On-premise signs shall adhere to the visibility triangle requirements of Chapter 66 of the Tomball Code of Ordinances.](#)

(Ord. No. 2002-12, § 2, 5-6-02; Ord. No. 2006-18, § 1, 11-20-06)

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Sec. 60-9. Off-Premises Sign Provisions.

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(a) The provisions of this section shall apply only to off-premises signs.

(b) No new permits shall be issued for off-premises signs and no additional off-premises signs shall be erected except as authorized by this section.

(c) Off-premises ground signs shall be permitted upon compliance with the following standards:

(1) Maximum sign height shall be 12 feet measured from the highest point on the sign to the natural

grade level of the ground surface in which the sign supports are placed.

(2) Maximum sign face area shall be 40 square feet.

(3) There shall be a minimum separation of 500 feet between the off-premises ground sign and any other off-premises sign, and a minimum separation of 100 feet between the off-premises sign and any on-premises ground sign. Such distance shall be measured by the shortest distance in a straight line between the two signs.

(4) There shall not be more than two (2) off-premise signs per property.

(5) No off-premises ground sign shall be permitted within 350 feet of an intersection of public streets.

(6) Signs permitted under this section shall otherwise comply with all applicable requirements of this Chapter.

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(d) Any off-premises sign structure lawfully erected and maintained which has no copy, transcript, model, likeness, image, advertisement, or written material for 120 consecutive days is hereby declared to be in violation of this section and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the Sign Administrator of such violation.

Deleted: (6). The addition of an LED Clock or time counter for informational purposes to off-premise signs shall be allowed. The LED clock or time counter shall not constitute more than ten percent (10%) of the total sign area.

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(Ord. No. 2002-12, § 2, 5-6-02; Ord. No. 2006-18, § 2, 11-20-06)

Sec. 60-10. Nonconforming Signs.

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(a) A permanent sign lawfully erected within the City or its Extraterritorial Jurisdiction prior to the date of adoption of this Chapter, which does not conform to the regulations of this Chapter, shall be deemed to be a nonconforming sign which shall be allowed to continue, with normal maintenance and repair only; provided, however, a nonconforming sign may not be enlarged upon, expanded, or extended. The addition of an LED Clock or time counter for informational purposes to off-premise signs shall not constitute an enlargement, expansion, or extension in so far as it is placed within the original face of the nonconforming sign and is not more than ten (10) percent of the total sign area. It is not the intent of this section to encourage the survival of nonconforming signs; to the contrary, nonconforming signs are discouraged and contrary to the intent and purpose of this Chapter.

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(b) *Obsolescence or destruction.* A nonconforming sign shall not be enlarged, expanded, replaced, or rebuilt in case of obsolescence or total destruction by any means or cause.

(c) *Repair or reconstruction if damaged.* In the event a nonconforming sign is damaged by any means or cause and the repair or reconstruction cost, whichever is applicable, equals or exceeds 50 percent of the cost of erecting a new sign of the same type at the same location, it must be removed or brought into compliance with this Chapter.

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(Ord. No. 2002-12, § 2, 5-6-02)

Editors Note: Ord. No. 2002-12, § 2, adopted May 6, 2002, enacted provisions intended for use as subsections (a) and (b). To preserve the style of this [Chapter](#), and at the discretion of the editor, said provisions have been redesignated as subsections (1) and (2).

Sec. 60-11. Changeable [Electronic Variable Message Signs](#) (CEVMS).

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(a) Changeable electronic variable message signs (CEVMS) shall be prohibited within the corporate limits and the [Extraterritorial Jurisdiction](#) of the [City](#), except that changeable electronic variable message signs shall be permitted for properties adjacent to all State rights-of-ways and for public tax-supported schools to provide public information. Changeable electronic variable message signs may be permitted on properties not adjacent to a State right-of-way upon application to and approval by the City Council. No new permit shall be issued for the installation, erection, or replacement of a CEVMS, including any conversion or modification of an existing sign to a CEVMS, within the corporate limits or the [Extraterritorial Jurisdiction](#) of the City, except as provided herein.

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(b) Changeable Electronic Variable Message Sign (CEVMS) Regulations:

- (1) Images or messages shall be static in nature and shall not blink, flash, scroll or be animated in such a manner as to constitute a distraction to passing motorists.
- (2) No image or message may be displayed for less than eight (8) seconds.
- (3) Message transitions shall be limited to one (1) second.
- (4) The brightness of any CEVMS shall not exceed 0.3 foot candle illumination from a distance of 250 feet between sunset and sunrise, and each sign shall be fitted with a qualified light sensing device to automatically adjust the brightness in accordance with these standards.
- (5) All CEVM signs shall be limited to 32 square feet for a single [business](#) or use and 50 square feet for a multi-tenant business or use.
- (6) All CEVMS shall require a usage permit with annual fee. The annual fee shall be established by resolution of the City Council
- (7) If a CEVMS is found to be operating incorrectly, it must be turned off until it is repaired and inspected by the City of Tomball.
- (8) The images displayed on the CEVMS must be directly related to the on-premise business with the exception of messages relating to time, temperature, national news, local news, sporting events, or upcoming events for the City of Tomball.

(c) CEVMS shall only be permitted as on-premise signs.

- (d) The addition of an LED clock or time counter for informational purposes to off-premise signs shall be allowed. The LED clock or time counter shall not constitute more than ten (10) percent of the total sign area.

Secs. 60-12--60-25. Reserved.

ARTICLE II.

DESIGN AND STRUCTURAL REQUIREMENTS

Sec. 60-26. Design.

All signs and sign structures shall be designed and constructed to resist wind forces as follows:

Wind Load Pressures in Pounds per Square Foot for all Signs

Height above ground* (feet)	Pressure (pounds/ft.)
0--5	0
6--30	20
31--50	25
51--99	35
*Measured above the average level of the ground adjacent to the structure.	

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-27. Construction.

The supports for all signs or sign structures shall be placed in or upon private property and shall be securely built, constructed, and erected in conformance with the requirements of the [City Building Code](#).
(Ord. No. 2002-12, § 2, 5-6-02)

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Sec. 60-28. Electrical Requirements.

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All electrical fixtures, equipment, and appurtenances installed in conjunction with a sign shall be designed and installed in accordance with the [City Building Code](#).
(Ord. No. 2002-12, § 2, 5-6-02)

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Sec. 60-29. Height Limitation.

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- (a) No [on-premise](#) ground sign shall be established, constructed, or erected which exceeds an overall height of 42 feet including cutouts extending above the rectangular border, measured from the highest point on the sign to the natural grade level of the ground surface in which the sign supports are placed.

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- (b) Roof, wall, projecting, and marquee signs shall not at any point exceed eight (8) feet above the roof level.

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- (c) No off-premise sign shall be established, constructed, or erected which exceeds an overall height of 12 feet measured from the highest point on the sign to the natural grade level of the ground surface.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-30. Size Limitation.

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- (a) No on-premises sign, other than an on-premises ground sign permitted by subsection 60-8(c)(3), shall be established, constructed, or erected which has a face area exceeding 300 square feet, including cutouts, but excluding uprights.

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- (b) No on-premises wall sign shall be established which has a face area exceeding 300 square feet per building face.

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- (c) No CEVMS shall be established which has a face area exceeding 32 square feet for a single-business or use and 50 square feet for a multi-tenant business or use.

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- (d) All on-premise window signs shall maintain, at minimum, fifty (50) percent transparency within each overall window, unless otherwise noted in this Chapter.

- (e) No off-premises sign shall be established, constructed, or erected which has a face area exceeding 40 square feet, including cutouts, but excluding uprights.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-31. Method of Determining Area of Sign.

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In determining the area of any sign, the dimensions of the rectangle enclosing the signboard, excluding the supporting structure, shall be used. If the sign includes cutouts or facings extending beyond the dimensions of the rectangular signboard, the measurement of the sign area shall include the actual area of the cutout or extended facings. For signs of a double-faced, back-to-back, or V-type nature, each face shall be considered a separate sign in computing the face area.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-32. Clearances.

Signs shall be located at a minimum distance of six feet measured horizontally and 12 feet measured vertically from overhead electric conductors, which are energized in excess of 750 volts.

(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-33. Portable Signs.

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(a) Every portable sign not in transit shall be securely anchored to the ground by cables, ground supports, or other means acceptable to the Sign Administrator to prevent overturning in high winds.

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(b) Portable signs shall, for the purposes of this Chapter, be considered non-mobile, non-portable ground signs and thereby are subject to all provisions of this Chapter, including the structural requirements, permitting fee requirements, on-premises and off-premises provisions, and all other provisions of this Chapter applicable to ground signs unless a provision which applies by its terms to portable signs is in conflict with a provision applying to ground signs, in which case the provision applying specifically to portable signs shall control.

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(Ord. No. 2002-12, § 2, 5-6-02)

Sec. 60-34. Wayfinding Signs.

- (a) On-Premise Wayfinding Signs shall have a maximum sign face area of twelve (12) square feet.
- (b) Off-Premise Wayfinding Signs shall have a maximum sign face area of forty (40) square feet.
- (c) Wayfinding signage shall include only arrows, directions, and references to specific destinations or geographical areas.
- (d) A Wayfinding Guide Sign Plan shall be submitted to the Sign Administrator at the time of permitting. The Plan shall include:
 - (1) Sign detail with dimensions, colors and font size for each sign.
 - (2) Mounting height, type and location of mount.
 - (3) Distance to any existing adjacent traffic control devices, driveways or other physical roadway features.

Sec. 60-35. Attention-Getting Devices.

- (a) As used in this section, attention-getting devices shall mean devices erected, placed or maintained outdoors so as to attract attention to any commercial business, or any goods, products or services available on the premises of a commercial business, including but not limited to the following devices: cut out figures; discs; festooning, including tinsel, strings of ribbons, and pinwheels; inflatable objects, including balloons; non-governmental flags; pennants; propellers; steam- or smoke-producing devices; streamers; whirligigs; wind devices; blinking, rotating, moving, chasing, flashing, glaring, strobe, scintillating, search, flood or spot lights; or similar devices, any of which are located or employed in connection with the conduct of a commercial business. Attention-getting devices shall not include any structure or device that is permitted under City Building Code.

- (b) It shall be unlawful for any person to place, erect, maintain, or display any attention-getting device on any private or public property within the City. No attention-getting device shall be eligible for a permit under this Chapter.
- (c) Enforcement of this section shall be the duty of the Sign Administrator.

Sec. 60-36. Billboards

- (a) No new billboards shall be permitted within the City Limits or the Extraterritorial Jurisdiction of the City.
- (b) Existing billboards:
 - (1) Sign face replacement shall be allowed without a permit to the extent that no structural modifications are required.
 - (2) In the event a billboard is damaged by any means or cause and the repair or reconstruction cost, whichever is applicable, equals or exceeds 50 percent of the cost of erecting a new sign of the same type at the same location, it must be removed.
 - (3) Any billboard lawfully erected and maintained that has no copy, transcript, reproduction, model, likeness, image, advertisement or written material for a period of 120 consecutive days is hereby declared to be a violation of this section, and as such shall be restored to use or removed by the owner or permittee within 30 days after notice by the Sign Administrator of such violation.

Sec. 60-37. Prohibited Signage

All signage listed in this section shall be prohibited within the City Limits. All prohibited signage shall be removed within 120 calendar days from the effective date of this Chapter.

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(a) Inflatable Signs

(b) Human or Living Signs

(c) Freestanding temporary signage for non-civic events, except as otherwise exempted by this Chapter.

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(d) Attention-Getting Devices

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(e) Any sign not specifically mentioned in this Chapter is prohibited unless approved by City Council.

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Sec. 60-38. Downtown Specific Plan (DSP) Area

Where the DSP Area section conflicts with this Chapter the DSP shall supersede.

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(a) Permitted signage within the DSP area shall be limited to only the following sign types:

- (1) [Awnings sign:](#)
 - (2) [Temporary Banner sign:](#)
 - (3) [Monument sign:](#)
 - (4) [Marquee sign:](#)
 - (5) [Projecting sign:](#)
 - (6) [Wall sign \(also includes parapet or projecting signs\); and/or](#)
 - (7) [Window sign.](#)
- (b) [Off-premise signs, other than official wayfinding signage, shall be prohibited. The use of pole signs and changeable electronic variable message signs \(CEVMS\) shall be prohibited within the DSP area.](#)
- (c) [The method of determining the area of signs shall be per Section 60-31 of this Chapter.](#)
- (d) [Signs shall not be located within the public right-of-way, except where permitted by this Chapter.](#)
- (e) [Signs shall not be located in a manner that interferes with or poses a hazard to pedestrian or vehicular travel or is located within the specified “visibility triangle.”](#)
- (f) [Downtown Specific Plan Area Signage Types:](#)
- (1) [Monument Signs.](#)
 - a. [The maximum overall sign height \(including the base and any added ornamentation\) shall not exceed five \(5\) feet.](#)
 - b. [For a single tenant building the sign area shall not exceed one \(1\) square foot for each two \(2\) lineal feet of street frontage with the maximum not to exceed twenty-four \(24\) square feet.](#)
 - c. [For a single building development with multiple tenants the sign shall not exceed one \(1\) square foot for each two \(2\) lineal feet of street frontage with the maximum not to exceed thirty-two \(32\) square feet in area.](#)
 - d. [Monument signs shall be constructed of brick, stone, wood, or similar material.](#)
 - e. [The sign shall be integrated to complement the streetscape and landscaping frontages.](#)
 - (2) [Wall Signs.](#)

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- a. Signs within the Historic Main Street, Old Town Plaza, Old Town Commercial, and Mixed Use Transitional districts shall comply with the following applicable restrictions:
 - 1) Wall signs may be internally illuminated, externally illuminated if illumination is mounted above the sign and pointed downward, or non-illuminated.
 - 2) Signage shall be painted on or mounted to the wall or fascia of the building and shall not exceed the height of the building.
 - 3) Signage shall not extend horizontally a distance greater than eighty (80) percent of the width of the building wall or sign band on which it is displayed.
 - 4) Signage shall not be located on more than two (2) floors/stories of a multi-story building.
 - 5) The sign area for one (1) business or individual tenant shall not exceed one (1) square foot for each two (2) linear feet of the primary street or store frontage; maximum not to exceed twenty-four (24) square feet. Signage shall also be permitted on additional building elevations that have frontage on a public side street or alley if the business provides a public entryway from said street or alley. This additional signage shall not exceed one-half (1/2) square foot for each two (2) linear feet of street or alley frontage with the maximum not to exceed twenty-four (24) square feet.
 - 6) Any complex or building with three (3) or more businesses shall be required to submit a comprehensive sign package to be reviewed and approved by the City Staff.
 - b. Signs within the Old Town Residential and Mixed Use Transition districts shall comply with the following applicable restrictions:
 - 1) Wall signs may be externally illuminated if illumination is mounted above the sign and pointed downward or non-illuminated.
 - 2) Sign shall not exceed a total aggregate of six (6) square feet. Building number or letter signs for multiple building developments shall be in compliance with Fire Code requirements and shall not be counted as part of the aggregate sign area.
- (3) Awning Signs.
- a. A maximum of twenty-five (25) percent of the front face area of the awning may be used for signage.
 - b. Signage may only identify the name of the business. Such signs shall not include advertising copy.
- (4) Window Signage. The total aggregate area of all window signs shall not exceed twenty-five (25) percent of the total area of the windows through which they are visible.

(5) Projecting Signs.

- a. One (1) projecting sign which is designed and oriented primarily for the aid of pedestrians may be allowed per business and shall be located immediately adjacent to the business it identifies.
- b. All signs shall have an eight (8) foot minimum clearance between the bottom of the sign and the sidewalk.
- c. Projecting signs shall not project less than six (6) inches or no more than three (3) feet from the building wall or building fence.
- d. Projecting signs for each ground floor business, on a street, shall not exceed one (1) square foot for each linear street frontage of business, up to a maximum of fifteen (15) square feet.
- e. Signage may only identify the name of the business. Such signs shall not include advertising copy.
- f. Changeable Electronic Variable Message Signs shall be prohibited.

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(6) Banners and Promotional Signs.

- a. Banners shall be made of cloth, nylon, or similar material.
- b. Banners may be fastened to streetlights specifically designed to accommodate banners. Such banners may advertise a City-authorized special event, a community wide event, or a community message, but not for individual businesses.
- c. All banners shall be reviewed and approved by the Sign Administrator.
- d. The duration of banners and promotional signage shall be limited to a maximum of fourteen (14) consecutive calendar days for each distinct event.

(7) Marquee Signs.

- a. Signage shall be mounted to or designated as an integral part of the marquee structure.
- b. Signage shall only be changeable copy using individual letters.
- c. Signage shall not extend horizontally a distance greater than eighty (80) percent of the width of the marquee structure or sign band on which it is displayed.

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[Rebeca & Lori's comments 7/6/12](#)

To: George Shackelford, City Manager

From: Preston L. Dodson

Date: July 5, 2012

Re: COMMENTS - SIGN ORDINANCE - PROPOSED

GENERAL COMMENTS:

1. Notices. Regarding notices required by the proposed sign ordinance (with possible application in connection with other city required or permitted notices) I would like for us to explore the possibility of allowing the city to give required or permitted notices via email. If this were to be done it is likely that we would need to have an "opt in" section on applications for permits, etc. where the customer will affirmatively elect to receive notices via email only. This is a system clearly allowed by the Texas court system. Could it apply here? Is it feasible? Would it save the city time and money? [May be possible.](#)
2. Regarding temporary signs, it is unclear how the city will measure the start and stop date for those signs.
3. When measuring signs for authorized square footage, is that measure only the face of one side or both? In other words would a 6' x 6' sign that conveys a message on both sides be a 36 square foot sign or a 72 square foot sign? If that is defined in the ordinance, then I missed it. [It is measured per face](#)
4. The sign nomenclature used in the sign ordinance should be consistent with the sign nomenclature used in the DSP. [Already addressed](#)

Comment [11]: Discussion

SPECIFIC COMMENTS:

1. Sec. 60-1.
 - a. Recommend the definition of "Flag sign" be revised to read as follows to avoid a contention that a partial flag or flag replica such as may be seen along FM 249 is an allowed type of flag:

Flag sign means any flag, except the flags of the United States, Texas or any other governmental entity **that are unaltered and do not contain any commercial or other messages**, used for advertising that contains or displays any written message, business name, pictorial representation, logo, corporate symbol, silhouette, or other visual representation identifying, **calling attention to**, or advertising a particular business, good, service or merchandise sold or available for sale on the premises where the flag is erected, displayed or maintained.

- b. *Living or human sign.* Do we need a specific exception for the Tomball mascot?

Comment [12]: Discussion with Council.

Comment [13]: City is exempt, but Mascots are not considered signage.

- c. *Wall sign.* As I read the ordinance, a wall sign would include lettering affixed to the face of a building, an example of which is the lettering on the front of my building – Clifton Dodson Sortino, LLP, Attorneys and continuing with the street address. Is my understanding correct? [Yes, the lettering is part of the sign, but the street number is not part of the copy area.](#) See also comment to Sec. 60-5(b)(3)(c) below?
2. Sec. 60-4(d). The reference to *punished as provided in section 1-14* is unclear as to what specific code chapter is applicable. [Reworded to say the following: “...Sec.1-14 General Provision: General penalty; continuing violations...”](#)
3. Sec. 60-4(d). Refers to appeal to city council pursuant to its rules and regulations. Do we have rules and regulations relating to appeals? If so, are they current? If not, do they need to be developed? [Recommend to remove “pursuant to its rules and regulations”](#)
4. Sec. 60-5(b)(3)(c). Refers to house numbers as being an exception to permits and fees.
- a. Should this also apply to commercial building numbers or do commercial buildings have to obtain a permit and fee to place a building number on the building wall? [We recommend changing “house number” to “street number”.](#)
- b. If the answer to a. is that a permit and fee applies to the wall sign building number (and also to wall sign building or business name) is that considered one permit or two? [NA](#)
- c. If the answer to a. is that a permit and fee applies to the building wall sign street number, does this conflict with the requirements of Sec. 66-76? [NA](#)
5. Sec. 60-6. Sign Maintenance and Removal.
- a. [Here is a good application for email notices if it can be accomplished.](#)
- b. [Can we give the city the right to remove signs, etc. if the owner does not comply with the city notice to maintain an offending sign?](#)
6. Sec. 60-7(e). *Political Signs.* The house on Main Street (next door to Gloyer’s) has for quite some time maintained a sign in the front yard with conveying a message to the effect that what the country needs is jobs.
- a. Is that primarily a political sign? [No 1st amendment sign.](#)
- b. How long can such a sign remain in place and how frequently may it be erected? [Can stay as long as it does not violate any City ordinances and remains on private property.](#)
7. Sec. 60-7(l) concerning message board signs provides that the message cannot be offensive. I could not find any other section of the draft sign ordinance that prohibited an offensive message.
- a. Is there a difference between message board signs and other signs that would justify not conveying an offensive message on this type of sign but not others? [Yes.](#)
- [Recommendation:](#)
- [\(a\) ~~Message Board Signs.~~ Sign Wording. Lettering on message board all signs shall remain](#)

Comment [14]: Discussion

Comment [15]: No City can not assume liability.

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attached to the sign face at all times and shall spell out comprehensible and non-offensive messages. If at any time the message board sign is found to be missing letters or spelling out an incomprehensible or offensive message, the Sign Administrator shall give written notice of the condition of the sign to the person owning, leasing, or responsible for the sign. Such person so notified shall correct the condition of the sign in a manner to be approved by the Sign Administrator in conformity with the provisions of this Chapter. Freestanding portable message board signs shall be prohibited.

Moved last sentence to prohibited section.

- b. What does “offensive” mean and to whom might it be offensive? Would it be more precise if the terms used were vulgar, obscene, etc.?

Comment [16]: Discussion

8. Sec. 60-33. Portable Signs.

- a. We should consider whether a portable sign should be allowed to remain on a specific property for more than a certain number of consecutive days. I am of the opinion that most portable signs are an eyesore and typically not well lettered or maintained. Recommendation to remove entire section.
- b. Some portable signs are lighted and may receive electrical power through an extension cord. Is this an issue that should be addressed? See above.

9. Sec. 60-38. Downtown Specific Plan Area.

- a. Sub-section (e). Typo after word “hazard” - t. should be “to”. It should be “to”.
- b. The sign nomenclature used in the sign ordinance and that used in the DSP are not wholly consistent, as might be expected since they were separated drafted. The question is whether the sign nomenclature should be consistent between the two ordinances to avoid confusion or simply to make it easier to comprehend? See page 52 of the DSP for its use of sign nomenclature. It has been addressed in staff comments for the July 2012 draft of the DSP.

10. Temporary signs.

- a. It is unclear how the city will measure the start and stop date for those signs.
- b. Should the ordinance restrict how frequently the 14 day time limit for a temporary sign on a property may occur? Such as, use of a temporary sign no more frequently than every X number of days, weeks, months?
- c. Does the ordinance effectively deal with the grand opening sign such as that maintained by Shipley Donuts for many months? It is not clear to me.

Comment [17]: Discussion

Regular City Council

Agenda Item

Meeting Date: July 16, 2012

Data Sheet

Topic:

Approve Request from Hawes Hill Calderon, LLP for Hawes Hill Calderon, as PID Administrators, to Engage McCall Gibson Swedlund Barfoot, PLLC., Auditors, to Prepare Developer Reimbursement Report for Tomball Public Improvement District No. 1 (Pine Country Section 2 Subdivision)

Background:

Scott Bean, Hawes Hill Calderon, LLP, is requesting City Council to authorize Hawes Hill Calderon, LLP, as PID Administrators, to engage McCall Gibson Swedlund Barfoot, PLLC to produce a developer reimbursement report for Tomball Public Improvement District No. 1 (Pine Country Section 2 Subdivision).

The completed homes in the PID 1 will be subject to assessment for tax year 2013. In anticipation of having PID revenue available to distribute to the developer, Hawes Hill Calderon would like to commence with the developer reimbursement report required under the development agreement (copy attached).

The development agreement requires an independent certified public accountant to produce a report verifying PID reimbursable expenditures by the developer and the amounts owned. McCall Gibson Swedlund Barfoot PLLC has produced similar reports for other public improvement districts administered by Hawes Hill Calderon and the firm is considered very knowledgeable with regard to the subject matter.

Origination:

Scott Bean, Hawes Hill Calderon

Recommendation:

Approve Request to Engage McCall Gibson Swedlund Barfoot, PLLC,

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:

Reimbursement Request

Development Agreement - Pine Country

HAWES HILL CALDERON, LLP

June 8, 2012

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

Subject: Tomball Public Improvement District No. 1 (Pine Country Section 2 Subdivision) - Developer Reimbursement Report; Request to Engage McCall Gibson Swedlund Barfoot PLLC.

Dear Mr. Shackelford:

Please consider this correspondence a request for the City to authorize Hawes Hill Calderon, LLP as PID Administrators to engage McCall Gibson Swedlund Barfoot PLLC to produce the above-referenced report.

As you may be aware, there will be completed homes in the PID 1 that will subject to the assessment in tax year 2013. In anticipation of having PID revenue available to distribute to the developer, we would like to commence with the developer reimbursement report required by the development agreement. The development agreement requires an independent certified public accountant to produce a report verifying PID reimbursable expenditures by the developer and the amounts owned. McCall Gibson Swedlund Barfoot PLLC has produced similar reports for other public improvement districts we administer, and we find their CPAs to be very knowledgeable with regard to the subject matter.

Per the development agreement, all costs for the report will be borne by the developer.

Thank you for your time, and please contact me at (713) 595-1213 should you have any questions or require additional information.

Sincerely,

Scott Bean

cc: Ms. Christal Kliewer Weber, Assistant City Manager

Hawes Hill Calderon, LLP
10103 Fondren, #300
Houston, Texas 77096
(713) 595-1200
www.hhcllp.com

DEVELOPMENT AGREEMENT

This Development Agreement (this "*Agreement*") is made as of July 3, 2007, by and between the **CITY OF TOMBALL**, a municipal corporation and a home-rule city in the State of Texas (the "*City*"), and **PCOT INVESTMENTS, INC.**, a Texas corporation (the "*Developer*").

RECITALS

WHEREAS, in accordance with the provisions of Chapter 372, TEX. LOCAL GOV'T CODE, and Resolution 2007-14, the City Council of the City of Tomball created the Public Improvement District Number One (the "*PID*") pursuant to the petition for creation from the owner thereof; and

WHEREAS, the City Council of the City has determined that it is in the best interest of the City and the land within the PID to finance the construction of certain PID Improvements (defined below) and that an assessment against the benefited property within the PID should be made; and

WHEREAS, the Developer is the owner of certain property within the PID described in Exhibit A, and wishes to finance and construct certain PID projects; and

WHEREAS, the Developer intends to assist the City in the financing and construction of the PID Improvements, in exchange for the City's agreement to reimburse the Developer in accordance with the terms of this Agreement; now, therefore,

AGREEMENT

For and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, the Developer contract and agree as follows:

ARTICLE 1 GENERAL TERMS

1.01 **Definitions.** The terms "*Agreement*," "*City*," "*Developer*," "*PID*," and "*PID Agreement*" have the meanings set forth in the preamble hereof, and the following terms shall have the meanings provided below, unless otherwise defined or the context clearly requires otherwise. For purposes of this Agreement, the words "shall" and "will" are mandatory, and the word "may" is permissive.

Act shall mean the Public Improvement District Assessment Act, Chapter 372, TEX. LOCAL GOV'T CODE, as amended.

Assessments shall mean assessments levied and collected in connection with the PID pursuant to the Act and the Plan, and deposited by the City into a PID Revenue Fund.

Developer Advances shall mean any funds advanced by the Developer pursuant to **Section 5.01**, and shall include any interest payable thereon.

Net Assessments shall mean the annual deposits of the Assessments into the PID Revenue Fund, less amounts reasonably required or anticipated to be required for the administration and operation of the PID in carrying out its responsibilities hereunder, including a reasonable operating reserve.

Parties or *Party* shall mean the City, and the Developer as parties to this Agreement.

PID Improvements shall mean the improvements described in **Article 3** hereof.

PID Revenue Fund shall mean the special fund established by the City and funded with payments made to the City pursuant to the PID.

Plan shall mean the final Service and Assessment Plan for the PID as approved by City Council in accordance with the Act.

Project shall mean the residential development within the PID projected to be carried out by the Developer described on Exhibit B.

1.02 Singular and plural; gender. Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa. Likewise, any masculine references shall include the feminine, and vice versa.

ARTICLE 2 REPRESENTATIONS

2.01 Representations of the City. The City hereby represents that:

a. The City is duly authorized and is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The City has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the City, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the City under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

c. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms.

2.02. Representations of the Developer. The Developer hereby represents that:

a. The Developer is duly authorized, created and existing under the laws of the State of Texas, is qualified to do business in the State of Texas and is duly qualified to do business wherever necessary to carry on the operations contemplated by this Agreement.

b. The Developer has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, (ii) will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Developer or any provisions of the Developer's organizational documents, and (iii) does not constitute a default under or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Developer under any agreement or instrument to which the Developer is a party or by which the Developer or its assets may be bound or affected.

c. The Developer has sufficient capital to perform its obligations under this Agreement and will commence construction of the Project within eighteen (18) months of execution of this Agreement.

d. This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

ARTICLE 3 THE PLAN AND PID IMPROVEMENTS

3.01 The PID Improvements. The PID Improvements are intended to enhance the proposed implementation of a development within the PID constituting the Project, as more fully described in the Plan.

3.02 PID Improvements description. The PID Improvements consist of acquisition, construction and development of the public improvements within the portion of the PID comprising the Project, as more fully described in Exhibit C, and as described in the Plan. The PID Improvements will be developed pursuant to a schedule consistent with the pace of development of the Project that is mutually agreeable to the Parties. The PID Improvements shall include all engineering, legal and other consultant fees and expenses related to such PID Improvements. The Developer shall be entitled to reimbursement of up to 50% of the project costs described in Exhibit C subject to the limitations contained in Section 3.03 of this agreement.

3.03 General terms of the Plan. The Plan has not yet been adopted by the City. The Parties anticipate that the Plan, at a minimum, will include the PID Improvements described above to serve the land within the PID, and such other facilities as may be agreed upon by the Parties, and that the Assessments shall be assessed in phases to affect only the portions of the PID directly benefited by the PID improvements to be financed by each Assessment. The Assessments shall be based upon the agreed-upon percentage of estimated costs of the Public Improvements as reflected in Exhibit C, plus those related costs as deemed reimbursable by the City; however, the Assessments in the Plan shall be formulated in a manner that generally

conforms to the equivalent of a \$0.50 tax rate for each property covered by the Plan and a maximum ten (10) year payment term for each property covered by the Plan.

3.04. Additional Projects. This Agreement does not apply to any projects not specifically included in the Plan and defined herein unless this Agreement is amended to provide for the design and construction of such additional projects.

ARTICLE 4

DUTIES AND RESPONSIBILITIES OF THE DEVELOPER

4.01 Construction manager. The Developer agrees to construct the PID Improvements and to provide and furnish, or cause to be provided and furnished, all materials and services as and when required in connection with the construction of the PID Improvements. The Developer will obtain all necessary permits and approvals from the City and all other governmental officials and agencies having jurisdiction, provide supervision of all phases of construction of the PID Improvements, provide periodic reports of such construction to the City upon request, and cause the construction to be performed in accordance with the Plan.

4.02 Design of the PID Improvements. The Developer shall prepare or cause to be prepared the plans and specifications for the PID Improvements. Prior to the commencement of construction or implementation of the PID Improvements, the plans and specifications must be approved by the City. The PID Improvements shall be designed in accordance with City standards applicable to similar public improvements within the City.

4.03 Construction contracts. The Developer shall prepare the PID Improvements construction contract documents to ensure that the contract documents are in accordance with the approved plans and specifications. The Developer shall comply with all laws and regulations regarding the bidding and construction of public improvements applicable to similar facilities constructed by the City, including without limitation any applicable requirement relating to payment, performance and maintenance bonds.

4.04. Construction and implementation of the PID Improvements. The Developer shall be responsible for the inspection and supervision of the construction and implementation of the PID Improvements.

a. The Developer shall commence construction of the PID Improvements in a timely fashion to coincide with the expected development of the Project.

b. Upon completion of a contract for the construction of the PID Improvements, the Developer shall provide the City with a final summary of all costs associated with such contract, and show that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors. Following completion of a construction contract, the Developer will call for inspection of the applicable PID Improvements by the City, and upon approval thereof as being in compliance with City standards relating thereto, the PID Improvements will be conveyed to the City, subject only to the right to reimbursement for Developer Advances with respect thereto.

ARTICLE 5 PROJECT FINANCING AND FUNDING

5.01. The Developer Advances.

a. In connection with the construction of the PID Improvements the Developer has determined are required to be constructed to serve the Project, the Developer agrees to provide sufficient funds as such become due for all costs thereof (the "Developer Advances"), such as costs of design, engineering, materials, labor, construction, and inspection fees arising in connection with the PID Improvements, including all payments arising under any contracts entered into pursuant to this Agreement.

b. Interest on each Developer Advance shall accrue at a seven percent (7%) annual rate, compounded annually, whether such costs, fees, or expenses are paid or incurred before or after the effective date of this Agreement. Interest shall be calculated on the basis of a year of 360 days and the actual days elapsed (including the first day but excluding the last day) occurring in the period for which such interest is payable, unless such calculation would result in a usurious rate, in which case interest shall be calculated on the per annum basis of a year of 365 or 366 days, as applicable, and the actual days elapsed (including the first day but excluding the last day).

5.02. Repayment of Developer Advances.

a. In consideration of the development and construction of the PID Improvements, the City shall begin repaying the Developer Advances, and shall continue such repayment until repaid in full, on the earliest date that funds are available from the following source, and solely from such source:

- (i) the Net Assessments, subject to the limitations set forth in **subsection (c)**.

b. the City shall reimburse the Developer for Developer Advances, plus interest, from Net Assessments from the Project accumulated in the PID Revenue Fund available in accordance with the priorities described in **Section 5.03** below.

c. At such time as funds are available to pay all or any portion of the Developer Advances made hereunder, the City shall hire a certified public accountant at the Developer's expense to calculate the amount due the Developer and prepare and submit a report to the City certifying (1) the amount due the Developer for the Developer Advances being repaid with interest calculated thereon, and (2) that funds are available to make such payment. Such report shall be approved at the earliest practicable time, but not later than 90 days after submission by the Developer of the records required therefor. The City shall make payment to the Developer within 30 days of approval of the auditor's report.

5.03. Priorities. Amounts deposited in the PID Revenue Fund shall be applied in the following order of priority (i) administrative and operating costs of the PID, (ii) payments to the Developer pursuant to **Section 5.02**, above.

ARTICLE 6 DEFAULT

6.01. Default.

a. If the City does not perform its obligations hereunder in substantial compliance with this Agreement, in addition to the other rights given the Developer under this Agreement, the Developer may enforce specific performance of this Agreement or seek actual damages incurred by the Developer for any such default.

b. If the Developer fails to commence or complete the PID Improvements or the Project in accordance with the terms of this Agreement, including the failure to fund Developer Advances or commence construction of the Project within eighteen (18) months, the City may terminate this Agreement with respect to its obligations to the Developer and shall be relieved of any obligation to reimburse the Developer for any Developer Advances or seek actual damages incurred for any such default.

c. The Party alleging default shall provide written notice to the other party of such default, and the defaulting party shall have 60 days to remedy the default prior to the declaration of any default hereunder.

ARTICLE 7 GENERAL

7.01. Inspections, audits. The Developer agrees to keep such operating records with respect to the PID Improvements and other activities contemplated by this Agreement and all costs associated therewith as may be required by the City, or by State and federal law or regulation. The Developer shall allow the City access to, and the City shall have a right at all reasonable times to audit, all documents and records in the Developer's possession, custody or control relating to the PID Improvements that the City deems necessary to assist the City in determining the Developer's compliance with this Agreement.

7.02 Developer operations and employees. All personnel supplied or used by the Developer in the performance of this Agreement shall be deemed contractors or subcontractors of the Developer and will not be considered employees, agents, contractors or subcontractors of the City for any purpose whatsoever. The Developer shall be solely responsible for the compensation of all such contractors and subcontractors.

7.03 Personal liability of public officials, legal relations. To the extent permitted by State law, no director, officer, employee or agent of the City shall be personally responsible for any liability arising under or growing out of the Agreement. THE DEVELOPER SHALL INDEMNIFY AND SAVE HARMLESS THE CITY AND ITS RESPECTIVE OFFICERS, REPRESENTATIVES, AND AGENTS FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED BY ANY PERSON, PERSONS, OR PROPERTY RESULTING FROM THE NEGLIGENT ACTS OF THE DEVELOPER, OR ANY OF ITS AGENTS, OFFICERS, OR REPRESENTATIVES IN PERFORMING ANY OF THE SERVICES AND ACTIVITIES UNDER THIS AGREEMENT.

7.04 Notices. Any notice sent under this Agreement (except as otherwise expressly required) shall be written and mailed, or sent by electronic or facsimile transmission confirmed by mailing written confirmation at substantially the same time as such electronic or facsimile transmission, or personally delivered to an officer of the receiving party at the following addresses:

City of Tomball
c/o City Manager
401 Market Street
Tomball, Texas 77375

PID Contract Administrator
Hawes Hill Calderon, LLP
P.O. Box 22167
Houston, Texas 77092
Attn: Scott Bean

Mr. Russell E. Brown
PCOT Investments, Inc.
22529 Tomball Cemetery Road
Tomball, Texas 77377

Each party may change its address by written notice in accordance with this section. Any communication addressed and mailed in accordance with this section shall be deemed to be given when so mailed, any notice so sent by electronic or facsimile transmission shall be deemed to be given when receipt of such transmission is acknowledged, and any communication so delivered in person shall be deemed to be given when receipted for by, or actually received by the City, or the Developer, as the case may be.

7.05 Amendments and waivers. Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the City and the Developer. No course of dealing on the part of the Parties, nor any failure or delay by one or more of the Parties, with respect to exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, except as otherwise provided in this section.

7.06 Invalidity. In the event that any of the provisions contained in this Agreement shall be held unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement.

7.07 Successors and assigns. All covenants and agreements contained by or on behalf of a Party in this Agreement shall bind its successors and assigns and shall inure to the benefit of the other Parties, their successors and assigns. The Parties may assign their rights and obligations under this Agreement or any interest herein, only with the prior written consent of the other Parties, and any assignment without such prior written consent, including an assignment by operation of law, is void and of no effect; provided that, the Developer may make a collateral assignment in favor of a lender without consent. This section shall not be construed to prevent the Developer from selling lots, parcels or other portions of the Project in the normal course of business. If such assignment of the obligations by the Developer hereunder is effective, the

Developer shall be deemed released from such obligations. If any assignment of the obligations by the Developer hereunder is deemed ineffective or invalid, the Developer shall remain liable hereunder.

7.08 Exhibits; titles of articles, sections and subsections. The exhibits attached to this Agreement are incorporated herein and shall be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such exhibits and the provisions of this Agreement, the provisions of this Agreement shall prevail. All titles or headings are only for the convenience of the parties and shall not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a section or subsection shall be considered a reference to such section or subsection of this Agreement unless otherwise stated. Any reference herein to an exhibit shall be considered a reference to the applicable exhibit attached hereto unless otherwise stated.

7.09 Construction. This Agreement is a contract made under and shall be construed in accordance with and governed by the laws of the United States of America and the State of Texas, as such laws are now in effect.

7.10 Entire Agreement. **THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

7.11 Term. This Agreement shall be in force and effect from the date of execution hereof for a term expiring on the date that the Developer Advances have been repaid in full, or January 1 of the year following the date the last assessment payment has been made in accordance with the PID Service and Assessment Plan and Assessment Roll(s).

7.12 Time of the essence. Time is of the essence with respect to the obligations of the Parties to this Agreement.

7.13 Approval by the Parties. Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent shall not be unreasonably conditioned, withheld or delayed.

7.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

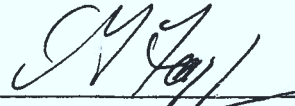
7.15 Legal costs. If any Party hereto is the prevailing party in any legal proceedings against another Party brought under or with relation to this Agreement, such prevailing Party shall additionally be entitled to recover court costs and reasonable attorneys' fees from the non-prevailing Party to such proceedings.

7.16 Further assurances. Each Party hereby agrees that it will take all actions and execute all documents necessary to fully carry out the purposes and intent of this Agreement.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of July 3, 2007.

CITY OF TOMBALL, TEXAS

By: 
Name: Gretchen Fagan
Title: Mayor

PCOT INVESTMENTS, INC.


Russell E. Brown
Title: PRESIDENT

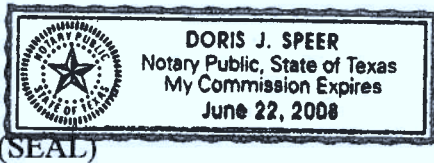
ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 3rd day of July, 2007,
by Gretchen Fagan the Mayor of the City of Tomball, Harris County, Texas, for
and on behalf of said municipality.

Doris J. Speer
Notary Public in and for the State of Texas

My Commission Expires: 6-22-2008



ACKNOWLEDGMENT

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on the 3rd day of July, 2007,
by Russell E. Brown the President of PCOT
INVESTMENTS, INC., for and on behalf of said corporation.

Doris J. Speer
Notary Public in and for the State of Texas

My Commission Expires: 6-22-2008

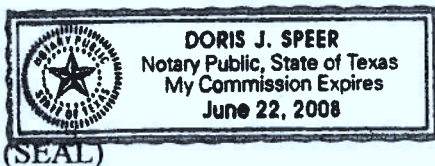


EXHIBIT A

The boundaries of the City of Tomball Public Improvement District Number One are the area contained in the Final Plat of Pine Country of Tomball, Section Two, A Subdivision of 55.7020 Acres Being a Replat of Pine Country of Tomball, Section Two, an Unrestricted Reserve of 55.7020 Acres as Recorded in H.C. Film Code #526187, and Being out of the John Edwards Survey, A-20 and the Chauncey Goodrich Survey, A-311 in the City of Tomball, Harris County Texas

EXHIBIT B

Description of Residential Development

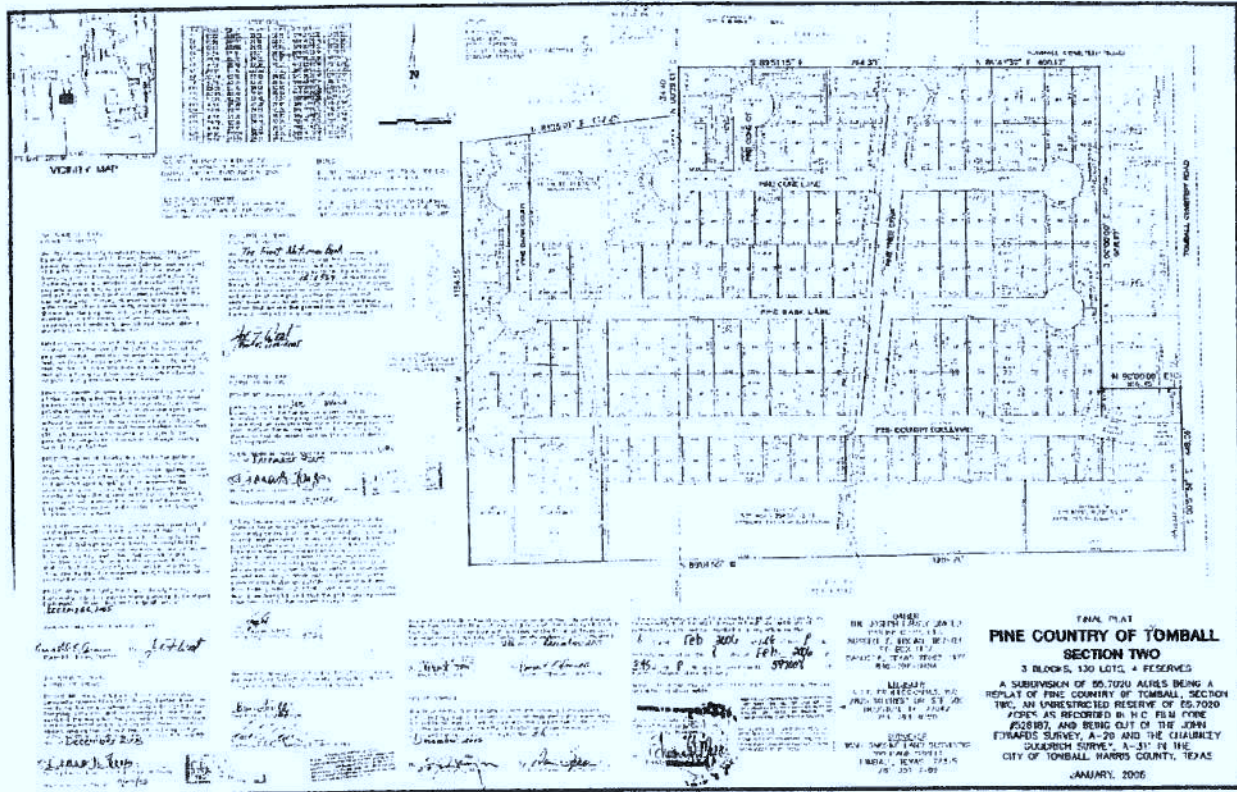


EXHIBIT C

The PID Improvements

Project	Estimated Cost
Water Lines	\$277,120
Sanitary Sewer	\$364,478
Storm Sewer & Drainage	\$233,519
Gas	\$55,379
Street Paving	\$705,052
Off-Site Utility Extensions	\$109,032
SWPPP	\$35,000
Engineering & Contingencies (15%)	\$266,937
Payment/Performance Bonds and Permits	\$60,000
PID Creation Cost	\$35,000
TOTAL	\$2,141,517

Regular City Council

Agenda Item

Meeting Date: July 16, 2012

Data Sheet

Topic:

Consideration and Possible Action Regarding **ZONING CASE P12-448**: Request by E.L. Chapman for a Conditional Use Permit to operate a “Feed & Grain Store/Farm Supply Store.” The property is an approximately 0.71-acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.

- Conduct a Public Hearing on **ZONING CASE P12-448**
- Adopt on first reading, Ordinance 2012-21, an Ordinance of the City of Tomball, Texas, amending Its Comprehensive Zoning Ordinance by Granting a Conditional Use Permit to E.L. Chapman to Operate a “Feed & Grain Store/Farm Supply Store”; said Tract being Approximately 0.71 acres, and being Legally Described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally Located on the Easterly Side of State Highway 249 Expressway, Northerly of Hirschfield Road at 13918 Hirschfield Road, Tomball, Texas; 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

Background:

The subject site is legally described as Tract 4, Block 3, Hirschfield Farms, Section 1 Unrecorded Subdivision, is approximately 0.71 acres, and is zoned General Retail District. The site’s physical address is 13918 Hirschfield Road and is generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road. The property is used by the applicant and property owner, E.L. Chapman, as an auto paint and body shop and currently has a 3,600 square foot building, an asphalt parking lot, and an approximately 12,000 square foot outside storage area.

On May 23, 2012, the City of Tomball met with Mr. Chapman to discuss the possibility of leasing the subject site to a “Feed & Grain Store.” A “Feed and Grain Store/Farm Supply Store” is defined in Section 45 of the Zoning Ordinance as “[a]n establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural processes, but not including farm machinery.” Mr. Chapman was informed that a “Feed & Grain Store” would only be permitted in the General Retail District with a Conditional Use Permit (CUP).

On May 30, 2012, the City of Tomball received a CUP application and Concept Plan from the property owner requesting a “Feed & Grain Store” be permitted at the subject site.

Origination:

Community Development Department

Recommendation:

On July 9, 2012, the Planning & Zoning Commission voted to recommend approval of Zoning Case P12-448.

Funding:

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

Engineering and Planning

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

ATTACHMENTS:

Draft Ordinance 2012-21

Staff Report P12-448

Notice of Public Hearing

Adjacent Property Owner Notification

Public Comment Form

ORDINANCE NO. 2012-21

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY GRANTING A CONDITIONAL USE PERMIT TO E.L. CHAPMAN TO OPERATE A “FEED & GRAIN STORE/FARM SUPPLY STORE”; SAID TRACT BEING APPROXIMATELY 0.71 ACRES, AND BEING LEGALLY DESCRIBED AS TRACT 4, BLOCK 3, HIRSCHFIELD FARMS SECTION 1 (UNRECORDED), GENERALLY LOCATED ON THE EASTERLY SIDE OF STATE HIGHWAY 249 EXPRESSWAY, NORTHERLY OF HIRSCHFIELD ROAD AT 13918 HIRSCHFIELD ROAD, TOMBALL, TEXAS; PROVIDING REQUIREMENTS AND CONDITIONS FOR THIS CONDITIONAL USE PERMIT; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE SUBJECT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS FOR VIOLATIONS HEREOF; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, E.L. Chapman has made application for a Conditional Use Permit to allow a “Feed & Grain Store/Farm Supply Store” to operate in the General Retail District. The property is approximately 0.71 acres, located at 13918 Hirschfield Road, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), and generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road; and

WHEREAS, the Property presently has a zoning classification of General Retail District, pursuant to the Comprehensive Zoning Ordinance of the City; and

WHEREAS, the Owner of the Property has presented an application to the City for the granting of a Conditional Use Permit to allow a “Feed & Grain Store/Farm Supply Store” to operate in the General Retail District (the “Conditional Use”); and

WHEREAS, the Planning & Zoning Commission of the City, after notice and hearing as required by law, has recommended that the City Council grant the conditional use permit subject to the terms and conditions contained in the final report of said Commission; and,

WHEREAS, the City Council, following notice and hearing as required by law, concurs with the recommendation of the Planning & Zoning Commission that such conditional use permit should be granted subject to the terms and conditions contained herein;

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. A Conditional Use Permit to allow a “Feed & Grain Store/Farm Supply Store” to operate in the General Retail District at 13918 Hirschfield Road, Tomball, Texas, in accordance with the application and concept plan submitted to the Planning & Zoning Commission on July 9, 2012, attached hereto as Exhibit “A” and incorporated herein by this reference (“Concept Plan”), and subject to the terms and conditions set forth below, is hereby granted to E.L. Chapman.

Section 3. The Official Zoning District Map of the City shall be revised and amended to show the Conditional Use authorized hereby for the Property as provided in Section 2 hereof, with the appropriate references thereon to the number and effective date of this Ordinance and a brief description of the nature of the Conditional Use authorized.

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

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

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

1. The “Feed & Grain Store” use shall not be enlarged or extended beyond what is shown on the approved Concept Plan without the approval of the City of Tomball of a revised Concept Plan or new CUP.
2. The subject site shall not be utilized by the “Feed & Grain Store” until all the proposed site improvements are completed as shown on the Concept Plan.
3. The 6 trees proposed on the Concept Plan shall be four inches in caliper and seven feet tall at the time of planting per Section 40 of the Zoning Ordinance.
4. Outside storage shall be limited to a maximum of five (5) percent of the total lot area or 1,546 square feet.

Section 7. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 8. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 16TH DAY OF JULY 2012.

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

SECOND READING:

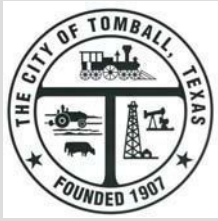
READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 6TH DAY OF AUGUST 2012.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary



Conditional Use Permit Staff Report

Planning & Zoning Commission Hearing Date: July 9, 2012

Rezoning Case: P12-448

Property Owner(s): E.L. Chapman

Applicant(s): E.L. Chapman

Legal Description: Tract 4, Block 3, Hirschfield Farms, Section 1 (Unrecorded)

Location: 13918 Hirschfield Road (Generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road)

Area: 0.71 acre

Present Zoning and Use: General Retail District / Auto Paint & Body Shop

Comp Plan Designation: Commercial

Proposed Use: Feed & Grain Store

Request: Conditional Use Permit (CUP) to allow a “Feed & Grain Store” in the General Retail District.

Adjacent Zoning & Land Uses:

North:	General Retail District / Machine Shop
South:	General Retail District / Hirschfield Road & Warehouse
East:	General Retail District / Machine Shop
West:	General Retail and Agricultural Districts / Undeveloped & SH 249 Expressway

BACKGROUND

The subject site is legally described as Tract 4, Block 3, Hirschfield Farms, Section 1 Unrecorded Subdivision, is approximately 0.71 acres, and is zoned General Retail District (Exhibits “A” & “B”). The site’s physical address is 13918 Hirschfield Road and is generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road. The property is used by the applicant and property owner, E.L. Chapman, as an auto paint and body shop and currently has a 3,600 square foot building, an asphalt parking lot, and an approximately 12,000 square foot outside storage area (Exhibit “C”).

On May 23, 2012, the City of Tomball met with Mr. Chapman to discuss the possibility of leasing the subject site to a “Feed & Grain Store.” A “Feed and Grain Store/Farm Supply Store” is defined in Section 45 of the Zoning Ordinance as “[a]n establishment for the selling of corn, grain and other food stuffs for animals and livestock, and including implements and goods related to agricultural

processes, but not including farm machinery.” Mr. Chapman was informed that a “Feed & Grain Store” would only be permitted in the General Retail District with a Conditional Use Permit (CUP).

On May 30, 2012, the City of Tomball received a CUP application (Exhibit “D”) and Concept Plan (Exhibit “E”) from the property owner requesting a “Feed & Grain Store” be permitted at the subject site. The applicant’s son, Steve Chapman, stated in the CUP request letter:

We are proposing a change of use of the current business known as "Tomball Paint & Body Inc." which has always been and currently [is] an automobile paint and body shop to a proposed feed & grain store. The name of the store will be "Livengood Feeds Inc." owned and operated by Burt Livengood. He will be moving from an existing location in Harris County to Tomball and is based out of Lockhart, TX since 1954. He will [be] going under a 3 year lease with my father Lee Chapman for 3 years with option to renew or purchase the property in the future. We are applying for a "Conditional Use Permit" and would appreciate the use being granted, as we feel the store will do well for the city development. Site improvements will be made initially to the exterior with a paved drive and parking.

The Concept Plan proposes numerous site improvements, including a 10-foot landscape buffer and trees along SH 249 Expressway, new paving and concrete curbing, 7 parking stalls, and a new refuse enclosure. The hours of operation will be from 8 am to 6 pm, Monday through Friday, and 8 am to 2 pm on Saturdays. Because the site is not proposed to be used at night, drive aisle lighting is not proposed, nor required by Ordinance.

ANALYSIS

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

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

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

The Comprehensive Plan identifies the subject site as “Commercial” (Exhibit “F”) which “is where retail sales and service activities should occur. These uses include but are not limited to shopping centers, convenience stores, auto dealers, department stores, grocery and drug stores, entertainment facilities, food and beverage purveyors, salons, and small repair shops. Small professional office uses such as physicians, accountants, or therapy offices would be permitted.”

The proposed tenant, Burt Livengood of Livengood Feeds, has informed City Staff the site will be used for the sale of feed, grain, and other agricultural products. Mr. Livengood further indicated that no manufacturing would take place. Because the proposed conditional

use would be indicative of a retail sales activity, and the resulting commercial development would be compatible with the surrounding land uses, this request appears to be generally consistent with the intent of the “Commercial” land use designation, and therefore the Comprehensive Plan.

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

Per the Zoning Ordinance, the General Retail District has been established to provide areas for local neighborhood shopping and service facilities for the retail sales of goods and services. These shopping areas should utilize established landscape and buffering requirements. The General Retail District should be located along or at the intersection of major collectors or thoroughfares to accommodate higher traffic volumes.

The proposed tenant, Burt Livengood of Livengood Feeds, has informed City Staff the site will be used for the retail sale of feed, grain, and other agricultural products. The accompanying Concept Plan meets the minimum landscape and buffering requirements of the Zoning Ordinance and the site is located adjacent to the SH 249 Expressway, which is classified as a State Highway. Consequently, the proposed “Feed & Grain Store” land use appears to be generally consistent with the General Retail District, and therefore the Zoning Ordinance.

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

The site improvements proposed on the Concept Plan appears to meet the development standards delineated within the Zoning Ordinance in regard to lot coverage, impervious coverage, parking counts, and off-street parking and drive aisle design. Should the CUP application be approved, the applicant will be required to submit a full set of civil plans to the City for review and approval. These plans must show the “Feed & Grain Store” is in compliance with all applicable ordinance regulations.

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

To the north and east of the subject site is Breaux Machine Works in the General Retail District; to the south is Hirschfield Road and a warehouse in the General Retail District; and to the west is undeveloped land and SH 249 Expressway in the Agricultural and General Retail Districts, respectively (Exhibit “G”).

The proposed landscaping and buffering improvements meet or exceed the minimum requirements of the Zoning Ordinance. Further, the off-street parking and drive aisles will assist in mitigating the development’s impact to the area. As a result, the “Feed & Grain Store” land use and Concept Plan appear to be generally compatible with and preserve the character and integrity of adjacent developments.

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

The proposed site improvements and recommended Conditions of Approval will improve the overall aesthetics of the existing site. Moreover, they will serve to ensure compatibility of the proposed use with other uses permitted, and existing, in the surrounding area. As a result, the proposed use of the site as a “Feed & Grain Store” does not appear to be detrimental to the public health, safety, convenience, and welfare.

PUBLIC COMMENT

Property owners within 200 feet of the project site were mailed notification of this proposal on June 28, 2012 and, as of the writing of this report, no public comment forms were received.

RECOMMENDATION

Recommend approval of Zoning Case P12-448, with the following four (4) Conditions of Approval:

1. The “Feed & Grain Store” use shall not be enlarged or extended beyond what is shown on the approved Concept Plan without the approval of the City of Tomball of a revised Concept Plan or new CUP.
2. The subject site shall not be utilized by the “Feed & Grain Store” until all the proposed site improvements are completed as shown on the Concept Plan.
3. The 6 trees proposed on the Concept Plan shall be four inches in caliper and seven feet tall at the time of planting per Section 40 of the Zoning Ordinance.
4. Outside storage shall be limited to a maximum of five (5) percent of the total lot area or 1,546 square feet.

EXHIBITS

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

Exhibit "A"
Zoning Map



©COPYRIGHT 1976



Exhibit "C"
Aerial Photo

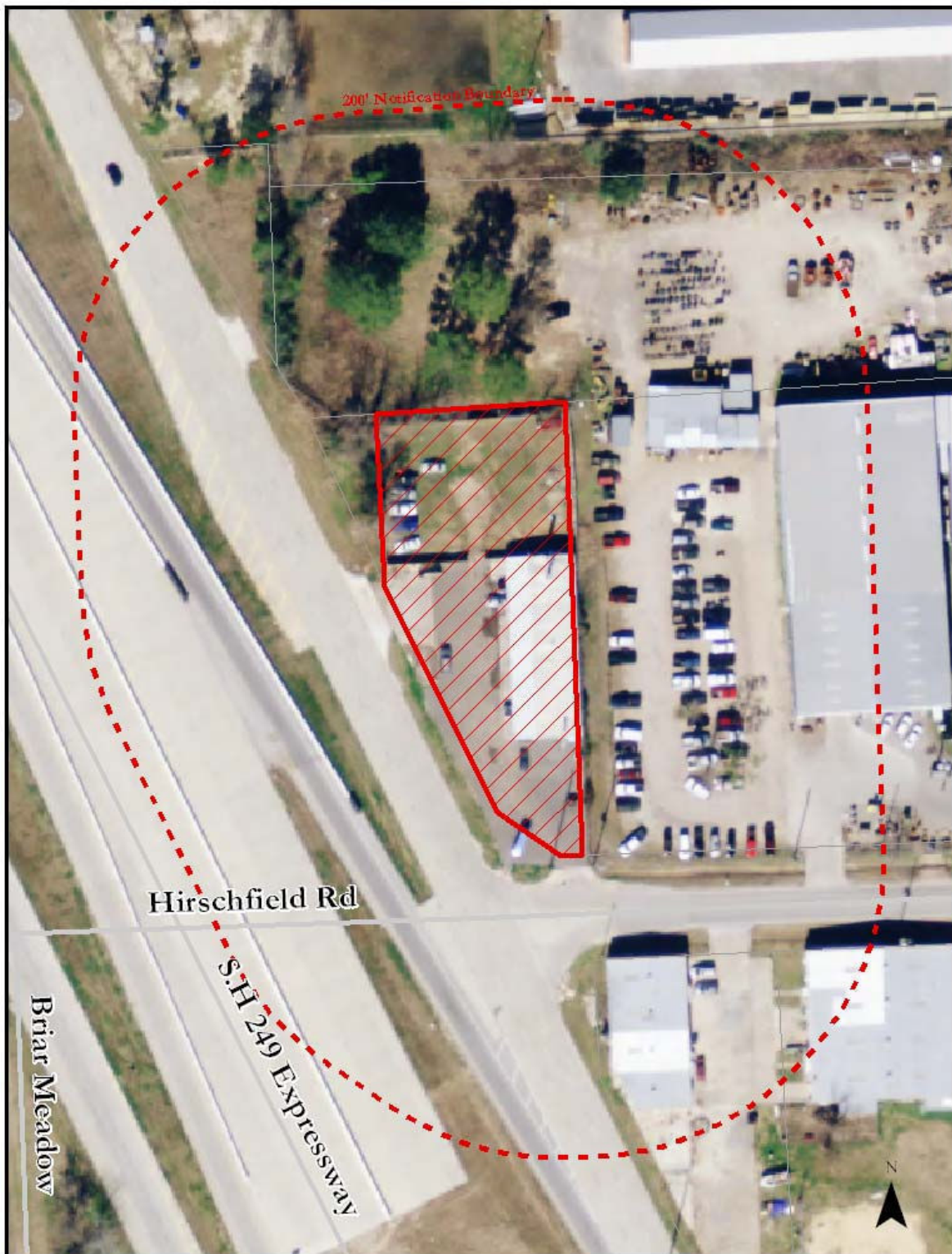


Exhibit "D"
Conditional Use Permit Application

Revised 1/20/09



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



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

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

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

Applicant

Name: EL CHAPMAN Title: Owner
Mailing Address: 411 W. Rollingwood City: Pinehurst State: TX
Zip: 77362
Phone: (712) 838 5795 Fax: () Email: contact@scfireconsulting.com

Owner

Name: EL CHAPMAN Title: Owner
Mailing Address: 13918 Hirschfield City: Tomball State: TX
Zip: 77377
Phone: (281) 3514372 Fax: () Email: contact@scfireconsulting.com

Engineer/Surveyor (if applicable) / Arch: tct

Name: Mark Carter Title: Arch: tct
Mailing Address: _____ City: _____ State: _____
Zip: _____
Phone: () Fax: () Email: _____

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

www.ci.tomball.tx.us

Description of Proposed Project: Food & Grain Store
Physical Location of Property: 13918 Hirschfeld Rd. Tomball, TX
[General Location – approximate distance to nearest existing street corner]
Legal Description of Property: Tract 4, Block 3, Hirschfeld Farms Sec 1 UIR
[Survey/Abstract No. and Tracts; or platted Subdivision Name with Lots/Block]
HCAD Identification Number: 1047730000004 Acreage: 29,411 ~~0~~
Current Use of Property: Auto Paint & Body Shop
Proposed Use of Property: Food & Grain Store

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

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

X *P. L. Chaparral* 5-29-12
Signature of Applicant Date

X *P. L. Chaparral* 5-29-12
Signature of Owner Date

May 30, 2012

To City Officials of Tomball, TX

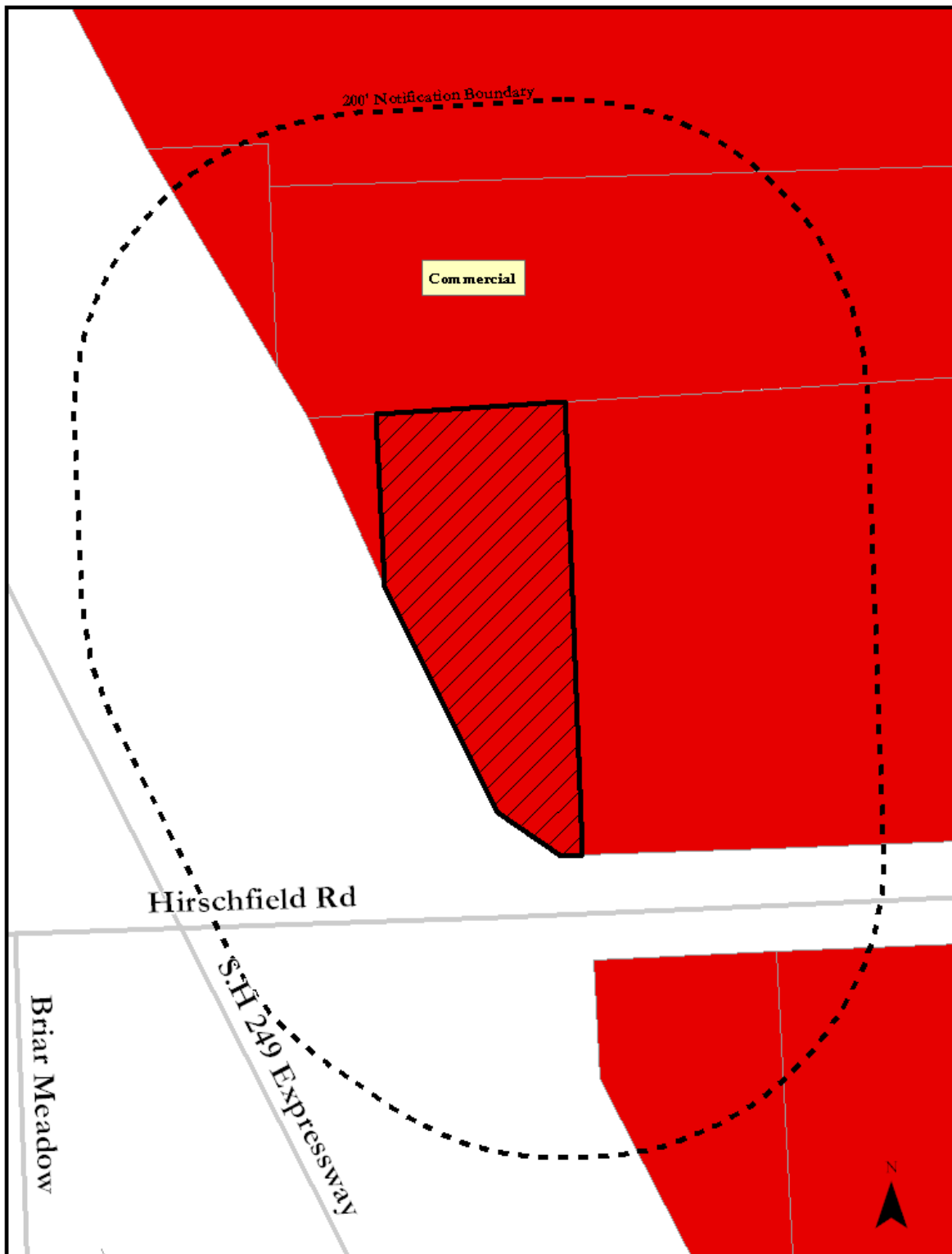
We are proposing a change of use of the current business known as "Tomball Paint & Body Inc." which has always been and currently an automobile paint and body shop to a proposed feed & grain store. The name of the store will be "Livengood Feeds Inc." owned and operated by Burt Livengood. He will be moving from an existing location in Harris County to Tomball and is based out of Lockhart, TX since 1954. He will going under a 3 year lease with my father Lee Chapman for 3 years with option to renew or purchase the property in the future. We are applying for a "Conditional Use Permit" and would appreciate the use being granted, as we feel the store will do well for the city development. Site improvements will be made initially to the exterior with a paved drive and parking.

Thank your for you consideration, and if you have any questions please call me.

Steve Chapman
281-728-6970

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Exhibit "F"
Comprehensive Plan Future Land Use Map



**Exhibit “G”
Site Photos**



Figure 1: Subject site.



Figure 2: Subject site.



Figure 3: Breaux Machine Works to the north and east.



Figure 4: Warehouse building to the south.

**NOTICE OF PUBLIC HEARINGS
CITY OF TOMBALL
PLANNING & ZONING COMMISSION
JULY 9, 2012
&
CITY COUNCIL
JULY 16, 2012**



Notice is Hereby Given that Public Hearings will be held by the Planning & Zoning Commission of the City of Tomball on **Monday, July 9, 2012, at 6:00 P.M.**, and by the City Council of the City of Tomball on **Monday, July 16, 2012, 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 P12-448: Request by E.L. Chapman for a Conditional Use Permit to operate a “Feed & Grain Store/Farm Supply Store.” The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road at 13918 Hirschfield Road. The site is located in the General Retail District.

Persons interested in these cases will be given an opportunity to be heard. Action by the Planning and 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 one or more of the above cases, 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 and Zoning Commission. The application is available for public inspection Monday through Friday, holidays excepted, between the hours of 8:00 a.m. and 5:00 p.m. in the Engineering & Planning Department office, located at 501 James Street, Tomball, TX 77375. **Contact Assistant City Planner** Rodney Schmidt, (281) 290-1410, rschmidt@ci.tomball.tx.us

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 5th day of July 2012 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

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



Notice of Public Hearing

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

CASE NUMBER: P12-448

APPLICANT: E.L. Chapman

LOCATION: 13918 Hirschfield Road

PROPOSAL: Request for a Conditional Use Permit to operate a "Feed & Grain Store/Farm Supply Store." The property is an approximately 0.71 acre site, legally described as Tract 4, Block 3, Hirschfield Farms Section 1 (Unrecorded), generally located on the easterly side of State Highway 249 Expressway, northerly of Hirschfield Road. The site is located in the General Retail District.

* * *

CONTACT PLANNER: Rodney Schmidt

PHONE: (281) 290-1410

E-MAIL: rschmidt@ci.tomball.tx.us

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

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



**Planning and Zoning Commission
Public Hearing:**

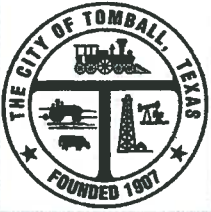
Monday, July 9, 2012, 6:00 PM

City Council Public Hearing:

***Monday, July 16, 2012, 6:00 PM**

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

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



Public Comment Form

(Please type or use black ink)

All submitted forms will become a part of the public record.

Please return to:

City of Tomball
Department of Engineering & Planning
Attn: Rodney Schmidt
501 James Street
Tomball, TX 77375



Name:

N.T. Breaux

(please print)

Address:

13842 Hirschfield

Tomball, Tx 773

Signature:

N.T. Breaux

Date:

7-6-2012



I am **FOR** the requested CUP as explained on the attached public notice for **Zoning Case P12-448**. (Please state reasons below)



I am **AGAINST** the requested CUP as explained on the attached public notice for **Zoning Case P12-448**. (Please state reasons below)

Date, Location & Time of Planning & Zoning Commission meeting:

Monday, July 9, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

Date, Location & Time of City Council meeting:

Monday, July 16, 2012, 6:00 PM

City Council Chambers of the City of Tomball, City Hall

401 Market Street, Tomball, Texas

COMMENTS:

I think it's good idea.

You may also comment via email to rschmidt@ci.tomball.tx.us. Please reference the Zoning Case number in the subject line.

For questions regarding this request please call 281-290-1410.

Regular City Council

Agenda Item

Data Sheet

Meeting Date: July 16, 2012

Topic:

Council Consideration to Set August 6, 2012 at 6:00 p.m. as the Date for the Public Hearing on the FY 2012-2013 Budget, as presented to Council by the City Manager

Background:

The City's Home Rule Charter, Section 8.03, requires the City Manager to present the proposed budget to City Council between 60 and 120 days prior to the beginning of the new fiscal year. The proposed budget for Fiscal Year 2012-2013 was presented to City Council at the July 16, 2012 Special Council meeting, 77 days before the beginning of the new fiscal year.

According to the City's Charter and State Law, a public hearing must be held prior to the adoption of the City's annual budget. The public hearing notice will be posted in the City's official newspaper and on the City's web site.

Origination:

Doris speer, City Secretary

Recommendation:

Staff recommends August 6, 2012 as the date for the public hearing.

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

Doris Speer, City Secretary

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

Regular City Council

Agenda Item

Data Sheet

Meeting Date: July 16, 2012

Topic:

Executive Session as Authorized by Title 5, Chapter 551, Government Code, the Texas Open Meetings Act, for the Following Purpose(s):

- Sec. 551.072 – Deliberations Regarding Real Property
- Sec. 551.087 – Deliberations Regarding Economic Development

Background:**Origination:**

City Manager

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

City Secretary

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