

**ORDINANCE NO. 2010-09**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING ITS COMPREHENSIVE ZONING ORDINANCE BY AMENDING SECTION 38, USE REGULATIONS, TO ADD “TEMPORARY REAL ESTATE FIELD OFFICE” AND “MODEL HOME” AS LISTED USES; AMENDING SECTION 43.8, TEMPORARY BUILDINGS, TO RENAME THE SECTION “TEMPORARY STRUCTURES AND USES” AND ADD DEVELOPMENT REGULATIONS FOR SUCH; AMENDING SECTION 45, DEFINITIONS, TO ADD A NEW DEFINITION FOR “TEMPORARY REAL ESTATE FIELD OFFICE;” PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.**

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**WHEREAS**, Russ Brown, on behalf of PCOT Investments, has requested that the City amend its Zoning Ordinance to permit model homes and temporary real estate field offices; and

**WHEREAS**, the Planning and Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted hearings regarding the request to amend Section 38, Use Regulations, Section 43.8, Temporary Buildings, and Section 45, Definitions, of the City’s Comprehensive Zoning Ordinance; and

**WHEREAS**, the Planning and Zoning Commission recommended in its final report that the City Council approve the addition of model homes and temporary real estate field offices and definitions and development regulations to govern such; and

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

**WHEREAS**, after consideration of all testimony given at the public hearing and after considering the input of the City staff, the Planning Commission recommended the changes set forth in this ordinance, and

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

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

**Section 1.** The City Council finds that the facts and matters set forth in the preamble of this Ordinance are true and correct.

**Section 2.** The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 38 thereof to read as follows:

**SECTION 38: USE REGULATIONS**

**38.2 USE CHARTS:**

Types of Land Uses	Residential Zoning Districts							Non-Residential Zoning Districts				OT & MU	Parking Ratio
	AG	SF-20-E	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
<b>Office</b>													
Temporary Real Estate Field Office	P	P	P	P	P	P	P		P	P		P	4 spaces
Model Home (including Sales Office)	P	P	P	P	P	P	P		C	C		P	2 spaces per model
<b>Commercial &amp; Wholesale Trade</b>													
Contractor's Temporary On-Site Construction Office (only with permit from B.O.)	P	P	P	P	P	P	P		P	P	P	P	None

**Section 3.** The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 43.8 thereof to read as follows:

**“SECTION 43: SUPPLEMENTAL REGULATIONS**

**43.8 TEMPORARY STRUCTURES & USES:**

Any Temporary Use, Structure or Building permitted under this ordinance shall comply with all applicable Development Standards and Setback requirements in the District in which the Temporary Use, Structure or Building is located, unless otherwise specified herein.

- Temporary Construction Office - Temporary construction offices, including trailers and modular offices, are permitted on or adjacent to any site during which construction is undertaken pursuant to a valid building permit. Temporary construction offices may be occupied for office or security purposes, or may be used for storage of equipment and material used during construction of the site. Upon completion or abandonment of construction or expiration of the

building permit, the temporary construction office shall be removed at the owner's expense.

2. Temporary Real Estate Field Office - Temporary real estate sales offices, including trailers and modular offices, shall be permitted in accordance with Section 38 "Use Regulations" when incidental to a residential development. Temporary sales offices shall be located and developed in compliance with the following standards:

- a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold or leased; and on a property whereon a recorded plat exists and a valid permit for construction has been issued;
- b. Parking shall be permitted on the lot in which the office is located or on an adjacent lot;
- c. Permitted temporary real estate sales offices shall not be used as any type of dwelling;
- d. Use of the temporary real estate sales office for the sale or lease of residential sites or projects located off-site is prohibited; and
- e. All temporary real estate sales offices shall be removed within thirty (30) days after the sale of the last dwelling unit in the development, or within thirty (30) days after twelve (12) continuous months of no construction or sales activity.

3. Model Home (including Sales Office)- Model homes with or without a sales office shall be permitted in accordance with Section 38 "Use Regulations" when incidental to a residential development. Model Homes shall be located and developed in compliance with the following standards:

- a. The model home shall be located within the boundaries of the subdivision or tract of land where the real property to be sold or leased is situated;
- b. Parking shall be permitted on the lot in which the model home is located or on an adjacent lot;
- c. The model home shall be designed as a permanent structure and shall comply with the provisions of this Ordinance, all applicable Building Codes of the City of Tomball, and State law;
- d. All exterior lighting shall be limited to typical household exterior lighting. The use of commercial grade ground mounted floodlights and search lights are prohibited; and.

- e. The model home shall cease operation within thirty (30) days after the sale of the last dwelling unit in the development, at which time the model home shall be vacated and a building permit issued to return the model home to its intended residential use only.
4. There shall be no permanent use of temporary buildings or temporary structures.
5. Temporary signage and flagpoles advertising the sale of property within the residential development shall not be prohibited provided they comply with the sign ordinance, are permitted, and are maintained at least ten feet away from all lot lines.”

**Section 4.** The Comprehensive Zoning Ordinance of the City of Tomball, Texas, is hereby amended by amending Section 45 thereof to read as follows:

“SECTION 45: DEFINITIONS

45.2 DEFINITIONS:

TEMPORARY REAL ESTATE FIELD OFFICE: A building, structure, or portable trailer used temporarily for sales of residential units in a recorded subdivision or development with a residential use component and in which sales and construction of residential units is planned and underway.”

**Section 5.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 6.** Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000.

Each day of violation shall constitute a separate offense.

**Section 7.** This Ordinance shall become effective fourteen days after the final reading and adoption of this Ordinance when the caption hereof is caused to be published once in the official newspaper of the City, by the City Secretary, as required by law. The City Secretary is directed to publish the caption of this Ordinance in the City’s official newspaper within 14 days after the passage of the ordinance.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19TH DAY OF APRIL 2010.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3RD DAY OF MAY 2010.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN WEBB	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

Gretchen Fagan  
Gretchen Fagan, Mayor

ATTEST:

Doris Speer  
Doris Speer, City Secretary