

**ORDINANCE NO. 2019-31**

**AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 10, BUILDINGS AND BUILDING REGULATIONS, OF THE CODE OF ORDINANCES BY AMENDING CERTAIN SECTIONS OF CHAPTER 10, "BUILDINGS AND BUILDING REGULATIONS," TO ADOPT MORE RECENT EDITIONS OF CONSTRUCTION CODES PUBLISHED BY THE INTERNATIONAL CODE COUNCIL AND NATIONAL FIRE PROTECTION ASSOCIATION; ADOPTING THE PROPERTY MAINTENANCE CODE; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH VIOLATION OF ANY PROVISION HEREOF; AND MAKING OTHER PROVISIONS RELATED TO THE SUBJECT.**

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**WHEREAS**, the Texas Legislature has adopted the 2000 International Residential Code, the 2017 National Electrical Code, the 2003 International Building Code, and the 2015 International Energy Conservation Code, as the construction codes of the State (Tex. Loc. Gov't Code §§ 214.212, 214.214 & 214.216; Tex. Health & Safety Code § 388.003); and

**WHEREAS**, the City of Tomball (the "City") may adopt more recent editions and local amendments to the construction codes;

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

**Section 1.** Section 10-21 of the Code of Ordinances, City of Tomball, Texas, ("City Code") is hereby amended by adding to Section 10-21 the language underscored below and deleting therefrom the language struckthrough below to read as follows:

"Sec. 10-21. - International Building Code adopted.

The International Building Code, 2015 edition hereinafter sometimes referred to as the "code," as published by the International Code Council, Inc., is hereby adopted. A copy of said code made a part hereof for all purposes, an authentic copy of which shall be kept on file with the City Secretary."

**Section 2.** Section 10-22 of the City Code is hereby amended by adding to Section 10-22 the language underscored below and deleting therefrom the language struckthrough below to read as follows:

“Sec. 10-22. - Amendments to the International Building Code.

(a) Section 101 of the building code adopted in section 10-21 is hereby amended by adding a new Section 101.2.2 and amending Section 101.4.1 to read as follows:

101.2.2 *Existing buildings.* This code shall apply to alterations, repairs, renovations and additions to existing buildings as follows:

(1) If, within any 12-month period, alterations, additions, renovations, repairs, or any combination thereof, costing in excess of 50 percent of the then physical value of the building, or involving 50 percent or more of the square footage of the building, are made to an existing building in the floodplain, such building and associated mechanical, electrical, plumbing and fuel gas equipment, fixtures and appurtenances shall be made to conform to the requirements of this code applicable to new buildings in regards to the Design Flood Elevation.

(2) If an existing building is damaged by fire or otherwise in excess of 50 percent of its then physical value before such damage is repaired, it shall be made to conform to the requirements of this code applicable to new buildings, except in regards to slab height where the structure is located outside the floodplain, the footprint is not modified and the slab is intact.

(3) For the purpose of this section physical value of the building shall be its appraised value as shown on the county’s latest tax roll. Alternatively, upon filing for an appeal to the floodplain manager, a professional market appraisal for the pre-event evaluation, assessed post-event, may be submitted for review.

(4) If the occupancy classification of any existing building is changed (i.e. B occupancy is changed to A occupancy), the building shall be made to conform to the requirements of this code applicable to the new occupancy classification. If the occupancy classification of only a portion of an existing building is changed and that portion is separated from the remainder as stipulated in Chapter 3, then only such portion need conform to the requirements imposed by this Section.

101.4.1. *Electrical.* The provisions of the National Electrical Code, ~~2011~~ 2017 edition, shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

- (b) Section 103 of said code is hereby amended to provide as follows:

103. *Department of Building Safety.* The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official.

- (c) Section 104 of said code is hereby amended to provide as follows:

104. *Duties and Power of Building Official.*

104.1 *General.* The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code. Any reference in this code to the code official shall mean the building official or the building official's designee.

104.3 *Notices and orders.* Whenever any work is being done contrary to the provisions of this code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

- (d) Section 105 of said code is hereby amended by adding a new section 105.8 to provide as follows:

105.8 *Liability Insurance.* The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum limit as currently established or as hereafter adopted by resolution of the City Council from time to time, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

- (e) Section 109.4 of said code is hereby amended to provide as follows:

109.4 *Work commencing before permit issuance.* The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

- (f) Section 111.1 of said code is hereby amended to provide as follows:

111.1 *Use and Occupancy.* No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code, or other ordinances of the City shall not be valid.

- (g) Section 113.1 of said code is hereby amended to provide as follows:

113.1 *General.* Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this code shall be to the Zoning Board of Adjustments. The Zoning Board of Adjustments may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

- (h) Section 113.2 and 113.3 of said code are hereby deleted in their entirety.

- (i) Section 114 of said code is hereby deleted in its entirety and the penalty provision in Section 1-14 of the City Code is substituted in its place.

- (j) Section 903.2, entitled "Where Required" is hereby amended to read as follows:

903.2 Approved *automatic sprinkler systems* in new buildings and structures shall be provided in the locations described by Sections 903.2.1 through 903.2.12, as interpreted by the fire code official.

(k) Appendices.

(1) The following appendices contained in this code are deleted in their entirety:

Appendix A, Employee Qualifications;  
Appendix B, Board of Appeals;  
Appendix D, Fire Districts;  
Appendix E, Supplementary Accessibility Requirements;  
Appendix H, Signs; and  
Appendix I, Patio Covers.  
Appendix K, Administrative Provisions  
Appendix L, Earthquake Recording Instrument  
Appendix M, Tsunami-Generated Flood Hazard

(2) The following Appendices are hereby adopted:  
Appendix C, Group U—Agricultural Buildings;  
Appendix F, Rodent proofing; and  
Appendix G, Flood-Resistant Construction

(3) Appendix J of said code is hereby adopted and the following sections are amended as follows:

J106.1 *Maximum Slope*. The slope of cut surfaces shall be no steeper than is safe for the intended use, and shall be no steeper than 3 horizontal to 1 vertical (33 percent) unless the applicant furnishes a soils report justifying a steeper slope.

Exceptions:

A cut surface may be at a slope of 2 horizontal to 1 vertical (50 percent) provided that all the following are met:

- 1.1. It is not intended to support structures or surcharges.
- 1.2. It is adequately protected against erosion.
- 1.3. It is no more than 8 feet (2438 mm) in height.
- 1.4. It is approved by the building official.

A cut surface in bedrock shall be permitted to be at a slope of 1 horizontal to 1 vertical (100 percent).

J107.6 *Maximum Slope*. The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes steeper than 3 horizontal to 1 vertical (33 percent) shall be justified by soils reports or engineering data.”

**Section 3.** Section 10-48 of the City Code is hereby amended by adding to Section 10-48 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-48. - International Residential Code adopted.

The International Residential Code, 2015 edition, hereinafter sometimes referred to as the “code,” as published by the International Code Council, Inc., is hereby adopted. A copy of said code is made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.”

**Section 4.** Section 10-50 of the City Code is hereby amended by adding to Section 10-50 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-50. - Enforcement.

The code adopted by section 10-48 shall be enforced by the building official.”

**Section 5.** Section 10-51 of the City Code is hereby amended by adding to Section 10-51 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-51. - Amendments to the International Residential Code.

(a) Section R103 of the residential code adopted in section 10-48 is hereby amended to provide as follows:

R103 *Department of Building Safety.* The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her. Said deputies shall serve at the pleasure of the building official and may be removed without cause by building official.

(b) Section R104 of said code is hereby amended to provide as follows:

Section R104 *General.* The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

Section R104.3 *Notices and orders*. Whenever any work is being done contrary to the provisions of this code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

- (c) Section R105.5 of said code is hereby amended to provide as follows:

R105.5 *Expiration*. No construction schedule. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1½) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (d) Section R105 of said code is hereby amended by adding a new section R105.10 to provide as follows:

R105.10 *Liability Insurance*. The person or entity that will actually perform the work or services covered by a permit shall provide to the City evidence of comprehensive general liability insurance, issued by a company licensed to do business in Texas, in the following amounts, for the duration of the permit, and shall furnish certificates of insurance to the City as evidence thereof. The certificates shall provide that the insurance shall not be canceled, reduced, or changed without 30 days advance notice to the City.

Comprehensive general liability insurance covering all risks associated with the work, with a minimum limit as currently established or as hereafter adopted by resolution of the City Council from time to time, or a property damage limit equal to or exceeding the amount of the contract amount, whichever is greater.

- (e) Section R108.2 of said code is amended to provide as follows:

R108.2 *Schedule of permit fees*. Fees shall be charged in accordance with the City's fee schedule, as it may be amended from time to time.

- (f) Section R108.6 of said code is hereby amended to provide as follows:

R108.6 *Work commencing before permit issuance.* The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

- (g) Section R110.1 of said code is hereby amended to provide as follows:

Section R110.1 *Use and occupancy.* No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein.

Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the City. Certificates presuming to give authority to violate or cancel the provisions of this code or other ordinances of the City shall not be valid.

- (h) Section R112.1 of said code is hereby deleted and new section 112.1 is substituted therefor as follows:

112.1. *General.* Appeals of orders, decisions, or determinations made by the City's building official in interpreting or applying this code shall be to the Zoning Board of Adjustments. The Zoning Board of Adjustments may obtain the assistance of persons who are qualified by experience and training on a particular subject under consideration.

- (i) Section R112.3 of said code is hereby deleted in its entirety.

- (j) Section R113 of said code is deleted in its entirety and the penalty provision in Section 1-14 of the City Code is substituted in its place.

- (k) Appendices.

(1) The following appendices contained in said code are deleted in their entirety:

Appendix A, Sizing and Capacities of Gas Piping  
Appendix E, Manufactured Housing Used As Dwellings  
Appendix F, Radon Control Methods  
Appendix G, Piping Standards for Various Applications  
Appendix H, Patio Covers  
Appendix I, Private Sewage Disposal  
Appendix J, Existing Buildings and Structures  
Appendix K, Sound Transmission

- Appendix L, Permit Fees
- Appendix M, Home Day Care – R-3 Occupancy
- Appendix N, Venting Methods
- Appendix O, Automatic Vehicular Gates
- Appendix P, Sizing of Water Piping System
- Appendix R, Light Straw-Clay Construction
- Appendix S, Strawbale Construction
- Appendix T, Recommended Procedure for Worst-Case Testing of Atmospheric Venting Systems Under N1102.4 or N1105 Conditions <5ACH 50

(2) The following appendices contained in said code are adopted in their entirety:

- Appendix B, Sizing of Venting Systems Serving Appliances Equipped with Draft Hoods, Category I Appliances, and Appliances Listed For Use With Type B Vents
- Appendix C, Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems
- Appendix D, Recommended Procedure for Safety Inspection of an Existing Appliance Installation

(l) Table R301.2(1) of said code is completed to provide as follows:

Ground Snow Load	Wind Speed (mph)	Seismic Design Category	Subject to Damage From				Winter Design Temp	Ice Shield Underlay Required
			Weathering	Frost Line Depth	Termite	Decay		
0	110 b or c	A	Negligible	6"	Very heavy	Slight to moderate	32	No
Flood Hazards					Air Freezing Index	Mean Annual Temp		
FIRM and FBFM as adopted by City Code Section 10-395 Firm and FBFM					9	69.9		

(m) Section P2603.5.1 of said code is hereby amended to provide as follows:

P2603.5.1 *Sewer depth.* Building sewers that connect to private sewage disposal systems shall be not less than six inches (6") below finished grade at the point of septic tank connection. Building sewers shall not be less than eighteen inches (18") below grade.

**Section 6.** Section 10-76 of the City Code is hereby amended by adding to Section 10-76 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-76. - International Mechanical Code adopted.

The International Mechanical Code, 2015 edition, hereinafter sometimes referred to as the “code,” as published by the International Code Council, Inc., is hereby adopted. A copy of said code is attached hereto and made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.”

**Section 7.** Section 10-77 of the City Code is hereby amended by adding to Section 10-77 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-77. – Amendments to the International Mechanical Code.

(a) Section 103 of the mechanical code adopted in section 10-76 is hereby amended to provide as follows:

103 *Department of Mechanical Inspection.* The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official. Any reference in this code to the code official shall mean the building official or the building official’s designee.

(b) Section 104.1 of said code adopted in section 10-76 is hereby amended to provide as follows:

Section 104.1 *General.* The building official is hereby authorized and directed to enforce all of the provisions of this code. The building official shall have the power to render interpretations of this code and to adopt and enforce written rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

(c) Section 104.6 of said code adopted in section 10-76 is hereby amended to provide as follows:

Section 104.6 *Notices and orders*. Whenever any work is being done contrary to the provisions of this code, the building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work.

- (d) Sections 106.4.3 and 106.4.4 of said code are deleted in their entirety and a new section 106.4.3 is substituted therefor as follows:

106.4.3 *Expiration*. Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of such permit shall not exceed one and one-half (1½) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (e) Section 106 of said code is amended by adding a new section 106.5.4 to provide as follows:

106.5.4 *State License*. All persons performing work within the city governed by this code shall be licensed by the State of Texas, and shall submit to the city proof of insurance as required by the state or by statute.

- (f) Section 106.5.2 of said code is hereby deleted as fees shall be charged in accordance with the city's fee schedule, as it may be amended from time to time.

- (g) Section 106.5.3 of said code is hereby deleted in its entirety.

- (h) Section 109 of said code is hereby amended to provide as follows:

109. Means of Appeal. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this code shall be to the Zoning Board of Adjustments. The Zoning Board of Adjustments may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

- (i) Section 108 of said code is hereby deleted in its entirety and the penalty provision in Section 1-14 of the City Code is substituted in its place.

(j) Appendices.

(1) Appendix A, Chimney Connector Pass-Through, is hereby adopted in its entirety.

(2) Appendix B, Recommended Permit Fee Schedule, is hereby deleted in its entirety.”

**Section 8.** Section 10-305 of the City Code is hereby amended by adding to Section 10-305 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-305. – Electrical Code Adoption.

(a) With the passing of the ordinance from which this article derives, the 2017 edition of the National Electrical Code, NFPA 70, prepared by the National Fire Protection Association, Inc., will be adopted.

(b) In case of conflict between the provisions of the National Electrical Code and the provisions of this article, this article shall prevail. In the case of a conflict between the National Electrical Code and any other code adopted by this Article, the most restrictive provision shall prevail.”

**Section 9.** Section 10-306 of the City Code is hereby deleted in its entirety.

**Section 10.** Section 10-357 of the City Code is hereby amended by adding to Section 10-357 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-357. – International Plumbing Code adopted.

The International Plumbing Code, 2015 edition, hereinafter sometimes referred to as the “code,” as published by the International Code Council, Inc., and as amended herein, is hereby adopted. A copy of said code made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.”

**Section 11.** Section 10-358 of the City Code is hereby amended by adding to Section 10-358 the language underscored below and deleting therefrom the language struckthrough below:

“Sec. 10-358. - Amendments to the International Plumbing Code.

(a) Section 103 of the plumbing code adopted in section 10-357 is hereby amended to provide as follows:

103 *Department of Plumbing Inspection.* The enforcement of this code shall be under the administrative and operational control of the building official. The building official shall have such duties, and shall be selected and serve in the position at the pleasure of the City Manager and may be removed without cause by City Manager. The building official may appoint deputies to assist him/her. Said deputies shall serve at the pleasure of the building official and may be removed without cause by the building official. Any reference in this code to the code official shall mean the building official or the building official's designee.

- (b) Section 104 of said code is hereby amended by adding a new section 104.8, to provide as follows:

104.8 *Stop Work Orders.* Whenever any work is being done contrary to the provisions of this code, the Building official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall stop work until authorized in writing by the building official to proceed with the work. The building official shall issue all necessary notices or orders to ensure compliance with this code.

- (c) Sections 106.5.3 and 106.5.4 of said code are deleted in their entirety and a new section 106.5.3 is substituted therefor as follows:

106.5.3 *Expiration.* Every permit issued shall become invalid unless the work at the site authorized by such permit is commenced within 180 days after its issuance. The building official is authorized to grant, in writing, an extension or extensions of such permit, provided the maximum term of said permit shall not exceed one and one-half (1½) years. If any permitted work is not completed within this limitation, then the permit shall become invalid and must be reissued in order to resume work, together with payment of fees for such reissued permit.

- (d) Section 106.6.1 of said code is hereby amended to provide as follows:

106.6.1 *Work commencing before permit issuance.*  
The fee for work commenced without a permit shall be double the fee set forth in the fee schedule adopted by the City.

- (e) Section 106.6.3 of said code is deleted in its entirety.

- (f) Section 106.6.2 of said code is hereby amended to provide as follows:

106.6.2 *Fee schedule.* Fees shall be charged in accordance with the City's fee schedule, as it may be amended from time to time.

(g) Section 106 of said code is amended by adding a new section 106.6.4, which provides as follows:

106.6.4 *State License*. All persons performing work in the City governed by this code shall be licensed by the State of Texas, and shall submit to the City proof of insurance as required by the State or by statute.

(h) Section 109 of said code is hereby amended to provide as follows:

109. *Means of Appeal*. Appeals of orders, decisions, or determinations made by the building official in interpreting or applying this code shall be to Zoning Board of Adjustments. The Zoning Board of Adjustments may obtain the assistance of persons who are qualified by experience and training on the particular subject under consideration.

(i) Section 108 of said code is deleted in its entirety and the penalty provision in Section 1-14 of the City Code substituted in its place.

(j) Section 305.4.1 of said code is hereby amended to provide as follows:

305.4.1 *Sewer depth*. Building sewers that connect to private sewage disposal systems shall be installed not less than six inches (6") below finished grade at the point of septic tank connection. Building sewers shall be installed not less than eighteen inches (18") below grade.

(k) Section 903.1 of said code is hereby amended to provide as follows:

903.1 *Roof extension*. Open vent pipes that extend through a roof shall be terminated not less than six inches (6") above the roof. Where a roof is to be used for assembly or as a promenade, observation deck, sunbathing deck or similar purposes, open vent pipes shall terminate not less than seven feet (7') above the roof.

(l) Appendices.

(1) Appendix A, Plumbing Permit Fee Schedule, is deleted its entirety

(2) The following appendices contained in the code are adopted in their entirety:

Appendix B, Rates of Rainfall for Various Cities

Appendix C, Structural Safety

Appendix D, Degree Day and Design Temperature

Appendix E, Sizing of Water Piping System"

**Section 12.** Article IX, “Substandard Buildings,” of the City Code is hereby amended by adding to Article IX the language underscored below and deleting therefrom the language struckthrough below:

“ARTICLE IX. - SUBSTANDARD BUILDINGS; PROPERTY MAINTENANCE  
CODE

| Sec. 10-467. – International Property Maintenance Code Adopted.

The International Property Maintenance Code, 2015 edition, hereinafter sometimes referred to as the “code,” as published by the International Code Council, Inc., and as amended herein, is hereby adopted as the minimum standards applicable to all buildings and structures within the City limits, regardless of the date of construction, in accordance with Section 214.001(b) of the Texas Local Government Code. A copy of said code made a part hereof for all purposes, an authentic copy of which has been filed with the City Secretary.”

“Sec. 10-468. - Amendments to the International Property Maintenance Code.

(a) Chapter 1 of said code is replaced with Exhibit A attached to this ordinance and incorporated herein by reference showing amendments and deletions to that chapter in accordance with Chapters 214 and 54 of the Texas Local Government Code.

(b) Section 302.4 of said code is hereby amended to provide as follows:

302.4 *Weeds*. Premises and exterior property shall be maintained free from weeds or plant growth in excess of twelve inches (12’). Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

(c) Section 303.1 of said code is hereby amended to provide as follows:

303.1 *Swimming pools.* Swimming pools shall be maintained in a clean and sanitary condition, and in good repair, in compliance with all requirements applicable to swimming pools contained in the Texas Health and Safety Code. Swimming pools containing water that is black or green in color, or that contain algae or other plants shall be deemed unsanitary.

- (d) Section 602.3 of said code is hereby amended provide as follows:

602.3 *Heat supply.* Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied to furnish heat to the occupants thereof shall supply heat during the period from November 1 to February 28 to maintain a minimum temperature of 68° F (18° C) in all habitable rooms, bathroom and toilet rooms.

Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
2. In areas where the average monthly temperature is above 30° F (-1° C), a minimum temperature of 65° F (18° C) shall be maintained.

- (e) Section 602.4 of said code is hereby amended to provide as follows:

602.4 *Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat during the period from November 1 to February 28 to maintain a minimum temperature of 65° F (18° C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.”

Sec. 10-469. – Standards for Determination of substandard condition.

All buildings or structures, including but not limited to mobile homes or portable-type buildings, which have any or all of the following defects or lack of facilities shall be deemed substandard buildings or structures:

- (1) All buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail or rain, or damage through fire, to the extent that the roof, windows and doors, or portions of the house, building or structure which protect from the weather, will no longer reasonably protect from the weather.

- (2) All buildings or structures which constitute, or in which are maintained, fire hazards.
- (3) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand reasonable anticipated storms and/or hurricanes.
- (4) All buildings or structures so constructed or permitted to be so constructed as to constitute a menace to health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects reasonably calculated to spread disease, including such conditions hazardous to safety as adequate bracing or the use of deteriorated materials.

Sec. 10-470. - Nuisance declared.

All substandard buildings or structures within the term of this article which shall constitute a menace to the health, morals, safety or general welfare of its occupants or of the public are declared to be public nuisances, subject to the procedures required by state law, and shall be ordered to be vacated, repaired or demolished as hereinafter provided.

Sec. 10-471. - Inspectors.

In the event of a hearing under this Article, which includes a hearing under the property maintenance code or Chapter 214 of the Texas Local Government Code, it shall be the duty of the building official or fire code official, as applicable based on the condition of the to inspect all buildings or structures reported to be or believed to be substandard and to present a report of such inspection to the Zoning Board of Adjustment, which shall, except in cases of emergency as set forth in section 10-474, notify the proper party of the intention of such board to hold its hearing and follow the procedure provided in the property maintenance code, as adopted and amended by the City and in compliance with Chapter 214 of the Texas Local Government Code.

Sec. 10-472. - Criteria for determination of repair, vacation or demolition.

The following standards may be followed in substance by the applicable building or fire code official in recommending repair, vacation or demolition of a structure:

- (1) If the substandard building or structure can reasonably be repaired so that it will no longer be in a condition which is in violation of the terms of this article, it shall be ordered repaired.
- (2) If the substandard building or structure is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants or the public, it shall be ordered to be vacated.
- (3) In any case where a substandard building or structure is 50 percent (by square footage or building valuation) damaged or decayed, it shall be demolished, and in all cases where a building cannot be repaired so that its existence will no longer be in violation of the terms of this article, it shall be demolished.

**Section 13.** Chapter 10, Buildings and Building Regulations, of the Code of Ordinances shall be revised and amended as indicated above.

**Section 14.** This Ordinance shall in no manner amend, change, supplement, or revise any other provision of Chapter 10, Buildings and Building Regulations, of the Code of Ordinances except as indicated above.

**Section 15.** All ordinances or portions thereof, of the City of Tomball, in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

**Section 16.** 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 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 17.** 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, in accordance with the general penalty provision of Section 1-14 of the City Code. Each day of violation shall constitute a separate offense.

**Section 18.** 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 4TH DAY OF NOVEMBER 2019.

COUNCILMAN FORD	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<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 18TH DAY OF NOVEMBER 2019.

COUNCILMAN FORD	<u>ABSENT</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

Gretchen Fagan  
Gretchen Fagan, Mayor

ATTEST:

Doris Speer  
Doris Speer, City Secretary