

ORDINANCE NO. 2011-08

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, PROVIDING FOR MINOR PLATS; AND MAKING OTHER FINDINGS AND PROVISIONS RELATED THERETO.

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Whereas, Section 212.0045(c) of the Texas Local Government Code provides that a municipality need not require platting for every division of land otherwise within the scope of Subchapter A of Chapter 212; and

Whereas, Section 212.0065 of the Texas Local Government Code further provides that a municipality may delegate approval responsibility of certain amending plats, minor plats and replats to one or more officers or employees of the City subject to the right to appeal the disapproval of those plats; and

Whereas, Article X of the City Charter of the City provides, in part, that every owner of property in the City or its ETJ who may divide their land shall comply with Subchapter A of Chapter 212, and that the Planning Commission of the City shall be required recommend to the Council the approval or the disapproval of plats of proposed subdivisions submitted in accordance with the City’s ordinances; and

Whereas, the City Council desires to provide, by ordinance, the delegation of approval of responsibility of certain plats subject to the right to appeal to the City Council; now therefore,

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

Section 1: Section 70-2. – Definitions, of the Code of Ordinances of the City of Tomball, Texas, is amended by adding, in the appropriate alphabetical position, the following definition:

“Minor Plat” means an amending plat described in Section 212.016 of the Texas Local Government Code, a replat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities; or a replat under Section 212.0145 that does not require the creation of any new street or the extension of municipal facilities.”

Section 2: Section 70-3 - Special provisions, of the Code of Ordinances of the City of

Tomball, Texas, is amended by amending subsection (d) thereof to read as follows:

“Sec. 70-3 (d) *Exceptions.*

- (1) The provisions of this chapter shall not be construed to prohibit the issuance of permits for construction on any lot which was in existence prior to August 15, 1983, nor to prohibit the repair, maintenance or installation of any street or public utility service for, to or abutting any lot, the last recorded conveyance of which prior to August 15, 1983, was by metes and bounds, and/or any subdivision, or lot therein, recorded or unrecorded, which subdivision was in existence prior to August 15, 1983.
- (2) A division of land does not include a minor plat approved in accordance with Section 70-4.”

Section 3: The Code of Ordinances of the City of Tomball, Texas, is amended by adding

a new Section 70-4, Lot consolidations and minor plats, that shall read as follows:

“Sec. 70-4 – Lot consolidations and minor plats.

- (a) Upon payment of the fee established by Council, a person may submit an application for a minor plat approval.
- (b) The City Manager, or the City Manager’s designee(s), may approve a minor plat.
- (c) After the City Manager approves a minor plat, the minor plat shall be placed on the Planning Commission’s next regular agenda as a non-action item for information purposes only.
- (d) Any person may appeal the approval of a minor plat by filing a written notice of appeal within 3 working days after the Planning Commission meeting at which the minor plat approval is submitted. Upon the filing of the appeal, the minor plat shall be deemed a preliminary plat shall be placed on the City Planning Commission’s next regular agenda for consideration within the time periods specified in this Chapter.
- (e) Upon expiration of the time for appeal, the City Engineer shall sign the minor plat on behalf of the City.
- (f) The person to whom a minor plat is presented shall not disapprove a minor plat, but shall be required to refer any plat which such person refuses to approve to the City’s Planning Commission within the time period specified in this Chapter.”

Section 4. All ordinances or parts of ordinances inconsistent or in conflict herewith

are, to the extent of such inconsistency or conflict, hereby repealed.

Section 5. It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Tomball. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

Section 6. Any person, firm or corporation that knowingly violates any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Tomball, Texas, and, upon conviction, shall be punished by a fine not to exceed two thousand (\$2,000.00) dollars for each offense.

Section 7. This Ordinance shall take effect immediately from and after its passage and the publication of the caption hereof, as provided by law and the City's home rule Charter.

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 18TH DAY OF APRIL 2011.

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| COUNCILMAN QUINN | <u>AYE</u> |
| COUNCILMAN STOLL | <u>AYE</u> |
| COUNCILMAN BROWN | <u>AYE</u> |
| COUNCILMAN TOWNSEND | <u>AYE</u> |
| COUNCILMAN DODSON | <u>AYE</u> |

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 2ND DAY OF MAY 2011.

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| COUNCILMAN QUINN | <u>AYE</u> |
| COUNCILMAN STOLL | <u>AYE</u> |
| COUNCILMAN BROWN | <u>AYE</u> |
| COUNCILMAN TOWNSEND | <u>AYE</u> |
| COUNCILMAN DODSON | <u>AYE</u> |

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary