

ORDINANCE NO. 2011-10

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 70, PLATS AND THE SUBDIVISION OF LAND, OF THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY AMENDING SUBSECTION (d) OF SECTION 70-3 OF ARTICLE I TO ALLOW JOINDER OF LOTS UNDER COMMON OWNERSHIP WITHOUT REQUIRING A PLAT PROVIDED THAT THE JOINDER OF LOTS DOES NOT REQUIRE THE DEDICATION OR REMOVAL OF ANY PUBLIC RIGHTS-OF-WAY, PUBLIC EASEMENTS OR PUBLIC IMPROVEMENTS; PROVIDING A PENALTY IN AN AMOUNT OF NOT MORE THAN \$2,000 PER OFFENSE FOR VIOLATION OF ANY PROVISION HEREOF, WITH EACH DAY CONSTITUTING A SEPARATE OFFENSE; PROVIDING FOR SAVINGS AND SEVERABILITY; PROVIDING FOR PUBLICATION; AND MAKING OTHER PROVISIONS AND FINDINGS RELATED THERETO.

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

Section 1. The Code of Ordinances of the City of Tomball is hereby amended by adding to Subsection (d) of Section 70-3, Exceptions, of Article I, Special Provisions, the language underscored below, the amended Subsection (d) to read as follows:

“Sec. 70-3. Special provisions.

* * *

(d) *Exceptions.*

- (3) A division of land does not include the merger of two or more adjoining lots or tracts of land, with common ownership, that the owner(s) wish(es) to merge into one lot in order to avoid the creation of a technical violation of the City’s building, subdivision and zoning regulations relating to building setback lines. This exception applies only if:
- a. the lots or tracts had at least one (1) owner in common as of the effective date of this ordinance; and
 - b. the lots or tracts are located in the Recorded Plat Revised Map of Tomball Harris Co. Texas recorded July 9, 1912, a true and correct copy of which is attached hereto as Exhibit “A” and incorporated herein for all purposes; and
 - c. a structure existed on the lots or tracts, as of the effective date of this ordinance, provided, however, that this exception shall

- not apply in the event that sixty-percent (60%) or more of the square feet of the structure is removed or destroyed; and
- d. the joinder of lots or tracts does not require the dedication or removal of any public rights-of-way, public easements or other public improvements; and
 - e. the owner(s) agrees in writing on a form approved by the City that the merged lot may not be divided in the future unless a subdivision plat authorizing such division is approved by the City and filed of record in accordance with applicable state laws and City Ordinances governing plats and the subdivision of land. The form must also inform and declare that any subsequent purchaser will be bound by the requirements of this exception and the form shall be filed in the County Clerk's office of the County in which the property is located. A property owner who has elected to join one (1) or more lots pursuant to this subsection may file an election with the City to reverse the joinder of lots so long as no violation of the City's setback requirements in the building, subdivision, or zoning regulations is created by the reversal.

Two or more platted lots joined together pursuant to this Subsection shall be considered one (1) joined lot for purposes of this Chapter; provided, however that nothing contained herein shall otherwise constitute an exception to the platting requirements imposed by this Chapter."

Section 2. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 3. 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 4. 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 with each day of violation constituting a separate offense.

Section 5. 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 20TH DAY OF JUNE 2011.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>ABSENT</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 5TH DAY OF JULY 2011.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN BROWN	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DODSON	<u>AYE</u>

Gretchen Fagan
Gretchen Fagan, Mayor

ATTEST:

Doris Speer
Doris Speer, City Secretary