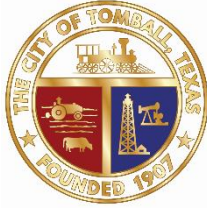


**NOTICE OF SPECIAL CITY COUNCIL  
CITY OF TOMBALL, TEXAS**



**Friday, February 09, 2024  
5:00 PM**

Notice is hereby given of a Regular meeting of the Tomball City Council, to be held on Friday, February 09, 2024 at 5:00 PM, 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.

The public toll-free dial-in numbers to participate in the telephonic meeting are any one of the following (dial by your location): +1 312 626 6799 US (Chicago); +1 646 876 9923 US (New York); +1 301 715 8592 US; +1 346 248 7799 US (Houston); +1 408 638 0968 US (San Jose); +1 669 900 6833 US (San Jose); or +1 253 215 8782 US (Tahoma) - Meeting ID: 869 6229 5332 Passcode: 260715. The public will be permitted to offer public comments telephonically, as provided by the agenda and as permitted by the presiding officer during the meeting.

- A. Call to Order
- B. 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 - GC, 551.042.JC.]*
- C. Old Business
  - 1. Adopt, on Second Reading, Ordinance No. 2024-02, An Ordinance Of The City Of Tomball, Texas Calling A Special Election To Be Held On May 4, 2024, For The Purpose Of Submitting To The Voters Propositions To Amend The City Of Tomball Charter Regarding: (A) Amending Sections 3.07, 4.01, 5.07, 6.03, 6.12, 6.13, 7.07, 7.08, 9.03, And 10.2 To Correct Non-Substantive Issues; (B) Amending Section 1.05 To Update To Language Used To Clarify Between Sex And Gender Based Pronouns; (C) Amending Section 2.03 To Update Annexation Procedures In Line With Changes In Texas Law; (D) Amending Section 5.01 Relating To The Publication Of Elections And The Dates Of Elections; (E)

Amending Section 5.03 Relating To Forms Required For Municipal Office Application; (F) Amending Section 6.02 Relating To Term Limits; (G) Amending Sections 6.08 And 7.01 Relating To The Powers Of Mayor And City Manager; (H) Amending Section 6.10 Relating To The Role Of Council In Selecting City Administrative Personnel; (I) Amending Section 6.14 Relating To The Physical Publishing Of Ordinances And Relating To Reading Ordinances At Council Meetings; (J) Amending Article Vi And Article X By Removing Part Of Section 10.01 And Adding Section 6.17 Relating To Council Liaison On Boards And Commissions; (K) Amending Sections 6.02, 6.03, 6.04, 6.06, 6.08, And 6.13 Relating To The Term Councilmember; (L) Section 7.01 Relating To The Next Charter Review Written Report; (M) Amending Section 7.08 Relating To The Term And Removal Of Municipal Judge; (N) Amending Section 8.06 Relating To Public Hearing On Budget; (O) Amending Section 8.14 Relating To Classifications Of Accounting Standards; (P) Amending 8.17 Relating To Countersigning Of Checks, Vouchers Or Warrants By Assistant City Manager; (Q) Amending Section 10.01 Relating To The Planning And Zoning Commission Powers To Approve Final Plats, To Recommend Building Code Adoption And Revision, To Recommend Capital Improvement Plans; And To The Planning And Zoning Commission Notice Of Meeting Change; And (R) Amending Sections 6.02, 6.03, 6.07, 6.08, 6.14, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 11.03, 11.04, 11.05, 11.07, 11.11, 11.12, And 12.02 Relating To The Office Or Title Language; Providing For Ballots; Designating The Time And Place For Holding Such Elections; Providing For Notices; Providing For Publication; Providing For Severability; And, Providing An Effective Date.

D. Adjournment

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

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 6th day of February 2024 by 5:00 PM, and remained posted for at least 72 continuous hours preceding the scheduled time of said meeting.

\_\_\_\_\_  
Tracylynn Garcia, TRMC, CMC, CPM  
City Secretary

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 48 hours prior to this meeting. Please contact the City Secretary's office at (281) 290-1019 for further information.

# City Council Meeting

## Agenda Item

### Data Sheet

**Meeting Date:** February 9, 2024

**Topic:**

Adopt, on Second Reading, Ordinance No. 2024-02, An Ordinance Of The City Of Tomball, Texas Calling A Special Election To Be Held On May 4, 2024, For The Purpose Of Submitting To The Voters Propositions To Amend The City Of Tomball Charter Regarding: (A) Amending Sections 3.07, 4.01, 5.07, 6.03, 6.12, 6.13, 7.07, 7.08, 9.03, And 10.2 To Correct Non-Substantive Issues; (B) Amending Section 1.05 To Update To Language Used To Clarify Between Sex And Gender Based Pronouns; (C) Amending Section 2.03 To Update Annexation Procedures In Line With Changes In Texas Law; (D) Amending Section 5.01 Relating To The Publication Of Elections And The Dates Of Elections; (E) Amending Section 5.03 Relating To Forms Required For Municipal Office Application; (F) Amending Section 6.02 Relating To Term Limits; (G) Amending Sections 6.08 And 7.01 Relating To The Powers Of Mayor And City Manager; (H) Amending Section 6.10 Relating To The Role Of Council In Selecting City Administrative Personnel; (I) Amending Section 6.14 Relating To The Physical Publishing Of Ordinances And Relating To Reading Ordinances At Council Meetings; (J) Amending Article Vi And Article X By Removing Part Of Section 10.01 And Adding Section 6.17 Relating To Council Liaison On Boards And Commissions; (K) Amending Sections 6.02, 6.03, 6.04, 6.06, 6.08, And 6.13 Relating To The Term Councilmember; (L) Section 7.01 Relating To The Next Charter Review Written Report; (M) Amending Section 7.08 Relating To The Term And Removal Of Municipal Judge; (N) Amending Section 8.06 Relating To Public Hearing On Budget; (O) Amending Section 8.14 Relating To Classifications Of Accounting Standards; (P) Amending 8.17 Relating To Countersigning Of Checks, Vouchers Or Warrants By Assistant City Manager; (Q) Amending Section 10.01 Relating To The Planning And Zoning Commission Powers To Approve Final Plats, To Recommend Building Code Adoption And Revision, To Recommend Capital Improvement Plans; And To The Planning And Zoning Commission Notice Of Meeting Change; And (R) Amending Sections 6.02, 6.03, 6.07, 6.08, 6.14, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 11.03, 11.04, 11.05, 11.07, 11.11, 11.12, And 12.02 Relating To The Office Or Title Language; Providing For Ballots; Designating The Time And Place For Holding Such Elections; Providing For Notices; Providing For Publication; Providing For Severability; And, Providing An Effective Date.

**Background:**

Public Hearing was held, and First Reading was adopting during the Regular City Council meeting on 02/05/2024.

The proposed amendments were recommended by the City Council after conducting several joint meetings with the Charter Review Commission.

**Origination:**

**Recommendation:**

.

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

Tracylynn Garcia, City Secretary

**FUNDING (IF APPLICABLE)**

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: \_\_\_\_\_ No: \_\_\_\_\_ If yes, specify Account Number: # \_\_\_\_\_

If no, funds will be transferred from account # \_\_\_\_\_ To account # \_\_\_\_\_

Signed	Sasha Luna		Approved by	
	Staff Member	Date		City Manager
				Date

**ORDINANCE NO. 2024-02**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS CALLING A SPECIAL ELECTION TO BE HELD ON MAY 4, 2024, FOR THE PURPOSE OF SUBMITTING TO THE VOTERS PROPOSITIONS TO AMEND THE CITY OF TOMBALL CHARTER REGARDING: (A) AMENDING SECTIONS 3.07, 4.01, 5.07, 6.03, 6.12, 6.13, 7.07, 7.08, 9.03, AND 10.2 TO CORRECT NON-SUBSTANTIVE ISSUES; (B) AMENDING SECTION 1.05 TO UPDATE TO LANGUAGE USED TO CLARIFY BETWEEN SEX AND GENDER BASED PRONOUNS; (C) AMENDING SECTION 2.03 TO UPDATE ANNEXATION PROCEDURES IN LINE WITH CHANGES IN TEXAS LAW; (D) AMENDING SECTION 5.01 RELATING TO THE PUBLICATION OF ELECTIONS AND THE DATES OF ELECTIONS; (E) AMENDING SECTION 5.03 RELATING TO FORMS REQUIRED FOR MUNICIPAL OFFICE APPLICATION; (F) AMENDING SECTION 6.02 RELATING TO TERM LIMITS; (G) AMENDING SECTIONS 6.08 AND 7.01 RELATING TO THE POWERS OF MAYOR AND CITY MANAGER; (H) AMENDING SECTION 6.10 RELATING TO THE ROLE OF COUNCIL IN SELECTING CITY ADMINISTRATIVE PERSONNEL; (I) AMENDING SECTION 6.14 RELATING TO THE PHYSICAL PUBLISHING OF ORDINANCES AND RELATING TO READING ORDINANCES AT COUNCIL MEETINGS; (J) AMENDING ARTICLE VI AND ARTICLE X BY REMOVING PART OF SECTION 10.01 AND ADDING SECTION 6.17 RELATING TO COUNCIL LIAISON ON BOARDS AND COMMISSIONS; (K) AMENDING SECTIONS 6.02, 6.03, 6.04, 6.06, 6.08, AND 6.13 RELATING TO THE TERM COUNCILMEMBER; (L) SECTION 7.01 RELATING TO THE NEXT CHARTER REVIEW WRITTEN REPORT; (M) AMENDING SECTION 7.08 RELATING TO THE TERM AND REMOVAL OF MUNICIPAL JUDGE; (N) AMENDING SECTION 8.06 RELATING TO PUBLIC HEARING ON BUDGET; (O) AMENDING SECTION 8.14 RELATING TO CLASSIFICATIONS OF ACCOUNTING STANDARDS; (P) AMENDING 8.17 RELATING TO COUNTERSIGNING OF CHECKS, VOUCHERS OR WARRANTS BY ASSISTANT CITY MANAGER; (Q) AMENDING SECTION 10.01 RELATING TO THE PLANNING AND ZONING COMMISSION POWERS TO APPROVE FINAL PLATS, TO RECOMMEND BUILDING CODE ADOPTION AND REVISION, TO RECOMMEND CAPITAL IMPROVEMENT PLANS; AND TO THE PLANNING AND ZONING COMMISSION NOTICE OF MEETING CHANGE; AND (R) AMENDING SECTIONS 6.02, 6.03, 6.07, 6.08, 6.14, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 11.03, 11.04, 11.05, 11.07, 11.11, 11.12, AND 12.02 RELATING TO THE OFFICE OR TITLE LANGUAGE; PROVIDING FOR BALLOTS; DESIGNATING THE TIME AND PLACE FOR HOLDING SUCH ELECTIONS; PROVIDING FOR NOTICES; PROVIDING FOR PUBLICATION; PROVIDING FOR SEVERABILITY; AND, PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City Council (the “Council”) of the City of Tomball, Texas (the “City”) desires to order a special election to submit proposed amendments to the City Charter to the voters in accordance with Section 9.004 of the Texas Local Government Code; and

**WHEREAS**, Section 3.005 of the Texas Election Code requires that special elections be ordered not later than the 78th day before the date of the election; now, therefore

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

**Section 1.** The findings contained in the preamble of this Ordinance are hereby found to be true and correct and are hereby adopted as part of the Ordinance.

**Section 2.** In accordance with the general laws and the Constitution of the State of Texas, a Special Municipal Election is hereby called and ordered for Saturday, May 4, 2024, the same being the first Saturday in May, at which the election of the following propositions for proposed amendments to the City Charter of the City of Tomball shall be submitted to the qualified voters of the City for their action thereon. The proposed amendments to the Charter are set forth below, a separate number begin assigned to each subject on which an amendment is proposed for convenience in reference. In the election, the registered voters of the City shall decide by voting “Yes” or “No” whether they are in favor of the following propositions:

**Proposition A**

*Amending Sections 3.07, 4.01, 5.07, 6.03, 6.12, 6.13, 7.07, 7.09, 9.03, and 10.2 of the City of Tomball Charter providing for the correction of non-substantive issues.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING THE FOLLOWING SECTIONS TO CORRECT NON-SUBSTANTIVE ISSUES, SUCH AS MISSPELLINGS AND GRAMMATICAL ERRORS; ADDING CLARITY; REMOVING REDUNDANCIES OF LANGUAGE; AND REMOVING OUTDATED CODE REFERENCES:**

**ART. III, SEC. 3.07 – REMOVE “ON ACCOUNT OF” AND REPLACE WITH “DUE TO” TO CLARIFY THAT ANY DEBT BY THE CITY WILL NOT CAUSE THE CITY TO BE SUBJECT TO GARNISHMENT.**

**ART. IV, SEC. 4.01 – REMOVE “WILL” AND REPLACE WITH “WITH” TO CORRECT A TYPOGRAPHIC ERROR.**

**ART. V, SEC. 5.07 – REMOVE AN OUTDATED REFERENCE TO THE “TEXAS ELECTION CODE 67.003.”**

**ART. VI, SEC. 6.03 – ADD “AND” TO FIX A GRAMMATICAL ERROR.**

**ART. VI, SEC. 6.12 – CHANGE “COUNCIL MEMBERS” TO “MEMBERS OF THE COUNCIL” TO PROVIDE CLARITY TO A REFERENCE TO**

**THE COUNCIL INSTEAD OF REFERENCE TO AN INDIVIDUAL COUNCILMEMBER.**

**ART. VI, SEC. 6.13 – CHANGE “COUNCIL MEMBERS” TO “MEMBERS OF THE COUNCIL” TO PROVIDE CLARITY TO A REFERENCE TO THE COUNCIL INSTEAD OF REFERENCE TO AN INDIVIDUAL COUNCILMEMBER.**

**ART. VI, SEC. 6.13 – CREATE SEPARATE SENTENCES OF WHAT CONSTITUTES A QUORUM AND WHAT CONSTITUTES A MAJORITY FOR A BINDING VOTE TO PROVIDE CLARITY.**

**ART. VII, SEC. 7.07 – CHANGE “AN ATTORNEY” TO “LEGAL COUNSEL” TO PROVIDE CLARITY TO WHO SHALL BE APPOINTED AS THE CITY ATTORNEY.**

**ART. VII, SEC. 7.08 – CHANGE “CITY JUDGE” TO “JUDGE OF THE MUNICIPAL COURT TO PROVIDE CLARITY TO THE POSITION AND ALIGN THE TERM UNDER CURRENT STATE LAW.**

**ART. IX, SEC. 9.03 – CHANGE “INSURE” TO “ENSURE” TO CORRECT A TYPOGRAPHIC ERROR.**

**ART. X, SEC. 10.02 – REMOVE AN OUTDATED REFERENCE TO “ARTICLE 970(A), SECTION 4, V.A.T.S., MUNICIPAL ANNEXATION ACT.”**

☐ YES

☐ NO

In the event of approval of this proposition, Sections 3.07, 4.01, 5.07, 6.02, 6.13, 7.07, 7.08, 9.03, and 10.2 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions struck through:

**“SECTION 3.07 – PROVISIONS RELATING TO ASSIGNMENT, EXECUTION AND GARNISHMENT**

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

## **“SECTION 4.01 – GENERAL**

The City may use a corporate seal; may sue and be sued; may contract and be contracted with; may implead and be impleaded in all courts in all matters whatsoever; may cooperate with the government of the State of Texas or any agency thereof, the Federal Government or any agency thereof or any political subdivision of the State of Texas; and shall have all the powers granted to Home Rule cities by the Constitution and laws of the State of Texas, together ~~will~~ with all the implied powers necessary to carry into execution of all the powers granted. The City may own or acquire property within or without its boundaries for any municipal purpose in fee simple or in any lesser interest or estate, by purchase, gift, devise, lease or condemnation and may sell, hold, lease, manage, control and police any property now owned by it or which it may hereafter acquire, and shall have the right to lease or let its property whether inside or outside the City limits, subject to the limitation hereinafter set out, and may construct, own, lease, operate and regulate the public utilities; may assess, levy and collect taxes for general and special purposes on all lawful subjects of taxation; may borrow money on the faith and credit of the City by issuance and sale of bonds, warrants or notes of the City; may appropriate the money of the City for all lawful purposes; may regulate and control the use, for whatever purpose, of the streets and other public places; may make and enforce all police, health, sanitary and other regulations; and may pass such ordinances as may be expedient for the protection and maintenance of good government, peace and welfare of the City, for the performance of the functions thereof, for the order and security of its residents; and may provide suitable penalties for the violation of any ordinance enacted by the City; and, except as prohibited by the Constitution and laws of this State or restricted by this Charter, the City may exercise all municipal powers, functions, rights, privileges and immunities of every name and nature whatsoever.”

## **“SECTION 5.07 – CANVASSING ELECTIONS**

The returns of all elections shall be delivered forthwith to the Mayor and City Secretary by the Election Judge. The Council shall canvass the returns and declare the results of such election in accordance with the provisions prescribed by State (~~Texas Election Code 67.003~~) and Federal election laws.”

## **“SECTION 6.03 – QUALIFICATIONS**

Each member of the Council shall be a resident citizen of the City, shall be a minimum of eighteen (18) years of age and a qualified voter of the State of Texas, and shall have been a resident citizen of Tomball for a period of not less than one (1) year immediately preceding his election. An incumbent seeking re-election must file for the same position number. Any person presently holding an elective office shall resign that office upon election to another elective office of profit or trust. No employee of the City shall continue in such position after election to an elective office. A citizen cannot file for an elective office if the candidate has a felony conviction except as provided by the State Election Code. The Mayor or Councilmember shall, if convicted of a felony while in office, immediately upon



conviction thereof, forfeit said office. If the Mayor or any Councilmember fails to maintain the foregoing qualifications or shall be absent from two (2) regularly scheduled meetings within any six (6) month period without valid excuse, the Council must, at its next regular meeting, declare a vacancy as set forth in Section 6.09 of this Charter.”

#### “SECTION 6.12 – MEETINGS OF COUNCIL

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

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

#### “SECTION 6.13 – RULES OF PROCEDURE

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for the taking and recording of minutes of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and the ayes, nays and abstentions shall be recorded in the minutes. A Councilman shall state the reason for an abstaining vote. Four (4) members of the Council ~~members~~, one of whom may be the Mayor, shall constitute a quorum for the purpose of transaction of business. ~~and no~~ **No** action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

The Mayor shall have a binding vote only in case of tie votes from Councilmembers.

The minutes shall reflect the names of all members of Council ~~members~~ in attendance at both regular and special Council meetings, with status of absence being addressed as "Excused" or "Unexcused" by the presiding officer. Council, by resolution, shall define the guidelines for determination of absences "Excused" and "Unexcused".”

## “SECTION 7.07 – CITY ATTORNEY

The Council shall appoint ~~an attorney~~ **legal counsel** duly licensed in the State of Texas, who shall be the City Attorney. He shall receive for his services such compensation as may be fixed by the Council and shall hold his office at the pleasure of Council. The City Attorney, or such other attorneys selected by him with the approval of the Council shall represent the City in all litigation. He shall be the legal advisor of, attorney and counsel for, the City and all officers and departments thereof. A City Attorney shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as City Attorney become a candidate in a City election, he shall resign his position as City Attorney upon election to a City Office.”

## “SECTION 7.08 – MUNICIPAL COURT

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

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- C. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- D. A ~~City~~ Judge **of the Municipal Court** shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as ~~City~~ Judge **of the Municipal Court** become a candidate in a City election, he shall resign his position as ~~City~~ Judge **of the Municipal Court** upon election to a City Office.
- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the ~~City~~ Judge **of the Municipal Court** or his alternates.”

### “SECTION 9.03 – RIGHT OF REGULATION

Every grant, renewal, extension or amendment of a public utility franchise, whether so provided in the ordinance or not, shall be subject to the right of the City unless Federal or State law dictates otherwise:

- A. To forfeit any such franchise by ordinance at any time for failure of the holder thereof to comply with the terms of the franchise. Such power shall be exercised only after written notice to the franchise holder stating wherein the franchise holder has failed to comply with the terms of the franchise and setting a reasonable time for the correction of such failure, and shall be exercised after such reasonable time has expired.
- B. To impose reasonable regulations to ensure ~~insure~~ safe, efficient and continuous service to the public.
- C. To require such expansion, extension, enlargement and improvement of plants and facilities as are necessary to provide adequate service to the public.
- D. To require every franchise holder to furnish to the City, without cost to the City, full information regarding the location, character, size, length and terminals of all facilities of such franchise holder in, over and under the streets, alleys and other public properties of the City, and to regulate and control the location, relocation and removal of such facilities.
- E. To collect from every public utility operating in the City such proportion of the expense of excavating, grading, paving, repaving, constructing, reconstructing, draining, repairing, maintaining, lighting, sweeping and sprinkling the streets, alleys, bridges, culverts, viaducts and other public places of the City which represent the increased cost of such operation resulting from the occupancy of such public places by such public utility, and such proportion of that cost of such operations as results from the damage to or the disturbance of such public places caused by such public utility; or to compel such public utility to perform, at its own expense, such operations as above listed which are made necessary by the occupancy of such public places by such utility or by damage to or disturbance of such public places caused by such public utility.
- F. To require every franchise holder to allow other public utilities to use its poles and other facilities, including bridges and viaducts, whenever in the judgment of the Council such use shall be in the public interest, provided that in such an event, a reasonable rental shall be paid such owner of the facilities for such use. Provided further, that inability of such public utilities to agree upon rental facilities shall not be an excuse for failure to comply with such requirement by the Council.
- G. To require the keeping of accounts in such form as will accurately reflect the value of the property of each franchise holder which is used and useful

in rendering its service to the public and the expenses, receipts and profits of all kind of such franchise holder.

- H. To examine and audit at any time during business hours the accounts and other records of any franchise holder.
- I. To require reports on the operation of the utility, which shall be in such form and contain such information as the Council shall prescribe.
- J. To require that the public utility give notice to any subscriber to its service prior to the permanent or temporary discontinuance or disruption of such service by the public utility, except in cases of emergency, and to require that no officer, agent, servant or employee of the public utility nor any vehicles or equipment under their control shall make use of, go upon or across any private property in the City without first obtaining the permission of the owner or occupant of such property, except in cases of emergency, and to provide a penalty for the violation of such requirements.
- K. To impose such other reasonable regulations, restrictions, requirements and conditions as may be deemed necessary or desirable to promote the health, safety, welfare or accommodations of the public.
- L. No franchise shall be transferable except with the approval of the Council as expressed by ordinance. The term "transferable", as used herein, shall not be construed in such a manner as to prevent the franchise from pledging said franchise as security for a valid debt or mortgage."

#### **"SECTION 10.02 – PLATTING OF PROPERTY**

Every owner of any tract of land situated within the corporate limits of the City or its extraterritorial jurisdiction (ETJ), who may divide the same into two (2) or more parts for the purpose of laying out any subdivisions or any addition to the City shall comply with all applicable provisions contained in the Code of Ordinances of the City, as adopted or hereafter amended. ~~[Article 970(a), Section 4, V.A.T.S., Municipal Annexation Act.]~~"

#### **Proposition B**

*Amending Section 1.05 of the City Charter providing for an update to language used to clarify between sex and gender based pronouns.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE I, INTRODUCTORY PROVISIONS, SECTION 1.05, GENDER OF WORDING, BY REMOVING THE LANGUAGE "EITHER SEX" AND REPLACING WITH "ANY GENDER"?**

☐ YES

☐ NO

In the event of approval of this proposition, Section 1.05 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions struck through:

**“SECTION 1.05 – GENDER OF WORDING**

The masculine gender of the wording used throughout this Charter shall always be interpreted to mean ~~either sex~~ any gender.”

**Proposition C**

*Amending Section 2.03 of the City Charter providing for an update to annexation procedures in line with the changes in Texas law.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE II, FORM OF GOVERNMENT AND BOUNDARIES, SECTION 2.03, ANNEXATION, BY REMOVING LANGUAGE INCONSISTENT WITH RECENT CHANGES TO TEXAS STATE LAW?**

☐ YES

☐ NO

In the event of approval of this proposition, Section 2.03 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions struck through:

**“SECTION 2.03 – ANNEXATION**

The Council may by ordinance annex territory lying adjacent to the City ~~with or without the consent of the inhabitants in such territory or the owners thereof, not inconsistent with the procedural rules prescribed by law applicable to the cities operating under charters as adopted or amended under~~ in accordance with State law.”

**Proposition D**

*Amending Section 5.01 to provide for consolidating provisions by removing redundant language and stating that elections shall be held on uniform election dates as designated by the Texas Election Code.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE V, ELECTIONS, SECTION 5.01, ELECTIONS: REGULAR AND SPECIAL, BY CONSOLIDATING THE REQUIREMENT THAT AN ELECTION BE PUBLICIZED INTO LANGUAGE THAT REQUIRES AN ELECTION TO BE CONDUCTED IN ACCORDANCE WITH THE TEXAS ELECTION CODE, REMOVING REDUNDANT REQUIREMENTS AND BY STATING THAT THE REGULAR CITY**

**ELECTION SHALL BE HELD ANNUALLY ON THE UNIFORM ELECTION DATES AS DESIGNATED BY THE TEXAS ELECTION CODE AND REMOVING LANGUAGE DESIGNATED SPECIFIC DAYS OF THE WEEK?**

☐ YES

☐ NO

In the event of approval of this proposition, Section 5.01 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions struck through:

**“SECTION 5.01 – ELECTIONS: REGULAR AND SPECIAL**

- A. All City elections shall be conducted and publicized in accordance with the Texas Election Code.
- B. The regular City election shall be held annually on the ~~second Saturday in May or such other date as required~~ uniform election dates as designated by the Texas Election Code. The Council shall be responsible for specifying the places for holding such elections.
- C. The Council may, by resolution or ordinance, order a special election for purposes consistent with this Charter and laws of the State of Texas. The Council will fix the time and places for such a special election and provide all means for holding same.
- D. Municipal elections shall be conducted by election officials appointed by the Council, or as otherwise prescribed by law. Sample ballots identical in format to those used in the specific election shall be posted in the voting place(s) for the purpose of voter orientation.
- ~~E. All municipal elections shall be publicized in accordance with the Texas Election Code.”~~

**Proposition E**

*Amending Section 5.03 of the City Charter providing for the requirement for a signed application for filing for office for Mayor or Councilmember include all forms required by City and State law.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE V, ELECTIONS, SECTION 5.03, FILING FOR OFFICE, BY ADDING A REQUIREMENT THAT ALL APPLICANTS FILE ALL FORMS REQUIRED BY CITY AND STATE LAW?**

☐ YES

☐ NO

In the event of approval of this proposition, Section 5.03 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined:

**“SECTION 5.03 – FILING FOR OFFICE**

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

**Proposition F**

*Amending Section 6.02 of the City Charter to set limits to terms for Mayor and City Councilmembers.*

**Shall the City of Tomball Charter be amended by amending Article VI, The Tomball City Council, Section 6.02, Number, Selection, and Term, in order to apply a four-term limit to the offices of Mayor and/or Councilmember and requiring a full year off before being eligible to serve again?**

☐ YES

☐ NO

In the event of approval of this proposition, Section 6.02 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“Sec. 6.02. – Number, Selection, and Term**

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

- A. The Mayor shall be elected from the City at large. The Councilmen shall be elected from the City at large by positions known as Positions 1, 2, 3, 4, and 5.
- B. The Mayor shall be the presiding officer of the Council and shall be recognized as the head of the City Government for all ceremonial purposes and by the Governor for purposes of military law. The Mayor shall be allowed to vote only in case of a tie vote and shall not have the authority to veto any action of the Council.
- C. The Mayor and each Councilman shall hold office for a period of three (3) years or until his successor is elected and qualified. All elections

shall be held in the manner provided for by this Charter and the election laws of the State of Texas.

- D. ~~There shall be no limitation of elected terms for the Office of Mayor and Councilman.~~ No one person shall serve for more than four (4) consecutive full terms or twelve (12) consecutive years, whichever is longest, regardless of office. A person who has served four (4) consecutive full terms or twelve (12) consecutive years, whichever is longest, is eligible to be elected to an office only after being out of office for one full year. For purposes of this section, office includes Mayor and the five (5) positions of Councilmember.

### **Proposition G**

*Amending Section 6.08 and Section 7.01 of the City Charter related to the responsibilities of the office of Mayor and position of City Manager of Tomball.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VI, THE TOMBALL CITY COUNCIL, SECTION 6.08, MAYOR AND MAYOR PRO-TEM, AND ARTICLE VII, ADMINISTRATIVE SERVICES, SECTION 7.01, CITY MANAGER, IN ORDER TO CLARIFY THE RESPONSIBILITIES OF EACH OFFICE BY REMOVING THE RESPONSIBILITY OF THE MAYOR TO SEE THAT ALL ORDINANCES, BYLAWS AND RESOLUTIONS OF THE COUNCIL ARE FAITHFULLY OBEYED AND ENFORCED; AND ADDING SUCH LANGUAGE TO THE RESPONSIBILITIES OF THE CITY MANAGER?**

☐ YES

☐ NO

In the event of approval of this proposition, Sections 6.08 and 7.01 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:.

#### **“SECTION 6.08 – MAYOR AND MAYOR PRO-TEM**

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. ~~The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced.~~ The Mayor shall, when authorized by the Council, sign all official documents ~~such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds.~~ The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.



The Council, at its first meeting after the election of Councilmen, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain his voting privileges when acting in the absence of the Mayor.”

#### “SECTION 7.01 – CITY MANAGER

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

B. Term and Salary.

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

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

- (1) Be responsible to the Council for the efficient and economical administration of the City government. **The City Manager shall see that all ordinances, bylaws, and resolutions of the Council are faithfully obeyed and enforced.** He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.

- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) Prepare a written report to the Council, first in 2019, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.”

### **Proposition H**

*Amending Section 6.10 of the City Charter to clarify the role of Council in the selection of City Administrative personnel.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VI, THE TOMBALL CITY COUNCIL, SECTION 6.10, APPOINTMENTS AND REMOVALS, BY CLARIFYING THE COUNCIL’S ROLE IN APPROVING CERTAIN CITY ADMINISTRATIVE POSITIONS AS RECOMMENDED BY THE CITY MANAGER, SUCH AS THE ASSISTANT CITY SECRETARY, CHIEF OF POLICE, CITY SECRETARY, FINANCE DIRECTOR, FIRE CHIEF, DIRECTOR OF PUBLIC WORKS, AND DIRECTOR OF COMMUNITY DEVELOPMENT.**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 6.10 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 6.10 – APPOINTMENTS AND REMOVALS**

Neither the Council nor any of its members shall ~~in any manner dictate the appointment or removal of any City administrative officers or employees whom the City Manager or any of his subordinates are empowered to appoint~~ (See Section 7.01, C-1) instruct or request the City Manager or any of the City Manager’s subordinate department heads to appoint or remove from office or employment any person except with respect to the offices which are to be filled with Council approval or appointment under the provisions of this Charter.”

### **Proposition I**

*Amending Section 6.14 of the City Charter to remove the requirement for an ordinance to be published in book or pamphlet form and that an ordinance be read in its entirety unless such requirement is waived..*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VI, THE TOMBALL CITY COUNCIL, SECTION 6.14, ORDINANCES, BY REMOVING THE REQUIREMENT FOR AN ORDINANCE TO BE PUBLISHED IN BOOK OR PAMPHLET FORM AND BY REMOVING THE REQUIREMENT THAT AT THE FIRST READING AN ORDINANCE MUST BE READ IN ITS ENTIRETY UNLESS A MOTION IS MADE AND PASSED SUSPENDING THE REQUIREMENT??**

**[ ] YES**

**[ ] NO**

In the event of the approval of this proposition, Section 6.14 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 6.14 – ORDINANCES**

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

A. Procedure for Passage of Ordinances. Every ordinance shall be introduced in written or printed form and, upon passage, shall take effect at the time indicated therein; provided that any ordinance imposing a penalty, fine or forfeiture for a violation of its provisions shall become effective not less than fourteen (14) days from the date of its passage. The City Secretary shall give notice of every ordinance under consideration, by causing the caption or summary, including the penalty, fine, or forfeiture for a violation of any such ordinance to be published in the official newspaper for the City after the first reading and at least once within fourteen (14) days after the passage of said ordinance. He shall note on every ordinance, the caption of which is hereby required to be published, and on the record thereof, the fact that same has been published as required by the Charter, and the date of such publication, and promulgation of such ordinance; provided, that the provisions of this section shall not apply to the correction, revision and modification of the ordinances of the City for publication ~~in book or pamphlet form~~. It shall be necessary to the validity of any ordinance that it shall be read two (2) times and considered at two (2) sessions of the Council unless addressed otherwise by this Charter. ~~At the first (1st) reading, said ordinance shall be read in its entirety unless a motion is made and passed suspending the requirement of the reading of the ordinance, in which case such ordinance shall be read by caption only, followed by an explanation of the ordinance. The one (1) remaining~~

~~presentation of said ordinance may be by caption only.~~ Copies of said ordinances shall be made available at the City Hall upon request. Every ordinance shall be authenticated by the signature of the Mayor and City Secretary and shall be systematically recorded in an ordinance book in a manner approved by the Council. It shall only be necessary to record the caption or title of ordinances in the minutes or journal of Council meetings. The Council shall have power to cause the ordinances of the City to be corrected, revised, codified and printed in code form as often as the Council deems advisable, and such printed code, when adopted by the Council, shall be in full force and effect without the necessity of publishing the same or any part thereof in a newspaper. However, if the ordinance is amended, it then must be published one time, by caption only, in the official City newspaper. Such printed code shall be admitted in evidence in all courts and places without further proof.

B. Emergency Ordinances. To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except to fund emergency appropriations in accordance with Article 8.15 of this Charter. An emergency ordinance shall be introduced in the form and manner generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency, with a description in clear and specific terms and with one reading sufficing for its passage. Such emergency clause shall require the affirmative vote of three members elected to Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall become effective immediately and shall be published in the official newspaper for the City of Tomball once within 14 days after the passage of such ordinance. After adoption, the ordinance shall be numbered as required for other adopted ordinances, with the designation of "E" following the number. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day following the day on which it became effective, but this shall not prevent reenactment of the ordinance."

### **Proposition J**

*Amending Article VI and Article X of the City Charter by removing a part of Section 10.01 Liaison with City Council and adding Section 6.17 to remove the requirement from the City Manager of having a liaison on each commission and adding the requirement that a Councilmember be appointed as a liaison to each board and commission.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE IV, THE TOMBALL CITY COUNCIL, BY ADDING SECTION 6.17, LIAISON WITH BOARDS AND COMMISSIONS, REQUIRING THE COUNCIL TO APPOINT A COUNCILMEMBER TO SERVE AS A LIAISON TO EACH BOARD AND COMMISSION AND**

**REMOVING SECTION 10.01, PARAGRAPH E, THAT THE CITY MANAGER SHALL SERVE AS LIAISON BETWEEN THE COMMISSION AND THE COUNCIL?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 6.17 and Section 10.01 of the City of Tomball Charter shall be added or amended to read as follows, with additions being underlined and removals being struck through:

**“SECTION 6.17 – LIAISON WITH BOARDS AND COMMISSIONS**

**Each year, following the election of members of the Council, the Council may appoint a Councilmember as a representative to each board and commission. That Councilmember shall attend, as needed, each board or commission. That Councilmember will serve as a liaison between the board or commission and the Council.”**

**“SECTION 10.01 – PLANNING AND ZONING COMMISSION**

The Council shall appoint a City Planning and Zoning Commission, consisting of five (5) members, who shall be residents of the City but who shall not be employees of the City.

- A. *Term of Office.* The members of the Commission shall be appointed for three (3) year, staggered terms.
- B. *Rules of Procedure.* The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the person performing the duties of the City Secretary and shall be a public record.
- C. *Vacancies.* Members of the Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.
- D. *Powers and Duties.* The Commission shall have the power and shall be required to:

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

~~**E. — Liaison with City Council. The City Manager or his representative shall attend the meetings of the Commission and shall serve as liaison between the Commission and the Council.”**~~

### **Proposition K**

*Amending Sections 6.02, 6.03, 6.04, 6.06, 6.08, 6.12, and 6.13 of the City Charter to provide for use of the term Councilmember.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY REPLACING THE TERM COUNCILMAN OR COUNCILMEN WITH THE TERM COUNCILMEMBER OR COUNCILMEMBERS IN ARTICLE VI, THE TOMBALL CITY COUNCIL, SECTIONS 6.02, NUMBER, SELECTION, AND TERM; 6.03, QUALIFICATION; 6.04, COMPENSATION; 6.06, HOLDING DUAL OFFICES; 6.08, MAYOR AND MAYOR PRO-TEM; 6.12, MEETINGS OF COUNCIL; AND 6.13, RULES OF PROCEDURE TO PROVIDE CONSISTENCY WITH THE REST OF THE CITY OF TOMBALL CHARTER?**

☐ YES

☐ NO

In the event of the approval of this proposition, Sections 6.02, 6.03, 6.06, 6.08, and 6.13 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 6.02 – NUMBER, SELECTION, AND TERM**

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

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

**“SECTION 6.03 – QUALIFICATIONS**

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

#### **“SECTION 6.04 – COMPENSATION**

By ordinance, the Council shall set the compensation for its members in attendance at its meetings. The Council shall also set a monthly stipend for the Mayor. The Mayor and City ~~Councilmen~~ Councilmembers shall also be reimbursed for actual expenses incurred while on official business.”

#### **“SECTION 6.06 – HOLDING DUAL OFFICES**

The Mayor and City ~~Councilmen~~ Councilmembers are prohibited by the provision of Article XVI, Section 40, of the Texas Constitution and statutes of the State of Texas, from holding more than one civil office of emolument concurrently. Violation of this Section shall constitute malfeasance in office and any officer found guilty thereof shall be subject to removal from office.”

#### **“SECTION 6.08 – MAYOR AND MAYOR PRO-TEM**

The Mayor shall be the official head of the City government. The Mayor shall be the Chairman and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as he deems advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon him by Council.

The Council, at its first meeting after the election of ~~Councilmen~~ Councilmembers, shall elect one of its members Mayor Pro-Tem, and he shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain his voting privileges when acting in the absence of the Mayor.”



## “SECTION 6.13 – RULES OF PROCEDURE

The Council shall, by ordinance, determine its own rules and order of business and the rules shall provide that citizens of the City shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration. The Council shall provide for the taking and recording of minutes of all meetings, and such minutes shall be a public record. Voting, except on procedural motions, shall be by roll call and the ayes, nays and abstentions shall be recorded in the minutes. A ~~Councilman~~ Councilmember shall state the reason for an abstaining vote. Four (4) Council members, one of whom may be the Mayor, shall constitute a quorum for the purpose of transaction of business and no action of the Council shall be valid or binding unless adopted by the affirmative vote of three (3) or more members of the Council.

The Mayor shall have a binding vote only in case of tie votes from ~~Councilmen~~ Councilmembers.

The minutes shall reflect the names of all Council members in attendance at both regular and special Council meetings, with status of absence being addressed as "Excused" or "Unexcused" by the presiding officer. Council, by resolution, shall define the guidelines for determination of absences "Excused" and "Unexcused".

### Proposition L

*Amending Section 7.01 of the City Charter to provide for the City Manager's first written report in 2029.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VII, ADMINISTRATIVE SERVICES, SECTION 7.01, CITY MANAGER, BY CHANGING THE YEAR THAT THE FIRST WRITTEN REPORT FROM THE CITY MANAGER TO COUNCIL ON CHARTER REVISION NEEDS IS DUE FROM 2019 TO 2029?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 7.01 of the City of Tomball Charter shall be to read as follows, with additions being underlined and deletions being struck through:

## “SECTION 7.01 – CITY MANAGER

- A. *Appointment and Qualifications.* The Council shall appoint an administrative and executive officer of the City who shall be responsible to the Council for the administration of all the affairs of the City. He shall be chosen by the Council solely on the basis of his executive and administrative training, experience and ability. No member of the Council

shall, during the time for which he is elected and for one year thereafter, be appointed City Manager.

B. Term and Salary.

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

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

- (1) Be responsible to the Council for the efficient and economical administration of the City government. He shall have the authority, with the approval of the Council, to appoint and remove all department heads. He shall have the authority to appoint and remove all other employees in the administrative service of the City. He may authorize the head of a department to appoint and remove subordinates in his respective department. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service solely through the City Manager.
- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of him by the Council, not inconsistent with this Charter.
- (6) Prepare a written report to the Council, first in ~~2019~~ **2029**, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.”

**Proposition M**

*Amending Section 7.08 of the City Charter to provide for a term and removal criteria for the municipal Judge.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE 7, ADMINISTRATIVE SERVICES, SECTION 7.08, MUNICIPAL COURT, BY UPDATING THE REQUIREMENTS AND CONDITIONS TO REMOVE A MUNICIPAL JUDGE AND THE LENGTH OF TERM A MUNICIPAL JUDGE SERVES TO ALIGN WITH CURRENT STATE LAW?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 7.08 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 7.08 – MUNICIPAL COURT**

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

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. ~~The Judge of said Court shall hold office at the pleasure of the Council.~~ The Judge of the Municipal Court shall serve for two (2) years. The Judge of the Municipal Court may be removed by a vote of the majority of Council for incompetency or official misconduct, after due notice and an opportunity to be heard in the Judge's defense. The Judge of the Municipal Court may also be removed from office by a Council resolution declaring a lack of confidence in the Judge, provided that two-thirds of the Council vote in favor of such resolution.
- B. The Clerk of said Court and his deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- C. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- D. A City Judge shall hold no other City office or City employment during the term for which he is appointed by the Council. Should a person serving as

City Judge become a candidate in a City election, he shall resign his position as City Judge upon election to a City Office.

- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or his alternates.”

### **Proposition N**

*Amending Section 8.06 of the City Charter to provide for the notice of public hearing on budget in accordance with state law.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VIII, MUNICIPAL FINANCE, SECTION 8.07, PUBLIC HEARING ON BUDGET, BY REMOVING SPECIFIC LANGUAGE AS TO THE NUMBER OF DAYS PRIOR TO A SCHEDULED MEETING NOTICE MUST BE PUBLISHED AND REPLACING WITH LANGUAGE THAT ALIGNS THE NOTICE REQUIREMENT WITH CURRENT STATE LAW?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 8.06 of the Cit of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

#### **“SECTION 8.06 – NOTICE OF PUBLIC HEARING ON BUDGET**

At the Council meeting at which the budget is submitted, the Council shall authorize the publishing of the Budget Hearing notice in the City's official newspaper. The notice shall set forth the time, place and date of the budget hearing and the location and times at which the citizens may inspect the proposed budget. The notice shall be published ~~at least fourteen (14) days prior to the scheduled date of the meeting~~ in accordance with state law.

### **Proposition O**

*Amending Section 8.14 of the City Charter to provide for the removal of ambiguous language related to nationally accepted classifications of accounting standards.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VIII, MUNICIPAL FINANCE, SECTION 8.14, ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES, BY REMOVING AMBIGUOUS LANGUAGE PERTAINING TO NATIONALLY ACCEPTED CLASSIFICATIONS OF ACCOUNTING STANDARDS?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 8.14 of the City of Tomball Charter shall be amended to read as follows, with deletions being struck through:

**“SECTION 8.14 - ESTIMATED EXPENDITURES SHALL NOT EXCEED ESTIMATED RESOURCES**

The total estimated expenditures of the general fund and debt service fund shall not exceed the total estimated resources of each fund. The classification of revenue and expenditure accounts shall conform as nearly as local conditions will permit to the uniform classification as promulgated by the Governmental Accounting Standards Board or ~~some~~ other nationally accepted classifications.”

**Proposition P**

*Amending Section 8.17 of the City Charter to provide for the allowance of the Assistant City Manager to countersign all checks, vouchers or warrants for the withdrawal of money.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE VIII, MUNICIPAL FINANCE, SECTION 8.17, DISBURSEMENT OF FUNDS, BY ADDING THAT THE ASSISTANT CITY MANAGER CAN COUNTERSIGN ALL CHECKS, VOUCHERS OR WARRANTS FOR THE WITHDRAWAL OF MONEY FROM THE CITY DEPOSITORY?**

☐ YES

☐ NO

In the event of the approval of this proposition, Section 8.17 of the City of Tomball Charter shall be amended to read as follows, with deletions being struck through:

**“SECTION 8.17 – DISBURSEMENT OF FUNDS**

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

**Proposition Q**

*Amending Section 10.01 of the City Charter to provide for update to the power and duties of the Planning and Zoning Commission to have the authority to approve final plats, make recommendations related to the Building Codes, make recommendations to the capital improvements plan, and designating the location for publication of notices in the newspaper.*

SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY AMENDING ARTICLE X, MUNICIPAL PLANNING, SECTION 10.01, PLANNING AND ZONING COMMISSION, BY REMOVING THE POWER AND DUTY OF THE PLANNING AND ZONING COMMISSION OF THE RECOMMENDATION OF APPROVAL OR DISAPPROVAL OF PLATS TO COUNCIL AS COUNCIL HAS DELEGATED APPROVAL AUTHORITY TO THE PLANNING AND ZONING COMMISSION, TO RECOMMEND CODE ADOPTION OR REVISION AS THAT RESPONSIBILITY IS WITH THE CITY BUILDING OFFICIAL, TO RECOMMEND THE CAPITAL IMPROVEMENT PLAN AS THAT RESPONSIBILITY IS WITH THE CITY STAFF, BY REMOVING THE REQUIREMENT TO PUBLISH A CHANGE OF MEETING PLACE IN A NEWSPAPER IN GENERAL CIRCULATION IN THE CITY.?

☐ YES

☐ NO

In the event of the approval of this proposition, Section 10.01 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 10.01 – PLANNING AND ZONING COMMISSION**

The Council shall appoint a City Planning and Zoning Commission, consisting of five (5) members, who shall be residents of the City but who shall not be employees of the City.

- A. *Term of Office.* The members of the Commission shall be appointed for three (3) year, staggered terms.
- B. *Rules of Procedure.* The Commission shall annually elect one (1) of its number Chairman and shall establish its own rules of procedure which shall include the following: A quorum shall consist of a majority of the members of the Commission and an affirmative vote of a majority of those present shall be necessary to pass upon pending questions. All meetings shall be open to the public and a record of all proceedings shall be maintained by the ~~person performing the duties of the City~~ Commission Secretary and shall be a public record.
- C. *Vacancies.* Members of the Commission shall actively participate in the activities of the Commission, and any member who is absent from three (3) consecutive meetings of the Commission without valid excuse as determined by the Commission, shall automatically be dismissed from membership. The Commission shall at once notify the Council that a vacancy in the Commission exists. Vacancies occurring in the Commission, for whatever reason, shall be filled within thirty (30) days by appointment by the Council for the remainder of the unexpired term.

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

### **Proposition R**

*Amending Sections 6.02, 6.03, 6.07, 6.08, 6.14, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 11.03, 11.04, 11.05, 11.07, 11.11, 11.12, and 12.02 of the City Charter to provide for office and title specific language.*

**SHALL THE CITY OF TOMBALL CHARTER BE AMENDED BY REPLACING PRONOUN SPECIFIC LANGUAGE WITH OFFICE AND TITLE SPECIFIC LANGUAGE?**

☐ YES

☐ NO

In the event of the approval of this proposition, Sections 6.02, 6.03, 6.07, 6.08, 6.14, 7.01, 7.02, 7.03, 7.04, 7.05, 7.06, 7.07, 7.08, 11.03, 11.04, 11.05, 11.07, 11.11, 11.12, and 12.02 of the City of Tomball Charter shall be amended to read as follows, with additions being underlined and deletions being struck through:

**“SECTION 6.02 – NUMBER, SELECTION, AND TERM**

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

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



### “SECTION 6.03 – QUALIFICATIONS

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

### “SECTION 6.07 - CONFLICT OF INTEREST IN CITY CONTRACTS

No officer or employee of the City shall have a financial interest, direct or indirect, in any contract with the City, or shall be financially interested, directly or indirectly, in the sale to the City of any land, materials, supplies or services except as provided by State law. Any violation of this Section shall constitute malfeasance in office, and any officer or employee guilty thereof shall be subject to removal from ~~his~~ that office or position. Any violation of this Section, with the knowledge, expressed or implied, of the person or corporation contracting with the Council may invalidate the contract involved.”

### “SECTION 6.08 - MAYOR AND MAYOR PRO-TEM

The Mayor shall be the official head of the City government. The Mayor shall be the ~~Chairman~~ Chairperson and shall preside at all meetings of the Council. The Mayor shall see that all ordinances, bylaws and resolutions of the Council are faithfully obeyed and enforced. The Mayor shall, when authorized by the Council, sign all official documents such as ordinances, resolutions, conveyances, grant agreements, official plats, contracts and bonds. The Mayor shall appoint special committees as ~~he deems~~ deemed advisable, subject to approval by Council, or as instructed by the Council. The Mayor shall perform such other duties consistent with this Charter or as may be imposed upon ~~him~~ the Mayor by Council.

The Council, at its first meeting after an election of ~~Councilmen~~ Councilmembers, shall elect one of its members Mayor Pro-Tem, and the Mayor Pro-Tem ~~he~~ shall perform all the duties of the Mayor in the absence or disability of the Mayor. The Mayor Pro-Tem shall retain ~~his~~ voting privileges when acting in the absence of the Mayor.”

## “SECTION 6.14 – ORDINANCES

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

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

B. Emergency Ordinances. To meet a public emergency affecting life, health, property, or the public peace, the Council may adopt emergency ordinances. Such ordinances shall not levy taxes, grant or renew or extend a franchise, regulate the rate charged by any public utility for its services, or authorize the borrowing of money except to fund emergency appropriations in accordance with Article 8.15 of this Charter. An emergency ordinance shall be introduced in the form and manner

generally prescribed for ordinances, except that it shall be plainly designated in the title as an emergency, with a description in clear and specific terms and with one reading sufficing for its passage. Such emergency clause shall require the affirmative vote of three members elected to Council. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced. After adoption, the ordinance shall become effective immediately and shall be published in the official newspaper for the City of Tomball once within 14 days after the passage of such ordinance. After adoption, the ordinance shall be numbered as required for other adopted ordinances, with the designation of "E" following the number. Every emergency ordinance so adopted, except one authorizing the borrowing of money as described herein, shall automatically stand repealed as of the sixty-first (61st) day following the day on which it became effective, but this shall not prevent reenactment of the ordinance."

#### **"SECTION 7.01 – CITY MANAGER**

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

B. Term and Salary.

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

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

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

- (2) Prepare the budget annually and submit it to the Council and be responsible for its administration after adoption.
- (3) Prepare and submit to the Council, as of the end of the fiscal year, a complete report on the finances and administrative activities of the City for the preceding year.
- (4) Keep the Council advised of the financial condition and future needs of the City and make such recommendations as may seem desirable.
- (5) Perform such duties as may be prescribed by this Charter or may be required of ~~him~~ **the City Manager** by the Council, not inconsistent with this Charter.
- (6) Prepare a written report to the Council, first in 2019, and thereafter at intervals not exceeding five years, as to the need for revision of the city Charter, with special attention given to conflicts, if any, between the Charter and state law and recommending such amendments to the Charter as may seem necessary for legal, administrative, or other reasons.”

#### **“SECTION 7.02 - ASSISTANT CITY MANAGER**

The City Manager, with the approval of the Council, may appoint an Assistant City Manager. Such Assistant City Manager shall have all of the powers and duties as delineated by ~~his~~ **the Assistant City Manager’s** job description, and in the event of the absence or disability of the City Manager, ~~he~~ **the Assistant City Manager** shall fill all the duties of the City Manager.”

#### **“SECTION 7.03 – POLICE DEPARTMENT**

A Police Department is established to preserve order, to strive to secure the safety of residents, to prevent violence and to protect life and property from injury and loss within the limits and allowable jurisdiction of the City.

##### **A. Chief of Police**

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

##### **B. Reserve Police**

The Chief of Police may appoint or remove "Reserve Police Officers" in accordance with guidelines established by the Council. No other persons, except as otherwise provided by the laws of the State of Texas, shall act as "special police" within the City."

#### **"SECTION 7.04 – CITY SECRETARY**

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

#### **"SECTION 7.05 - FINANCE DIRECTOR**

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

#### **"SECTION 7.06 - CITY FIRE DEPARTMENT**

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

##### **A. Fire Chief**

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

##### **B. Fire Marshal**

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

Department, and ~~he~~ **Fire Marshal** may be removed from office by the Fire Chief with the approval of the City Manager.

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

#### “SECTION 7.07 – CITY ATTORNEY

The Council shall appoint an attorney duly licensed in the State of Texas, who shall be the City Attorney. ~~He~~ **The City Attorney** shall receive ~~for his services~~ such compensation as may be fixed by the Council and shall hold ~~his~~ **the** office at the pleasure of Council. The City Attorney, or such other attorneys selected by ~~him~~ **the City Attorney** with the approval of the Council shall represent the City in all litigation. ~~He~~ **The City Attorney** shall be the legal advisor of, attorney and counsel for, the City and all officers and departments thereof. A City Attorney shall hold no other City office or City employment during the term for which ~~he~~ **the City Attorney** is appointed by the Council. Should a person serving as City Attorney become a candidate in a City election, ~~he~~ **that person** shall resign ~~his~~ **the** position as City Attorney upon election to a City Office.”

#### “SECTION 7.08 – MUNICIPAL COURT

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

- A. The Judge of said Court shall be appointed by the Council, and shall be a licensed attorney, and shall receive such salary as may be fixed by the Council. The Judge of said Court shall hold office at the pleasure of the Council.
- B. The Clerk of said Court and ~~his~~ **the Clerk's** deputies shall have the power to administer oaths and affidavits, make certificates, affix the seal of said Court thereto and generally do and perform any and all acts usual and necessary by the Clerk of Courts in issuing process of said courts and conducting the business thereof.
- C. The Council shall appoint other licensed attorneys to act as Temporary Judges of said Court in case of disability or absence of the Judge of the Municipal Court. The salary of Temporary Judges shall be fixed by the Council.
- D. A City Judge shall hold no other City office or City employment during the term for which ~~he~~ **the Judge** is appointed by the Council. Should a person

serving as City Judge become a candidate in a City election, ~~he~~ the Judge shall resign ~~his~~ the position as City Judge upon election to a City Office.

- E. The Mayor shall serve as Judge of the Municipal Court in the absence of the City Judge or ~~his~~ alternates.”

#### **“SECTION 11.03 - PETITION FOR RECALL**

Before the question of recall of such officers shall be submitted to the qualified voters of the City, a petition demanding such question to be so submitted shall first be filed with the person performing the duties of City Secretary; which said petition shall be signed by qualified voters of the City equal in number to at least thirty-percent (30%) of the number of votes cast at the last regular municipal election of the City, for the position in question, but in no such event less than one hundred seventy-five (175) petitioners. Each signer of such recall petition shall personally sign ~~his~~ the signer's name thereto in ink, and shall write after the ~~his~~ the signer's, ~~his~~ the signer's place of residence, giving name of street and number. ~~He~~ The ~~signer~~ shall also write thereon ~~his~~ the signer's voter registration number, and the day, month and year ~~his~~ the signer's signature was affixed.”

#### **“SECTION 11.04 - FORM OF RECALL PETITION**

The recall petition must be addressed to the Council of the City, must distinctly and specifically point out the ground or grounds upon which such petition for removal is predicated, and if there be more than one ground, such as for incompetency, misconduct or malfeasance in office, shall specifically state each ground with such certainty as to give the officer sought to be removed notice of the matters and things with which ~~he~~ that officer is charged.

One of the signers of each separate petition shall make a notarized affidavit that ~~he~~ that signer, and that ~~he~~ that signer only, personally circulated such petition, and that each signature appended thereto was made in ~~his~~ that signer's presence and is the genuine signature of the person whose name it purports to be.”

#### **“SECTION 11.05 - VARIOUS PAPERS CONSTITUTING PETITION**

The petition may consist of one or more copies, and the several parts of copies of the petition may be filed separately and by different persons; but no signature to such petition shall remain effective or be counted which was placed thereon more than forty-five (45) days prior to the filing of such petition or petitions with the person performing the duties of City Secretary. All papers comprising a recall petition shall be filed with the person performing the duties of City Secretary on the same day, and the said City Secretary shall immediately notify, in writing, the officer so sought to be removed by mailing such notice by Certified Mail to ~~his~~ that officer's Tomball mailing address.”

#### **“SECTION 11.07 - PUBLIC HEARING TO BE HELD**

The officer whose removal is sought may, within five (5) business days after such recall petition has been presented to the Council, request that a public hearing be held to permit ~~him~~ **the officer** to present facts pertinent to the charges specified in the recall petition. In this event, the Council shall order such public hearing to be held not less than five (5) business days, nor more than fifteen (15) days, after receiving such request for a public hearing.”

#### **“SECTION 11.11 - RESULT OF RECALL ELECTION**

If a majority of the votes cast at a recall election shall be "NO", that is against the recall of the person named on the ballot, ~~he~~ **that officer** shall continue in office for the remainder of ~~his~~ **that officer's** unexpired term, subject to recall as before.

If a majority of the votes cast as such election be "YES", that is for recall of the person named on the ballot, ~~he~~ **that officer** shall be deemed removed from office, and the vacancy shall be filled as vacancies in the Council are filled, as provided in Section 6.09.”

#### **“SECTION 11.12 - RECALL, RESTRICTIONS THEREOF**

No recall petition shall be filed against any officer of the City within three (3) months after ~~his~~ **that officer's** election nor within (3) months after an election for such officer's recall.”

#### **“SECTION 12.02 - INITIATIVE**

Qualified voters of the City may initiate legislation by submitting a petition addressed to the Council which requests the submission of a proposed ordinance or resolution to a vote of the qualified voters of the City. Said petition must be signed by qualified voters of the City equal in number to thirty-percent (30%) of the average of the highest number of votes cast at the last three regular municipal elections for council place or Mayor of the City, or two hundred fifty (250) qualified voters whichever is greater, and each copy of the petition shall have attached to it a copy of the proposed legislation. Each signer of such petition shall personally sign and print ~~his~~ **the signer's** name thereto in ink, and write ~~his~~ **the signer's** place of residence, giving name of street and number. ~~He~~ **That signer** shall also write thereon ~~his~~ **the signer's** voter registration number and the day, month, and year ~~his~~ **the signer's** signature was affixed. The petition may consist of one (1) or more notarized copies as permitted in Section 11.05 of this Charter. Such petition shall be filed with the person performing the duties of City Secretary. Within five (5) business days after the filing of such petition, the person performing the duties of City Secretary shall certify such petition or return same to petitioners for corrections. After certification, the person performing the duties of City Secretary shall present said petition and proposed ordinance or resolution to the Council at the next regular meeting. Upon presentation to the Council of the petition and draft of the proposed ordinance or resolution, it shall become the duty of the Council, on or before the next regularly scheduled meeting of the Council, to pass and adopt such ordinance or resolution without alteration as to meaning or effect in the



opinion of the persons filing the petition to call a special election on the next uniform election date as provided by the State Election Code, at which the qualified voters of the City shall vote on the question of adopting or rejecting the proposed legislation. No ordinance shall be proposed by an initiative petition which is on the same question as an ordinance so submitted and defeated at an election held within the preceding twelve (12) months.”

**Section 3.** The present boundaries of the City constituting one (1) election precinct, the polls shall be open for voting from seven o’clock (7:00) a.m. until seven o’clock (7:00) p.m. at the following polling place, and the following person are hereby appointed officers to conduct the election at said polling place:

**Polling Place**

Tomball City Hall  
401 Market Street  
Tomball, Texas 77375

**Election Officers**

Patsy Kinsey, Presiding Judge  
Latrell Shannon ,Alternate Presiding Judge

The City Secretary is hereby authorized and directed to provide a copy of this Ordinance to each judge as written notice of the appointment as required by the Texas Election Code.

The Presiding Judge shall have the authority to appoint no more than seven (7) clerks to assist in the holding of said election, but in no event shall the President Judge appoint fewer than two (2) clerks.

The Election Judge shall be paid at the rate of eighteen dollars (\$18.00) per hour; and the election clerks shall be paid at the rate of seventeen dollars (\$17.00) per hour as provided by Title 3, Section 32.091(a) of the Texas Election Code. The Election Judge shall be compensated in the amount of \$25 for the delivery of election equipment and supplies as provided by Title 3, Section 32.091(a) of the State Election Code, if such delivery is necessary. The City will pay for any required training of the City’s election judges and clerks. Judges and clerks will also be reimbursed for travel and will be paid at the set hourly rates for training time.

**Section 4.** The City Secretary is hereby appointed the Elections Clerk for early voting; the appointment of a deputy clerk or clerks for early voting by the City Secretary shall be in accordance with Section 83.001 *et seq.* of the Texas Election Code. The place for early voting for such election is hereby designated as:

City Hall  
City of Tomball, Texas  
401 Market Street  
Tomball, Texas 77375

In order to meet the requirements of Section 85.005 of the Election Code, on each day for early voting which is not a Saturday, a Sunday, or an official state holiday, beginning on the twelfth (12th) day and continuing through the fourth (4th) day preceding the date of such election, said clerks shall keep City Hall open Monday through Friday from seven forty-five o'clock (7:45) a.m. until five o'clock (5:00) p.m., with the exception of Tuesday, April 30, 2024, when City Hall will be open for twelve (12) hours, from seven forty-five o'clock (7:45) a.m. until seven forty-five o'clock (7:45) p.m.

Said clerks shall not permit anyone to vote early by personal appearance on any day which is not a regular working day for the clerk's office, and under no circumstances shall they permit anyone to vote early by personal appearance at any time when such office is not open to the public. The above-described place for early voting is also the clerk's mailing address to which ballot applications and ballots voted by mail may be sent. The early voting clerk, in accordance with the provisions of the Texas Election Code, shall maintain a roster listing each person who votes early by personal appearance and each person to whom a ballot to be voted by mail is sent. The roster shall be maintained in a form approved by the Secretary of State.

**Section 5.** All ballots shall be prepared in accordance with Texas Election Code. Paper ballots shall be used for early voting and for voting on Election Day. In accordance with Section 61.012 of the Texas Election Code, the City will provide in every polling place at least one voting station that is accessible to a voter with disabilities. The ExpressVote Ballot Marking Device will be provided for those voters. All expenditures necessary for the conduct of the election, purchase of materials, and the employment of all election officials are hereby authorized in accordance with the Texas Election Code.

**Section 6.** The City Secretary is hereby authorized and directed to furnish all necessary election supplies to conduct said election.

**Section 7.** Notice of this election shall be given in accordance with the provisions of the Texas Election Code and returns of such notice shall be made as provided for in said Code. The Mayor shall issue all necessary orders and writs for such election, and returns of such election shall be made to the City Secretary after the closing of the polls.

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

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 5<sup>th</sup> DAY OF FEBRUARY 2024.

COUNCILMAN FORD	<u>YEA</u>
COUNCILMAN STOLL	<u>YEA</u>
COUNCILMAN DUNAGIN	<u>YEA</u>
COUNCILMAN TOWNSEND	<u>YEA</u>
COUNCILMAN PARR	<u>YEA</u>

SECOND READING:

READ, PASSED AND ORDAINED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 9<sup>th</sup> DAY OF FEBRUARY 2024.

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COUNCILMAN FORD	_____
COUNCILMAN STOLL	_____
COUNCILMAN DUNAGIN	_____
COUNCILMAN TOWNSEND	_____
COUNCILMAN PARR	_____