

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



MONDAY, MARCH 19, 2012

6:00 P.M.

Notice is hereby given of a meeting of the Tomball City Council, to be held on Monday, March 19, 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 Dean Unsicker, Rosehill Christian School

3.0 Pledges to U.S. and Texas Flags

- Led by Members of the Tomball High School Student Council

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

5.0 Presentations:

- Random Drawing to Award Participants in the ***“Tomball Mascot Name”*** Contest

6.0 Reports and Announcements

- March 20, 2012 – **SH 249 Partnership Meeting** – Magnolia City Hall – 6:30 p.m.
- March 24, 2012 – ***Tomball Honky Tonk Music Festival***– Depot Plaza – 11:00 a.m.-6:00 p.m.
- March 30-April 1, 2012 – **Tomball German Heritage Festival** in the Depot/Downtown Tomball Area
- March 31, 2012 – **NO Farmers Market**
- April 4, 2012 – **City of Tomball Youth Opportunity Fair** – Beckendorf Conference Center – LoneStar College, 2:00 p.m.-6:00 p.m.
- April 14, 2012 – ***4th Annual City of Tomball Bunny Run 5K and Kids 1K***
- April 14, 2012 – ***2nd Day of Healthy Living in Tomball Expo*** – Texas Sports Medicine Center, 9:00 a.m.-2:00 p.m.
- April 14, 2012 – **2nd Saturday at the Depot** – 5:30 p.m.
- April 21, 2012 – ***Art Walk Tomball!*** – 11:00 a.m.-6:00 p.m.
- April 23-28, 2012 – **Annual Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- April 28, 2012 – **Annual Tomball Clean-up Recycling Day – E-Waste and Drug Take-Back Program** – Tuesday Morning/Old Kroger Center Parking Lot
- May 5-6, 2012 – **Rails and Tails Mudbug Festival at the Depot** – 11:00 a.m.-6:00 p.m.
- Early Voting for May 12, 2012 General Election – April 30 through May 8, 2012 at City Hall (Monday, Wednesday, and Thursday – 7:45 a.m.-5:00 p.m.) (Tuesday – 7:45 a.m.-7:45 p.m.) and (Friday – 7:45 a.m.-4:00 p.m.)
- May 26 – **Memorial Day Weekend Chili Challenge - TBA**
- Official Harris County Primary Election Date is May 29; Runoff Date is July 31, 2012
- ***Walk Tomball!*** (every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of council about items of community interest on which no action will be taken

7.0 Approve the Minutes of the March 5, 2012 Regular City Council Meeting

8.0 Old Business:

- 8.1 Consideration and Possible Action Regarding Request from Jacqueline Angelo for the City of Tomball to Apply for Grant Assistance for 13142 Holderrieth Road

9.0 New Business:

- 9.1 Approve and Authorize the Mayor to Issue a Letter of Support to the Houston-Galveston Area Council (H-GAC) for the 2013-2016 Transportation Improvement Program

- 9.2 Approve Request from Howard Katz, Attorney for Harris County Emergency Services District No. 8 (ESD No. 8), to Share Election Facilities with the City of Tomball, to Facilitate the Harris County Emergency Services District ESD No. 8's Called May 12, 2012 District Commissioners and Tax Rate Election for ESD No. 8
- 9.3 Approve Purchase by the City of Tomball of Three (3) Tax Forfeiture Lots, Lot 4, Block 6, Lot 6, Block 6, and Lot 11, Block 6, for Total Bid Price of \$13,200.00.
- 9.4 Adopt, on First Reading, Ordinance No. 2012-03, an Ordinance of the City Council of the City of Tomball, Texas, amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto

10.0 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 15th day of March 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: March 19, 2012

Topic:

- Random Drawing to Award Participants in the “*Tomball Mascot Name*” Contest

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

Meeting Date: March 19, 2012

Data Sheet

Topic:

- March 20, 2012 – **SH 249 Partnership Meeting** – Magnolia City Hall – 6:30 p.m.
- March 24, 2012 – **Tomball Honky Tonk Music Festival**– Depot Plaza – 11:00 a.m.-6:00 p.m.
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Origination:

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Funding:

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

ATTACHMENTS:

Tomball Honky Tonk Music Festival

City of Tomball Youth Opportunity Fair

4th Annual City of Tomball Bunny Run 5K and Kids 1K

4th Annual City of Tomball Bunny Run 5K and Kids 1K - Registration

2nd Day of Health Living Expo and 2nd Saturday at the Depot

Art Walk Tomball!

Annual Tomball Clean-up Recycling Day – E-Waste and Drug Take-Back Program

Rails and Tails Mudbug Festival at the Depot

Tomball's

Honky Tonk Music Festival

Saturday, March 24th
11 a.m. to 6 p.m. at The Depot

Call 281-351-5484

www.ci.tomball.tx.us

Honky Tonk Fiddles, Food and Family Fun!

★ The Legendary Bama Band
Miss Leslie & Her Juke Jointers
Country Jim & the Country All-Stars
Jeff Woolsey & the Dance Hall Kings ★

★ Kid's Fun Zone
Great Eats from Cisco's Salsa Company
and the Original Rib Tickler
★
★

FREE ADMISSION!

facebook

City of Tomball's

Youth Opportunities Fair

Volunteer & Job Opportunities
Ages 15-21 Welcome



Beckendorf Conference Center
Lone Star College
30555 Tomball Parkway
Wednesday, April 04, 2012
2:00 pm - 6:00 pm

For more information, contact City Hall at 281-290-1012 or 281-290-1018.

4TH ANNUAL

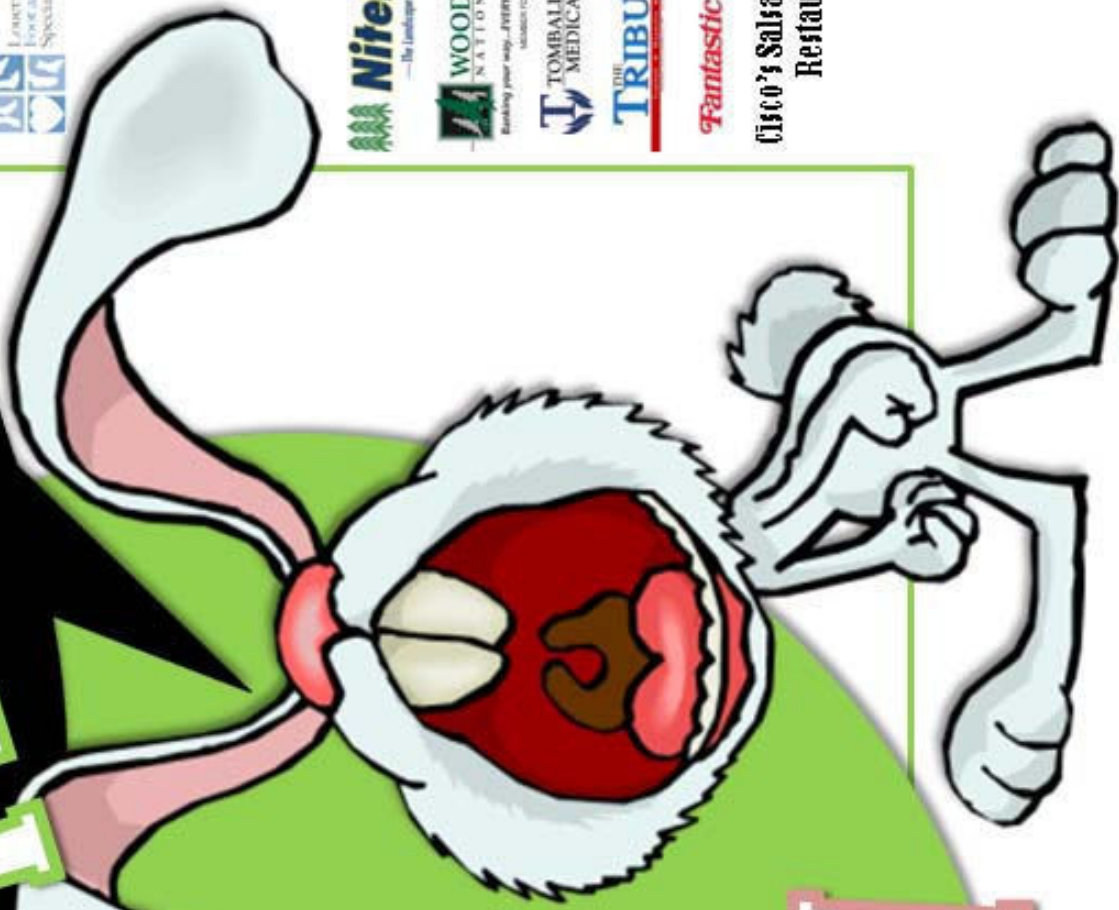
BUNNY

CITY OF TOMBALL

2012

5K RUN

PRUN!



Walgreens



Banking your way... EVERY DAY AND NIGHT!
MEMBER FDIC



Fantastic Sams

Cisco's Salsa Company
Restaurant



City of Tomball Bunny Run

Saturday, April 14, 2012
8:00 A.M. – 5K Run/Walk
8:45 A.M. – 1Mile Run/Walk
Tomball Train Depot
281-290-1006

Location

The Historic Tomball Train Depot Plaza located at 201 S. Elm St.

About This Event

The Bunny Run 5K and Kid's 1 Mile are the fourth in a series of Fun Runs to bring families, friends and visitors together to see that Tomball is "Texan" for fun!!!

The Course

USATF-certified 5K course. Flat, major tree-lined streets. No wheels (except wheelchairs) & no pets, please! Baby joggers and carriages OK for 1 MILE WALK ONLY. The 5K race will be professionally managed and utilize timing shoe chips.

Awards

Prizes will be awarded to the top three finishers in each age category for the 5K Run. All kids (10 and under) participating in the 1 mile run will receive a medal.

Packet Pick-up

April 11th, 12th, 13th: 5:30 PM – 7:30 PM at the Tomball Train Depot at 201 S. Elm
Race Day Pick-up & Registration: 7:00 AM – 7:30 AM (No t-shirt guarantee)

Registration

Register online at <http://secure.eztoregister.com/> or www.ci.tomball.tx.us

Register in person at Tomball City Hall—401 Market Street, Tomball, TX

To mail or fax registrations, download forms at www.ci.tomball.tx.us and submit to:
City of Tomball, Attn: Mike Baxter, 401 Market St., Tomball, TX 77375.
Fax 281-351-6256 or Email mbaxter@ci.tomball.tx.us .

Event Fees		
Category	On or Before 3/30/2012	After 3/30/2012
5K Run	\$15	\$20
1 Mile Run/Walk 11 yrs +	\$15	\$20
1 Mile Run/Walk 10 & under	\$10	\$12



Saturday, April 14, 2012
8:00 A.M. – 5K Run/Walk
8:45 A.M. – 1 Mile Run/Walk
Tomball Train Depot

Registration Form

****One registration form per participant****

Category: ☐ 5K Run/Walk ☐ 1 Mile Run/Walk ADULT ☐ 1 Mile Run/Walk YOUTH

First Name: _____ Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____ Phone: (____) _____

Birth Date: ____/____/____ Gender: ☐ F ☐ M

Email Address: _____

Shirt Size: ☐ YS ☐ YM ☐ YL | ☐ S ☐ M ☐ L ☐ XL ☐ XXL

For Credit Card Payments

Name on Card: _____ Type: ☐ Visa ☐ MasterCard

Card Number: _____ Exp. Date: _____ 3 Digit Sec. Code: _____

Emergency Contact: _____ Phone: (____) _____

Emergency Contact: _____ Phone: (____) _____

Waiver and Release: In consideration of the acceptance of this registration entry, I, the undersigned, assume full & complete responsibility for any injury or accident which may occur during my participation in this race, or while I am on the premises of this event and I hereby release and hold harmless the sponsors, officials and all other persons and entities associated with this event from any and all injury, damages or illness which may directly or indirectly result from participation in this race. I further state that I am in proper physical condition to participate.

Signature of Participant

Date

Signature of Parent/Guardian if Participant is Minor

Date

OFFICE USE ONLY:

Clerk: _____ Date/Time: _____ Total: \$ _____

Method of Payment: ☐ Cash ☐ Check ☐ Visa ☐ MC Auth. # _____

Your privacy will be respected and no information will be shared with third parties.



2nd SATURDAY At The DEPOT COMING APRIL 14TH



The fun begins at 5:30 p.m.
Admission is Always Free!

Bunny Run & Tomball Health Expo

Don't miss the 4th annual 5K Bunny Run and kid's 1M at the Depot, and Tomball Health Expo at the Texas Sports Medicine Center earlier in the day.

Visit www.ci.tomball.tx.us for details!

- From 4 to 5:30 p.m. there's a Golden Egg hunt from Tomball's downtown merchants. Get your info at the Depot.
- Music by the THS and TMHS Steel Drum Bands
- Earth Day activities, games and more from Girl Scout Troop 14352
- Live birds from "About Birds" in Pinehurst
- Meet Miss Tomball 2012, Lacey Easley
- Concessions and more



Donate a new or gently used children's book to the H-E-B book drive during 2nd Saturday and be entered to win a \$50 Kid's Gift Basket and all donations will receive a coupon good for one (1) free attraction at Mountasia at Willowbrook Mall.

***In the case of rain, the event will be held at the Tomball Community Center, 221 Market Street**

ART WALK

TOMBALL!

April 21, 2012
from 11 a.m. – 6 p.m.

- View and buy original artwork throughout the historic downtown district, meet the artists and enjoy wine, cheese and more along the route.

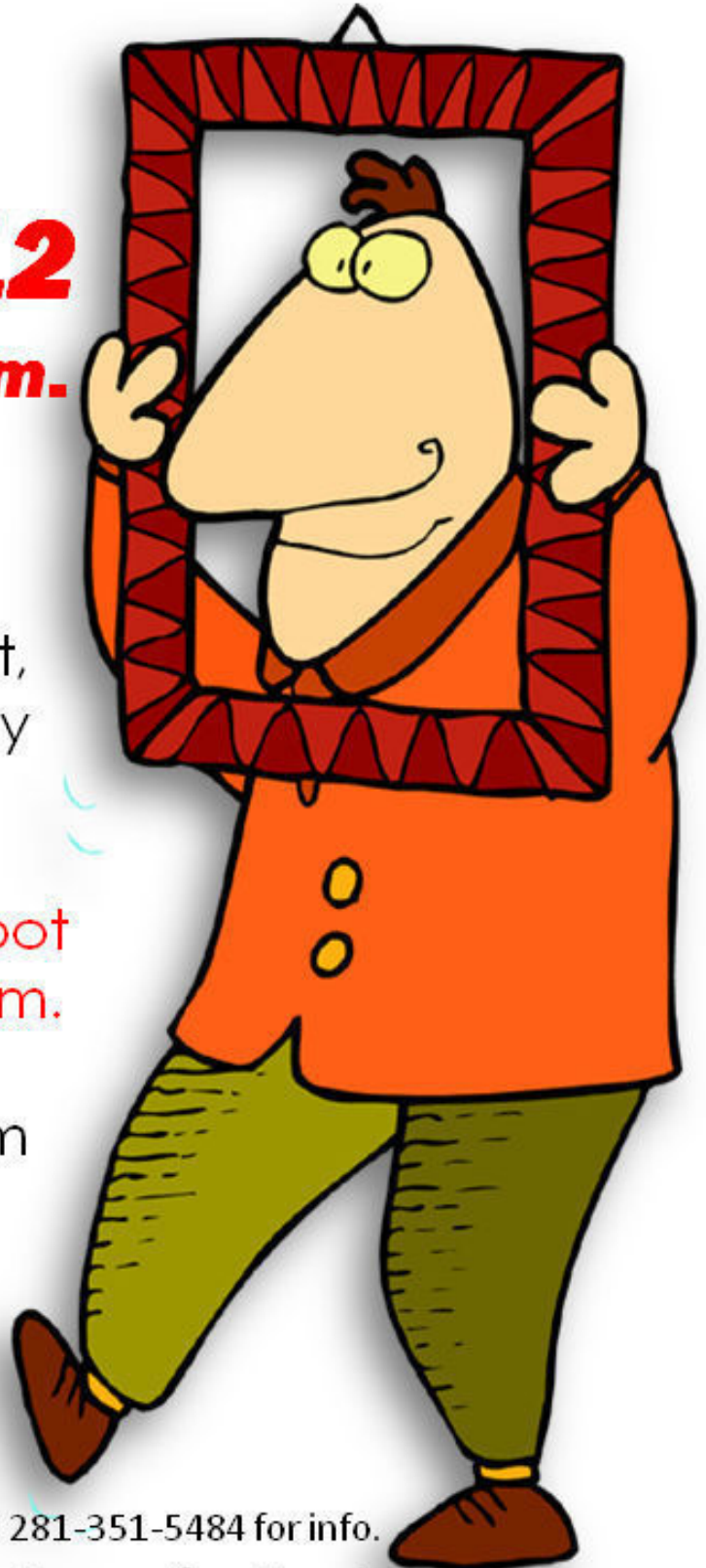
- Free Concert at the Depot Plaza from 4:30 to 7:00 p.m. following the walk.

- Beverages and eats from Cisco's Salsa Company during the concert.



Follow Tomball, Texas on [facebook](#) Call 281-351-5484 for info.

Remember . . . Tomball is Texan for Fun!



Tomball Consolidated Recycling Day

28597 Tomball Parkway

Old Kroger Center Parking Lot at Four Corners

Enter by Shipley's Donuts on SH 249

April 28th from 9am-1pm

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

~~Plastic Bags, Paint, Styrofoam~~

Thanks to our Community Partners and Sponsors!!!



Responsible E-cycling Solutions.

Got Drugs?



RAILS & TAILS MUDBUG FESTIVAL AT THE DEPOT



**MAY 5-6, 2012 - 11 A.M. TO 6 P.M.
TOMBALL, TEXAS**

Tons of crawfish, boudin, and more . . . Kids area, too!

*Live music from The Fab 5, Bayou Roux and
Louisiana's own Joel Martin on Saturday, May 5th.
On Sunday, May 6th it's Waylon Thibodeaux, Bayou Roux
and The Grateful Geezers*

CALL 281-351-5484 OR VISIT WWW.CI.TOMBALL.TX.US FOR INFO!

201 S. ELM STREET - TOMBALL, TEXAS - 77375

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 19, 2012

Topic:

Approve the Minutes of the March 5, 2012 Regular City Council Meeting

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

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

ATTACHMENTS:

Draft Minutes - March 5, 2012 City Council Meeting

NOTICE OF REGULAR CITY COUNCIL MEETING CITY OF TOMBALL, TEXAS



**MONDAY, MARCH 5, 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 Brown
Councilman Townsend
Councilman Dodson
Councilman Hudgens

Others present:

City Manager – George Shackelford
Assistant City Manager – Christal Weber
City Secretary – Doris Speer
City Attorney – Scott Bounds
Police Chief – Robert Hauck
Director of Public Works – David Kauffman
Assistant City Engineer – Lori Lakatos
Fire Chief – Randy Parr
Finance Director – Glenn Windsor
Marketing Director – Mike Baxter
Director of Community Development – Narciso Lira
HR Director – Lisa Coe
Community Events Coordinator – Rosalie Dillon
Executive Director-TEDC – Kelly Violette

2.0 Invocation

- Led by Brother Paul Michna, Spring Creek Church of Christ

3.0 Pledges to U. S. and Texas Flags

- Led by Courtlynn Noack and Anna Liu, Members of the Tomball High School Student Council

4.0 No public comments were received.

5.0 Reports and Announcements:

- March 10, 2012 – **NO Farmers Market**
- March 10, 2012 – **Oilfield Helping Hands Car Show and Motorcycle Rally**, 9:00 a.m.-5:00 p.m. at the Depot
- March 10, 2012 – **2nd Saturday at the Depot** – 5:00 p.m.
- March 19, 2012 – Candidate Orientation – 5:00 p.m.
- March 24, 2012 – **Tomball Honky-Tonk Music Festival**, at **Depot Plaza** – 11:00 a.m.-6:00 p.m.
- March 30-April 1, 2012 – **Tomball German Heritage Festival** in the Depot/Downtown Tomball Area
- March 31, 2012 – **NO Farmers Market**
- April 4, 2012 – **City of Tomball Youth Fair – Beckendorf Conference Center – LoneStar College**, 2:00 p.m.-6:00 p.m.
- April 14, 2012 – **4th Annual City of Tomball Bunny Run 5K and Kids 1K**
- April 14, 2012 – **2nd Day of Healthy Living in Tomball Expo – Texas Sports Medicine Center**, 9:00 a.m.-2:00 p.m.
- April 14, 2012 – **2nd Saturday at the Depot** – 5:00 p.m.
- April 16, 2012 - Appoint Members to the Tomball Economic Development Board for Terms Expiring May 2, 2012
- April 23-28, 2012 – Annual **Tomball Clean-up Week** – 8:00 a.m.-4:30 p.m. daily
- April 28, 2012 – Annual **Tomball Clean-up Recycling Day – E-Waste and Drug Take-Back Program – Tuesday Morning Parking Lot**
- **Early Voting** for May 12, 2012 General Election – April 30 through May 8, 2012 at City Hall (Monday, Wednesday, and Thursday – 7:45 a.m.-5:00 p.m.), (Tuesday – 7:45 a.m.-7:45 p.m.), and (Friday – 7:45 a.m.-4:00 p.m.)
- Possible Harris County Primary Election Dates – April 17, May 29, or June 5, 2012
- **Walk Tomball!** (every Saturday at 9:00 a.m. at the Depot)
- Reports by City staff and members of council about items of community interest on which no action will be taken

○

Lisa Coe –

Update regarding the City of Tomball Youth Fair on April 4, 2012

Mayor Fagan presented a Proclamation to Larry and Peggy Hugonin, declaring March 5, 2012 as **“Larry and Peggy Hugonin Day”** in honor of their 48th anniversary.

6.0 Motion was made by Councilman Dodson, second by Councilman Stoll, to approve the Minutes of the February 20, 2012 Regular City Council Meeting and the February 28, 2012

Special City Council Meeting.

Motion carried unanimously.

7.0 New Business:

- 7.1 Kelly Violette presented an overview of the proposed Resolution. Motion was made by Councilman Dodson, second by Councilman Brown, to approve Resolution No. 2012-04-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Approving Amended Bylaws of the Tomball Economic Development Corporation; Providing for the Effective Date, and other Related Matters.

Motion carried unanimously.

- 7.2 Kelly Violette presented an overview of the proposed Resolution. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Resolution No. 2012-05-TEDC, a Resolution of the City Council of the City of Tomball, Texas, Restating and Amending the Articles of Incorporation (Certificate of Formation); Authorizing and Directing the Execution and Filing of such Amended and Restated Articles by the Mayor and City Secretary; Authorizing the Corporation to act on behalf of the City for Certain Purposes; Providing for the Effective Date and other Related Matters.

Motion carried unanimously.

- 7.3 Kelly Violette presented an overview of the proposed Project. Motion was made by Councilman Townsend, second by Councilman Brown, to approve, as a Project of the Corporation, an agreement with Ameresco Solar, to make direct incentives to or expenditures for the creation or retention of primary jobs for Ameresco Solar. The estimated amount of expenditures for such project is an amount not to exceed \$36,000.00.

Motion carried unanimously.

- 7.4 Bryan Lyszaz and Sharon Pickett, Property Manager, presented an overview of the proposed Request. Motion was made by Councilman Hudgens, second by Councilman Brown, to approve Request by Mr. Bryan Lyszaz, with Clear Choice LED, LLC, to Allow a Changeable Electronic Variable Message Sign at 425 Holderrieth Boulevard. Motion to amend was made by Councilman Hudgens, second by Councilman Brown, to approve Request by Mr. Bryan Lyszaz, with Clear Choice LED, LLC, to Allow a Changeable Electronic Variable Message Sign at 425 Holderrieth Boulevard, with the stipulation that the sign will be dimmed to ten percent brightness and will become static at 8:00 p.m. and remain static until 6:30 a.m. the following morning.

Motion, as amended, carried unanimously.

City staff will provide Council with information regarding possible revisions to the sign ordinance, establishing specific conditions for CEVMS signs, at a future meeting.

- 7.5 David Kauffman presented recommendations regarding the proposed Building Removal. No action was taken regarding authorizing the Removal of Existing Buildings Located at 217 South Walnut Street, Owned by the City.

Motion carried unanimously.

- 7.6 Lori Lakatos presented an overview of the proposed Lease Agreement. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Lease Agreement with Bobbi L. Gunter for the Property Located at 24114 Flax Ct., Owned by the City.

Motion carried unanimously.

- 7.7 Lori Lakatos presented an overview of the proposed Plat. Motion was made by Councilman Townsend, second by Councilman Dodson, to approve **FINAL PLAT RESERVE AT SPRING LAKE SECTION ONE**: Being 221.2020 Acres located in the Joseph Miller League, A-50 W.H. Clemens Survey, A-1641, Harris County, Texas, City of Tomball, Texas.

Motion carried unanimously.

- 7.8 Glenn Windsor presented an overview of the proposed Request. Motion was made by Councilman Dodson, second by Councilman Townsend, to approve Request for Proposals for Independent Audit Services, as Required under Section 8.24 of the City Charter, for the Fiscal Year Ending September 30, 2012 and Two Succeeding Years.

Motion carried unanimously.

- 7.9 Executive Session: The City Council recessed at 7:02 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:

- Section 551.071 - Consultation with Attorney regarding Litigation

Councilman Dodson stated that he would abstain from participation in discussion or action in the Executive Session, based on the Conflict of Interest Affidavit previously filed with the City Secretary.

Upon reconvening in regular session at 8:16 p.m., no action was taken.

8.0 Motion was made by Councilman Townsend, second by Councilman Dodson, to adjourn.

Motion carried unanimously.

Meeting adjourned.

PASSED AND APPROVED this 19th day of March 2012.

Doris Speer, TRMC, CMC
City Secretary

Gretchen Fagan
Mayor

Regular City Council

Agenda Item

Meeting Date: March 19, 2012

Data Sheet

Topic:

Consideration and Possible Action Regarding Request from Jacqueline Angelo for the City of Tomball to Apply for Grant Assistance for 13142 Holderrieth Road

Background:

Ms. Angelo is requesting the City of Tomball apply for federal grants (Pre-Disaster Mitigation or Hazard Mitigation Program). City staff has reviewed her requests. There are multiple issues that need to be considered when reviewing the request.

1. Use of Property, Zoning
2. Eligibility for Grants, PDM, HMGP, or SRL
3. Major Thoroughfare Plan, School Street

Origination:

Jacqueline Angelo

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:

13142 Holderrieth Rd - Followup Info
13142 Holderrieth Rd Presentation
13142 Holderrieth Rd
13142 Holderrieth Rd - Floodplain Map
Proposed School St. Alignment
Major Thoroughfare Plan

13142 Holderrieth Rd

TDEM definition - A Primary Residence is one that the person lives in full time. Not sometimes, but is their sole home night and day.

FEMA

44 CFR Part 206 – Federal Disaster Assistance for Disasters declared on or After November 23, 1988

206.111 Definitions

Primary residence means the dwelling where the applicant normally lives, during the major portion of the calendar year; or the dwelling that is required because of proximity to employment, including agricultural activities, that provide 50 percent of the household's income.

Zoning

II. ZONING PROCEDURES & ADMINISTRATION

Section 7: NONCONFORMING USES & STRUCTURES

7.1 NONCONFORMING USES:

- A. Any lawful use of property existing at the time of passage of this Ordinance that does not conform to the regulations prescribed in the preceding sections of this Ordinance shall be deemed a legal nonconforming use.
- B. If no structural alterations (except those required by law or ordinance) are made, a nonconforming use may be extended throughout a building. A nonconforming use of a building may be changed to another nonconforming use of the same or more restrictive zoning classification, provided no structural alterations are made. In the event that a nonconforming use of a building is changed to a nonconforming use of a higher or more restrictive zoning classification, it shall not later be reverted to a use in the former lower or less restrictive zoning classification.
- C. The right of a nonconforming use to continue shall be subject to such regulations as to the maintenance of the premises and conditions of operation as may, in the judgment of the Board of Adjustments, be reasonably required for the protection of adjacent property.

7.2 NONCONFORMING STRUCTURES:

- A. A nonconforming structure may continue to be occupied and may be enlarged, repaired, or altered provided such does not create an additional nonconformity or increase the degree of existing nonconformity with respect to maximum building height or minimum yard requirements. No alteration or enlargement shall extend further into the required yard than the existing nonconforming portion of the building. This provision shall apply separately to each yard requirement with which the existing structure does not comply.

- B. If fifty percent (50%) or more of the improvement's appraised value, as determined by the Harris County Appraisal District, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be rebuilt only in conformity with the provisions of this Ordinance.
- C. If less than fifty percent (50%) of the improvement's appraised value, as determined by the Harris County Appraisal District, of a nonconforming structure is destroyed by fire, the elements, or some other cause, then the structure may be reconstructed as it was before the partial destruction but only to its original dimensions and floor area, and provided that such reconstruction is completed within one (1) year (i.e., 365 calendar days) following the event that caused the partial destruction. If reconstruction is delayed by contested insurance claims, litigation, or some other similar cause, then the one-year reconstruction period may be extended by the Board of Adjustments.
- D. If a nonconforming structure that is totally or partially destroyed was occupied by a nonconforming use at the time of such destruction, then the nonconforming use may not be re-established without specific authorization by the Board of Adjustments. (See Section 9)
- E. Any conforming structure that is totally or partially destroyed shall be reconstructed only in conformity with the provisions of this Ordinance.
- F. Nothing in this Ordinance shall be construed to prohibit the upgrading, strengthening, repair or maintenance of any part of any structure, conforming or nonconforming, that is declared unsafe or uninhabitable by the proper authority, unless such repairs or maintenance exceeds fifty percent (50%) of the structure's appraised value, as determined by the Harris County Appraisal District.

7.3 ABANDONMENT OF NONCONFORMING USES AND STRUCTURES, & CESSATION OF USE OF STRUCTURE OR LAND:

- A. If a nonconforming use or structure is abandoned, any future use of the premises shall be in conformity with the provisions of this Ordinance, as amended, and with any other applicable City codes or ordinances that are in effect at the time the use is resumed or the structure is re-occupied.
- B. A nonconforming use or structure shall be deemed "abandoned" in the following circumstances:
 - 1. The use ceases to operate for a continuous period of 180 calendar days;
 - 2. The structure remains vacant for a continuous period of 180 calendar days with all or some of the utilities disconnected, or if utility payments are delinquent; or
 - 3. In the case of a temporary use, the use is moved from the premises for any length of time.
 - 4. A non-conforming use or structure shall not be deemed "abandoned" for a period of up to one year on properties that are for sale or lease, provided the owner is actively promoting the sale or lease and there is evidence of continual use of signs, advertising or listings.
- C. Normal cessation of a use, or temporary discontinuance for purposes of maintenance and rebuilding after damage or destruction, as provided in this Section, shall not be included in calculating the period of discontinuance.

- D. If the use of any lot, tract or property that does not have a building on it and that is used for open/outside storage as of the effective date of this Ordinance (or amendment thereto) is made nonconforming by this Ordinance (or amendment thereto), then such storage use shall cease within 180 calendar days following the effective date of this Ordinance (or amendment thereto). The lot, tract or property shall be cleaned and all trash, debris, stored items and vehicles, and other materials shall be removed from the premises such that the property is not a physical or visual nuisance to the public or to surrounding property owners.

7.4 MOVING OF NONCONFORMING STRUCTURE:

No nonconforming structure or building shall be moved in whole or in part to any other location on the lot, or to any other location or lot, unless every portion of such structure is in compliance with all the regulations of the zoning district wherein the structure is to be relocated. Such building relocation shall also require a structure relocation permit from the City, and may also require platting of the intended building site pursuant to the City's Subdivision Ordinance as well as any approval processes required by this Ordinance.

Major Thoroughfare Plan

School Street intended to connect to Holderrieth Rd., just west of extending structure at 13142 Holderrieth Rd.

Water/Sanitary Sewer

The City does not and has not provided water, sewer, or gas services to the property. The City has provided garbage services since 1975 as a commercial.

Zoning

Abandoned Use – Does not live on Property, Vacant for more than 180 days

Non-conforming Use – Zoned Commercial

Rezoning – To Continue Use, not consistent with Comprehensive Plan

Grant Eligibility

Pre-Disaster Mitigation Program

Benefit Cost =1

75% Federal / 25 % Local Cost Share

Hazard Mitigation Grant Program

Elevated within the footprint of the original home

Benefit Cost =1

75% Federal / 25 % Local Cost Share

Severe Repetitive Loss Program

Elevate or Relocate

90% Federal / 10% Local Cost Share

Grant Requirements

Primary Residence – Not primary residence

Flood Insurance – Property owner shall retain flood insurance for life of property -

Currently not insured

City required to prepare grant application and administration, cost/time unknown

Project to require City bidding process and contracting procedures.

City to fund 100% and be reimbursed by state and property owner

Property owner will need to provide source of funding prior to project beginning.

Building will be required to be in conformance with all City Ordinance.



13142 Holderrieth Rd

Grant Application Request

Jacqueline Angelo

13142 Holderreith Rd



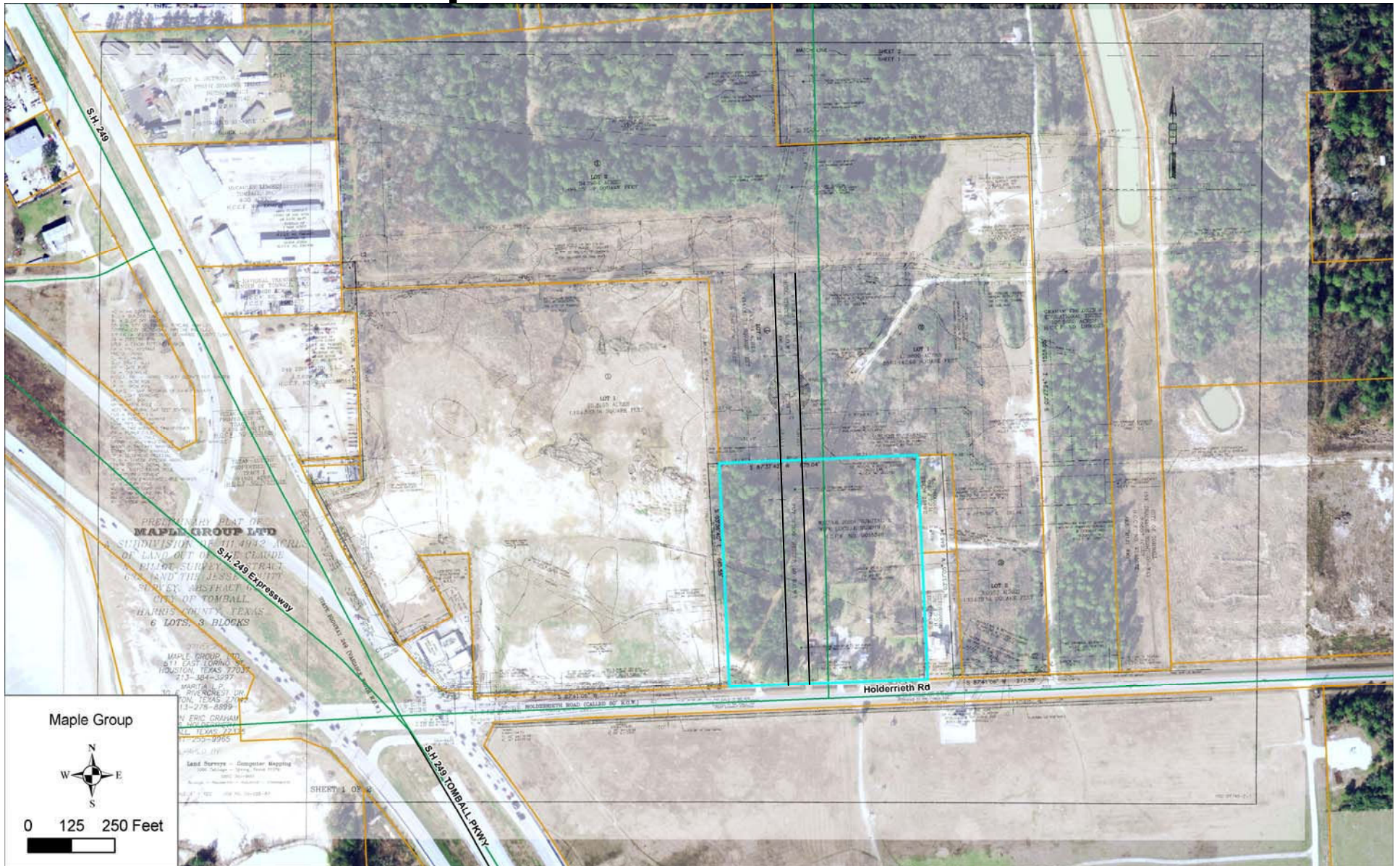
Possible Eligible Grants

- Pre-Disaster Mitigation Program
 - Benefit Cost =1
 - 75% Federal / 25% Local Cost Share
- Hazard Mitigation Grant Program
 - Elevated within the footprint of the original home.
 - 75% Federal / 25% Local Cost Share
- Severe Repetitive Loss Program
 - Elevate or Relocate
 - 90% Federal / 10% Local Cost Share
- Residence has to be the Primary Residence

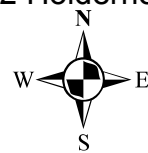
Considerations

- Use of Property
 - Zoning District – Commercial
 - Legal Non-Comforming Use must be within the previous 6 months to be allowed to continue.
- Major Thoroughfare Plan
 - Proposed School St. impacts the property.
 - Potential damages to existing structure if acquired.

Proposed School St.



Jacqueline Angelo
13142 Holderrieth Rd

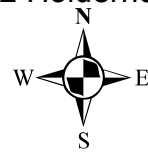


0 50 100 Feet





Jacqueline Angelo
13142 Holderrieth Rd



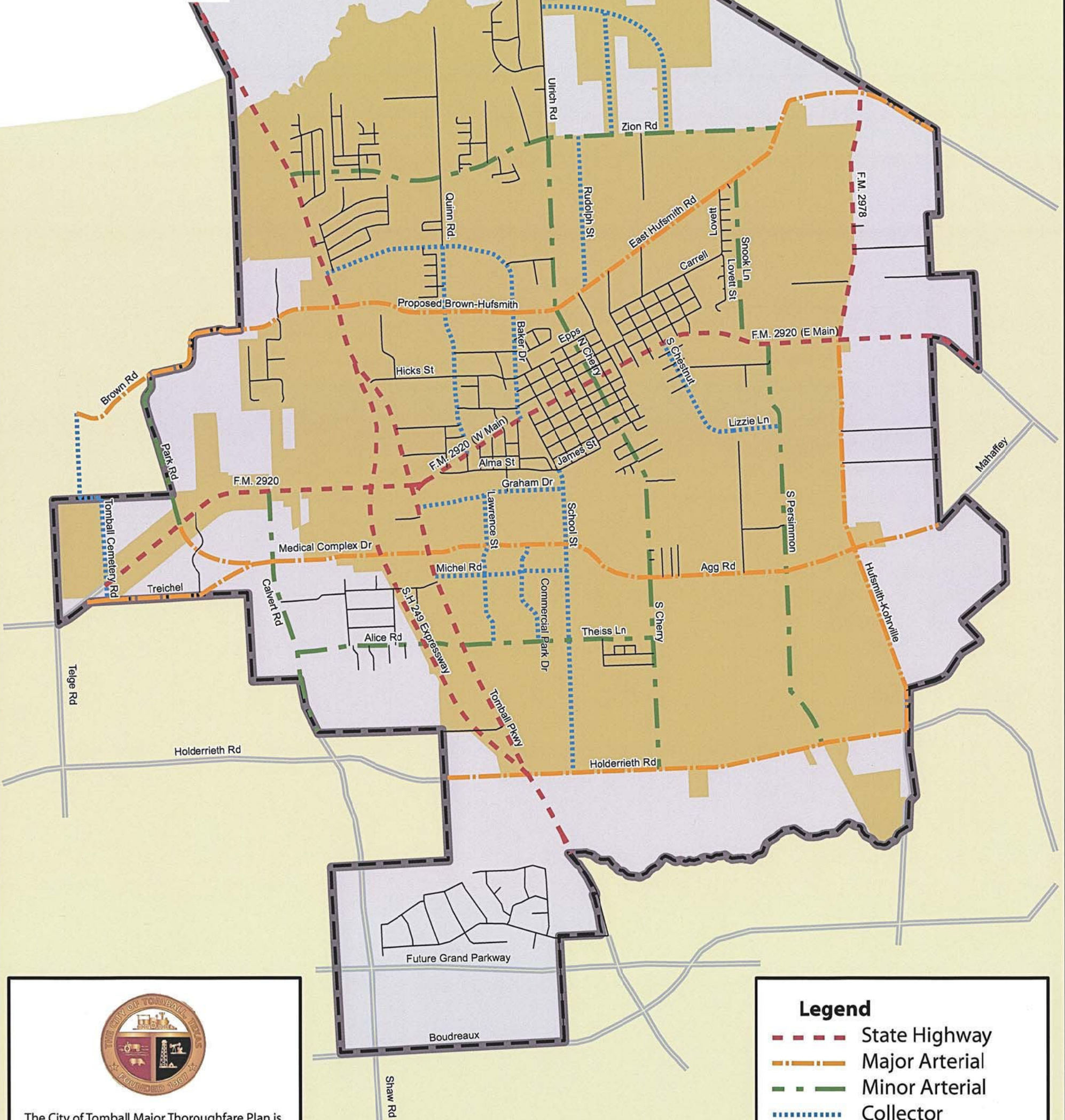
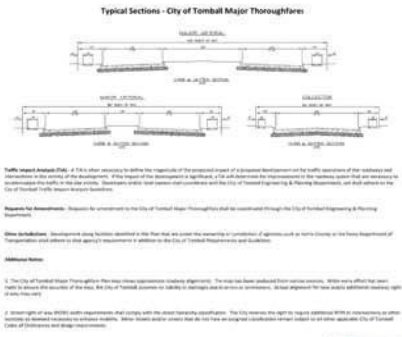
0 100 200 Feet

City Of Tomball Major Thoroughfare Plan

City of Tomball Major Thoroughfare Plan

Map of the City of Tomball Major Thoroughfare Plan showing the City Limits and ETJ. The map includes major thoroughfares, minor streets, and collector roads. The City Limits are shown in yellow, and the ETJ is shown in light yellow. The map also includes a legend for road types and a scale bar.

Thoroughfare	Classification	Width (ft)	Speed Limit (mph)	Notes
State Highway	State Highway	60	70	Includes F.M. 2920, F.M. 2978, and F.M. 2920 (E Main).
Major Arterial	Major Arterial	40	35	Includes Brown Rd, Park Rd, and F.M. 2920 (W Main).
Minor Arterial	Minor Arterial	30	25	Includes Hickory St, Alma St, and James St.
Collector	Collector	20	15	Includes Quin Rd, Baker Dr, and School St.
Minor Streets	Minor Streets	15	10	Includes Lizzie Ln, Agg Rd, and S Persimmon.



The City of Tomball Major Thoroughfare Plan is updated regularly to include all new roadways within the City's Limits and ETJ. Future roadway locations/classifications are updated or changed only by approval of the City of Tomball City Council. This map was approved by the City Ordinance No. 2009-08 on March 16, 2009.

James H. Felle
Director of Engineering & Planning

03/24/09
Date

Legend

- State Highway
- Major Arterial
- Minor Arterial
- Collector
- Minor Streets
- Tomball ETJ
- Tomball City Limits
- COH ETJ
- COH MTFP

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 19, 2012

Topic:

Approve and Authorize the Mayor to Issue a Letter of Support to the Houston-Galveston Area Council (H-GAC) for the 2013-2016 Transportation Improvement Program

Background:**Origination:**

George Shackelford

Recommendation:

Approve and Authorize the Mayor to Issue the Letter of Support

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	

ATTACHMENTS:

Draft Letter of Support to H-GAC



City of Tomball

*Gretchen Fagan
Mayor*

*George Shackelford
City Manager*

March 20, 2012

Transportation Public Information
Houston-Galveston Area Council
P.O. Box 22777
Houston, TX 77227-2777

RE: Proposed 2013-2016 TIP

Dear Sirs

The City Council of the City of Tomball Texas met March 19, 2012 and wishes to encourage the H-GAC Board of Directors to include the entire construction and reconstruction of the SH249 project, from Spring Cypress to FM1774, as identified in the proposed 2013-2016 H-GAC TIP.

In addition, we encourage the inclusion of the south/bound west/bound direct connector from SH249 to Beltway 8, along with the four (4) direct connectors from SH249 to the Grand Parkway (Segment F-1) to also be included.

These projects are absolutely crucial to the continued development in Northwest Harris County and Montgomery County and further regional expansion to the Bryan/College Station area.

Thank you for your consideration.

Respectfully submitted,

Gretchen Fagan, Mayor
City of Tomball, Texas

cc: Mr. Alan Clark
Director of Transportation Planning

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 19, 2012

Topic:

Approve Request from Howard Katz, Attorney for Harris County Emergency Services District No. 8 (ESD No. 8), to Share Election Facilities with the City of Tomball, to Facilitate the Harris County Emergency Services District ESD No. 8's Called May 12, 2012 District Commissioners and Tax Rate Election for ESD No. 8

Background:

Harris County Emergency Services District No. 8 (ESD No. 8), through Northwest EMS, provides ambulance services for the City of Tomball and the City's extra-territorial jurisdiction (ETJ).

ESD No. 8 has called a Commissioner and Tax Rate Election on May 12, 2012 and desires to share the City's facilities at City Hall for Early Voting and Election Day. ESD No. 8 does not request a joint election or agreement, only a sharing of space; ESD No. 8 will provide its own election equipment and personnel for the election.

The City has shared space with ESD No. 8 before, in the original election to establish the ESD and in 2008 for their District Commissioners Election. Sharing space with ESD No. 8 provides Tomball voters the convenience of voting in both elections at one location. We have sufficient space available to accommodate ESD No. 8 for both early voting and Election Day activities.

ESD No. 8 was precleared to share facilities with the City in previous elections and there is insufficient time to request Department of Justice approval/preclearance to move the ESD election to another location, as the deadline to preclear any changes was February 17, 2012.

Origination:

Howard Katz, Attorney for ESD No. 8

Recommendation:

Approve Request to Share Election Facilities. Aligns with the City's Strategic Plan to provide "a highly efficient, service-oriented culture".

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	

ATTACHMENTS:

Request from ESD No. 8 to Share Election Facilities

COVELER & KATZ, P.C.

Attorneys At Law
TWO MEMORIAL CITY PLAZA
820 GESSNER, SUITE 1710
HOUSTON, TEXAS 77024-8261
Telephone (713) 984-8222
Facsimile (713) 984-0670

March 15, 2012

The Honorable Gretchen Fagan
Mayor, City of Tomball
401 Market Street
Tomball, Texas 77375

Dear Mayor Fagan:

As you may re-call, this office represents Harris County Emergency Services District No. 8, operating in the City of Tomball and its ETJ, providing EMS to the District service area.

The District is scheduled to hold a Commissioner and tax rate election on May 12, 2012. We understand that the City is also having an election for city council. Since the District includes the City of Tomball, may we ask that the City allow our joint/shared use of the city election site as an election location for election day and the early voting period. This will certainly be a convenience to the voters. The District is not requesting a Joint Election Agreement; all election equipment and personnel for the District's election will be provided by the District.

Thank you for your attention and courtesy. Please contact me with any questions.

Very truly yours,

COVELER & KATZ, P.C.

By:

Howard L. Katz

HLK/jp

cc: Mr. George Shackelford, Tomball City Manager, 401 Market Street,
Tomball, Texas 77375
Ms. Doris Speer, City Secretary
Ms. Christal Kliever Weber, Assistant City Manager

Regular City Council

Agenda Item

Meeting Date: March 19, 2012

Data Sheet

Topic:

Approve Purchase by the City of Tomball of Three (3) Tax Forfeiture Lots, Lot 4, Block 6, Lot 6, Block 6, and Lot 11, Block 6, for Total Bid Price of \$13,200.00.

Background:

This item is to finalize the purchase of three vacant lots in the Depot area. All of these parcels are tax forfeited lots held in custody by either the City of Tomball or Tomball Independent School District. The City is able to purchase these lots for the amount of taxes owed to all taxing authorities, plus judgment and fees. TISD has approved the sale of lots in its custody to the City of Tomball.

These lots have been in trust for many years and will add to the public space available at the Depot.

Origination:

City Manager's Office

Recommendation:

Funding:

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

Christal Kliewer Weber, Assistant City Manager

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

ATTACHMENTS:

98-29621Bid Analysis

Area Map

99-43171 bid analysis

04-30692

Redeed 1

Redeed 2

Redeed 3

BID ANALYSIS

Cause #: 98-29621
Bid Amount: \$4,400.00
Bidders Name: City of Tomball
Strike Off Date: 03-02-2001

HCAD Acct. #: 035-257-006-0011
Judgment Value: \$4,400.00
Minimum Bid at first sale: \$4,400.00
Redemption Expires: 09-02-2001

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
City of Tomball	1979-1998	<u>\$735.48</u>
Tomball ISD (incl. CED)	1978-1998	<u>\$2,329.85</u>
Harris County (incl. NHMCC)	1939-1998	<u>\$1,164.57</u>

Total: \$4,229.90

COSTS

Publication Fee: (Payable to Daily Court Review)	\$175.00
Court Costs: (Payable to Chris Daniel)	\$721.00
Tax Master Fee: (Payable to Chris Stacy)	\$50.00
Research Fee: (Payable to PBFCM)	\$150.00
Ad Litem Fee: (Payable to John S. Cossum)	\$1,200.00
Deed & Resale Deed Fee: (Payable to PBFCM)	\$46.00

Total: \$2,342.00

POST JUDGMENT TAXES

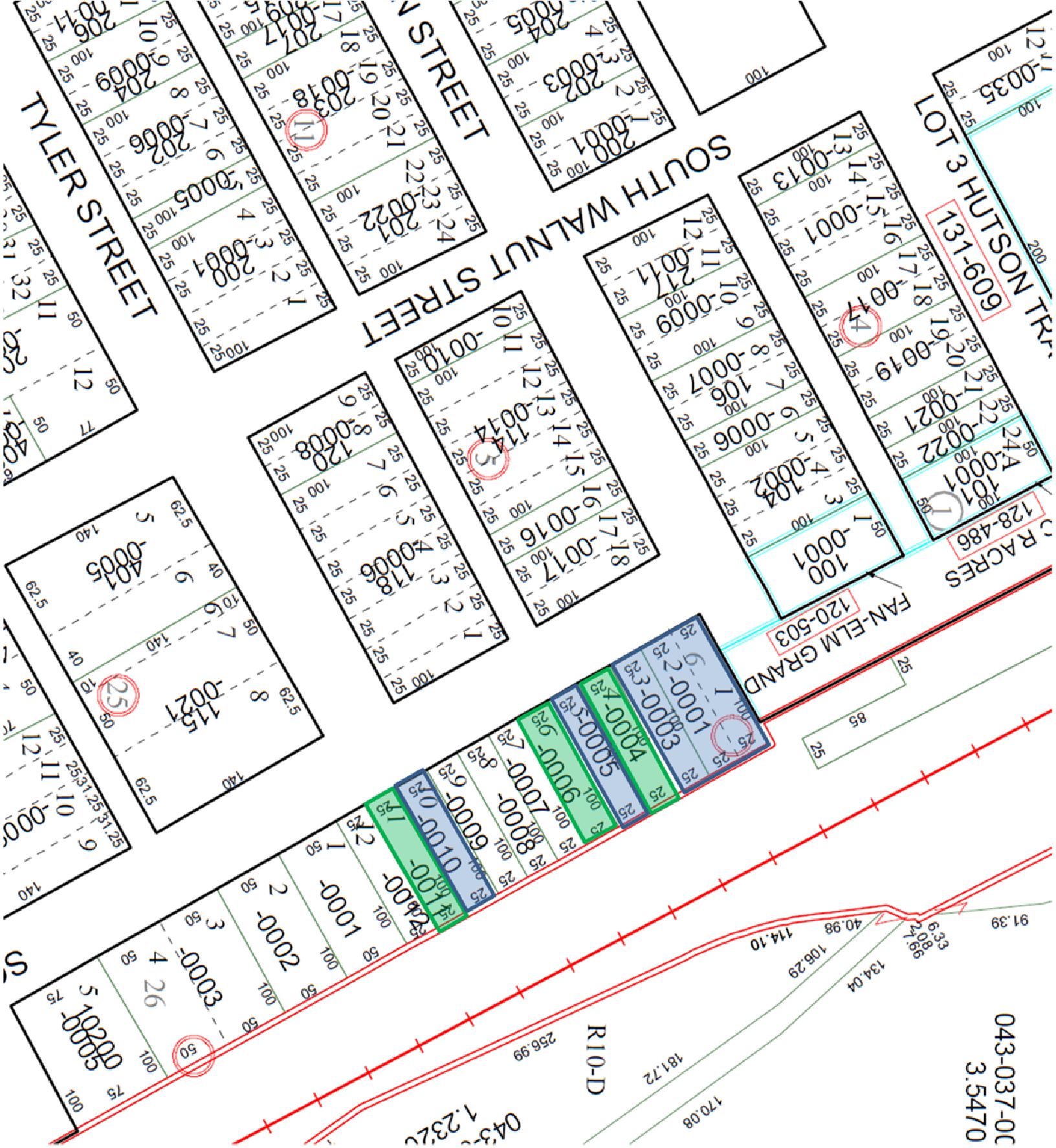
<u>Entity</u>	<u>Tax Year</u>	<u>Amount due January 2012</u>
City of Tomball	1999-2000	\$81.41
Tomball ISD	1999-2000	\$409.67
Harris County	1999-2000	\$192.83

PROPOSED DISTRIBUTION

Bid Amount:	<u>\$ 4,400.00</u>	Costs: <u>\$ 2,342.00</u>
Net to Distribute:	<u>\$ 1,374.09</u>	Post Judgment: <u>\$ 683.91</u>

Disburse checks as follows:

PBFCM	\$2,342.00	Costs for lawsuit including: research fee, resale deed fee, tax master, court costs, ad litem fee, publication fee, etc.
City of Tomball	\$320.33	pro-rated amount for judgment years 1979-1998 (\$238.92) plus \$81.41 for post judgment years due
Tomball ISD	\$1,166.53	pro-rated amount for judgment years 1978-1998 (\$756.86) plus \$409.67 for the post judgment years due
County (inc. NHMCCD)	\$571.14	pro-rated amount for judgment years 1939-1998 (\$378.31) plus \$192.83 for the post judgment years due



City Owned
Lot

Forfeiture Lot
to Purchase

BID ANALYSIS

Cause #: 1999-43171
Bid Amount: \$4,400.00
Bidders Name: City of Tomball
Strike Off Date: 01-12-2001

HCAD Acct. #: 035-257-006-0004
Judgment Value: \$4,400.00
Minimum Bid at first sale: \$4,367.75
Redemption Expires: 07-12-2001

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
City of Tomball	1979-1999	<u>\$658.80</u>
Tomball ISD (incl. CED)	1985-1999	<u>\$1,758.20</u>
Harris County	1985-1999	<u>\$743.75</u>

Total: \$3,160.75

COSTS

Publication Fee: (Payable to Daily Court Review) \$175.00
Resale Deed Fee: (Payable to PBFCM) \$35.00

Total: \$210.00**

***All other costs previously paid under resale for tract 2 under this judgment in 2006.*

POST JUDGMENT TAXES

<u>Entity</u>	<u>Tax Year</u>	<u>Amount due January 2012</u>
City of Tomball	2000	\$30.71
Tomball ISD	2000	\$173.16
Harris County, et al	2000	\$77.60

PROPOSED DISTRIBUTION

Bid Amount:	<u>\$ 4,400.00</u>	Costs: <u>\$ 210.00</u>
Net to Distribute:	<u>\$ 3,908.53</u>	Post Judgment: <u>\$ 281.47</u>

Disburse checks as follows:

PBFCM	\$210.00	Costs for lawsuit including: resale deed fee and publication fee
City of Tomball	\$845.37	Amount for judgment years 1979-1999 (\$658.80) plus \$30.71 for the post judgment year due plus overage in the amount of \$155.86
Tomball ISD	\$2,347.32	Amount for judgment years 1985-1999 (\$1,758.20) plus \$173.16 for the post judgment year due plus overage in the amount of \$415.96
County	\$997.31	Amount for judgment years 1985-1999 (\$743.75) plus \$77.60 for the post judgment year due plus overage in the amount of \$175.96

Resale Offer: 1999-43171

BID ANALYSIS

Cause #: 2004-30692
Bid Amount: \$4,400.00
Bidders Name: City of Tomball
Strike Off Date: 04-11-2006

HCAD Acct. #: 035-257-006-0006
Judgment Value: \$4,400.00
Minimum Bid at first sale: \$4,400.00
Redemption Expires: 10-11-2006

JUDGMENT INFORMATION

<u>Tax Entity</u>	<u>Tax Years</u>	<u>Amount Due</u>
City of Tomball	1986-2004	<u>\$781.31</u>
Tomball ISD (incl. CED)	1986-2004	<u>\$3,286.82</u>
Harris County (incl. NHARR & ESD 8)	1984-2004	<u>\$1,619.85</u>

Total: \$5,687.98

COSTS

Publication Fee: (Payable to Daily Court Review)	\$250.00
Court Costs: (Payable to Chris Daniel)	\$647.00
Constable Fee: (Payable to Const. Ron Hickman)	\$200.00
Tax Master Fee: (Payable to Michael Landrum)	\$45.00
Research Fee: (Payable to PBFCM)	\$200.00
Advertising Fee: (Payable to PBFCM)	\$50.00
Ad Litem Fee: (Payable to William D. Torok)	\$590.00
Deed & Resale Deed Fee: (Payable to PBFCM)	\$55.00

Total: \$2,037.00

POST JUDGMENT TAXES

<u>Entity</u>	<u>Tax Year</u>	<u>Amount due January 2012</u>
City of Tomball	2005-2006	\$64.27
Tomball ISD	2005-2006	\$394.30
Harris County, et al	2005-2006	\$186.10

PROPOSED DISTRIBUTION

Bid Amount:	<u>\$ 4,400.00</u>	Costs: <u>\$ 2,037.00</u>
Net to Distribute:	<u>\$ 1,718.33</u>	Post Judgment: <u>\$ 644.67</u>

Disburse checks as follows:

PBFCM	\$2,037.00	Costs for lawsuit including: research fee, resale deed fee, tax master, court costs, ad litem fee, publication fee, etc.
City of Tomball	\$300.30	pro-rated amount for judgment years 1986-2004 (\$236.03) plus \$64.27 for the post judgment years due
Tomball ISD	\$1,387.25	pro-rated amount for judgment years 1986-2004 (\$992.95) plus \$394.30 for the post judgment years due
County (inc. NHARR & ESD 8)	\$675.45	pro-rated amount for judgment years 1984-2004 (\$489.35) plus \$186.10 for post judgment years due

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.
(Language pursuant to Section 11.008 of the Texas Property Code)**

THE STATE OF TEXAS	§	
	§	RESALE DEED
COUNTY OF HARRIS	§	

KNOW ALL MEN BY THESE PRESENTS that the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of FOUR THOUSAND, FOUR HUNDRED DOLLARS AND 00/100 (\$4,400.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by CITY OF TOMBALL ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT in the property herein conveyed, acquired by tax foreclosure sale heretofore held, in Cause No. 1998-29621, styled City of Tomball, et al vs. Dawson, C. O., Trustee, said property being described as:

LOT 11, IN BLOCK 6, OF TOMBALL, LOCATED IN HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED IN VOLUME 44, PAGE 279 OF THE REAL PROPERTY RECORDS OF HARRIS COUNTY, TEXAS. (HCAD ACCOUNT NO. 035-257-006-0011)

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said CITY OF TOMBALL, its successors and assigns forever, so that neither the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT,

Resale Deed; Cause No. 98-29621
City of Tomball vs. Dawson, C. O.

HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition, subject to any environmental conditions that might have or still exist on said property and subject to the rights of any parties in possession of the property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF, CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT have caused these presents to be executed this _____ day of _____, _____.

CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE
FOR TOMBALL INDEPENDENT SCHOOL DISTRICT,
HARRIS COUNTY EDUCATION DISTRICT, HARRIS
COUNTY, HARRIS COUNTY EDUCATION
DEPARTMENT, PORT OF HOUSTON OF HARRIS
COUNTY AUTHORITY, HARRIS COUNTY FLOOD
CONTROL DISTRICT, HARRIS COUNTY HOSPITAL
DISTRICT AND NORTH HARRIS MONTGOMERY
COMMUNITY COLLEGE DISTRICT

GRETCHEN FAGAN, MAYOR

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared Gretchen Fagan, Mayor, City of Tomball, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of

_____, _____.

NOTARY PUBLIC, in and for the
STATE OF TEXAS

My Commission Expires: _____

Grantee: CITYOF TOMBALL

After Recording, Return To:

**Perdue, Brandon, Fielder, Collins & Mott, L.L.P.
1235 North Loop West, Suite 600
Houston, Texas 77008**

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.
(Language pursuant to Section 11.008 of the Texas Property Code)**

THE STATE OF TEXAS	§	
	§	RESALE DEED
COUNTY OF HARRIS	§	

KNOW ALL MEN BY THESE PRESENTS that the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of FOUR THOUSAND, FOUR HUNDRED DOLLARS AND 00/100 (\$4,400.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by CITY OF TOMBALL ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT in the property herein conveyed, acquired by tax foreclosure sale heretofore held, in Cause No. 1999-43171, styled City of Tomball, et al vs. Linebarger Brothers Realty, CO., et al said property being described as:

LOT 4, IN BLOCK 6, OF TOMBALL, LOCATED IN HARRIS COUNTY, TEXAS, BEING MORE PARTICULARLY DESCRIBED IN VOLUME 290, PAGE 1 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS. (HCAD ACCOUNT NO. 035-257-006-0004)

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said CITY OF TOMBALL, its successors and assigns forever, so that neither the CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT,

Resale Deed; Cause No. 1999-43171
City of Tomball, et al vs. Linebarger Brothers Realty Co.

HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition, subject to any environmental conditions that might have or still exist on said property and subject to the rights of any parties in possession of the property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF, CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE FOR TOMBALL INDEPENDENT SCHOOL DISTRICT, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, AND NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT have caused these presents to be executed this _____ day of _____, _____.

CITY OF TOMBALL, FOR ITSELF AND AS TRUSTEE
FOR TOMBALL INDEPENDENT SCHOOL DISTRICT,
HARRIS COUNTY EDUCATION DISTRICT, HARRIS
COUNTY, HARRIS COUNTY EDUCATION
DEPARTMENT, PORT OF HOUSTON OF HARRIS
COUNTY AUTHORITY, HARRIS COUNTY FLOOD
CONTROL DISTRICT, HARRIS COUNTY HOSPITAL
DISTRICT, AND NORTH HARRIS MONTGOMERY
COMMUNITY COLLEGE DISTRICT

GRETCHEN FAGAN, MAYOR

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared Gretchen Fagan, Mayor, City of Tomball, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of

_____, _____.

NOTARY PUBLIC, in and for the
STATE OF TEXAS

My Commission Expires: _____

Grantee: CITYOF TOMBALL

After Recording, Return To:

Perdue, Brandon, Fielder, Collins & Mott, L.L.P.

1235 North Loop West, Suite 600

Houston, Texas 77008

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any of the following information from this instrument before it is filed for record in the public records: your social security number or your driver's license number.
(Language pursuant to Section 11.008 of the Texas Property Code)**

THE STATE OF TEXAS	§	
	§	RESALE DEED
COUNTY OF HARRIS	§	

KNOW ALL MEN BY THESE PRESENTS that the TOMBALL INDEPENDENT SCHOOL DISTRICT, FOR ITSELF AND AS TRUSTEE FOR CITY OF TOMBALL, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT AND HARRIS COUNTY EMERGENCY SERVICE DISTRICT #8 acting by and through its duly elected official ("GRANTOR") as authorized by Section 34.05, Texas Property Tax Code, for and in consideration of the sum of FOUR THOUSAND, FOUR HUNDRED DOLLARS AND 00/100 (\$4,400.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, in hand paid by CITY OF TOMBALL ("GRANTEE") the receipt of which is hereby acknowledged and confessed, has conveyed and quitclaimed and by these presents do convey and quitclaim unto said grantee all right, title and interest of the TOMBALL INDEPENDENT SCHOOL DISTRICT, FOR ITSELF AND AS TRUSTEE FOR CITY OF TOMBALL, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT AND HARRIS COUNTY EMERGENCY SERVICE DISTRICT #8 in the property herein conveyed, acquired by tax foreclosure sale heretofore held, in Cause No. 2004-30692, styled Tomball Independent School District, et al vs. Robinson, Mary, said property being described as:

LOT 6, IN BLOCK 6, OF TOMBALL, LOCATED IN HARRIS COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED IN VOLUME 394, PAGE 341 OF THE DEED RECORDS OF HARRIS COUNTY, TEXAS. (HCAD ACCOUNT NO. 035-257-006-0006)

This conveyance is made and accepted subject to the following matters to the extent that the same are in effect at this time: any and all rights of redemption, restrictions, covenants, conditions, easements, encumbrances and outstanding mineral interests, if any, relating to the hereinabove described property, but only to the extent they are still in effect, shown of record in the hereinabove mentioned County and State, and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any but only to the extent that they are still in effect, relating to the hereinabove described property.

TO HAVE AND TO HOLD said premises, together with all and singular the rights, privileges and appurtenances thereto in any manner belonging unto the said CITY OF TOMBALL, its successors and assigns forever, so that neither the TOMBALL INDEPENDENT

Resale Deed; Cause No. 2004-30692
Tomball ISD, et al vs. Robinson, Mary

SCHOOL DISTRICT, FOR ITSELF AND AS TRUSTEE FOR CITY OF TOMBALL, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT AND HARRIS COUNTY EMERGENCY SERVICE DISTRICT #8, and any person claiming under it shall at any time hereafter have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part thereof.

Grantee accepts the property in "AS IS" condition, subject to any environmental conditions that might have or still exist on said property and subject to the rights of any parties in possession of the property.

Post judgment taxes and taxes for the current year are assumed by Grantee.

IN TESTIMONY WHEREOF, TOMBALL INDEPENDENT SCHOOL DISTRICT, FOR ITSELF AND AS TRUSTEE FOR CITY OF TOMBALL, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT AND HARRIS COUNTY EMERGENCY SERVICE DISTRICT #8 have caused these presents to be executed this _____ day of _____, _____.

TOMBALL INDEPENDENT SCHOOL DISTRICT, FOR ITSELF AND AS TRUSTEE FOR CITY OF TOMBALL, HARRIS COUNTY EDUCATION DISTRICT, HARRIS COUNTY, HARRIS COUNTY EDUCATION DEPARTMENT, PORT OF HOUSTON OF HARRIS COUNTY AUTHORITY, HARRIS COUNTY FLOOD CONTROL DISTRICT, HARRIS COUNTY HOSPITAL DISTRICT, NORTH HARRIS MONTGOMERY COMMUNITY COLLEGE DISTRICT AND HARRIS COUNTY EMERGENCY SERVICE DISTRICT #8

JOHN E. McSTRAVICK,
BOARD PRESIDENT

THE STATE OF TEXAS

§

§

COUNTY OF HARRIS

§

BEFORE ME, the undersigned authority, on this day personally appeared John E. McStravick, President of the Board of Trustees for Tomball Independent School District, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of

_____, _____.

NOTARY PUBLIC, in and for the
STATE OF TEXAS

My Commission Expires: _____

Grantee: CITYOF TOMBALL

After Recording, Return To:
Perdue, Brandon, Fielder, Collins & Mott, L.L.P.
1235 North Loop West, Suite 600
Houston, Texas 77008

Regular City Council

Agenda Item

Data Sheet

Meeting Date: March 19, 2012

Topic:

Adopt, on First Reading, Ordinance No. 2012-03, an Ordinance of the City Council of the City of Tomball, Texas, amending Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the City's Code of Ordinances relating to the Prohibition of Weeds; Providing a New Definition of "Weeds"; Providing a Penalty of Up to \$2,000.00 for Violations with Each Day Constituting a Separate Violation; Providing for the Publication of This Ordinance; and Making Other Findings and Provisions related Thereto

Background:

Staff is recommending an amendment to Section 30-159 of Chapter 30 to the City's Code of Ordinance. The ordinance currently states that every property owner shall keep their property free from weeds. The ordinance defines weeds to be any "uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 18 inches, covering over 40 percent of the area of the property or parcel". Enforcement under these current regulations restricts the City in addressing some of the recent complaints and while trying to meet the vision established by the City's Comprehensive Plan. The attached ordinance amends the definition of a weed by reducing the 18 inches in height to 12 inches and eliminating the reference to the minimum 40 percent coverage required in order for the City to enforce.

Amending the ordinance will not alter the City's approach in notifying the property owners of the violation. Initial contact will be made to inform the property owner of the violation allowing them the opportunity to correct the issue within 30 days. If no corrective action has been taken within the 30 days, staff will initiate the citation process and issue an official citation to the property owner for correcting the issue.

Origination:

Community Development

Recommendation:

Recommend approval of Ordinance 2012-03 amending Chapter 30, Article IV, Section 30-159 of the City's Code of Ordinances.

Funding:

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

Narciso Lira, Director of Community Development

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

ATTACHMENTS:

Ordinance No. 2012-03
chapter 30 Code of Ordinance

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING SUBSECTION (b)(1) OF SECTION 30-159 OF ARTICLE IV, NUISANCES, OF CHAPTER 30, ENVIRONMENT, OF THE CITY'S CODE OF ORDINANCES RELATING TO THE PROHIBITION OF WEEDS; PROVIDING A NEW DEFINITION OF "WEEDS"; PROVIDING A PENALTY OF UP TO \$2,000.00 FOR VIOLATIONS WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

* * * * *

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

Section 1. Subsection (b)(1) of Section 30-159 of Article IV, Nuisances, of Chapter 30, Environment, of the Code of Ordinances of the City of Tomball, Texas is hereby deleted in its entirety and a new Subsection (b)(1), is hereby added to read as follows:

"Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

* * *

(b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the following regulations:

(1) *Weeds defined.* Uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than 12 inches. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition of weeds."

Section 2. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 3. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

Section 4. This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City's official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF MARCH 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 2ND DAY OF APRIL 2012.

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

Gretchen Fagan, Mayor

ATTEST:

Doris Speer, City Secretary

Chapter 30

ENVIRONMENT*

* **Cross References:** Buildings and building regulations, ch. 14; emergency services, ch. 26; fire prevention and protection, ch. 34; floods, ch. 38; health and sanitation, ch. 42; solid waste, ch. 62; streets, sidewalks and other public places, ch. 66; subdivisions, ch. 70; utilities, ch. 82.

Article I. In General

Sec. 30-1. Statutory rules and regulations.
Secs. 30-2--30-25. Reserved.

Article II. Oil and Gas Wells and Pipelines

Division 1. Generally

Sec. 30-26. Short title.
Sec. 30-27. Definitions.
Sec. 30-28. Penalties.
Sec. 30-29. Nonconforming wells; registration.
Sec. 30-30. Necessity of contract with surface owner.
Sec. 30-31. Well location.
Sec. 30-32. Substitute wells.
Secs. 30-33.--30-45. Reserved.

Division 2. Well Permits

Sec. 30-46. Unlawful to drill without a permit.
Sec. 30-47. Application and filing fee.
Sec. 30-48. Filing of application or supplemental application and notice.
Sec. 30-49. Granting or refusal of permit.
Sec. 30-50. Form and issuance of permit.
Sec. 30-51. Bond requirements.
Sec. 30-52. Release from bond.
Secs. 30-53.--30-65. Reserved.

Division 3. Well Operation

Sec. 30-66. Unlawful to permit escape of mud, etc.
Sec. 30-67. Remedial well work.
Sec. 30-68. Deeper drilling.
Sec. 30-69. Rules for drilling and producing operations for permit holder.
Secs. 30-70--30-90. Reserved.

Division 4. Pipeline Permits

Sec. 30-91. Application and filing fee.
Sec. 30-92. Granting or refusal of permit.
Sec. 30-93. Form and issuance of permit.
Sec. 30-94. Bond requirements.
Sec. 30-95. Release from bond.
Sec. 30-96. Rules for pipeline operations.
Sec. 30-97.--30-99. Reserved.

Division 5. Assignments

Sec. 30-100. Sale, transfer or conveyance of assets.
Secs. 30-101--30-155. Reserved.

Article III. Reserved.

Article IV. Nuisances

Sec. 30-156. Definitions.

Sec. 30-157. Illustrative enumeration.

Sec. 30-158. Prohibited.

Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

Secs. 30-160--30-180. Reserved.

Article V. Noise

Sec. 30-181. Definitions.

Sec. 30-182. General prohibition.

Sec. 30-183. Playing of radios, phonographs, etc., generally.

Sec. 30-184. Use of radios, phonographs, etc., for advertising.

Sec. 30-185. Noisy vehicles generally.

Sec. 30-186. Sounding of vehicle horn or signaling device.

Sec. 30-187. Yelling, shouting, singing, etc.

Sec. 30-188. Shouting of peddlers, hawkers and vendors.

Sec. 30-189. Noise near school, church, court or hospital.

Sec. 30-190. Noise to attract attention to performance, show or sale.

Secs. 30-191--30-210. Reserved.

Article VI. Junked or Abandoned Vehicles

Sec. 30-211. Definitions.

Sec. 30-212. Exceptions.

Sec. 30-213. Administration and enforcement.

Sec. 30-214. Prohibition.

Sec. 30-215. Declaration of nuisance.

Sec. 30-216. Notice to remove--From private property.

Sec. 30-217. Same--From public property.

Sec. 30-218. Hearing.

Sec. 30-219. Duty to abate.

Sec. 30-220. Court order to abate.

Sec. 30-221. Removal of vehicle; impoundment; claim.

Sec. 30-222. Sale, disposal of vehicles--Junked.

Sec. 30-223. Same--Abandoned.

Sec. 30-224. Notice to state.

Sec. 30-225. Vehicles not to be made operable.

ARTICLE I.

IN GENERAL*

* **Editors Note:** Ord. No. 98-08 repealed Arts. II and III, §§ 30-26--30-155 in their entirety and added new sections 30-1, and 30-26--30-100. Former Arts. II and III pertained to similar material and derived from the Code of 1978, §§ 16-21--16-30, §§ 16-41--16-47, §§ 16-51--16-54, §§ 16-61--16-69, §§ 16-81--16-87, and §§ 16-91--16-94. The editor, at his own discretion, has redesignated certain article heads in Ord. No. 98-08 as division heads in Ch. 30, in order to avoid the duplication of article numbers.

Sec. 30-1. Statutory rules and regulations.

All drilling, producing, operations, and transportation of hydrocarbons and/or associated wastes are to be in strict compliance with RRC "Statewide Rules for Oil, Gas and Geothermal Operation" (latest revised edition) including RRC field rules for the Tomball Field; Title 49, Code of Federal Regulation, Parts 191, 192, 195 and 199; and Title 16, Texas Administrative Code, Section 7.70-7.73 and Section 7.80--7.87.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-2--30-25. Reserved.

ARTICLE II.

OIL AND GAS WELLS AND PIPELINES*

* **Note:** See editor's note, Art. I.

DIVISION 1.

GENERALLY

Sec. 30-26. Short title.

An article regulating the drilling, production, and operation of oil and gas wells and the transport of hydrocarbons or wastes associated with these operations within the regulated area of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-27. Definitions.

The following words, terms, and phrases shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

All technical or oil and gas industry words or phrases used in this article and not specifically defined herein or in the Texas Railroad Commission Rules for Oil, Gas and Geothermal Operations or Pipeline Safety Rules shall have the meaning customarily attributable thereto by prudent operators in the oil and gas industry.

Permittee shall mean the person to whom a permit is issued for the drilling or operation of a well or pipeline under this article, and his administrators, executors, heirs, successors and assigns.

Pipeline or pipeline system shall mean all parts of a pipeline or physical facilities through which gas, oil, waste, or hazardous liquid moves in transportation, including, but not limited to, pipes, valves, or other appurtenances connected to the pipeline.

Regulated area, shall mean all land within the corporate boundaries of the city.

Well includes and shall mean any hole or bore, to any sand, formation, strata or depth, which is drilled, bored, sunk, dug, or put down for the purpose of either exploring for or ascertaining the existence of any oil, gas, liquid hydrocarbon, or any of them, or for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or well bores for disposal of salt water or other oil and gas waste.
(Ord. No. 98-08, § 2, 4-20-98; Ord. No. 99-01, § 1, 3-15-99)

Sec. 30-28. Penalties.

Any violation of any of the terms of this article, whether denominated as unlawful or not, shall be deemed a misdemeanor. Any person convicted of any such violation shall be subject to punishment as provided in section 1-14 of this Code, in an amount not to exceed \$2,000.00 per day, and any person, agent or employee engaged in any such violation shall, upon conviction, be so punished therefore.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-29. Nonconforming wells; registration.

All of the terms and provisions of this article shall be applicable to the operation of any well located within the regulated area of the city. Nonconforming wells shall be defined herein as wells which have been fully drilled prior to the effective date of this article. If such wells are still producing, or have not be permanently abandoned, or if a request is submitted for a supplemental permit under section 30-68 hereof, registration of such well shall be required in full conformity with this article. All such nonconforming wells shall be registered with the city within one year from the effective date of this article. The information required to register such pre-existing well shall include all of the information required under section 30-47 or section 30-68, whichever is applicable. There shall be no charge to register a nonconforming well during the one-year period. After the expiration of such time, however, a filing fee in the amount of \$100.00 shall be required for each well registration. Failure to register an existing well, or to apply for a supplemental permit, shall constitute a violation of this article. No provision of this article may be construed as altering, abating, or superseding any provision of any lease, contract, unit agreement, or any other agreement which affects any land within the regulated area of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-30. Necessity of contract with surface owner.

Neither this article nor any permit issued under this article shall be interpreted to grant any right or license to the permittee to enter upon, use, or occupy in any respect for the drilling or operation of any well or pipeline on any surface land, except by the written consent of the surface owner, unless the permittee obtained such right through an oil or gas lease, or other contract; nor shall this article limit or prevent the free right of the owner to contract for the amount of damages, rights or privileges with respect to his own land and property.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-31. Well location.

It shall be unlawful for any person to cause or permit the drilling of any well within the regulated area which is nearer than 400 feet from any building, or nearer than 400 feet from the location of any proposed building for which a valid construction permit has been issued and is in effect. Provided however, the provisions of this section shall not apply to a permittee seeking to deepen an existing well not permanently abandoned, provided such well is entitled to be registered pursuant to section 30-29 hereof, and is duly registered or permitted as required by said section 30-29 or section 30-68 hereof. Provided further, no well shall be drilled within any existing or proposed roadway right-of-way. As used herein, the term "roadway right-of-way" shall mean that area within the boundaries of any easement or right-of-way for any highway, street or alley; the term "proposed roadway right-of-way" shall mean any roadway right-of-way for which the city council and/or the city planning commission has designated, by official action, as a projected highway, street, alley, or other thoroughfare in the master development plan of the city, whether or not such roadway right-of-way has actually been platted or dedicated for public use at such time.

(Ord. No. 2000-27, § 1, 11-20-00)

Editors Note: Ord. No. 2000-27, § 1, adopted November 20, 2000, repealed the former § 30-31 and enacted new provisions as set out herein. The former § 30-31 pertained to similar subject matter and derived from Ord. No. 98-08, § 2, adopted April 20, 1998.

Sec. 30-32. Substitute wells.

(a) Except as provided in subsection (b) of this section, no well shall be drilled within the regulated area of the city without first securing a permit from the city.

(b) If a permitted drilling well or active producing well is abandoned due to mechanical failure, a substitute well may at any time be drilled, completed, operated and produced. No substitute well provided for in this subsection shall be drilled to a deeper reservoir than the deepest productive reservoir of the well for which such substitute well is drilled, without the permittee first securing a supplemental permit as provided in section 30-68 hereof.

(c) The provisions of this section shall not prevent a well from being completed in more than one producing horizon; multiple completions in the same well bore are expressly authorized.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-33--30-45. Reserved.

DIVISION 2.

WELL PERMITS

Sec. 30-46. Unlawful to drill without a permit.

It shall be unlawful for any person acting either for himself or as an agent, employee, independent contractor, or servant of any other person to commence to drill or to deepen a well within the regulated area of the city, or to work upon or assist in any way in the prosecution or operation of any such well, without a permit for the drilling or deepening of such well having first been issued in accordance with the provisions of this article, except as provided in subsections (b) through (c) of section 30-32 hereof.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-47. Application and filing fee.

(a) Any person desiring to drill, deepen, or operate a well within the regulated area of the city shall present an application therefor, in duplicate, to the city council, which application shall be in writing, addressed to the mayor, signed by the applicant or a person duly authorized to sign for the applicant, and shall state:

- (1) The date of the application;
- (2) The name and address of the applicant and if the applicant is a corporation, the state of incorporation, and if applicant is a partnership, the names and addresses of the general partners;
- (3) The particular lot and block number or tract in the city on which the proposed well is to be

located and the exact location of such proposed well;

- (4) The proposed depth of the well;
 - (5) The proposed complete casing program of the well; and
 - (6) The exact and correct number of acres allocated by the RRC to the proposed well.
- (b) Attached to the application for a permit shall be:
- (1) A plat prepared by a duly registered surveyor showing the exact location of the proposed well with respect to the boundaries of the lot, block, or tract for which applicant has secured the rights from the owner to drill or deepen; a designation of the area owned or controlled by the applicant, and allocated to the proposed well, and the distances from the well location to all residences, commercial buildings and structures situated within the leased boundaries;
 - (2) A map showing the drill site in relation to the nearest public roadways and the proposed route of ingress and egress by applicant to such proposed drill site;
 - (3) A copy of Texas Railroad Commission Form W-1 (Application to Drill, Deepen, Plug Back or Re-enter);
 - (4) Copies of RRC Form H-15, A Test on an Inactive Well More Than 25 Years Old, from all wells within the regulated area which are operated by applicant; and
 - (5) A copy of TNRCC-0051, "Depth of Usable Groundwater to be Protected."

(c) Each application shall be accompanied a cashier's check in the amount of \$1,000.00, made payable to the city, which shall be a filing fee. Each supplemental application shall furnish the information and conform with the requirements set forth in subsections (a) and (b) of this section, insofar as same are relevant to the authority requested therein, and such supplemental application shall be accompanied by an additional filing fee of \$500.00. Each application or supplemental application shall be maintained by the city secretary as a part of the public records of the city.

(d) The applicant or a personal representative of any applicant shall be present and appear before the city council at such time as the city council considers the application or any amendment thereto.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-48. Filing of application or supplemental application and notice.

(a) An application to drill or a supplemental application shall be filed with the city council for action in issuing or refusing to issue a permit.

(b) Notice of the filing of each application shall be given by the applicant in the manner herein set out. Such notice shall be in words and figures, as follows:

Notice is hereby given that _____, acting under and pursuant to the terms and provisions of AN ORDINANCE REGULATING THE DRILLING, COMPLETION AND OPERATION OF OIL AND GAS WELLS WITHIN THE REGULATORY LIMITS OF THE CITY OF TOMBALL, TEXAS, being Ordinance No. _____, as amended, did on the _____ day of _____, 19_____, file with the City Secretary of the City of Tomball an application to drill, complete and operate a well at Lot No. _____, Block No. _____, (or other appropriate description). City of Tomball, Texas, as per map filed of record in Volume _____, Page _____, Plat Records of Harris County, Texas (here the exact location of the proposed well shall be set out).

(c) The applicant shall cause such notice to be published, at his own expense, in every issue of the official newspaper of the city for ten days prior to the date of city council's consideration of such application. Proof of such publication shall be made by the printer or publisher of the newspaper by affidavit filed with the city council and shall be prima facie evidence of such publication.

(d) Notice of the time and place of the public hearing on an oil and gas permit shall be published in an official newspaper, or a newspaper of general circulation within the municipality, at least 15 days prior to the date of the hearing. Additionally, before the 10th day before the date of the hearing, written notice of such public hearing shall be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property immediately adjacent to the property for which the oil and gas permit is requested.

(e) The city council, at a regular or special called meeting, may, upon written application of applicant, waive all or any part of such ten-day publication requirement and issue such permit in accordance with section 30-49 hereof, upon the showing of compliance with all of the following:

- (1) Demonstration by applicant that such requirement would work an economic hardship upon applicant to delay the spudding-in of the well applied for in its application; or
- (2) That it would be to the best interest of the city, under its police powers, to issue a permit without awaiting publication; and
- (3) Proof of filing and approval of a bond in the amount of \$1,000,000.00;
- (4) Demonstration by applicant that the drilling of such well will not constitute a danger to the health, safety, morals, or welfare of the city and its inhabitants; and
- (5) Payment of a fee in the amount of \$5,000.00 into the general revenue fund of the city to cover the cost of expediting such application, including early docketing by the city secretary, investigation by the city attorney, the calling of a special meeting of city council for a hearing on such written application of applicant to waive publication, and an affirmative finding by city council that the requirements therein set forth have been met.

(f) Upon the affirmative finding by the city council that the requirements of this section have been met, the city secretary shall be authorized to issue the applicant a drilling permit in accordance with section 30-50 hereof.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-49. Granting or refusal of permit.

If, after such application or supplemental application is filed pursuant to this article, it be found by the city council to comply in all respects with terms hereof, and the drilling, deepening or operation of such well is not prohibited by the terms of this article, then the city council shall issue a permit for the drilling or deepening or operation of the well; provided, however, the city council shall have the power, and reserves the authority, to refuse any application for a permit when by reason of the location of the proposed well and the character and value of the improvements located on the lot or tract in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purpose, or for sanitary reasons, the drilling of such well would constitute a danger to either the health, safety, morals or welfare of the city and its inhabitants.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-50. Form and issuance of permit.

- (a) Each permit issued under this article shall:
 - (1) By reference, have incorporated all provisions of this article with the same force and effect as if this article were copied verbatim in such permit;
 - (2) Specify definitely the location of the well;
 - (3) Specify that drilling shall begin within 90 days from the date of the permit or such permit shall be forfeited; provided, however, such forfeiture shall not affect the right of applicant to apply for another permit; and
 - (4) Specify that such permit shall remain in full force and effect until said well is abandoned.

(b) Such permit shall not be issued until the provisions of section 30-51 hereof have been met. Such permit, in duplicate originals, shall be signed by the city secretary and prior to delivery to the permittee shall be signed by the permittee. One original of the permit, duly executed, shall be delivered to the permittee and one original of the permit, duly executed, shall be retained by the city secretary and, when so filed, shall constitute the permittee's drilling and operating license and the contractual obligations of the permittee to comply with the terms of such permit, the bond hereafter mentioned, and this article.

(c) Once a permit has been issued for a well under any ordinance of the city, such permit shall continue until said well is abandoned.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-51. Bond requirements.

(a) If the issuance of a permit is authorized, same shall not be issued until the applicant shall file with the city secretary a bond, executed by and between the permittee, as principal, and a corporate surety company licensed to do business in the State of Texas, as surety, and on the condition that the principal obligator shall drill and operate such well in accordance with the terms of this article and that the principal shall remedy any and all damages to all public utilities, roadways, drainage structures, and any other public property, including ground water supply, and/or surface and subsurface pollution, occasioned in any manner by the

drilling or operations of such well. Such bond shall run to the city for the benefit of the city and all persons concerned, shall be in a form to comply herewith, shall be in the amount of \$1,000,000.00 for each well for which a permit is requested, and shall be approved by the city attorney.

(b) Failure to keep such bond in full force and effect, in accordance with the terms hereof, shall be unlawful and shall be punishable in accordance herewith.

(c) The city council, with the approval of the city attorney, may waive the requirement for the surety bond described by this section, as to any permittee, when it is found and determined that such permittee is financially responsible and capable of meeting obligations for amounts in excess of \$1,000,000.00. Upon such determination, the city council may allow the permittee to file, in lieu of any surety bond, a letter of acceptance binding and obligating such permittee to abide by the conditions prescribed in this section for surety bonds. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-52. Release from bond.

When any permit shall terminate and become inoperative, as provided in this article, or if and when the permittee shall file with the city secretary written notice of his election to surrender his permit and abandon the premises covered thereby, then, if no claims under the bond or bonds are pending or have been filed within six months after such permit shall have terminated, become inoperative, or written notice of election to surrender has been filed, the city secretary shall return the bond filed by the permittee in connection with such permit. If claims are pending or are filed within such time, upon the satisfaction or defeat of such claims, such bond shall thereupon be returned to the permittee.

(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-53--30-65. Reserved.

DIVISION 3.

WELL OPERATION

Sec. 30-66. Unlawful to permit escape of mud, etc.

It shall be unlawful for any person to permit to escape any mud, water, oil, slush, saltwater or other waste matter related to the drilling or operating of any well onto any adjoining lots upon which permittee does not have leases or other contractual rights to use the surface, or upon leases not owned by permittee or into the alleys, streets, gutters, sewers, or ditches of the city. Within 60 days after the completion or abandonment of any well, the mud and other similar matter and materials used in connection with the drilling and operations thereon shall be removed from the premises, and all pits, holes, ruts, and depressions in and around such well location shall be smoothed out, leveled, and filled.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-67. Remedial well work.

Any person operating any well or wells within the regulated area of the city may perform any remedial well work operations, except drilling deeper, without a permit for such operations, provided the operator

complies with all safety rules set forth in this article and no additional filing fees will be required for such work. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-68. Deeper drilling.

(a) Once any well has either been completed as an oil or gas producer or abandoned as a dry hole, it shall be unlawful for any person to drill such well to a greater depth than that reached in prior drilling operations, without the permittee of such well filing a supplemental application with the city secretary and obtaining a supplemental permit which shall contain, in addition to all the requirements heretofore set forth, additional information specifying:

- (1) The then condition of the well and the casing therein;
- (2) The depth to which it is proposed that such well will be deepened; and
- (3) The proposed casing program to be used in connection with such proposed deepening operations.

(b) In any deeper drilling or deepening operations, the permittee shall comply with all other provisions contained in this article and applicable to the drilling, completion, and operation of a well. (Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-69. Rules for drilling and producing operations for permit holder.

All persons engaged in the drilling and operation of wells within the regulated area of the city shall comply with the following rules and regulations:

- (1) In order to enable the holder of each permit to move or transport oil, gas, water, or other waste products within the city limits, the holder of each permit issued under this article for the drilling and operation of a well within the city is hereby granted rights-of-way and easements on, over, under, along or across city streets, sidewalks and alleys for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued; provided, however, each permittee shall:
 - a. Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under, or across the course of such rights-of-way;
 - b. Furnish the city secretary with a plat showing the location of such pipelines at least ten days prior to installation;
 - c. Provide construction plans and specifications to the city for approval;
 - d. Provide pipeline markers at each and every public street crossing, indicating the owner's name, identifying the product in such pipeline, and a 24-hour telephone number;
 - e. Construct such lines or cause same to be constructed out of new or reconditioned steel pipe buried to a minimum depth of 36 inches below the surface at each and every point;

- f. Ensure that if plastic pipe is used that the internal pressure of such line will not exceed 60 pounds per square inch and shall have at least 36 inches of cover. All plastic lines shall be encased under or crossing improved roadway surfaces from right-of-way line to right-of-way line. Where plastic pipe is installed longitudinally, a durable metal wire shall be concurrently installed or other means shall be provided for detection purposes;
- g. Ensure that public street crossings shall be either bored or tunneled. Pipeline installations across roadways may be encased or unencased. Bore hole or tunnel shall not exceed the diameter of the pipe by more than one inch, and shall extend from the top of the backslope to the top of the backslope or five feet beyond the face of the curb. Generally, underground line crossings should be encased in the interest of safety, protection for the pipeline and roadway, and for access to the pipeline. Casing shall consist of steel pipe with welded joints and seams and shall be designed to support the load of the roadway and superimposed loads thereon. All lines shall be enclosed in an adequately vented casing. For enclosed lines, the minimum total clear depth of cover for casing pipe shall be 30 inches;
- h. Ensure that casing shall consist of smooth wall pipe with welded joints and seams, and shall be continuous, provided, however, that welded steel pipeline crossings may be installed without encasement provided such pipelines conform with 49 CFR, Part 192, Transportation of Natural and Other Gas by Pipeline, or Part 195, Transportation of Liquids by Pipeline as Applicable.
 - 1. For unencased high-pressure gas or liquid petroleum lines, the minimum depth of cover shall be 60 inches under the pavement surface and a minimum of 48 inches under ditches. Exceptions may be authorized by the city to reduce the specified depth of cover where the pipeline is protected by a reinforced concrete slab.
 - 2. Where encasement is not employed, the welded steel carrier pipe shall provide sufficient strength to withstand the internal design pressure and the dead and live loads of the pavement structure and traffic. Additional protective measures should include heavier wall thickness and/or higher factor of safety in design, adequate coating and wrapping, cathodic protection, and other measures as required by Title 49, CFR, Part 192, or Part 195.
 - 3. The minimum length of the additional protection as set forth above shall be the same as that required by encasement.
- i. Control traffic in work zones to conform to applicable specifications of the Texas Manual on Uniform Traffic Control Devices for Streets and Highways;
- j. Ensure that operations in city rights-of-way shall be performed in such a manner that all equipment and excavated material are kept off the pavement at all times;
- k. Grade, level, and restore such property to same surface condition, as nearly as

practicable, as existed prior to the beginning of operations;

- l. After completion of pipeline, provide to the city for its files a copy of the "Record Drawings"; and
 - m. Ensure that any future adjustment or relocation of pipeline installations which become necessary because of utility or roadway construction shall be accomplished without cost to the city.
- (2) Any violation of the laws, rules, regulations, or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, transporting product or abandoning a well or related appurtenances, shall be a violation of this article and shall be punishable in accordance with the provisions hereof.
- (3) No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless said gas is flared and burned. All gas flared or burned within the city must be done in such a manner so as not to constitute a fire hazard to any property.
- (4) It shall be unlawful for any person to use, operate or maintain any drilling or reworking machinery on any location for a period longer than 60 days after completion or abandonment of any well or any reworking project. All engines shall be equipped with effective mufflers.
- (5) Two dual-controlled, fluid-operated blowout preventers with working pressures equal to or greater than the maximum anticipated wellhead pressures shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked every 24 hours and shall be tested with pump pressures with enough frequency to ensure good working order at all times.
- (6) Only portable steel slush, reserve and shale tanks for mud, water or shale shall be permitted in connection with the drilling and reworking operations of any well.
- (7) Any person drilling or operating a well shall dispose of all saltwater or other waste produced by such well in a manner that will not contaminate or pollute surface and subsurface resources. No earthen-walled evaporation-type saltwater disposal pit shall be allowed within the city.
- (8) No well shall be drilled or reworked within the city without the bore hole being filled at all times with a drilling fluid of a weight and viscosity that a reasonable, prudent operator would use to keep the well under control at all times.
- (9) It shall be unlawful for any person in connection with the drilling or reworking operations of any well within the city to conduct any swabbing operations or to take or complete any drill stem test or tests, except during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate gas separator to storage tanks, and effluent remaining in the drill pipe at the time the tool is closed and flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe.

- (10) Whenever any well within the city limits is abandoned, it shall be the obligation of the permittee to plug such well in accordance with the rules and regulations of the Texas Railroad Commission and to take any and all additional provisions or precautionary measures prescribed by the State of Texas or the Texas Railroad Commission in connection with abandonment and plugging of the well. The city shall be notified of any action in this regard.

It shall be the further obligation of the permittee or the operator of the well to cut the surface casing off at least six feet below the surface of the ground and to place at least a 25-foot cement plug in the top of the casing and to weld the top of the casing completely shut. The resulting hole in the ground must be completely filled to the surface of the ground and duly tamped. A copy of RRC Form W-3 (Plugging Record) and Form W-15 (Cementing Report) shall be filed with the city secretary.

- (11) It shall be unlawful for any person to use, construct, or operate, in connection with each producing well within the city, any storage tanks, except to the extent of two steel tanks for the storage of liquid hydrocarbon not exceeding 500-barrel capacity each, and so constructed and maintained as to be vapor tight and each surrounded with an earthen fire wall at such distance from the tanks as will, under any circumstances, hold and retain at least the maximum capacity of such tank or tanks. A permittee may use, construct and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil with each of such facilities to be so constructed and maintained as to be vapor tight. Each gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head.
- (12) Any person may install equipment for the purpose of secondary recovery, pressure maintenance operations, or automatic lease operations, provided such person complies with all the safety requirements of this article and the Texas Railroad Commission.
- (13) It shall be unlawful for any person within the regulated area of the city to install any fired vessel or open flame within 150 feet of any well or storage tank.
- (14) All wellheads, tank batteries, pumping units and equipment appurtenant thereto within the city, which are located within a densely populated area so designated by the city council or within 100 feet of a public street, shall be adequately protected with an intruder-proof fence; provided, however, any wellhead, tank battery, pumping unit, or equipment appurtenant thereto, which is located on any lease tract or farm and is fenced in its entirety will require no additional protection other than that commonly used by prudent operators. Fences to prevent entry shall be approved by a representative designated by the city council.
- (15) The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, at all times during drilling operations and as long thereafter as the well is being produced therefrom. All permittees' premises shall be kept clear of high grass, weeds, and combustible trash or any other rubbish or debris that might constitute a fire hazard within a radius of 150 feet around any oil tank or tanks, producing wells, or to the limits of the premises, whichever is the lesser.
- (16) No prime movers shall be permitted within the corporate limits of the city for the purpose of

pumping wells, except electric motors.

- (17) Printed signs reading "DANGER NO SMOKING ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks within the regulated area of the city.
- (18) Material, equipment, tools or pipe used for either drilling or producing operations at the well shall not be delivered to or removed from the well site, except between the hours of 7:00 a.m. and 7:00 p.m. on any day, except in case of an emergency.
- (19) It shall be unlawful to block, encumber, or close any street or alley in any pipeline, drilling or production operation, except by an ordinance duly passed by the city council permitting the temporary blocking or closing of a street or alley.

(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-70--30-90. Reserved.

DIVISION 4.

PIPELINE PERMITS

Sec. 30-91. Application and filing fee.

All persons engaged in the movement or transport of oil, gas, water, or other waste products within the city limits, and who are not holders of a valid permit, may be granted a permit by the city council for pipeline crossings or parallel installation within public right-of-way or easements for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines; provided, however, each applicant shall:

- (1) File with the city secretary for city approval a permit application with a location plan and construction details and specifications;
- (2) Provide copies of RRC Form H-15 "Test on an Inactive Well More Than 25 Years Old" from all wells within the regulated area operated by the applicant;
- (3) File and obtain approval of a bond in the amount of \$100,000.00;
- (4) Provide with each application a cashier's check in the amount of \$500.00 made payable to the city, which shall be a filing fee. Each application shall be maintained by the city secretary as a part of the public records of the city;
- (5) Ensure that the applicant or a representative of applicant shall be present and appear before the city council at such time as the city council considers the application or any amendment thereto.

(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-92. Granting or refusal of permit.

If, after such application is filed pursuant to this article, it be found by the city council to comply in all respects with terms of this article, the city council finds that such applicant has complied in all respects with the terms of this article, then the city council shall issue a permit for the construction and operation of the pipeline applied for; provided, however, the city council shall have the power, and reserves the authority, to refuse any application for a permit when by reason of the location of the proposed pipeline and the character and value of the improvements located on the property in question or adjacent thereto, and the use to which the land and surroundings are adapted for civic purpose, or for other reasons, the pipeline would constitute a danger to either the health, safety, morals or welfare of the city and its inhabitants.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-93. Form and issuance of permit.

- (a) Each permit issued under this article shall:
 - (1) By reference, have incorporated all provisions of this article with the same force and effect as if this article were copied verbatim in such permit;
 - (2) Specify definitely the location of the pipeline;
 - (3) Specify that construction shall begin within 90 days from the date of the permit or such permit shall be forfeited; provided, however, such forfeiture shall not affect the right of applicant to apply for another permit; and
 - (4) Specify that such permit shall remain in full force and effect until said pipeline is abandoned.

(b) Such permit shall not be issued until the provisions of section 30-94 hereof are complied with. Such permit, in duplicate originals, shall be signed by the city secretary and, prior to delivery to the permittee, shall be signed by the permittee. One original of the permit, duly executed, shall be delivered to the permittee and one duly executed original of the permit shall be retained by the city secretary and shall constitute the permittee's license and the contractual obligations of the permittee to comply with the terms of such permit, the bond hereafter mentioned, and this article.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-94. Bond requirements.

(a) If the issuance of a permit is authorized, same shall not be issued until the applicant shall file with the city secretary a bond, executed by and between the permittee, as principal, and a corporate surety company licensed to do business in the State of Texas, as surety, conditioned that the principal obligator shall construct and operate such pipeline in accordance with the terms of this article; that the principal shall remedy any and all damages to all public utilities, roadways, drainage structures, and any other public property, including ground water supply, and/or surface and subsurface pollution, occasioned in any manner by applicant's operation of such pipeline. Such bond shall run to the city, for the benefit of the city and all persons concerned, shall be in a form to comply herewith, and shall be in the amount of \$100,000.00 for each pipeline upon which a permit is applied for, and shall be approved by the city attorney.

- (b) Failure to keep such bond in full force and effect, in accordance with the terms hereof, shall be

unlawful and shall be punishable in accordance herewith.

(c) The city council, with the approval of the city attorney, may waive the requirement for the surety bond described in this section, as to any permittee, if it is found and determined that such permittee is financially responsible and capable of meeting obligations for amounts in excess of \$100,000.00, and may allow the permittee to file, in lieu of any surety bond, a letter of acceptance which binds and obligates such permittee to abide by the conditions prescribed in this section for surety bonds.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-95. Release from bond.

When any permit shall terminate and become inoperative, as provided in this article, or if and when the permittee shall file with the city secretary written notice of his election to surrender his permit and abandon the premises covered thereby, then if no claims under the bond or bonds are pending or have been filed within six months after such permit shall have terminated, have become inoperative, or a written notice of election to surrender has been filed, the city secretary shall return the bond furnished by the permittee in connection with such permit. If claims are pending or are filed within such time, upon the satisfaction or defeat of such claims, such bond shall thereupon be returned to the permittee.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-96. Rules for pipeline operations.

All persons engaged in pipeline maintenance and operations within the corporate limits of the city shall comply with all rules and regulations as provided under section 30-69 of this Code and any violation of any of the terms of this Code whether denominated as unlawful or not, shall be deemed a misdemeanor and subject to penalties and punishment as provided in section 1-14 of the general provisions of this Code.
(Ord. No. 98-08, § 2, 4-20-98)

Sec. 30-97--30-99. Reserved.

DIVISION 5.

ASSIGNMENTS

Sec. 30-100. Sale, transfer or conveyance of assets.

A sale, transfer or conveyance of properties owned by an operator is not complete unless the acquiring person has on file with the city an approved form of financial security covering the requirements of this Code. The existing bond or alternate form of financial security remains in effect and the prior operator of the property remains responsible for compliance with all ordinances, rules, and regulations of the city covering the transferred assets until the city determines that the assets are covered by proper financial security and the acquiring person has assumed full responsibility for the properties, in accordance with all ordinances, rules and regulations of the city.
(Ord. No. 98-08, § 2, 4-20-98)

Secs. 30-101--30-155. Reserved.

ARTICLE III.

RESERVED*

* **Note:** See editor's note, Art. I.

ARTICLE IV.

NUISANCES*

* **State Law References:** Authority to define, prohibit, V.T.C.A., Local Government Code § 217.042.

Sec. 30-156. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Nuisance means any unlawful act, or omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others;
- (2) Offends decency;
- (3) Is offensive to the senses;
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Code 1978, § 15-1)

Cross References: Definitions generally, § 1-2.

Sec. 30-157. Illustrative enumeration.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (1) Noxious weeds and other rank vegetation.

- (2) Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- (3) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (4) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.
- (5) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (6) All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- (7) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (8) The pollution of any public well or cistern, stream, lake, canal, or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (9) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (10) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (11) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(Code 1978, § 15-2)

Sec. 30-158. Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.

(Code 1978, § 15-3)

Sec. 30-159. Owners required to keep lots free of weeds, etc., procedure for abatement.

(a) *Rubbish, brush, stagnant water, sinks, filth, carrion, or any other unwholesome, unsightly, unsanitary, or objectionable matter.* Every owner, part owner, joint owner, or owner of any interest whatever, hereinafter referred to as the owner, in real estate which is located within a subdivision, either recorded or unrecorded, within the city; or which real estate is open acreage located within 200 feet of any residence, if same be occupied, or commercial establishment; or within 200 feet of any dedicated street right-of-way, shall keep such property free of rubbish, brush, stagnant water, sinks, filth, carrion or any other unwholesome, unsightly, unsanitary or objectionable matter.

(b) *Weeds prohibited.* Every owner shall keep his property free from weeds, in accordance with the

following regulations:

- (1) *Weeds defined.* Uncultivated vegetable growth or matter, including grasses, which has grown to a height of more than ~~18-12 inches, covering throughout over 40 percent of the area of~~ the property or parcel. Cultivated crops, plants, or grasses must be farmed or managed in accordance with customary area practices. Property or parcels which have an area coverage of 50 percent or more in wildflowers or wildflower seed heads are not included within this definition of weeds.
- (2) *Parcels larger than four acres.* Parcels larger than four acres which have prohibited weeds present must be cut, i.e., the weeds must be controlled, for a distance of 25 feet back from the curb, or the edge of the road surface if there is no curb.
- (3) *Defenses to prosecution.* It shall be a defense to prosecution for violation of this weed prohibition if the owner can prove that:
 - a. Weather conditions have totally prevented cutting or controlling the weeds; or
 - b. The property or parcel has been mowed or the weeds controlled within the previous 30 days.
- (c) *Work or improvements by city; notice.* If the owner of property in the city does not comply with this section within ten days of notice of a violation, the city may do the work or make the improvements required and pay for the work done or improvements made and charge the expenses to the owner of the property. The notice of violation must be given:
 - (1) Personally to the owner in writing;
 - (2) By letter addressed to the owner at the owner's post office address; or
 - (3) By publication at least twice within ten consecutive days if personal service cannot be obtained or the owner's post office address is unknown.
- (d) *Assessment of expenses; lien.* The city council may assess expenses incurred against the real estate on which the work is done or improvements made. To obtain a lien against the property, the city manager, municipal health authority, or other city official designated by the city manager, must file a statement of expenses with the county clerk. The lien obtained by the city is security for the expenditures made with interest accruing at the rate of ten percent on the amount due from the date of payment by the city. The lien is inferior only to:
 - (1) Tax liens; and
 - (2) Liens for street improvements.
- (e) *Foreclosure.* The city council may bring a suit for foreclosure in the name of the city to recover the expenditures and interest due.

(f) *Statement of expenses.* The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

(g) *Remedy, cumulative.* The remedy provided by this section is in addition to other remedies available to the city.

(h) *Penalty.* Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as provided in section 1-14 of this Code.

(Code 1978, § 15-9; Ord. No. 92-12, § 2.0, 7-20-92)

Secs. 30-160--30-180. Reserved.

ARTICLE V.

NOISE

Sec. 30-181. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sound amplifying equipment means any machine or device for the amplification of the human voice, music or other sound. "Sound amplifying equipment" as used in this article shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic or human safety purposes.

Sound truck means any vehicle, whether motor-driven, horse-driven or otherwise powered, having mounted thereon, or attached thereto, any sound amplifying equipment.

(Ord. No. 91-01, § 14.5-1, 3-18-91)

Cross References: Definitions generally, § 1-2.

Sec. 30-182. General prohibition.

(a) A person commits an offense if he makes, continues, or causes to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the city.

(b) The acts enumerated in the following sections of this article, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article, but such enumeration shall not be deemed to be exclusive.

(Ord. No. 91-01, § 14.5-2, 3-18-91)

Sec. 30-183. Playing of radios, phonographs, etc., generally.

The using, operating, or permitting to be played, used or operated any radio receiving set, television set,

musical instrument, phonograph, stereo or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle, chamber or area in which such machine or device is operated and who are voluntary listeners thereto, is hereby prohibited and declared to be unlawful. The operation of any set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle or area in which it is located shall be prima facie evidence of a violation of this section.

(Ord. No. 91-01, § 14.5-3, 3-18-91)

Sec. 30-184. Use of radios, phonographs, etc., for advertising.

The using, operating or permitting to be played, used, or operated of any radio, receiving set, musical instrument, phonograph, loudspeaker, sound amplifying equipment, sound truck or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-4, 3-18-91)

Sec. 30-185. Noisy vehicles generally.

The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-5, 3-18-91)

Sec. 30-186. Sounding of vehicle horn or signaling device.

The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time are hereby declared to be unlawful. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up, are also unlawful.

(Ord. No. 91-01, § 14.5-6, 3-18-91)

Sec. 30-187. Yelling, shouting, singing, etc.

Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity is hereby prohibited and declared to be unlawful.

(Ord. No. 91-01, § 14.5-7, 3-18-91)

Sec. 30-188. Shouting of peddlers, hawkers and vendors.

The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood is hereby prohibited and declared to be unlawful.
(Ord. No. 91-01, § 14.5-8, 3-18-91)

Sec. 30-189. Noise near school, church, court or hospital.

The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, is hereby prohibited and declared to be unlawful, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
(Ord. No. 91-01, § 14.5-9, 3-18-91)

Sec. 30-190. Noise to attract attention to performance, show or sale.

The use of any drum or other instrument or device for the purpose of attracting attention, by creation of noise, to any performance, show or sale, is prohibited and declared to be unlawful.
(Ord. No. 91-01, § 14.5-10, 3-18-91)

Secs. 30-191--30-210. Reserved.

ARTICLE VI.

JUNKED OR ABANDONED VEHICLES*

* **State Law References:** Abandoned motor vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01 et seq.

Sec. 30-211. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means a motor vehicle that is inoperable and over five years old and is left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally parked on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the rights-of-way of any designated county, state or federal highway within the city in excess of 48 hours or in excess of 12 hours on any turnpike project constructed and maintained by the Texas Turnpike Authority.

Demolisher means any person whose business is to convert a motor vehicle into processed scrap or scrap metal, or otherwise to wreck or dismantle a motor vehicle.

Garagekeeper means any owner or operator of a parking place or establishment, motor vehicle storage facility, or any establishment for the servicing, repair or maintenance of motor vehicles.

Junked vehicle means a motor vehicle as defined in Vernon's Ann. Civ. St. art. 6701d-11, § 1:

- (1) That is inoperative; and
- (2) That does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate, that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for a continuous period of more than 45 days.

Motor vehicle means any motor vehicle subject to registration pursuant to the state's certificate of title law, Vernon's Ann. Civ. St. art. 6687-1.

Storage facility means a garage, parking lot or any type of facility or establishment for the servicing, repairing, storing or parking of motor vehicles.

(Code 1978, § 12-1)

Cross References: Definitions generally, § 1-2.

State Law References: Certificate of Title Act, Vernon's Ann. Civ. St. art. 6687-1.

Sec. 30-212. Exceptions.

The provisions of this chapter shall not apply to:

- (1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (2) A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
- (3) Unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and the outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(Code 1978, § 12-2)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(g).

Sec. 30-213. Administration and enforcement.

The police department, by and through its regular full-time officers, may administer the provisions of this article and enter upon private property for the purposes specified in this chapter to examine vehicles or parts thereof, to obtain information as to the identity of vehicles and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article, except that the removal of vehicles or parts thereof from property may be by any other duly authorized person. The municipal court shall have authority to issue all orders necessary to enforce this article.

(Code 1978, § 12-3)

Sec. 30-214. Prohibition.

It shall be unlawful for any person to leave or permit to remain upon public or private property, except as otherwise provided in this article, within the city any abandoned or junked vehicle or parts or portion thereof for any period of time in excess of ten days.

(Code 1978, § 12-4)

Sec. 30-215. Declaration of nuisance.

Junked or abandoned vehicles which are located in any place where they are visible from a public place or public right-of-way are detrimental to the safety and welfare of the general public, tending to reduce the value of private property, to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the city, by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are therefore declared to be a public nuisance.

(Code 1978, § 12-5)

State Law References: Declaration of nuisance, Vernon's Ann. Civ. St. art. 4477-9a, § 5.08(a).

Sec. 30-216. Notice to remove--From private property.

Whenever it is brought to the attention of the chief of police that a nuisance under the provisions of this article exists in the city, he shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten-day notice, stating the nature of the public nuisance on private property and that it must be removed and abated within ten days, and further that a request for a hearing must be made by such person before the expiration of such ten-day period. The notice required by this section shall be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, and lien holder of record, and the owner or occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate the nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1978, § 12-6)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(g).

Sec. 30-217. Same--From public property.

Whenever it is brought to the attention of the chief of police that a nuisance under the provisions of this article exists in the city, he shall give or cause to be given to the person maintaining or suspected of maintaining such nuisance, in writing, a ten-day notice, stating the nature of such nuisance on public property or on a public right-of-way and that it must be removed or abated within ten days, and further that a request for a hearing must be made by the owner or occupant of such public property or the owner or occupant of the premises adjacent to the public right-of-way whereon such nuisance exists before the expiration of such ten-day period. The notice required by this section shall be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Postal Service, official action to abate such nuisance shall be continued to a date not less than ten days from the date of such return.

(Code 1978, § 12-7)

State Law References: Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(c).

Sec. 30-218. Hearing.

A public hearing prior to the removal of the vehicle or part thereof as a public nuisance, may be held before the municipal court when such a hearing is requested by the owner or occupant of the public or private premises adjacent to the public right-of-way on which such vehicle is located, within ten days after service of notice to abate the nuisance. Any resolution or order requiring the removal of a vehicle or part thereof shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.

(Code 1978, § 12-8)

Sec. 30-219. Duty to abate.

If the owner or occupant of the premises upon which a nuisance under the provisions of this article exists does not request a hearing as provided by this article, it shall be his duty to comply with the provisions of the notice given him and to abate such nuisance within ten days after the date of the receipt of such notice.

(Code 1978, § 12-9)

Sec. 30-220. Court order to abate.

(a) After the hearing provided for in this article, the municipal court shall determine whether or not a nuisance exists under the provisions of this article. If a nuisance is found to exist, the council shall order the owner or occupant of the premises upon which such nuisance is located to abate the same within ten days from the date of such order.

(b) It shall be unlawful for any person to whom such order is given to fail or refuse to comply therewith and to remove the abandoned or junked vehicle within such period of time.

(Code 1978, § 12-10)

Sec. 30-221. Removal of vehicle; impoundment; claim.

Within ten days after notice has been delivered to the owner or occupant of the premises on which an abandoned or junked vehicle is located if a hearing is not requested, or if a hearing is requested, within ten days after an order requiring the removal of such vehicle has been served upon or delivered to the owner or occupant of the premises on which such vehicle is located, the chief of police or members of the police department acting under the direction of the chief of police, may if the nuisance has not been abated, remove or cause to be removed such vehicle to a suitable city storage area designated by the chief of police. Such vehicle shall be stored in such storage area for a period of not less than ten days, during which period any party owning or claiming any right, title or interest therein shall be entitled to claim possession of same by the payment to the city of the actual cost of the city in abating such nuisance. The chief of police may in such cases, if he deems it necessary, require such person to post bond of not more than \$50.00 nor less than \$25.00, conditioned that such person shall not use the vehicle to create another nuisance in the city.

(Code 1978, § 12-11)

Sec. 30-222. Sale, disposal of vehicles--Junked.

(a) When any junked vehicle has remained in the storage area provided in section 30-221 for not less than 20 days, it shall be the duty of the chief of police to dispose of the same by removal to a scrap yard or by

sale to a demolisher for the highest bid or offer received therefor or to remove the same to any suitable site operated by the city for processing as scrap or salvage.

(b) Out of the proceeds of the sale of a junked vehicle under the provisions of this section, the chief of police shall pay for the cost of removal and storage thereof and the balance, if any, shall be paid to the person entitled thereto.

(c) If there is not a bid or offer for the vehicle, the chief of police may dispose of the same by causing it to be demolished or removed to a place provided by the city council, or by permitting it to be removed by a demolisher who is willing to do so for the benefit of the junk or parts he can salvage.
(Code 1978, § 12-12)

Sec. 30-223. Same--Abandoned.

If an abandoned motor vehicle has not been reclaimed as provided by Vernon's Ann. Civ. St. art. 4477-9a, § 5.03, the police department may sell the vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Vernon's Ann. Civ. St. art. 4477-9a, § 5.03. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs. The city may transfer the amount in the special fund that exceeds \$1,000.00 from the special fund to the city's general revenue account to be used by the police department.
(Code 1978, § 12-12)

State Law References: Auction of abandoned vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.04.

Sec. 30-224. Notice to state.

Notice shall be given to the state department of highways and public transportation within five days after the date of removal of a vehicle under the provisions of this article, identifying the vehicle or part thereof.
(Code 1978, § 12-13)

Sec. 30-225. Vehicles not to be made operable.

After a vehicle has been removed in accordance with or under the provisions of this article, it shall not be reconstructed or made operable.
(Code 1978, § 12-14)